

Medico-legal policy note



Introduction

Sexual violence has been documented in conflict-affected settings around the world throughout history. In the past 20 years, there has been increased attention to this issue, including through the efforts of the inter-agency United Nations initiative, UN Action Against Sexual Violence in Conflict (UN Action) (1).

Much of the recent focus in the international community has been on ending impunity for the perpetrators of these crimes, through efforts in international criminal tribunals and courts, the United Nations Security Council and initiatives by governments, the United Nations and civil society. As part of the increased focus on ending impunity for conflict-related sexual violence, donors and international justice actors have identified a need to improve the collection and use of forensic or medico-legal evidence to support and enhance investigations and prosecutions in international and national courts. Such a service can also have positive short- and long-term impact on victim health and welfare.

In order to address the sexual violence that occurs in conflict-affected settings and to end impunity for perpetrators and achieve justice for victims/survivors, the international community needs to invest in building national systems. This is recognized by the Security Council, in the United Nations Security Council Resolution 1820 (2008) on Women Peace and Security (2), which:

13. Urges all parties concerned, including Member States, United Nations entities and financial institutions, to support the development and strengthening of the capacities of national institutions, in particular of judicial and health systems, and of local civil society networks in order to provide sustainable assistance to victims of sexual violence in armed conflict and post-conflict situations.

However, the tendency has been to focus on single interventions, such as training of providers, or construction of DNA laboratories, rather than on improving the components of the justice, health and social sectors that make up the forensic or medico-legal system as a whole. Often these interventions do not take into account the level of development and capacity in the conflict-affected setting. This approach has, therefore, not led to the development of coordinated or sustainable responses, and has created a lack of clarity among national and international actors. In order to address these challenges, UN Action has developed tools to support improved coordination and capacity-building of medico-legal systems in conflict-affected countries.



Medico-legal evidence

Medico-legal evidence sits at the intersection of medical and justice processes, and appropriate implementation requires coordination between the range of service providers and sectors involved in prevention of, and response to, sexual violence, including health services, forensic medicine, forensic laboratory services, police, law the judiciary, and social services. An effective and efficient medico-legal

system requires coordination between all of the various components.

Types of medico-legal evidence include documentation of allegations, reports of physical examinations by health providers, records of any injuries, and biological samples including blood and DNA evidence. The type of evidence that should be collected and used depends on the specifics of the incident and the amount of time that has passed since the attack, as well as the capacity that exists in the system for collection, storage, analysis and use of the evidence. What may be possible and appropriate in one case or in a specific setting may not be appropriate in another.



The importance of supporting national systems

Each step, evidence collection, analysis, and presentation of evidence must be carried out with great care, systematically and records kept. This kind of work is more easily undertaken when resources are allocated for this purpose and underpinning systems are functioning. In the aftermath of conflict and in low resource settings the collection of forensic evidence presents both a significant challenge as well as an opportunity for change.

Crises may expose existing weaknesses within national systems, and may lead to disruptions in their functioning. Loss of personnel, barriers to access, destruction of physical infrastructure and loss of supplies and materials will further weaken capacity. In some settings, particularly those with long-standing crises, damage may include loss of institutional memory and knowledge.



UNODC

United Nations Office on Drugs and Crime



STOP RAPE NOW
UN ACTION AGAINST SEXUAL VIOLENCE IN CONFLICT



World Health Organization



Level of system development

Support to national systems, particularly police, judicial and health systems, must begin with a joint assessment (involving national and international actors) of existing capacity and determination of the type and level of support necessary for effective system functioning. Depending on the level of existing capacity, this may include provision of training and equipment, as well as technical and financial support. An appropriate investment in relatively high-capacity settings, for example, introduction of sophisticated technologies, is unlikely to be appropriate in very low-capacity settings, where personnel may lack basic training and materials.

In many settings, there is likely to be a capacity imbalance between different components of the system, reflecting pre-existing national and donor priorities. A comprehensive system is integral to providing a health service to victims of sexual violence and is essential to ending impunity and achieving justice. In settings where some components of the medico-legal system are less developed than others, it is important to identify and support their rebuilding.



UN Action toolkit

UN Action has developed a [practitioner-focused toolkit](#) comprising one-page job aids, which address key knowledge gaps within and between sectors. The aim of the toolkit is to help support service provision and coordination in low-resource settings.



Conclusion

The end of a crisis provides an opportunity for donors and others working on rebuilding to support systems and institutions that are able to address key issues in a sustainable way. This requires long-term assistance to further develop the capacity to provide services, and must be premised on coordination, assessment of the level of existing capacity, and support to appropriate interventions that can be expanded progressively as capacity is rebuilt.

The first step is raising awareness about the importance of medico-legal services and openly discussing the challenges. The toolkit developed by WHO and UNODC for UN Action aims to support national processes, through direct technical advice and support for establishing coordination among all key-stakeholders.



References

1. Stop rape now. UN Action Against Sexual Violence in Conflict (<http://www.stoprapenow.org/>, accessed 2 June 2014).
2. United Nations Security Council Resolution 1820 (S/Res/1820 (2008)); <http://www.peacewomen.org/assets/file/BasicWPSDocs/scr1820english.pdf>, accessed 2 June 2014).



Additional resources

- Pavignani E, Colombo S. Analysing disrupted health sectors: a modular manual. Geneva: World Health Organization; 2009 (http://www.who.int/hac/techguidance/tools/disrupted_sectors/adhsm_en.pdf?ua=1, accessed 2 June 2014).
- Guidelines for medico-legal care of victims of sexual violence. Geneva: World Health Organization; 2003 (<http://whqlibdoc.who.int/publications/2004/924154628X.pdf?ua=1>, accessed 8 May 2014).
- Report of expert meeting on building national system capacity for medico-legal evidence for sexual violence in conflict-affected settings. Geneva: World Health Organization; 2013. (Available on request.)

WHO/RHR/15.28 © World Health Organization 2015 - All rights reserved. Requests for permission to reproduce or translate WHO publications –whether for sale or for non-commercial distribution– should be addressed to WHO Press through the WHO web site (www.who.int/about/licensing/copyright_form/en/index.html). All reasonable precautions have been taken by the World Health Organization to verify the information contained in this publication. However, the published material is being distributed without warranty of any kind, either expressed or implied. The responsibility for the interpretation and use of the material lies with the reader. In no event shall the World Health Organization be liable for damages arising from its use.