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Systematic rape, sexual slavery and slaverylike practices

Sub-Commission resolution 1999/16

UNEDITED VERSION

The SubCommission on the Promotion and Protection of Human Rights,

Recalling its resolution 1993/24 of 25 August 1993 and its decision 1994/109 of 19 August 1994, establishing the mandate and the framework for the study on systematic rape, sexual slavery and slaverylike practices during armed conflict, including internal armed conflict, as well as Commission on Human Rights decision 1994/103 of 4 March 1994,

Taking note in particular of its decision 1997/114 of 27 August 1998, in which the Sub-Commission entrusted Ms. Gay J. McDougall with the task of completing the study and to submit it at the SubCommission's fiftieth session,

Recalling its resolution 1998/18 of 21 August 1998,

Recalling the Rome Statute of the International Criminal Court, adopted on 17 July 1998 at the United Nations Conference of Plenipotentiaries, which specifically recognizes that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict may constitute crimes against humanity and war crimes falling within the jurisdiction of the Court,

Encouraged that the Rome Statute of the International Criminal Court also devotes useful attention to the protection and rehabilitation of victims of sexual violence, along with significant protections for the collection of evidence and the testimony of witnesses in cases involving genderrelated violence and sexual slavery,

Recalling the final report of the Special Rapporteur on systematic rape, sexual slavery and slaverylike practices during armed conflict, including internal armed conflict (E/CN.4/Sub.2/1998/13) and welcoming with interest the updated information provided by the Special Rapporteur,

1. Expresses its appreciation once again to the Special Rapporteur for having completed this study in a timely fashion and at a crucial point in the development of international criminal law;

2. Endorses the accepted view that regardless of whether sexual violence in armed conflict occurs on an apparently sporadic basis or as part of a comprehensive plan to attack and terrorize a targeted population, all acts of sexual violence, in particular during armed conflicts and including all acts of rape and sexual slavery, must be condemned and prosecuted;
3. Reiterates the study's conclusion that the existing international legal frameworks of humanitarian law, human rights law and criminal law clearly prohibit and criminalize sexual violence and sexual slavery in all cases;
4. Aware that the provision of the Hague Convention (IV) of 1907 Respecting the Laws and Customs of War on Land which states that States "shall be responsible for all acts committed by persons forming part of [their] armed forces" and "shall, if the case demands, be liable to pay compensation" for violations of the rules is part of customary international law;
5. Strongly endorses the Special Rapporteur's call for national and international responses to the increasing occurrence during armed conflicts, including internal armed conflicts, of acts of sexual violence and sexual slavery;
6. Calls upon all States to enact and enforce legislation incorporating relevant international criminal law into their national legal systems to allow for the effective prosecution in national courts of acts of sexual violence committed during armed conflicts;
7. Affirms at the same time that all States must ensure that their legal systems at all levels conform to their international obligations and are capable of adjudicating international crimes and administering justice without gender bias;
8. Recognizes the need to support and strengthen the ability of the International Criminal Court to prosecute all cases of sexual violence committed during armed conflicts as human rights and humanitarian law violations;
9. Reiterates that States must respect their international obligations to prosecute perpetrators and compensate all victims of human rights and humanitarian law violations;
10. Recognizes that to give effect to rules applicable in conflict situations requires the adoption and implementation of measures in peacetime;
11. Calls upon States to make possible respect for their obligations in situations of conflict by, inter alia:
 - (a) Adopting suitable instructions for and training of their armed forces so that they know that all forms of sexual violence and sexual slavery are criminal and will be prosecuted;
 - (b) Putting in place effective mechanisms for the investigation and prosecution of such offences by their own armed forces and for the protection of the victims of such offences;
 - (c) Seeking the technical assistance of the International Humanitarian Law Advisory Service of the International Committee of the Red Cross with regard to best practices in this field;
12. Calls upon States to provide effective criminal penalties and compensation for unremedied violations in order to end the cycle of impunity with regard to sexual violence committed during armed conflicts;

13. Notes that the rights and obligations of States and individuals with respect to the violations referred to in the present resolution cannot, as a matter of international law, be extinguished by peace treaty, peace agreement, amnesty or by any other means;

14. Calls upon the High Commissioner for Human Rights to monitor the implementation of the present resolution and to submit a report to the SubCommission at its fiftysecond session on the issue of systematic rape, sexual slavery and slaverylike practices in situations of ongoing conflict, including information on the status of the recommendations made by the Special Rapporteur;

15. Recommends to the Commission on Human Rights that it endorse the principles stated in this resolution at its fiftysixth session;

16. Requests the Special Rapporteur to submit to the SubCommission at its fiftysecond session a report containing the updated information presented at its current session, with a view to wide distribution of the entire study in all the official languages, including to Governments, competent bodies of the United Nations, specialized agencies, regional intergovernmental organizations, the established international tribunals and to the Assembly of States Parties of the International Criminal Court;

17. Decides to consider the issue under the same agenda item at its fiftysecond session.

33rd meeting

26 August 1999

[Adopted by 15 votes to 2, with 5 abstentions.

See chap. VIII.]

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