



United States Senate Committee on the Judiciary

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"Rape as a Weapon of War: Accountability for Sexual Violence in Conflict "

Senate Judiciary Committee
Subcommittee on Human Rights and the Law

DATE: April 1, 2008
TIME: 10:00 AM
ROOM: Select Building-

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March 17, 2008

NOTICE OF SUBCOMMITTEE HEARING

The Senate Committee on the Judiciary has scheduled a hearing before the Subcommittee on Human Rights and the Law on "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict" for Tuesday, April 1, 2008, at 10:00 a.m. in Room 226 of the Senate Dirksen Office Building.

Chairman Durbin will preside.

By order of the Chairman

Witness List

Hearing before the Senate Judiciary Committee
Subcommittee on Human Rights and the Law

On

"Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"

Tuesday, April 1, 2008
Dirksen Senate Office Building Room 226
10:00 a.m.

Lisa F. Jackson
Documentary Maker and Director of "The Greatest Silence: Rape in the Congo"
New York, NY

Karin Wachter
Acting Gender-Based Violence Senior Technical Advisor
International Rescue Committee
New York, NY

Dr. Kelly Dawn Askin
Senior Legal Officer
Open Society Justice Initiative
New York, NY

Dr. Denis Mukwege
Director

TESTIMONY

[LISA JACKSON](#)

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[DR. KELLEY DAWN ASKIN](#)

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MEMBER STATEMENTS

[THE HONORABLE RUSS FEINGOLD](#)

[THE HONORABLE RICHARD J. DURBIN](#)

Panzi General Referral Hospital
Bukavu, South Kivu, Democratic Republic of the Congo



Testimony
United States Senate Committee on the Judiciary
Rape as a Weapon of War: Accountability for Sexual Violence in Conflict
April 1, 2008

Lisa Jackson

Testimony of Lisa F. Jackson Documentary Maker and Director of “The Greatest Silence: Rape in the Congo”
Before the Subcommittee on Human Rights and the Law Committee on the Judiciary United States Senate

“Rape as a Weapon of War: Accountability for Sexual Violence in Conflict”
April 1, 2008

Chairman Durbin, Ranking Member Coburn, and Members of the Subcommittee, I am honored to be asked to come before you to describe from my own perspective some of what I witnessed and heard in the months that I spent in the Eastern DR Congo in 2006 and 2007 shooting a documentary film. During that time I interviewed many women and girls who had survived sexual violence. I talked with peacekeepers, priests, doctors, activists, international aid workers and, most chillingly of all, with a dozen self-confessed rapists, uniformed soldiers in the Congolese army who boasted to my camera about the dozens of women they had raped. What I heard in the Congo has altered the course of my own life, and I hope I can convey to you here today even a small sense of the profound impact that the women – and men -of the Congo had on me.

I want to add a personal note: in 1976, here in Washington DC, I myself was gang-raped. The three men who attacked me that night in Georgetown were never found and the statute of limitations on the crime expired long ago. I shared my story with the raped women I met in the Congo and they all asked about the war that was happening in my country. I explained to them that even in peacetime, women are not safe.

And while I’m grateful that the Subcommittee has taken on this formidable issue of sexual violence in conflict, it is a bit stunning that it has taken until mid-2008 for this subject to be addressed in these halls. The past century offers too many examples of rape being used as a weapon of war: the Japanese rapes during the 1937 occupation of Nanking, an estimated 200,000 women raped by Pakistani soldiers during the battle for Bangladeshi independence in 1971, the horrors of Bosnia and its infamous rape hotels, Rwanda with half a million rapes on top of the genocide deaths, the systematic raping of women by the Janjaweed in Darfur – the list goes on. The title of my film is “The Greatest Silence”, taken from the opening of line of a survey co-written, in 2002, by Ellen Johnson Sirleaf, the president of Liberia: “Violence against women in conflict is one of history’s greatest silences.” And, sadly, history proves she is right.

But even in the context of this horrifying litany of the suffering of women in war, what has been happening in the Democratic Republic of Congo in the last 10 years is beyond the pale of any historical precedent. Congo’s war is a war against women, a war in which women’s bodies have become the battleground, where no woman is safe. Hundreds of thousands of women and girls have been intentionally and systematically targeted, gang raped, mutilated, forcibly abducted for many months to vast inaccessible forest areas and used as sexual slaves. They are attacked by armed militias from Uganda and Burundi, by Hutu genocidaires who fled from justice in Rwanda, by warlords and their thugs, and by members of the very army and police forces that are supposed to protect them.

United Nations peacekeepers have also committed rape and sexual exploitation. It is a femicide, pure and simple, and it is my hope that what you hear today will move this august body to action.

There will be other witnesses today who can speak with more knowledge than I about the roots of this conflict, but I have come to understand that it is a war that is being fought over riches, not ideologies. Congo's vast resources have been a curse since it was a Belgian colony over a hundred years ago, and today various national armies and Congolese factions are devastating the civilian population in order to loot the country's resources, the minerals, especially tin, cobalt and coltan, that we all require for our consumer electronic devices. Perhaps another hearing might more thoroughly explore the causes and ruinous consequences of this illegal plundering, but everyone in this room should consider the fact that there is the blood of Congolese women on their laptop computers and on their cell phones.

I first went to South Kivu, a province in the eastern DRC, in the spring of 2006, to investigate what was happening there for a documentary film about the fate of women and girls in conflict. I went in search of rape survivors who might tell me their stories and I found many dozens of raped women, women of all ages, too many women who at times would line up for hours, waiting until after the light disappeared and my camera could no longer record an image, waiting to talk to me, waiting to tell their stories to someone who would listen to them without judgment, hoping that I would relay their stories to a world that seemed indifferent to their horrific plight. I talked to them in their hospital beds, sitting on dirt floors in their mud huts, on the hard benches of a parish church, in the offices of NGOs where a few lucky ones had found skills training and shelter. These women might be just statistics to some, but to me they have names, faces, lives and stories that I will never forget.

Muhindo, a somber, dignified woman of 52 with five children, had been kidnapped from her home, dragged into the bush by soldiers from a Rwandan armed group who held her captive for two months. They used her as a sex slave, raped her daily, and forced her to carry their loads, cook their food and wash their clothes.

Veranda is 35 years old and has survived two attacks; she was first raped by Rwandese militia -the Interahamwe group -and again by thieves dressed in Congolese Army uniforms.

Safi lives in the hills above Bunyakiri and was raped at age 11 while her home was being looted by soldiers. Her huge eyes still have a slightly stunned look as she tells me that when she grows up she hopes to be a nun.

Maria Namafu was 70 years old when she was raped by three soldiers. When she told them "I am an old woman" they said "you're not too old for us."

Faida was kidnapped from her home in Bunyakiri, enslaved and raped repeatedly by Interahamwe soldiers. She died from the resulting infections in 2007.

These are five out of literally hundreds of thousands of victims. Why is it that we know so very little about these women? Why has the world's press been so silent? Why in the past ten years has there been only ONE front-page story in the New York Times about the epidemic of sexual violence that is devastating the Congo? And why is it that rape in conflict is so infrequently prosecuted in the world's courts for being the heinous crime of war that it is? Where is the outrage? Perhaps there is some explanation in a comment made to me by a colonel in the UN peacekeeping force when I asked him about rape in the Congo. His candor somewhat surprised me:

I think we're all very ignorant of it. I think it's an issue that we want to push to one side. I don't think,

as a human, I feel particularly comfortable sitting and talking about it here, for example. But it happens here on a huge scale and I agree, it is not spoken about.

But we can speak about the dead: the DRC is a country where, according to recent estimates by the International Rescue Committee, war has claimed over 5 million lives. Five million. That is more than 10 Darfurs. The conflict in Darfur has inspired countless newspaper articles, op-ed pieces, books, movies, mass demonstrations and the attention of major movie stars.

Why is no one standing up for the people of the Congo, crying out for Congo's dead, or pleading for its raped women, many of whom have literally become the walking dead? Because whether a woman is raped at gunpoint or forced into sexual slavery, the sexual abuse will shape not just her own but her community's future for years to come. Rape survivors face emotional torment, psychological damage, crippling physical injuries, disease, social ostracism and many other consequences that can devastate their lives and the lives of their families I think about Marie Jeanne M'wamasoro, a 34-year-old mother of eight, who was raped by five members of a Rwandan armed group when she was six months pregnant. She has been abandoned by her husband who tells their children that she wanted to be raped. She knows that she is stigmatized for life and says to me, with tears spilling over:

“My heart is broken. I know that wherever I go people will say ‘that woman was raped.’”

And Imakile Furha who is now 18 years old and was raped at age 15 by two members of a Rwandan armed group who broke into her home in the middle of the night. She has a daughter, Lumiere, from those rapes, and she lives with a burden no teenager should have to bear:

“There is nothing I can do about the past. But sometimes I spend my days crying. I really don't have a plan for the future. I hope that by the grace of God I will find someone who will marry me.”

The lives of these women – and their children -have been forever altered, and some of them destroyed. What I am going to read to you now is a transcription of one survivor's incredible soliloquy. She was part of a group of women who had been kidnapped and held as sex slaves. She stood up, unprompted, spoke directly to my camera and told me:

I am very thankful, because we believe that with your arrival here we will get help. The same painful thing has happened to every woman in this room. They have taken our belongings. We were raped by twenty men at the same time. Our bodies are suffering. They have taken their guns and put them inside of us. They kill our children and then they tell us to eat those children. If a woman is pregnant they make your children stand on your belly so that you will abort. Then they take the blood from your womb and put it in a bowl and tell you to drink it. When we were living in the forest it wasn't just one man. Every soldier can have sex with you. We got pregnant there. We gave birth in the forest, alone, like animals, without food or medicine. We are all alone--our husbands have been killed, or they have denied us. Even our families have denied us. We don't know what to do, where to go.

When she finished speaking, she turned to the wall, covered her face, and wept. Her story was no exaggeration – I heard its variations many times: the cannibalism, the egregious acts of brutal violence, unspeakable degradations, the abandonment, the shame, the total despair.

I thought about this woman, whose name I never discovered, when I interviewed soldiers, members of the national Congolese army, who talked brazenly to me about the rapes they had committed. They were practically swaggering, describing their reasons and methods of rape without shame, guilt or even a hint of remorse, because they knew that in Congo's culture of impunity they would face no

reprisals for their crimes.

If she says no, I must take her by force. If she is strong I'll call some friends to help me. I rape because of the need. After that I feel I am a man. I have no time to negotiate; I have no time to love her. I am in need. If I ask and she says no, I will take her by force.

The women were afraid and when they resisted I told them I would use my gun to get what I want and most of the time they ended up accepting.

We rape because God said that man is superior to woman. The man must command, must give the orders, and must do whatever he wants to a woman.

I asked the soldiers how many women they had raped. Five, eleven, eighteen they replied. One man had lost track:

It's hard to keep record of the number of women that I've raped. The thing to keep in mind is the fact that we stayed too long in the bush and that induced us to rape... You know how things are in combat zones. We raped as we advanced from village to village. For an approximate number, I'd say maybe twenty-five.

In my 30 years of filmmaking, interviewing these soldiers was the single, most devastating moment I had ever experienced. I had just recorded men confessing to unspeakable crimes and when the interviews were over they just melted back into the forest. There was no one around to arrest them, they were not talking to me from a jail cell. And as they vanished into the bush I thought to myself, who will be their next victims?

These soldiers represent a tiny fraction of the gruesome overall picture. A common concern that was expressed over and over again in the course of my interviews was that of impunity. The widespread rape and sexual violence is fuelled by a pervasive culture of impunity that the Government of Congo seems unwilling or unable to combat.

When women come together, their anger is palpable. In a meeting I filmed of a support group of raped women in the small village of Bunyakiri, one lamented bitterly:

And more than once we went to our chiefs to explain the problem and they did nothing. They talk about parity between men and women but this is a dream for us. Impossible! We are considered half human beings.

Yes, the government passed a sweeping new law last year regarding sexual violence, a law that, for instance, finally made rape with guns and sticks a crime, but I heard over and over again stories about the futility of enforcement, about rapists who would pay a bribe of 3 or 4 dollars and walk free, about jails with no locks on the cell doors, about sex crime units with – literally – a staff of one, and about women who face brutal reprisals if they speak out about the crimes perpetrated against them or dare to denounce their attackers. They are left to bear the pain alone, without the solace of peace, or the possibility of justice.

As one women's advocate in Kinshasa said to me:

The rapists of yesterday have today become the authorities and they encourage sexual violence because for them it has become a lifestyle. That is why the violence doesn't end.

The international community cannot continue to turn a blind eye to these atrocities or afford to wash our hands of the Congo because an elected government is now in place. We cannot speak of peace in Congo while rampant sexual violence continues unabated and a war continues to rage against women and girls. In the face of the government's impotence or unwillingness to intervene, the international community must act to bring an end to these deplorable crimes.

- A country that allows this to happen to its most vulnerable citizens does not deserve to be counted among the league of civilized nations. Future U.S. aid to Kabila's government should be contingent on Congo's meeting set human rights benchmarks, including insuring the protection of women from sexual violence, assistance to victims, prompt investigation and prosecution of perpetrators and establishing security in all regions so that the women of Congo can live their lives with the dignity and safety entitled to every human being.
- Likewise, U.S. funds earmarked for the DRC's military should be suspended until soldiers accused of – or confessing openly to – rape are brought to justice.
- While progress has been made through the recent UN Security Council's Resolution calling for all members of the FDLR, ex-FAR/Interahamwe, and other Rwandan armed groups operating in the eastern Democratic Republic of the Congo to immediately lay down their arms, it is imperative to ensure that individuals who are responsible for grave sexual violence and systematic rape –war crimes and crimes against humanity -do not receive protection through repatriation. The search for peace must not include amnesty for these crimes committed against women.

We must use all our leverage to end this violence. The violence must end, for the sake of the women and girls, for the sake of the Congo, and for the sake of the future of Africa.

As an angry and frustrated policewoman in my film comments,

And, so, what is a woman? The woman is the mother of a nation. He who rapes a woman, rapes an entire nation. When a woman is exposed to that kind of violence it's the entire country that is affected by it.

I will leave you all with the words of Maria, the 70-year-old rape survivor from Bunyakiri, who said to me:

Our country will be destroyed completely if this keeps happening. Women are suffering. We have forgotten what happiness is.

Thank you.

Testimony
United States Senate Committee on the Judiciary
Rape as a Weapon of War: Accountability for Sexual Violence in Conflict
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Karen Wachter

Testimony of Karin Wachter Gender-Based Violence Technical Advisor, International Rescue Committee
Before the Subcommittee on Human Rights and the Law Committee on the Judiciary United States Senate

“Rape as a Weapon of War: Accountability for Sexual Violence in Conflict”
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Please let me begin by saying that I feel extremely privileged to have been invited to speak with you all today. I bring to this hearing today first-hand experience working on the issue of violence against women and girls, and the insight gained through a decade lived on the African continent. I represent and speak from the perspective of a U.S.-based non-governmental humanitarian organization that has prioritized the problem of violence against women and girls in conflict and seeks to assure that they not only survive conflict, but ultimately thrive in times of peace.

Today, I will share with you my personal experience and thoughts on the subject. I will also strive to represent some of the voices and experiences of the hundreds of national and expatriate humanitarian workers devoted to this issue, many of whom are themselves civilian victims of war and displacement.

Above all, I wish I could share with you the voices, concerns and hopes of the tens of thousands of women and girls who come forward for help, having been assaulted, tortured, humiliated and disabled simply for having been born female and getting caught in the cross-fire of war.

I started working with the International Rescue Committee (IRC) in eastern Congo, where, already back in 2002, women were talking about not the one time they were brutally sexually assaulted, but about the third or fourth time. Many of them were abandoned by their husbands or families, often with the babies that were born as a result. It was at this time that the problem of rape-related fistula was first picked up on the international radar screen.

By the time I arrived in Burundi in early 2006, their war – notorious for its use of sexual Violence – was mainly over, but peer organizations such as Médecins Sans Frontières (MSF) still had a constant stream of mothers bringing their daughters for post-rape care in the areas where the rebel army had settled down. Adult women were reluctant to seek help for themselves because they were afraid of the repercussions of doing so.

In May of 2007, I was in Northern Uganda. While the political situation was already stabilizing, sexual abuse and exploitation of adolescent and young girls were rampant in the camps. Within days of launching IRC’s program, we saw more abused girls seeking help than anybody initially imagined possible.

In the past six years, I have seen firsthand the sexual and physical violence against women and girls in 10 different conflict-affected African countries. We would not be exaggerating to call this violence a

global human rights, public health and security crisis. The perpetration of sexual violence is both a tactic of warfare, and an opportunistic consequence of conflict and displacement. They often go hand-in-hand. Either way, women's bodies become the frontline of an unnecessary and cruel battle.

As a weapon of war, sexual violence seeks to accomplish a larger objective than the individual act of rape itself. The systematic use of rape in war has many purposes, including ethnic cleansing, elimination, humiliation, or control and domination of target populations – based on their ethnicity, political affiliation, nationality or geographical location – and obviously their gender. Up to a half a million women were raped during the Rwandan genocide. We've seen this tactic or strategy used year in and year out in eastern Congo, where the national military and numerous rebel groups use brutal forms of sexual violence - in part to secure their own food and provisions from the rural population. It is domination through sexualized terror.

This form of warfare is so effective – and so open to being modified depending on the whim and depravity of the perpetrators – because while it is the bodies and spirits of women and girls that are directly trampled upon, sexual violence creates deep wounds and schisms within the target community. It destroys the fabric of a community in a way that few weapons can. It produces unwanted children, it spreads disease, and it leaves an imprint on the individual and collective psyche that is difficult to erase.

This strategic use of sexual violence is usually accompanied with a sharp increase in opportunistic rape, carried out not only by armed groups in an environment of impunity, but within the family or community as well. Societal norms that regulate behavior and afford some degree of protection to women break down during war, and give way to an 'anything and everything goes' mentality that can, over time, rub off on the affected population.

During conflict women and children make up the majority of the world's refugees and internally displaced persons. They are often separated from their nuclear and extended families. Necessary tasks for survival in areas of insecurity – such as firewood and water collection or farming, which are typically the work of females – increase their exposure to sexual violence on a daily basis. Sexual assault of women and girls engaged in foraging for basic survival needs has become so commonplace that in the field it is glibly referred to as "firewood rape".

While men and boys are affected by conflict in many terrible ways, women and girls are the ones who are predominantly raped, mutilated, abducted into sexual slavery, and sexually exploited during times of conflict. Let us not sugar-coat the reality we are talking about here - sexual violence is a form of torture.

During the Indonesian occupation (1975 – 2002), women in East Timor were subjected to the same human rights abuses the general Timorese population experienced, but were also targeted for rape, sexual harassment, enforced slavery, and were forced or coerced into prostitution to service the Indonesian military. Women who were associated (or assumed to be) with the East Timorese resistance movement were particularly targeted for violence carried out by the state. In the post-referendum violence, the militia groups continued to perpetrate these forms of violence against women.

It has been said that it was the Bosnian war that woke up the international community to the ways in which war and conflict are inherently gendered experiences. Tens of thousands of Bosnian women and girls were subjected to egregious acts of violence— raped in front of their family members, forced into sexual servitude, impregnated, forced into rape camps, and subjected to genital mutilation.

All over the world, the consequences of sexual violence are far-reaching. Survivors are exposed to and suffer from serious and debilitating short- and long-term social and physical and mental health and economic consequences, including: death, severe injuries, fistula, sexually transmitted infections, HIV/AIDS, and unwanted pregnancy; impaired function, anxiety, fear, shame, post-traumatic stress, hopelessness, and suicide; rejection and stigmatization by families and communities, extreme isolation and increased economic hardship.

In many contexts, rape means a girl's or woman's chances to marry are greatly diminished. Without the relative security and status that marriage provides in traditional societies, women are left vulnerable and further exposed to sexual and physical exploitation. And you can only imagine what it does to a family to watch your daughter gang-raped, or your wife's pregnant belly sliced open, or your son obliged to hold down his sister while soldiers force you to violate her.

The physical, psychological and social consequences of this kind of violence are very real and often go untreated. The effects of this type of wide-spread sexualized terror on the family and community have long-term implications for a nation's capacity to heal and rebuild after war.

And unfortunately, for women and girls, the threat of violence remains long after fighting ends. We know that reporting rates for sexual abuse in contexts emerging from war in which sexual violence was systematically used by armed forces will remain high – but that the perpetrators will often be the members of the community itself. Crippled, corrupt or destroyed justice systems do little to dissuade civilians from abusing their relative degree of power and control.

Once having escaped the conflict, women may be forced to exchange sex for survival and protection of their children. During protracted humanitarian crises, women also face a growing threat of physical, sexual and economic abuse within their own households.

It is difficult for people to understand that the survivors of these atrocities will continue to come forward even once the war ends, and sometimes en masse. In times of relative calm, access to services improves and women and girls who have suffered for years as result of an attack – or multiple attacks – come forward when it becomes possible and safe to do so. Currently, women in eastern Congo have to walk for days to reach health services, and frequently are subjected to attacks again during their journey to seek help. Access to life-saving services is a prevailing problem in the rural contexts affected by war due to the absence of infrastructure, resources and lack of capacity.

In protracted refugee situations, such as the Burundians in Tanzania or the Burmese in Thailand, we see the male refugee population idle and disenfranchised, and rates of physical violence in the home rise the longer they are in camps.

The situation in West Africa is just as concerning. Since the end of the wars in Liberia and Sierra Leone, service providers and police have seen an increase in reports of violence. Survivors report incidents of sexual violence perpetrated by intimate partners, neighbors, and friends. They report incidents of domestic violence, experiences with forced and early marriage, and female genital mutilation.

In Sierra Leone, in 2007 alone, 1176 girls and women sought care for sexual or physical violence at IRC centers . . . 65% of those cases were under the age of 15. . . 64% of those cases were rape or gang-rape . . . the youngest client was two months old.

A recent study conducted by the IRC and Columbia University in Liberia (August 2007) indicated that violence against women and girls is dramatically widespread. In the study population: 55% of the women surveyed had experienced domestic violence; 30% of all women seeking medical attention have experienced domestic violence; 72% of women reported that their husbands had forced them to have sex in the last 18 months; and, 13% of minors in one county and 11% of minors in another county had been sexually abused in the last 18 months.

Please let me assure you that at the bottom of all of this suffering is in fact a message of hope.

1. Given what we know about the relationship between conflict and sexual violence, the burden-of-proof for sexual violence in humanitarian emergencies should be to provide evidence that rape is in fact not rampant. The international community now maintains that sexual violence is to be assumed in all humanitarian emergencies – including natural disasters. The humanitarian community – United Nations and NGOs alike – has made great strides in developing industry standards and guidelines for establishing the response to conflict-related sexual violence in humanitarian emergencies. At this point, we know what it takes to launch an effective response and we know how to monitor the quality of that response; what is harder is deploying the necessary technical expertise, given the relatively limited pool of humanitarian aid workers specializing in violence against women in conflict.

In addition, we have made good progress in gaining the commitment and buy-in from key American donors – the State Department’s Bureau for Population, Refugees and Migration (BPRM) and USAID – to allocate much needed resources to this crucial issue. We still have a long way to go. An increase in resources translates into being able to hit the ground faster and more effectively to set-up life-saving services and start advocacy efforts at the onset of an emergency. The United States has a key role to play in promoting the allocation of resources to stop violence against women in war and to ease the suffering of its innocent victims.

2. Violence against women in conflict is now commonly understood by the international community as a violation of basic human rights. The understanding of a state’s responsibility to protect women from violence has evolved considerably. Senator Biden and Senator Lugar recently introduced bipartisan legislation – the International Violence Against Women Act (IVAWA, S.2279) – which would make violence against women a key priority in U.S. foreign assistance programs.

The legislation is of vital importance for the hundreds of thousands of women and girls affected by violence. In recognition of how violence against women is exacerbated by conflict and continues long thereafter, the IVAWA bill is designed to address the issue in war-torn, post-conflict and development setting. Those of us working day in and day out on this issue anxiously wait for this piece of legislation to be passed.

Addressing violence against women in conflict is smart foreign policy and the American people care more about this issue than we may think. When the IRC launched a web-based petition to help garner support for the IVAWA bill, a surprisingly high number of the 50,000 Americans who signed the petition also wrote a personal note, expressing their sincere concern about violence against women and girls in conflict. This unexpected outpouring of concern led us to launch a modest e-advocacy campaign, in which the general public was invited to write words of encouragement to Congolese women and the local activists and organizations working to assist them. Within 10 days of launching the campaign, we had 2,779 people who wrote messages of support in response to the crisis in DRC. Please permit me to share two examples of what people wrote:

A woman from New York wrote: “There are few words that can express the nature of the horrible wrongs which you face every day. We all have the right to safety and respect. Continue to speak out of the injustices and the violations of your souls. We are listening...”

A man from Virginia wrote: “We are writing our leaders and sending funds to help. I have also included your story in my blog. I hope that we can make a difference. I am remembering you when I vote and write Congress. I hope that the U.S. can become a force to help you in the Congo.”

3. The United States has the opportunity to rally member states within the United Nations system on increasing attention and commitment to preventing sexual violence in conflict and responding effectively to the survivors. Above all, we look to the United Nations for sustained action – in ensuring effective humanitarian coordination as it relates to sexual violence in conflict; in promoting the accountability of nation states in which sexual violence goes unchecked; and, to help ensure the presence of women at the table during peace talks and reconstruction efforts.

The irony we face in this line of work is that conflict can open the door to address what is without fail a pervasive and very taboo subject matter. Over time, we see the effects of our work – we see the numbers of women and girls receiving essential services increase dramatically. We see local activists and local women’s groups learn how to approach survivors’ needs holistically and help to get them the care that they need. Local health professionals learn to overcome their own biases and misconceptions about sexual violence and begin to treat survivors with the care, compassion and privacy they deserve. And the violence and suffering that women and girls have been quietly handling alone begin to be discussed as an issue that affects the entire community.

We see women find their voice, first amongst other women, and then within the community – to speak about the issues they face and how they envision a life free from violence for themselves and their children. We see men take interest and start to take action within their own families and their communities at large. Sometimes, as in Liberia or Sierra Leone, we even see laws and policies that discriminate against survivors of sexual violence start to change.

I thank Chairman Durbin, Ranking Member Coburn and the Members of the Subcommittee for your time and interest in this worthwhile cause. Sexual violence and its extreme consequences do not have to be an inevitable component of conflict and displacement.

The women and girls from conflict zones are waiting for the chance to heal and live free from the threat of violence. The U.S. government can help make that hope a reality for women and girls around the world. We look to you for action.

Testimony
United States Senate Committee on the Judiciary
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Dr. Kelley Dawn Askin

Testimony of Dr. Kelly Dawn Askin
Senior Legal Officer Open Society Justice Initiative

Before the Subcommittee on Human Rights and the Law Committee on the Judiciary
United States Senate
Rape as a Weapon of War: Accountability for Sexual Violence in Conflict

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Chairman Durbin, Ranking Member Coburn, and distinguished members of this Subcommittee, I commend you for taking up the issue of wartime sexual violence, a crime that is destroying the lives of millions of individual victims, their families and communities in dozens of conflicts world wide—but which is all too often ignored by those who can help. I am heartened and appreciative that this remarkable Subcommittee—which in less than a year has provided extraordinary leadership on ensuring accountability for genocide, gross human rights abuses, conscripting child soldiers and trafficking in women—is turning its sights to this horrific scourge and tackling one of the most frequently committed crimes.

My testimony will first briefly address the contemporary problem of wartime sexual violence worldwide. I will then provide an overview of the historical treatment of rape as a war crime, and highlight the key contemporary jurisprudence redressing sexual violence in the context of war or mass atrocity in the jurisprudence of international and hybrid courts established since the 1990s. Next, I will examine some of the reasons why women need justice and why punitive measures are necessary to both prevent rape crimes and to reverse stereotypes which attach to sex crimes and serve to perpetuate their commission. Finally, I will suggest action which can be taken by this Subcommittee to close loopholes in U.S. law which may deny accountability to those who commit, aid, and abet wartime sexual violence.

Global Context: Wartime Sexual Violence is Rampant Worldwide

In 2004, the Bush Administration set up the Darfur Atrocities Documentation Project in which the U.S. State Department and the Coalition for International Justice assembled dozens of investigators to interview over 1100 victims and witnesses in Chad about the crimes committed against them in Darfur. As a result of the testimonies, then-Secretary of State Colin Powell termed the Darfur crimes a genocide. I collaborated with this project, and at refugee camps and in makeshift huts on the border of Darfur, I met with camp leaders and women survivors who told heart-wrenching and consistent stories of gang rape, sexual slavery, and other crimes committed by the government of Sudan and their Janjaweed puppets. Earlier this year, I spent a couple of weeks in the eastern provinces of the Democratic Republic of Congo, where I met more survivors who told terrible stories of their own sexual abuse, as well as the rape of babies from eleven months old to 86-year-old women. I travel frequently to Rwanda, Uganda, and Sierra Leone, where sexual violence has been committed in epidemic proportions, affecting millions of lives. Rarely are these crimes prosecuted, particularly

when government leaders are architects of the crimes. Rape is exceedingly common during armed conflict.

But make no mistake about it: sexual violence, including wartime sexual violence, is not just an African problem, it is a problem of enormous magnitude in every region of the globe. I have worked with each of the international and hybrid courts set up in the past fifteen years and have traveled to dozens of conflict and post-conflict zones. During the course of my work on international crimes and gender justice, I have had the opportunity to speak with rape and sexual slavery survivors of World War II from Europe and Asia, with women from Burma who have been subjected to rape campaigns by the Burmese military, with Cambodian women who were forced into marriage to Khmer Rouge soldiers in the late 1970s, with Bangladeshi/Bengali women raped during the war with Pakistan, with Haitian women who had their gang rapes amnestied, with women in East Timor who were held as sex slaves by Indonesian forces, with Iraqi and Kurdish women leaders who have shared stories of the sexual violence inflicted under the Saddam regime, with men and women from Chechnya who were raped with foreign objects, with women from Bosnia, Croatia, Serbia, and Kosovo who survived repeated or systematic rape, with Afghani girls who were sold into sexual slavery, and with women from Colombia, Guatemala, Argentina and Peru who were gang raped repeatedly during years of war and oppression. And their stories, like those of the women and girls in Africa, and those of some men, are strikingly similar. They were used and abused by men with weapons, often attacking in gangs, often committing the crimes in public, often in front of cheering crowds or before the victim's own families. They were often left naked, bleeding, and publicly displayed as a terrifying and very real threat to others as to what might happen to them—or their daughters, wives, mothers, or sisters—soon.

The Historical Treatment of Wartime Rape

I have been deeply involved in pursuing ways to redress wartime rape for the past 15 years. In 1993, I decided to seek my doctorate in law on the topic of Prosecuting War Crimes Against Women after meeting women who were survivors of rape camps in Bosnia-Herzegovina and hearing debate about whether the rapes they endured were even war crimes. I had never worked on women's issues or sexual violence up until that time, but as a lawyer I was shocked that as we approached the end of the 20th century, there was still confusion about whether international law prohibited wartime sexual violence. There was widespread acknowledgement that atrocities such as massacres, torture, and slave labor were prosecutable, but there was skepticism, even by legal scholars and military officials, as to whether rape was sufficiently serious to be prosecutable in an international tribunal set up to redress the worst crimes.

My research found that wartime rape had indeed been outlawed for centuries, but the prohibition was rarely and only selectively enforced. Further, many of the laws were couched in obscure or antiquated terms, such as violating "family honour and rights" or committing "attacks against honor," "outrages upon personal dignity," or "indecent assault." In 1863 the United States codified customary international law in its U.S. Army regulation on the laws of land warfare. This code—known as the Lieber Code or General Orders No. 100—formed the cornerstone of subsequent codified humanitarian law and served as the foundation for military codes in many other countries. Article 44 explicitly declared that "all rape . . . is prohibited under the penalty of death" and Article 47 dictated that "[c]rimes punishable by all penal codes, such as . . .rape. . . are not only punishable as at home, but in all cases in which death is not inflicted, the severer punishment shall be preferred."¹ Regrettably, the United States is no longer on the forefront of criminalizing and protecting against wartime sexual violence and the many different forms the crimes take in contemporary wars. It has been and remains one of the leaders however in establishing international accountability for atrocity crimes.

The United States played the lead role in setting up the landmark International Military Tribunals at Nuremberg and Tokyo to prosecute war crimes, crimes against humanity, and crimes against peace committed during World War II.² U.S. Supreme Court Justice Robert Jackson became the lead U.S. prosecutor of the Nuremberg trial of major Nazi war criminals, and General Douglas MacArthur, as the Supreme Allied Commander for the Far East, was the progenitor of the Tokyo trials. At these trials of the chief architects of the war and the atrocities committed against millions of innocent civilians, rape and other forms of sexual violence were implicitly, and to some degree explicitly, prosecuted. They were also prosecuted in some of the subsequent war crimes trials of so-called ‘lesser’ war criminals held in Germany and Japan. After reviewing tens of thousands of pages of transcripts of the postwar trials, it became clear to me that vast amounts of various forms of sexual violence had been documented and entered into evidence during trials, and that the sexual atrocities were subsumed within the judgments even if they were not highlighted or explicitly mentioned in them.³

While a variety of gender related crimes—including rape, enforced prostitution, forced sterilization, forced miscarriage, and forced nudity—were prosecuted at the Nuremberg and Tokyo trials, countless sex crimes were ignored. Let me mention just two examples: First, the sexual slavery to which the Japanese military subjected some 200,000 so-called “comfort women” was not prosecuted at the Tokyo tribunal, and to this day the survivors of these sex crimes have received no substantial legal redress. Second, as the Russian army advanced through eastern Europe towards Germany “an estimated two million women were sexually abused with Stalin’s blessing.”⁴

After the postwar trials, and in large part due to the Cold War, there were scant efforts to enforce the legal principles established at Nuremberg and Tokyo. For five decades, dictators, despots, and war lords around the world waged war on innocent civilians without facing a legal reckoning.

Gender Jurisprudence of Contemporary War Crimes Tribunals

The crimes committed during the 1990s conflicts in the former Yugoslavia finally snapped the international community out of its complacency. Around the world people were horrified as stories of ethnic cleansing, murder, and mass rape camps emerged. In Bosnia-Herzegovina, it was reported that women and girls were repeatedly raped until they became pregnant and detained until they gave birth. Horror story after horror story continued until televised images of emaciated detainees behind barbed wire fences demonstrated that horrific crimes were again happening on European soil, evoking reminders of promises after the Holocaust that ‘never again’ would such acts be allowed to happen, much less go unpunished. A U.N. Commission of Experts investigated and reported that crimes, including sex crimes, were rampant.

As a result, the United Nations Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993.⁵ The Statute of the ICTY authorized prosecution of genocide, crimes against humanity and war crimes (grave breaches and violations of the laws or customs of war, including Common Article 3 to the Geneva Conventions). Rape was specifically listed as a crime against humanity in the Statute. The United States provided extraordinary leadership in establishing, supporting, and even staffing the ICTY, particularly in its formative years.

Less than a year after the Security Council established the ICTY, a genocide raged through Rwanda, with as many as 700,000 people massacred and hundreds of thousands of others maimed, raped, and otherwise brutalized during 100 days—the swiftest killing and raping spree in recorded history. By the end of 1994, the Security Council also set up the International Criminal Tribunal for Rwanda

(ICTR) to prosecute war crimes, crimes against humanity, and genocide committed there.⁶

The Yugoslavia and Rwanda Tribunals have been unparalleled in their treatment of gender-related crimes, and this has had and will continue to have a major impact on other international or hybrid courts (courts having a mixture of international and national judges, prosecutors, and defense counsel and applying both domestic and international laws), namely the Special Court for Sierra Leone, the Serious Crimes Panels in East Timor, the Kosovo Regulation 61 Panels, the Bosnian War Crimes Chamber, and the Extraordinary Chambers in the Courts of Cambodia, as well as the permanent International Criminal Court.

Case law from these contemporary courts stands in marked contrast to the textual silence of the Nuremberg Tribunal when it came to crimes of sexual violence. Let me illustrate by briefly describing seven pioneering cases which set much of the precedent on a variety of gender-related crimes.

Akayesu Judgment

The most groundbreaking judgment in history on redressing crimes committed exclusively or disproportionately against women is the Akayesu Judgment, rendered by the International Criminal Tribunal for Rwanda (ICTR) in September 1998, which found rape to be a crime against humanity and an instrument of genocide.⁷ In this case, the mayor of a commune in Rwanda was charged with twelve counts of war crimes, crimes against humanity, and genocide for murder, extermination, torture, and cruel treatment for crimes committed by individuals in his commune.

There were no sex crime charges in the original indictment. During trial, a witness on the stand spontaneously spoke of the gang rape of her six-year-old daughter by three Interahamwe soldiers and a subsequent witness testified that she had been raped and she had witnessed other rapes, prompting the prosecution—led by American prosecutor Pierre Prosper (who went on to become the U.S. Ambassador-at-Large for War Crimes Issues)—to conduct additional investigations to determine if Akayesu could be held responsible for sexual violence. Ample evidence of sex crimes was found, including evidence which attributed culpability to Akayesu and the indictment was thus amended to add rape charges.

Ultimately, Akayesu was convicted of nine counts of crimes against humanity and genocide. The Trial Chamber found rape formed part of a widespread and systematic attack against civilian women in the commune, constituting a crime against humanity. Moreover the Chamber found rape and other forms of violence were committed with a specific intent to destroy the Tutsi group by causing serious bodily and mental harm to members of that group—a crime defined as genocide under the 1948 Genocide Convention. The judges stressed that in Rwanda, “[s]exual violence was a step in the process of destruction of the Tutsi group—destruction of the spirit, of the will to live, and of life itself.”⁸ It was never charged that Akayesu physically committed any rapes himself. But he held a leadership position in his commune, and not only failed to forbid sexual violence when it was rampant, but also actively encouraged, by his words or presence, gang rape and forced nudity, and in some instances even ordered them. Many of these crimes were committed directly outside his office, a place where the community had fled to seek protection from attacks.

Celebici Judgment

The Celebici Judgment, handed down by the Yugoslavia Tribunal in November 1998, held superiors responsible for torture by means of rape. The Trial Chamber held concentration camp leaders responsible for, among other offenses, various sex crimes committed against both males and females by their subordinates in the camp.⁹ Sex crimes were not charged explicitly in the indictment, as the

charges were for such war crimes as torture, cruel treatment, inhuman treatment, murder, and plunder. The war crime of torture was charged in instances when a woman was repeatedly raped in an attempt to secure information, to punish her for reporting abuse, to intimidate her, or to discriminate against her because she was a woman of the opposing side.

The Trial Chamber found that the rapes inflicted severe physical and mental pain on the victims. For instances when men's genitals were abused, the war crimes were charged as cruel treatment or inhuman treatment. When male detainees were forced to publicly perform fellatio on each other, the judges emphasized that if the war crimes charge had been rape instead of inhuman treatment, they would have convicted the accused of the former.

The Celebici Judgment noted that it is well established that people in positions of de facto or de jure authority can be held responsible for failing to act when they have a legal duty to control subordinates under their effective control, they know or should have known about criminal activity, and they fail to take necessary and reasonable measures to prevent the crime or punish the perpetrator(s) thereof. Two of the accused were thus convicted of command/superior responsibility for failing to act on crimes committed by subordinates.

Furundžija Judgment

The Furundžija Judgment, handed down by an ICTY Trial Chamber in December 1998, focused on the rape of one woman during one day of the conflict in Bosnia.¹⁰ The accused verbally interrogated a woman while a fellow co-commander raped her in multiple ways, hence the accused was charged with the war crimes of torture and outrages upon personal dignity for the role he played in facilitating the rapes. Perhaps the most significant aspect of this case is the court's recognition that sexual violence does not need to occur as part of a package of crimes (e.g. the murder, rape, and pillage of a village) or on a widespread or systematic basis before it is prosecutable as a war crime. The rape of one person can constitute a serious war crime worthy of prosecution.

Kunarac Judgment

The Kunarac Judgment, handed down by an ICTY Trial Chamber in February 2001, represented the first time the Yugoslavia Tribunal rendered convictions for rape, enslavement, and torture as crimes against humanity for a series of sex crimes committed against a large number of women and girls in Bosnia.¹¹ The Chamber found the three accused guilty of enslavement for conduct essentially constituting sexual slavery. The Trial Chamber held that when the women and girls were held for weeks or months and repeatedly raped by their captors or persons to whom their captors rented them, and one young girl was eventually sold to a passerby for a box of washing powder (and was never seen or heard from afterwards), these acts constituted both rape and enslavement (the ICTY Statute lists 'rape' and 'enslavement' as acts which may constitute crimes against humanity; it does not specifically enumerate 'sexual slavery.') In essence, the defendants were exercising rights of ownership over the victims—a classic form of enslavement. One man was also convicted of "outrages upon personal dignity" for forcing women and girls to dance nude on a table to entertain soldiers and to humiliate and control the girls.

Kvočka Judgment

In November 2001, an ICTY Trial Chamber rendered the Kvočka Judgment, in which rape was found to form part of the persecution committed in a prison camp. The case was against five accused who had worked in or regularly visited the Omarska prison camp in Bosnia.¹² Judge Patricia Wald, the U.S. judge on the ICTY at the time, sat on this case and was the leading author of this judgment. (I

had the great privilege of working with Judge Wald on this judgment as a legal consultant.) In Omarska camp, some 3300 men and 36 women were detained and subjected to a number of abuses, including sexual violence. The accused were charged with war crimes and crimes against humanity for murder, torture, rape, persecution, and inhumane acts. Only one of the five defendants was charged with physically committing rape, but all were charged with responsibility for rape in connection with the charge of persecution as a crime against humanity, brought for the varied and concerted efforts to humiliate, degrade, subjugate and otherwise mistreat detainees in the camp.

The Kvočka Trial Chamber, relying on jurisprudence developed at Nuremberg and the ICTY itself, found that when two or more persons enter into an agreement to commit a crime and the accused participates in the execution of the common criminal plan, liability for participating in a joint criminal enterprise may ensue. The Chamber found that Omarska camp operated as a joint criminal enterprise to persecute non-Serbs. It held that all who knowingly participated in the criminal endeavor could be held responsible not only for all crimes which were agreed upon, but also for any which were natural or foreseeable consequences of the criminal enterprise, including rape. It thus held each accused responsible for rape as part of the persecution as a crime against humanity count, since several women in the camp were persecuted by means of rape and threats of rape.

Krajišnik Judgment

In September 2006, an ICTY Trial Chamber delivered the Krajišnik Judgment, essentially making leaders responsible for repeated and known crimes, including rape, to which they fail to object.¹³ Momcilo Krajišnik, a member of the Presidency of the Bosnian-Serb Republic and a colleague of Slobodan Milošević, Radovan Karadžić and Ratko Mladić, is the most senior person yet convicted by the ICTY. He was charged with eight counts of genocide and crimes against humanity. Sexual violence was included in a charge of persecution as a crime against humanity, and the case was prosecuted under the joint criminal enterprise theory of liability.

The Chamber found that originally the common criminal plan was to deport and forcibly transfer non-Serbs out of the territory. However, additional crimes, including rape, became frequent, and once the Serb leadership, including Krajišnik, had information available about these other crimes and not only made no attempt to prevent or halt them, but continued their same discriminatory policies and practices, these additional crimes were deemed to have become just as much a part of the joint criminal enterprise as the originally intended crimes.

The Krajišnik Judgment thus has major implications for holding senior leaders, whether military or civilian, responsible for sex crimes when committed during the course of a scheme of persecution or other criminal endeavor: if sex crimes are notorious or widespread, and leaders make no effort to prevent or halt the crimes, an inference can be made that the leaders sanction the crimes, essentially aiding and abetting, tacitly encouraging, or otherwise facilitating them, and the leader far from the battlefield can be held individually liable for the crimes. This constitutes individual, not superior/command, responsibility, as leaders are held criminally liable for their own role in facilitating sex crimes by their tacit approval through silence or acquiescence when there is common knowledge of the crimes.

AFRC Judgment

In 2007, the Special Court for Sierra Leone (SCSL) rendered the AFRC Judgment, finding the accused guilty of rape and sexual slavery as crimes against humanity. The case was upheld and amended in part by the SCSL Appeals Chamber in February 2008.¹⁴ In this case, three leaders of the

Armed Forces Revolutionary Council (AFRC) were charged with 14 counts, including the crimes against humanity of rape, sexual slavery, and other inhumane acts ('forced marriage'). This was the first verdict of the Special Court for Sierra Leone and it represented the first time the charge of "sexual slavery" was formally prosecuted by an internationalized tribunal. The prosecution disappointingly charged 'forced marriage' as an inhumane act instead of as 'other forms of sexual violence,' which would have recognized it as a distinct crime and indicated the sexual nature of the crime. Nevertheless, this charge was used for when a woman or girl was forced to provide sexual services solely to one man as well as look after his household, doing cooking and cleaning and other chores. 'Forced marriage' is essentially a more exclusive form of sexual slavery where the victims are treated as 'wives,' but unlike sexual slavery victims, the victims of 'forced marriage' are typically rejected by their community as collaborators with the enemy. Therefore, the victims are essentially denied victim status by their community, and further victimized by their banishment.

While all of these cases represented a major advance, progress is neither foregone nor absolute. It took the extraordinary confluence of circumstances, including the presence of women judges and major pressure by non-governmental organizations, to achieve these results. It should also be emphasized that while enormous progress has been made in investigating, charging, prosecuting, and rendering judgment on various forms of sexual violence, the cases tried represent a miniscule percentage of the sex crimes actually committed and for the tens of thousands of other cases there will likely be wholesale and absolute impunity. Holding leaders responsible, then, for the policies and practices of sexual violence in conflict greatly increases the number of victims who are vindicated far beyond that addressed by prosecuting individual perpetrators.

Expanded Articulation of Sex Crimes

The Akayesu, Celebici, and Furundžija cases were ongoing during deliberations in Rome in 1998 to draft the Statute for the International Criminal Court (ICC) and the cases left an indelible footprint on the gender provisions of the Statute.¹⁵ The U.S. delegation in Rome played a monumental role in ensuring that gender crimes were prominently featured and adequately covered in the Statute, including by explicitly enumerating rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization as both crimes against humanity and war crimes. The U.S. team played a leading role in the legally and symbolically significant effort to de-link sex crimes from the misguided language of 'outrages upon personal dignity' or violations of honor, thus acknowledging rape as a crime of violence, not a crime against dignity or honor. They also played an important role in adding into the Statute language stressing the importance of gender equity on the court and expertise in gender crimes. The sex crimes in the Rome Statute, like the other crimes, have been deemed amongst the most serious crimes of international concern, threatening peace and security when committed in large numbers and with impunity. Of the nine individuals currently indicted by the ICC for crimes committed in Uganda, the Democratic Republic of Congo, and Darfur, eight are charged with crimes against humanity, including rape and sexual slavery. Only the first trial, that of D.R. Congo's Thomas Lubanga, focuses exclusively on the war crime of conscripting child soldiers.

The United States has been a driving force in the field of international justice and in establishing courts to try individuals most responsible for atrocity crimes. The Clinton and Bush Administrations have played key roles in establishing, supporting, and funding international and hybrid war crimes tribunals. Providing justice to victims, including victims of sexual violence, through both international and domestic trials has been strongly supported by Republicans and Democrats alike. The specific acts that make up war crimes, crimes against humanity, and genocide, including the sexual atrocities, are crimes in every jurisdiction, and have been since at least the Second World War. Under international law these crimes are not subject to statutes of limitation.

The Need for Gender Justice and Reversing Harmful Stereotypes

Criminal prosecution of sex crimes is absolutely critical in order to punish the crime and highlight its gravity. Rape and other forms of sexual violence are frequent crimes in virtually every domestic jurisdiction. If they are common in so-called peacetime, the frequency and savagery multiplies when there is a war and atmosphere of violence, chaos, and oppression. In virtually all wars, there is opportunistic rape, rape committed because the atmosphere of violence, the prevalence of weapons, and the breakdown of law and order present the opportunity. But over the last couple of decades, we have witnessed a trend toward using women's bodies as the battlefield in a calculated and concerted effort to harm the whole community through physical, mental, and sexual violence inflicted on the women and girls, the bearers of future generations. In most war-torn countries, the legal system is in shambles and there is little or no means to secure accountability for the crimes.

Another common theme that runs throughout survivors from Asia, Africa, Latin America, and Europe, one that shines a bright spot on human beings and gives hope for the future, is one of the extraordinary strength, resilience, creativity, perseverance, and goodness of survivors. Most survivors, though extremely traumatized and angry, have not sought revenge or retribution, although they do want justice and reparation. They have survived despite not only the sexual violence committed against them, but also often the loss of family members, their homes, land, possessions and jobs, sometimes even the loss of their country if they have been forced to flee or forcibly evacuated. Their extraordinary courage and tenacity in the face of such cruelty and hardship is truly amazing. They have lost so much yet they remain ever ready to share their meager possessions, provide hospitality to strangers, and to struggle for a better future for their children and others in their community. They need the full protection of the law and for it to be rigorously enforced. The survivors want, need, and deserve justice. They also need support for trauma counseling, rehabilitation, medical services, and economic survival.

In the past decade, there has been a growing movement to make crimes against humanity the central charge in most of the war crime tribunals, as this crime does not carry the onerous intent proof requirement that genocide requires, but it captures the widespread or systematic nature of the crimes which war crimes fail to portray. The Yugoslavia Tribunal, Rwanda Tribunal, and the Special Court for Sierra Leone in particular have shown that using crimes against humanity to prosecute rape and other forms of sexual violence can be powerful and successful—it is not necessary to prove, for example, that rape itself was widespread or systematic in order for there to be a conviction, although rape is itself often both widespread and systematic. But to render a conviction (in addition to linking the crimes to the accused), the prosecution must simply prove that the attack was widespread or systematic, and that rape formed part of the attack. And as more leaders are being charged with both individual and superior responsibility for their role in ignoring, facilitating, or ordering crimes, including sex crimes, crimes against humanity allows for a larger victim pool to be covered by a conviction.

The Tribunals have unequivocally established that rape is not a mere “spoils of war” or incidental byproduct of war, but is instead one of the most serious and violent crimes committed during armed conflict. For greater justice, peace, and security, it is especially crucial to go after the leaders, the policy makers, the authorities who order, encourage, allow, or ignore the use of rape as a weapon of war, terror, and destruction. The United States must ensure that it has the capacity to prosecute crimes against humanity whenever and wherever it occurs, particularly when perpetrators have found safe haven in the United States.

In addition to prosecuting rape crimes, the United States and other countries must also pour resources and effort into redressing gender stereotypes that serve to perpetuate sex crimes. The shame and stigma attached to sex crimes must be reversed before it has significant deterrent effect and before it is reported in closer proportion to the crimes actually committed. I use the term “reversed” instead of “deconstructed” or “rejected” quite intentionally. One of the reasons rape has been such a potent weapon of terror and destruction is because the shame and stigma wrongfully attached to the victims makes the crime more attractive to perpetrators seeking to inflict maximum harm on all members of the enemy group.

Women and girls are often rejected by their families and communities if they suffer a sexual assault, but not if they are shot in the arm or knifed in the back, as there is no stigma typically attached to non-sexual crimes. Women and girls are considered the vessels of family honor by their sexual purity or faithfulness, but such attributes rarely attach to the male, who can in some religions even have several wives lawfully. As the bearers of children, women’s sexual lives are rigorously monitored in most societies, and males are blamed for failing to maintain or protect the sexual purity or exclusivity of their daughters, wives, sisters, or mothers. Many crimes evoke paralyzing terror, and rape is one of the most common, attacking one of the most private and intimate parts of a person’s body. But the shame and stigma attached to sex crimes causes harm-plus.

With sexual violence, terror as well as physical and psychological harm are frequently only the beginning of a terrible sequence of consequences visited upon the victim. These are all the more destructive because, as the perpetrator well knows, many emanate from the victim’s own support network of family and friends. Sex crime victims face possible rejection from their family or community; plus a strong possibility that she will never marry because she’s considered “spoiled goods” or she rejects all contact with men after her assault; plus a possibility that HIV/AIDS or other diseases will be caught and can be passed on; plus a possibility that the damage caused from the rape (s) will destroy her reproductive capacity; plus a probability that violence inflicted upon pregnant women will result in miscarriage; plus a likelihood that the woman or girl will get pregnant from the rapes and they will be forced to either abort or bear the child of the rapist; plus a possible jail term or public whipping for the victim in societies where sex outside of a marital context is a crime if the victim cannot prove rape by producing four male witnesses; plus a re-victimization by the justice system in most countries where the presumption is often that the victim “asked for” or otherwise is responsible for the attack. These additional forms of pain and suffering caused by sex crimes distinguish them from other crimes that also evoke sheer, unbridled terror. Therefore, a key method of providing protections against sex crimes is reversing the shame and stigma, and placing it squarely on the shoulders of the perpetrators and others responsible for the crime: the weak cowards who prey on vulnerable portions of the population—people typically without guns or other weapons and those forced to look after children, the sick, and the elderly or to venture far from the beaten path to scrounge for firewood or food during armed conflict situations.

The majority of rapes committed during wartime are committed publicly, and in gangs, with no fear of legal—much less societal or moral—repercussion. If instead of the victims, it is the perpetrators who are outcast, ostracized and rejected by their communities, including by their armed forces/militia groups and their own families, and treated as pathetic and cowardly, I am confident that the numbers of these crimes and their strategic use as a tool of destruction would be reduced. The United States can provide effective and desperately needed leadership in this area.

The United States should close the gaps in its criminal codes which might allow perpetrators to escape justice or to find safe haven in this country. Given the long record of U.S. leadership in this area, it is unfortunate that there are loopholes in U.S. law that may have the unintended effect of making the

United States a safe haven for criminals who have committed these heinous offenses. The United States should be able to prosecute any person found in this country who is responsible as an individual or superior for genocide, crimes against humanity, or war crimes, including the crimes of rape, sexual slavery, forced pregnancy, enforced sterilization, and other crimes of sexual violence of comparable gravity. For example, the War Crimes Act of 1996, as amended, is enforceable only where the perpetrator or victim of a war crime is a U.S. citizen or a member of the U.S. Armed Forces. The U.S. cannot prosecute rape under that law if a non-citizen commits the rape outside the United States against a foreigner and then arrives in the U.S. The United States also cannot prosecute rape under that law if a non-U.S. citizen commits a rape in the U.S. with a nexus to an armed conflict, but the victims are also non-U.S. citizens.

Persons the U.S. chooses not to prosecute should be returned to their home country or the country where the crime occurred for prosecution only if such state is able and willing to prosecute and has fair trial standards or they should be extradited to a third country willing to do so.

Recommendations

I have several recommendations to this Subcommittee to improve U.S. laws and practices and bring domestic sex crime laws up to the same standard as contemporary international laws and practices and those of many of our close Allies:

Enact a Sexual Violence in Wartime Accountability Act that criminalizes wartime sexual violence, provides for prosecution of anyone who commits sexual violence with a nexus to an armed conflict, whether in the United States or abroad, and provides for penalties commensurate with the gravity of these offenses. The law should also designate non-U.S. nationals who commit wartime sexual violence as inadmissible aliens, allow the deportation of non-U.S. nationals who commit wartime sexual violence, and deny impunity and safe haven to persons responsible for wartime sex crimes.

Enact legislation making crimes against humanity, including various forms of sexual violence, particularly rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and other forms of sexual violence of comparable gravity, crimes under U.S. law.

Provide a legislative remedy to thousands of victims who might otherwise be left without a remedy if statutes of limitations and retroactive application of atrocity related crimes, including rape and other forms of sexual violence, do not go back at least 20-30 years. It would be important, for example, that persons responsible for rape during the 1994 genocide in Rwanda or sexual violence as crimes against humanity in Iraq in the 1980s do not receive impunity when the acts they committed were clearly crimes at the time of commission, even if not explicitly enumerated in our federal criminal code.

As an alternative to the Sexual Violence in Wartime Accountability Act, consider amending the Federal Criminal Code, Title 18, War Crimes (§2441) (also known as the War Crimes Act) to enable the prosecution of wartime sex crimes by non-U.S. nationals committed against non-U.S. nationals.

Amend the Federal Criminal Code, Title 18, Torture (§2340) (also known as the Torture Statute of 1994), or add an authoritative commentary to the statute, to recognize explicitly what is implicit but should be made absolutely clear: sexual violence, and threats thereof, may constitute a form and means of torture. The Torture Statute is currently being used, for the first time, to prosecute Emmanuel “Chuckie” Taylor (son and henchman of infamous warlord Charles Taylor, now on trial in The Hague) in Miami. It is likely that this prosecution will result in future use of the Torture Statute to

prosecute other crimes, including sexual violence. The Subcommittee should also consider using its oversight authority to inquire why this statute has not been used to redress gender crimes and what steps, if any, could be taken to facilitate greater use of the statute in appropriate cases, including prosecuting wartime sexual violence and other gender crimes.

Amend the Federal Criminal Code, Title 18, generally to enable our domestic courts to prosecute genocide, war crimes and crimes against humanity, including rape and other forms of sexual violence, in conformity with international criminal law.

Finally, the Subcommittee should provide support for putting additional resources into combating gender stereotypes which perpetuate sexual violence, as well as supporting trauma counseling, rehabilitation, reparation, and medical assistance for victims of wartime sexual violence.

The bottom line: The U.S. should be at the forefront in promulgating legislation on wartime sexual violence. It is crucial to modernize our criminal codes to provide more protections to the victims of wartime sexual violence and ensure that perpetrators neither escape justice nor find safe haven in the United States. The U.S. should have the ability to prosecute a range of sex crimes when committed with a nexus to an armed conflict, as a crime against humanity, and as genocide.

I would be pleased to endeavor to answer any questions the Subcommittee may have.

1 Instructions of the Government of the United States in the Field by Order of the Secretary of War, Washington D.C. (April 24, 1863), Rules of Land Warfare, War Dept, Doc. No. 467.

2 Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis, Aug. 8, 1945, 59 Stat. 1546, 82 U.N.T.S. 79; Charter for the International Military Tribunal of the Far East, Jan. 19, 1946, T.I.A.S. No. 1589, 4 Bevens 20 (1968).

3 See extensive references to gender crimes in the Nuremberg and Tokyo trial transcripts in Kelly D. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals* (1997). There is a common perception that sex crimes were not prosecuted in the post World War II trials. This is in large part due to the facts that a) the focus of the trials was principally on crimes against peace and mass slaughter of innocent civilians, b) sex crimes were not mentioned in the tribunal's Charters, and were given inadequate or no explicit attention in the indictments and judgments, and c) the table of contents and the indexes of the trial transcripts and judgments largely failed to include mention of rape or any other form of sexual violence, despite the vast documentation and testimony of various forms of sex crimes entering into evidence throughout the trials. They are included under 'atrocities' in the judgments.

4 Geoffrey Robertson, *Crimes Against Humanity* (2000), p. 306.

5 S.C. Res. 827, U.N. Doc. S/827/1993 (1993).

6 S.C. Res. 955, U.N. Doc. S/INF/50 (annex) (1994).

7 Prosecutor v Akayesu, ICTR-96-4-T, Sept. 2, 1998 (Akayesu Trial Judgment).

8 Akayesu Trial Judgment, para. 732.

9 Prosecutor v. Delalic, Judgement, IT-96-21-T, Nov. 16, 1998.

10 Prosecutor v. Furundžija, Judgement, IT-95-17/1-T, Dec. 10, 1998.

11 Prosecutor v. Kunarac, Judgement, IT-96-23-T & IT-96-23/1-T, Feb. 22, 2001.

12 Prosecutor v. Kvočka, Judgement, IT-98-30-T, Nov. 2, 2001.

13 Prosecutor v. Krajišnik, Judgement, IT-00-39-T, Sept. 27, 2006. 14 Prosecutor v. Brima, Kamara, Kanu, Judgment, SCSL-2004-16-T, June 20, 2007 (AFRC Trial Judgment); Prosecutor v. Brima, Kamara, Kanu, Judgment, SCSL-2004-16-A, Feb. 22, 2008 (AFRC Appeal Judgment). 15 Rome Statute of the International Criminal Court, 1998 Sess., U.N. Doc. A/CONF. 183/9 (1998) (entered into force July 1, 2002).

11 Prosecutor v. Kunarac, Judgement, IT-96-23-T & IT-96-23/1-T, Feb. 22, 2001.

12 Prosecutor v. Kvočka, Judgement, IT-98-30-T, Nov. 2, 2001.

13 Prosecutor v. Krajišnik, Judgement, IT-00-39-T, Sept. 27, 2006. 14 Prosecutor v. Brima, Kamara, Kanu, Judgment, SCSL-2004-16-T, June 20, 2007 (AFRC Trial Judgment); Prosecutor v. Brima, Kamara, Kanu, Judgment, SCSL-2004-16-A, Feb. 22, 2008 (AFRC Appeal Judgment). 15 Rome Statute of the International Criminal Court, 1998 Sess., U.N. Doc. A/CONF. 183/9 (1998) (entered into force July 1, 2002).

Testimony
United States Senate Committee on the Judiciary
Rape as a Weapon of War: Accountability for Sexual Violence in Conflict
 April 1, 2008

Dr. Denis Mukwege

Testimony of Dr. Denis Mukwege Director,
 Panzi General Referral Hospital Bukavu,
 South Kivu, Democratic Republic of the Congo

Before the Subcommittee on Human Rights and the Law Committee on the Judiciary United States Senate

“Rape as a Weapon of War: Accountability for Sexual Violence in Conflict” April 1, 2008

Chairman Durbin, Ranking Member Coburn, and Members of the Subcommittee, it is a great honor for me to be invited to testify before this Subcommittee on the acts of violence against the civilian population in the Eastern DR of the Congo.

I thank you for accepting to take your precious time to listen to my testimony about the sexual terrorism that the women in the Eastern DR Congo have lived with for almost ten years. This is known by the national and international community, without anyone making a serious decision to end this shameful crime against humanity in the 21st century.

The word rape or sexual violence cannot fully translate the horror that hundreds of thousands of women are living in this part of the world. My testimony will refer to my daily contacts with these victims in the Hospital, and in the second part, I will illustrate this testimony by 3 typical cases symbolizing the thousands of women whom we treat.

It is important to point out that this sexual terrorism is done in a methodical manner and according to the armed group. Generally the victims are raped: -By several men at a time, one after another; -In public, in front of parents, husbands, children or neighbors; -Rape is followed by mutilations or other corporal torture; -Sexual slavery often goes on for months; -All kinds of psychological torture.

a)Complaints

On arrival at the hospital, women victims of sexual violence complain of:

On the physical level:

-Pain in the abdominal pelvic area -Vaginal discharge -Pains while urinating -Genital ulcers -Genital scars -Urine incontinence -Unwanted pregnancies

On the psychological level:

-Insomnia

-Nightmares -Palpitations -Fear of infection or of returning to the village -Lack of ability to concentrate

On the social level:

-Rejection by the family and by the community -Isolation -Destruction of the family cell -Loss of roots, loss of school attendance

b) Upon medical examination

On the physical level:

-Sexually transmissible infections, especially Chlamydia, which is a source of chronic abdominal pains and resulting in sterility. -HIV infection accompanied by opportunistic diseases

-Genital lesions from simple wounds to complicated genital lesions stopping urinary or digestive function such as urogenital and rectogenital fistulas, fibrosis of the vagina, etc.

c) Consequences to the woman:

1. On the physical level

- The destruction of her genitals by knives, guns, or abnormal deliveries destroys her future as a woman in everything that entails.
- Infection by sexual transmissible diseases, especially Chlamydia, which destroys her reproductive organs and her dream of having a child.
- Infection by HIV in an unfavorable environment for seeking medical care, along with opportunistic infections, which weaken her potential to be a responsible person, destroys her dreams for the future. It goes without saying that this woman, who has become incapable of fully using her capacities as a woman because any possibility of motherhood is taken away from her, and in addition is weakened by AIDS, looks forward in her pain to an easy death. However, we are all witnesses that this is voluntary murder.

2. On the psychological level

To be raped in front of: -Her husband -Her children -Her father -Her neighbors Deeply humiliates a woman. This brings on behavioral difficulties which can result in suicide, disinterest in living, lack of conscience, and aggressiveness.

3. On the social level These women are often rejected by their own family and their husband. This exclusion (isolation) can worsen the behavioral problems which were mentioned before.

4. On the family level This results in a break up of the family, and often the woman or girl victim is excluded and stigmatized instead of the rapist. The husband leaves, abandoning his wife (in her traumatic state) and children. The wife often seeks refuge and becomes internally displaced without any resources. Often, lack of protection and malnutrition finishes what rape started but didn't finish.

5. On the community level

-The destruction of potential mothers on a large scale -The spread of HIV on a large scale -The disappearance of the population without the capacity of renewal of the population

Hypothesis and Analysis

The analysis of this phenomenon shows that the rapists are not doing this to satisfy some kind of sexual desire, but simply to destroy the woman. This is demonstrated by the following facts:

- If a woman is raped by men one after another, it doubles her chances of being contaminated by sexually transmitted diseases;
- Mutilations after rape open the skin, and she easily becomes contaminated by HIV;
- The systematic raping of women without regard to age - women 3 to women 80 years old - proves that the will to destroy the woman and her community is accomplished by infecting the woman who is the reservoir;
- The systematic destruction of the genital apparatus of the woman by infections, guns, knives, or abnormal deliveries demonstrates there is no sexual interest in the woman (otherwise she would have been protected), but rather the purpose is to destroy her reproductive organs to make her, her descendants, and the community disappear;
- Transmission of Chlamydia destroys the internal feminine genital apparatus and the woman becomes sterile. This desire to destroy pertains not only to the woman but to her whole family because:
 - When a woman is raped in front of her children, she definitely becomes traumatized. Will her children who witnessed this and could do nothing, hearing the cries of desperation of their mother, be normal or abnormal? Will they or will they not be capable of respecting their mother?
 - Mothers are dear to all children; I think that these children will have witnessed a scene that will leave marks on them for a long time.
 - Men who witness the rape of their wives without being able to defend them, even if they live, develop guilt complexes, become afraid, and characteristically, they tell me that they become impotent. This turns into low self-esteem. They tend to leave the family to take refuge in a place where no one knows them.
 - For the family and especially the children, it is a terrible thing to have a humiliated mother and a humiliated father who left them. Therefore, the cell of the community is totally destroyed.

This desire to destroy not only has an impact on the woman and the family, but also on the community because:

When the woman is destroyed, there is no possibility of a renewal of the community (the mechanism of renewal is broken);

In normal warfare, the men die at the front, but often the women reproduce children with some sick old men still alive. But the contrary is not true. When the uterus is destroyed, there is no possibility of reproducing. In the case of our species, when one destroys the genital apparatus, the men become useless, because they cannot reproduce children with sick women or women whose genital apparatus are destroyed.

10 healthy men can produce 1000 children if there are 1000 women. But 10 healthy women with 1000 healthy men can only produce 10 children under the same conditions. This analysis shows that man

has been able to invent a horrible strategy of war which produces the same effect as a normal war (that is assassination, loss of property, occupation of land, internal displacements, and refugees with all the miseries that go with that) but worse yet, has an effect on the health of those concerned, with indelible marks that they will carry everywhere during their life span.

This situation is so much more serious because it does not concern ten thousand women, but rather several hundred thousand women.

I would like to take this opportunity to send out a cry of alarm in favor of these women on our planet who are not treated as well as men are, and who, most of their lives, are always in danger because of bad treatment or lack of treatment after being raped. Their social and economic reintegration in society and their compensation should not be neglected.

I am asking the national Congolese community to invest thoroughly in putting an end to this crisis, similar to no other, that is going on in Eastern DR Congo by using political, judicial, and whatever other means to isolate the authors of these crimes and stop them from committing any more crimes.

I am asking the International Community to make rational use of MONUC, the United Nations forces in the Congo, to protect the civilian population and especially women, which is part of their mandate, and yet this situation continues to this day.

I am asking the American government to use its influence on the governments of the countries of the Great Lake Region to stop this practice of rape being used as a weapon of war and to help stop the leaders of these horrible crimes, who are known to everyone; where they are staying is no secret, and their acts are known to everyone.

To complete my testimony, I am annexing 3 individual testimonies.

Testimony n° 01

My name is Madame Z, I am 26 years old, mother of 2 children and from Kaniola. On the night of December 15, 2005, at 11 p.m., some people speaking a foreign language broke my door down and came into my house. They had arms and machetes. Two of these men forced me to show where my husband was hidden. They tied him, and he looked on helplessly while the two intruders raped me.

They took all the members of my family and brought us in the forest. Eight of us walked through the forest for two days. In the middle of the forest they asked my older brother and my husband to sleep with my sisters. My brother, my husband, and my sisters refused and were all killed. I became a sexual slave in the forest. I had to serve each intruder sexually for a week.

They used me sexually and did to me whatever it pleased them to do. My horror lasted until the end of March 2006 when I escaped. Back in my village, my in-laws rejected me saying that I was the cause of the death of their husband and brothers. As I have no father or mother, I didn't know where to go. Some good people in the village who knew that at Panzi Hospital there was free treatment for raped women took me to a local association who referred me to Panzi. I ask that justice be done and that those people leave the forest in our country and go back to their own country.

Testimony 02

My name is Madame X and I am 47 years old. On the night of August 24, 2007, while we were

sleeping, 4 intruders speaking another language, and probably from Kahuzi Biega Park, broke down the door of the house. They tied up my husband, stole everything in the house, and demanded money. Two of them raped me and the two others raped my 13 year old daughter and took her into the forest. When they first raped me, the second took a piece of wood wrapped in a piece of clothing and began to clean my private parts. In putting the piece of wood deeply in me, he wounded my bladder and my private parts. The next morning, the village people who had not run away took me to the dispensary. Two days later, a medical team from Panzi found me at the dispensary and took me to the hospital. I was treated and am now better, but I am afraid to return home because the intruders are still in the forest.

Testimony 03

My name is Madame Y, I am married, mother of 4 children, am 30 years old and come from Lubarika. On March 8, 2008 at 10 a.m., an armed man dressed in military clothing and speaking Kinyarwanda surprised me in a field where I was planting. I wanted to run away, but he pointed his gun on me and threw me by force on the ground and put his hand my mouth fearing I would yell out. He put the mouth of the gun deep in my vagina and I became traumatized. I also realized that, after having the gun in my genital apparatus, I couldn't hold my urine, and it hurt a lot when I urinated.

The neighbor in the field helped me to get back to the village, and as I was bleeding a lot from the vagina, I went to the health center where they sewed me before transferring me to Panzi Hospital. I spent 3 weeks at the hospital. They repaired my urethra, which had been destroyed. Today I am cured, and I am preparing to go back home, but fear that my husband will reject me. I would like the hospital to accompany me home for family counseling in order to be reconciled with my husband.

These three testimonies represent the daily lives of these women in their homes, in the fields, coming and going wherever they are. We did not want to present more horrible testimonies to avoid emotional effects, but we have more than 10,000 indescribable testimonies.

Members of the Subcommittee, the eyes of these women are from now riveted on you. Their eyes will not leave you until you have actively taken steps to alleviate their suffering.

Thank you

Psychosocial Treatment of Women Victims of Sexual Violence at Dorcas House at Panzi Hospital
The treatment is given on several levels:

1) The psychological level: the psychological treatment is done in two ways: listening to victims and psychological follow-up. By listening to the victim, the social worker tries to detect the degree of trauma. In many cases, the victims want to be reassured that they are not contaminated by an incurable or sexually transmitted disease. If the victim is found to be in good health, her second concern is her social and economic reintegration in the community. She tries to empower herself and reintegrate into society.

For certain victims, it seems difficult to foresee total rehabilitation when one listens to their stories. Following are some examples of cases which we tried to treat and assist:

Mapendo Balagazi is 21 years old and has a one-year old daughter Anne-Marie. She witnessed a horrible spectacle – her husband's head was cut off in front of her in their house in Kaniola, and then he was castrated by the Interhamwe. They forced her to carry the bag containing the bleeding head of

her husband into the forest where she was first raped by eight soldiers. After that, she had to cook the heads of their victims including her husband's as a meal for the Interhamwe. She does not admit to having swallowed the flesh, but she said that her friends fainted after swallowing pieces of human flesh. After three months, she escaped from the forest with the help of the Congolese army and the Red Cross. This is only one case among so many others. This woman suffers from serious mental and physical depression, including permanent anguish, phobia, loss of memory, and suicidal tendencies.

Emiliane Asemeke, who is 13 years old and from Shabunda, was returning from school at around 1 pm with three other teenagers (13 - 14 years of age). The Interhamwe soldiers met them and took them into the forest where they walked for three days. Emiliane was raped by five soldiers one by one. One of them took all her clothes, and the soldiers tore up her school books. She decided to escape after three weeks in captivity. She suffers from guilt feelings. At 13, she is a mother, the result of collective rapes. At first, she didn't want the child, and did not understand anything about being a mother. Thanks to the assistance of the nurse at Dorcas house, the child survived. She begged the girl to nurse her baby and take care of it, but had to feed him for her at the beginning with a bottle. Today the baby is living, after being hospitalized three times. The baby is gaining weight, and Emiliane has started to smile again. She has agreed to attend workshops at Dorcas House. She comes to get medicine at Panzi Hospital where the child is monitored by the hospital pediatrician.

We have many similar cases, and we try to make every effort to listen to them and assist them to end their pain and become normal again.

2) The social and economic reintegration level: it should be pointed out that all the women who come for treatment at Panzi Hospital do not live in the city of Bukavu. The majority of these women return to their respective villages, and there are quite a number of women who are seriously traumatized and who do not wish to continue to be helped. The hospital does all it can to assist local associations that treat and assist these victims in the long process of social and economic reintegration.

3) The emotional level: the victims need to be liked. They want to be reassured that everyone does not dislike them as their family members do. Gradually, certain members of their family decide to visit them at the hospital, and when they see that there are other women with the same problems receiving care, it makes them think again and change their attitude towards their relative. Certain husbands come to visit their wives and then go back in hiding. These husbands would like to live with their wives again, but are afraid of what others will say. A woman begged us one day to send a letter to her husband to reassure him that her HIV test was negative. She wanted to live with him again as a married couple. By asking her to remain in Bukavu and live alone, this meant to her that a woman has no status in society. She feels that nobody respects her, and the fact that she was raped is a terrible mark on her. However, she said that her husband promised to take her back again if she were not HIV positive. This woman left the hospital to find her husband, but we do not know if they are presently living together. The total destabilization of the community leads to its total destruction.

1. Testimony of Mme. Mapendo, 26 years old, mother of 2 children from Kaniola-Luya village. She was abducted and taken into the forest by her torturers from December 15, 2005 to the end of March 2006

Mapendo was married and lived with her husband, Mr. Bisimwa. The Interhamwe frequently came into their village at night to attack, loot, rape, and abduct women, so Mapendo and her family no longer slept at home. They slept in the banana leaves and in the fields a little farther away from the village. At that time, the intruders weren't coming there any more. Then on December 15, 2005, the family decided to sleep at home because the children had begun coughing from sleeping outside in the

cold.

That night, Mapendo's nightmare began. At around 11 pm, they heard men ordering them to open the door. They broke down the door and entered with big lamps, with guns, machetes, and knives. There were ten of them and two looked at Mapendo and asked where her husband was. He came out of hiding trembling. They asked for dollars, but Mapendo and her husband didn't have dollars. She was grabbed and thrown on the floor. Two men raped her in front of her husband who was already tied up, while the other intruders took the 2 cows and 3 goats from the house. Mapendo and her husband were tied up and taken into the forest. While they were walking through their village, the intruders chased after other victims. The little sister of Mapendo's husband, who was married, was also taken away, as well as the oldest brother, the little brother, and the little sister of Mapendo while the dead bodies of their father and mother were left lying on the ground in their house. They were killed because they asked that the assassins leave 1 cow for them from the 6 cows that they took.

Eight people were tied up and taken into the forest on a very long trip which took 2 days. In the middle of the forest, things became more dramatic: the assassins asked Mapendo to lie down; they demanded that the oldest brother of Mapendo and her husband Mr. Bisimwa have intercourse with her in front of the others. When they refused, they were assassinated (their limbs were hacked apart) in front of the 6 other people looking on including Mapendo. They raped Mapendo again, and then they all continued their trip until they came to their camp in the forest.

Once in the forest, the assassins each took turns making Mapendo their sex slave for one week. Her sister-in-law and her little sister always looked sad, and were assassinated because of this, for the men said: if they escape, they will bring their Congolese brothers who will come to attack us. They didn't kill Mapendo because she didn't look sad. So Mapendo remained the sole woman with ten men who took their turn raping her. Each week Mapendo changed sex partners. She was watched constantly as the men feared she would escape. Mapendo realized she was pregnant at the beginning of February 2006. As the men saw that she had gotten used to them, they gave her a little freedom. She could go to fetch water a few kilometers away. She pretended that she was going to the brook, but decided that she was going to escape and return home to her village. As she didn't know which direction to take, she got lost in the forest for a week, ate leaves, and drank dirty water when she could find it. Finally, on the seventh day, she came to some fields where she met two older men who were cutting trees to make firewood.

They nearly ran away because she was almost naked; she cried out to them that she wasn't crazy, and they approached her. They were in a village very far away from Mapendo's village, towards Kalonge. The two men brought her to the village and gave her a loincloth to put on and food and showed her the route she should take from their village to return to Kaniola-Luya. So Mapendo continued on her route until she came to her village and stayed with her father-in-law and mother-in-law with their two children. When her in-laws saw her, they blamed her for the cause of the death of their son and daughter. As Mapendo didn't have her parents or her brother any more, she was obliged to stay with them, but they didn't get along, and they finally chased her away. Some good people took her in, and other people who knew about the treatment at Panzi Hospital for women like Mapendo, showed her a local association which brought her to Panzi.

Her condition when admitted to Panzi hospital

Mapendo was admitted to the hospital when she was three months pregnant, very thin and pale, unfriendly, wearing one loincloth with a torn T-shirt, very depressed, and accompanied by her two children, both suffering from malnutrition.

After two days, we chose her from among ten survivors picked to participate in a counseling group. Then she told us her story.

Presently, Mapendo lives with her three children (the last child was born as a result of rape) without a husband in her village and works in the fields. She makes her living working in the fields, and at the end of the day, she is paid and uses the money to feed her children. She is able to continue her life after the treatment she received at Panzi Hospital.

2. Testimony of a 12 month old baby

In January 2007, Panzi Hospital received a 12 month old baby girl. The parents of the child live in the Essence neighborhood in Ibanda Commune. The mother works at the market selling fresh sardines. The mother usually left her child with her neighbor when she went to work, but as the neighbor wasn't there, she took her child to her older sister in Kadutu.

Around 6 pm, the mother came back to get her child. She found the child on the back of her sister's male servant, Mr. Kulimushi. The child was sleeping. The mother gave Kulimushi a bag of fresh fish for having helped keep the child that day.

When the woman arrived home, her first gesture was to wake the child in order to put on a new diaper for she supposed that her diaper was wet. The moment the mother touched the child's thighs, the child began to cry. When the mother tried to undress the child, she saw that the diaper was wet with blood towards the child's anus but when she looked at the child's vagina, she saw more blood. She cried out, and the neighbors came running and quickly took the child to the nearest dispensary where it was confirmed that the child had been raped or the victim of sexual violence. The father arrived drunk towards 8 pm, and when he heard the news, he took a knife after his wife blaming her, saying that she was irresponsible to take his child to her family where they would hurt a 12 month old baby. The neighbors intervened to stop him.

Towards 5 am in the morning, the father took his wife and child to Kadutu, and they questioned Kulimushi intensely. The servant admitted that he had raped the baby. Later, he was taken to court and put in prison after the doctor's report at Panzi Hospital confirmed that the child had been raped.

State of the child when admitted to the hospital

This 12 month old baby cried and cried. When her mother tried to nurse her, the child was unresponsive, and all day, the child would not eat. The mother was very depressed, crying and saying that she was a living dead woman. She would not sit on a chair, but lay on the ground in the doctor's office. But, today, the child is well and family harmony is restored.

3. Testimony of Maman Faïda M'Ciromo, 67 years old living at Mulamba-Ngweshe-Walungu

On February 25, 2008, Panzi Hospital admitted a woman who had been raped in the fields in 2007. She was hoeing; suddenly, in the forest she saw seven men dressed in military uniforms holding guns who suddenly ran into the fields. They cried out: "Put your hoe down" while pointing the gun at her. She began to tremble while they spoke in Kinyarwanda. One of them asked for money. She replied: "I am a widow; where can I get dollars?" When they heard this, the attackers became angry. They said: "As you have no money, you must become our wife; we are going to rape you." She replied: "My children, I am only a widow and I am the age of your mothers, and I am your mother."

One of the seven attackers cried out: "And you, we are not discussing anything with you." Then he ran and kicked her, and she fell down. And so they began to rape her, one after the other. One lay down on her, the second raped her through the anus; the third made her open her mouth and put his penis in her mouth until he ejaculated in her mouth. When he wanted to put his semen in her mouth, he forced her by shaking her mouth to swallow the liquid. The fourth, fifth, and sixth raped her in the vagina, and they continued until all seven had raped her, leaving her half dead on the ground.

The woman stayed there until evening when she heard noises from some older men who were passing on the road which leads to the village. She cried out to them for help. They came and helped her, carrying her on their backs until they got to the health center where she was treated. Until this day, she has not forgotten that awful experience.

The state she was in when admitted to the hospital

The woman was very quiet and didn't want to say that she was raped. She only complained of nausea, digestive trouble, and especially constipation, gastritis and asthenia. However, on the second day she explained what really happened to her. After two weeks of treatment at the hospital, she was back to normal. This woman is now well and living at Ngweshe as a widow.

Statement
United States Senate Committee on the Judiciary
Rape as a Weapon of War: Accountability for Sexual Violence in Conflict
April 1, 2008

The Honorable Russ Feingold
United States Senator , Wisconsin

Statement by Senator Russ Feingold
At the Hearing Before the Senate Judiciary Committee
Subcommittee on Human Rights and the Law
on "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict"
Dirksen Senate Office Building Room 226
Tuesday, April 1, 2008

I thank the Chairman of this Subcommittee, Senator Durbin, for holding this important hearing on a topic that is painful to discuss but even more difficult to ignore. All of us should be horrified by reports of the systematic sexual violence that millions of women and girls face. And all of us should be outraged by the impunity with which such crimes are committed. This type of abuse is so widespread in countries like the Democratic Republic of Congo in large part because the perpetrators know they will not face consequences for their actions. No government of a civilized country can allow crimes of this severity and frequency to go unpunished.

During Congress' August recess last year, I traveled to the Democratic Republic of Congo and visited the embattled eastern regions just days before the major offensive that drove tens of thousands of people from their homes. While in North Kivu, I visited a camp of internally displaced Congolese and a center for victims of sexual abuse. As today's witnesses can attest, the consequences of the ongoing conflict and the pervasiveness of sexual violence in the eastern DRC may mean that there are few worse places in the world to be female. While in North Kivu, I met with a group of displaced Congolese women who had been sexually abused and in many cases raped, causing them to suffer serious physical, social, and psychological pain with little opportunity for healing or redress.

The humanitarian assistance that the United States and other donors offer the victims of this abuse is essential, but it is insufficient. Even more powerful than our money is our diplomacy. The U.S. and the international community must press every government that fails to prevent sexual violence, as well as other war crimes, to hold accountable those who have committed such heinous crimes.

In seeking justice from the perpetrators of terrible violence during Sierra Leone's civil war, the Special Court of Sierra Leone has begun convicting the perpetrators of sexual violence and rape for war crimes. I am hopeful that these historic precedents will set an example and send a message around the world. Today's hearing calls attention to this issue and to what I hope is the beginning of a concerted international effort to make the world safer for vulnerable women.

Statement
United States Senate Committee on the Judiciary
Rape as a Weapon of War: Accountability for Sexual Violence in Conflict
April 1, 2008

The Honorable Richard J. Durbin
United States Senator , Illinois

Opening Statement of Senator Dick Durbin
Chairman, Subcommittee on Human Rights and the Law
Hearing on "Rape as a Weapon of War:
Accountability for Sexual Violence in Conflict"
April 1, 2008

This hearing of the Judiciary Committee's Subcommittee on Human Rights and the Law will come to order.

The subject of this hearing is "Rape as a Weapon of War: Accountability for Sexual Violence in Conflict." This is the first-ever Congressional hearing on sexual violence in conflict. That is a sad testament to our failure to take action to stop this horrific human rights abuse.

After a few opening remarks, I will recognize Senator Coburn, the Ranking Member, for an opening statement, and then we will turn to our witnesses.

The use of rape as a weapon of war

Today we will discuss the systematic and deliberate use of rape as a weapon of war to humiliate, expel and destroy communities in conflicts around the globe.

Tragically, mass rape has been a feature common to recent conflicts in Bosnia, Darfur, the Democratic Republic of Congo, East Timor, Rwanda and Sierra Leone. However, this problem is neither new nor unique to these conflicts.

In World War II, the Japanese Imperial Army raped an estimated 20,000 women, ranging from infants to elderly women, in the city of Nanking in China in a one-month period.

Rapes in Nanking, and in too many conflicts since then, have frequently been carried out in public and in front of family members. Men are often forced to rape their mothers, sisters or daughters. Women are mutilated and sometimes killed after the rape.

Children are particularly at risk of being subjected to wartime sexual violence and, in some countries, girls and boys are abducted and repeatedly raped.

Women and girls who survive sexual violence are frequently stigmatized and rejected by their families and communities.

I would like to show a brief graphic video that will provide some context for our discussion. This video features clips from the documentary on rape in the Democratic Republic of Congo by Lisa F. Jackson, one of our witnesses today.

[SHOW VIDEO]

It is appalling that today women and girls are being raped in conflict situations around the world. This reflects our collective failure to stop the use of women's bodies as a battleground.

The scale of this problem is daunting. A recent report documented conflict-related sexual violence in 51 countries in Africa, the Americas, Asia, Europe and the Middle East in the last two decades.

But wartime rape is not inevitable. The widespread prevalence of sexual violence in recent conflicts results in part from the lack of accountability for those who use rape to pursue military or political goals.

Government and rebel forces violate human rights with impunity, perpetuating the stigma that surrounds these crimes.

Historically, wartime sexual violence was tolerated as an unfortunate but unavoidable consequence of conflict.

Throughout the twentieth century, rape and other forms of sexual violence were included in increasingly specific terms in international agreements on the conduct of war. Prejudice and misconceptions meant these crimes were initially framed as private acts violating family dignity and honor, rather than the violent public crimes they are.

As noted in the video we just watched, the Yugoslav and Rwanda Tribunals made significant progress by prosecuting perpetrators of sexual violence. That we have moved beyond the not-so-distant debate about whether sexual violence in conflict is a war crime represents an important step.

Despite these positive developments, wartime sexual violence and the experience of those women and men who survive it remain invisible far too often.

During today's hearing, we will discuss legal options for holding accountable those who use rape as a military tactic. While a growing number of perpetrators of wartime sexual violence have been prosecuted, a much larger number have escaped accountability. The average wartime rapist runs very little risk of being prosecuted.

The United States and other countries must play a greater role. I'm sorry to say that if a foreign warlord who engaged in mass rape found safe haven in our country today, he would probably be beyond the reach of our laws. It is not a crime under U.S. law for a non-U.S. national to perpetrate sexual violence in conflict against non-U.S. nationals, so the U.S. government is unable to prosecute such perpetrators of wartime rape who are found in our country.

There is also no U.S. law prohibiting crimes against humanity, one of the most serious human rights violations, which includes mass rape and other forms of sexual violence in conflict.

And we must make it clear that genocide and torture, two of the serious human rights violations that are a crime under U.S. law, can include wartime sexual violence.

These loopholes have real consequences. For example, take the case of Emmanuel "Chuckie" Taylor, son of the warlord Charles Taylor, who the Justice Department is prosecuting under the Torture Statute. As the head of the notorious Anti-Terrorist Unit of the Liberian government, Chuckie Taylor was implicated in wartime rapes committed by the ATU, but it's unlikely that he could be prosecuted for these crimes against humanity under U.S. law.

Another example is Marko Boskic, who found safe haven in our country after reportedly participating

in the execution of men and boys in the Srebrenica massacre. Under current law, the United States was unable to prosecute Boskic for his crimes against humanity, and charged him only with visa fraud.

In addition to punishing individual perpetrators, governments that tolerate and fail to take steps to stop wartime sexual violence must be held accountable for their actions. At the very least, we must ensure that U.S. tax dollars do not fund state armies that fail to prevent their forces from engaging in mass rape.

We must work to end the use of rape as a weapon of war, but as long as the practice persists, we should support programs that provide protection, medical care, psychological services and legal remedies to survivors of wartime sexual violence.

As I have said before, this Subcommittee will focus on legislation, not lamentation. We must end impunity for wartime sexual violence. I look forward to working with the members of this Subcommittee to ensure that our laws hold accountable those who use rape as a weapon of war.