**Expert Group Meeting**

**UN Special Rapporteur on violence against women: Report on rape as a grave and systematic human rights violation and gender based violence against women**

Online meeting - 27 May 2020

**Presenters will speak for up to 7 minutes each and will receive a 2-minute warning.**

Talking points for Amarsanaa Darisuren, OSCE Senior Adviser on Gender Issues

* As the largest regional security organization, the OSCE is committed to promote gender equality. Preventing and combating violence against women is a priority area of work, reflected in several Ministerial Council decisions.
* This is a priority area, because violence against women is a severe security threat: to those who experience it, and the negative repercussions affect the security and development of society as a whole.
* While the OSCE commitments do not reference rape, they cover all forms of gender-based violence against women and girls. Some specific references are made in the decisions to sexual violence, including the need for establishing sexual violence crisis centres (7/14) and initiatives to combat sexual violence, in particular in armed conflict.
* Last year, we launched the findings of the OSCE-led survey on violence against women.[[1]](#footnote-1) This flagship survey provides a unique cross-regional, comparable data set on violence against women, covering seven countries in South-East Europe and Eastern Europe. It provides us with much-needed data on gender-based violence against women and girls, in conflict and non-conflict settings.

**Rape by intimate partners**

* The OSCE-led survey showed that attitudes on women’s sexual subservience to men are still prevalent, though maybe no longer the norm. 17% of women, in the surveyed countries, find that it’s a wife’s obligation to have sex with her partner, even if she doesn’t feel like it.
* The OSCE research found that 31% of women aged 18–74 have experienced either physical and/or sexual violence. 9% have experienced sexual violence.
* Our survey confirmed that partners are the most common perpetrators of sexual violence. Even when perpetrators of sexual violence are not the partners of victims, they are still more likely to be someone the victim knows.
* In the OSCE region only 22 out of 57 participating States have laws specifically punishing rape within marriage[[2]](#footnote-2). This number has increased in the last few years, as a direct result of the Istanbul Convention.

**Sexual violence in conflict**

* Conflict exacerbates existing forms of gender-based violence. The OSCE-led survey showed that a significant number of conflict-affected women make the connection between the conflict and their experiences of violence. This goes beyond conflict-related sexual violence by parties to the conflict, but includes intimate partner violence.
* The data shows that women whose partner fought in an armed conflict are more likely to experience physical or sexual intimate partner violence.[[3]](#footnote-3)
* Violence experienced in the context of conflict tends to be more severe than in non-conflict settings. This applies even more for women who are refugees, displaced or returnees, for example, returnee women are more than three times more likely to say their most serious incident involved being raped.[[4]](#footnote-4)
* Survivors of conflict-related violence are even less likely to report their experience to police or support services than women in non-conflict settings.

**OSCE experiences and good practices**

* The main active crisis in the OSCE region is the one in and around Ukraine. In my interactions with local interlocutors in Ukraine, including civil society organizations and government, I have heard of an increase in pregnancies of young women. It is clear the conflict has an impact on women’s security, and their ability to access justice. Official data reveal much fewer cases related to domestic violence and sex crimes are reported in the conflict-affected regions as compared with Ukraine as a whole.[[5]](#footnote-5)
* This illustrates that the already very low rate of reports, and subsequently convictions, of rapes are even lower in conflict settings.
* The OSCE supports Bosnia and on conflict-related sexual violence case litigation, where the trials are still taking place to date, 25 years since the end of armed conflict.
* The OSCE mission in Bosnia and Herzegovina is observing war crimes trials, including those related to CRSV.[[6]](#footnote-6) According to OSCE analysis, between 2004 and 2017, around 28 % of completed war crimes cases involved charges of sexual violence. 138 perpetrators were convicted, a conviction rate of around 77 per cent.
* Achieving these convictions shows there is progress made. It is important to note how this was achieved. The OSCE Mission observed the positive impact of, among others:
  + A more sensitive approach to survivors in courts and prosecutors’ offices: the introduction of Witness Support Officers during investigation and trial has played a key role.
  + Improved recognition of special evidentiary standards - judges apply more consistently rules that prohibit questioning a victim about their prior sexual conduct; improved understanding of credibility of victim as sole witness, etc.
  + Increasing prioritization of CRSV cases at all levels
* Remaining challenges include:
  + Some courts and prosecutors’ offices have a limited understanding of the legal elements of sexual violence crimes and of proper qualification of these crimes.
  + Inconsistent application of aggravating and mitigating factors in sentencing
  + Gaps in provision of witness support in some courts and prosecutors’ offices
* As Christine Chinkin mentioned the importance of looking into rape in institutions, in particular in prisons, I would like to mention the publication of our colleagues in ODIHR on preventing and addressing SGBV in places of deprivation of liberty, published last year. This report reviews the causes, dynamics and consequences and includes recommendations to states to prevent this human rights violation.[[7]](#footnote-7)

**Conclusions and recommendations**

* Though progress can be noted in the legal frameworks on rape in the OSCE region, in large part due to the impact of the Istanbul Convention, there is much room for improvement.
* For the thematic report we are discussing today, I would recommend specific attention to be placed on rape within intimate relations, as one, if not the, most common form of sexual violence. It is urgent that this crime is recognized in national legal frameworks.
* Beyond reflecting this in the legal frameworks, clear implementation strategies are needed, which in addition to the support of civil society organizations should include capacity building of criminal justice sector actors. Training should include survivor-centred approaches and cooperation and coordination within the multi-sectoral response model. It is important they also tackle victim-blaming and gender insensitive attitudes and behaviours by first responders.
* I would also recommend specific attention to be placed on sexual violence in conflict settings. We can learn from the lessons drawn from trial monitoring in Bosnia and Herzegovina. Important aspects that should be addressed here include; victim support at all stages of investigation and trial proceedings; special evidentiary standards; appropriate compensation and sentencing; and again, the sensitization of prosecutors and judges.
* Thank you

1. All information included in this report from the OSCE-led survey on violence against women can be found in the Main Results Report and the Thematic Report on Violence Against Women and Confilct. All reports are available on: <https://www.osce.org/VAWsurvey/publications>. [↑](#footnote-ref-1)
2. Genderstats.un.org. Countries that have this in their legislation are: Canada, Cyprus, Denmark, France, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Montenegro, North-Macedonia, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Sweden, Turkey, United States. (accessed 26th of May 2020) [↑](#footnote-ref-2)
3. Three in ten women (30%) whose current or previous partner fought in a conflict experienced intimate partner physical and/or sexual violence, compared with 23% of all women who have ever had a partner. [↑](#footnote-ref-3)
4. 21% compared with 6% on average [↑](#footnote-ref-4)
5. UNFPA and Ukrainian Centre for Social Reforms, ‘Gender-based violence in the conflict-affected regions of Ukraine’, available at: <https://ukraine.unfpa.org/sites/default/files/pub-pdf/gbv%20in%20the%20conflict-affected%20regions%20of%20ukraine_eng.pdf>. [↑](#footnote-ref-5)
6. All information on CRSV trials in Bosnia and Herzegovina is taken from the OSCE Mission in Bosnia and Herzegovina publication: Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014–2016. <https://www.osce.org/mission-to-bosnia-and-herzegovina/324131?download=true> [↑](#footnote-ref-6)
7. <https://www.osce.org/odihr/427448>. [↑](#footnote-ref-7)