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ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immuno Deficiency Syndrome
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CERD	Convention on the Elimination of All Forms of Racial Discrimination
DEVAV	Declaration on the Elimination of Violence against Women
FGM	Female Genital Mutilation
HIV	Human Immuno Deficiency Virus
HTP	Harmful Traditional Practice
IAC	Inter-Africa Committee on Traditional Practices Affecting the health of Women and Children
ICPD	International Conference on Population and Development
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Persons
IOM	International Office of Migration
NGO	Non-government Organization
SADC	Southern African Development Community
STI	Sexually Transmitted Infection
TBA	Traditional Birth Attendant
VAW	Violence against Women
WHO	World Health Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime

1. General Introduction

1. Violence against women (VAW) is defined by the United Nations Declaration on the Elimination of Violence against Women (DEVAW) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life¹”. It is a manifestation of historically unequal power relations between men and women as manifested by current gender relations in Africa that are marked by socio-cultural norms of male domination over and discrimination against women. This continued domination and discrimination has prevented the full advancement of women and is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men². VAW is complex and diverse in its manifestations with far reaching and long-lasting consequences and costs, and impoverishes women, their families, communities and nations³. It is also a violation of the essential basic human right of an individual to safety, security and physical integrity.

2. Around the world, at least one out of three women has been beaten, coerced into sex, or otherwise abused in her life time.⁴ In Africa, violence is pervasive, and as a result millions of women continue to suffer in the home and in the community, with devastating effects. The manifestations of gender-based violence prevalent in Africa, although not exclusive to Africa, include domestic violence, sexual violence including rape, femicide and early marriage, human trafficking, harmful traditional practices (HTPs) such as female genital mutilation (FGM) and abduction, and widow inheritance.

3. Moreover, in a continent rife with conflict, women experience a heightened prevalence of certain forms of gender-based violence including murder, rape, sexual slavery, and forced pregnancy.⁵ While overall figures at the continental level are unavailable, a cross-section of figures give a good indication of the extent of violence in Africa: Amnesty International reports that in South Africa, about one woman is killed by her husband or boyfriend every six hours⁶ whereas other research shows that a woman is

¹ United Nations General Assembly Resolution 48/104 of 20 December 1993, Article 1.

² Marie Vlachoud and Lea BIASON (eds.). *Women in an Insecure World: Violence against Women – Facts, Figures and Analysis – Executive Summary*. Geneva: Geneva Centre for the Democratic Control of Armed Forces (DCAF), 2005, p.4.

³ United Nations. *Fact Sheet on Violence against Women: Forms, Consequences and Costs*, 9 October 2006: <http://www.un.org/womenwatch/daw/vaw>

⁴ Centre for Health and Gender Equity, Vol. XXVII, No 4, Dec. 1999

⁵ Karen Stefiszyn. “The African Regional Response to Gender-Based Violence” in *Gender-based Violence in Africa: Perspectives from the Continent*. Published by the Centre for Human Rights, University of Pretoria: <http://www.chr.up.ac.za/centreprojects/gender/Gender-based%20violence%20in%20Africa.pdf> (2007) p.18

⁶ UNFPA. Violence Against Women Factsheet: State of World Population. http://www.unfpa.org/swp/2005/presskit/factsheets/facts_vaw.htm, 2005.

raped every 80 seconds.⁷ In Zimbabwe, six out of 10 murder cases tried in the Harare High Court in 1998 were related to domestic violence. In Kenya, the Attorney General's Office reported in 2003 that domestic violence accounted for 47 per cent of all homicides.⁸ In a 2005 study on women's health and domestic violence, WHO found that 50 per cent of women in Tanzania and 71 per cent of women in Ethiopia's rural areas reported beatings or other forms of violence by husbands or other intimate partners.⁹ In North Africa, "honour killings" take the lives of thousands of young women every year. And amidst all these violations, women are more at risk of contracting HIV/AIDS than men, while feminization of poverty is perpetuated and gender equality remains unattainable.

4. Out of the broad field of violence against women, this paper will briefly discuss issues of violence as manifested in three specific areas in which women suffer gross abuse with grave immediate and long-term consequences. These are: *violence against women and girls in conflict and post-conflict situations in Africa; HTPs and institutions; and trafficking in women*. The violence suffered in these areas is often hidden, difficult to document and therefore even more challenging to eliminate.

2. Violence against Women and Girls in Conflict and Post-Conflict Situations in Africa

2.1 Introduction

5. VAW is repeatedly used as a weapon against women and girls in conflict and crisis situations and their aftermath in Africa. Several accounts reveal that women's bodies have become part of the battleground for those who use terror as a tactic of war, whereby women and girls are raped, abducted, humiliated and made to undergo forced pregnancy, sexual abuse, trafficking and slavery. These issues are examined below more closely.

2.2 Vulnerability of women and girls

6. The vulnerability of women and girls increases dramatically during armed conflicts and its aftermath due to the disruption and dismantling of the formal and informal protection mechanisms of families, communities and the State, owing to disorder, displacement and separation. The fact that many men are absent in situations of armed conflicts leaves women and children behind in greater danger and contributes to the breakdown of the traditional safety nets and support mechanisms upon which women and children rely. In such circumstances, women and girls are predominantly exposed to acts of

⁷Women's Learning Partnership (WLP): Gender Violence Facts & Figures <http://learningpartnership.org/en/resources/facts/violence>, 2007.

⁸Note 10 above.

⁹Mary Kimani. "Taking on violence against women in Africa: International norms, local activism start to alter laws, attitudes" *Africa Renewal*, Vol.21 #2 (July 2007), <http://www.un.org/ecosocdev/geninfo/afrec/vol21no2/212-violence-against-women.html>, p. 4

violence by the parties to the armed conflicts and at times, the perpetrators include predatory private individuals among peace keepers, and military and humanitarian workers, among others.

7. Women and girls who are internally displaced persons (IDPs) and/or refugees often suffer from poor site planning and camp management decisions that subject them to risks that contribute to VAW, especially sexual violence. They are not safe even with the protection granted by the status of refugee. Some of the problems that they undergo include managing their personal hygiene during menstruation, travelling long distances in search of food, water, and firewood, frequently being exposed to risks of sexual abuse, injuries from mines and unexploded ordinance as well as attacks by armed fighters. Due to the changes in division of labour within the family following displacement and separation, women and girls are frequently obliged to engage in forced prostitution to supplement the family income.

8. Women, particularly girls, are among the primary targets of armed forces that abduct and force them to conform. In addition to being forced to participate directly in hostilities as fighters, women and girls are used as spies, messengers, servants, and sexual and domestic slaves. According to the International Committee of the Red Cross (ICRC) report on the experiences of women and girls who were associated with the fighting forces in Liberia, Sierra Leone and Uganda, many were beaten and those who were caught trying to escape were killed or told that their families would be punished¹⁰. The same source revealed that the first assignment of newly recruited young women and girls was usually to attack their own villages and execute members of their families in order to make desertion and reintegration difficult¹¹.

2.3 Rape and sexual violence

9. In conflicts and situations of civil unrest, sexual violence is often perpetrated in the form of forced prostitution, sexual slavery, forced impregnation, forced maternity, forced termination of pregnancy, forced sterilization, indecent assault and trafficking. Rape and other forms of sexual violence are employed as systematic weapons of war and conflict. They are used by the fighting forces as a form of torture and punishment to inflict injury, to extract information, to degrade and intimidate and to destroy the cohesion of families and communities. In some countries, perpetrators may also attack young girls on the mistaken belief that raping a virgin will protect them from or cure HIV infection. Women, from young girls to grandmothers, are raped and brutally assaulted during attacks on their villages, as they attempt to flee, or seek safe sanctuary in IDP or even in refugee camps.

10. As a “weapon of war”, rape is used in multiple ways, which include impregnating women with children of the ‘enemy’; ostracizing unmarried women so that they become

¹⁰ Florence Tercier Holst-Roness. *Violence against Girls during Armed Conflicts and Crises*. Addis Ababa: ICRC, 2006, p.13.

¹¹ *Ibid.*

ineligible to start families; and damaging women's bodies so that they are unable to have children. Gang-rape, abduction and sexual slavery are also prevalent forms of sexual violence. Often women are deliberately raped in front of their families and neighbours, leaving survivors with extreme emotional damage in a society that shuns rape victims. Sexual violence is part of a calculated policy to attack the heart of a society, to demoralize and dishonour the opponent, to maximize the humiliation of the victim, their family and community and to ensure a level of powerlessness and fear that will remain entrenched. Rape as a 'weapon of war' is especially aimed at terrorizing and subjugating entire communities thereby affecting the social fabric of families and communities.

11. It is estimated that 90 per cent of such rapes in wartime are gang-rapes¹² often as a spectacle, with non-voluntary (family, other victims, local population) and voluntary (military and militia) spectators. Sexual torture happens with rituals including mutilation and filming for pornography. Threats of sexual violence are also used to instil terror and expel populations from their communities in fear that fighters will return to rape them again.

A case of rape in Sierra Leone

Sexual violence within the Sierra Leonean conflict was noted to be not only a war crime, but (given its widespread and systematic nature) was also a crime against humanity. During the conflict, terrorizing the civilian population was the main tactic of war. The violence against women and girls was reported to be more brutal. All parties to the conflict committed countless atrocities. Official reports documented appalling crimes such as fathers being forced to rape their own daughters, brothers being forced to rape their sisters, boy soldiers gang-raping old women and then chopping off their arms, pregnant women being eviscerated alive and the living foetus snatched from the womb to satisfy the fighters betting on its sex*.

* Ann Jones. The War against African Women. 22 September 2008. Tomdispatch.com. <http://www.alternet.org/story/77399/>

¹² Marie Vlachoud and Lea Bion. *Women in an Insecure World: Violence against Women – Facts, Figures and Analysis: Executive Summary*. Geneva: Geneva Centre for Domestic Control of Armed Forces. 2005. p. 14.

A case of rape in Uganda

Another horrifying experience of rape perpetrated on a thirty-year old woman was described in the words of the victim: *“I was 30 years old and married when I was gang-raped. I had temporarily separated from my husband amidst fleeing and insecurity when the village was attacked by fighting forces. I, together with a friend and my young sister, ran into the bush where I met my first ordeal. Six fighters found me hiding and raped me one after another... My relatives discovered me later soaked in blood, urine, faeces and men’s semen. I was torn everywhere and developed backache. Before I had recovered, I was again gang-raped at a military checkpoint (roadblock). This time I was raped by 15 fighters. This left me shattered. I was once again torn to an extent that I could not control my biological functions. The cervix was dislocated and the uterus hanging out. Whenever I am bathing I have to push it back in. My vaginal part and anus is separated by just a thread of flesh such that when I get diarrhoea, I defecate from both the front and behind. I was oozing water and blood.”**

** ISIS-WICCE. Documenting Women’s Experiences in Armed Conflict: Situations in Uganda 1980-1986, Luwero District. Kampala: ISIS -Women’s International Cross Cultural Exchange, 1998. Quoted in Meredith Turshen .*

2.4 Consequences of violence against women and girls

12. Many of the victims of rape and other sexual violence are deeply traumatized. Families and communities often reject women and girls who have been raped and sexually assaulted, and usually strip them of their social standing. In many cases, women who survive rape attacks are subsequently disowned by their husbands and families, leaving them even more vulnerable to future attacks because they lack the economic, social and physical protection.

13. The families, both natal and marriage, often reject children born through rape. Since children’s ethnicity is determined mostly by their fathers, women who become pregnant as a result of rape are often perceived as carrying enemy children. Some abandon their babies while cases of infanticide are also reported. Women who choose to keep their children risk being ostracized and their children considered social outcasts.

14. Women and girls subjected to violence are more likely to suffer physical, mental and reproductive health problems. Incidence of sexually transmitted infections (STIs) including HIV and AIDS is high among victims of violence. They also suffer from serious behavioural and psychological problems, sexual dysfunctions and relationship problems, low self-esteem, depression, suicidal thoughts, deliberate self-harm, and alcohol and substance abuse. In refugee situations, it is estimated that only 1 out of 10 girl children attend school. They are kept home for fear of their becoming victims of violence on their way to and from school. Their chances of acquiring skills for socio-economic mobility and independence are therefore severely compromised.

2.5 Issues affecting women and girls in post-conflict situations

15. All too often, the physical and mental health services necessary for women and girls to help them resume normal lives are not available in post-conflict situations, especially in rural areas. After periods of armed conflicts, perpetrators of rape and sexual violence often go unpunished for their crimes committed during the war. Few women are able to seek justice against the perpetrators. Even in a situation where some form of judicial system remains, testifying against alleged perpetrators is often difficult for survivors due to the social stigma attached to women and girls who speak out against their abusers. Many women and girls in post-conflict situations choose not to testify because they do not want to bring further 'shame' to themselves and their family. Witnesses may also fear repercussions from the perpetrators.

16. Post-conflict violence against women and girls could also be exacerbated by the reintegration of male ex-combatants into society without the necessary psychosocial services. Additionally, too often, the unstable post-conflict economy wreaks havoc on women and girls who face economic marginalization following the death of a spouse during conflict. There are also those who are unable to find out what happened to their family members who were separated/disappeared/lost during the war. Above all, women's and girls' role is often marginalized during national peace negotiations and post-conflict reconstruction.

2.6 Lessons learnt and recommendations

17. Impunity for violence against women and girls results from the failure of governments to implement international standards at national and local levels. When perpetrators of violence are not held accountable, it not only encourages further abuses but also gives the message that violence is acceptable and normal both in conflict and peace times.

18. Cognizant of the prevalence of violence against women and girls and its horrendous effects on their fundamental rights and freedoms and physical and mental health, the United Nations and the African Union adopted several legal instruments to address the criminal acts, which include: the Charter of the United Nations 1945; the Universal Declaration of Human Rights 1948; Convention on the Elimination of All Forms of Discrimination against Women 1979; United Nations Declaration on the Elimination of Violence against Women 1993; Convention on the Rights of Children 1989, and its Optional Protocol on the Involvement of Children in Armed conflict 2000; Security Council Resolution 1325 in 2000; African Charter on the Rights and Welfare of the Child 1990; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children 2000; the African Charter on Human and Peoples' Rights 1981; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003; the Rome Statute of the International Court, 1998; the AU Solemn Declaration on Gender Equality in Africa 2004, among others.

19. Of particular importance in this regard is United Nations Resolution 1325, which emphasizes the responsibilities of all States and governments to put an end to impunity and

to prosecute those responsible for war crimes relating to sexual and other violence against women and girls. It calls for an increase in the participation of women at decision-making levels in conflict resolution and peace processes and calls for the protection and respect of the human rights of women and girls during the post-conflict reconstruction process, particularly as they relate to the constitution, the electoral system, the police, and the judiciary. Moreover, more recently, the United Nations Secretary-General launched a multi-year campaign to intensify action to end violence against women and girls. It will run from 2008-2015 to coincide with the target date of the Millennium Development Goals (MDGs). This link reflects the fact that violence against women constrains the active involvement of women in development and is an obstacle to the achievement of all internationally-agreed development goals, including the MDGs.

20. To harness comprehensive and systematic actions to prevent and protect women and girls against violence in conflict and post-conflict situations, the following questions should be addressed:

- (a) What effective strategies could be adopted at the national, regional and international levels to promote and implement the rule of law against rape and all other forms of gender-based violence?
- (b) How should national governments put an end to impunity and ensure accountability with regard to violation of international and continental conventions that protect and promote the rights and fundamental freedoms of women and girls? Should there be incentives for ratifying existing conventions, monitoring and reporting on their implementation as well as on the implementation of the concluding observations and comments of Human Rights Treaty bodies?
- (c) How should the national financial policy be expanded to include provisions for comprehensive support to victims of violence during conflict to meet their physiological, psychological, economic, social and spiritual needs and their reintegration into families, communities and society at large in the aftermath of conflict? What should be done to secure a recurrent gender-sensitive budget with adequate human, financial and material resources to fight gender-based violence?
- (d) What are some examples of best practices whereby gender-sensitive approaches have been used to include women and girls in the design, implementation, monitoring and evaluation of post- conflict reconstruction, development, and assistance and restoration packages?
- (e) What mechanisms can be adopted to advocate and mobilize popular support to revive and promote community-based outrage and public outcry against such acts of violence?

3. Harmful Traditional Practices and Institutions

3.1 Introduction

21. Every social grouping in the world has specific traditional and cultural practices and beliefs. They are systemic and mirror the structural organization of the given community. Some of these benefit all members of the grouping while others benefit only some at the expense of others. Yet, they are practiced for generations as they characteristically resist change except at the slowest pace over time. Among the commonest harmful traditional practices (HTPs) are: female genital mutilation (FGM); forced feeding of women; early marriage; taboos and practices that prevent women from controlling their own fertility; nutritional taboos; traditional birth practices; son preference and its implications on the status of the girl-child; female infanticide; early pregnancy; and requirements of dowry/bride price. That these practices are in direct violation of the human rights of women and girls is as self-evident as their reflection of the patriarchal nature of societal organization. They persist because they are not questioned for the most part and are accepted as constituting part of the morality of the community.

22. As early as the 1950s, the United Nations and other human rights bodies raised the issue of the impact of HTPs on the health of women. However, the issue did not receive consistent, broad consideration or action. Both governments and the international community remained reluctant to accord scrutiny at the national and international levels on the grounds that HTPs were sensitive cultural issues falling within the private sphere of women and the family. Still, they acknowledged that they violated women and girls' rights to health, life, dignity and personal integrity.

3.2 Focus on the various HTPs and their impact on women and girls

23. This section will focus on a number of the key traditional practices harmful to women that are found across the globe including in Africa where they are prevalent.

(a) Female genital mutilation

24. FGM is a surgical procedure performed on the genitals of girls and women in many parts of the world. It covers a variety of operations also referred to as female circumcision and introcision. In Africa, FGM is extensive. It is practiced at different ages and times from community to community, some doing it on baby girls just days old, others to women after they give birth to their first child. The procedure for most practising communities is ritualistic, highly valued, and for some, marks the transition from childhood to womanhood. The function of FGM, ultimately, is to reduce a woman's sexual desire and therefore ensure her virginity until marriage and her fidelity after marriage. Where the

procedure involves reducing the size of the vagina, it is supposed to increase a man's enjoyment of the sexual act.

25. Some communities also believe that their religion requires it, e.g. Muslims who adhere to the practice. Others practice FGM for aesthetic reasons as they consider the female genitalia ugly, offensive and/or dirty and therefore feel that they need cosmetic improvement. Still others believe that FGM enhances a woman's fertility and her ability to carry many babies, and increases the chances of her children's survival.

26. The communities in which FGM is practiced support it because it enhances the desirability of their daughters for marriage and increases their bride price. It thus makes the girls culturally and socially acceptable. Men thus support and encourage FGM in their communities. Women, on the other hand, play their role of organizing the ceremony/event (usually the mother or grandmother) with the traditional birth attendants, midwives or professional circumcisers who perform the procedure. Women in practising communities have little choice but to adhere to tradition if they are to be considered full members of the community with the full gender rights accorded to female adults. Besides, their socio-economic status as women hardly offers alternatives to a different way of life away from their communities.

27. There are four types of FGM practiced in most of Africa.¹³ Type I is commonly referred to as clitoridectomy, which entails excision of the clitoral hood with or without removing part or all of the clitoris. Type II referred to as excision entails removal of the clitoris and the labia minora. Type III is often referred to as infibulation and consists of removal of part or all the external genitalia and stitching the vaginal opening, leaving a small opening for the flow of urine and menstrual blood. Type IV is often also called introcision and entails pricking, piercing or incision of the clitoris and/or labia.

28. Types I and II operations constitute about 85 per cent of all FGM. Type III is common in Djibouti, Somalia, the Sudan, and parts of Egypt, Ethiopia, Kenya, Mali, Mauritania, the Niger, Nigeria, and Senegal. It is extremely severe and involves binding women's legs for 40 days to allow for the formation of the scar tissue. The excisor often has to re-open the vagina to allow for easier child - birth and then re-stitch it after birth, sometimes leaving it a little bigger to allow for easier intercourse. The excisor has to do the same on the eve of the girl's wedding to facilitate consummation of the marriage.

29. FGM is practiced in more than half of the countries in Africa. The prevalence ranges from 98 per cent in Somalia to 5 per cent in the Democratic Republic of the Congo.¹⁴ At least 100 million women and girls in Africa have been victims of FGM.¹⁵

¹³ "*Razor's Edge-The Controversy of Female Genital Mutilation*," Women's UN Report Network

¹⁴ See Annex 1 for list of 27 countries and prevalence rates by Berhane Ras-Work

¹⁵ Inter-Africa Committee research studies in 1999

Health complications associated with FGM

30. Medical emergencies arising from FGM complications are common and often lead to death. Communities practising FGM are normally poor and cannot afford medical services in such emergencies. Some of the immediate physical problems include: bleeding from rupture of a blood vessel sometimes leading to death; post-operative shock; infections including tetanus from un-sterilized or poorly disinfected equipment; and urine retention caused by swelling and inflammation. Some of the longer-term consequences include: chronic infections of the bladder and the vagina that can also lead to infertility; extremely painful menstruation; excessive scar tissue on the site of the operation; formation of cysts on the stitch line; childbirth obstruction that can result in the development of fistulas, tearing of the vaginal and/or bladder walls; chronic incontinence; risk of HIV infection when the same unsterilized instruments are used on multiple girls; and re-infibulation each time a new child is born.

31. So far, there is a shortage of studies on the psychological effects of FGM on girls and women. Anecdotal information, however, suggests that some of those who have undergone FGM and its rituals are so traumatized that they can only associate their genitals with pain and possible death from childbirth. The idea of sexual intercourse as pleasurable is inconceivable to most of them.

(b) Son preference and its implications on the girl-child

32. Son preference refers to a range of values and attitudes that manifest in different practices to indicate the status accorded a male over a female child. Thus, the female child is disadvantaged right from birth with regard to such issues as the quality and quantity of parental care and investment in her development. It may lead to acute discrimination especially in situations where resources are limited. While neglect is the rule, in some cases, son preference may lead to selective abortion or female infanticide. This is a trans-cultural phenomenon and is directly tied to the functions and roles allocated to male children in the family and community, such as perpetuation of family lineage, and for performance of burial and religious rites. In many African cultures, inability to have a male child will lead to search for solutions such as marrying multiple wives, divorce and going to great lengths to find out who is responsible for this misfortune.

33. While scientific evidence of the impact of son preference on the girl child is scarce, there is evidence of discriminatory practices on the girl infant and child that is observed in various communities. The lower priority in feeding and caring of female infants has been linked to higher rates of morbidity and malnutrition among girl children in some African countries¹⁶. Moreover, in times of financial crisis, when parents have to make choices as to which child remains in school while the other drops out, girls are rarely selected to continue in school over boys. Such choices are further reinforced by some school texts

¹⁶ *Fact Sheet No 23, Harmful Traditional Practices Affecting the Health of Women and Children: Office of the High Commissioner for Human Rights.*

where women are depicted as passive and domestically oriented while men are depicted as dominant and as the bread winners. It is consistent with situations wherein girls are obliged to drop out of school to help their parents with domestic and agricultural work in times of financial difficulties, or are even given away in early marriage in exchange for the bride price.

(c) *Female infanticide*

34. The practice of infanticide ensures that some female children do not live, a clear violation of the basic right to life as laid down in Article 6 of the Convention on the Rights of the Child. Amniocentesis and ultrasound tests have given women the possibility to detect the sex of their babies in time to abort. Illegal abortion especially of female foetuses, self-inflicted or by unskilled birth attendants has increased maternal mortality particularly in South and South-East Asia. But it is also found in Africa as an emerging problem particularly in the urban areas.

(d) *Early marriage, early pregnancy, nutritional taboos and practices related to child delivery*

35. Giving girls away for marriage at ages 11, 12 and 13 and thereafter to start producing children is a practice that is well known in Africa. It is applied to safeguard girls' virginity before marriage, thereby raising family honour and the bride price. Virginity is verified by the female relatives before the marriage. This robs the girl's time to develop physically and emotionally as she is removed from her family to that of her husband's and in-laws.

36. Pregnancy before 18 years of age poses a risk to the mother and child due to the fact that some women are not yet sufficiently developed physically to bear children. Babies born of such young girls are likely to be born prematurely, or have low birth weight. They are also likely to die in the first year. In Africa, especially in the rural areas, girls marry immediately after puberty and the majority before they are 20 years old. Although many countries have raised their legal age for marriage, this does not seem to have made much difference especially where marriage and child-bearing confer respect and elevated status on a woman. Obstructed labour is also a frequent occurrence among young mothers due to the narrow orifice of the underdeveloped mother. In turn, this provokes vesicovaginal fistulas, especially when untrained traditional birth attendants unduly force the baby's head out.

37. With regard to nutrition, the average food intake of pregnant and lactating women is far below that of the average male. Cultural practices and nutritional taboos ensure that pregnant and lactating women are deprived of certain nutrients that are essential to both mother and child. As a result, they tend to suffer from iron and protein deficiencies. There are also food taboos that are imposed on females right from birth in many communities.

Baby girls are weaned earlier than boys in those communities, and for most of their lives are deprived of high protein foods such as eggs, animal meat, fish and milk.

38. According to WHO, more than half of the births in developing countries are delivered by traditional birth attendants (TBAs). Despite their good intentions, mortality rates are higher in the rural areas where they operate. Some of the herbal mixtures used for treatment, while at times beneficial, can be lethal especially when taken in large doses. During obstructed labour, some TBAs use knives or razors to cut the vaginal opening and the labia minora or massage the abdomen to extract the baby.

39. In some communities, labour obstruction is believed to be punishment for marital infidelity. The woman is therefore pressured to confess, thereby adding mental cruelty to the stress of obstructed labour. Moreover, delay in taking cases of obstructed labour to the hospital often cause rupture of the uterus, which is at times fatal. Fetal mortality is also high in such cases. Another consequence to obstructed labour is vesicovaginal fistula due to prolonged pressure on the bladder and damage to the lower genital tract. A false passage is therefore created between the bladder and the vagina through which urine and other waste pass without control.

3.3 Progress made and remaining challenges

40. The international community has recognized FGM as harmful and as a violation of the human rights of girls and women. Global efforts to stop the practice are increasing. The United Nations has designated 6 February as the International Day of Zero Tolerance of Female Genital Mutilation. The United Nations Fourth World Conference on Women in 1995 also strongly recognized FGM as harmful to women and girls and urged immediate measures to be taken to end the practice. The International Conference on Population and Development (ICPD) in 1994 condemned FGM and encouraged governments to prohibit it and support NGOs and religious institutions working to eliminate the practice. The World Conference on Human Rights in 1993 also addressed FGM as a violation of women's rights. A Special Rapporteur on Traditional Practices was appointed in 1988 to study the situation, and present reports and recommendations on how the practice could be eradicated. WHO, UNICEF and UNFPA recognized harmful traditions as health and human rights issues and have programmes to address them. The Inter-African Committee (IAC) was established in 1984 to work towards eradication of HTPs. It has branches in 28 countries in Africa.

41. In Africa, 16 countries have criminal legislation against FGM¹⁷. There have been cases of arrests for being involved with FGM in countries such as Burkina Faso, Egypt, Ghana, Kenya, Senegal, and Sierra Leone. Industrialized countries that receive immigrants from countries that practice FGM have also passed specific laws criminalizing the practice. The USA has recognized the threat of forced FGM as a basis for asylum since 1996.

¹⁷ Centre for Reproductive Rights, www.crpl.org

42. Other approaches to resolving FGM include promoting “alternative rites to FGM” promoted by various NGOs in Kenya and other countries. The strategy involves retaining the rites of passage or initiation that the girls would traditionally undergo, with the exception of FGM. This strategy has been tested in many countries around the world with success, but then there are cases where the alternative is met with hostility and aggression, for example among the Masai of Kenya, many of whom have now decided to lower the age of FGM and operate on girls as young as four years rather than wait for the usual teen years¹⁸.

43. Yet another approach by IAC and other NGOs is to work with religious leaders to deconstruct the misconception that FGM is a religious requirement. After training and sensitization workshops, they enlist their support to campaign against FGM and to inform the community about the harm inflicted on those who undergo the practice. Furthermore, some efforts are being made by NGOs to retrain excisers, and to offer them alternative employment. Through this special NGO-level training, they also focus on youth as potential and actual victims of HTPs, and provide them with accurate information on the implications of the practices, beliefs and taboos in question. The youth are enlisted therefore to join campaigns such as door-to-door information dissemination (Benin), vocational camps without excision (Guinea), football games with FGM-related themes (Sudan), theatre presentations (Tanzania), and so on.

3.4 Some remaining challenges

44. In Africa alone, over 100 million women and girls are affected by FGM according to IAC 1999 research studies. Despite the many efforts that have been employed to combat HTPs, negative customary norms persist in contradiction to the provisions of CEDAW and United Nations-endorsed basic human rights. Africa continues to suffer high mortality and morbidity rates as well as high infant and child mortality rates due to HTP-related complications.

45. One of the biggest challenges is attitudinal change on the part of communities that hold on to HTPs. The reality is that it takes generations to change attitudes and that change must be preceded by deliberate and concerted efforts to make it happen. As it is, in these communities, the only change evident in this regard is attempts by medical personnel to perform FGM despite WHO’s condemnation of such practices. Women and girls continue to submit themselves to FGM and other HTPs, partly due to ignorance of their human rights. Their subordinate status in the community hardly prepares even those who might be aware of their rights to resist tradition. In reality, they have few options to survive outside of their FGM-practising communities given their fragile socio-economic status. Empowering them through education, skills training, information sharing and sensitization is basic to equipping them to resist HTPs and exercise their human rights.

¹⁸ “*Razor’s Edge-The Controversy of Female Genital Mutilation*,” Women’s UN Report Network,

46. Governments have a major responsibility to spearhead attitudinal change in cultures and traditions that foster subordination of women by men, gender discrimination and practices that are harmful to the health and welfare of women and girls. Public-awareness campaigns on the value of girl children, through public education and promotion of equal treatment of girls and boys are critical. Respect for girls and women must be instilled in boys from early age. Male responsibilities in family life must be included in the education of children from the earliest age, with special emphasis on the prevention of violence against women and children.

47. Counselling and rehabilitation facilities should be established for victims of FGM. Implementation of these ideas, laws and international conventions and recommendations remain a major challenge that governments must address. They must partner with NGOs that are already doing much of this work to enhance and accelerate implementation. Moreover, as recommended by ICPD in September 1994, “it is essential to improve communication between men and women on issues of sexuality and reproductive health and the understanding of their joint responsibilities so that men and women are equal partners in public and private life”¹⁹. This remains an important challenge and a key factor to the elimination of HTP, yet has received little attention in the African context. Governments, NGOs and religious and traditional leaders would do well to seek strategies to support and promote this approach.

3.5 Suggested questions for discussion

- (a) What are some of the more effective approaches to eliminating HTPs?
- (b) How could governments, the civil society including religious and traditional leaders and the women themselves join forces to resist HTPs?
- (c) While FGM persists, is there value added to sanitizing the practice to minimize immediate and long- term negative consequences?
- (d) Are fathers of girls an asset or liability in the fight to eliminate HTPs? To what extent should they be held accountable for the perpetuation of FGM? To what extent should mothers be held accountable to subjugating their daughters to FGM?
- (e) Are governments too complacent in protecting the human rights of women and girls? What more should they do to eliminate HTPs in Africa?

¹⁹ Report of the International Conference on Population and Development (ICPD), 1994.

4. Trafficking in Women and Girls

4.1 Introduction

48. Trafficking in human beings is the most aggressive and vicious violation of human rights. It takes place in several parts of the world, and operates between and within countries. The majority of the victims are women and children and many are trafficked for purposes of sexual exploitation. Trafficking usually involves different actors including families, local brokers, and criminal networks.

49. Trafficking in human beings is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”²⁰

50. In Africa, internal and trans-border trafficking for various forms of labour and sexual exploitation increases in different parts of the continent in varying degrees depending on economic, socio-cultural and political contexts. African women and girls are trafficked within and across borders, and are particularly at risk from sex trafficking. A high number of them are brought to developed countries. Trafficked women are usually the most vulnerable and powerless. They often come from the poorer areas where opportunities are limited. However, they may come from any social background, class or race.

51. Criminals exploit lack of opportunities, promise good jobs or opportunities for study, and then force the victims to become prostitutes. Through agents and brokers who arrange the travel and job placements, women are conducted to their destinations and delivered to the employers. Upon reaching their destinations, some women learn that they have been misinformed about the nature of the work they will do; most have been lied to about the financial arrangements and conditions of their employment; and find themselves in coercive or abusive situations from which escape is both difficult or dangerous. In the process, their rights to liberty and security, to freedom from torture or other ill-treatment, and to redress and reparation are being violated. They are exposed to a series of human rights abuses not only at the hands of traffickers but also to subsequent violations in the criminal justice system.

²⁰ United Nations Convention against Transnational Organized Crime and UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

4.2 Extent of trafficking

52. Eighty-nine per cent of African countries are affected by trafficking flows from one country to another. Trafficking also takes place in Europe, the Middle East and United States²¹. Half of Africa's 53 governments admit that trafficking is a serious concern; however, due to its illegal and clandestine nature and lack of data, the exact extent is unknown. Trafficked women rarely report their situation to the authorities and are often unwilling to cooperate with law enforcement officials if identified and rescued. Their reasons include: fear of reprisals from traffickers; lack of trust on the authorities; the belief that the authorities cannot or will not help; rejection by their families; and lack of opportunities in their home countries. Some trafficked women may not see themselves as exploited, particularly if they are earning more than they could in their own country"²².

4.3 Factors that contribute to the trafficking

53. The root causes of trafficking of women and girls are complex and often interrelated. However, gender inequality is one of the main factors for the sexual exploitation of women. Traditional beliefs, values and practices that subordinate women to men are some of the related causes. The historical and cultural acceptance of male authority causes many men to expect obedience and submission from women both in everyday life and in sexual relations. The underlying socio-economic and cultural factors that increase inequality and discrimination make women and children even more vulnerable to becoming victims of trafficking. Trafficking of girls and women, very often under conditions of violence and deprivation, can also be connected to the high prevalence of overall violence against women in public and private spheres.

54. When poverty is acute, a young girl may be regarded as an economic burden and her marriage to a much older man can be a family survival strategy. In traditional societies in sub-Saharan Africa, the bride's family may receive cattle from the groom or the groom's family as the bride price for their daughter. The risk of trafficking is heightened when linked with early marriage, when men do not have the possibility to find young girls in their community, for example among migrant workers²³. Radhika Coomaraswamy, the United Nations Special Rapporteur on Violence against Women, notes the following:

55. "... The lack of rights afforded to women serves as the primary causative factor at the root of both women's migration and trafficking in women. The failure of existing economic, political and social structures to provide equal and just opportunities for women

²¹ "Media facts" in Andrea Rossi, (ed.), *Trafficking in Human Beings, especially Women and Children, in Africa*. Annunziata, Italy: UNICEF Innocenti Research Centre, Sept 2003.

²² Jonathan Fowler, "UNICEF: Human Trafficking in Africa Fueled by War, Economic Hardship, and Lack of Birth Registration," Associated Press, 23 April 2004.

²³ UNICEF, *Trafficking in Human Beings, especially Women and Children in Africa*. Innocenti Research Centre 2005

to work has contributed to the feminization of poverty, which in turn has led to the feminization of migration, as women leave their homes in search of viable economic options. Further, political instability, militarism, civil unrest, internal armed conflict and natural disasters also exacerbate women's vulnerabilities and may result in and increase their exposure to trafficking".²⁴

56. Trafficking in African women and children for forced prostitution or labour is exacerbated by war, poverty, and nonexistent birth registration systems, according to a recent study by the United Nations Children's Fund (UNICEF). Because children who are not registered at birth never formally acquire a nationality, they are easy to move between countries. The study also found that Africa's 3.3 million refugees and its estimated 12.7 million IDPs are those most vulnerable to trafficking.⁵ During protracted conflicts, when entire countries are trapped in an 'economy of war' and populations are forced to flee across or within national borders, women and children may be particularly exposed to violence, sexual exploitation and harmful working conditions. In some cases, they are forced to trade sex for survival and protection. Under these circumstances, organized crime and international trafficking thrive. In times of civil unrest, the probability to have their birth, name and nationality registered is particularly low.

4.4 Who are the traffickers?

57. Traffickers occupy a central place between supply and demand. Usually the recruitment is through brokers and criminal networks. Sometimes parents and/or relatives are implicated. Victims are also utilized to enhance the traffickers' network. "In northern Tanzania, for example, trafficked youth are sometimes sent back to their villages to recruit new children for work in the tanzanite mines. In other instances, there are reported cases of women engaged in prostitution returning to their villages to recruit young girls with promises of easy money. In the case of trafficked children, it is crucial to explore influences within the family, in particular the role that parents may play.

58. There are numerous reports of parents inducing or forcing children into trafficking, perceiving it as the only strategy for survival. For instance, in Togo it is not uncommon to find some degree of family involvement in the transaction, such as parents accepting money from traffickers, distant relatives paying intermediaries to find work abroad, or parents handing over their children based on the promise of education, professional training or paid work. In some cases children have been offered by their parents to militia or other civil defense forces, according to the 2005 UNICEF report on "Trafficking in Human Beings, especially Women and Children in Africa", by the Innocenti Research Centre.

59. IOM in 2005 reported research in Nigeria which shows that participation in trafficking usually involves an invitation to the head of the family or the potential victim

²⁴ Radhika Coomaraswamy, the United Nations Special Rapporteur on Violence Against Women.

herself from another family member, friend or stranger, and that a pact is usually made among the family, the recruiter and the migrant prior to migration, to ensure secrecy and compliance. Some of the trafficking runs along ethnic and cultural lines. For example, IOM discovered that Nigerian “madams” who receive trafficked women and girls from Nigeria at the destination in Europe use threats of magic if the victims refuse to cooperate. The database shows that a relatively high percentage of recruiters are female (29 per cent).²⁵

4.5 Impact on the victims

60. Trafficking of women and girls is a violation of human rights and prevent them from enjoying their human rights and fundamental freedoms such as their rights to life, security, physical and mental health, education, work, housing and participation in public life. The activities of women victims of trafficking, especially, those who go into prostitution either on their own or are forced to do so, have implications for their reproductive health and health in general. In view of the global threat of HIV/AIDS, the demand for young girls is on the increase and more and more of them are being abducted, bought, sold and trafficked across borders to serve as prostitutes.

61. The psychological consequences can be as grave as the physical effects. Depression is one of the commonest, as well as higher risks for stress and anxiety disorders. As for impact on the family, it includes separation of children from their families, loss of opportunity for education of the children, and stigmatization

4.6 Addressing the problem

62. Described as the biggest of obscenities, trafficking is a form of violence against women that is clearly addressed in the 1995 Beijing Platform for Action. The Beijing Platform called on governments to consider the ratification and enforcement of international conventions on trafficking in persons and on slavery and to take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, in order to eliminate trafficking in women and girls.

63. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Trafficking Protocol, supplements the United Nations Convention against Transnational Organized Crime (UNTOC), and provides the first international definition of trafficking in persons. It is the primary international legal instrument addressing human trafficking as a crime. The Protocol applies to all people, particularly women and children, since member States have recognized their specific vulnerability. The Trafficking Protocol emphasizes the need to balance criminal justice

²⁵ United Nations Expert Group Meeting on International Migration Development, New York, 6-8 July 2005, United Nations Report on Human Trafficking, UN/POP/MIG/2005/15 8 July 2005.

concerns with a human rights approach to the protection and assistance of victims. It expands the scope of protection and support to victims through granting privacy, information on proceedings, physical and psychological recovery, special requirements for children and safety for victims, and measures to avoid immediate deportation and safe repatriation. Witness protection is considered a crucial measure.

64. The main goals are to catch and prosecute the trafficker, and to protect the victim. Prevention efforts include informing and educating potential victims, safeguarding former victims against re-victimization, sensitizing officials and the public, conducting research, initiating information campaigns, launching social and economic initiatives, and seeking cooperation with civil society. Cooperation among States to meet these objectives is also promoted in the Protocol. As of March 2008, 118 countries had ratified the Trafficking Protocol including 33 African countries²⁶. The Protocol is the basis from which future actions to fight human trafficking must be derived, based on the human rights of trafficked persons, particularly women and children.

65. There are also a number of other international instruments guiding governments on how to address aspects of trafficking in persons, among them CEDAW, 1979, CERD, 1965, CRC, 1989, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000, the Slavery Convention, 1926, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949 and the Convention on the Status of Refugees and the Optional Protocol to the Convention on the Status of Refugees, 1967. The first three of these – CEDAW, CERD and CRC – are notable for their inclusion of mechanisms to monitor compliance, mainly through periodic reporting by State Parties on legislative reform.

66. There are also several regional instruments that call on countries to combat trafficking in human beings, notably women and children. These include: the African Charter on Human and Peoples Rights (articles 5, 18, and 3), the African Charter on the Rights and Welfare of the Child (articles: 2, 4.1, 15, 16, 24 (d), 27, 29), and the Protocol to the African Charter on Human and Peoples Rights on the Rights on Women in Africa (articles: 1, 2, 3, 4, 11.3, 13.g), and 13.m).

4.7 National responses

67. Governments, intergovernmental organizations and civil society groups are adopting various socio-economic responses and legal reforms for the prevention of trafficking, protection of victims and prosecution of traffickers. These responses have had varying degrees of successes and failures depending on several mitigating factors. Some practices have achieved good results in particular West Africa while they have failed in

²⁶ Algeria, Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, the Gambia, Guinea, Kenya, Democratic Republic of the Congo, Lesotho, Liberia, Mozambique, Namibia, the Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, Tanzania, Tunisia, and Zambia.

others. Unfortunately there are no developed mechanisms in most parts of Africa to monitor and evaluate the impact of these practices or the lack thereof.

68. United Nations Agencies (UNICEF, UNESCO, IOM, UNODC) and several other organizations are using survey and research to assess the situation. For instance, research undertaken in three Southern African countries, namely, Mozambique, South Africa and Zimbabwe by the United Nations Office on Drugs and Crime in 2006²⁷, revealed that there are no official statistics on human trafficking in the three countries because there is no legislation that focuses directly on human trafficking as a crime. Nevertheless, specific cases have been highlighted which meet the definition of trafficking as outlined in the Human Trafficking Protocol. The cases were dealt with under other offences. None of the three countries have appropriate legislation to deal directly with human trafficking especially of women and children, and this makes it difficult for law enforcement and prosecution officials to counter the problem.

69. On the other hand, the research highlighted the need for improving cooperation between the source, transit and destination countries involved in human trafficking. There are no official mechanisms for immigration and law enforcement officials in the three countries to allow them formally to share information and intelligence on the problem. Trafficking victims who are apprehended are normally deported without any investigation being carried out. In other words, they are the ones who are punished, while the traffickers are usually left free to carry on their trade. No mechanism is available to help establish whether immigrants are being voluntarily smuggled with the promise of greener pastures or whether they are being trafficked for exploitation. All three countries have insufficient shelters for victims and the few that are available are run by NGOs.

70. Unfortunately, the situation assessed in the three Southern African countries is, with some exceptions, similar in most of the continent. Typically, some of the challenges that most of them face in the attempt to eradicate human trafficking include lack of knowledge, lack of a national legal framework, lack of policy and capacity to respond, limited protection of and assistance to victims, and limited regional and international cooperation.

71. Governments have a major responsibility to protect their citizens against trafficking. Effective actions to prevent and combat trafficking in human beings, especially in women and children, require a comprehensive national, regional and international approach involving countries of origin, transit, and destination. They should also include preventive measures, punitive consequences for traffickers and protection of the victims and their human rights.

²⁷ A 2005 situational assessment of human trafficking in the SADC region. A Survey of South Africa, Zimbabwe and Mozambique, 2007. The United Nations Office on Drugs and Crime (UNODC) and the Southern African Development Community (SADC).

4.8 Suggested questions for discussion

- (a) What are some of the more effective approaches to eliminating trafficking in women and girls?
- (b) Are governments too complacent in protecting the human rights of women and girls? What more should they do to eliminate trafficking in women and girls?
- (c) Trafficking in women and girls occurs in the larger context of migration and mobility. How can root causes of trafficking be tackled cautiously?
- (d) What best practices could we use to adopt awareness-raising strategies?
- (e) What networking approaches could international organizations, governments and civil society, including NGOs and the media, adopt to develop and implement joint prevention and awareness-raising strategies?

Annex 1

Prevalence of Female Genital Mutilation²⁸

1. Benin	30%
2. Burkina Faso	78%
3. Cameroon	15%
4. Central African Republic	35%
5. Chad	40%
6. Cote d'Ivoire	40%
7. Democratic Republic of Congo	5%
8. Djibouti	95%
9. Egypt	55%
10. Ethiopia	85%
11. Gambia	79%
12. Ghana	20%
13. Guinea	60%
14. Guinea-Bissau	45%
15. Kenya	40%
16. Liberia	55%
17. Mali	80%
18. Mauritania	55%
19. Niger	11%
20. Nigeria	55%
21. Senegal	20%
22. Somalia	99%
23. Sierra Leone	60%
24. Sudan	90%
25. Tanzania	15%
26. Togo	40%
27. Uganda	20%

²⁸ IAC Research Studies, 1999. Op.cit.