



PROJECT ON ACCOUNTABILITY AND REDRESS FOR VICTIMS OF SEXUAL VIOLENCE IN CONFLICT IN UGANDA

PROPOSED MODEL LAW ON CONFLICT AND ATROCITY-RELATED SEXUAL VIOLENCE

2020

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INTRODUCTION

The Uganda Law Reform Commission conducted a study to develop a model law to redress conflict related sexual violence.¹ The purpose of this model law is to provide a framework to support the investigation and prosecution of conflict and atrocity related sexual violence (CARSV) in Uganda based on national and international criminal law and international humanitarian law standards.² The proposed model law arises out of the recommendations of the study report on accountability and redress for victims of sexual violence in conflict in Uganda.

Legislative reform is key to strengthening the capacity of national institutions to ensure accountability for past crimes of CARSV and for the prevention and deterrence of future crimes.³ It is anticipated that the model law will support national institutions to investigate, prosecute, and adjudicate CARSV as well as to protect victims and witnesses.

The model law provides procedural rules specific to CARSV in judicial proceedings to balance the protection of the interests of the victim, with the protection of the rights of the accused. These interventions will domesticate international best practices and principles of CARSV within Uganda's sexual violence jurisprudence, and trigger the amendment of existing laws for the effective management of CARSV.⁴

1 The study, entitled "Report on Accountability and Redress for Victims of Sexual Violence in Conflict in Uganda," is available at www.fidauganda.org.

2 It is intended that the model law will focus on investigation and prosecution of conflict and atrocity related sexual violence based on international standards of international criminal law. International criminal law looks at the offence and the context in which the offence was committed. See ICTR's Best Practice Manual- From Investigation to prosecution of sexual violence.

3 There are two forms of deterrence: general and specific. General deterrence seeks to prevent crime among the general population through the public awareness of both crimes and punishments. Specific deterrence seeks to prevent crime committed by those individuals who have already committed a previous offence.

4 ICC Act 2010, the Penal Code Act, Cap 120, Magistrate Courts Act, Cap 16, the Trial on Indictments, Cap 23, Evidence Act, Cap 46, the International Criminal Court Act, 2010, Domestic Violence Act, 2010, HIV and AIDS Act, 2015, Geneva Conventions Act, Cap 363, Criminal Procedure Code Act, Cap 116 and any other relevant law.

MEMORANDUM TO THE BILL

Conflict and Atrocity Related Sexual Violence (CARSV) crimes are committed within a context of armed conflict or systematic repression in many parts of Uganda. However, the inherent gaps in the law and procedure, and other inefficiencies in Uganda's legal regime on CARSV render the investigation and prosecution of CARSV cases difficult. The absence of CARSV specific definitions, offence-appropriate procedures, and victim-friendly interventions and procedures are some of the significant barriers to investigation, prosecution, sentencing, and victim reparations. These gaps and inefficiencies require redress to ensure successful trials at the national level.

As a state party to the Rome Statute, Uganda has the primary responsibility to investigate and prosecute CARSV. Under the principle of complementarity, the International Criminal Court (ICC) will exercise jurisdiction over these crimes if the State is genuinely unable or unwilling to carry out said investigations and prosecutions.⁵ The failure to recognize and redress conflict related sexual violence encourages impunity for these crimes and denies victims access to justice. The model law seeks to propose interventions that will promote accountability and prevent impunity for CARSV.

The model law consolidates the relevant jurisprudence, definitions, and provisions on CARSV under international law to provide a specialized legal framework for the successful redress of CARSV,⁶ allowing for users to draw upon a wider frame of reference to add a level of flexibility necessary for adjudicating crimes of CARSV. In order to enhance the effectiveness of law enforcement institutions in Uganda to investigate, prosecute and adjudicate CARSV, and thereby define the crimes of genocide, crimes against humanity and war crimes within the context of conflict-related sexual violence and additionally spell out the legal elements in relation to each underlying crime.⁷

⁵ Article 17(1)(a).

⁶ *The International Criminal Court Act domesticates the Rome Statute and thereby enables the prosecution of international crimes domestically through the International Criminal Division of the High Court. The model law consolidates the relevant jurisprudence, definition and provisions on CARSV under international customary law and international humanitarian law to provide a specialized legal framework for the investigation and prosecution of CARSV.*

⁷ *Such as rape and sexual slavery.*

ARRANGEMENT OF CLAUSES

PART I - PRELIMINARY

Clause 1: Interpretation

In this act, unless the context otherwise requires:

“Administrative Remedy” means a remedy issued to victims of conflict and atrocity related sexual violence;

“Armed Conflict” means international armed conflicts between two or more States or non-international armed conflicts, between governmental forces and non-governmental armed groups, or between such groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations.

“Atrocities” means the three legally defined international crimes: genocide, crimes against humanity, and war crimes.

“Conflict and Atrocity Related Sexual Violence” means rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict or atrocities.

“Court” means the International Crimes Division of the High Court.

“Criminal Enterprise” is a common, explicit, or tacit agreement or understanding to commit certain criminal acts for an ultimate criminal objective or goal.

“Consent” means the affirmative, unambiguous, and voluntary agreement to engage in a sexual act. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely and voluntarily in sexual activity. Consent cannot be obtained through coercion or pressure, threat, intimidation, or fear.

“Minister” means the Minister responsible for Justice and Constitutional Affairs.

“Protected Person” means a person under specific protection during an armed conflict as provided for in the 1949 Geneva Conventions, the Additional Protocols and international law. These include protected persons associated with the armed forces, prisoners of war, persons with special status, civilian persons, medical, religious and humanitarian personnel, women and children.

“Reparations” means measures to recognize and address the harm suffered by victims. These include restitution, compensation, rehabilitation, satisfaction, and guaranteed of non-recurrence.

“Sexual Violence” means “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, acts to traffic, or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.”

“Situation of Concern” means a state of violence or political repression that does not rise to the level of armed conflict, but is characterized by collective punishments and/or widespread

acts of violence utilized by armed actors to terrorize the civilian population to demoralize and humiliate opposing groups.

“Victim” for purposes of this act means a person who suffers harm as a result of CARSV.

Clause 2: Acts of sexual violence that constitute CARSV

CARSV includes any one the following acts performed separately or together with another act of sexual violence:

- a. Rape as defined by the ICC Act;
- b. Defilement as defined under the Penal Code of Uganda;
- c. Sexual slavery;
- d. Enforced prostitution;
- e. Forced pregnancy;
- f. A sexual act or other act involving a person’s sexual organ which humiliates, degrades or otherwise violates the dignity of a person to such a degree as to be generally recognized as an outrage upon personal dignity;
- g. Humiliating and degrading treatment;
- h. Indecent assault as defined by the Penal Code;
- i. Enforced sterilization; or
- j. Any other act of sexual violence.

Clause 3: CARSV as an International Crime

An Act of CARSV may amount to any one or more of the following international crimes as defined under the ICC Act:

- a. A crime against humanity;
- b. A war crime; or
- c. Genocide.

Clause 4: CARSV as a Crime Against Humanity

A person, who causes a person or persons to, and or participates in, engaging in an act of a sexual nature:

- a. By force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against such person or persons or another person; or
- b. By taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent.

Where:

- i. The conduct is of gravity comparable to the other sexual violence and war crimes as defined under the ICC Act.
- ii. The person was aware of the factual circumstances that established the gravity of the conduct;
- iii. The conduct was committed as part of a widespread or systematic attack directed against a civilian population on national, political, ethnic, racial, or religious grounds during an armed conflict, whether international or national in character; and
- iv. The perpetrator knew or should have known that the conduct was part of, or intended the conduct to be part of, a widespread or systematic attack directed against a civilian population.

Commits the offence of CARSV as a crime against humanity and is liable upon conviction to imprisonment for life.

(c). Other forms of sexual violence of comparable gravity include:

Wherein:

1. A person committed an act of a sexual nature against one or more persons, or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that which is caused by fear of violence, duress, detention, against such person or persons, or another person or by taking advantage of a coercive environment, or such person's incapacity to give genuine consent;
2. The person willfully committed an act of a sexual nature or caused a person or persons to engage in an act of a sexual nature;
3. The person was aware that he or she would commit an act of a sexual nature, or would cause a person or persons to engage in an act of a sexual nature in the ordinary course of events;
4. The person was aware of the use of force, threat of force, coercion or coercive environment, or of a person's incapacity to give genuine consent; and
5. The person was aware of the factual circumstances that established the gravity of the conduct.

Clause 5: Forced pregnancy as a Crime Against Humanity

1. A person who, knowingly confines one or more women forcibly made pregnant, with the intent of affecting the ethnic composition of any population as part of a widespread or systematic attack directed against a civilian population.

Wherein

- i. The conduct is neither justified by the medical or hospital treatment of the person or persons concerned, nor carried out with their genuine consent.
- ii. The deprivation is not intended to include birth-control measures which have a non-permanent effect in practice.

- iii. Commits the offence of forced pregnancy as a crime against humanity and is liable upon conviction to imprisonment for life.
4. For purposes of clause 5(a) above, the “genuine consent” does not include consent obtained through deception.

Clause 6: Enforced sterilization as a Crime Against Humanity

A person who:

- a. Knowingly deprives one or more persons of biological reproductive capacity in any of the following ways:
 - ii. Castration;
 - iii. Removal of genitalia;
 - iv. Severe genital mutilation; or
 - v. Enforced surgical sterilization.
- f. Where the conduct was neither justified by the medical or hospital treatment of the person or persons concerned or carried out with their genuine consent; and
- g. Where the person was aware that one or more persons would be deprived of biological reproductive capacity in the ordinary course of events; and
- h. Where the person was aware of the absence of genuine consent.
- i. Commits the offence of enforced sterilization as a crime against humanity and is liable upon conviction to imprisonment for life.

Clause 7: Rape as a crime against humanity

A person who:

- a. Invades the body of another person by penetration, however slight, by use of any part of their body on the body of another person using a sexual organ or any other part of the body of that person or invades the anal or genital opening of the victim with any object;
- b. By force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such persons or another person, or by taking advantage of a coercive environment, or where the invasion was committed against a person incapable of giving genuine consent;
- c. As part of a widespread or systematic attack directed against a civilian population; or
- d. With knowledge that the conduct is part of, or with the intention that the conduct forms part of a widespread or systematic attack directed against a civilian population commits the offence of rape as a crime against humanity and is liable upon conviction to imprisonment for life.

Clause 8: Sexual Slavery as a Crime Against Humanity

A person who exercises any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending, or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.

Wherein:

- a. The person caused such person or persons to engage in one or more acts of a sexual nature;
- b. The conduct was committed as part of a widespread or systematic attack directed against a civilian population; and
- c. The person knew that the conduct was part of, or intended the conduct to be part of, a widespread or systematic attack directed against a civilian population.

Commits the offence of sexual slavery as a crime against humanity and is liable upon conviction to imprisonment for life.

Clause 9: CARSV as an act of genocide

A person who knowingly:

- i. Sexually mutilates another person or group of persons; or
- ii. Rapes a woman or group of women with the intention of deliberately impregnating them with a child that will not belong to their ethnic or tribal grouping; or
- iii. Threatens or creates trauma amongst a group of people to prevent procreation within the group.

For the purpose of preventing births within that group of persons commits the offence of CARSV as an act of genocide and is liable upon conviction to imprisonment for life.

Clause 10: CARSV as a War Crime

A person who commits or threatens to commit any of the following acts against protected persons:

- a. Intentionally directing attacks of sexual violence against a civilian population or against individual civilians not taking direct part in hostilities; or
- b. Causing harm to life, health, and physical or mental well-being of persons by an act of sexual violence; or
- c. Performing cruel treatment such as torture, mutilation, or any form of corporal punishment, torture or inhuman treatment, by any means including but not limited to an act of sexual violence; or
- d. Willfully causing great suffering or serious injury to body or health through an act of sexual violence; or
- e. Committing outrages upon personal dignity, in particular humiliating and degrading treatment by way of a sexual act; or

f. Committing acts of rape and enforced prostitution.

And where:

- i. The act is committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person; or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent;
- ii. The conduct was of gravity comparable to that of a grave breach of the Geneva Conventions;
- iii. The perpetrator was aware of the factual circumstances that established the gravity of the conduct;
- iv. The conduct took place in the context of and was associated with an international armed conflict; and
- v. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Commits an act of CARSV as a war crime and is liable upon conviction to imprisonment for life.

Clause 11: Rape as a War Crime

A person who:

- a. Invades the body of another person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body; or
- b. By force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.

Where:

- i. The conduct took place in the context of and was associated with an armed conflict not of an international character.
- ii. The person was aware of factual circumstances that established the existence of an armed conflict.

Commits a war crime of rape and is liable upon conviction to imprisonment for life.

Clause 12: Sexual slavery as a War Crime

A person who, with the knowledge of the factual circumstances that establish the existence of an armed conflict:

- i. Exercises any or all of the powers attaching to the right of ownership over one or more persons such as purchasing, selling, lending, or bartering such person or persons, or by imposing on them a similar deprivation of liberty for purposes of a sexual nature; and
- ii. Causes another person or persons to engage in one or more acts of a sexual nature; and

iii. In the context of an armed conflict not of an international character.

Commits a war crime of sexual slavery, and is upon conviction, liable to imprisonment for life.

Clause 13: Forced pregnancy as a war crime

A person who, aware of factual circumstances that establish the existence of an armed conflict:

- a. Confines one or more women forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law; and
- b. Within the context of or associated with an armed conflict not of an international character.

Commits a war crime of forced pregnancy and is liable upon conviction to a sentence of life imprisonment.

Clause 14: Enforced sterilization as a war crime

A person who deprives one or more persons of biological reproductive capacity in circumstances where:

- a. The conduct of that person is neither justified by the medical or hospital treatment of the person or persons concerned, nor carried out with their genuine consent; or
- b. The deprivation is not intended to include birth-control measures which have a non-permanent effect in practice; or
- c. The conduct of that person took place in the context of and was associated with an armed conflict not of an international character; or
- d. The person was aware of factual circumstances that established the existence of an armed conflict, commits the offence of enforced sterilization as a war crime and is liable upon conviction to imprisonment for life.

Clause 15: Enforced prostitution as a war crime

A person who:

- a. Causes one or more persons to engage in one or more acts of a sexual nature by force; or
- b. By threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person; or
- c. By taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent to obtain pecuniary; or
- d. Other advantage in exchange for or in connection with the acts of a sexual nature for him or herself or another person;

commits a war crime of enforced prostitution and is upon conviction, liable to imprisonment for life.

Clause 16: Torture as CARSV

A person, who intentionally commits an act of sexual violence by which severe pain and suffering, whether physical or mental, is inflicted against one or more persons; or causes another person to engage in an act of a sexual violence by which severe pain and suffering, whether physical or mental, is inflicted against one or more persons:

- a. By use of force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person; or
- b. By taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.

Where:

- i. The act of sexual violence was of a gravity comparable to the other offences recognized under the ICC Act;
- ii. The person intentionally inflicted severe harm on the other person through the act of sexual violence;
- iii. The act of sexual violence was committed for a criminal purpose which includes but is not limited to soliciting information, degradation, humiliation, punishment and discrimination among others.

Commits an act of CARSV as torture and is liable upon conviction to imprisonment for life.

Clause 17: CARSV as genocide

CARSV constitutes genocide when it is committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.

Commits an act of CARSV as genocide and is liable upon conviction to imprisonment for life.

PART II: MODES OF LIABILITY FOR CARSV

Clause 18: Liability for CARSV

A person is liable for committing an act of CARSV where he or she is responsible for committing, or aiding and abetting in the commission of a sexual act amounting to a war crime, crime against humanity, torture, or genocide.

Clause 19: Individual Criminal responsibility for an act of CARSV committed under a common criminal design, plan, purpose or objective

A person shall be criminally responsible and liable under this Act if they:

- a. Commit an offence, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
- b. Orders, solicits or induces the commission of such an offense which in fact occurs or is attempted;
- c. For the purpose of facilitating the commission of an offence, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission; and
- d. In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose.

Clause 20: Collective liability for an act of CARSV committed under a common criminal design, purpose, plan or objective

Where an act of CARSV is committed by group acting in pursuance of a common criminal design, plan, purpose, or objective the court will consider the following criteria to determine the collective criminality of those involved:

- i. The crime of CARSV was undertaken by a group of persons;
- ii. The crime of CARSV was undertaken to fulfill a common plan, purpose, or objective;
- iii. The crime of CARSV was undertaken in execution of a common plan, design or purpose;
- iv. The accused persons participated in the crime of CARSV by actual execution, assistance, or contribution to the common purpose; or
- v. Where one or more of the co-perpetrators of the act of CARSV engages in an act or omission which goes beyond the common plan but his or her other acts constitute a "natural and foreseeable consequence" of the realization of the plan.

It shall not be a defense that a person who participated in the commission of a crime of CARSV under a common criminal design, purpose, plan, or objective, did so as part of his or her routine duties.

For the purpose of this section, a common criminal design, common purpose, common plan, or common objective is a common law legal doctrine that imputes criminal liability to the participants in a criminal enterprise for all that results from that exercise.

Clause 21: Command responsibility for an act of CARSV

A person in command responsibility over a force or group of forces shall be criminally liable for crimes of CARSV committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:

- i. The military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
- ii. That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and prosecution.

Clause 22: Superior Responsibility for an Act of CARSV

A person who is responsible for issuing superior orders shall be criminally responsible for crimes of CARSV committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

- i. The superior either knew, or consciously disregarded information which clearly indicated that the subordinates were committing or about to commit such crimes;
- ii. The crimes concerned activities that were within the effective responsibility and control of the superior; and
- iii. The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

PART III: EVIDENTIARY RULES FOR MATTERS OF CARSV

Clause 23: Corroboration, Consent Inconsistencies and Prior Sexual Conduct

A court hearing a matter of CARSV:

- i. May not require corroboration of a victim's testimony;
- ii. May disregard the minor inconsistencies in a victim's testimony except where the inconsistencies point to deliberate untruthfulness;
- iii. May not allow consent as a defense where:
- iv. The victim has been subjected to, or threatened with, or has had reason to fear violence, duress, detention, or psychological oppression; or
- v. The victim reasonably believed that if he or she did not submit, another might be so subjected, threatened, or put in fear of harm.
- vi. Before court admits evidence of a victim's consent, court may consider the evidence of the accused in camera proceedings;
- vii. The accused shall satisfy the court in camera that the evidence is relevant and credible;
- viii. The evidence of the prior sexual conduct or of the reputation of the victim shall not be admitted in evidence.

Clause 24: Lack of consent to CARSV to be inferred from a coercive environment

The court may, in determining a matter of CARSV, disregard the victim's consent to an act of CARSV where it is proved that the consent was obtained under coercive circumstances.

In determining the existence of coercive circumstances, the court may consider the following conditions (in addition to any others it deems fit):

- a. Where the victim was under detention;
- b. Where the accused used direct force on the victim;
- c. The use of threats, intimidation, extortion, and other forms of duress;
- d. The number of people involved in the commission of the act of sexual violence;
- e. The incidence of armed conflict;
- f. Military presence;
- g. The circumstances under which the rape is committed, including a period during or immediately following a combat situation;
- h. Where the act is committed together with other crimes; and
- i. Any other coercive or related circumstances or environment(s) which a person may, in the opinion of the court, apply.

The court may consider the existence of coercive circumstances which the perpetrator took advantage of in order to commit the act of CARSV.

Clause 25: Special procedures for child victims and witnesses

The Court shall, where necessary, adopt special procedures for child victims and witnesses to ensure their psychological well-being, dignity, and privacy and protect them from further trauma during the trial of CARSV.

Clause 26: Procedure to determine the relevance or admissibility of evidence of CARSV

1. The court shall conduct a preliminary hearing to determine the relevance of the evidence to be adduced at the trial.
2. In deciding whether the evidence referred to in sub-section 1 is relevant, the court shall conduct a hearing to determine the views of the prosecutor, the defense, the witness, and the victim or his or her legal representative and the prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness.
3. The court shall ensure that the decision made is non-discriminatory, upholds the rights of the accused, and protects the safety, physical and psychological well-being, dignity, and privacy of the victims and witnesses.

PART IV- JURISDICTION AND REPARATIONS FOR CARSV

Clause 27: Jurisdiction

The High Court shall have original jurisdiction to try offences of CARSV.

Clause 28: Reparations

The court shall award reparations to a victim of CARSV on an individual or collective basis.

Clause 29: Award of reparations for CARSV

The court shall, upon conviction, award reparations to victims of CARSV. The reparations may be individual or collective in nature.

1. Reparations for CARSV may include a specific form or a combination of different forms of reparations;

An award of reparations for CARSV may take any of the following forms:

- ii. Compensation;
- iii. Restitution;
- iv. Rehabilitation;
- v. Public apology;
- vi. Public memorials; or
- vii. Guarantee of non-repetition.

In determining the reparations award, the court shall take into account the following considerations:

- a. The gravity of the violations and the harm suffered by the victim(s).
- b. The views of the victims on the nature of reparations to be awarded.
- c. The immediate needs of victims and potential for irreparable harm that require urgent interim reparation

The court may award reparations for children born of rape which may take any one or more of the following forms:

- a. A national strategy with specific programs to support mothers and children born of rape;
- b. Economic compensation;
- c. Education services;
- d. Specialized healthcare programs to test and treat children born of rape;
- e. Mental healthcare programs to support children who are made aware of the circumstances surrounding their conception; or

- f. Socio-economic re-integration support including their return and resettlement with their families.

Clause 30: Award of restitution

An award of restitution may be awarded to a victim of conflict-related sexual violence for any one or more of the following harms:

- a. Loss of property or security of tenure;
- b. Loss of physical health;
- c. Interruption or cessation of education; and
- d. Loss of employment.

An award of restitution may include:

- a. Restoration of liberty;
- b. Enjoyment of human rights;
- c. Identity, family life, citizenship;
- d. Return to place of residence; or
- e. Restoration of employment and return of property.

Clause 31: Award of satisfaction

The court may upon determining a matter of CARSV, make an award of satisfaction to a victim of CARSV:

The court may declare any of the following measures in the fulfillment of an award of satisfaction:

- i. Verification of the facts surrounding the violation(s) suffered by the victim;
- ii. Acknowledgement and full and public disclosure of the truth of what happened to the victims;
- iii. The search for the whereabouts of the disappeared;
- iv. Public apology;
- v. Judicial and administrative sanctions against persons liable for the violations;
- vi. Commemorations and tributes to the victims; or
- vii. Building of monuments.

The award of satisfaction must be consistent with principles of gender equality and based on:

- i. Consultations with victims; or
- ii. Adequate understanding of the cultural setting where reparations are to be provided.

Clause 32: Award of rehabilitation

The court may make an award of rehabilitation to a victim of CARSV to provide victims with essential services to help them to move on and to carry out their life in a dignified way.

(1) An award of rehabilitation for CARSV may include but not be limited to the following:

- i. Medical care;
- ii. Psychological care;
- iii. Psychosocial care;
- iv. Counselling;
- v. Legal aid services; or
- vi. Social services.

Clause 33: Compensation

The court may make an award of compensation for general and specific damages to a victim of CARSV.

A court shall, upon determining a matter of CARSV, order compensation to be made to the victim.

The damages for which compensation may be ordered include the following:

- a. Physical or mental harm;
- b. Lost opportunities, including employment, education and social benefits;
- c. Material damages and loss of earnings, including loss of potential earnings;
- d. Moral damage;
- e. Costs for legal or expert assistance; or
- f. Costs for medicine and medical services and psychological or social services; or
- g. Any other instance that court may deem fit.

Where a convicted person is assessed and found incapable of providing reparations, the state may provide the reparations.

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