



Conflict-Related Sexual Violence in Ukraine

Lessons From Bosnia and Herzegovina and
Policy Options for Ukraine, the United States,
and the International Community

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Executive Summary

Since the start of the conflict between Russia and Ukraine in 2014, there have been countless reports of conflict-related sexual violence (CRSV) committed by the Russian forces against Ukrainian civilians of all ages and genders. Women in particular have faced extensive sexual violence during this conflict; they have reported being gang raped, having their families be forced to watch Russians raping them, being branded by soldiers after their rapes, being held as sexual slaves, and being raped until they are pregnant – all of which act as a deliberate method to subjugate the survivors and further break down societal norms and bonds. The international community must react swiftly, and the response must be survivor-oriented toward justice.

Similar to Ukraine, in Bosnia-Herzegovina¹ people of all ages, genders, and sexual orientations were subjected to extensive CRSV, and many of the survivors still have not received justice. The international community must learn from Bosnia to better prepare its response to Ukraine and to aid trauma-informed social reconstruction postwar so that it does not take 30-plus years for survivors to come forward and for communities to heal. This report provides a roadmap for the international community, Ukraine, and the United States to ensure that Ukrainian CRSV survivors are met with survivor-centered reparative justice in a timely manner.

Recommendations

For the International Community

1. Universal jurisdiction provides recourse for victims and survivors that extends far beyond the reach of national courts, which are often backlogged and politicized. States should use the principle of universal jurisdiction and their own national laws and court systems to bring perpetrators of CRSV to justice on behalf of Ukraine.
2. The international community needs to band together under the legal umbrella of the 1948 Genocide Convention to prevent more genocidal acts from occurring, such as the forcible transfer of Ukrainian children to Russia.
3. A thorough inclusion of the Women, Peace, and Security agenda and conceptions of feminist peace must be present during all considerations of peace between Russia and Ukraine in the future. During any future peace talks, women and survivors of CRSV must be meaningfully included.
4. There are numerous resources for survivor-centered CRSV responses, notably the Guidebook on State Obligations for Conflict-Related Sexual Violence, which the international community should be using to mitigate and respond to sexual violence in this conflict.
5. The international Register of Damages must work to incorporate victims' and survivors' inputs and ideas when creating a compensation plan.
6. As with all responses to the conflict, a survivor-centered approach is necessary for holistic, restorative, and positive peace.

¹ Henceforth, the authors refer to "Bosnia-Herzegovina" as "Bosnia."

For Ukraine

1. The creation of a domestic registry of losses and damages can ease restrictions to access for survivors and complement the international Register of Damages.
2. Victim-oriented reparations need to be part of the ongoing discussion of state-centered reparations. The reparations also must go beyond strictly financial considerations and should include assistance like legal counseling, psychosocial support, and health care.
3. Survivors must be provided with free legal aid so they are not further bearing the cost of seeking justice.
4. The Ukrainian Parliament should pass the proposed bill by the Committee on Law Enforcement Activities that addresses the limitation for the pretrial investigation, regarding the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pretrial Investigations and Trials in Criminal Proceedings Regarding Crimes Related to Sexual Violence Committed in Conditions of Armed Conflict.
5. National investigations and documentation of CRSV crimes should align with the standards laid out in the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict.
6. If Russia succeeds in its illegal occupation and annexation of parts of Ukraine, the rights of Ukrainian victims in these areas could be jeopardized. The Ukrainian government should look at the barriers placed on accountability and justice in Bosnia and begin to prepare how to move toward justice with this in mind.
7. Ukraine should move to put legal protections in place for children born of wartime rape. Bosnia's legislation, which recognizes children born of wartime rape, is groundbreaking; Ukraine should not wait 30 years to enact such important legal measures.
8. Ukraine must not shy away from investigating and prosecuting Ukrainians who committed war crimes against their own people or against those aligned with Russia during the conflict.
9. Psychosocial support must be made available holistically and sustainably to survivors of CRSV, and it is critical to ensure that all victims of CRSV, including men, those with diverse SOGIESC (sexual orientations, gender identities and expressions, and sex characteristics), and other groups are supported.
10. The use of technology should be considered to help CRSV survivors in court proceedings through mechanisms such as face filtering or voice alterations during testimony.

For the United States

1. The U.S. government should use its immense intelligence resources to ensure the Presidential Memorandum on Accountability for CRSV is being used to the fullest extent in order to designate sanctions for perpetrators of CRSV in Ukraine.
2. Congress should work to strengthen U.S. laws on atrocity crimes by enacting legislation to prevent and punish crimes against humanity (CAHs) to fill the loopholes that allow for the U.S. to be a "safe haven" for perpetrators of CAHs.

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Foreword

Gender-based crimes like sexual violence are too often ignored or swept under the carpet during and post-conflict, so survivors of conflict-related sexual violence (CRSV) rarely see justice or accountability for themselves. We saw this in Bosnia, where women were excluded from the peace process and survivors of CRSV are still struggling to receive recognition and reparation to this day.

This is a project of the New Lines Institute that seeks to learn from the past in Bosnia in order to provide a better future for survivors of CRSV in Ukraine. It has been three decades since the Bosnian war, and yet still so many survivors of CRSV in Bosnia are waiting for reparative justice. It is incumbent upon Ukraine's allies to do everything in our power to find justice and accountability for survivors of sexual violence in Ukraine. Without a holistic approach to addressing the needs of CRSV survivors, justice will most likely remain out of reach.

The report provides actionable recommendations for the international community, Ukraine, and the United States to support survivors of CRSV in this war and to ensure that actions taken on their behalf are survivor-centered and trauma-informed, including: creating a domestic registry of losses and damages to complement the international Register of Damages; putting in place legal protections for children born of wartime rape; providing psychosocial support to all survivors; using the United States' Presidential Memorandum on Accountability for CRSV to the fullest extent to designate sanctions for perpetrators of CRSV in Ukraine; and much more.

We believe the recommendations laid out in this report will provide a toolkit for policymakers around the globe to champion the rights of survivors of CRSV and assist in the social reconstruction of Ukraine. The case of Bosnia provides a blueprint for Ukraine and the international community with respect to the needs of survivors of CRSV – an experience that will remain with them for the rest of their lives. These factors will shape the rebuilding of Ukraine and its long-term recovery as a country in the aftermath of war. It is our hope that this report can provide direction toward the overarching goal of justice and accountability for all survivors of CRSV in the Ukraine war.

Baroness Helena Kennedy KC

Director, International Bar Association's Human Rights Institute

Introduction

The Bosnian war (1992-1995) is well-known for the targeted and systematic use of rape and sexual violence against civilian populations, which were used as part of a larger campaign of genocide. Serb forces set up rape camps to forcibly impregnate Bosniak women, forcing them to carry to term children who would be viewed as Serbian.² It is estimated that 20,000 to 50,000 women were raped during the war led by Slobodan Milosevic and the Bosnian Serb political and military leadership, which resulted in an estimated 2,000 to 4,000 children born of wartime rape.³ This is a critical component of the Bosnian genocide campaign, as illustrated by comments from Serb soldiers that “it is better to give birth to Chetniks than to Muslim filth.”⁴ Although many of these gender-based crimes have been thoroughly documented over the past three decades, efforts for justice, accountability, and healing for the victims and survivors have been sparse. In the case of Bosnia, landmark international legal jurisprudence was generated through the bravery of women survivors who testified before the International Criminal Tribunal for the Former Yugoslavia (ICTY), resulting in the convictions of 32 individuals as of September 2016.⁵ Nonetheless, men, women, boys, girls, and individuals with diverse gender identities are still living with their trauma,⁶ often forced to live literally right next door to their abusers and to see them every day. Children born of rape are stigmatized in a society that has been divided along ethnic lines,⁷ essentially continuing the genocide denial that remains present in political discourse espoused by Serbian leaders in Bosnia and Serbia and their supporters.⁸ Male rape victims have only recently begun to come forward to speak about the trauma and sexual abuse they faced in detention centers.⁹ One male survivor, describing his assault and trauma, said: “You carry it inside you, like a bomb.”¹⁰ Both Bosnia and Ukraine are patriarchal Slavic countries where men dominate public spaces and rigid gender norms are strictly enforced and maintained in society. This culture, rooted in hegemonic masculinity and patriarchal norms, is in part why men are reluctant to speak publicly about the gender-based violence they suffered. As a result, Bosnian men who survived CRSV have been unable to access the help they need or attain justice and reparations, even decades later. It is the responsibility of both the international community and the Ukrainian government to ensure a similar situation does not play out in Ukraine.

² Black, I. (2000, March 21). Serbs ‘enslaved Muslim women at rape camps.’ *The Guardian*. <https://www.theguardian.com/world/2000/mar/21/warcrimes.balkans>

³ Pehlivan, H. (n.d.). *Genocidal rape and the invisible children of Bosnia*. TRT World. <https://www.trtworld.com/perspectives/genocidal-rape-and-the-invisible-children-of-bosnia-48312>

⁴ Cleverly, F. (2021, June 24). *Sexual violence in Bosnia*. Remembering Srebrenica. <https://srebrenica.org.uk/what-happened/sexual-violence-bosnia>

⁵ International Criminal Tribunal for the Former Yugoslavia. (n.d.). *In numbers*. United Nations International Residual Mechanism for Criminal Tribunals. Retrieved April 11, 2023, from <https://www.icty.org/en/features/crimes-sexual-violence/in-numbers>

⁶ Turton, S. (2017, July 21). Bosnian war rape survivors speak of their suffering 25 years on. *The Independent*. https://www.independent.co.uk/news/long_reads/bosnia-war-rape-survivors-speak-serbian-soldiers-balkans-women-justice-suffering-a7846546.html

⁷ DW Documentary. (2019, October 26). *Bosnia’s invisible children: Living in dignity* [Video]. <https://www.youtube.com/watch?v=xIBf48PP9hI>

⁸ Donine, T. (2022, February 18). *Genocide denial, rising tensions, and political crisis in Bosnia*. United States Holocaust Memorial Museum. <https://www.ushmm.org/genocide-prevention/blog/genocide-denial-rising-tensions-and-political-crisis-in-bosnia>

⁹ Djelilovic, Z. (2020, April 24). *Male rape victims confront the Bosnian war’s last taboo*. Balkan Insight. <https://balkaninsight.com/2020/04/24/male-rape-victims-confront-the-bosnian-wars-last-taboo/>

¹⁰ Djelilovic, Z. (2020, April 24). *Male rape victims confront the Bosnian war’s last taboo*. Balkan Insight. <https://balkaninsight.com/2020/04/24/male-rape-victims-confront-the-bosnian-wars-last-taboo/>

Experts have concluded that traumatized survivors as well as those who have sustained chronic medical conditions as a consequence of sexual violence require continuous, personalized psychosocial care. While most survivors will never obtain justice, the Global Survivors Fund (GSF) has advanced the principle of reparations as a right for all survivors of CRSV.¹¹ With respect to Bosnia, the state has failed to uphold international standards on accessibility to reparations, which should act as a cautionary tale for Ukraine.¹² As has been made obvious in public statements by the International Criminal Court (ICC) prosecutor and U.N. officials,¹³ a key component of Russia's genocidal campaign in Ukraine is the targeted and systematic use of sexual and gender-based violence against civilians, much like Serb forces' actions in the Bosnian war. The Ukrainian government declared during the earliest days of the Russian invasion that rape by Russian soldiers was widespread and systematic.¹⁴ Russian soldiers are raping children in front of their parents and vice versa,¹⁵ forcing couples to have sex with each other in front of soldiers, and using sexual violence as a way to break familial bonds, destroy communities, and sow terror so as to remove Ukrainians from their land.¹⁶

It has been 30 years since the Bosnian war broke out, and untold numbers of survivors are still struggling daily to reconstruct their lives. However, for Ukraine, there is time to act now in order to better prepare those who are dealing with, and responding to, similar crimes. The international community must learn from Bosnia to better prepare its response to Ukraine and to aid trauma-informed social reconstruction postwar so that it does not take 30-plus years for survivors to come forward and for communities to heal.

Conflict-Related Sexual Violence in the Ukraine War

Since the start of the conflict between Russia and Ukraine in 2014, there have been countless reports of CRSV committed by the Russian forces against Ukrainian civilians of all ages and genders. There are reports of CRSV perpetrated by the Ukrainian armed forces as well, particularly before 2021, but such reports are rare.¹⁷ According to a report by the Independent International Commission of Inquiry on Ukraine published in October 2022, CRSV carried out by Russia in Ukraine is being used as a tactic and a weapon of war; the report details extensive sexual violence

¹¹ <https://www.globalsurvivorsfund.org>

¹² Global Survivors Fund. (n.d.). *Bosnia and Herzegovina study on opportunities for reparations for survivors of conflict-related sexual violence*. Retrieved April 11, 2023, from https://static1.squarespace.com/static/5ff7d9f4dd4cdc650b24f9a4/t/62eb77898ed82b21ba0af117/1659598750968/GSFReportBiH_ENG_Web.pdf

¹³ Karcic, H., & Domi, T. L. (2022, March 9). We need a better way to prosecute sexual assault in conflict. *Foreign Policy*. <https://foreignpolicy.com/2022/03/09/rape-sexual-assault-war-crime-justice-kosovo/>

¹⁴ Deutsch, A., & Voitenko, A. (2022, December 12). *Exclusive: International legal experts assist Ukraine in sexual violence investigation*. Reuters. <https://www.reuters.com/world/international-legal-experts-assist-ukraine-sexual-violence-investigation-2022-12-11/>

¹⁵ Bern, S., & Deutsch, A. (2023, March 14). *Exclusive: Ukraine accuses Russian snipers of abusing child, gang raping mother*. Reuters. <https://www.reuters.com/world/europe/ukraine-accuses-russian-snipers-abusing-child-gang-raping-mother-2023-03-14/>

¹⁶ PBS NewsHour. (2023, April 19). *WATCH: Ukraine top prosecutor says Russian forces are using rape, torture to sow terror*. <https://www.pbs.org/newshour/politics/watch-live-survivors-of-russian-war-crimes-in-ukraine-testify-in-house-hearing>

¹⁷ Smith, S. (2022, October 28). *Sexual violence in Ukraine*. RightsViews. <https://blogs.cuit.columbia.edu/rightsviews/2022/10/28/sexual-violence-in-ukraine/>; Zodgekar, K. (2023, February). *SVAC explainer: Wartime sexual violence in Ukraine, 2014-2021*. Belfer Center for Science and International Affairs, Harvard Kennedy School. <https://www.belfercenter.org/publication/svac-explainer-wartime-sexual-violence-ukraine-2014-2021>

against men, women, children, and the elderly.¹⁸ The sexual violence being carried out by the Russian Army, Russian-affiliated forces, and Russian-led separatists encompasses all forms of CRSV, which includes, but is not limited to: “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, forced sterilization, forced marriage, and any other form of sexual violence of comparable gravity.”¹⁹

Feminist scholars have long written about why and how armed forces use rape during war. One important component of rape as a weapon of war is the sense of social cohesion and bonding that rape provides for militaries that are not cohesive or have used force to recruit their fighters.²⁰ The Russian military relies heavily on conscripts, forced recruitment, foreign fighters, and mercenaries who do not have a strong sense of belief in the cause of the invasion. These groups have a higher likelihood of participating in sexual violence during conflict.²¹ Gang rape, in particular, creates bonds of cohesion among soldiers who do not have a shared background or the same allegiance toward an ongoing war. Group cohesion has been shown to increase with the performative aspects of group gang rape through participatory actions such as watching one another perform and through social pressure to engage.²² Gang rape has been documented in Ukraine against civilians by Russian troops. Based on research across 86 conflicts between 1980 and 2009, there is evidence to suggest that the ongoing use of gang rape by Russian-affiliated troops against Ukrainian citizens is providing similar group cohesion among potentially disinterested troops.²³

CRSV has been used consistently by Russian forces as part of a systematic campaign of atrocities against the Ukrainian people, but statistically, the chances for legal accountability are slim: Since the establishment of the ICTY and ICTR (International Criminal Tribunal for Rwanda) in the 1990s, fewer than 100 charges have been brought against perpetrators of CRSV crimes, and less than half of those have ended in convictions of sexual violence in relation to genocide, crimes against humanity, or war crimes.²⁴ Despite these numbers, the opportunity for legal accountability

¹⁸ Office of the United Nations High Commissioner for Human Rights. (2022, December). *Report on the human rights situation in Ukraine*. https://www.ohchr.org/sites/default/files/documents/countries/ua/2022-12-02/HRMMU_Update_2022-12-02_EN.pdf

¹⁹ Office of the United Nations High Commissioner for Human Rights. (2022, December). *Report on the human rights situation in Ukraine*. https://www.ohchr.org/sites/default/files/documents/countries/ua/2022-12-02/HRMMU_Update_2022-12-02_EN.pdf

U.S. Department of State. *2021 country reports on human rights practices: Ukraine*. (2021). <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/ukraine/>

²⁰ Cohen, D. K. (2013). Explaining rape during civil war: Cross-national evidence (1980-2009). *The American Political Science Review*, 107(3), 461–77. <http://www.jstor.org/stable/43654918>; Cohen, D. K. (2016). *Rape during civil war*. Cornell University Press. <http://www.jstor.org/stable/10.7591/j.ctt20d8b3j>; Cohen, D. K. (2017). The ties that bind: How armed groups use violence to socialize fighters. *Journal of Peace Research*, 54(5), 701–14. <https://www.jstor.org/stable/48590497>; Wood, E. J. (2018, December 1). Rape as a practice of war: Toward a typology of political violence. *Politics & Society*, 46(4), 513–37. <https://doi.org/10.1177/0032329218773710>

²¹ Cohen, D. K. (2013). Explaining rape during civil war: Cross-national evidence (1980-2009). *The American Political Science Review*, 107(3), 461–77. <http://www.jstor.org/stable/43654918>; Cohen, D. K. (2016). *Rape during civil war*. Cornell University Press. <http://www.jstor.org/stable/10.7591/j.ctt20d8b3j>; Cohen, D. K. (2017). The ties that bind: How armed groups use violence to socialize fighters. *Journal of Peace Research*, 54(5), 701–14. <https://www.jstor.org/stable/48590497>; Wood, E. J. (2018, December 1). Rape as a practice of war: Toward a typology of political violence. *Politics & Society*, 46(4), 513–37. <https://doi.org/10.1177/0032329218773710>

²² Cohen, D. K. (2013). Explaining rape during civil war: Cross-national evidence (1980-2009). *The American Political Science Review*, 107(3), 461–77. <http://www.jstor.org/stable/43654918>; Theidon, K. (2007, December 11). Gender in transition: Common sense, women, and war. *Journal of Human Rights*, 6(4), 453–78. <https://doi.org/10.1080/14754830701693011>

²³ Cohen, D. K. (2023). Explaining rape during civil war: Cross-national evidence (1980-2009). *The American Political Science Review*, 107(3), 461–77. <http://www.jstor.org/stable/43654918>

²⁴ Fairbanks, B. (2019). Rape as an act of genocide: Definitions and prosecutions as established in Bosnia and Rwanda. *Historical Perspectives: Santa Clara University Undergraduate Journal of History*, 23. <https://scholarcommons.scu.edu/cgi/viewcontent.cgi?article=1170&context=historical-perspectives>

in Ukraine is much higher than in many other conflict situations due to the concerted efforts of the international community and the Ukrainian government. The Independent International Commission of Inquiry on Ukraine indicated that victims of sexual violence in this war range from ages 4 to 80.²⁵ The sexual violence being carried out against women in Ukraine has been rampant and not limited to the period since the beginning of 2022; soldiers have committed mass rape against Ukrainian women and girls since 2014. Women have reported being gang raped both in their homes and after being detained, having their families be forced to watch Russians raping them, being branded by soldiers after their rapes, being held as sexual slaves, being raped until they are pregnant, and many other cases.²⁶ The incorporation of family members into instances of rape and gang rape is a deliberate method to subjugate the survivors and further break down societal norms and bonds.²⁷

Men have similarly been victims of CRSV in Ukraine. Typically, cases of CRSV perpetrated against men are underreported, yet studies show that CRSV against men takes place in almost every conflict.²⁸ There are a variety of reasons for this underreporting, including: the incompatibility with the perceived victimhood of sexual violence and a culture's understanding of masculinity²⁹; the fact that sexual violence against men is typically coded as torture³⁰; the lack of adequate understanding and training of medical workers and/or humanitarian workers on what male CRSV looks like; and men being potentially dissuaded from reporting.³¹

It is important to distinguish the typology of sexual abuses perpetrated against men and to point out some of the gendered harms that men experience, so as not to further perpetuate the stereotype that only women and girls are victims of CRSV. The use of detention has been a core feature of the acts of sexual violence committed against people of all genders in Ukraine, with men being particularly at risk of sexual violence in detention centers.³² Within detention centers, enemy combatants sexually assault and torture men of all ages with weapons like batons, wooden sticks, and pipes.³³ The U.S. Department of State indicated that sexual torture was used to try to elicit confessions from both men and women: "Beatings and electric shock in the genital area, rape,

²⁵ Office of the United Nations High Commissioner for Human Rights. (2022, December). *Update on the human rights situation in Ukraine*. https://www.ohchr.org/sites/default/files/documents/countries/ua/2022-12-02/HRMMU_Update_2022-12-02_EN.pdf

²⁶ Wamsley, L. (2022, April 30). *Rape has reportedly become a weapon in Ukraine. Finding justice may be difficult*. NPR. <https://www.npr.org/2022/04/30/1093339262/ukraine-russia-rape-war-crimes>

²⁷ United Nations. (2017, May 15). *Shame, stigma integral to logic of sexual violence as war tactic, special adviser tells Security Council, as speakers demand recognition for survivors*. Meeting coverage and press releases. <https://press.un.org/en/2017/sc12819.doc.htm>

²⁸ Sivakumaran, S. (2007, April 1). Sexual violence against men in armed conflict. *European Journal of International Law*, 18(2), 253–276. <https://doi.org/10.1093/ejil/chm013>; Touquet, H., & Schulz, P. (2021). Navigating vulnerabilities and masculinities: How gendered contexts shape the agency of male sexual violence survivors. *Security Dialogue*, 52(3). <https://doi.org/10.1177/0967010620929176>

²⁹ Schulz, P. (2021). *Male survivors of wartime sexual violence: Perspectives from northern Uganda* (1st ed.). University of California Press. <https://www.jstor.org/stable/j.ctv1f884s7>

³⁰ Schulz, P. (2021). *Male survivors of wartime sexual violence: Perspectives from northern Uganda* (1st ed.). University of California Press. <https://www.jstor.org/stable/j.ctv1f884s7>

³¹ Schulz, P. (2021). *Male survivors of wartime sexual violence: Perspectives from northern Uganda* (1st ed.). University of California Press. <https://www.jstor.org/stable/j.ctv1f884s7>

³² Chinkin, C., & Rees, M. (2018). 'I lost my dignity': Sexual and gender-based violence in the Syrian Arab Republic. In *A commentary on the conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic*. United Nations Human Rights Council.

³³ Zodgekar, K. (2023, February). *SVAC explainer: Wartime sexual violence in Ukraine, 2014-2021*. Sexual Violence in Armed Conflict (SVAC) Project, The Belfer Center for Science and International Affairs, Harvard Kennedy School.

threats of rape, forced nudity, and threats of rape against family members were used as a method of torture and mistreatment to punish, humiliate, or extract confessions.”³⁴ Prior to the 2022 invasion, men comprised 85% of detainees in eastern Ukraine.³⁵ While detention centers were certainly hotbeds for CRSV, other contexts for sexual violence included checkpoints and areas with a heightened military presence. Because of this, survivors of CRSV in detention centers from before the 2022 war are more likely to be younger men, while survivors of CRSV outside of detention are overwhelmingly women.³⁶

Ukrainian children have not been spared from the horrors of CRSV in this war. There have been numerous confirmed cases of children being illegally detained and confined by Russian forces in Ukraine. In one instance, upward of 70 children, the youngest of whom was only 6 weeks old, were detained along with approximately 400 civilians for 28 days in a school basement in Yahidne, in Chernihiv Oblast.³⁷ There has been limited confirmation about sexual violence perpetrated against children in this conflict, but there are cases confirmed, and it is likely that the rates are much higher than what is officially documented: Almost 80% of cases of sexual violence in conflict go unreported, and this number is only exacerbated in cases involving children.³⁸ According to the Office of the Prosecutor General (OPG) in Ukraine, as of July 13, 2023, prosecutors have recorded 13 cases of CRSV against children. A UNHCR commission documented occurrences of Russian forces raping girls after entering their homes, and of forcing young children to listen to their mothers being raped.³⁹

In addition to the CRSV that children have experienced, the kidnapping, theft, and trafficking of children is immensely concerning. Russia has removed upward of 20,000 children from Ukraine, forcibly displacing them to Russian-occupied parts of Ukraine or to orphanages and group homes in Russia. Once the Ukrainian children are in Russia, they are put up for adoption so Russian families can strip them of their Ukrainian identity, nationality, and culture.⁴⁰ While this act alone may amount to genocide,⁴¹ there is also no oversight on the safety and security of these Ukrainian children, so little is known about whether they are also being sexually abused throughout this ordeal.

³⁴ U.S. Department of State. (2021). *2021 country reports on human rights practices: Ukraine*. <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/ukraine/>

³⁵ Office of the United Nations High Commissioner for Human Rights. *Arbitrary detention, torture and ill-treatment in the context of armed conflict in eastern Ukraine: 2014-2021*. Retrieved April 11, 2023, https://www.ohchr.org/sites/default/files/Documents/Countries/UA/UkraineArbDetTorture_EN.pdf

³⁶ Nassar, A., et al. (2022, May). *Ukraine study on the status of and opportunities for reparations for survivors of conflict-related sexual violence*. Global Survivors Fund.

³⁷ Office of the United Nations High Commissioner for Human Rights. (2022, October 18). *A/77/533: Independent International Commission of Inquiry on Ukraine*. <https://www.ohchr.org/en/documents/reports/a77533-independent-international-commission-inquiry-ukraine-note-secretary>

³⁸ Sapiezynska, E. (2021). *Weapon of war: Sexual violence against children in conflict*. Save the Children Child Rights Resource Centre. Retrieved April 14, 2023, from <https://resourcecentre.savethechildren.net/document/weapon-war-sexual-violence-against-children-conflict/>

³⁹ Office of the United Nations High Commissioner for Human Rights. (2022, October 18). *A/77/533: Independent International Commission of Inquiry on Ukraine*. <https://www.ohchr.org/en/documents/reports/a77533-independent-international-commission-inquiry-ukraine-note-secretary>

⁴⁰ Osipova, S. (2023, June 1). *Unlawful transfer: Inside the Russian system to take Ukraine's children*. RadioFreeEurope. <https://www.rferl.org/a/inside-russian-system-taking-ukraine-children/32437567.html>

⁴¹ United Nations (General Assembly). (1948, December 9). *Convention on the Prevention and Punishment of the Crime of Genocide*. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf

Conflict-Related Sexual Violence in the Bosnian War, 1992-1995: What Can We Learn for Ukraine?

Women, men, and children (overwhelmingly Bosniak Muslims) were targeted for CRSV during the Bosnian war. While many of these CRSV survivors have still not received justice, the tribunal's work was nonetheless significant, albeit limited, in terms of providing justice for survivors. In total, the ICTY accused 161 individuals of crimes of sexual violence, including sexual assault and rape. The court ultimately charged 78 individuals but convicted only 32 of them. While the ICTY produced historic international jurisprudence with respect to CRSV, this also showcases how incredibly difficult and rare these types of prosecutions have been.⁴² It will be important for prosecutors and investigators examining atrocity crimes in the context of Ukraine to pay attention to gender-based crimes and establish these links when necessary, not only to strengthen their cases but also to ensure that all victims and survivors are acknowledged.

Nationally, despite a strong judicial infrastructure and considerable ground covered in prosecuting a significant number of war crimes cases in Bosnia, nearly 500 war crimes cases involving more than 4,000 known suspects remain on backlog for prosecutors to adjudicate as of 2022.⁴³ Significant inconsistencies in sentencing, including lenient punishments and blatant corruption, have been documented by Trial International,⁴⁴ OSCE,⁴⁵ and the Council of Europe.⁴⁶ One of the most egregious practices allowed by Bosnian courts is for convicted defendants to buy out their prison sentence by paying a fine. In the past five years, eight individuals sentenced for war crimes avoided serving prison time by paying this fine.⁴⁷ Between 2012 and 2017, for those who did serve their sentences, sentences for CRSV cases averaged less than five years – below the statutory minimum laid out in the Criminal Code of the Socialist Federal Republic of Yugoslavia.⁴⁸ As Ukraine investigates war crimes on its own soil, it will be incumbent on its courts to prevent corruption that could get in the way of justice being served, especially for cases involving CRSV.

One of the most significant lessons Ukraine can take from the Bosnian war is to rely on the expertise of local NGOs and civil society organizations when working on the issue of CRSV. NGOs played an important role in providing psychosocial support and assisting with reparations

⁴² The ICTY and ICTR built and improved jurisprudence specifically in relation to CRSV crimes, and eventually led to the creation of the ICC.

⁴³ Organization for Security and Co-operation in Europe (OSCE). (2022, June 28). *OSCE launches its latest report on processing of war crimes in BiH*. <https://www.osce.org/mission-to-bosnia-and-herzegovina/521233>

⁴⁴ Trial International. (n.d.). *Punishing conflict-related sexual violence: Guidelines for combating inconsistencies in sentencing*. Retrieved April 13, 2023, from https://trial.ba/wp-content/uploads/2019/05/01_publication_en_page_by_page_WEB.pdf

⁴⁵ Organization for Security and Co-operation in Europe (OSCE). (2017, June 20). *Towards justice for survivors of conflict-related sexual violence in Bosnia and Herzegovina: Progress before courts in BiH 2014–2016*. <https://www.osce.org/mission-to-bosnia-and-herzegovina/324131>

⁴⁶ Council of Europe Commissioner for Human Rights. (2017, November 7). *Report following visit to Bosnia and Herzegovina*. <https://rm.coe.int/report-following-the-visit-to-bosnia-and-herzegovina-from-12-to-16-jun/16807642b1>

⁴⁷ Trial International. (2023, April 26). *A proposal to abolish the practice of buying out prison sentences in war crime cases is headed to the Parliamentary Assembly of Bosnia and Herzegovina*. <https://trialinternational.org/latest-post/a-proposal-to-abolish-the-practice-of-buying-out-prison-sentences-in-war-crime-cases-headed-to-the-parliamentary-assembly-of-bosnia-and-herzegovina/>

⁴⁸ Trial International. (2023, April 26). *A proposal to abolish the practice of buying out prison sentences in war crime cases is headed to the Parliamentary Assembly of Bosnia and Herzegovina*. <https://trialinternational.org/latest-post/a-proposal-to-abolish-the-practice-of-buying-out-prison-sentences-in-war-crime-cases-headed-to-the-parliamentary-assembly-of-bosnia-and-herzegovina/>; Yugoslavia: Criminal code of the Socialist Federal Republic of Yugoslavia. (1977, July 1). As reproduced in Refworld, UNHCR, The UN Refugee Agency. <https://www.refworld.org/docid/3ae6b5fe0.html>

claims for survivors of CRSV in Bosnia, especially Medica Zenica, which was established in the midst of the war. Ukraine must rely upon local and national NGOs during and post-conflict to provide holistic care and support to all survivors of CRSV.

Ukraine: Social Reconstruction and International Justice and Accountability Processes

Since 2014, there have been many different avenues, both national and international, toward justice and reparations for survivors of CRSV in eastern Ukraine. Victims and survivors have been impacted physically, psychologically, economically, and socially, and they have specific needs and recommendations on how and why both material and symbolic reparations are crucial to their justice and accountability process. This is extensively detailed in the GSF Global Reparations Study on Ukraine,⁴⁹ with survivors asking for reparative measures such as special victim status, public recognition and acknowledgment from the Ukrainian government, free legal aid, restitution of housing and property, restoration of personal documents, guarantees of nonrepetition, and compensation for lost housing, rehabilitation services, psychological support, and childcare. Most survivors believe it is the responsibility of the Ukrainian government, with international support, to provide reparations – although the final bill should go to Russia. Though there has been some movement on transitional justice mechanisms, progress is slow, which raises the difficult question of how to address transitional justice in a timely manner while being thorough and centering survivors' voices and needs.

According to Ukraine's Conflict-Related Sexual Violence Crimes Department, led by Iryna Didenko in the OPG (as of July 13, 2023), prosecutors have recorded 212 cases of CRSV (69 men and 143 women, including minors, who comprise 12 girls and one boy). These cases include rape, genital mutilation, forced exposure, and forcing individuals to watch the sexual abuse of loved ones. In 62 of the 212 cases, the OPG was able to identify 30 Russian Federation servicemen who committed wartime rape and sexual violence. All 30 men have been indicted, and two have been formally convicted in absentia and sentenced to 12 and 10 years, respectively. It is a testament to the dedication of Didenko's team that they have been able to investigate and identify Russian soldiers for CRSV in the midst of war.

The number of male CRSV victims who are soldiers in Ukraine's Armed Forces – men who were held captive and subjected to torture, rape, and genital mutilation with electric current – is increasing. These men must be included in any conversations about accountability for CRSV. After the de-occupation of territories in the east and south of Ukraine, there emerged a clear pattern: Wherever the Russian military was stationed, Russian forces used sexual violence to subdue communities and break family and community bonds – a hallmark of genocide, as previously mentioned. The similarities in reports of CRSV from different regions show that rape is being used as a method of war and potential act of genocide, and the OPG has evidence of Russian

⁴⁹ Global Survivors Fund. (n.d.). *Ukraine study on the status of and opportunities for reparations for survivors of conflict-related sexual violence*. Retrieved April 11, 2023, from https://static1.squarespace.com/static/5ff7d9f4dd4cdc650b24f9a4/t/62c3d1610bf4cc740f73fb56/1657000313991/GSFReporUkraine_ENG.pdf

commanders ordering their soldiers to rape Ukrainian civilians.⁵⁰

Regarding individual criminal accountability, universal jurisdiction is gaining traction internationally, and it appears more likely that third states that may be signatories of the Rome Statute might support the prosecution of Russian war criminals within domestic courts. A recent example of such a prosecution took place in a German court that handed down a genocide conviction of an Islamic State fighter who had sexually assaulted and enslaved a Yazidi woman in Syria.⁵¹ There has also been a concerted effort to freeze and seize Russian assets, both public and private, in Western countries. In March 2022, the European Commission created the “Freeze and Seize” Task Force to ensure EU member states’ cooperation and collaboration on sanctions related to Ukraine. As of November 2022, EU member states had frozen 19 billion euros (around \$20.9 billion U.S. at current rates) of Russian oligarchs’ assets.⁵² Additionally, nearly 300 billion euros of Russian Central Bank reserves have been immobilized in the EU and other G7 countries. The Commission has proposed 1) to set up a system to manage and invest frozen public funds, and to use the revenue to rebuild Ukraine, and 2) to link Central Bank assets to a possible future peace agreement, which would compensate Ukraine for damages suffered. In October 2022, the New Lines Institute convened a team of international legal experts, economists, and scholars to devise a new means of reparations through its Multilateral Action Model on Reparations (MAMOR).⁵³ “The MAMOR provides a roadmap for lawfully using Russian funds already frozen by the countries that have sanctioned Russia for its war and provides a detailed, actionable list of possible sources of Russian state funds for use. It also establishes a functional, efficient means of collecting and distributing those funds, so that they might be used to rebuild Ukraine not in the distant future, but as the war continues.” In June 2023, New Lines released another report outlining a multilateral asset transfer scheme that proposes that countries can legally go beyond just freezing Russian assets and actually transfer the 300 billion euros in assets to be held in escrow for the reconstruction of Ukraine.⁵⁴ The law of countermeasures in international law entitles states to respond in such a way. This unique model would allow for the creation of a global fund for reconstruction and reparations that could begin as early as this year.

The United States has been leading efforts to provide material support to Ukraine as well as devising accountability measures, especially for survivors of CRSV. In April 2023, USAID, with the help of the U.N. Population Fund, donated 60 vehicles to the Ukrainian government and local partners to assist the 100 mobile teams that currently provide free psychosocial support to survivors of gender-based violence and domestic violence across Ukraine.⁵⁵ These individuals

⁵⁰ Barber, H., & Townsley, S. (2023, March 14). Gang-rape and genital electrocution: The harrowing war crimes in Ukraine under investigation. *The Telegraph*. <https://www.telegraph.co.uk/global-health/women-and-girls/fight-back-against-putins-war-criminals/>

⁵¹ Clooney, A., Mehner, S., von Wistinghausen, N., Yazda [Yazidi NGO], & Murad, N. (2022, July 27). *German court hands down second genocide conviction against ISIS member following enslavement and abuse of Yazidi woman in Syria*. Doughty Street Chambers. <https://www.doughtystreet.co.uk/news/german-court-hands-down-second-genocide-conviction-against-isis-member-following-enslavement>

⁵² European Commission. (2022, November 30). *Ukraine: Commission presents options to make Russia pay for its crime* [Press release]. https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7311

⁵³ Grant, T. (2022, October 25). *Multilateral action model on reparations*. New Lines Institute for Strategy and Policy. <https://newlinesinstitute.org/ukraine/multilateral-action-model-on-reparations/>

⁵⁴ Ziskina, Y. (2023, June 14). *Multilateral asset transfer: A proposal for ensuring reparations for Ukraine*. New Lines Institute. <https://newlinesinstitute.org/ukraine/multilateral-framework-for-transferring-state-assets/>

⁵⁵ UNFPA. (2023, April 25). *UN Population Fund delivers 60 vehicles provided by the US government to help survivors of gender-based violence across Ukraine*. <https://ukraine.unfpa.org/en/PSSmt60eng>

often reside in remote areas or near the front lines, which makes gaining access to care difficult. As of April, the teams had responded to more than 90,000 calls, demonstrating the tremendous need for these mobile teams and for more support for programs that prioritize the needs of survivors of gender-based violence. In November 2022, President Joe Biden released a Presidential Memorandum on Promoting Accountability for CRSV (PM) in conjunction with the United Kingdom's international ministerial conference on the Preventing Sexual Violence in Conflict Initiative.⁵⁶ The PM directs the secretary of state, the secretary of the Treasury, the attorney general, and the director of national intelligence to use "existing authorities to the fullest extent possible to promote accountability for acts of CRSV" against people of all genders. In the PM, the U.S. commits to using all available instruments of accountability including sanctions, security assistance, visa restrictions, and bilateral diplomacy with foreign partner governments to advance and advocate for justice and accountability for perpetrators of CRSV. Importantly, the PM also directs the federal agencies to work bilaterally and multilaterally with international organizations and local civil society organizations on survivor-centered evidence gathering. Sanctions are very rarely used against those who perpetrate acts of CRSV, so while the PM has only been in implementation mode for less than a year, it is already providing the Treasury Department with a new lens through which to examine and designate sanctions.

While all of these legal methods and plans are important, just as important are plans for the social reconstruction of Ukraine. As we can see from Bosnia, decades have passed and some survivors of CRSV are only now coming forward to share their stories and try to access reparations. Transformative reparations – reparations that address structural social, gender, political, and economic inequalities – must be created and made accessible to all survivors. While international legal mechanisms can be an important part of transitional justice, they often lack financial support or actual enforcement, and they can take decades to reach a conclusion. This is why interim reparative measures and domestic efforts are critical at this juncture. Local civil society organizations and NGOs are best placed to provide transformative assistance to survivors of CRSV, making it crucial for Ukraine to establish a domestic registry for victims rather than relying solely on an international registry. In addition to individual reparations, collective reparations should be considered. Collective reparations are benefits meant "to undo the collective harm that has been caused as a consequence of a violation of international law."⁵⁷ These benefits should address the root causes of societal inequalities and could include building schools and hospitals or establishing a truth commission to investigate the collective harm the Russian Federation has caused Ukrainians.

Despite all of this progress, there remain many barriers in place to achieving justice and accountability for survivors of CRSV. There have recently been issues with evidence sharing, for example, as the U.S. Pentagon blocked intelligence on Russian war crimes from being released for

⁵⁶ The White House. (2022, November 28). *Memorandum on promoting accountability for conflict-related sexual violence*. <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/28/memorandum-on-promoting-accountability-for-conflict-related-sexual-violence/>

⁵⁷ Rosenfeld, F. (2010, September). Collective reparation for victims of armed conflict. *International Review of the Red Cross*, 92(879), 731–46. <https://doi.org/10.1017/S1816383110000494>

several months.⁵⁸ However, in July 2023, Biden ordered the U.S. government to begin sharing this evidence with the ICC in a quiet but major shift in U.S. policy.⁵⁹ Another barrier is that, as detailed above, survivors are often reluctant to come forward for a variety of reasons. There are many psychosocial as well as physical barriers to reporting sexual violence, especially during an armed conflict, including fear of Russian reprisal, systematic sexism in Ukrainian systems, deeply embedded corruption in Ukrainian law enforcement, social stigma and judgment, and fear of being seen as “colluding” with the Russians. One of the biggest challenges to achieving justice for this war, however, is the lack of coordination. There are many disparate and disconnected efforts in Ukraine to gather and document evidence of atrocity crimes, to interview witnesses and survivors, and to create and set up tribunals, yet many of these efforts remain siloed. Without both evidence and victim or witness statements, it will be impossible to secure reparative justice for survivors. As Ukraine moves forward, it will be important to look to Bosnia to learn what worked and what didn’t in order to most effectively serve Ukrainian survivors of CRSV.

Lessons Learned/Policy Options

For the International Community

1. **Universal Jurisdiction:** In 2018, 23 years after the conclusion of the Bosnian war, a positive development occurred in war crimes prosecutions when Bosnia indicted former Bosnian Serb soldier Slobodan Ćurčić for the murder of two Bosniaks and the rape and sexual abuse of Bosniak women and girls in the municipality of Foča. In 2022, the Higher Court in Podgorica, Montenegro, confirmed an indictment of Ćurčić, who was living in Montenegro at the time. The Montenegrin court’s action marks a milestone, as it is one of the first war crimes cases transferred from Bosnia to Montenegro, exemplifying how universal jurisdiction must be respected and enforced, especially within the Western Balkans. Like the Yazidi case in Germany and now this case in Montenegro, universal jurisdiction is an option for third countries to do their duty under international law. Thousands of Bosnian victims are unlikely to obtain justice during their lifetimes. Given the backlog of the war crimes cases, some perpetrators are not within Bosnia’s reach, and many are quite old and ill, yielding to impairment and/or death. In the case of Ukraine, states have a logical and moral duty to use the principle of universal jurisdiction and their own national laws and court systems to bring perpetrators of CRSV to justice on behalf of Ukraine. Countries including Lithuania, Germany, Sweden, and Spain have all already opened investigations into Russian war crimes in Ukraine. More countries should follow suit and assist Ukraine’s OPG with its investigations into 80,000-plus war crimes.
2. **The Genocide Convention:** Under the Genocide Convention, state parties must act to prevent genocide per Article I at the moment they know, or reasonably should have known, that there is a serious risk of genocide, and to punish substantive breaches of the Genocide Convention as stipulated in Article III. In May 2022, the New Lines Institute and the Raoul Wallenberg Center published a legal analysis that detailed the Russian Federation’s

⁵⁸ Savage, C. (2023, March 8). Pentagon blocks sharing evidence of possible Russian war crimes with Hague court. *The New York Times*. <https://www.nytimes.com/2023/03/08/us/politics/pentagon-war-crimes-hague.html>

⁵⁹ Savage, C. Biden orders U.S. to share evidence of Russian war crimes with Hague court. *The New York Times*. <https://www.nytimes.com/2023/07/26/us/politics/biden-russia-war-crimes-hague.html?smtyp=cur&smid=tw-nytimes>

breaches of the Genocide Convention.⁶⁰ Over a year later, evidence continues to show that Russia is engaging in a systematic and targeted campaign of genocide against the Ukrainian people and that it bears state responsibility for commission of this crime. The Genocide Convention provides a vehicle for state parties to act. For example, states with stronger political links to Russia have a greater duty to use their influence in this regard, while other states can send more military supplies and weapons to Ukraine to prevent the humanitarian crisis from worsening. In March 2023, the ICC issued an arrest warrant for Russian President Vladimir Putin and his Commissioner for Children's Rights Maria Lvova-Belova for the war crimes of abduction and deportation of Ukrainian children to Russia. In addition to war crimes under the Rome Statute, provisions of the 1948 Genocide Convention also provide a vehicle for justice for the above acts. While these acts are currently categorized as war crimes by the ICC,⁶¹ the arrest warrants also put state parties to the Genocide Convention on notice that potential genocidal acts could be occurring,⁶² thus triggering the duty to prevent. Any of the 152 state parties,⁶³ not least the half-dozen or so countries whose parliaments have determined genocide is taking place, should immediately take action to the best of their ability to prevent more genocidal acts from occurring, especially by these individuals who have ordered, and are instrumental in, the forcible transfer of Ukrainian children to Russia, among other crimes.

3. **The International Criminal Court:** Regarding the ICC's arrest warrant for Vladimir Putin and Maria Lvova-Belova, members of the international community should cooperate with the ICC in the execution of its arrest warrants and investigate and supply information to the Court on the role of other Russian and Belarusian officials in unlawfully deporting Ukrainian children. It is important for the Court to issue arrest warrants for other key officials of the Russian regime who are ordering and engaging in such war crimes.
4. **Women, Peace, and Security Agenda and Feminist Peace Processes:** In Bosnia, challenges remain around genocide denial and a dysfunctioning Council of Ministers due to obstruction from within the national government, which has had a detrimental effect on rule of law and human rights nationally. The Dayton Agreement's construction of multiple governments⁶⁴ that were purposefully decentralized has had the effect of weakening the state of Bosnia-Herzegovina and undermining human rights throughout the country, especially with respect to reparations for CRSV or torture victims, who have neither standard benefits across the country nor systematic support due to the vast differences between governments from the state to the local levels.⁶⁵ This government construction highlights how valuable it is to have community-driven, inclusive, and feminist peace

⁶⁰ New Lines Institute for Strategy and Policy. (2022, May 25). *An independent legal analysis of the Russian Federation's breaches of the Genocide Convention in Ukraine and the duty to prevent*. <https://newlinesinstitute.org/an-independent-legal-analysis-of-the-russian-federations-breaches-of-the-genocide-convention-in-ukraine-and-the-duty-to-prevent/>

⁶¹ The ICC's Office of the Prosecutor may add or make public additional charges involving deportation or transfer of children, including as acts of crimes against humanity or genocide.

⁶² See Article II(e) of the Genocide Convention.

⁶³ See the New Lines Institute and Raoul Wallenberg Center report "An Independent Legal Analysis of the Russian Federation's Breaches of the Genocide Convention in Ukraine and the Duty to Prevent" for more on state responsibility, pp. 10-11.

⁶⁴ The Dayton Agreement ended the Bosnian war, confirmed Bosnia's independence, and divided the country into the Bosniak-Croat Federation of BiH (Bosnia and Herzegovina) and Republika Srpska. Critics of the agreement argue that it created a complex and divided political system that froze rather than ended the conflict.

⁶⁵ Nystuen, G. (2005). *Achieving peace or protecting human rights?: Conflicts between norms regarding ethnic discrimination in the Dayton Peace Agreement*. The Raoul Wallenberg Institute Human Rights Library, vol. 23. Brill. <https://doi.org/10.1163/9789047408291>

processes integrated into any peace discussions between Russia and Ukraine in the future. The dysfunctional post-Dayton states are an example of “war by other means” through the obstruction of government, lack of rule of law, and lack of prosecution for some of the war’s most violent offenders. There is much to be learned about how important holistic and inclusive peace is not just for lasting peace but also for retributive justice for CRSV survivors. The Dayton Agreement was silent not only on women’s effective or meaningful participation in the peace process, but also on survivors’ participation. Instead, the peace talks excluded both groups and focused solely on issues of ethnicity and territory. Inclusive peace and transitional justice processes where women have a meaningful seat at the table are more likely to result in a longer-lasting and more durable peace.⁶⁶ Furthermore, by excluding survivors from meaningful participation in the peace talks and ignoring the prevalence of CRSV and the gendered manner in which Serb forces waged their war in Bosnia, often using women’s bodies as a battlefield, the peace negotiators missed a key opportunity to address some of the root causes of the war. Perhaps if women and survivors had been meaningfully included in the Dayton peace process, we would not be seeing conflict brewing in the Western Balkans once again. If and when a peace process for Ukraine is conducted, women and survivors must be included effectively as equal and meaningful participants.

5. **Framework of Cooperation:** One of the most significant lessons the international community as a whole learned from Bosnia was the need for a more specialized focus on how to prevent and respond to conflict-related sexual violence. The U.N. in particular realized the need to create the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC), which is currently led by Pramila Patten. This office was established in 2009 to change the view that CRSV is an “inevitable byproduct of war, but rather a crime that is preventable and punishable under International Human Rights Law and International Criminal Law.”⁶⁷ Since Russia’s illegal invasion of Ukraine in February 2022, the OSRSG-SVC has been working diligently to support the Ukrainian government in assisting survivors of CRSV and strengthening accountability mechanisms for perpetrators. In May 2022, the Framework of Cooperation between the government of Ukraine and Pramila Patten’s office was signed, which brings together international and national actors in support of survivors of CRSV.⁶⁸ Importantly, the Framework also builds upon Ukraine’s National Action Plan for Women, Peace and Security (WPS), a key agenda to be used for any feminist or holistic response to conflict. Ukraine’s allies should coordinate with the OSRSG-SVC on the Framework of Cooperation’s priorities and provide financial support to the Ukrainian government for the implementation of Ukraine’s National Action Plan on WPS.
6. **Guidebook on State Obligations for Conflict-Related Sexual Violence:** In July 2023, the Mukwege Foundation’s Red Line Initiative launched a “Guidebook on State

⁶⁶ Council on Foreign Relations. (n.d.). *Women’s participation in peace processes*. Retrieved August 7, 2023, from <https://www.cfr.org/womens-participation-in-peace-processes>

⁶⁷ United Nations. *About the office*. Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict. Available from <https://www.un.org/sexualviolenceinconflict/about-us/about-the-office/>

⁶⁸ United Nations. *Framework of cooperation between the government of Ukraine and the United Nations on the prevention and response to conflict-related sexual violence*. Cabinet of Ministers of Ukraine. Available from https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2022/05/20220503-FoC_Ukraine_SIGNED.pdf

Obligations for Conflict-Related Sexual Violence” that “compiles all of the applicable international law and norms relating to conflict-related sexual violence into a handbook with an aim to inform States in a comprehensive manner of their current obligations under international humanitarian law, international human rights law, and UN Security Council resolutions that form the Women, Peace and Security agenda.”⁶⁹ There already exist a plethora of laws and international obligations relating to accountability for CRSV. Ukraine and its allies should use the full extent of the law not only to punish perpetrators of CRSV but also to prevent it from happening in the first place. The Guidebook is a resource for policymakers to see all of the relevant international norms and standards in one place for the first time ever and, importantly, it employed a survivor-centered approach in the drafting process.

7. **International Register of Damages:** In May 2023, the Council of Europe approved a Register of Damages to document Russian damages against Ukraine from Feb. 24, 2022, onward for future compensation and reparation claims.⁷⁰ The register was created for an initial period of three years. Although this is a positive step to pursue justice and accountability beyond criminal prosecution measures, the register is a national and international policy response to the war, created without consultation with the victims themselves. The resolution that established the international register does not provide instructions for how to prioritize claims or what forms of compensation or reparation may be offered. The main office for the registry will be located in The Hague, far away from potential claimants in Ukraine. The New Lines Institute’s multilateral asset transfer proposal (discussed above) should be used to fund the international register as well as a domestic register (discussed below), with specific guidance for survivors of CRSV. The implementers of the international register must create a plan with input from victims for how compensation can be allocated.
8. **Survivor-Centered Approach:** Justice delayed is justice denied, but top-down justice without input from survivors themselves is not really justice at all. The implementers of the international register and the proposed domestic register (see below) should work with local NGOs and Iryna Didenko’s office in Ukraine’s OPG to listen to what survivors have to say and their needs for reparation, including but not limited to compensation, and develop solutions together that address the needs of all survivors of CRSV. A survivor-centered approach must be integrated into the registers for losses and damages, interim reparative measures, all reparations programs, the humanitarian response, collecting and gathering of evidence and testimonies for legal procedures, and any Ukrainian state service providers and structures working with survivors of CRSV. In Bosnia, organizations like Medica Zenica and Vive Zene were critical to justice and accountability efforts for survivors of sexual violence and torture during and after the war due to their deep knowledge of the issues and preexisting connections in the local communities. Funding, coordinating, and collaborating with local Ukrainian organizations that have a proven record of assistance provision and expertise on CRSV, like JurFem,⁷¹ Ukrainian Women’s

⁶⁹ *Guidebook on state obligations for conflict-related sexual violence*. (n.d.). Retrieved July 28, 2023, from <https://red-line-guidebook.netlify.app/>

⁷⁰ DW. (2023, May 17). *Council of Europe approves Register of Damage against Russia*. <https://www.dw.com/en/council-of-europe-approves-register-of-damage-against-russia/a-65656902>

⁷¹ JurFem. *Wartime violence*. Retrieved August 7, 2023, from <https://jurfem.com.ua/en/wartime-violence/>

Fund,⁷² Diya,⁷³ Insight,⁷⁴ or Gidna,⁷⁵ will make any programs and assistance more effective, sustainable, and inclusive.

For Ukraine

1. **Domestic Registry of Losses and Damages:** In Ukraine, there appears to be too much reliance on what the international Register of Damages will do for survivors of CRSV. A domestic registry and domestic reparations process will fill the gaps in the international mechanism. It is important for Ukraine to set up a domestic registry to complement and coordinate with the international mechanism. Under the Office of the High Commissioner for Human Rights' Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, the standard of proof for reparation purposes is lower than beyond a reasonable doubt.⁷⁶ If necessary, the domestic registry can have different evidentiary requirements than the international mechanism (while maintaining the same standard of proof) in order to ease restrictions on access for survivors of CRSV in particular. The domestic register will also be far more accessible geographically than the international register, making it easier for survivors and victims' families in Ukraine. Having a domestic register would also help rebuild democratic institutions and repair trust in domestic structures and systems. The international and domestic registers should coordinate in order to avoid unnecessary harm to survivors. A domestic registry can be a place where all data can be stored, organized, consolidated, and aggregated in some way for transitional justice and reparations (which will require further discussion on how to store the data, security, etc.). Furthermore, the international registry will only cover violations that have occurred since 2022, but the conflict began in 2014, so survivors pre-2022 will be excluded from this instrument of justice. An important consideration for Ukraine when it comes to registers of damages is the question of funding. If the international mechanism and the proposed domestic registry are to be funded by frozen and transferred Russian assets, any states where the Russian assets are held, like the U.S. and the U.K., will be involved in decisions around where the funds will go. This could possibly be restrictive, so it will be critical for these stakeholders to ensure a survivor-centered approach where funds are used in a way that fully benefits survivors of CRSV. While the New Lines Institute's multilateral asset transfer proposal can be used to take frozen Russian assets to fund both the international and domestic registers, the international community and Ukraine should still be encouraged to donate funds to support this work.
2. **Reparations:** While it's a positive step that the demand for reparations has been on the table since the beginning of the invasion, right now the conversation on reparations for Ukraine is state-centered and there is a limited understanding of what individual victim

⁷² <https://uwf.org.ua/en/>

⁷³ <https://www.diya-ua.org/>

⁷⁴ <https://www.insight-ukraine.org/en/>

⁷⁵ <https://gidna.org/en>

⁷⁶ United Nations (General Assembly). (2005, December 15). *Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law*. A/RES/60/147. Available from <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

reparations means compared to state reparations. Reparations are much more than just financial compensation, which is why survivor-centered approaches are critical. The ICC's Trust Fund for Victims⁷⁷ provides some best practices about the most appropriate forms of reparations for victims. It is through the designing and implementation process of acknowledgment, justice and accountability measures, guarantees of nonrepetition, and rehabilitation that healing begins for survivors of CRSV. Interim reparative measures, like providing access to health care, psychosocial support, or free legal counseling, should be put in place in advance of any formal reparations process. Bosnia does have a domestic reparations program, although its actual implementation is ineffective due to the governing structure of the country, so only about 1,000 people are getting reparations. Ukraine also does have a domestic reparations program, but unfortunately there has been limited government assistance for survivors of CRSV from 2014 onward. According to the GSF Study on Ukraine, as of December 2021 only 209 survivors had actually received a one-time governmental compensation.⁷⁸ The OPG in Ukraine is investigating over 80,000 war crimes and the CRSV unit is investigating hundreds of documented cases of CRSV. In conflicts around the world, survivors of CRSV have been waiting so long for any form of justice that many are dying as they wait. While survivors of sexual violence have a right to justice and reparations, the reality is that legal mechanisms and prosecutions are rare, costly, and lengthy processes with an unclear deterrent effect for future atrocities.⁷⁹ In the meantime, States Parties to the Rome Statute and/or to the Genocide Convention, civil society organizations, the broader international community, and other relevant actors can take action to support the immediate needs of survivors, such as medical care and shelter. We need not wait for prosecutions or truth and justice commissions and/or reconciliation commissions to begin addressing the gender-based harms inflicted upon people during conflicts. In fact, the GSF Study on Ukraine found that domestic administrative reparations programs are actually more effective and inclusive than efforts made through national, international, civil, or criminal courts.⁸⁰ Interim reparative measures are important and can be implemented right away while the conflict is ongoing to support and assist survivors of CRSV. The New Lines Institute's multilateral asset transfer proposal uses the law of state countermeasures to show how Ukraine's allies in the West, whose banks hold a combined \$350 billion in frozen Russian assets, can transfer these assets to be held in escrow for the reconstruction of Ukraine beginning as early as 2024. If the U.S. and European countries move forward with these transfers, possibly funding the international registry and the proposed domestic registry, there needs to be coordination and collaboration among the implementers and stakeholders, including survivors of CRSV. While Russia absolutely should pay for the destruction and devastation its war has caused to Ukraine and

⁷⁷ The Trust Fund for Victims. (n.d.). *Reparation implementation*. Retrieved August 8, 2023, from <https://www.trustfundforvictims.org/index.php/en/what-we-do/reparation-orders>

⁷⁸ Global Survivors Fund. (n.d.). *Ukraine study on the status of and opportunities for reparations for survivors of conflict-related sexual violence*. Retrieved April 11, 2023, from https://static1.squarespace.com/static/5ff7d9f4dd4cdc650b24f9a4/t/62c3d1610bf4cc740f73fb56/1657000313991/GSFReporUkraine_ENG.pdf

⁷⁹ International Committee of the Red Cross. (n.d.). *Ad hoc tribunals: 29-10-2010 overview*. <https://www.icrc.org/en/doc/war-and-law/international-criminal-jurisdiction/ad-hoc-tribunals/overview-ad-hoc-tribunals.htm>

⁸⁰ Global Survivors Fund. (n.d.). *Ukraine study on the status of and opportunities for reparations for survivors of conflict-related sexual violence*. Retrieved April 11, 2023, from https://static1.squarespace.com/static/5ff7d9f4dd4cdc650b24f9a4/t/62c3d1610bf4cc740f73fb56/1657000313991/GSFReporUkraine_ENG.pdf

Ukrainians, the Ukrainian government should also work toward financially supporting victims, especially with interim reparative measures and other forms of assistance. In Bosnia, the government has failed to provide comprehensive justice and reparation to survivors of CRSV,⁸¹ resulting in tens of thousands of survivors still struggling to access necessary medical, financial, and psychosocial assistance. Reparations for CRSV survivors should be integrated into a broader reparations framework that includes other victims of torture, victims of physical and psychological injury, and people who have lost family members, who also have a right to reparation. The Ukrainian government should ensure that CRSV victims are treated holistically, as many have been subject to other crimes outside of CRSV for which they also need reparations. Finally, Ukraine must ensure that its domestic laws enable the implementation of reparations for war victims, including CRSV survivors, which may require reform or the promulgation of new laws. If action in favor of victims of CRSV can move the overall issue of reparations more quickly, then those working on reparations should use this knowledge to leverage an opportunistic approach to advancing legislative action.

3. **Free Legal Aid:** In Bosnia, there exists double jeopardy for wartime torture victims, who are forced to pay court costs to Republika Srpska after their compensation claims are rejected on the grounds of the statute of limitations. Ukraine must maintain, and should even expand, its policy of free legal aid, especially to victims of CRSV. All war survivors should be provided no-cost legal counsel to ensure their effective participation in both criminal and reparations proceedings. Most CRSV survivors are impoverished and cannot afford necessary medications or food for themselves and family members, so they certainly won't be able to afford court fees. As the Global Survivor Fund Study on Ukraine details, going through the reparations process should be reparative in and of itself.⁸² Providing survivors with the necessary support to take their cases to court and to receive compensation will help to ensure that participating in these processes is reparative for them. Survivors of CRSV should not have to bear any further costs, however they choose to pursue justice and accountability for the harm inflicted upon them by Russian forces.
4. **Criminal Proceedings:** In Bosnia, it took 15 years to find Ratko Mladić and Radovan Karadžić, men who were instrumental in the Bosnian genocide and who were eventually convicted by the ICTY of genocide, crimes against humanity, and war crimes. While there is no statute of limitations on prosecuting war crimes in Ukraine, including crimes of sexual violence, there is a limitation for the pretrial investigation. If the suspect is not found within 18 months, the case must be closed. The Ukrainian Parliament should pass the proposed bill by the Committee on Law Enforcement Activities that addresses this oversight, regarding the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pretrial Investigations and Trials in Criminal Proceedings Regarding Crimes Related to Sexual Violence Committed in Conditions of Armed Conflict.⁸³ If an individual

⁸¹ Amnesty International. (2018, April 18). *25 years after Bosnia's war, rape survivors still struggle for justice. Congress can help!* Amnesty International USA. <https://www.amnestyusa.org/updates/25-years-after-bosnias-war-rape-survivors-still-struggle-for-justice-congress-can-help/>

⁸² Global Survivors Fund. (n.d.). *Ukraine study on the status of and opportunities for reparations for survivors of conflict-related sexual violence*. Retrieved April 11, 2023, from https://static1.squarespace.com/static/5ff7d9f4dd4cdc650b24f9a4/t/62c3d1610bf4cc740f73fb56/1657000313991/GSFReporUkraine_ENG.pdf

⁸³ Ionushas, S. K. (n.d.) *The law of Ukraine: On amendments to the Criminal Procedure Code of Ukraine regarding the improvement of the pretrial procedure investigation and trial in criminal proceedings regarding crimes related to sexual violence committed in conditions of armed conflict*. <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1805381>

has been indicted in Ukraine for crimes relating to CRSV, there should be no statute of limitations for the pretrial investigation period. Additionally, Parliament should expand the statute of limitations to include all CRSV, not just rape. Criminal law prohibitions should be more fully stipulated in the national law in accordance with international human rights standards.

5. **Align National and International Legislation:** The NGO Trial International in Bosnia focuses on recommending structural amendments to Bosnian law in order to align national legislation with international human rights instruments and practices, such as access to reparations for victims of sexual violence. Ukrainian law should likewise be aligned with international human rights instruments and practices, and the government should engage in consultations with key stakeholders, including civil society organizations and victims and survivors themselves, to design new and robust legislation that is survivor-centered and trauma-informed. In particular, investigations and documentation of CRSV crimes should align with the standards laid out in the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict.⁸⁴ The Mukwege Foundation's "Guidebook on State Obligations for Conflict-Related Sexual Violence" will be helpful in identifying international legislation.
6. **Victims in Occupied Territories:** In Bosnia, there are many barriers to victims of CRSV getting access to justice and reparations, especially in Republika Srpska. Though Bosnia is not a formal partition and was created by international agreement, the resulting state government mechanisms are less powerful than if Bosnia had one united governing system because government devolves to the entity level – thus, the federal state has limited agency and power. Further, not all survivors of CRSV have been able to access reparations because of where they live, continued interethnic discrimination, and other arbitrary measures. Survivors' access to services, including reparations, depends entirely on their place of residence due to the complexities of multiple governments. The GSF study on Bosnia reports that only about 1,000 survivors (out of the estimated 20,000 to 50,000 women raped) have obtained, or are in the process of obtaining, some form of reparation for CRSV.⁸⁵ This is critical to note because if Russia succeeds in its illegal occupation and annexation of parts Ukraine, the rights of Ukrainian victims could be jeopardized in the same manner. Should this occur in Ukraine, any Ukrainian victims in the Russian-occupied territories would be very unlikely to have access to any form of justice or reparations, as Russia will deny that Ukrainians are a distinct ethnic group and would be more likely to deny these crimes took place. Accountability and reparations would simply become out of reach for the vast majority of victims who would be living in an annexed Ukraine under Russian control. As Ukraine faces an ever-growing caseload of war crimes, ensuring that barriers to prosecution are not too high (which is not to say reducing the standard of proof for conviction) and following the Basic Principles and Guidelines on the Right to

⁸⁴ Ferro Ribeiro, S., & van der Straten Ponthoz, D. (2017, March). *International protocol on the documentation and investigation of sexual violence in conflict*. UK Foreign & Commonwealth Office. <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/06/report/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict/International Protocol 2017 2nd Edition.pdf>

⁸⁵ Global Survivors Fund. (n.d.). *Bosnia and Herzegovina study on opportunities for reparations for survivors of conflict-related sexual violence*. P. 7. Retrieved April 9, 2023, from https://static1.squarespace.com/static/5ff7d9f4dd4cdc650b24f9a4/t/62eb77898ed82b21ba0af117/1659598750968/GSFReportBiH_ENG_Web.pdf

Reparation outlined by the Office of the United Nations High Commissioner for Human Rights will be important. Ukraine can learn many lessons from the deficiencies of Bosnia's reparations program, including to remove any statute of limitations to apply for reparations; to protect survivors' identities throughout criminal trials, including if the survivor seeks civil damages; and to ensure equitable access to reparations, regardless of where the survivors end up residing.

7. **Documentation in Occupied Territories:** Regarding the right to reparation for individuals living in Russian-occupied territories, there will be evidentiary challenges specific to CRSV survivors. Individuals in these areas, which have been illegally occupied by Russia since 2014, may have Russian documents due to the nature of occupation. Should Ukraine successfully push Russia out of these Ukrainian territories, the Ukrainian government must accept these documents when they are submitted by survivors as part of proof of gross violations of international human rights law and serious violations of international humanitarian law.
8. **Children Born of Wartime Rape:** It is estimated that approximately 2,000 to 4,000 Bosnian children were born after Serb-aligned forces raped their mothers during the Bosnian war,⁸⁶ but they are often forgotten as victims and left out of the reparative justice and transitional justice processes. Children who are conceived from sexual violence in conflict also face extensive sociocultural barriers to social inclusion, potential discrimination, and legal hurdles for full representation. Many of these "invisible children," now young adults, have faced obdurate barriers and difficulties throughout their lives due to the marginalization and stigmatization they have faced as children born of wartime rape. In July 2022, the Brčko District of Bosnia-Herzegovina passed legislation concerning civilian victims of war, which included unprecedented legal recognition of children born of wartime sexual violence ("children born of war") as victims of the war. Notably, Bosnia is the first country in Europe to pass such a law.⁸⁷ Additionally, the Federation Parliament adopted the Law for Protection of the Civil Victims of War on July 27, 2023, which extended services and benefits to all Bosnian victims of war, the definition of which now encompasses more than 50% of Bosnians when including the Brčko District's law.⁸⁸ Ukraine should learn from this step forward and put in place legal protections for children born of wartime rape in Ukraine. This will allow those children to begin the fight for recognition and for reparations immediately, instead of having to wait almost 30 years for this necessary recognition, as so many Bosnians have had to do.
9. **Prosecute Ukrainians:** Bosnian prosecutors in the Bosnian OPG have spoken about how hard it is to prosecute Bosniaks who committed war crimes. Ukraine should not repeat this mistake. Ukraine must make sure to register cases and to investigate and prosecute members of its own Ukrainian armed forces or others who committed CRSV and other

⁸⁶ Pehlivan, H. (n.d.). *Genocidal rape and the invisible children of Bosnia*. TRT World. <https://www.trtworld.com/perspectives/genocidal-rape-and-the-invisible-children-of-bosnia-48312>

⁸⁷ Trial International. (2022, November 28). *Legislation pertaining to children born of war in Bosnia and Herzegovina: A resounding affirmation in the context of global silence*. <https://trialinternational.org/latest-post/legislation-pertaining-to-children-born-of-war-in-bosnia-and-herzegovina/>

⁸⁸ Human Rights Pulse. (2023, January 11). The Federation of Bosnia and Herzegovina recognizes the victim status of "Invisible Children." <https://www.humanrightspulse.com/mastercontentblog/the-federation-of-bosnia-and-herzegovina-recognise-the-victim-status-of-invisible-children>

crimes against their own people or those aligned with Russia during the conflict. Justice should be for all survivors; it cannot be politically selective.

10. **Witness Support:** The Court of Bosnia and Herzegovina created a witness support mechanism to, in theory, provide victims and witnesses with psychosocial support before, during, and after testimony. Psychosocial support must be made available holistically and sustainably to survivors of CRSV. In Ukraine, if prosecutors want victims of CRSV to come forward to testify, the system must continue to offer support following their testimony. In Bosnia, professional psychological assistance is provided through the Witness Support Office, which uses a survivor-centered approach and facilitates the testifying process. The Ukrainian OPG currently works with its partners to provide medical and psychological support, evacuation assistance, and material assistance to survivors of CRSV on an ongoing basis. It will be important to maintain and expand this assistance in the coming years and to ensure that all victims of CRSV, including men, those with diverse SOGIESC, and other groups are supported.
11. **Technology:** Virtual reality technology can be used to support CRSV survivors through court proceedings, including the use of face filters or avatars while testifying, and other innovations.⁸⁹ This relatively new technology is a vital additional mechanism to support survivors while they are participating in the judicial process. This could be boosted by centers that provide psychosocial services for survivors, as mentioned above.

For the United States

1. **Presidential Memorandum on Accountability for CRSV (PM):** The U.S. government should use the PM to the fullest extent to designate sanctions for perpetrators of CRSV in Ukraine. This will set an important precedent for future U.S. sanctions designations in other conflicts. So far, the PM has been used by the Office of Foreign Assets Control to sanction two South Sudanese officials and by the U.S. Department of State to sanction two Islamic State leaders responsible for CRSV.⁹⁰ These designations mark the first time that the commission or tolerance of CRSV has led to an imposition of sanctions by the U.S. The challenge with these types of sanctions is that the process for gathering evidence, packaging it together, and then designating sanctions can be time-consuming. The Departments of Treasury and State should coordinate with Ukraine's OPG Conflict-Related Sexual Violence Crimes Department, which has identified perpetrators in 62 cases of CRSV, as well as with local NGOs in Ukraine that have been collecting evidence. It will also be important to socialize the PM across government agencies working on issues related to Ukraine to make sure they are aware of CRSV and that the PM is a tool they can use for accountability. This can be done through briefings and trainings across the interagency. While the State Department is already coordinating with a coalition of human rights-focused NGOs, it should expand coordination to gender-focused coalitions such as the U.S. Civil Society Working Group on WPS and the International Civil Society Action Network for assistance connecting with local civil society organizations that can help provide some

⁸⁹ Frontier Tech Hub. (n.d.). *How virtual and augmented reality could provide an empathy tool to disguise victims of CRSV and increase levels of justice*. Retrieved July 28, 2023, from <https://www.frontiertechhub.org/insights/call7-pioneer-story-jaye-ho>

⁹⁰ U.S. Department of the Treasury. (2023, June 20). *Treasury sanctions two South Sudanese officials responsible for conflict-related sexual violence* [Press release]. <https://home.treasury.gov/news/press-releases/jy1552>

of the necessary information needed for sanctions packages or visa restrictions. The upcoming update to the U.S. Strategy and National Action Plan on WPS should include information on CRSV and the PM so that understanding what CRSV is, that CRSV constitutes a human rights violation, and that there exists a tool to address it becomes institutionalized across federal agencies and U.S. embassies. While the PM signals that preventing and punishing CRSV is a priority of this administration, it is unclear whether this will continue through future administrations; civil servants across federal agencies must ensure this prioritization continues, especially given the U.S.'s obligations under international law, such as the Genocide Convention (discussed above). A key implementing agency missing from the PM is the Department of Defense (DOD). The DOD should be part of any conversations around security assistance and should take on an "early warning" role based on its intelligence gathering capabilities. The U.S. Intelligence Community comprises 18 organizations, nine of which are in the DOD.⁹¹ Therefore, DOD should share all intelligence on CRSV taking place in a conflict zone with all appropriate U.S. government agencies. This should be stipulated in the PM and listed separately under the mandate of the DOD's assistant secretary of defense for strategy, plans, and capabilities. The DOD should also be required to have assigned staff to interagency task forces related to CRSV. Further, in all official U.S. Women, Peace, and Security documents and references, especially under the auspices of the PM, CRSV directed at women, children, and people with diverse SOGIESC during armed conflicts should be explicitly referenced as a particular vulnerability.

2. **Crimes Against Humanity:** The United States does not have a statute criminalizing CAHs, which creates a huge gap in accountability measures available to U.S. prosecutors. The U.S. is effectively a "safe haven" for perpetrators of CAHs due to this loophole in American law.⁹² Congress should work to strengthen U.S. laws on atrocity crimes by enacting legislation to prevent and punish crimes against humanity. This will help the U.S. to support legal accountability efforts for the Russia-Ukraine war as well as other conflicts. Congress should refer to documents prepared by the American Bar Association's Working Group of Crimes Against Humanity.⁹³

⁹¹ Office of the Director of National Intelligence. (n.d.) *Members of the IC*. Retrieved August 9, 2023, from <https://www.dni.gov/index.php/what-we-do/members-of-the-ic>

⁹² Scheffer, D., & Smith, K. (2023, February 17). *Congress should close the 'crimes against humanity' loophole*. Just Security. <https://www.justsecurity.org/85135/congress-should-close-the-crimes-against-humanity-loophole/>

⁹³ American Bar Association. (2023, February 16). *Working group on crimes against humanity*. https://www.americanbar.org/groups/human_rights/preventing-atrocities/working-group-on-crimes-against-humanity/

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