

Panel Statement for



held on 10 and 11 October, 2012

in Phnom Penh, Cambodia

ASIA-PACIFIC REGIONAL WOMEN'S HEARING
Panel Statement

Organized by



In partnership with:



Funded by:



For inquiries please contact:

Mr. Duong Savorn, Project Coordinator,

Cambodian Defenders Project,

E-Mail: savorn@cdpcambodia.org

Facebook: Women's Hearing

TABLE OF CONTENT

INTRODUCTION.....	4
FINDINGS.....	6
A. On contributing factors to sexualized and gender-based violence in armed conflict (SGBVC).....	6
B. On patterns of violence.....	7
C. On the impact on victims, families and communities.....	9
D. On accountability	10
E. Applicable International Law and International Standards	10
F. On failure to implement	13
RECOMMENDATIONS	15
A. To Cambodia, Bangladesh, Nepal, and Timor-Leste:	15
B. To Specific Countries:.....	16
a. Cambodia	16
b. Bangladesh.....	17
c. Nepal	19
d. Timor-Leste	20
C. To Asia-Pacific Regional Bodies.....	22
D. To the International Community	23
E. To Civil Society and Non-Governmental Organizations (NGOs)	24

INTRODUCTION

The Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict took place at the Ecumenical Diakonia Center in Phnom Penh, Cambodia, on 10 and 11 October 2012. It was organized by the Cambodian Defenders Project (CDP) in partnership with the Transcultural Psychosocial Organization Cambodia (TPO) and Victim Support Section of the Extraordinary Chamber in the Courts of Cambodia (ECCC). The Women's Hearing was open to the public and was attended by representatives from the Royal Government of Cambodia, representatives of the ECCC, Civil Parties to the ECCC, the United Nations (UN), international and local non-government organizations (NGOs), civil society and university faculty and students.

The historic event provided women survivors and witnesses of sexualized and gender-based violence in conflict (SGBVC), in the Asia-Pacific region, with a forum to break the silence around violations against women in conflict-affected scenarios and to demand justice. The Hearing Panel of distinguished experts listened to their testimonies and to several expert testimonies, and made the findings and recommendations contained in this Statement. The Panel comprised Vichuta Ly (Human Rights Defender, Cambodia), Vahida Nainar (Gender and Human Rights Expert, India), Dianne Otto (Law Professor, Australia), and Aurora Javate De Dios ((Philippine Representative to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, ACWC).

The Panel heard testimonies from women survivors and witnesses about sexual violence perpetrated during four conflicts in the region: Cambodia (1975-1979), Bangladesh (1971), Nepal (1996-2006) and Timor-Leste (1974-1999). Testimonies were complemented by a video keynote address by Zainab Bangura, Special Representative to the UN Secretary-General on Sexual Violence in Conflict. The Panel also heard testimony by international experts, including an overview of the causes and patterns of gender-based violence in armed conflict by Silke Studzinsky (International Counsel for Civil Parties before the ECCC) and a presentation on best

practices and challenges in judicial and non-judicial approaches to gender justice by Professor Susanna SáCouto (Director, War Crimes Research Office, American University College of Law, Washington DC). Distinguished guest speaker, Anne Marie Goetz (Chief Advisor of Governance, Peace and Security, UN Women) stressed the importance of UN Security Council Resolutions (UN SCR) on women, peace and security, including UN SCRs 1325, 1820, 1888, 1889 and 1960, as part of the international framework to end impunity for SGBVC and to achieve the empowerment of women globally. The Hearing opened with remarks by H.E. Hor Malin (Under-Secretary of State, Ministry of Women's Affairs for the Royal Government of Cambodia) and closing remarks were provided by H.E. M. Om Yentieng (Chair of the ASEAN Intergovernmental Commission of Human Rights, Cambodia).

The Hearing also heard a message of solidarity from the women organizers of the Guatemala Tribunal of Conscience from Monica Pinzon (Psycho-social Expert, Community Studies and Psychological Action (ECAP), Guatemala). The Guatemalan "Alliance of Women Breaking the Silence" was comprised of ECAP, National Unity - Guatemalan Women (UNAMG) and Women Changing the World (MTM). Ms. Pinzon also spoke of the continuing efforts of women survivors to seek justice. The Panel, on behalf of the victims and survivors who testified from Cambodia, Bangladesh, Nepal and Timor-Leste, the Women's Hearing organizers and participants, extended solidarity to the women survivors in Guatemala in support of their quest for justice.

FINDINGS

Before presenting the findings and recommendations, the Panel commended the immense courage of the survivors and witnesses who came forward, which involved overcoming the profound stigma that is often associated with being a survivor of sexual violence. In helping to break the long silence around these issues, the testimonies contributed to raising awareness about the prevalence of SGBVC and its continuing negative effects on victims' life opportunities, and those of their children, in the years and decades following the end of the conflict. The testimonies also highlighted the gross injustice of the impunity of perpetrators that usually results. They emphasized that shame and blame must be shifted away from victims and focused on where they rightly belong: to the perpetrators, and to governments and international bodies who carry obligations to end impunity and ensure women's full enjoyment of all human rights, during times of conflict as well as in times of peace.

A. On contributing factors to sexualized and gender-based violence in armed conflict (SGBVC)

1. A broad understanding of SGBVC occurring before, during and after armed conflict, and also encompassing situations of political strife and unrest, is necessary to effectively combat this form of violence, which can amount to a threat against international peace and security.
2. There are common root causes and patterns of SGBVC in all countries represented in the Hearing, despite the unique nature of each country's specific conflict. A main root cause is the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men.
3. SGBVC and post-conflict results in lost economic opportunities and livelihoods for survivors, and prevents women from exercising their full human rights to political, economic, social, cultural and civic participation.

4. Although rape is one of the most widely used types of violence against women and girls during times of armed conflict, it remains the least condemned international crime. A global culture of silence and stigma around sexual violence places blame on victims and safeguards impunity for perpetrators.
5. While SGBVC perpetrated against men and sexual and gender minorities is not the focus of the Hearing, it is acknowledged that such violence exists, that it is under-reported and under-analyzed, and that it results in social stigma and other life-destroying effects.

B. On patterns of violence

6. All parties to the conflict can be implicated in SGBVC, as was clear from the Nepal and Timor-Leste testimonies, and state actors have been shown to be the perpetrators of such violence, despite having international, and often also domestic, legal obligations to protect and promote the human rights of women.
7. Women from all the countries who testified at the Hearing reported suffering various forms of SGBVC. As described, these violations occurred in the context of other atrocities directed against civilians, including murder, unlawful detention, torture, including electrocution, disappearances, forced labor, forced transfer, arbitrary arrest, starvation, and execution. Survivors testified having been subject to these crimes over and above their experiences of SGBV during the conflict.
8. The women survivors from Cambodia, Bangladesh, Nepal and Timor-Leste testified that they were subjected to, or witnessed, atrocious forms of SGBVC, including but not limited to:
 - a. Rape, including child rape, gang rape, mass rape, multiple rapes, rape with a foreign object, rape of pregnant and nursing women, rape before execution and as part of torture;
 - b. Abduction and sexual slavery;
 - c. Unlawful confinement and detention, including while pregnant and during delivery of children;

- d. Forced nudity, including being put on public display;
 - e. Gendered verbal insults, harassment and abuse;
 - f. Domestic slavery;
 - g. Forced labor during pregnancy and immediately following delivery of children;
 - h. Forced marriages, including “survival marriages”;
 - i. Forced pregnancy, including pregnancy resulting from rape, from forced marriage, and from enforced prostitution;
 - j. Sexualized torture, including oral and anal sexual penetration, sexual mutilation, irreparable reproductive injuries, and other reproductive rights violations;
 - k. Separation of families; and
 - l. Witnessing children, other family members and friends subjected to SGBVC.
9. Many victims were targeted for SGBVC simply because they were women and girls. Victims were also targeted because of their direct involvement in the conflict, including as combatants, or because they were related to or assisting men involved in the conflict, or because they were otherwise perceived to be the “enemy”.
10. Women that testified at the Hearing, particularly from Cambodia and Bangladesh, also spoke with affinity and sympathy about violence against women from national, ethnic, or religious minorities, or who were otherwise considered the ‘other’ by the perpetrators. The panel notes therefore that women from the minority communities are particularly vulnerable to SGBV during conflict and that solidarity among women across communities in such situations is very important.
11. In many instances it was clear that SGBVC was part of a larger pattern aimed at destroying not only the dignity of the women and girls directly involved, but also the cohesion and “honor” of the entire community.

C. On the impact on victims, families and communities

12. Survivors and witnesses of SGBVC suffer long-term trauma and social marginalization, which impacts heavily on their psychological, emotional, economic, cultural, social and physical well-being, including:

- a. Continuing feelings of shame, guilt, fear, social and cultural isolation, helplessness and hopelessness, including suicidal thoughts and suicide attempts, and symptoms of Post-Traumatic Stress Disorder (PTSD);
- b. Infertility and reproductive injury from sexual violence and/or unsafe abortions;
- c. Social stigma of self and family, including children resulting from rape;
- d. Family abandonment, divorce, loss of support networks and over-burdening of roles;
- e. Loss of property and land tenure, homelessness, repeated displacement, extreme poverty, lack of health care and increased vulnerability to repeated sexual and gender-based abuse;
- f. Harm to "life project": Interrupted and destroyed life opportunities, including as concerns education, livelihoods and economic participation, marriage and child rearing;
- g. Continuing abuse by perpetrators in the post-conflict environment of impunity and weakened rule of law for victims; and
- h. Heightened vulnerability to enforced prostitution and human trafficking.

13. Despite these continuing challenges, survivors and witness of SGBVC show immense courage and resilience in their efforts to continue with their lives, to speak out against impunity, often at great personal risk, and to resist the many negative impacts of their experiences with great dignity and strength. Their survival strategies, including "survival marriages" and "survival sex", must be recognized as heroic acts of endurance against enormous odds.

14. The strength of the children of survivors, and the support that many of them provide to their mothers, must also be acknowledged and encouraged. Young people and future

generations have a crucial role to play in eliminating SGBVC, ending the impunity that perpetrators generally enjoy, and shifting the stigma from victims to perpetrators and governments.

D. On accountability

15. The SGBVC, as described in the testimonies and in total, constitute international crimes and were committed by all parties to the conflict, including both state-backed militaries and non-state militias;
16. Some, perhaps most, of the SGBVC was implicitly condoned or explicitly organized as a military strategy by the very state actors who have legal obligations to prevent such violations, protect victims and ensure accountability for SGBVC;
17. Other incidents of SGBVC were condoned or organized by non-state parties to the conflict, who have an obligation to refrain from harm to civilians, including the women who testified at this Hearing;
18. Perpetrators included those who held positions of leadership, armed soldiers and militia members, local police and security personal;
19. To the knowledge of the testifiers, none of the perpetrators have been held accountable for their crimes.

E. Applicable International Law and International Standards

20. At the time they took place, many of the acts described in the testimonies constituted, at the very least, violations of customary international law applicable during the armed conflict, which requires that civilians be treated humanely in all circumstances and without discrimination, including on the grounds of sex (common article 3 of the Geneva Conventions of 1949) including
 - a. Violence to life and person, such as rape, sexualized torture, sexual mutilation, and enforced prostitution;

- b. Outrages upon personal dignity, such as rape, abduction and sexual slavery, unlawful detention, forced nudity, forced or survival marriages;
21. Further, depending on the applicable law at the time the SGBVC took place, many of the acts may constitute violations of international criminal law, including:
- a. Crimes against humanity, when rape, sexualized torture, sexual enslavement, unlawful detention, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity are committed as part of a widespread or systematic attack directed against the civilian population and perpetrated with knowledge of the attack;
 - b. War crimes, when SGBVC amounts to torture or inhuman treatment, the willful causing of great suffering or serious injury to body or health, unlawful transfer or unlawful confinement, and other forms of humiliating or degrading treatment.
22. Particularly in the case of Cambodia, SGBV including forced marriages, rapes and separation of families may constitute genocide, if they were committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group.
23. The acts as described also constitute many violations of international human rights treaties that apply, to some extent, during armed conflict, and are fully applicable to the continuing impacts of SGBVC once the conflict has ended. However, a complicating factor is the requirement that the relevant state must have ratified the treaty at the time the acts or their impacts took place, which limits their application largely to the ongoing impacts of SGBVC, except for the case of Nepal, which is the most recent conflict. With this in mind, the possible violations of international human rights treaty obligations include most notably:
- a. Discrimination against women in the substantive enjoyment of human rights, including the suffering of stigma and marginalization as a result of SGBVC, reproductive injury and lack of protective measures for pregnant women, forced marriages, forced pregnancy and increased vulnerability to future SGBV [in violation of the *Convention on the Elimination of All Forms of Discrimination*

against Women (CEDAW) ratified by Cambodia (1992), Bangladesh (1984), Nepal (1991) and Timor-Leste (2003)];

- b. Violation of the rights of the girl child, including child rape and sexual exploitation, child marriages, denial of education, separation from families, discrimination and stigma associated with parental status [in violation of the *Convention on the Rights of the Child* (CRC) ratified by Cambodia (1992), Bangladesh (1990), Nepal (1990) and Timor-Leste (2003)];
 - c. Violations of civil and political rights, including unlawful confinement, arbitrary detention, sexual slavery, the right to remedy [in violation of the *International Covenant on Civil and Political Rights* (ICCPR) ratified by Cambodia (1992), Bangladesh (2000), Nepal (1991) and Timor-Leste (2003)];
 - d. Violations of economic, social and cultural rights, including forced labor, domestic slavery, loss of property, homelessness, extreme poverty, loss of land tenure, lack of employment opportunities, lack of health and reproductive rights [in violation of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) ratified by Cambodia (1992), Bangladesh (1999), Nepal (1991) and Timor-Leste (2003)]; and
 - e. Torture and other cruel, inhuman and degrading treatment, including rape and other severe forms of sexual violence, sexual mutilation, incommunicado detention and forced nudity [in violation of the *Convention against Torture* (CAT) ratified by Cambodia (1992), Bangladesh (1998), Nepal (1991) and Timor-Leste (2003)].
24. There is also an emerging body of coalescing international norms that specifically address SGBV and its impacts including:
- a. The UN Security Council Resolutions on women, peace and security, initiated in 2000 with the unanimous adoption of UN SCR 1325 (2000), followed by UN SCRs 1820 (2008), 1888(2009), 1889 (2009) and 1960 (2011), which provide an accountability framework for ending impunity for SGBVC and ensuring women's

full participation in conflict resolution, peace negotiations, peace-building, transitional justice, reparations and recovery processes;

- b. The UN 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, as adopted by General Assembly Resolution 60/147 of 16 December 2005 (article 16);
- c. The UN Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power, as adopted by General Assembly Resolution 40/34 of 29 November 1985 (article 13);
- d. The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, adopted by UN Economic and Social Council Resolution 2005/20 of 22 July 2005 (articles 35 and 37);
- e. The Nairobi Declaration on Women's and Girl's Right to Remedy and Reparations, adopted 21 March 2007 (article 6); and
- f. The Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, submitted to the Commission on Human Rights on 8 February 2005 (principle 31).

F. On failure to implement

25. While acknowledging and encouraging those states that have made efforts to initiate opportunities to include women's meaningful participation and unique perspectives in accountability and transitional justice mechanisms, the Panel notes the serious lack of political will to ensure that post-conflict transitional justice mechanisms meaningfully include and address SGBVC, which was identified as a problem across the countries represented by the testifiers. The result is, at best, limited and *ad hoc* attempts to provide some redress for victims and, at worse, outright refusal to acknowledge SGBVC and treat it as constituting serious violations of international criminal law as part of conflict and under oppressive regimes.

26. Testimonies also revealed the failure of states to implement international laws, policies, commitments and standards that require the protection and promotion of women's human rights and *de facto* equality, during armed conflict, post-conflict transitional periods and in times of peace. The problem is not the absence of laws and policies, but the refusal or reluctance of states to implement their obligations.

RECOMMENDATIONS

Based on the findings from the testimonies presented at the Women's Hearing, the Panel issues the following recommendations, emphasizing that many involve the failure to implement existing international and domestic legal obligations.

A. To Cambodia, Bangladesh, Nepal, and Timor-Leste:

1. Ensure that survivors of SGBVC and their families are able to seek justice through independent judicial mechanisms;
2. Develop alternative non-judicial and peace-building mechanisms to provide opportunities for victims of SGBVC to have their voices heard and to open up space for public recognition and dialogue around issues of gender-based violence;
3. Support local initiatives such as the Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict to enable women to share their experiences and demand justice;
4. Formulate and implement reparations programs for victims of SGBVC;
5. Ensure the lasting impact of transitional justice mechanisms by implementing all judgments and recommendations, ensuring their legacy in domestic law and governance, and taking steps to fulfill women's substantive enjoyment of economic and social rights without discrimination;
6. Provide ongoing psycho-social support to victims as required;
7. Extend an invitation to the U.N. Special Rapporteur on Transitional Justice to visit and evaluate the quality of justice being dispensed to victims of SGBVC in transitional justice mechanisms; and
8. Where not already in place, formulate UN SCR 1325/1820 National Action Plans in conjunction with women's and human rights NGOs, with time-bound benchmarks, concrete indicators and adequate resources, and prioritize their implementation.

B. To Specific Countries:

a. Cambodia

To the Extraordinary Chambers in the Courts of Cambodia (ECCC):

9. To the Trial Chamber: expand the current scope of Case 002/01 to include the existing portion of the Closing Order related to forced marriages;
10. To the Co-Prosecutors: in respect of Cases 003 and 004, thoroughly review all evidentiary material in the possession of the Office of Co-Prosecutors concerning rape and other forms of sexual violence, as well as any and all material gathered by NGOs since the introductory submissions were filed, with a view to ascertaining whether crimes of sexual violence occurred at crime sites covered by the introductory submissions. If warranted, file a Supplementary Submission with the co-investigating judges;
11. To the Co-Investigating Judges: mainstream questions regarding SGBVC in relation to other allegations investigated for Cases 003 and 004;
12. To the Court: ensure that the experience of SGBVC victims is included in legacy planning;
13. To the Court: enable civil society and victim involvement in the planning of any future legacy and/or non-judicial measure initiatives, particularly the involvement of women and victims of SGBVC; and
14. To the Victim Support Services: in collaboration with civil society, implement non-judicial measures that address the needs of victims of SGBVC including, for example, memorialization, truth telling and sponsoring further research and documentation to fulfill the Court's responsibility to communities to ensure that victims survive with dignity and honor.

To the Cambodian National Courts:

15. Facilitate and encourage the prosecution of crimes of SGBVC in domestic courts, ensuring that victims have the opportunity to have their voices heard.

To the Cambodian Government:

16. Initiate immediate and impartial investigations and, where evidence exists, ensure the effective prosecution of SGBVC by holding individual perpetrators accountable for past and continuing violations;

17. Support civil society reconciliation initiatives at the village level;

18. Protect the various minority communities in Cambodia and respect their rights to be treated with equality and non-discrimination.

19. Support documentation to preserve the history of past experiences of victims and survivors, to break the silence, and to assist in the healing process; and

20. Establish a reparations program, in consultation with victims SGBVC, that responds to their needs.

To the Cambodian Ministry of Women's Affairs:

21. Provide leadership within the Government to support the prosecution of SGBVC and provide non-judicial measures to provide support to victims.

b. Bangladesh

The Panel commends the Bangladesh Government for having established the International Crimes Tribunal for Bangladesh (ICTB) to prosecute the perpetrators of atrocities during the International Liberation War 1971, and for including crimes of sexual violence within its mandate. It has been an initiative long overdue that makes it possible for some of the survivors to finally access justice. The Panel also applauds the symbolic recognition the Government of Bangladesh has accorded to the rape survivor as "Birongonas" or "war heroines". Such positive

recognition must however be backed by tangible material reparations and other support that will help the Birongonas heal from the past and live a life of dignity. It is here that the Government of Bangladesh is particularly lacking.

To the International Crimes Tribunal for Bangladesh (ICTB):

22. Establish mechanisms that enable the ICTB to provide protection to women survivors of SGBVC prior to, during and post-participation in the ICTB as witnesses, including a Victims Support Unit that provides all possible assistance to survivors to testify at the Tribunal.

To the Bangladesh Government:

23. In collaboration with civil society, organize other non-judicial mechanisms such as public Hearings, a truth commission or other mechanism appropriate to the context in Bangladesh to provide women survivors of SGBVC secure, respectful and safe platforms to break their silence and share their stories, bearing in mind that some women may need assurances of confidentiality and anonymity;

24. In collaboration with civil society, implement measures to identify SGBVC survivors, assure them of confidentiality, document their stories and accord them the same concrete rights, recognition and reparations as the freedom fighters. Such reparations must include monthly pensions, free medical and psychological treatment, and other socio-economic measures as required by the women survivors that would enable them to live a life of dignity;

25. In collaboration with existing civil society initiatives, make protecting the legacy of the liberation war a priority. Accordingly, the Government must include programs that educate the people, including the younger generation, about the reality of the war. The people need to be made aware of the existence of Birongonas, the suffering they endured and their sacrifices for the nation, in order to eliminate the stigma and socio-

economic marginalization that Birongonas experience, and elevate them to their true status as “war heroines”; and

26. Protect the minority Hindu community in Bangladesh and respect their rights to be treated with equality and non-discrimination.

c. Nepal

The Panel notes that in Nepal the civil society organizations such as the Advocacy Forum have engaged with the national legal system to the extent possible and have exhausted all possible and available remedies. There is a political impasse in Nepal at the moment where the Parliament is dissolved and there is a need to hold new elections. The existing Constitution however does not provide for the procedures in such an eventuality and therefore needs amending. Since the body with powers to amend the Constitution i.e. the Parliament is dissolved, there is no possibility of an amendment to the Constitution. The interim Government must urgently find a way to break this impasse, amend the Constitution, hold elections to elect a new Parliament and pave the way for democratic functioning of the Government.

To the Nepal Government:

27. Report to the Security Council on the indicators of implementation of the National Action Plan, including the number of cases of SGBVC that have been investigated, the number that have been prosecuted, the number of women that have been provided reparations, and how the memory of the suffering of the people and women of Nepal is being acknowledged and preserved for future generations;
28. Establish a truth commission and/or other non-judicial mechanisms for addressing conflict-related violence, including SGBVC, without any provision for amnesties for perpetrators of serious crimes such as SGBVC;

29. Withdraw the current proposal that provides general amnesty to perpetrators that have committed conflict-related violence, and provide assurance to victims of SGBVC that it will not be passed;
30. Strengthen the National Human Rights Commission by repealing the restrictions on their mandate so that it is not confined to addressing violations within six months of their occurrence and it is empowered to also address SGBVC;
31. Amend laws in accordance with the Order of the Supreme Court of Nepal to remove the 35 days Statute of Limitation on reporting crimes of rape and sexual violence;
32. Amend the Rules of Evidence relating to sexual crimes to comply with standards of international law to admit circumstantial evidence and evidence of existence of coercive environment, in addition to medical or forensic evidence;
33. Formally acknowledge the occurrence SGBVC and end the double victimization of sexual violence survivors that results from continuing official denials;
34. Recognize as victims, the SGBVC survivors for all purposes of reparations including for providing interim relief; and
35. Ensure that cases of all conflict-related violence, including SGBVC, are not withdrawn through executive decisions and that victims and witnesses are protected and their evidence preserved.

d. Timor-Leste

While the transitional justice measures already implemented by the Timor-Leste Government have made important contributions to achieving post-conflict justice, they have not been enough. The Government urgently needs to adopt many further measures to end the culture of impunity, that the Government has itself promoted (by, for example, giving pardons to those who have been convicted of war crimes), and take seriously the need to address crimes of SGBV committed in all past conflicts and provide victims with economic and social justice, as well as legal justice.

To the Timor-Leste Government:

36. Immediately recognize women who suffered SGBV during the independence conflict as heroes of the war and make available to them the same benefits and privileges as enjoyed by veterans;
37. Immediately review and then adopt draft legislation, which lapsed with the last election, to establish a gender-inclusive reparations program for victims, ensuring the inclusion of survivors of SGBVC, establish the Institute of Memory which would implement most of the CAVR recommendations, and allocate sufficient budgetary resources to support their implementation;
38. Establish a Solidarity Fund, as recommended by the Secretary General in his 2006 report on justice and reconciliation for Timor-Leste that will accept contributions from UN member states and Timor-Leste state revenues towards a victim reparations program;
39. Urge the President of the Republic to accept limitations on his constitutional right of pardon that will ensure more transparent and consultative decision making;
40. Ensure that all the records of the Serious Crimes Unit and Serious Crimes Investigation Team (SCIT), including all the evidence gathered through its investigations about SGBVC, are safely preserved once the UNMIT mandate ends at the end of 2012, and ensure these records are available for future prosecutions, truth-telling and other non-judicial transitional justice processes, memorialization, and reparations programs;
41. Register outstanding serious crimes indictments with Interpol and issue indictments based on the recommendations of the SCIT;
42. Ensure that the Timor-Leste Ministry of Justice and Office of the Prosecutor General request international assistance to improve the capacity of court actors to prosecute international crimes;

43. Ensure that domestic courts are equipped to follow through, without political interference, all the cases about which evidence has been gathered by the SCIT, including those involving SGBVC, once the UNMIT mission has ended;
44. Develop interim economic and social support programs specifically for vulnerable victims of gross human rights violations, particularly victims of SGBVC;
45. Support inclusive, victim-centered national memorialization initiatives that recognize all conflict victims, regardless of their former or current political affiliation;
46. Immediately ratify the Convention Against the Protection of All Persons from Enforced Disappearances and establish the Commission for the Disappeared including providing legal certainty and justice for victims' families on clarity of their loved ones who are still missing;

To the United Nations:

47. The UN Secretary-General immediately commit to ensuring that the SCIT has sufficient time and resources to complete its investigations. The UN must also develop effective mechanisms to provide on-going monitoring and ensure that national authorities act upon case files handed to them by SCIT.

C. To Asia-Pacific Regional Bodies

48. With the leadership of the UN SCR 1325 Asia-Pacific Regional Advisory Group, facilitate the formulation and implementation of a regional UN SCR 1325/1820 Action Plan by all Asia-Pacific states that have not yet done so, with time bound benchmarks, concrete indicators and adequate resources;
49. ASEAN must ensure a focus on SGBVC in its agendas and work plans, especially in light of obligations under UN SCR 1325/1820 to address SGBVC in the region and promote gender perspectives on peace and security. In particular, ending impunity for SGBVC and ensuring effective remedies for victims must be taken up by the ASEAN Intergovernmental Commission on Human Rights (IACHR), the ASEAN Commission on

the Promotion and Protection of the Rights of Women and Children (ACWC) and other relevant bodies;

50. SAARC, within its mandate, create a sub-regional mechanism to address issues of human rights and international crimes, including SGBVC.

D. To the International Community

To the United Nations:

51. Strongly encourage governments in the Asia-Pacific to report to all the human rights treaty bodies on implementation efforts related to women, peace and security;

52. Utilize to the fullest possible extent relevant UN Special Procedures and other actors to work within their mandates to advocate for an end to impunity for SGBVC in the Asia-Pacific region, particularly the Special Representative of the Secretary-General on Sexual Violence in Conflict, the Special Rapporteur on Violence against Women, Its Causes and Consequences, the Special Rapporteur Against Torture and the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence;

53. Urge Asia-Pacific states, where relevant, to establish a national trust fund for victims of SGBVC in accordance with international treaty obligations and the coalescing body of norms on the right to reparation, as stipulated in Article 8 of the Universal Declaration of Human Rights; Article 9(5) of the International Covenant on Civil and Political Rights; Article 6 of International Convention on the Elimination of All Forms of Racial Discrimination; Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Article 16 of the UN 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; Article 13 of the Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power; Articles 35 and 37 of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime; Article 6 of the Nairobi Declaration on Women's and Girl's Right to Remedy and Reparations; and Principle 31 of the Set of Principles for

the Protection and Promotion of Human Rights Through Action to Combat Impunity (updated 2005).

To the CEDAW Committee:

54. In light of the CEDAW General Recommendation on the rights of women in situations of armed conflict (forthcoming), urge the CEDAW Committee to specifically request states parties to report on the adoption and implementation of National Actions Plans (NAPs) for SCR 1325/1820, drawing the links between NAPs and their CEDAW obligations.

To international donors:

55. Support programs for women's empowerment and fund measures to support reparations and restitution for SGBVC, including the provision of education, reproductive health services, psycho-social support services, access to training and micro-financing and other measures to ensure a life of dignity for them and their children; and

56. Condition support for judicial and non-judicial mechanisms on the adoption of measures to ensure the prosecution of SGBVC and to ensure that all post-conflict transitional justice mechanisms are gender-inclusive.

E. To Civil Society and Non-Governmental Organizations (NGOs)

57. Monitor the implementation of state gender equality obligations, which require the realization of women's substantive equality, including by submitting shadow reports to the Human Rights Treaty Committees and utilizing the individual complaints procedures (especially the CEDAW Committee and the Human Rights Committee), where the state has ratified the relevant optional protocols, in order to bring violations relating to SGBVC and its continuing impacts before the Treaty Committees;

58. Mobilize constituencies, nationally and regionally, to demand human rights protection and promotion for women and girls in conflict and post-conflict settings. Include

survivors of sexual violence and engage men in mobilizing for the elimination of violence against women;

59. In light of the CEDAW General Recommendation on the rights of women in situations of armed conflict (forthcoming), submit shadow reports to the CEDAW Committee on the rights of women in situations of armed conflict and the implementation of 1325/1820 National Action Plans (NAPs) where they exist;
60. Work towards building stronger regional civil society and NGO networks, including in conjunction with International Women's Rights action Watch Asia-Pacific (IWRAW-AP), to raise awareness about SGBVC and put increased pressure on governments in the region to take their international obligations to end impunity and provide remedies to victims seriously; and
61. Initiate, promote and support other local and regional civil society initiatives to develop other non-judicial transitional justice mechanisms, like the Women's Hearing, that provide the opportunity for survivors of SGBVC to tell their stories, contribute to the elimination of the social and cultural prejudices that continue to stigmatize and marginalize survivors, and recognize and celebrate the incredible courage and resilience of survivors.

Signed by all the Panelists:

Dianne Otto (Law Professor, Australia),

Vahida Nainar (Gender and Human Rights Expert, India),

Aurora Javate De Dios (H.E. Ambassador to ASEAN, Philippines),

Vichuta Ly (Human Rights Defender, Cambodia).

Issued on 11 October 2012 in Phnom Penh, Cambodia