

THE HAGUE PRINCIPLES ON SEXUAL VIOLENCE

EXECUTIVE SUMMARY FOR PRACTITIONERS OF DOMESTIC LAW

Accountability for crimes of sexual violence starts with understanding all forms of sexual violence. While criminal codes list and define certain acts such as rape or sexual assault, several other forms are often not (explicitly) mentioned in the law. Robust and progressive prosecutorial strategies may be further hindered by, for example, misunderstandings about the conduct and the circumstances that make an act “sexual”. As a result, victims are at risk for marginalization if the acts are not recognized as sexual violence.

The Hague Principles were developed to support practitioners of criminal law in better understanding, identifying, and addressing all forms of sexual violence and work towards more inclusive accountability.

The Principles consist of three elements:

1. The Civil Society Declaration provides insight into what makes an act sexual and what constitutes sexual violence from the perspective of over 500 survivors. It was complemented by input from civil society, practitioners, and academics.

2. The International Criminal Law (ICL) Guidelines translate the Civil Society Declaration into practical guidance for criminal justice practitioners. It offers guidance on the material elements, subjective elements and contextual elements of sexual violence crimes as well as a comprehensive reference chart of established international criminal law jurisprudence.

3. Key Principles for Policy Makers on Sexual Violence to incorporate in policy development and implementation, legislative strategies, and legal and judicial procedures.

GUIDANCE ON SEXUAL VIOLENCE

Understood broadly, the concept of sexual violence encompasses all violations of sexual autonomy and sexual integrity. It is often characterized by humiliation, domination, and destruction. Indications that an act is “sexual” can be, for example, the exposure of or contact with a sexual body part, the (sexual) intention of the perpetrator, the perception of the act as sexual by the victim or the affected community. Acts, while not necessarily sexual in themselves, can still be “sexual” if they affect a person’s sexual autonomy or sexual integrity, among others.

THE CONCEPT OF SEXUAL VIOLENCE ENCOMPASSES ALL VIOLATIONS OF SEXUAL AUTONOMY AND SEXUAL INTEGRITY.

From a survivor’s viewpoint, acts of sexual violence can fall into two categories. On the one hand, acts of a sexual nature can be inherently violent. Examples include sexually harassing someone by making gestures with a sexual overtone, sending sexually explicit messages or subjecting a person to child marriage or a sexually exploitative relationship. On the other hand, acts may amount to sexual violence if they are committed forcibly or without a person’s consent, for example kissing and biting, sharing nude pictures, or having someone feign sexual enjoyment.

USE OF THE PRINCIPLES

The Principles can be used to:

- inspire and encourage creative, robust, and progressive strategies to enhance accountability for sexual violence crimes;
- interpret the elements of sexual violence crimes in a forward-looking, culturally sensitive, inclusive, and contextually relevant manner;
- gather comprehensive and sufficient evidence of sexual violence crimes, including by identifying when such crimes may have been committed and the overall context in which it occurred;
- inform the inquiries of practitioners and their ability to identify survivors, witnesses, and perpetrators;
- assist in devising persuasive arguments to support sexual violence crime charges in a manner that ensures all dimensions of sexual violence are addressed; and
- increase understanding and recognition of all sexual violence crimes.