

THE HAGUE PRINCIPLES ON SEXUAL VIOLENCE

ANSWERS FOR PRACTITIONERS

1. HOW DO I RECOGNIZE AN ACT OF SEXUAL VIOLENCE?

- Sexual violence occurs in many different forms. From a survivor's viewpoint, acts of sexual violence can fall into two categories. On the one hand, the concept includes acts of a sexual nature that are inherently violent, such as sexually harassing someone or subjecting a person to child marriage. On the other hand, acts of a sexual nature may be regarded as sexual violence if they are committed forcibly or without a person's consent, for example kissing and biting, or sharing nude pictures. (Part 4, paras 2-4, Civil Society Declaration)

2. WHAT ARE INDICATIONS THAT AN ACT IS SEXUAL IN NATURE?

- 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. (Part 2, Civil Society Declaration)

3. WHEN DOES AN ACT OF SEXUAL NATURE AMOUNT TO SEXUAL VIOLENCE?

- An act of sexual nature amounts to sexual violence if it is committed forcibly or without consent, for example, forcible kissing and biting, or sharing nude pictures without consent. Other acts, such as depriving someone of access to menstrual products or subjecting a person to a sexually exploitative relationship, are inherently violent and are, therefore, always considered to be sexual violence. (Part 4, paras 2-4, Civil Society Declaration)

4. WHAT DOES “CONSENT” MEAN, AND HOW DO I KNOW A PERSON DID NOT CONSENT?

- Consent means the ability of a person to agree to a sexual act in a genuine and specific way, and on an ongoing basis. Factors that may affect the ability of a person to give consent can be an unequal power relationship, for example, in situations of detention or financial dependency, a young age, mental illness, or temporary intoxication. (Part 5, Civil Society Declaration)

5. HOW DO CULTURAL FACTORS AND CONTEXT INFLUENCE THE VIEW ON SEXUAL ACTS AND SEXUAL VIOLENCE?

- The perception of what makes an act “sexual” and what constitutes sexual violence can be influenced by cultural factors and the context in which the act occurs. Acts such as having someone perform certain dance movements or removing headwear may be perceived differently depending on societal, cultural, or religious factors. For example, in the consultations during the development of The Hague Principles, participants from Tunisia identified being forced to remove the hijab as a form of sexual violence.

6. WHERE CAN I FIND A DEFINITION OF SEXUAL VIOLENCE?

- There is no universally accepted definition of sexual violence. Sexual violence occurs in many different forms, but only some of them are codified and defined as crimes in national laws and international law. The Hague Principles provide a widely accepted delineation of “sexual violence”, highlighting that the concept should be understood broadly as all violations of sexual autonomy and sexual integrity. It is often characterized by humiliation, domination, and destruction.

7. WHAT ARE “OTHER FORMS OF SEXUAL VIOLENCE”?

- “Other forms of sexual violence” include acts that the victim, the perpetrator, or their communities find to be sexual, besides the acts that are widely seen as sexual violence, such as rape and sexual harassment. The term is used in international law to enable the prosecution of crimes that are not specifically mentioned in the law.

8. WHAT ABOUT STRUCTURAL OR INSTITUTIONAL FORMS OF SEXUAL VIOLENCE?

- Structural or institutional forms of sexual violence can include acts committed by representatives of a State, the adoption of discriminatory laws, and the failure of national authorities to protect people from sexual violence. Examples of such structural or institutional violence are procedures by State agencies to determine a person's sexual orientation, or the adoption of laws that prohibit certain groups from engaging in consensual sexual activity. (Part 4, para 5, Civil Society Declaration)

9. WHAT ARE THE HAGUE PRINCIPLES ON SEXUAL VIOLENCE?

- The Hague Principles are the result of extensive consultations with more than 500 survivors, 60 civil society organizations, and legal practitioners from around the world. As such, they provide widely shared views on what makes violence “sexual”. The Hague Principles consist of three documents: 1) the Civil Society Declaration on Sexual Violence, providing general guidance on what makes violence “sexual”, especially to survivors; 2) International Criminal Law (ICL) Guidelines on Sexual Violence, a tool for ICL practitioners explaining when acts of sexual violence in the Civil Society Declaration amount to international crimes; and 3) Key Principles for Policy Makers on Sexual Violence, 10 key principles derived from the Civil Society Declaration to incorporate in policy development and implementation, legislative strategies, and legal and judicial procedures.

10. WHAT ARE THE HAGUE PRINCIPLES ON SEXUAL VIOLENCE?

- The Civil Society Declaration, which is part of the Principles, was developed to support NGO staff and other practitioners in documenting, preventing, prosecuting, or responding in any other way to crimes of sexual violence. It provides guidance on the interpretation of the concept and examples of the various forms of sexual violence. The Principles can be used, for example, to identify victims of sexual violence that were previously marginalized, to design culturally sensitive and inclusive programs, and to learn about or teach a broad and forward - looking understanding of sexual violence.

11. WHY SHOULD I USE THE HAGUE PRINCIPLES ON SEXUAL VIOLENCE?

- Since no universal view exists as to what makes an act “sexual”, many forms deemed by survivors to be sexual violence risk to be overlooked or trivialized by practitioners who may not always recognize them. As a consequence, the lack of recognition can contribute to the marginalization of the victims of these acts. A good understanding of all forms of sexual violence is important to close the gap between how the violence is perceived and experienced by victims, and how it is addressed by practitioners.