

Topic Area: Legal Responses to Sexual Violence



From the Secretary General

Dear Delegates,

On behalf of the Secretariat, it is my honor to welcome you all to the 8th edition of PeruMUN, the largest and oldest high school MUN conference in our country.

In PeruMUN we believe in creating the citizens our country needs. Citizens who don't only ask for change, but lead the way to change through innovation, creativity and diplomacy. We are committed to make this PeruMUN truly memorable. Expect high quality academic content, a competitive climate and distinguished experts from international organisations, who will provide insights on the topics addressed in each committee. At PeruMUN, delegates will have the opportunity to share ideas, contribute solutions and promote change, all of this in a supportive learning environment provided by our wonderful team of Directors, Assistant Directors and Moderators.

Our mission as Secretariat is to provide an international level experience and give you the tools to achieve academic and personal growth. We strive to do our best to close the ever expanding education gap through an equal opportunity environment, where delegates from different backgrounds can share their own experiences and enrich each other with their own cultural heritage.

As Secretary General, I hope PeruMUN will raise awareness on the different subjects that plague our country today, such as: corruption, gender inequality, domestic abuse and xenophobia. Furthermore, I hope that this newfound awareness can translate into change through concrete actions. As Malala Yousafzai and Greta Thunberg have taught us, it is never too early to advocate for better policies and demand a response from our political representatives.

If I can assist you with further questions or comments, do not hesitate to contact me.

We are excited to meet you and see you soon!

Sincerely,

Alessandra Pinto Secretary-General

Peru Model United Nations 2019



Legal Committee

Topic Area: Legal Responses to Sexual Violence

Dear Delegates,

Welcome to Peru Model United Nations 2019! My name is Andrea Man Coronel and I will be your director for the Legal Committee. I'm more than excited to be directing in this edition of PeruMUN, as its predecessor, LiMUN, was my first ever conference of this type. My experience in MUN can be traced back to 2016, when I attended LiMUN with little to no notion of what MUN was. This type of debates have been a decisive part of my scholar journey, and continues to be now that I'm in university, as a proud member of Peruvian Universities. I have attended about 7 Model UN conferences being the most special to my heart HNMUNLA 2019.

I am on my third and fourth semester of university, studying Law at Universidad de Lima, and, even though it may be too early to tell, I'm planning on specializing on Business Law. But law is not the only thing I enjoy. Topics such as human rights, economics, armed conflicts, cultural identity and such, are some of the few I enjoy talking and reading about in my free time.

In all sincerity, I personally find the topic for this committee profoundly interesting. We made it big, and therefore, giving you the opportunity to select form the subtopics your policy finds most relevant. Delegates for the Sixth Committee will be working hand in hand to develop an legal framework which tackles the diverse problems poor legal regulation of sexual violence represent on a national and international scale. From conventional sexual violence such as rape and harassment, to the human trafficking for sexual slavery, delegates need to find a way to conduct solutions to each subproblem this pandemic causes. I am personally fascinated by the topic, at it presents such a level of complexity and relevance for the future of legal systems around the globe regarding the matter at hand.

I have the honor to work alongside Juan Nicolas Montoya and Kaori Evangelista Carpio, your assistant directors for this Legal committee. On behalf of the whole dias, we trust you will bring to the table an extra dynamic debate, full of content and dialogue, with real solutions to an ongoing problem. We are highly looking forward to see you all embrace your diplomatic selves, strategize solutions and future plans, and most of all, give the debate of your lives!

Do not hesitate to contact me if you have any questions regarding the flow of this committee as I will serve you as a source of general information in every step of the way. Best of luck!

Best Regards,

Andrea Man

Andrea Man Director, Legal Peru Model United Nations 2019



Legal Committee

Topic Area: Legal Responses to Sexual Violence

Dear Delegates,

It is my pleasure to welcome you to this year's edition of Peru Model United Nations! My name is Juan Nicolás Montoya and I'll be alongside Kaori Evangelista and your director: Andrea Man, your chair for the Legal Committee.

Getting a little personal, I'm currently a senior student of Santa Maria School, that loves debating, LGBTQ+ history, politics, Lana del Rey and cats. I count with a very intense attraction to visual, performance and plastic arts and consider myself as an artist. Creativity is something I really appreciate in every work presented to me, I truly love when people think outside of the box, take it to the next level and do the complete unexpected. I was the Secretary General for the Model UN conference of my school: the Santa Maria Model United Nations 2019. Although it was a very intense and stressful work, I did it because I love the Model UN community and adore what we are building together as a generation. It was totally worth it.

My personal experience as a Model UN delegate began in 2017 when I learnt that MUN is not only uncomfortable shoes and ugly ties, but it's a place where each delegate can express itself, have fun and make incredible friends working alongside collaboration and diplomacy. I instantly fell in love with the Model UN scene and felt the need to live by myself all of the experiences Model UN could bring. Three years of Model UN have heavily influenced myself as a person. From not knowing at all a single thing about international politics, to being able to represent a country I have never heard of before in the headquarters of the United Nations: MUN has truly changed my life. The friends I've made along this way are the ones who constantly support me, and fight by my side against all odds, and the value of friendship and teamwork wouldn't have been introduced to me if it wasn't because of this wonderful community.

With new generations of delegates being introduced to the Model UN scene every year, I feel the need to give back what MUN has given me: Thrilling experiences, entertaining debates and the knowledge I have picked up along the way. And within the discussion of Sexual violence, in this committee, I believe that we will not only successfully tackle the alarming issue, but we will all grow and learn from this experience as well.

Best Regards,

Juan Nicolás Montoya Juan Nicolás Montoya Assistant Director, Legal Peru Model United Nations 2019

HISTORY OF THE COMMITTEE

The Legal Committee is, by definition, the "primary forum for the consideration of legal matters." It belongs to the United Nations General Assembly, one of the six principal organs of the UN, where all Member States have an equal representation. Also known as the Sixth Committee because of the chronological order it was created, its powers, structure and function is all stated in the Chapter IV of the UN Charter.

As their main function they have to oversee the budget of the United Nations, appoint the non permanent members to the Security Council, receive reports from other parts of the United Nations and make recommendations in the form of Resolutions regarding legal questions in the General Assembly. Article 13 of the UN Charter states that the "General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification". This provision has been interpreted in the practice as an extensive authorization to elaborate new treaties on the broadest range of issues, to adopt them.

Any recommendations adopted by the Legal Committee are then submitted to the Plenary of the General Assembly for their final adoption. For its adoption, the Sixth Committee has a mixed decision-making rule, where consensus is preferred but where vote is still possible.

DEFINING THE PROBLEM

An issue revolving the international community at a global scale, which targets mostly if not all of the populations present in our species, is Sexual Violence. From domestic gender role based violence, human trafficking of entire populations for sexual exploitation purposes to sexual violence being found in transnational warfare, the issue is a non stopping evil that keeps haunting and perpetuating against the physical and psychological integrity of those victims being involved, as well as their own lives which are being held at stake in the hands of their aggressor. Sexual violence is a wide used term that refers. according to the World's Health Organization (WHO) to "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work." By this definition, several hundreds of cases involving sexual violence can be inferred, however it is duty of the legal

committee to discuss and therefore treat a wide range of cases of sexual violence present at global scale due to our functions as the sixth committee of the UN. Sexual violence remains highly stigmatized in all settings; thus, levels of disclosure of the assault vary between regions. In general, it is widely underthus. the available data tend reported: underestimate the true scale of the problem. In addition, sexual violence is also a neglected area of research; thus, deeper understanding of the issue is needed to promote a coordinated movement against it. It is important to distinguish between domestic sexual violence and conflict-related sexual violence . Often, people who coerce their spouses into sexual acts believe their actions are legitimate because they are married. In times of conflict, sexual violence tends to be an inevitable repercussion of warfare trapped in an ongoing cycle of impunity.

As previously mentioned, a common environment for sexual violence tend to be areas of conflict, specially amongst international warfares. Over the past decade. there has been a paradigm shift in the understanding of the scourge of conflict-related sexual violence and its impact on international peace and security, the response required to prevent such crimes and the multidimensional services needed by survivors. While the United Nations increasingly addresses the problem of sexual violence in conflict from an operational or technical perspective through the strengthening of security and justice institutions, it remains essential to recognize and tackle gender inequality as the root cause and driver of sexual violence, including in times of war and peace. Wartime sexual violence is rape or other forms of sexual violence committed by combatants during armed conflict, war, or military occupation often as spoils of war; but sometimes, particularly in ethnic conflict, the phenomenon has broader sociological motives. Wartime sexual violence may also include gang rape and rape with objects. It is distinguished from sexual harassment, sexual assaults, and rape committed amongst troops in military service. It also covers the situation where girls and women are forced into prostitution or sexual slavery by an occupying power.

Another issue revolving the international community, due to the fact that it isn't just a problem or national relevancy, but international action needs to be included for the problem to be tackled effectively is Human Trafficking for sexual exploitation purposes also known as Sex Trafficking. An adoption carried by several nations of a definition of what Sex trafficking is took place in the year 2000 stating: "Trafficking in persons"

shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation," definition several nations have already taken action against sexual trafficking, while others have not. There is no single profile for victims of human trafficking. Most are women, though it is not uncommon for males to be trafficked as well. Victims are captured then exploited all around the world, representing a diverse range of ages and backgrounds, including ethnic and socioeconomic. However, there is a set group of traits associated with a higher risk of becoming trafficked for sexual exploitation. Persons at risk include homeless and runaway youth, foreign nationals (especially those of lower socioeconomic status), and those who have experienced physical, emotional, or sexual abuse, violent trauma, neglect, poor academic success, and inadequate social skills. Trafficking women and children for sexual exploitation is the fastest growing criminal enterprise in the world in despite the fact that international law and the laws of 158 countries criminalize most forms of trafficking. According to the ILO, the Sex Trafficking industry is a lucrative system that yearly obtains 99\$ billion from the women, children and men trafficked worldwide from which women and girls make up 96% of victims of the trafficked population. Given the fact that this is such a fast growing business, that affects the lives of millions of women, men and children worldwide; it is important to find solutions and measures that tackle the problem as a whole.

Another issue needed to be addressed in regards of sexual violence in the overall international community is sexual violence against minors, specifically child sexual abuse. Laws regarding consensual age for children or young adults to allow and certain if not all sexual activities with older individuals vary from nation to nation, even from culture to culture. Sexual offenders that perpetuate against the integrity of children are found worldwide and are often severely penalized, however the reality is far beyond the expected. With sexual abuses occurring in both girls and boys worldwide and authorities lacking to take measures needed in order to tackle the problematic effectively. Another issue being found within child sexual abuse which links to the age of consent in the international community is: at which point shall the laws and actions taken by governments be taken into

account by cultures from around the globe. With arranged marriages of children being married to grown adults being a reality in several countries worldwide as an example, the cultural differences really do have an impact on the overall discussion of the issue.

DEFINING THE PROBLEM

Sex trafficking and sexual slavery

Sexual slavery is defined as giving the "right of ownership over one or more persons with the intent of coercing or otherwise forcing them into engage in sexual activities". Sexual slavery is not limited to actions regarding the express act of intercourse, but also includes topics such as commercial exploitation, forced marriage, forced prostitution and bride kidnapping.

Sexual slavery is directly linked to sexual trafficking, a form of forced labour. Forced labour has a variety of international definitions, being the ILO's Forced Labor Convention one the most relevant. ILO defines it as "all work or service exacted from a person under the threat of a penalty and form which the person has not offered himself of herself voluntarily. In the other hand, the UN's Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, also known as the Palermo Protocol, includes three elements in its definition: the act, the means and the object. As of this day, sex trafficking is one of the biggest criminal businesses worldwide.

As mentioned before, the Palermo Protocol gives the definition of sex trafficking and human trafficking overall a more holistic and well represented:

Article 3:

- a. "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b. The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c. The recruitment, transportation, transfer, harbouring

or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

d. "Child" shall mean any person under eighteen years of age."

The ILO reported 22% of all human trafficking victims in 2012 were trafficked for sexual exploitation, while, according to the United Nations Office on Drugs and Crime's, that number grew by 2014, now being 54%. Nonetheless, only 0.04% survivors of human trafficking cases are identified, thus, the vast majority of cases go under the radar, what the United Nations refers to as "the hidden figure of crime". From this numbers, the majority are female and children, but men were also reported as victims. Men reported as trafficked for sexual exploitation between 2012 and 2014 were concentrated in Western and Southern Europe and the Americas.

The legal matter with this global issue is not about how it is being identified, but more about the legal ambiguity regarding what "sexual slavery" really covers. While clearly a global problem, sexual slavery was not recognized under international law as a crime against humanity, until 1998, when it was explicitly included in the Rome Statute of the International Criminal Court. As an example, forced marriage is an outright violation and abuse of human rights, as it violates the right of freedom and autonomy of all individuals. The International Criminal Court has seen three cases of forced marriage in the Democratic Republic of Congo and one in Uganda, thus, it is punished by international law. Nevertheless, for different national legal systems in all regions of the world, forced marriage is an abstract concept still executed for cultural reasons such as religion and tradition. Or, in other cases, legal authorities turn a blank eye towards the execution of the crimes.

In addition, a clear differentiation needs to be addressed within sexual exploited individuals; victims of the system of human trafficking and sex workers who willingly excerpt their profession within the sex working environments. Sex workers are often compared to sexually exploited trafficked individuals given the fact that both subjects share similar characteristics when it comes to the tasks. There is an estimated of 42 million sex workers around the world, however prostitution is only legal in 53 countries and limitedly legal in 13. Prostitution occurs in a variety of forms and its legality varies from country to country. Its legality reflects different opinions on exploitation,

gender roles, ethics and morality, freedom of choice, and social norms. When not regulated, sex workers are exposed to a series of dangers given the fact that legal loopholes exist. Loopholes that not only penalizes the same sex workers, but also fails to protect the physical and physiological integrity of sex workers that already exist by exposing these individuals to potential cases in which sexual violence may be involved. A research study, published in journal PLOS Medicine, reviewed data from more than 130 studies on 33 countries - from Britain to Uganda - published in scientific journals between 1990 to 2018. It found sex workers who had been exposed to repressive policing like arrest or prison were three times more likely to experience sexual or physical violence by clients, partners and other people. Those who had not been exposed to such practices were instead half as likely to contract HIV and other sexually transmitted diseases and 30 percent less prone to have sex without a condom. In the other hand, a 2012 study published in World Development investigated the effect of legalized prostitution on human trafficking, showing that Countries with legalized prostitution are associated with higher human trafficking inflows than countries where prostitution is prohibited. The scale effect of legalizing prostitution, i.e. expansion of the market, outweighs the substitution effect, where legal sex workers are favored over illegal workers. On average, countries with legalized prostitution report a greater incidence of human trafficking inflows. The effect of legal prostitution on human trafficking inflows is stronger in high-income countries than middle-income countries. Because trafficking for the purpose of sexual exploitation requires that clients in a potential destination country have sufficient purchasing power, domestic supply acts as a constraint.

Child Sexual Abuse

It comes with a big and hard scenario for both victims and perpetrators because of the lack of legal procedures and for being a difficult and frequently judicial problem with no justice at the end. Then, it is not surprising that victims are usually hesitating to conceptualize their experiences in legal terms due to their age and culture.

Child sexual abuse is defined as a form of abuse with sexual activities, it is considered a crime since the minor is not capable of consenting the action nor acknowledging the consequences making the perpetrator engage with the child. It includes a variety of sexual offenses against boys or girls under the age of 18 such as rape, incest, molestation, sexualized talk, exposure and voyeurism and any other unwanted sexual act.

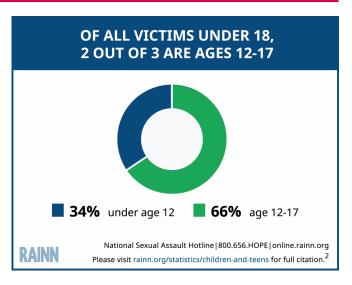
In countries such as Kenya and Afghanistan children are under the decision of their parents for their first sexual encounter this one being with an older partner in most cases. Poverty is also a main issue that's why children are exchanged for materialistic things such as money and food. There are hundreds of cases reported to the police but just a few criminal investigations are opened and less cases go through an attorney. Most cases are incest causing family shame among the village and this being one of the reasons why some parents decide not to report. Child sexual abuse started to have importance in Asian and African countries when AIDS/HIV epidemic spread all around towns and small villages besides missing adolescents and suicide among them. In Afghanistan, corruption is also part of the equation in protocols and the government practices "bacha bazi" which involves boys dancing in front of elders, since their culture highly prohibits women and girls doing so, afterwards they are sexually abused.

Rapes are the most usual crimes of child sexual abuse and in countries such as Croatia, one of the main reasons is the mental health of the rapists which are normally between 25 and 50 years old. Rapists usually go through depression, anxiety among other mental disorders and that's why the legal system regarding child sexual abuse has no justice taking mental health into consideration for the case.

The involvement of social media does not go under the radar in this issue since most of Asian countries have predators meet their victims through social platforms such as Facebook and Instagram. This problem starts as molestation, sexting and eventually leading into an actual rape. Molestation is also being committed by teachers in schools and universities but most girls do not report because of being afraid and lack of information on the topic.

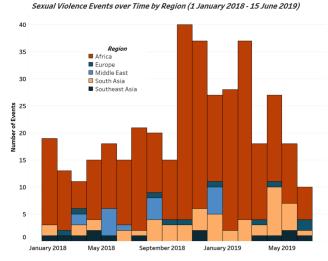
In American countries such as the USA, the number of reported cases has not been higher than 35 in the last 10 years since victims decide not to report due to fear. 1 out of 5 girls and 1 out of 20 boys are sexually abused every week. Most perpetrators are someone close to the victims and their relationship is taken into consideration for the flow of the case.

In terms of solutions, China is the leading country since the implementation of death penalty for phedophiles has started and is one of the most used in the country. American and European countries are still developing laws directly affecting predators more intense than jail and public service.



Sexual Violence in armed conflicts

The crime of sexual violence in conflict has only recently been defined in international law, as genderbased sexual violence in conflict had long been regarded as a by-product of conflict rather than as a criminal act. Nevertheless the 1997 Additional Protocol II of the Geneva Conventions includes rape among the list of 'outrages upon human dignity' that it prohibits. This has causes for it not to be any legal provisions to define the use of rape and other forms of sexual violence durina conflicts as specific crimes. International humanitarian law has been sometimes criticized as it allegedly does not take appropriately into account the needs of women in armed conflicts when it comes to international treaties and because they do not prohibit and criminalize sexual violence in a sufficiently robust way.



Legal procedures around the world regarding sexual offenders

Law, systems and procedures are a huge part of the issue since it affects the predator as much as the victim. It changes depending on the country and its culture and how much importance the government gives to the problem.

USA and UK count with similar procedures and laws such as: The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act which were established to help law enforcement in order to know all the information regarding the criminal, the act committed and the victim; Megan's Law which improves the system of registration and methods of community notification; The Adam Walsh Protection Act was signed and it enforces federal law and focuses on residency restrictions for both natives, keeping them as far as possible from public spaces such as schools and universities, and immigrants using extradition; Sarah's Law which is a legislation tackling child sexual abuse since 2000 when Sarah Payne's murder made everyone afraid. This makes possible that everybody can ask their formal police force if anyone with access to their children such as an uncle or a babysitter might have a record of child sexual abuse, until now it has prevented several cases of sexual abuse and molestation.

While the majority of Asian countries do not have many regulations or systems for sexual predators, China is now planning a draft legislation to define sexual harassment and incentive victims to report their experiences, including the #MeToo campaign which was also a huge part for the development of the legislations with lack of process.

In Europe the same old systems haven't changed and today's problems need updated solutions. For example, Russia approved a legislation in 2012 and is still used for all the sexual crimes in the country. This legislation imposes stricter penalties for individual sex offenders, this was initiated by the ex Russian president Dmitry Medvedev which prohibits probation and provides that predators could face up life in prison. Predators are also permitted voluntarily to go through chemical castration and predators who are close to the victims such as relatives, teachers, may be subjected to more severe sentences. Europe also has extradition treaties which in its majority are all been respected.

Children also play both roles, and it's what China is focusing more on now; before any sexual crime was registered and given the same importance as a shoplifting, now children are being more safe. The different systems for sexual predators go from not being able to work or live near a school or public space were children may be at risk to death penalty. In some countries, young predators do not receive any sentence because they aren't able to go through penalty process and in other countries, teenagers are under the decision of a social helper determined by the government.

PAST ACTIONS

UN Action Against Sexual Violence Programme

The biggest step the UN has taken towards solving this issue is the creation of the UN Action Against Sexual Violence Programme or UN Action. UN Action unites the work of different countries to prevent sexual violence in conflict and attend survivor's needs as a priority. This was formed after the 2006 International Symposium on Sexual Violence since it's a huge problem how the experiences affect survivor's life, health, economic status and security. By serving as coordination for the UN, it seeks to: serve as a consultative forum and platform; develop ways to inform and fulfill knowledge, practices, advocacy and develop techniques in order to help victims and improve response centers; strengthen expertise institutional, operational and nacional key actors to prevent sexual violence.

UN Action is guided by six main principles: rape is not inevitable so it needs to be prevented, gender based violence such as sexual violence is a violation of human rights, attempts to end sexual violence must tackle gender inequality and empowerment of women like defending and promoting their rights as well as the involvement of men and boys is essential, survivors of sexual violence must guide in advocacy and programming center in order to tackle sexual violence, everyone has the right to act and solve the issue. This programme consists of three main pillars: Country Level Action, in which proposals to tackle the issue of every country will have the right fund and will be added to the international plan; Advocacy, actions to raise public awareness and generate knowledge to address sexual violence as a major problem and Knowledge -Building, which consists on the implementation of a knowledge hub on sexual violence and the effective responses.

Following the main principles of this act, many documentaries in different countries have been released in order to analyze each country's situation; countries with low resources got funding from the UN in order to practice the proposals governments have developed.

UNICEF

The UN has noticed that the internet and social media are one of the reasons why sexual violence mostly in children occur, that's why UNICEF worked along Child Online Safety focused on schools around Asia, Europe and Latin America and helped to develop methods to keep the youth safe.

The recent AIDS outbreak in the north-east region made a Health Specialist of UNICEF to check and revise that child sexual abuse needed to be tackled and they already vaccinated 40,000 children against measles and plans to put in a programme to address acute humanitarian and social needs.

The Security Council

The UN Security Council passed a resolution asking all third parties to use a gender perspective in order to input solutions regarding women sexual violence and asking members of the States to "increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds or programmes, inter alia, the United Nations Fund for Women and the United Nations Children's Fund and by the Office of the United Nations High Commissioner for Refugees and other relevant bodies".

QUESTIONS A RESOLUTION MUST ANSWER (QARMA's)

- 1. Should there be a new definition regarding sexual violence taking into account controversy regarding which cases and which not are considered as such?
- 2. How should international law handle cultural differences within national legal system when it comes to responding to sexual violence as a whole?
- 3. How are task forces and the international treaties supposed to reach the rapidly growing sex trafficking phenomenon around the world? Should new treaties and international measures be developed?
- 4. Taking into consideration many forms of sexual slavery are not considered a crime depending on national sovereignty and international measures to tackle such are still vague, does the international community have a say on what counts or not as sexual slavery? Wouldn't that go against the sovereignty and cultural freedom of each country?
- 5. In regards of the legalisation and regulation of sex working, while also taking into account the pros and cons this may bring, how can loopholes on international and national law be addressed and fulfilled linked to the topic?
- 6. Should stronger measures over sexual predators, rapists, paedophiles and such type of sex offenders be applied?
- 7. What can the committee establish for the apprehension of perpetrators committing sexual violence in conflicts? Is it a matter of international or national law?

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