

OCCASIONAL PAPER

10

“Your Justice is Too Slow” Will the ICTR Fail Rwanda’s Rape Victims?

by Binaifer Nowrojee





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acronyms

AVEGA	Association of Widows of the Genocide of April 1994
HIV/AIDS	Human immunodeficiency virus/Acquired Immune Deficiency Syndrome
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
OSIEA	Open Society Institute Initiative in East Africa
RPF	Rwandan Patriotic Front
UN	United Nations
UNAMIR	United Nations peacekeeping mission in Rwanda

summary résumé resumen

SUMMARY

This paper offers an examination of international justice from the perspective of rape survivors from the Rwandan genocide, and exposes the squandered opportunities that have characterized sexual violence prosecutions over the past decade at the International Criminal Tribunal for Rwanda (ICTR).

Throughout the Rwandan genocide, widespread sexual violence, directed predominantly against Tutsi women, occurred in every prefecture. Thousands of women were raped on the streets, at checkpoints, in cultivated plots, in or near government buildings, hospitals, churches, and other places where they sought sanctuary. Women were held individually and in groups as sexual slaves for the purpose of rape. They were raped to death using sharp sticks or other objects. Their dead bodies were often left naked, bloody and spread-eagled in public view. The hate propaganda before and during the genocide fuelled the sexual violence by demonizing Tutsi women’s sexuality.

Given the evidence and the crimes that the ICTR is tasked with prosecuting, virtually every defendant coming before this international court should be charged and convicted, where appropriate, for his role in perpetrating these acts, or for command responsibility in not preventing the acts of subordinates.

Yet on the tenth anniversary of the Rwandan genocide, the ICTR had handed down 21 sentences: 18 convictions and 3 acquittals. An overwhelming 90 per cent of those judgements contained no rape convictions. More disturbingly, there were double the number of acquittals for rape than there were rape convictions. No rape charges were even brought by the Prosecutor’s Office in 70 per cent of those adjudicated cases. If the trend continues, full and fair justice for women victims of the Rwandan genocide appears increasingly unlikely before the ICTR.

This paper is based on interviews with Rwandan rape survivors, including some who have testified as witnesses before the ICTR. The first part is an examination of the dismal record of the ICTR Prosecutor’s Office in investigating and prosecuting sexual violence crimes. The past decade reveals a lack of political will at the senior management level to integrate sexual violence crimes into a consistently followed prosecution strategy. Prosecutions have been hampered by inadequate investigations, the use of inappropriate investigating methodology, and a lack of training for staff. Some cases have moved forward without rape charges, sometimes even when the prosecutor is in possession of strong evidence. In a significant proportion of the cases, rape charges have been added belatedly as amendments, rather than being made an integral part of the prosecution strategy. Trial team leaders continue to have differing, and even contradictory, interpretations of legal responsibility for the violence against women and opinions on what legal approaches to adopt in the courtroom.

The second part of the paper is based on the voices of the rape witnesses, including some who have testified before the ICTR. It reveals the deep disappointment and frustration of rape victims with the international justice process. Rwandan women articulate what they see as the failure of this court, which not only denies them justice, but exacerbates the suffering they continue to experience. This paper highlights some of the shortcomings in the process, which is structured without regard to providing optimal care and protection to rape victims, including a lack of information and follow-up, and the lack of full disclosure by the Prosecutor's Office on the possible risks. In the courtroom, often as a result of joint trials with multiple defendants, rape victims find the environment hostile as they are subjected to repeated and lengthy cross-examinations, coupled with a reluctance on the part of some judges to limit excessive cross-examination. Because of a lack of adequate preparation, some rape victims have felt humiliated and embarrassed on the stand because they were not warned that they would have to speak explicitly about sexual parts or acts. Following trial, rape victims often find that despite the promised anonymity, they return home to find their identity revealed as rape victims, and are subject to threats and reprisals.

After a decade of existence, it is discouraging to see how little justice the ICTR has delivered to the victims of sexual violence. In this era of international justice, concerted efforts must be made to learn from the experiences of the Rwandan rape victims to ensure that the United Nations does not continue to short-change rape victims. Looking at international justice through the eyes of rape victims points to an urgent need to better ensure, as a priority, that international criminal courts neither overlook sexual violence crimes nor allow a judicial process that marginalizes, dehumanizes or demeans rape victims.

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