

### **Kenya: Rape - the invisible crime**

"The Kenyan government has failed in its human rights obligations towards one half of its citizens and should urgently reform its laws and practices to end the impunity of those who commit violence against women," Amnesty International said today in a new report on Kenya.

The report -- *Kenya: Rape - the invisible crime* -- looks at violence, particularly sexual violence, against women and focuses on rape committed by both security officials and private individuals. It examines why women subjected to violence are inadequately protected by the law and why those who commit violence against women continue to operate with impunity.

Its conclusion is rather sobering. Every day, women are physically and sexually abused in all social and ethnic groups all over Kenya. It is a crime that shocks and traumatizes the victim, and undermines the status of women in society. Yet, it is largely suffered in silence.

Victims of rape often face insurmountable obstacles in trying to bring perpetrators to justice. Many women who have been victims of rape or other forms of sexual abuse are too intimidated by certain cultural attitudes and state inaction to seek redress. To do so can often lead to hostility from the family, the community and the police, with little hope of success. Those who do seek justice are confronted by a system that ignores, denies and even condones violence against women, and protects perpetrators, whether they are state officials or private individuals," Amnesty international said.

Amnesty International believes that acts of violence against women constitute torture for which the state is accountable when they are of

such nature and severity envisaged by the concept of torture in international standards and the state has failed to fulfill its obligation to provide effective protection, investigation and prosecution.

"Rape is torture when the state has failed in its responsibilities to protect, investigate and provide redress to women victims. The Kenyan government should reform both its laws and practices to end impunity for violence against women, and to conform with its obligations under international humanitarian law," Amnesty International said.

The government has consistently stated its intention to promote gender equality through legislation, but has failed to implement constitutional provisions, failed to incorporate into domestic law any of the international instruments that it has ratified and that promote and protect women's rights.

The Penal Code does not recognize marital rape as a criminal offence because of the presumption, especially in criminal law, that consent to sexual intercourse is given by the act of marriage. No legal challenge to this presumption has been made through the courts in Kenya. The lesser charge of assault is more commonly used in marital rape cases, carrying with it a lower maximum sentence.

"Despite its moral and legal obligations, the government has not reformed Kenya's laws to make all acts of violence against women criminal offences, nor has it addressed the discriminatory practices of the police force, prisons services and court system, It is the failure of the state to take action against such abuses, whether they are committed by state officials or private individuals, that allows them to continue and operate with impunity. The state has a responsibility to take action in order to protect women from continuing violence, Amnesty International said.

Among the cases raised in Amnesty International's report are those of Mary, Agnes and Louise who all have several things in common. They have each been badly beaten by men in their families. They each say they have been raped by those men. They have suffered for years with no prospect of help from the authorities. The police are unwilling to become involved in cases of domestic violence and are biased against women, particularly poor women, and there are no state facilities to protect women fleeing domestic violence.

While women's achievements are being celebrated all over the world on International Women's Day today, women who continue to be raped and beaten and denied their basic rights - whether by state officials or family members - must not be forgotten.

"The year 2002 will see both presidential and legislative elections in Kenya. Members of parliament, voters and women in Kenya should do everything in their power to make women's rights a top priority on the election agenda and ensure that candidates are gender-sensitive in both their policies and attitudes," the organization said.

**The report is available**

**at:"<http://www.web.amnesty.org/ai.nsf/index/afr320012002>"**

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