

AMNESTY INTERNATIONAL

External Document

AI Index: ACT 77/100/2004 (Public)
News Service No: n/a
13 December 2004

JUSTICE FOR WOMEN IN CONFLICT

Fifteen year old Z. sat with her back to me, too ashamed and embarrassed to face me, as she told her story. She and three other girls had been collecting firewood outside their village in western Darfur when they were attacked by armed men belonging to the government-supported militia. She was gang-raped and became pregnant. Recently married, she is terrified that that she will be abandoned by her husband and ostracised by her community when they find out what has happened.

Z. is just one of many thousands of women and girls who have been raped and sexually abused during the conflict in the Darfur region of Sudan -- and Darfur is by no means unique. Hundreds of thousands of women have suffered the same fate in conflicts around the world. From the Democratic Republic of Congo to Colombia, from Sierra Leone to the Solomon Islands, rape and sexual violence are weapons of modern warfare for all sides, whether by government forces or armed groups.

Throughout history women's bodies have been considered as the legitimate booty of victorious armies. Custom, culture and religion built an image of women as bearing the "honour" of their communities, so that disparaging a woman's sexuality and destroying her physical integrity became a key means by which to terrorize, demean and "defeat" entire populations, as well as to punish, intimidate and humiliate women.

In the former Yugoslavia mass rape was used to drive entire communities from their homes. In Rwanda rape and sexual violence became tools for genocide. In Afghanistan, abductions, forced marriages and violence against women and girls are used daily by warring sides to humiliate the enemy or avenge themselves. The fact that South Korean "comfort women" are still awaiting an apology from the Japanese government for being forced to provide sexual services to Japanese troops during World War II is just one example of the ease with which the world turns a blind eye to justice for women victims of war.

Patterns of violence against women in conflict do not arise "naturally" and are not collateral damage of war. They are ordered, condoned or tolerated by those in the highest echelons of political or military power. They persist because those who commit them know they can get away with impunity.

Although prohibited under international law and some national legislation, rape and other gender-based violence during armed conflict are rarely prosecuted because securing justice for women through national criminal justice systems is extremely difficult. Either such systems have been ravaged by conflict, or the parties to the conflict share an interest in avoiding accountability.

The International Tribunals for the former Yugoslavia and Rwanda took some bold steps to prosecute and convict perpetrators of rape. The 1998 Rome Statute of the International Criminal Court (ICC) defines a broad spectrum of sexualized violence as crimes against humanity and war crimes. These include rape, sexual slavery, forced pregnancy and sterilization and gender-based persecution.

International justice is the key to ending impunity. Even though the ICC will only be able to try a limited number of cases, high profile international prosecution could deal a strong blow to the prevailing culture of impunity. By trying prominent leaders who knew, or indeed should have known, about sexual violence, but who either encouraged or ignored it, the ICC will send a message that there is no longer carte blanche to commit these heinous acts. It will reinforce the seriousness of the crimes. It will shame states into acknowledging the problem and promoting action through their national courts. Most importantly, it will give hope to thousands of women to organise themselves and fight for justice.

The ICC Prosecutor, Luis Moreno Ocampo, has made a welcome commitment to investigate cases of sexual violence in the Democratic Republic of Congo and Uganda. Next year when prosecutions are expected to begin, many women's groups and human rights organisations will be looking forward to the first prosecutions of the ICC including sexual violence.

To make the international justice system work, governments must take concrete steps to support the ICC. So far 97 countries have ratified the Rome Statute of the ICC, and among that number are some of the conflict-ridden countries - like Afghanistan, Democratic Republic of Congo, Colombia, Uganda and Timor-Leste - where some of the worst atrocities have been committed against women. The states parties to the Rome Statute must now give political and practical expression to their commitment, for instance by enacting necessary legislation, assisting the ICC Prosecutor in his investigations, sharing evidence with him and providing protection to witnesses who may be at risk.

Sudan is not a party to the Rome Statute of the ICC. However, that does not mean that those responsible for crimes in that country cannot be subjected to international justice. Under the Rome Statute it is possible for the UN Security Council to refer situations to the ICC to investigate and prosecute anywhere in the world, even if the country in which the crimes occurred has not ratified the Rome Statute. The UN-established International Commission of Enquiry could recommend to the UN Security Council to make such a referral.

Whether or not the UN Security Council will use this mechanism to provide justice to the women of Darfur and elsewhere around the world, however, will be determined by the position that China, France, Russia, the UK and the USA choose to take. The United States has been vociferous in condemning killings and rape in Sudan, but it has been even more active in undermining the authority and jurisdiction of the ICC, for instance through impunity agreements for its own troops.

Last June, the UN Security Council members successfully resisted the efforts of the United States to promote a resolution to exempt UN peacekeeping operations from the purview of the ICC. They must now show an equal determination to extend the ICC's jurisdiction to situations anywhere in the world where crimes under international law are occurring, including in Darfur and other parts of the Sudan, and to encourage the United States not to oppose such referrals. This could also be an opportunity for the US Administration to recognise the ICC, not as some international conspiracy against its troops and leaders, but as a real tool to promote justice for women who have been the victims of the worst forms of brutality.

Obviously, prosecution by the ICC will not be enough. It must be accompanied by vigorous efforts by governments to introduce or strengthen national laws that would allow their domestic courts to exercise universal jurisdiction over rape and sexual violence committed in times of war, so that perpetrators cannot escape justice no matter where and when they committed their crimes. Governments should also cooperate with each other by entering into agreements on extradition and mutual assistance. In this way a universal web of accountability can be created that would not allow perpetrators to escape even if their own governments are unwilling or unable to prosecute them.

Justice for women victims of war will only be delivered if world leaders are ready to do more than just make pious statements condemning rape and sexual violence. They must adopt an agenda for action to end impunity, centred on the ICC and complemented by investigations and prosecutions in national courts, including through the use of universal jurisdiction, and reparations to victims and their families.,

Women's bodies have been the unacknowledged casualties of war for far too long. The mechanisms to tackle violence against women in times of war are there - they must now be used to give justice, hope and protection to young girls like Z.

Irene Khan is Amnesty International's Secretary General. The organization is today launching a report Lives Blown Apart: Crimes Against Women in Times of Conflict as part of its ongoing campaign Stop Violence Against Women.

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