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Crimes of sexual violence: Overcoming taboos, ending stigmatisation, fighting impunity

FIDH brings together human rights defenders from Democratic Republic of Congo, Uganda, Sudan and Central African Republic, the four countries under investigation by the International Criminal Court.

The Hague, 29 October 2007 – From 15 to 19 October 2007, FIDH invited 15 representatives of organisations working with victims of crimes of sexual violence, in Democratic Republic of Congo, Uganda, Sudan and Central African Republic, to its permanent delegation at the International Criminal Court (ICC).

In Democratic Republic of Congo (DRC), Uganda, Sudan and Central African Republic (CAR), conflicts, past and present, have been characterized by a massive, systematic and planned practice of crimes of sexual violence, committed by all armed groups: rape, forced marriage, abduction of young girls who become sexual slaves, enforced pregnancy and sterilisation, disembowelment of pregnant women... These crimes are often committed in public. Victims are almost always stigmatised by society and rejected by their families. « Feelings of shame are reversed, felt only by the victims, while perpetrators escape condemnation », declared the participants.

Participants insisted that the taboos surrounding these crimes marginalise victims' suffering and they can rarely claim the respect for their rights to health and to justice. When they do, medical treatment, including treatment for HIV and AIDS, and psychological support are, for the most part, provided by a few NGOs. Their resources are derisory in comparison to the needs of victims. Participants also underlined the particular isolation of men who are victims of crimes of sexual violence and the rejection often suffered by children born of rape.

In all four countries, it falls upon the victims to provide the evidence that they were raped. In law and in practice, they run up against numerous obstacles and the vast majority are thus denied any form of justice. Judicial authorities, through their slowness and lack of cooperation, become complicit in the impunity of the perpetrators.

Participants from Sudan, for example, explained that women who report rape must bring testimonies from four male witnesses for their complaint to be admissible. Moreover, by filing a complaint, a victim of rape runs the risk of herself being convicted of the crime of adultery.

The systematic practice of rape has shattered these societies and has profoundly modified their functioning, to the point that, once conflict is over, rape becomes a trivialised practice, including within the private sphere.

The establishment of the International Criminal Court was an important step forward in the fight against impunity for crimes of sexual violence. The ICC Statute, for the first time, defines rape but also sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or « any other form of sexual violence of comparable gravity » as both crimes against humanity and war crimes.

However, for many of the victims the arrest warrants thus far issued by the ICC reveal a missed opportunity. In DRC, the Court is not pursuing any charges of crimes of sexual violence against [Thomas Lubanga](#), head of the Union des patriotes congolais (UPC) and the first suspect arrested by the ICC, despite his responsibility for such crimes having been widely documented¹. The charges issued against [Germain Katanga](#), former leader of the a Force de résistance patriotique en Ituri (FRPI) - opposed to the UPC in this region – and the second accused arrested by the ICC in DRC, include sexual slavery as a crime against humanity and a war crime². Yet they do not mention rape...

« Against all the heads of militia groups involved in the conflict in Ituri, charges must be brought which are representative of the grave crimes committed, including crimes of sexual violence. Otherwise the Court risks further feeding misunderstandings and tensions, including between victims », participants emphasised.

In Uganda and Sudan, participants underlined that crimes of sexual violence represent only a tiny proportion of the charges brought by the ICC against the accused. In CAR, FIDH welcomed the decision of the ICC Prosecutor to open an investigation with a particular focus on crimes of sexual violence committed between 2002 and 2003. FIDH continues to insist on the need for the ICC Office of the Prosecutor to strengthen and systematise its prosecution strategy on crimes of sexual violence in all countries where the ICC is conducting investigations.

Indeed, it clearly emerged from discussions and experiences of participants in each of the four countries under investigation, that the prosecution of international crimes depends first and foremost on the political will of prosecuting authorities. Methods and legal analyses exist and have been applied by the prosecutors of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, and the Special Court for Sierra Leone. These should guide and inspire the Office of the Prosecutor of the ICC.

During a series of meetings with ICC representatives, the participants presented their recommendations to the Court. Above all, they emphasised that the Court remains too far removed from the field and from the concerns of affected communities. Largely absent from the regions where victims live, the ICC has not as yet succeeded in making itself known. Participants insisted that the ICC must urgently strengthen outreach to affected communities and victims, so that they are effectively informed of its mandate and activities and understand the mechanisms established to enable them to exercise their rights to justice and reparation. Participants also underlined that the ICC must urgently establish measures of protection, until now inexistent, for the intermediaries of the ICC on the ground – NGOs, victims' associations and individuals – upon whom the Court largely relies. Finally, participants emphasised that it is the primary responsibility of states to investigate and prosecute crimes of sexual violence and to make the necessary amendments to national legislation to this end.

FIDH, encouraged by the declarations of the United Nations Security Council and Secretary General, on 23 October 2007, on the need to strengthen national and international efforts to fight impunity for crimes of sexual violence, which have reached « extreme levels of atrocity », now calls upon the Security Council to establish an effective monitoring mechanism to assess the implementation of Resolution 1325 (2000) on Women, Peace and Security.

The conclusions, recommendations and strategies elaborated by the participants will shortly be published by FIDH.

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1 See Open Letter of 31 July 2006 of NGOs presenting their concerns as regards the suspension of charges in the case against Thomas Lubanga Dyilo, <http://www.fidh.org/spip.php?article3622>

2 See FIDH Press release of 19 October 2007, « A second case before the International Criminal Court on the situation in Democratic Republic of Congo: Germain Katanga transferred to The Hague », <http://www.fidh.org/spip.php?article4805>