



***POLITICALLY
MOTIVATED RAPE IN
ZIMBABWE.***

**Report produced by the Women's Programme of
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Introduction

Women and girls hardly ever literally fight the world's wars, but they often suffer the most as both primary and secondary victims. It is the case that men too suffer, but women carry the differential burden of rape. In both ancient and modern times, rape has been used as a collective punishment for the defeated, but it has increasingly been used by countries not at war to cause terror and humiliation amongst the political dissenters; Zimbabwe is one of these countries.¹

In the last twenty years, from Bosnia to the Democratic Republic of Congo, rape has been used as a politico-military strategy designed to humiliate and destroy the opposition. Here, two different forms of rape need to be distinguished: the first, rape that occurs during actual war, and the second, politically motivated rape, which can occur outside of war situations, but is used as a political tactic against a particular ethnic or political grouping. This report is concerned with the latter since it is evident that a state of war does not exist in Zimbabwe, although it could rightly be described as a "complex emergency"².

As a result of the recognition about the increasing use of rape in war and complex emergencies, the United Nations (UN) Security Council promulgated Resolution 1325 in 2000, and followed this up with Resolutions 1820, 1888 and 1960 in 2008 2009 and 2010, respectively. Although Resolution 1325 has been in place for more than ten years, its implementation has been slow; only a small number of perpetrators of sexual violence against women have been convicted and jailed by international criminal tribunals for committing or commanding widespread sexual violence as a war crime.³ Since early 2010, the UN Special Representative to the Secretary-General on Sexual Violence in Conflict has set down a five-point agenda to reduce or eradicate gender-based violence. The agenda calls for an end to impunity for sexual crimes; the protection and empowerment of women and girls to enable them to contribute to peace initiatives; the strengthening of political commitments to ensure that violence against women is "not pigeon-holed as 'just a women's issue'"; and the realisation that "peace negotiations must address sexual violence early and fully to prevent war-time rape from becoming peacetime reality."⁴

Internationally, rape is recognised both as a crime against humanity and a war crime, and it has been said to be a crime of genocide when it is committed with the intent to destroy, in whole or in part, a targeted group⁵. The distinction between these three classifications of rape depends on the circumstances pertaining at the time: rape as a war crime would require a state of war, whilst rape as a crime against humanity or genocide could occur outside a state of obvious war. Politically motivated rape could occur short of any of these three situations, but this does not imply that it is any less serious.

The phenomenon of violations against women is not a new thing in Zimbabwean politics; it has been reported in the majority of human rights reports⁶ produced both locally and internationally since 2000 when the political landscape changed with the formation of the Movement for Democratic Change (MDC) posing a serious threat to the Zimbabwe African National Union–Patriotic Front (ZANU PF)'s power-base in the June 2000 parliamentary elections. Before 2000 there were reports of rape

¹ Moore J 'Confronting Rape as a War Crime'. CQ Global Researcher. 2010 Vol 4 page 1

² A complex emergency is a social catastrophe marked by the destruction of the affected population's political, economic, socio-cultural, and health care infrastructures. See Mollica, R F, Lopes Cardozo, B, Osofsky, H J, Raphael, B, Ager, A, & Salama, P (2004), *Mental health in complex emergencies*, LANCET, 364: 2058–67.

³ *Prosecutor v. Anto Furundzija* - Trial Chamber II - Judgment - IT-95-17/1 [1998] ICTY 3 (10 December 1998); and *The Prosecutor v. Jean-Paul Akayesu*. Judgment - ICTR-96-4-T [1998] ICTR 2 (2 September 1998)

⁴ <http://www.irinnews.org/report.aspx?ReportID=90853> (Accessed on 27th October 2010).

⁵ Rome Statute International Criminal Court: UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90. Available http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf

⁶ Zimbabwe Human Rights NGO Forum *A Woman's Place is in the Home? Gender Based Violence and Opposition Politics in Zimbabwe*. (2006) page 3 Also see CSV (2006), *Women on the run: Women survivors of torture amongst refugees in South Africa*. Report produced for the Centre for the Study of Violence and Reconciliation and the Crisis in Zimbabwe Coalition page 8.

particularly during the Liberation War and the Matabeleland massacres of the 1980s.⁷ There have been frequent assertions in Zimbabwe that rape has been used as a tool for repressing political opposition and winning elections. The reports mentioned above make these assertions, but no empirical study had been undertaken by Zimbabwean organisations until now. Aids Free World⁸ was the first to specifically examine the issue of political rape in Zimbabwe. This report was supported by another report by the Medical Foundation in London.⁹

Politically motivated sexual violence against women in Zimbabwe takes many forms. These include extreme violence, gang rape and insertion of objects (bottles and sticks) into the women's private parts. In some of the instances, the rape is committed at the instigation of a military leader or war veteran, showing that it is a strategy to intimidate political opponents. Often used during election periods or periods of national importance,¹⁰ it is quite evident that the rape is used as a psychological weapon in order to humiliate the opposition and undermine their morale.

The Global Political Agreement (GPA) acknowledges the fact that violence "dehumanises and engenders feelings of hatred." Violence against women should be addressed to ensure that there are no lingering feelings of hatred and anger in society which can be the cause of future conflict, especially in light of the fact that there is likely to be an election before the end of 2011. Talk of elections is gathering momentum with the latest utterances from President Mugabe that, "*We do not want to pass June 2011 without elections. We want acceleration of pace.*"¹¹ Therefore Zimbabweans anticipate violence as this is the norm during recent election campaign periods, and it is highly likely that rape will be used again. It has been a successful tactic particularly in the 2008 Presidential election where thousands of women were subjected to all forms of atrocities in the name of politics¹². None of the perpetrators have been called to account for the violence they committed.

In 2010, the Research and Advocacy Unit (RAU) conducted a study on politically motivated rape¹³ in collaboration with the Zimbabwe Association of Doctors for Human Rights (ZADHR) and the Doors of Hope Development Trust, a self-help organisation formed by and consisting of women survivors of politically motivated rape.

This study was based on 27 sworn legal affidavits and medical examinations of women who were raped because of their political activity or the political activities of their husbands. The purpose of this study was to highlight the experiences of women during elections, particularly in 2008. The sexual assaults reported by this sample were extremely distressing, with horrific reports of gang rape. Some of the women were raped by numerous perpetrators until they lost consciousness. The medical examinations confirm genital trauma and other physical injuries consistent with rape as well as psychological damage.

The aim of this follow-up report is to raise the legal, social, medical, and psychological concerns surrounding the survivors of rape and how these can be addressed. Although justice was also on the survivors' agenda, assistance to move on with their lives was their top priority. The Ministry of Health and Child Welfare should have a programme catering specifically for victims of rape, and it is important to include the family as part of the healing process; involving the men as well as the children that may have witnessed the rape or those born as a result of rape¹⁴. Sexual violence should

⁷ Catholic Commission for Justice and Peace (CCJP) and the Legal Resources Foundation (LRF) (2007) *Breaking the Silence : A Report on the Disturbances in Matabeleland and the Midlands* p. 13

⁸ Aids Free World "*Electing to rape: sexual violence terror in Mugabe's Zimbabwe*" 2009 www.aidsfreeworld.org. (Accessed 09 September 2010).

⁹ See Medical Foundation *Justice Denied: The experiences of 100 torture surviving women of seeking justice and rehabilitation* 2009 p 4.

¹⁰ For example the MDC's Final Push in June 2003

¹¹ 'ZANU(PF) Women's League Wants Mugabe To Rule Forever' <http://news.radiovop.com> (Accessed 18 October 2010)

¹² CSV (2009), *Subliminal Terror? Human rights violations and torture in Zimbabwe during 2008*. Report produced for the Centre for Violence and Reconciliation by Tony Reeler. June 2009. JOHANNESBURG: CSV

¹³ RAU (2010) *No Hiding Place: Politically Motivated Rape of Women in Zimbabwe* Report prepared by RAU and ZADHR page 8.

¹⁴ Following a recent meeting with the Minister of Health and Child Welfare, an undertaking was given by the Minister to set up a multi-sectoral committee to consider the problem of political rape.

be addressed from the perspective of the survivors¹⁵ as it affects more than the survivors' physical wellbeing, but also impacts upon their psychological, economic and political status. Rape survivors need the co-operation of all sectors - government departments, civil society and development partners - to work together for proper healing to take place. It will also be important to ensure that national sexual violence laws are enforced and the culture of impunity is done away with in keeping with local, regional and international instruments¹⁶, and that crimes against women will be investigated and prosecuted and the perpetrators brought to justice.

Definition of Rape

In Zimbabwean law, rape can only be perpetrated by a male on a woman.

In terms of Zimbabwe's criminal statute¹⁷, any male person who knowingly has sexual intercourse or anal sexual intercourse with a female person, and, at the time of the intercourse, the female person has not consented to it, and he knows that she has not consented to it, or realises that there is a real risk or possibility that she may not have consented to it, is guilty of rape.

The absence of consent is a universal element of any definition of rape.¹⁸ However, the degree of coercion which should be considered sufficient to constitute a lack of consent is highly contested and difficult to define. At one extreme would be a requirement that the coercion consists of physical force which could not be resisted, whilst at the other end would be the situation where a man has sexual intercourse with his wife knowing that she feels obliged to allow this to keep the marriage intact due to financial necessity or for the well being of their children.

Whether this latter situation should constitute rape or not may depend on the circumstances of each particular case, and it is impossible to provide an all encompassing definition. The solution of the legislature is to leave it to the judiciary to determine whether, in the particular circumstances, there was an absence of consent to sexual intercourse. The Zimbabwean definition is wide enough to allow the courts to take psychological and any other factors deemed to be coercive into account, thus conforming to the trend in international jurisprudence.

Before Zimbabwe's common law was codified by statute, it retained elements of the atavistic and patriarchal Roman-Dutch law requirement that the intercourse must be an act capable of resulting in conception before it could be held to constitute rape. The definition has been expanded to include coerced anal intercourse as rape. It may be suggested that this definition still remains too narrow and should provide that *rape is the invasion of the body of a person by conduct resulting in penetration of **any part** of the body of the victim or perpetrator with a sexual organ or of the anal or genital opening of the victim with any object or any other part of the body.*

However, this conduct is criminalized in Zimbabwean law¹⁹ under the rubric of "aggravated indecent assault", and the law specifically provides that the penalty shall be the same as that for rape. Accordingly, the legal effect is the same as if the definition of rape had been as expansive as provided above. This remains objectionable to some on the grounds that the trauma experienced by the victim is equally severe in all instances of penetration, and that patriarchal considerations of procreative possibility are retained in classifying coerced penetration, where there is no possibility of conception, as an implicitly lesser offence. Similar comments arise from the fact that the legislation on aggravated indecent assault is gender neutral, and not like rape confined to a male perpetrator and female

¹⁵ *The Nairobi Declaration on Women and Girls Right to Remedy and Reparation.* available http://www.womensrightscoalition.org/site/reparation/signature_en.php (Accessed 10 October 2010)

¹⁶ The Southern African Development Community (SADC) Protocol on Gender and Development ,(2008) in articles 20-25 makes provision for the implementation of a variety of strategies aimed at eliminating all forms of gender based violence. There are specific stipulations for the provision of a comprehensive package of treatment and care for survivors of gender based violence. The protocol has specific targets to be achieved by 2015. Zimbabwe ratified the Protocol in October 2009. Also the African Charter on Human and People's Rights on the Rights of Women in Africa and the United Nations Security Council Resolutions 1325 and 1820.

¹⁷ Section 64 of the Criminal Law (Codification and Reform) Act Chapter 09:23.

¹⁸ The lack of consent may, of course, arise through legal incapacity to consent.

¹⁹ Section 66 of the same Act.

victim. The significance of this lies not only in the fact that a woman may be found guilty of aggravated indecent assault and sentenced as if the offence were rape. Where a man is subjected to coerced anal intercourse, this falls within the definition of "aggravated indecent assault", whereas, in the case of a woman victim, the same act falls within the definition of rape, and would be charged as such.

The reluctance to include the anal rape of a man within the definition of rape, defining the same act (which would constitute rape in the case of a woman) as aggravated indecent assault, once again suggests that patriarchal considerations inform the content of the statute. In patriarchal terms, rape is a metonym of feminized victimhood which must not be allowed to etiolate masculinity – thus only women may be categorised as "victims" who can be raped. Of course, male anal rape is often perpetrated with the precise intention of undermining the victim's own sense of masculinity - in crude parlance "making him into the bitch". Thus, paradoxically, while excluding coerced male anal intercourse from the definition of rape, this attenuates the "feminization" of the victim as it requires the adoption of the tropes of an unacceptable and primitive patriarchal paradigm to do so, and which may have informed the motivation for the rape.

There have been reports of men in Zimbabwe who have claimed that they were forced to have sexual intercourse with other men as punishment for supporting the MDC²⁰. The perpetrators would thus be charged under Zimbabwean law with aggravated indecent assault.

The establishment of a definition of rape under International Law came about in the International Criminal Tribunal of Yugoslavia Trial Chamber (ICTY) in *Prosecutor v. Kunarac*²¹ where a clear definition of rape was adopted. This definition had previously been discussed in *Prosecutor v. Furundzija*.²² It was also further explored in the International Criminal Tribunal of Rwanda (ICTR) in the case of the *Prosecutor v Akayesu*,²³ developing to assume the status of customary international law. This definition of the specific crime of rape was based upon definitions found in the common law of some of the world's major legal systems including Sweden, Canada, Germany, and the United Kingdom. However, even after *Akayesu* and *Kunarac*, rape is only an international crime if it occurs in the context of war or a systematic military campaign, although there is hope that, after *Kunarac*, its future application may expand beyond that of situations of armed conflict. In its *Kunarac* judgment, the ICTY presented its definition of rape as;

*...a form of aggression [whose] central elements cannot be captured in a mechanical description of objects and body parts... [and whose] variations may include acts which involve the insertion of objects and/or the use of bodily orifices not orifices not considered to be intrinsically sexual. [It is] a physical invasion of a sexual nature, committed on a person under circumstances, which are coercive. Sexual violence which includes rape is considered to be any act of a sexual nature which is committed on a person under circumstances which are coercive.*²⁴

This definition emphasises a context of aggression and coercion, and it allows for the reformation of the standards of rape prosecution which may also 'assist in the creation of generally accepted international standards on the adjudication of sexual offenses.'

The Explanatory Note of the Rome Statute, which binds the International Criminal Court, identified incidences of rape as including where:

²⁰ Amani, 'Preliminary Report of a Survey on Internally Displaced Persons from Commercial Farms in Zimbabwe' 2002 page 11
²¹ See *Prosecutor v. Kunarac*, Judgment, and Nos. IT-96-23-T & IT-96-23/1-T (Int'l Trib. for the Prosecution of Pers. Responsible for Serious Violations of Int'l Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 [hereinafter ICTY], <http://www.un.org/icty/ind-e.htm> (Accessed 9 October 2010).
²² *Prosecutor v. Furundzija*, IT-95-17/1-T (Dec. 10, 1998), and *Prosecutor v. Akayesu* ICTR-96-4-T <http://www.ictor.org/wwwroot/ENGLISH/cases/Akayesu/judgment/akay001.htm> (Accessed 10 October 2010)
²³ *Prosecutor v Akayesu* Case No. ICTR-96-4-T.
²⁴ See *Prosecutor v. Kunarac*, Judgment, No s. IT-96-23-T & IT-96-23/1-T

"The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body." and "The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent".

The concept of "invasion" is intended to be broad enough to be gender-neutral. The international definition is understood to include situations where the victim may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.²⁵

Prior to the Akayesu judgment of the ICTR, there was no commonly accepted definition of rape or sexual violence in international law. The definition given to these terms in the Akayesu case described rape as,

'... a physical invasion of a sexual nature, committed on a person under circumstances which are coercive.'

And sexual violence which constitutes rape as

'...any act of a sexual nature which is committed on a person under circumstances which are coercive...not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.'

Prior to *Akayesu* and *Kunarač*²⁶, rape was a reprehensible, vicious, and inhumane act, but it was not an explicitly recognized as a crime against humanity within international law. Rape was clearly a violation of the Geneva Conventions, and it was also generally recognized as a war crime under international law. However, rape has been viewed by the international community as a product of war, and, as such, has seldom been prosecuted.

The definition of rape advanced by the ICTR was adopted by the ICTY in the *Prosecutor v Delalic (Celibici)*²⁷, where the trial chamber stated that, *'it was in agreement with the ICTR's reasoning, and saw no reason to depart from the conclusion of the ICTR in the Akayesu judgment on this issue. Thus the trial chamber considered also rape to constitute a physical invasion of a sexual nature, committed on a person under circumstances that are coercive.'*²⁸

The trial chamber highlighted that *'Rape and other forms of sexual assault are prohibited by a number of international humanitarian instruments. Article 27 of the Fourth Geneva Convention specially prohibits rape, any form of indecent assault and the enforced prostitution of women. This prohibition is also found in article 4(2) of additional Protocol II, in internal armed conflict. Article 76(1) of additional protocol I expressly requires that women be protected from rape, forced prostitution and any other form of indecent assault. This prohibition is implicitly found in Article 46 of the 1907 Hague Convention (IV) that provides for the protection of family honour and rights. In the Nuremberg charter, rape is prohibited as a crime against humanity under Article 6(c).'*²⁹

The Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV) was concluded in 1949, and entered into force on October 21, 1950. As its title implies, the convention governs the treatment of civilians during times of war. In the relevant part, it asserts that "[w]omen shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault." Thus, for the first time in

²⁵ *Prosecutor v Akayesu*, Case No. ICTR-96-4-T.

²⁶ See *Prosecutor v. Kunarač*, Judgment, and Nos. IT-96-23-T & IT-96-23/1-T

²⁷ IT-96-21-T, para 479. www.icty.org/cases (Accessed 10 October 2010)

²⁸ IT-96-21-T, para 479. www.icty.org/cases (Accessed 10 October 2010)

²⁹ IT-96-21-T, para 475-476.

international law rape was considered to be a crime, though its parameters at this time were ill-defined.

Rape as a Weapon of War

Rape is a crime, in war as in peace times, because it obviously violates the rights of the woman who is attacked, but, during war and armed conflict, rape is frequently used as a means of psychological warfare in order to humiliate, demoralize, and shame the enemy. Rape is an extremely effective wartime weapon because, by systematically raping women and girls, armed groups assert power and domination over not only the women, but their men as well. The men whose women have been raped feel totally helpless and the rape to them can symbolize their total defeat. So, in essence, women are attacked to destroy their mental and physical integrity, and they are attacked publicly to demonstrate the powerlessness of the men to defend the community. They are also attacked as bearers of the next generation because their reproductive capacity is either destroyed or harnessed through forcible impregnation to carry the child of the enemy.³⁰

War rape is often systematic, thorough, and a well thought out strategy. The rape of women civilians is also used as a tactical weapon to terrorise civilian communities or to achieve "ethnic cleansing," as a tool in enforcing hostile occupations, a means of conquering or seeking revenge against the enemy, and a means of payment for mercenary soldiers.³¹ War rape may occur in a variety of situations, including institutionalised sexual slavery and individual or isolated acts of sexual violence. War rape commonly includes gang rape and rape with objects.

Broadly, three kinds of rape can be identified in conflict:³²

Forced concubinage³³ involves the conscription or kidnapping of young girls to wash, cook, porter and have sex with soldiers and militiamen. As stated above, this occurred during the second *Chimurenga*³⁴, the young women were known as *zvimbwido*. This began again in 2000 when the government introduced the youth militia. There have been girls who escaped the camps and have told horrific stories about what goes on within the confines of the camps³⁵.

Politically motivated rape punishes individuals, families or communities who hold different political views. According to the Amnesty International's Report on Zimbabwe in 2003, the number of reported cases of rape and other forms of sexual torture perpetrated against women suspected of supporting the political opposition increased. This was also happening before the 2008³⁶ elections and one woman stated that the perpetrators said to her "*You are the same people messing around with Tsvangirai for the love of sugar. You are Tsvangirai's prostitute, a prostitute for sugar. So now that we have found you, we are going to sleep with you.*" This statement clearly shows that the rape was political.

Genocidal rape, as in Rwanda and the Balkans, seeks to destroy an ethnic or political group perceived as being the enemy.³⁷ This kind of rape has been the subject of many discussions but it appears that in Zimbabwe genocidal rape occurs not to destroy an ethnic group but a political group which is the Movement for Democratic Change.

³⁰ Amnesty International *Lives Blown Apart: Crimes against women in times of conflict*, 2004 p20.

³¹ This is a statement found in a report by Human Rights Watch in its investigations in the former Yugoslavia, Peru, Kashmir and Somalia. See The Human Rights Watch 'Human Rights Watch Women's Rights Project' 1995 p.1, 2.

³² 'Focus on Rape as a Political Weapon' IRINnews.org. (Accessed 25/10/2010)

³³ RAU (2011) *Forced Concubinage in Zimbabwe* page 5.

³⁴ See Catholic Commission for Justice and Peace in Rhodesia *The Man in the Middle: Torture, Resettlement and Eviction and Civil War in Rhodesia* 1975.

³⁵ <http://www.solidaritypeacetrust.org/205/national-youth-service-training/> (Accessed 25 October 2010)

³⁶ RAU (2010) *No Hiding Place: Politically Motivated Rape of Women in Zimbabwe* Report prepared by RAU and ZADHR, page 12.

³⁷ 'Focus on Rape as a Political Weapon' 8 April 2003 IRINnews.org. (Accessed 25 October 2010)

In June 2008, the UN Security Council voted unanimously in favor of a resolution classifying rape as a weapon of war (UN Resolution 1820). The document describes the deliberate use of rape as a tactic in war and a threat to international security. The resolution indicates that sexual violence "*can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security*". Speaking at the launch of the resolution, UN Secretary General Ban Ki-moon said that violence against women had reached "*unspeakable proportions*" in some societies recovering from conflict. He added that the UN was setting up an inquiry to report on how widespread this practice is and how to tackle it.³⁸

This resolution has been seen by many as a landmark in the fight against sexual violence against women, and an addition to previous international legal instruments such as the Convention on Elimination of Violence Against Women (CEDAW, 1979), and the UN Security Council Resolution 1325 which '*calls on all parties to armed conflict to respect international humanitarian law and to take special measures to protect women and girls from gender-based violence, particularly rape*'.

Although there are international instruments prohibiting sexual violence during conflict, there have not been many successful prosecutions. Sexual violence continues to be systematic and merciless because of the failure to prevent and prosecute routine and widespread discrimination and violence against women during peace times. Women in Rwanda who were caught up in the vicious civil war in that country also experienced horrific acts of sexual violence.³⁹ In Kenya, up to 3000 women were raped in the ethnic violence that erupted after the 2007 presidential elections.⁴⁰ About 12,000-15,000 women per year are raped during the ongoing conflict in Eastern Democratic Republic of the Congo (2000-present).⁴¹ The examples above are only a few, and there are many more examples that can be cited⁴².

There has been anecdotal evidence that Zimbabwean women have been targeted and raped for voicing their political opinion by state agents and party supporters, as well as being targeted in order to coerce their male counterparts to stop their political activities. This is symptomatic of the very little respect for women's rights in Zimbabwe evident in the legal discrimination and violence against women, as justified through cultural and religious arguments.⁴³ These anecdotal reports are now corroborated by more systematic research⁴⁴.

Politically motivated rape in Zimbabwe

As might be expected from the above review, it would be unlikely that politically motivated rape had not been found to have occurred in the previous conflicts and disturbances of the past decades. However, until recently this has not been well-documented.

³⁸ Namata B, The New Times, *Rwanda: Violence Against Women-Rape, Crime of Genocide* 2008, <http://allafrica.com/stories>. (Accessed 25 October 2010)

³⁹ Chinkin, C, '*Rape and Sexual Abuse of Women in International Law*', 1994, p334-336. Available at www.ejil.org. (Accessed 10 October 2010)

⁴⁰ Alsop, Z, '*Kenya's Rape Probe Falters after Lawyers Drop Out*', 2008 www.womensenews.org/story/rape/081214/kenyas-rape-probe-falters-after-lawyers-drop-out. (Accessed 24 October 2010)

⁴¹ Moore, J '*Confronting Rape as a War Crime*', 2010 p109.

⁴² During the August 1990 invasion of Kuwait it is estimated that at least 5,000 Kuwaiti women were raped by Iraqi soldiers.⁴² After the liberation large numbers of foreign domestic working women in Kuwait were attacked and subjected to sexual violence from subsequently returning Kuwaitis.

⁴³ See Zimbabwe Human Rights NGO Forum, '*A woman's place is in the home? Gender based violence and Opposition Politics in Zimbabwe*', 2006, p15.

⁴⁴ See Aids Free World "*Electing to rape: sexual violence terror in Mugabe's Zimbabwe*" 2009; Medical Foundation *Justice Denied: The experiences of 100 torture surviving women of seeking justice and rehabilitation* 2009; RAU (2010), *Preying on the Weaker Sex: Political Violence Against Women in Zimbabwe*'. Report produced by IDASA (An African Democracy Institute), the International Center for Transitional Justice (ICTJ), and the Research and Advocacy Unit (RAU October 2010. HARARE: RESEARCH & ADVOCACY UNIT; RAU(2010), *No Hiding Place: Politically Motivated Rape of Women in Zimbabwe*. Report produced by the Research and Advocacy Unit (RAU) and the Zimbabwe Association of Doctors for Human Rights (ZADHR). December 2010. HARARE: RESEARCH & ADVOCACY UNIT.

Politically motivated rape has been described as occurring both during the Liberation War of the 1970s as well as during the disturbances in the 1980s, termed *Gukurahundi*. However, although the many reports and books on the Liberation War do mention rape, there are no systematic reports about the violations overall.⁴⁵ In the excellent report by the Catholic Commission for Justice and Peace [CCJP] and the Legal Resources Foundation [LRF] on *Gukurahundi*, there are many reports of rape, but no systematic analysis of rape.⁴⁶

Since 2000, there have been increasing numbers of reports alleging politically motivated rape, but no specific examination of the issue. The most comprehensive and continuous record of human rights violations since 2000 has been the Monthly Political Violence Reports of the Zimbabwe Human Rights NGO Forum – the *Human Rights Forum*. Since July 2001, when the first of these reports was issued, the Human Rights Forum has issued a total of 96 monthly reports. These reports detailed a total of 41,428 violations, but only 27 reports of rape. In a report produced ahead of the 2008 Harmonised Elections, rape was only 0.1% of the total number of violations seen to that point.⁴⁷ There are different possible interpretations of this very low figure: either politically motivated rape is very uncommon or cases are not being reported to the Human Rights Forum and its members, the latter being the most likely.

Similarly low figures for politically motivated rape are evident in the reports of the other major monitoring body, the Zimbabwe Peace Project [ZPP]. An indication can be taken from comparison of the Human Rights Forum and ZPP's reports on the violence in 2008, arguably the most violent election in Zimbabwe's history. In 2008, monitoring the elections, the Human Rights Forum indicated that politically motivated rape constituted on 0.07% of the total violations reported, whilst the ZPP report that rape was 0.17% of all violations.⁴⁸ Here it should be pointed out that the methodologies adopted by the two organizations are different: the Human Rights Forum derives its data from reports made directly by victims to the Forum or its member organizations, whilst the ZPP's data derives from a nation-wide network of community activists. However, on face value, this suggests that politically motivated rape has not been common in the past decade, but it is also evident that the reported rates increased as a function of the proximity to the community: 0.07%, the rate from victims reporting to urban-based organizations, increased to 0.17% when the reports emanated from community-based persons.

However, allegations about politically motivated rape have been included in a number of other reports. In 2002, the Amani Trust, in a study of 139 displaced commercial farm workers, reported that 4% of the women alleged rape during the disturbance that accompanied the farm invasions, but 14% of the sample alleged that they had witnessed rape.⁴⁹ It was noteworthy in this report that there were also allegations of sexual abuse by 14% of the sample, reporting incidents where men were forced to simulate intercourse with other men, or to have intercourse with the ground, in front of others including their wives. A subsequent study of commercial farmers and farm workers reported that 7% of farm workers had experienced politically motivated rape.⁵⁰

In 2006, two reports were issued that mentioned politically motivated rape. The Human Rights Forum, in a report on gender based political violence, indicated that 6% of the sample of 447 women reported rape.⁵¹ A higher percentage was reported in a study of women seeking asylum in South Africa; politically motivated rape was reported by 15% of the 102 women seen by the Zimbabwe Torture Victims/Survivors Project of the Centre for the Study of Violence and Reconciliation.⁵² The

⁴⁵ See, for example, CCJP, *The Man in the Middle: torture, resettlement and eviction* 1975 page 20; CCJP *Civil War in Rhodesia: Abduction, Torture and Death in the Counter-Insurgency Campaign*. 1976

⁴⁶ CCJP & LRF *Breaking the Silence-Building True Peace: A Report on the Disturbances in Matabeleland and Midlands 1980 to 1988 1997* page 13.

⁴⁷ Zimbabwe Human Rights NGO Forum, 'Can the elections in Zimbabwe be Free and Fair?' 2008 page 20.

⁴⁸ CSV, 'Subliminal Terror? Human rights violations and torture in Zimbabwe during 2008' 2009 page 18.

⁴⁹ See again Amani, 'Preliminary Report of a Survey on Internally Displaced Persons from Commercial Farms in Zimbabwe' 2002 page 11.

⁵⁰ Justice for Agriculture & /Research and Advocacy Unit, 'Reckless Tragedy: Irreversible? A Survey of Human Rights Violations and Losses suffered by Commercial Farmers and Farm Workers from 2000 to 2008' 2008 page 25.

⁵¹ Zimbabwe Human Rights NGO Forum 'A Woman's Place is in the Home? Gender Based Violence and Opposition Politics in Zimbabwe' 2006 page 10.

⁵² CSV, 'Women on the run: Women survivors of torture amongst refugees in South Africa'. 2006 page 7.

difference was presumably because women in exile felt more secure in reporting the rape than those living within Zimbabwe.

Other Zimbabwean studies have reported politically motivated rape. A study of the female members of the National Constitutional Assembly [NCA] reported that 8% of the sample of 231 alleged politically motivated rape.⁵³ An earlier study of the Women of Zimbabwe Arise [WOZA] did not find that rape was common, but 23% of the 1,983 women interviewed reported that they undergone degrading and humiliating treatment through the forced removal of their underwear whilst in custody.⁵⁴ Here it should be pointed out that the UN Convention Against Torture would not only regard actual rape as constituting a violation in terms of the Convention, but would also see forced stripping and humiliating treatment such as forced removal of underwear as falling within the ambit of the Convention. A third recent study, mainly concerned with psycho-social assistance to victims of organized violence and torture, reported that 5% of the sample of 102 survivors alleged politically motivated rape.⁵⁵

One of the obvious difficulties in making any clear statements about politically motivated rape is that of distinguishing one form of rape from another, although this is obviously a moot point for the victims. Earlier the distinctions between various forms of rape – *forced concubinage*, *political rape*, and *genocidal rape* – were outlined, and it not possible on the available reports to draw any clear conclusions about the prevalence of the different forms. However, it was reported in one study that all human rights violations, and including rape, were significantly more common in election months than at other times: abduction, attempted murder, death threats, disappearances, murder, political discrimination, torture and rape were all more common during elections.⁵⁶

Two further studies are helpful in understanding politically motivated rape in Zimbabwe. Both were published in late 2009, and both dealt with examinations of alleged rape victims amongst women in exile outside Zimbabwe. The first of these, by AidsFreeWorld, examined 70 alleged survivors, detailing 380 total acts of rape by 241 perpetrators; many of these rapes were by multiple perpetrators, mostly identified as supporters of ZANU PF, and, in many instances, could be clearly identified by the victims.⁵⁷ These women were interviewed in South Africa and Botswana, where they had fled into exile. Forty of the 70 women also reported that they had been severely assaulted, either before or after the rape, with sticks, electric cords, logs or metal rods.

The second study, by the Medical Foundation for the Care of Victims of Torture, reported upon a sample of 100 women that had applied for asylum, and who had alleged torture.⁵⁸ Twelve of the sample came from Zimbabwe. What was noteworthy about the study was that 80 had been raped, and 78 of these had been raped by multiple perpetrators.

Perhaps the only study from which some kind of inference can be drawn about the national prevalence of politically motivated rape comes from the national survey of women conducted by RAU, Idasa and the International Center for Transitional Justice [ICTJ] in December 2009.⁵⁹ Although this study cannot claim to be a randomized, stratified probability survey, it does provide the only national survey to date on women specifically. The sample of 2,149 women indicated that 2% had experienced politically motivated rape, which extrapolated to the general population is a very large number of women alleging rape. However, it should be borne in mind that the study did not ask for the time period of the rape to be specified and hence this figure must be seen rather as a "lifetime" estimate, covering the period from the Liberation War up to the violence in 2008.

⁵³Research and Advocacy Unit & National Constitutional Assembly 'Fighting for a New Constitution: Human Rights Violations experienced by Female Members of the National Constitutional Assembly.' 2010 page 7.

⁵⁴ Women of Zimbabwe Arise, 'The effects of fighting repression with love.' 2008 page 9.

⁵⁵ Reeler T (2009), 'A Research Note on the Effectiveness of the Tree of Life.' RAU 2009 page 5.

⁵⁶ See again Zimbabwe Human Rights NGO Forum 'Can the elections in Zimbabwe be Free and Fair?' 2008 page 20.

⁵⁷ Aids-Free World 'Electing to Rape. Sexual Terror in Mugabe's Zimbabwe' 2009 page 18.

⁵⁸ Medical Foundation 'Justice Denied: The experiences of 100 torture surviving women of seeking justice and rehabilitation' 2009 page 4.

⁵⁹ RAU 'Preying on the Weaker Sex: Political Violence Against Women in Zimbabwe' 2010 page 16.

Given this caveat, the estimate of 2% does not seem so enormous, but the study also indicated that the sample alleged 3% of their families had experienced such rape, and 16% knew of a politically motivated rape in their community. This last figure, of course, is of considerably greater concern, but, as pointed out in the report of the study, must be treated with caution as it is possible that the sample were, in an unknown number of cases, reporting upon the same case of rape in their community.

The most recent study, by RAU and the Zimbabwe Association of Doctors for Human Rights [ZADHR], added greater depth to the understanding of politically motivated rape. A clinical study of 34 women, of whom 27 were finally included in the sample, it indicated that politically motivated rape was confirmed at least for these cases. Rapes were reported as occurring in 2001 [1], 2002 [1], 2003 [1], and 2008 [24]. Hence, most rapes [89%] occurred in 2008, but, of course, there is no suggestion that rape was actually more common in 2008 than in any other year.

There have been many reports about the use of “bases” as places where violations take place, but, for this sample, the rape was just as likely to have taken place at or near the victim’s home [15] as at a base [12]. Over three-quarters [21] were victims of multiple rape, with an average of three rapists per incident. One woman reported a total of 13 perpetrators, and 14 women reported 3 or more perpetrators to their rape. Most [21] were beaten prior to rape, some quite severely.

A distressingly high number of the rapes [11] took place in public, at or near the victim’s home, and witnessed by the victim’s family and children. Ten women reported that their estimate of the number of perpetrators was only certain for a specific number, and that there could have been more than the number they specified as they had fallen unconscious, or had lost count as they seemed to be so many. They could be certain, however, of at least the number of perpetrators that they specified.

Most [23] did not report the rape to the authorities at all. Only 4 reported the rape. Most of the women did not receive appropriate care for the trauma that they had experienced. Only one of the women reported having received therapeutic care for psychological consequences of the violence following the sexual assault. This is in contrast to the high proportion of study participants displaying symptoms of post traumatic stress disorder (PTSD) and the presence of some with symptoms suggesting psychotic depression.

Women in the study exhibited high levels of sleeplessness, nightmares, flashbacks, and hopelessness. A third of the women reported these symptoms, which are commonly associated with experiences of trauma. For some, flashbacks are triggered by large gatherings, particularly where political slogans were being chanted while others had recurring nightmares during which they relived the rapes. Traumatic memories may continue for extended periods of time.

Nonetheless, and despite all the reservations about the findings of previous reports, it is evident that politically motivated rape has existed in Zimbabwe and continues to exist. There needs to be a concerted effort by all citizens to ensure that this scourge disappears from both the political and social life of Zimbabwe.

Conclusions

As can be seen from this report, politically motivated rape is now a focus of considerable international and legal attention. Ranging from rape that occurs during frank war through campaigns of ethnic cleansing to the kinds of rape documented in Zimbabwe, politically motivated rape is to be repudiated whenever and wherever it is found. However, it will be no easy task to change the seemingly inevitable consequences of political disturbances – that women will always be vulnerable in such situations – into situations where women are protected and immune. Of course, no person, male or female should ever be subjected to torture or cruel and inhuman or degrading treatment, but there is the essential difference between men and women, and this is the fact that women, through their critical role in holding together families and communities, are fundamental to the development and maintenance of “social capital”.

Thus, it is crucial that there are serious protections and safeguards for women in times of political disturbance: it was for this very reason that the international community developed the Right to Protect [R2P] in 2004 and was endorsed by the General Assembly of the United Nations in September 2005⁶⁰. Whilst there remains considerable dispute about when R2P can be evoked, it is also the case that women will continue to suffer until there is acceptance that women and their children must be foremost in the minds of those monitoring complex emergencies such as Zimbabwe. And of all the evils that can be inflicted upon women and their families, politically motivated rape must be the worst short of death.

Thus, it seems important that the recommendations of the RAU/ZADHR study should be repeated:

- *A multi-sectoral investigation into politically motivated rape, led by the Ministry of Health and Child Welfare, together with the Ministry of Women Affairs, Gender and Community Development, Ministry of Labour and Social Welfare, the Ministry of Home Affairs, and the Ministry of Justice and Legal Affairs, should be undertaken on a large scale countrywide;*
- *There should be no impunity for perpetrators of violence. Cases of rape should be investigated and prosecuted in keeping with the law;*
- *The government of Zimbabwe should ensure that survivors of sexual violence are consulted in any programme of assistance, taking into account that the survivors do not live in a vacuum. Their families should be part of the healing process, including the men as well as the children;*
- *The government of Zimbabwe should domesticate and implement all signed regional and international instruments that protect women from violence;*
- *In light of the fact that elections are likely to be held in 2011, the government of Zimbabwe should ensure that women are protected from politically motivated rape, before, during, and after the election period.*

⁶⁰ See Sibanda. M , *Prevention in the Concept of the Responsibility to Protect*, in RAU (2010), *Sexual Violence against Women, Justice, and the Right to Protection*. Report produced by the Women's Programme of the Research and Advocacy Unit. December 2010. HARARE:RESEARCH & ADVOCACY UNIT. See also RAU (2007), *The responsibility to protect*. HARARE: RESEARCH & ADVOCACY UNIT.