



HOW CAN THE INTERNATIONAL CRIMINAL COURT INFLUENCE NATIONAL DISCOURSE ON SEXUAL VIOLENCE? EARLY INTIMATIONS FROM UGANDA

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This paper explores the International Criminal Court's (ICC) potential to positively influence Uganda's discourse on sexual violence against girls and women (SVAW). This research is in line with the principle of complementarity which holds that the ICC will foster domestic enforcement of human rights in its States Parties.¹ Using a critical feminist lens, I contrast Uganda's treatment of sexual violence to related jurisprudence developed at the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Tribunal for the Former Yugoslavia (ICTY), and in the Rome Statute of the ICC. Next, I examine NGO documents and unstructured interview data to determine the nature of Uganda's current discourse on sexual violence. My analysis reveals women's human rights advocates are using the momentum provided by the ICC to articulate five distinct concerns: (1) the ICC's failure to account for all perpetrators of SVAW, (2) inadequacies of Uganda's legal approach to SVAW, (3) objections to Uganda's social responses to SVAW, (4) shortcomings within Uganda's traditional justice responses to SVAW, and (5) the failure to mandate the provision of compensation to victims of SVAW. In congruence with critical feminist theory, this paper centralizes the experiences of women and girls in Uganda and considers SVAW to be a critical women's human rights issue.

I. INTRODUCTION

Since the 1990s, the elimination of violence against women (VAW) has maintained a place on the international political agenda. The Vienna (1993) and Beijing (1995) declarations are but two examples of the decade's renewed emphasis on the rights enshrined in the Convention on the Elimination of Discrimination Against Women (CEDAW) and the fight against VAW. A testament to this success is the Rome Statute of the International Criminal Court's inclusion of crimes of sexual violence as a war crime and a crime against humanity.² This is particularly significant for women's human rights advocates in the Statute's State Parties seeking to eradicate all forms of sexual violence against women and girls (SVAW). Indeed, precedents set in international law can act as an advocacy tool for those seeking to change domestic practices surrounding human rights abuses.³

In this way, the ICC's indictment of members of the Lord's Resistance Army (LRA) for crimes of sexual violence can influence debate on sexual violence within Uganda. Space has opened for women's human rights advocates to compare the jurisprudence established in international law with Uganda's current laws and practices on SVAW. This paper will sketch out this comparison and will look to women's human rights advocates in Uganda for early intimations of advocacy for the revision of current laws and practices associated with this crime.

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¹ Jamie Mayerfeld, *Who Shall be Judge?: The United States, The International Criminal Court and the Global Enforcement of Human Rights*, 25 HUM. RTS Q. 93, 103 (2003); Antonio Cassese, *The Statute of the International Criminal Court: Some Preliminary Reflections*, 10 EJIL 144, 156 (1999).

² GEOFFREY ROBERTSON, CRIMES AGAINST HUMANITY 393, 436 (2006). In international law, sexual violence constitutes a crime against humanity when the act is carried out to fulfil a political objective and a war crime when armed forces target civilians as part of policy or to demoralize the community.

³ STEVEN RATNER AND JASON ABRAMS, ACCOUNTABILITY FOR HUMAN RIGHTS ATROCITIES IN INTERNATIONAL LAW: BEYOND THE NUREMBERG LEGACY, 2ND EDITION, 182 (2001).