



CONFERENCE CALL FOR PAPERS

INTERNATIONAL LAW AND JUSTICE FOR VICTIMS OF THE GROSS HUMAN RIGHTS VIOLATION OF SEXUAL AND GENDER-BASED VIOLENCE

27 – 29 NOVEMBER 2019 | JOHANNESBURG | SOUTH AFRICA

In 2005, the United Nations General Assembly set the goal to eliminate all forms of —

'violence against women and the girl child, including by ending impunity and by ensuring the protection of civilians, in particular women and the girl child, during and after armed conflicts in accordance with the obligations of States under international humanitarian law and international human rights law' (2005 World Summit Outcome Document).

Three years later, the Security Council adopted a groundbreaking resolution where it recognised that sexual and gender-based violence committed during armed conflict amounts to a threat to international peace and security, and that the Security Council has to keep this in mind when considering its agenda. In the past year, the Nobel Peace Prize was awarded to Denis Mukwege and Nadia Murad, in recognising their efforts in ending the 'use of sexual violence as a weapon of war and armed conflict', a decision widely lauded as giving greater visibility to this gross human rights violation, and paving the way for the achievement of justice for the countless victims.

Sexual and gender-based violence falls within the category of the 'most serious crimes' of concern to the international community, and can amount to genocide, crimes against humanity, and war crimes. This gross human rights violation therefore does not only occur during armed conflict: it can also be committed during a time of peace when carried out as part of a policy, albeit a genocidal policy, or in terms of a state or organisational policy. The first time that sexual violence was described as constituting an act of genocide was in the landmark 1998-*Akayesu* judgment by the International Criminal Tribunal for Rwanda, and within days of this judgment, the Yugoslavian Tribunal also found in *Furundžija* that conflict-related sexual violence in particular will amount to both a war crime and a crime against humanity. The International Criminal Court (ICC) is building on the jurisprudence of the two ad hoc tribunals by increasingly prosecuting perpetrators for sexual and gender-based violence. In its 2014 Policy Paper, the ICC Prosecutor recognised that the investigation and prosecution of these crimes is a priority of the Court, and where sufficient evidence exists, it can constitute an international crime *per se*.

Notwithstanding extensive international condemnation of sexual and gender-based violence and widespread calls for perpetrator accountability and justice for victims, the commission of these horrific crimes is continuing unabated and with near-impunity around the world. In Sub-Saharan and East Africa in particular, sexual and gender-based violence has been reported in a number of conflict-situations, most notably in Burundi, the Central African

Republic, the Democratic Republic of the Congo, Mali, Nigeria, Somalia, and the Darfur region of the Sudan.

International law (treaty law, customary international law, and court jurisprudence) defines sexual and gender-based violence as falling under the category genocide, crimes against humanity, and war crimes in international criminal law. Further, the obligation to prevent and prosecute international crimes is *erga omnes* in nature, which means that it is imposed on a wide range of actors including responsible states, third states and member states of regional and international organisations. Lastly, the most basic rights of victims of international crimes in terms of international law are the rights to a remedy and to reparation; meaning that states have a responsibility under international law to provide victims with a remedy, and to make reparation in certain circumstances.

It is against this backdrop that the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC), a centre of the University of Johannesburg, is hosting a conference to address the central question whether the current international legal framework provides adequate recourse for victims of sexual and gender-based violence. The focus of the conference will be on the achievement of justice for victims based on three main themes, namely accountability (individual criminal prosecution and state responsibility); reparation for victims; and the positive role that international law can play in addressing the culture of denial and social stigma attached to these violations and in restoring the dignity of its victims.

The conference organisers thus welcome papers on one of the following three themes and subthemes:

1. Forms of accountability for sexual and gender-based violence:

- o whether international criminal prosecution achieves justice for victims of sexual and gender-based violence;
- o whether sexual and gender-based violence can be framed as an international crime in itself, and, if so, exploring the possibilities and key challenges of prosecuting these crimes before the ICC;
- o the value of domestic prosecution of international crimes;
- o the possibilities and key challenges in holding states civilly accountable in terms of the principle of international state responsibility; and
- o whether there is value in seeking criminal or civil accountability for historical sexual and gender-based violence committed in transitional societies such as Côte d'Ivoire, Rwanda, Sierra Leone and South Africa.

2. Reparation for victims of sexual and gender-based violence

- o the shape that restitution, compensation, and satisfaction should take when made to victims of sexual and gender-based violence;
- o whether forms of reparation, other than what is recognised in terms of customary international law, can be made to victims;
- o who should be entitled to claim 'victim' reparation;
- o who should make reparation to victims;
- o what role ought international and regional organisations play in making reparation to victims; and
- o the possibilities and key challenges in making reparation for sexual and gender-based violence committed in transitional societies such as Côte d'Ivoire, Rwanda, Sierra Leone and South Africa.

3. International law and the culture of denial and social stigma

- o whether international law adequately addresses the culture of denial and social stigma attached to victims;
- o exploring the impact that social stigma and culture of denialism has had on justice for victims;
- o the future prevention of these crimes, particularly during armed conflict; and
- o possible mechanisms for overcoming social stigma and denial.

The conference organisers are inviting abstracts for papers on any of the above themes to be sent to Mispá Roux (mroux@saifac.org.za) not later than 31 March 2019. Abstracts should be no longer than 1000 words. Successful candidates will be contacted within three weeks of submission and will be required to submit a draft paper two weeks before the date of the conference. The conference will take the form of papers presented during panel discussions structured around the three main themes. Based on the feedback received at the conference and the quality of the work, it is envisaged that participants will be given an opportunity to revise their pieces for publication in an edited collection of chapters on the themes of the project.

The conference is co-organised and supported by:

- SAIFAC (the South African Institute for Advanced Constitutional, Public, Human Rights and International Law), a Centre of the University of Johannesburg;
- SARCIL (the South African Research Chair in International Law); and
- Konrad Adenauer Stiftung – Rule of Law Program for Sub Saharan Africa.

