

The role of the International Criminal Court in fighting impunity for gender based crimes

The Rome Statute of the International Criminal Court (ICC) is a historic development in overcoming the discriminatory and inadequate treatment of sexual violence crimes under international law. Sexual violence has been continuously used as a tactic of war by armed groups to systematically terrorise enemies and devastate community life, with the aim of achieving military or political victory. And yet most sexual violence during conflict has been unaccounted for, because of weak national protection measures and inadequate investigative and judicial procedures. The legal framework of the **ICC contains various provisions designed to ensure the effective investigation and prosecution of sexual and gender-based crimes**, and to protect the interests of victims and witnesses of these crimes. These include in particular four areas:

- 1) recognition of and codification of gender-based crimes as atrocity crimes,
- 2) protection and participation measures for female victims and witnesses during ICC proceedings,
- 3) provisions for reparations for female victims and
- 4) hiring practices requiring gender expertise and aiming for equal gender representation for both judges and Court staff.

The Rome Statute is the first international instrument that encompasses various forms of sexual and gender-based crimes as underlying acts of both crimes against humanity and war crimes committed in international and non-international armed conflicts. These include in particular rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence. In 2014 the Office of the Prosecutor of the ICC issued its **Policy Paper on Sexual and Gender-based crimes** where sexual and gender-based crimes were recognised as amongst the gravest crimes under the Rome Statute and their effective investigation and prosecution was set as one of the key strategies of the Office. The practice of the ICC has demonstrated the importance it places on gender crimes. **Charges for gender-based crimes have been brought in six of the ten Situations under investigation by the ICC**: Uganda, the Democratic Republic of Congo, the Central African Republic (CAR), Darfur, Kenya and Côte d'Ivoire. On 21 March 2016, the ICC issued the **first historical conviction for crimes of sexual violence against Jean- Pierre Bemba**. The Rome Statute and the ICC's Rules of Procedure and Evidence include strong **protective measures for victims and witnesses, especially those who survived gender-based violence**. It is the explicit responsibility of each organ of the ICC to ensure the safety, psychological health, dignity and confidentiality of female victims and witnesses. The Rome Statute established the Victims and Witnesses Unit to provide counselling, protection, and other forms of support for female victims. To avoid re-traumatising sexual violence survivors, the ICC is mandated to carefully protect women who testify in court by requiring the Prosecutor to be sensitive to their interests during investigations and prosecutions. As regards **the reparations for victims**, the Office of the Prosecutor supports a gender -inclusive approach to reparations, taking into account the gender-specific impact on, harm caused to, and suffering of the victims affected by the sexual and gender based crimes for which an individual has been convicted. The Office also supports consultation with the victims, and the carrying out of a gender analysis by an appropriate body in order to determine the most effective and appropriate forms of reparation within a particular community. This approach is intended to **promote transformative reparations that contribute to advancing gender equality**.

Recognition of gender aspect under the Rome Statute in the context of hiring procedures is another significant step in guaranteeing and improving gender justice.

Joining the ICC provides protection to citizens against the gravest crimes and violations of human rights. The domestic implementation of sexual and gender based crimes is a key to ending impunity for these crimes. Therefore, by ratifying and implementing the Rome Statute, the status of protection of sexual crimes is reinforced not only at international level, but also at national level.