

**REPORT FOR THE ASSOCIATION OF THE BAR OF  
THE CITY OF NEW YORK**

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**A WORKSHOP ON THE INVESTIGATION, PROSECUTION AND ADJUDICATION  
OF SEXUAL AND GENDER-BASED CRIMES  
KIGALI, RWANDA  
27-28 NOVEMBER, 2007**

**INTRODUCTION**

On November 27-28, 2007, the Supreme Court of Rwanda sponsored a conference in the capital city of Kigali concerning gender-based violence that was prepared in partnership with the New York City Bar Association's (the "Bar Association") Committee on African Affairs. The conference drew over 100 participants from around the country, representing three sectors of government, namely, the judiciary, the prosecution and law enforcement. The conference was timely since, shortly before it was held, Rwanda joined in the celebration of World Elimination of Violence Against Women Day on November 25, 2007.

Rachel Braunstein, Secretary/Treasurer of the Sex and Law Committee of the Bar Association, presented at the conference and participated in workshop discussions with the Rwandan justice system professionals in attendance. Elizabeth Barad, a member of the Committee on African Affairs, was instrumental in organizing, preparing materials and securing funding for the conference.

This Report gives an overview of gender-based violence and the situation in Rwanda. It also describes the background to formulating the conference, and details the conference agenda and goals, along with the discussions and recommendations of the workshops in which the judges, prosecutors and police participated. Additionally, the Report enumerates the steps taken to implement the conference's objectives and anticipated actions to further these goals.

**GENERAL RECOMMENDATIONS**

Although the recommendations from the workshops are described in detail below, the following is a précis:

- Victims should be empowered to report gender-based violence and to participate in court proceedings, and should be protected during the judicial process;
- There should be cooperation between the judiciary, prosecutors and police;
- The police and prosecutors should obtain and preserve evidence and collaborate with experts and victims;
- The justice sector should take special measures with regard to minor victims of gender-based violence, and hold *in camera* hearings in these cases;

- There should be specialized courts for adjudicating gender-based violence cases, and the justice sector should be trained to treat victims sensitively;
- The justice system should collaborate with community leaders and non-governmental organizations to combat gender-based violence;
- Rwanda should allocate resources for the adjudication of gender-based violence cases and the provision of social services to victims;
- Rwanda should develop a reporting system for judicial decisions in gender-based violence cases, thereby creating precedents for and establishing uniformity in such judgments; and
- Rwanda should further its commitment to gender equity and women's rights.

### **GENDER-BASED VIOLENCE**

Violence against women, as established in the United Nations Declaration on the Elimination of Violence Against Women, is “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>1</sup> This definition is echoed in The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa,<sup>2</sup> to which Rwanda is a signatory. Although “gender” applies to both men and women, gender-based violence crimes are primarily committed against women.

Gender-based violence against women is one of the most widespread human rights abuses and public health problems in the world today, with long term consequences for victims' physical and mental health and for society in general. It affects the family and children, and contributes to the scourge of HIV/AIDS. It also affects the economy because the significant number of women who contribute to agricultural and small business revenue are unable to work when they suffer from physical or emotional injury.

Most violent crimes against women are committed by intimate or known partners, and are usually committed in the home; this type of crime is referred to as domestic violence. Domestic violence is perpetrated by someone who is or was involved in an intimate relationship with the victim, and often constitutes serious criminal activity. The pattern of coercive behaviors comprising domestic violence may include some or all of the following: physical abuse, psychological abuse, sexual assault, marital rape, social isolation, degradation, intimidation, and

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<sup>1</sup> G.A. Res. 48/104, art. 1 (Dec. 20, 1993).

<sup>2</sup> The Protocol defines violence against women as “all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time.” Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Art. 1, July 11, 2003.

economic abuse. Perpetrators of domestic violence commit these acts by establishing and maintaining power and control over victims. Children are adversely affected by witnessing domestic violence and its aftermath – for example, an injured parent or destroyed home or property – or just by living in a home infected with domestic violence. The cost to the community in terms of lost lives and resources is a constant reminder that domestic violence is not a private family matter, but is instead a global problem demanding attention from law enforcement and the justice system.

Gender-based violence in Rwanda has increased without a concomitant rise in the prosecution of perpetrators. This has been documented by Human Rights Watch,<sup>3</sup> which has indicated that “domestic and sexual violence have increased significantly since” the genocide.<sup>4</sup> Amnesty International also reported a higher incidence of gender-based crimes during this period.<sup>5</sup> (During the November 2007 conference, the Chief Justice of the Rwanda Supreme Court, Hon. Aloysie Cyanzayire, confirmed the increase in sexual violence, stating that the figures for rape cases in 2007 were larger by more than 1,000 cases than in previous years.)

However, Rwanda has made substantial efforts to eradicate gender-based violence and advance women’s rights. It has promoted gender equality in its Constitution by mandating, among other things, that “women are granted at least thirty per cent of posts in decision making organs.”<sup>6</sup> In fact, women comprise 48.8% of the Chamber of Deputies. A law relating to matrimonial issues and succession rights was passed enabling female children to inherit land,<sup>7</sup> and the Ministry of Gender promoted a Comprehensive Action Plan for the Elimination of all Discrimination Against Women.<sup>8</sup> Most significantly, the Gender-Based Violence Bill, which was introduced in Parliament in August 2006, defines gender-based violence,<sup>9</sup> makes it a ground for divorce, and criminalizes marital rape and domestic violence (both for the first time), and sexual harassment. The Bill also provides that women are entitled to a three-month maternity leave from employment.

## **BACKGROUND TO THE CONFERENCE**

The impetus for the workshop stemmed from a review in 2003 of the relevant Rwandan laws in which there were no penalties for marital rape or domestic violence; the adultery provisions were harsher for women than men; and there were no confidentiality protections for women in gender-based violence cases, no redaction of victims’ names in judgments, no

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<sup>3</sup> *Shattered Lives: Sexual Violence During the Rwandan Genocide and its Aftermath* (Human Rights Watch/Africa 1996).

<sup>4</sup> *Ibid.*, page 2, footnote 5.

<sup>5</sup> *Rwanda: “Marked for Death” – Rape Survivors Living with HIV/AIDS in Rwanda* (Amnesty International 2004).

<sup>6</sup> Rwanda Const., Chapter 2, Art. 9, Section 4 (2003).

<sup>7</sup> Law No 22/99 of 12/11/99 Regarding Matrimonial Regimes, Liberalities and Successions, Chapter II, Section I.

<sup>8</sup> The Action Plan of 1999 provided a roadmap, according to the Government, of the next steps in the legal reform process for promoting women’s legal status in Rwanda.

<sup>9</sup> The Bill defines gender-based violence as “any act resulting in bodily, psychological, sexual or economic harm against an individual committed solely because the individual is a woman or a man. Such an act results in a deprivation of liberty and harm. Gender-based violence may be committed either within or outside of the household.” Chapter One, Article 2, section 1.

provisions for *in camera* hearings and no rape shield laws. Although the Penal Code prohibited rape and sexual torture, the lack of legal definitions of these acts led to increased disparity among judgments relating to gender-based crimes. It was evident that laws needed to be changed, but also that the justice sector's more sensitive treatment of victims and greater uniformity in adjudicating gender-violence cases were required.

These legal deficiencies, as well as issues relating to gender-based violence in Rwanda were discussed in interviews conducted by Elizabeth Barad in Rwanda between 2003 and 2005 with, among others, parliamentarians, officials at the Ministry of Gender, the head of the Justice section of AVEGA (the association of genocide widows), women lawyers, the President of the Forum of Rwandan Women Parliamentarians (FFRP), a Program Specialist at the UN Development Fund for Women (UNIFEM), a Senior Adviser at Human Rights Watch, the Director of the U.S. Agency for International Development, and the Deputy Police Commissioner of Rwanda.

During a conference on gender-based violence held in Rwanda in October of 2005, Barad proposed a gender-sensitivity training for the Rwandan police, prosecutors and judges based on the view that prosecution of perpetrators could be enhanced and gender-based violence reduced with a more sensitive treatment of victims of such crimes. The October 2005 conference was organized by the President of the FFRP who asked Barad to compile a set of best legal practices related to sexual-violence crimes and to deliver a presentation on this topic at the conference.

In August 2006, the Rwandan Supreme Court's Secretary General, Anne Gahongayire, and the Inspector General, Odette Morara, agreed to hold a workshop for the justice sector to sensitize them in dealing with victims of gender-based violence. On behalf of the Supreme Court, Gahongayire established a partnership with the Bar Association's Committee on African Affairs to prepare the workshop. UNIFEM graciously donated the major portion of the funding for the workshop along with the Norwegian People's Aid and the Rwandan Attorney General's Office. With the assistance of the Bar Association's Vance Center for International Justice, the Committee on African Affairs created a training manual for the workshop with model checklists to guide judges, prosecutors and police in handling gender-based violence crimes sensitively. Pierre St. Hilaire, Esq. of the U.S. Department of Justice assisted in the translation of the manual to French and the expedited shipping of it to Rwanda.

With the contributions of many and the commitment of the Secretary General of the Supreme Court, the well-attended workshop was held in November 2007 in Kigali, near the office of the Prime Minister.

### **THE CONFERENCE AGENDA**

Key individuals from Rwanda's government and non-profit sectors made presentations at the two-day conference. In her opening speech, Josephine Odera, Director of UNIFEM, emphasized that Rwanda must maintain its "zero tolerance" policy on gender-based violence. Additionally, Aquiline Niwemfura, a representative of the Ministry of Gender and Family Promotion, and the Hon. Chief Justice Aloysie Cyanzayire spoke about Rwanda's efforts to end gender-based violence. The Hon. Emily Kayitesi, Supreme Court Judge, moderated a panel

presentation featuring Kaari B. Murungi, Director of the Urgent Action Fund – Kenya, who spoke about the International Criminal Tribunal of Rwanda and advocacy around gender-based violence in Kenya, and Susan Preston, Fulbright Professor of Law and Research Fellow, University of the Free State, South Africa, who focused on issues relating to the investigation and prosecution of gender-based violence crimes involving children. Additionally, Cynthia DeGabrielle, an attorney with the United States Department of Justice, presented some statistics relating to gender-based violence crimes in the United States. Rachel Braunstein described her work on violence against women and introduced the model training manuals.

As mentioned above, during the second day of the conference, the judges, prosecutors and police officers in attendance participated in workshops in which they discussed ways to tailor the model training manuals to reflect Rwanda's legal and cultural realities and the needs of its population. (Recommendations for revisions to the manuals and legal system reform that were raised at the conference are discussed in more detail below.) The Hon. Sam Rugege, the Deputy Chief Justice of the Rwanda Supreme Court, provided closing remarks for the conference in which he emphasized the importance of taking a multi-faceted, collaborative approach to combating gender-based violence, and praised the workshops and revisions to the training manuals as exemplary of this approach.

### **THE CONFERENCE OBJECTIVES**

The goals of the conference were as follows: (i) to bring attention to the important issue of gender-based violence; (ii) to increase the gender-sensitivity of those in the justice system who process gender-based violence cases; (iii) to create policies and procedures to ensure that victims are empowered to report gender-based violence and participate in the court proceedings relating to these crimes; and (iv) to establish uniform practices in treating victims of sexual violence and handling their legal cases. Presentations by international experts and advocates and dialogue among colleagues increased the participants' knowledge about gender-based violence.

The foremost objective of the conference was to produce a bench book for the judiciary and checklists for prosecutors and law enforcement concerning gender-based violence, based on model training manuals that were distributed at the workshop. On the second day of the conference, participants from the three government sectors formed working groups to discuss the recommendations set forth in the model training manuals and adapt them to account for Rwanda's practices and available resources. With information collected during the November conference, the next step in this ongoing project was to incorporate the recommendations and revise the proposed bench book and checklists, and disseminate the finalized training documents to judges, prosecutors and police throughout Rwanda. The application of these checklists will create uniformity throughout the country in treating victims of gender-based violence and enhance the justice system's response to these crimes.

## **DISCUSSION AND RECOMMENDATIONS**

During the conference, participants discussed the following key issues and themes and considered the following recommendations for addressing gender-based violence.<sup>10</sup>

### **A. Collaborative Approach to Gender-Based Violence**

#### 1. Recommendation:

*The judiciary, prosecutors, and police in Rwanda should adopt a cooperative approach to gender-based violence.*

#### 2. Discussion:

The conference participants agreed on the importance of a cooperative approach to gender-based violence. Improving cooperation between the judiciary, the prosecutor's office, and law enforcement will bolster the ability of each sector to meet the challenge of responding to gender-based violence.<sup>11</sup> Cooperation is especially key to the extent that resource limitations for any one sector pose challenges to addressing the problem. These three groups should devote their collective attention to the issue of gender-based violence on national and local levels. Police and prosecutors should work together to enhance the participation of victims of gender-based violence in criminal investigations and court proceedings. These sectors should prioritize gender-based violence cases and efficiently transition the case files from the investigative to the prosecutorial phases of the matters. Furthermore, in the investigation and adjudication of gender-based violence crimes, police and prosecutors should work together to ensure that evidence – whether physical or testimonial – is preserved for use in court proceedings.

Justice system personnel should collaborate with professionals in other disciplines. Collaborating with physicians and other medical professionals, social workers and mental health professionals, will be key to adjudicating crimes of gender-based violence. Medical professionals can provide crucial support in the investigative phase of a case by examining the victim. Any evidence obtained from medical examinations can be used at trial by the prosecution. Medical professionals should be called as witnesses to provide expert testimony at trial when appropriate. The justice system should also consider the role of social services providers in supporting victims and encouraging them to participate in their cases, including as witnesses at trial. In addition to aiding the process, outside professionals may help to educate and increase the awareness of justice system personnel regarding gender-based violence. For example, medical professionals could educate judges, prosecutors and law enforcement on health consequences for victims of violence against women and social workers could provide

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<sup>10</sup> The following description of discussions and recommendations represents the impressions of Rachel Braunstein, who participated in the November 2007 conference in Kigali, Rwanda, and not necessarily the views of any entity or organization. The Rwandan professionals who participated in the conference generated the recommendations described herein, and not the authors or the New York City Bar Association's Committee on African Affairs or Committee on Sex and Law.

<sup>11</sup> To be sure, the international facilitators stressed the importance of an independent judiciary to a fair judicial system.

information about the socio-cultural dynamics of violence against women and children. This would help sensitize the justice system professionals to victims with whom they interact.

## **B. Victim Protection and Empowerment**

### 1. Recommendation:

*Victims of gender-based violence should be empowered to report incidents of abuse and to participate in court proceedings, while at the same time being protected from re-traumatization through the judicial process.*

### 2. Discussion:

As an initial matter, the conference participants discussed the importance of involving victims in the adjudication of gender-based violence cases as paramount to combating this problem. Yet, according to some participants, there is a “culture of silence” in Rwanda around the issue of violence against women and children that may deter victims from coming forward. Victims’ shame and fear of retribution deter them from reporting incidents of abuse to law enforcement. Even for those victims who do report violence, many fear testifying against offenders. This, in turn, creates obstacles to prosecuting gender-based violence crimes.

In order to address the safety concerns that may prevent victims from reporting abuse, participants considered establishing mechanisms to protect women from their abusers. A primary concern was maintaining confidentiality around court proceedings involving gender-based violence crimes. In particular, participants considered the recommendation that a victim’s name not be listed on the register of cases pending at a courthouse; that a victim’s name be redacted from court documents; and that the media be discouraged from publicizing a victim’s name in reporting on the crime. The use of *in camera* hearings in cases involving gender-based violence may also encourage victims to testify more openly and help protect them from further abuse. Participants also discussed establishing a “safe space” or waiting area within courthouses designated for victims of gender-based violence who are participating in court proceedings. To be sure, legal system personnel must ensure that victims are aware of available protections once implemented.

With regard to victims participating in the prosecution, the conference attendees recognized that victims’ testimony may constitute powerful evidence against the accused. In order to empower victims to participate in the legal process, they should be supported by social service agents, in particular, social workers or counselors from local non-governmental organizations (“NGOs”), acting as “victim’s advocates.” Educating women and children about their rights and the legal process will help eradicate shame associated with being a victim.

## C. Evidentiary Issues

### 1. Recommendation:

*Prosecutors and law enforcement should make efforts to obtain and preserve diverse types of demonstrative and physical evidence, along with testimonial evidence, for use in prosecuting gender-based violence crimes and, to that end, enhance collaboration with experts and victims.*

### 2. Discussion:

The prosecutors and police officers in attendance highlighted the challenges in Rwanda in obtaining evidence sufficient to successfully prosecute many gender-based violence crimes. A concern raised repeatedly was the availability of resources to improve programs and practices. For example, the participants expressed concern that their offices lack the appropriate technology (which is more readily available in developed nations) for gathering and preserving evidence, such as technology that would assist in obtaining and processing DNA evidence for use in sexual assault or rape cases. This affects the ability of Rwandan prosecutors to prosecute meaningfully a crime of gender-based violence. The international facilitators recommended considering an array of demonstrative and physical evidence, such as photographs and articles of clothing, in adjudicating a crime of gender-based violence. Further, the international facilitators recommended that involving victims in the process of collecting physical and demonstrative evidence may enhance the success of prosecutions.

The discussion highlighted the importance of testimonial evidence and, in particular, oral testimony. The Rwandan participants explained that the current practice in that country is to use written statements from law enforcement and physicians and other experts. The international facilitators suggested that Rwanda may benefit from adopting the U.S. common law model of using oral testimony as “best evidence,” as opposed to only relying on written statements.<sup>12</sup> The police officer that is the first to respond to the scene of a crime should be called as a witness at trial, as he or she likely possesses valuable information about the crime. Moreover, the investigative officer who works with a victim in obtaining information about the crime should testify to his or her observations at trial (if necessary, the officer should be subpoenaed to provide in-court testimony). Similarly, the Rwandan legal system should emphasize the value of oral testimony at trial from doctors and other medical professionals. Participants raised the concern that doctors’ written statements may be of limited value in a prosecution to the extent that they contain terminology with which advocates and judges may not be familiar. In order to maximize the usefulness of this testimony, the international facilitators suggested that a physician’s conclusions be elucidated or challenged through direct- and cross-examination. Indeed, with advances in medical technology and the increasing availability of such tools as rape kits, medical evidence will be central to the adjudication of gender-based violence and, with that, the input of medical professionals even more important.

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<sup>12</sup> The Gender-Based Violence Bill provides that: “[n]otwithstanding other legal provisions, evidence or testimony relating to gender-based violence shall be produced in the court by any person who has such information.” See Art. 13 (translated from French by author).



Additionally, the participants agreed to prioritize the prosecution of gender-based violence crimes. Central to this part of the discussion was the efficiency of the system currently in place for processing a case file in a gender-based violence crime and the length of time during which a case file remains at each stage of the judicial process – from first responder and investigative law enforcement, to the prosecutor’s office, and ultimately to the courts. The participants emphasized that each sector must be given sufficient time to prepare the case file for transfer, while at the same time expediting gender-based violence cases in which preserving the available evidence is crucial. Another reason to expedite gender-based violence prosecutions is because victims may be discouraged from participating in prosecutions if they are plagued by delay.

#### **D. Special Problems Relating to Crimes Against Minors**

1. Recommendation:

*Judges, prosecutors and law enforcement officers should take special measures when dealing with minor victims of gender-based violence crimes and judges should considering holding in camera hearings in these cases.*

2. Discussion:

Special concerns are raised where the victim of a gender-based violence crime is a minor. Professionals in the Rwandan judicial system must remain sensitive to the unique psychological issues faced by these victims because of their youth. Sensitivity is particularly important in the context of victim interviews. Investigators and prosecutors must be trained in the appropriate manner in which to interview children about the crimes committed against them. It is critical to create an environment for interviewing child victims that makes them comfortable and encourages them to be open with interviewers. The international facilitators recommended that the environment for conducting interviews be child-friendly – for example, with colorful artwork on the walls – and safe. The desire to gather information should be balanced against the need to protect the confidentiality of the child’s report to investigators and police. To that end, victims’ family members should be asked to support the investigation or prosecution only when appropriate.<sup>13</sup> Of course, where a child is victimized by her or his family member, police and investigators must be even more sensitive to the confidentiality of the child’s report so as to avoid placing the child in danger. Judges presiding over gender-based violence cases involving minor victims should consider holding *in camera* hearings in order to protect victims from being re-traumatized when confronting the perpetrator in court and to encourage the victim to testify openly.

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<sup>13</sup> The Gender-based Violence Bill provides that “[t]estimonies produced by children and other people living in the household ... shall be taken into account” in adjudications of gender-based violence crimes. See Art. 13.

## **E. Creating Specialized Courts for Gender-Based Violence Cases**

### 1. Recommendation:

*Rwanda should create specialized courts staffed by judges and court personnel who are trained to handle gender-based violence cases and who will help ensure victims' safety.*

### 2. Discussion:

Currently, Rwanda does not have courts specially dedicated to adjudicating gender-based violence crimes. The international facilitators noted that other jurisdictions have created specialized courts for gender-based violence and related crimes. Rachel Braunstein noted, for example, that New York State has established Integrated Domestic Violence courts, which are premised on the model of “one family – one judge” and serve families that have criminal, family law and matrimonial matters that involve domestic violence pending simultaneously. These specialized courts are designed to ensure more uniform judicial decision-making, to reduce the number of court appearances for victims and their families, and to facilitate the provision of services to victims by court professionals trained in gender-based violence issues. Kaari B. Murungi pointed out that Kenya has created specialized courts dedicated to handling cases involving children who are victims of crimes.

Rwanda should consider creating specialized courts for the adjudication of gender-based violence cases. Even if Rwanda were to postpone initiating this project, conference attendees agreed that in order for these cases to be handled appropriately, judges, prosecutors and police must be trained in the relevant substantive law and cultural issues and sensitized to issues faced by victims.

## **F. Collaboration With Members of The Community**

### 1. Recommendation:

*The Rwandan justice system should collaborate with leaders in the community and local non-governmental organizations to combat gender-based violence.*

### 2. Discussion:

Participants agreed that educating individuals about their right to be free from gender-based violence is integral to ending this form of aggression in Rwandan society. One way to do this is by collaborating with schools and local churches to develop educational programs and launch awareness campaigns.

Non-governmental organizations in Rwanda are dedicated to providing crucial supportive services to victims of gender-based violence. Participants indicated that the legal system should collaborate with these NGOs in order to leverage services to victims. They emphasized the importance of dialogue among concerned professionals in the justice system and those in NGOs/civil society around providing social services to victims. One suggestion for focusing this

dialogue and maximizing its effectiveness is to have Rwandan NGOs adopt performance standards by which to measure and, ultimately, enhance, law enforcement's response to gender-based violence.

Participants also acknowledged the importance of collaborating with health professionals who interact with victims of gender-based violence – either when victims first seek medical care or when they seek treatment for the often long-lasting effects of the violence they have suffered. The link between violence against women and children and the prevalence of HIV/AIDS in Rwanda was a significant concern raised by conference participants. In her keynote address at the conference, the Hon. Aloysie Cyanzayire, Chief Justice of the Rwanda Supreme Court, discussed the harmful myth perpetuated by some in Rwanda that raping a child will cure the perpetrator of HIV/AIDS. This highlights the role of culture in gender-based violence and underscores the critical role of education in combating this problem.

## **G. Allocating Resources to Combat Gender-Based Violence**

### **1. Recommendation:**

*The Rwandan justice system should allocate resources to adjudicating gender-based violence cases and facilitating the provision of social services to crime victims.*

### **2. Discussion:**

Rwanda should continue to dedicate resources to combating gender-based violence and focusing on capacity-building within government leadership initiatives. Participants discussed some particular areas that need improvement. For example, resources should be invested to support police officers who would be the first to respond to the scene of a crime. The participants raised a concern that, in some instances, police officers do not have enough gas to power their vehicles to the scene of a crime. This must change; a timely and appropriate police response to crime complaints is essential to encouraging victims to report incidents. Another area to which resources should be dedicated, as discussed above, is training programs on new legal developments and related issues for judges, prosecutors and police officers who handle gender-based violence issues. Only when judges, prosecutors and police officers are well-trained on gender-based violence will they be able to provide leadership in promoting awareness throughout Rwanda on this issue.

Additional resources should be allocated to the development of social service programs to which victims can be referred through the justice system. It is critical to secure mental health counseling and medical services for victims. Rwanda is already showing promising developments in this area. For example, participants reported that all rape victims in the country will be given free medical exams and medication to stop the transmission of HIV. Non-governmental organizations such as AVEGA, a group formed by 50 widows who survived the genocide and that is dedicated to assisting other women widowed during the genocide, along with orphans and children who have become heads-of-household. It will be necessary for the justice system to collaborate with such organizations to secure services for victims.

The participants also raised the possibility of committing resources to provide monetary compensation to victims of gender-based violence for their physical and psychological injuries.

## **H. Uniformity in Judicial Decisions and Sentencing Determinations**

### 1. Recommendation:

*The Rwandan judicial system should develop a reporting system to catalogue judicial decisions in gender-based violence cases in order to generate precedent and, ultimately, to create uniformity in judicial decision-making.*

### 2. Discussion:

The participants discussed the benefits of and challenges to creating uniformity with respect to judicial decisions and criminal sentencing determinations in gender-based violence cases. The judges in attendance recognized that adhering to precedent would create uniformity in judicial decisions. Yet because Rwanda does not have a centralized reporting system for judicial opinions or sentencing determinations, judges may not be aware of colleagues' decisions about particular areas of law.<sup>14</sup> Although there was some suggestion that higher level courts may already share information about case resolutions, others emphasized the significance of uniform decision-making by Rwanda's lower courts, as not all of their determinations are challenged in appellate courts.<sup>15</sup> Other African nations have established a system of law reporting and precedent. For example, Kaari B. Murungi explained that until 2002, when a private organization began collecting legal decisions from the appellate and high courts, there was no centralized law reporting system in Kenya.

## **I. Promoting Gender Equity Through Legal and Cultural Reform**

### 1. Recommendation:

*Rwanda should further its commitment to promoting gender equity as demonstrated by its gender-sensitive Constitution and the Gender-Based Violence Bill introduced in the Parliament.*

### 2. Discussion:

Since the 1994 genocide, Rwanda has witnessed some important legal and cultural changes relating to women's rights. This is evidenced in part by Rwanda's 2003 constitution, which highlights gender equity. For example, the Constitution provides that Rwanda is "[c]ommitted to ensuring equal rights between Rwandans and between women and men without prejudice to the principles of gender equality..."<sup>16</sup> Additionally, the Constitution states that

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<sup>14</sup> Participants explained that Rwanda has a civil law system. Over time, however, Rwanda's civil law system has incorporated some aspects of a common law system, leading to the creation of what some participants described as a "hybrid" legal system.

<sup>15</sup> Rwanda's judicial system is comprised of the following courts (from highest to lowest level): Supreme Court; High Courts of the Republic; Provincial Courts; District Courts; and mediation committees. See <http://www.state.gov/r/pa/ei/bgn/2861.htm> (last visited March 12, 2008).

<sup>16</sup> Rwanda Const. Preamble, Sec. 10.

Rwanda is dedicated to the “equality of all Rwandans and between women and men reflected by ensuring that women are granted at least thirty per cent of posts in decision making organs....”<sup>17</sup> Another example of a legal development in Rwanda relating to gender equity is the Gender-Based Violence Bill, which is discussed above.

Despite these significant achievements, cultural perceptions around gender and women’s rights must progress in order to ensure the full and equal participation in society of all Rwandan women. The harmful myth, as pointed out by the Hon. Chief Justice Cyanzayire in her keynote speech, that raping a child will cure the perpetrator of HIV/AIDS must be undermined by education. Additionally, as underscored by the police officers who attended the conference, domestic violence should not be seen as a “family problem,” and therefore beyond the reach of legal redress; rather, domestic violence should be treated as a serious act that may, in some instances, even lead to murder. These examples highlight the importance of analyzing cultural perceptions around gender at the same time as new laws and practices are being adopted. Progressive laws and legal reform, along with significant national-level attention to the issue in Rwanda, will help reform harmful cultural misperceptions and eradicate gender-based violence.

### **IMPLEMENTATION OF REFORM MEASURES**

A leading objective of the workshop was to establish uniform practices that are tailored to the situation in Rwanda in handling gender-based violence cases. In order to implement this goal, the model bench book and checklists for the police and prosecutors were revised to reflect the recommendations from the conference. The amended checklists were then sent to the Deputy Police Commissioner, the Attorney General’s office and the Secretary General of the Supreme Court. The Deputy Police Commissioner, Mary Gahonzire, distributed copies of the police checklist to the police chiefs in each province. (Although these checklists are in English, which is not the native language of many Rwandans,<sup>18</sup> Gahonzire is English-speaking.) According to the Secretary General of the Supreme Court, Anne Gahongayire, the revised bench book and the prosecutor’s checklist will be translated into Kinyarwanda and distributed to the heads of each justice sector in Rwanda’s four provinces. The revised model checklists were also sent to AVEGA’s offices in the eastern and western provinces of Rwanda and, with Gahongayire’s authorization, will be distributed to police, prosecutors and judges in those regions. The checklists will also be presented at meetings held by AVEGA both in Kigali and the provinces to educate its members about the sensitive treatment of victims by the justice system.

Once the checklists and bench book are put to use, Elizabeth Barad and, possibly, another international lawyer, will visit Rwanda to assess their effectiveness and gather any further recommendations for change. During the assessment trip, some of the recommended reforms for protecting victims of sexual violence can be implemented or at least initiated, such as creating “safe spaces” or waiting areas for victims in courthouses, redacting victims’ names from judgments, encouraging the judiciary to hold *in camera* hearings and arranging for the use of victim’s advocates. Although implementing some of these measures, such as a specialized court

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<sup>17</sup> *Id.* at Chapter 2, Art. 9, Sec. 4.

<sup>18</sup> Rwanda’s three official languages are English, French and Kinyarwanda. All Rwandans speak Kinyarwanda. Although some Rwandans are Francophone, many Rwandans from the Ugandan diaspora speak English.

for gender-based violence cases or a rape shield law, requires legislative action, others can be effectuated without the passage of new laws. For example, the Secretary General of the Supreme Court has indicated that there is available space in the Court to accommodate a “safe space” for victims. Barad will investigate whether this can also be accomplished in Rwanda’s provincial courts. Similarly, she intends to explore the possibilities of courts redacting victims’ names and holding *in camera* hearings as well as providing victim’s advocates, such as social workers from AVEGA, to accompany victims to court. Significantly, Rwanda appears to be willing to make these changes.

The process of implementing the above reforms will be monitored through communication by e-mail and telephone with Rwandan leaders. Given Rwanda’s clear commitment to the eradication of gender-based violence, as evidenced by the level of participation at the November conference, the justice system undoubtedly will make every effort to effectuate the sensitive treatment of victims of sexual violence.

## **CONCLUSION**

The conference produced interesting dialogue among Rwandan colleagues and international advocates about the current state of Rwanda’s laws and legal system, and raised important considerations for reform around issues of gender-based violence. The participants identified measures to meet the immediate goals of increasing awareness and prosecution of gender-based violence crimes, for example, taking steps to empower women to report and pursue claims of violence.<sup>19</sup>

With enhanced self-esteem, Rwandan women will set examples in their families, and become more productive and effective economically, socially and politically. Participants also recognized the advantages of increasing the number of female-led gender desks and sex crimes units within the police department and the prosecutor’s office, and establishing specialized chambers in the court to handle gender-based violence cases. By making efforts to sensitively investigate and prosecute gender-based violence crimes, Rwandan legal system professionals will implement the provisions of the Gender-Based Violence Bill and help to fulfill its aims.

Ultimately, efforts to bring attention to the issue of gender-based violence both on a broad level within the government and the legal system, and in the homes and communities of Rwanda, will reduce violence for present and future generations and lead to changes in the perception of women’s status and the elimination of gender discrimination. Enhancing the prosecution of rape in Rwanda and reducing gender-based violence overall will also significantly decrease the incidence of HIV/AIDS among girls and women. The time is now to address these issues and Rwanda has demonstrated its commitment to eradicating gender-based violence.

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<sup>19</sup> All of the aforesaid recommendations are products of the workshop, and not of the Committee on African Affairs or the Committee on Sex and Law of the Bar Association or the authors.