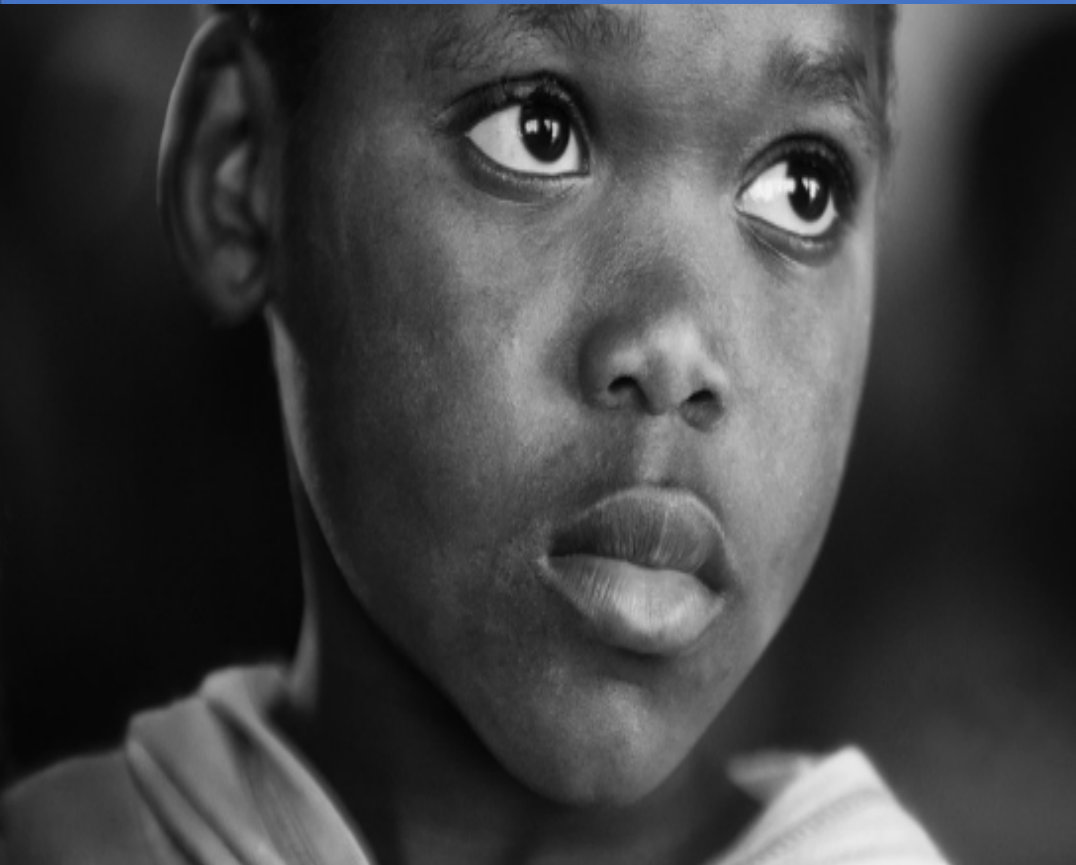


SEXUAL VIOLENCE: THE MALE PERSPECTIVE

31 January 2018, The Hague, The Netherlands



1st Annual Conference
2018 Conference Report

Conference Report

‘Sexual Violence: The Male Perspective’

**Organised by Centre for African Justice, Peace and Human Rights
(CAJPHR) at The Hague University of Applied Sciences**

The Hague, The Netherlands | 31 January 2018



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Foreword

Most domestic jurisdictions have gender specific definitions of rape arising from assumptions, prejudices and stereotypes surrounding sexual violence against men. The number of silenced male victims of sexual assault in peace time, in conflict and post conflict is reportedly increasing and it has not long ago transpired that sexual violence against men and boys is utilised by perpetrators intentionally as a tool of war.

As part of its contributions to the recent efforts to include men and boys in the conceptualisation of sexual violence, Centre for African Justice, Peace and Human Rights (CAJPHR) organised its first Annual Conference on the 31st of January 2018 aimed at discussing the phenomenon of sexual violence against the male gender and how to subvert stereotypical ideologies to garner recognition and acknowledgment of male victimhood in law and society. Prosecuting sexual violence against the male gender in international as well as domestic courts was also discussed. Stereotypical ideologies affecting male victims across the African continent were shared as the Ambassadors presented an analysis of selected African countries and the corresponding response of the different societies to the menace.

The symposium attracted a mixed audience, varying from Judges and legal practitioners from the ICC and the International Criminal Tribunals (ICTs), representatives from Embassies, members of the public, NGOs with a focus on gender issues in Africa, academics and legal researchers, representatives of Christian and Muslim religious organisations, and students.

OPENING ADDRESS

Ms. Adesola Adoboyejo, Trial Lawyer, ICC

In her opening remarks, Ms. Adesola Adeboyejo emphasised that, often, male victims are removed from the definition of acts amounting to sexual violence, whilst female victims of sexual violence are recognised. As a consequence, this has resulted in a tremendous gender gap and marginalisation that cannot be emphasised enough. Sexual violence against men and boys transcends cultures, geographical regions and time periods. It still constitutes an ongoing feature underlying many ongoing and recent conflicts on the African continent. Despite the growing number of male victims of rape and other forms of sexual violence, the actual scope and nature of sexual violence perpetrated against men and boys remains largely obscured.

We lack the knowledge of psycho-social consequences of sexual violence to male victims and the many roles that sexual violence against the male gender could play in the perpetuation of more violence, including during armed conflict or as retaliatory acts. It is unclear whether untreated sexual violence against males can lead to domestic violence, increased sexual violence against men and boys in our society, increased acts of violence against women and children, sexual violence against refugees, IDPs, child soldiers and other groups during and post conflict.



To date, the silence surrounding sexual violence against women has been broken to a large extent in most parts of the world. On the contrary, the effective legislation, access to justice and redress for sexual violence against the male gender continues unacknowledged or unenforced. It should be noted that untreated sexual violence against men begets trauma, trauma not treated begets violence, violence begets conflict and violence in society.

Therefore, a unified international effort is needed, such as this Symposium, to break the silence surrounding sexual violence against the male gender and to suggest effective measures of justice and redress in international and domestic jurisdictions.

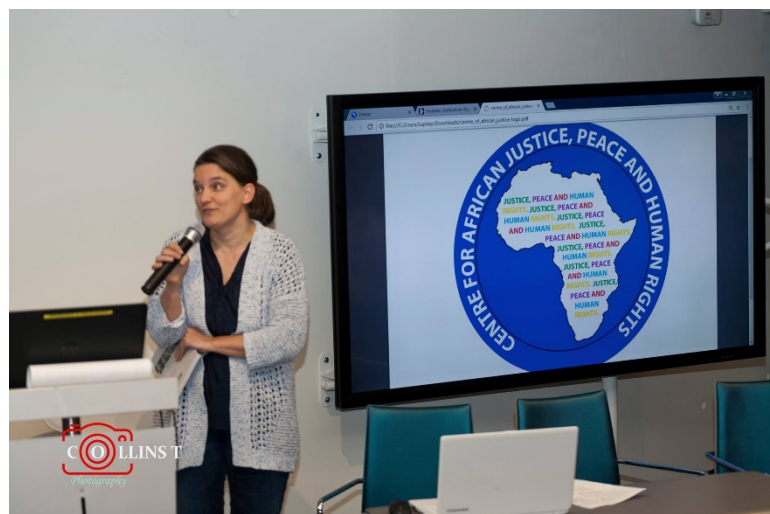
Following the opening remarks, an award ceremony took place to award nominees who volunteered and made an impact in the area of peace and human rights during the Peace Campaign organised by CAJPHR in 2017.

TESTIMONY OF FAUSTIN KAYIHURA, MALE SURVIVOR OF SEXUAL VIOLENCE IN THE RWANDAN GENOCIDE

Dr. Anne-Marie de Brouwer

To illustrate the complexity of sexual violence against men occurring in armed conflict, Dr. Anne-Marie de Brouwer presented the testimony of Faustin Kayihura, a male survivor of rape during the Rwandan genocide in 1994. Along with his brother, he was the only survivor from his family. He was hiding when a Hutu woman found him and locked him in her house. He was a thirteen-year-old (Tutsi) boy when he was subjected to genocidal sexual violence by the woman who was physically much stronger than him. Over three days, the man was raped by the woman several times a day, threatening to call the Interahamwe militia who would kill him if he did not cooperate. After the three days, he was fortunately able to escape.

His testimonial appeared in the book “The Men Who Killed Me: Rwandan Survivors of Sexual Violence” and was groundbreaking as there were only very few men in Rwanda who chose to speak out about the sexual violence endured in the genocide. His narrative triggered many other men to open up and share their own stories of genocidal rape.



The general assumption is that it is only men who rape women because they are usually considered superior, stronger and more powerful. Faustin’s testimony dismantles this assumption. The gravity of the offence perpetrated against Faustin proves that sexual violence and rape of men aim to disempower the male victims and leave them stigmatised for the rest of their lives.

“Male victims of sexual violence suffer in silence because they are men and think that testifying about it will take away their dignity. Yes, they should speak out because otherwise they suffer in silence and this may cause post traumatic disorders. Another thing is that the world should be aware/know of the genocide and sexual violence committed against male victims.” - Faustin Kayihura

PROSECUTING SEXUAL VIOLENCE AGAINST MEN AT THE ICC: WHAT DOMESTIC JURISDICTIONS CAN LEARN FROM THE DEVELOPMENT AT THE ICC

H.E. Judge Joyce Aluoch, Vice President of the International Criminal Court

During the first panel, Judge Joyce Aluoch spoke about the initiatives at the International Criminal Court (ICC) regarding sexual and gender-based violence jurisprudence and touched upon the challenges the ICC faces in its efforts to end impunity.

In the preparation phase leading to the Rome Statute of the International Criminal Court (hereinafter 'Rome Statute'), NGOs with the support of certain governments lobbied successfully for the inclusion of gender-based crimes into the Statute as crimes against humanity (CAH). The Rome Statute now explicitly features rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and other forms of sexual violence as war crimes and crimes against humanity. The Court's statutory scheme is inclusive and places no gender limitations – thus it provides formally equal safeguards for men and women.



In practice, despite allegations of rape, the first ICC trials containing reference to sexual violence did not result in convictions. In *Ngudjolo*, the Trial Chamber acknowledged the occurrence of rape, however it could not prove beyond reasonable doubt the leading role of Ngudjolo over combatants who were

found to have committed those crimes. Similarly, in *Katanga*, the Chamber found the occurrence of rape, but the crime could not be found to be of common purpose of Katanga's group. In *Muthaura and Kenyatta*, the Pre-Trial Chamber confirmed charges of facts of forcible circumcision and penile amputation against men as 'other inhumane acts' instead of sexual violence against the male victims. Eventually, the lack of sufficient evidence led to the withdrawal of all charges before the case could move to the trial phase.

It was not before March 2016 that the first male rape conviction was recorded in the history of the ICC. Judge Joyce Aluoch herself, alongside two other judges, convicted Jean-Pierre Bemba Gombo of rape as a war crime and a CAH. Bemba was found guilty for his failure to exercise control over his forces who committed such crimes. Hence, his responsibility was confirmed

for the rape of one man alongside a number of women and girls. After the male victim was raped, he testified that his community ostracised him and he considered himself a ‘dead man’.

Judge Joyce Aluoch further discussed the comprehensive schemes available for victims under the ICC Statute once the accused are convicted of sexual or any other crimes. The victims are generally entitled to reparations. In addition, the Trust Fund assists the most vulnerable victims with physical and psychological rehabilitation. It also supports victims with projects to rebuild their lives at the community level. If the convicted person is unable to pay for reparations, the Trust Fund may complement the redress. Further, the Victims and Witnesses Unit grants support and protection to witnesses and victims in particular of gender-based violence.

Nevertheless, the ICC faces its own challenges to ending impunity. The ICC operates on the basis of complementarity and thus prosecutes individuals only where a State Party to the Rome Statute has failed to take action or is genuinely unwilling or unable to investigate or prosecute. The Court also focuses solely on the highest responsibility for the most serious crimes. As such, the investigation and prosecution of mid to lower-level perpetrators does not fall within the Court’s mandate but remains the responsibility of States Parties, which need the will to improve their capacity to deal with such crimes. To end impunity, the ICC is highly dependent on the extensive cooperation of States Parties to the Rome Statute, international organisations, NGOs, as well as the continuous efforts in the capacity building of domestic judges, legal counsels, prosecutors and investigators to deal with gender-based violence.

Judge Joyce Aluoch concluded her presentation by emphasising the need for states to ratify the Rome Statute and domesticate the provisions therein as a joint and universal effort against impunity.



LEGAL PROVISIONS OF SEXUAL VIOLENCE AGAINST THE MALE GENDER IN UGANDAN CRIMINAL LAW

H. E. Mirjam Blaak Sow, Ambassador of Uganda to The Netherlands

H.E. Mirjam Blaak Sow expounded the legal provisions of sexual violence against the male gender existing under Ugandan Criminal Law and the prevalent stereotypical ideologies affecting male victims. Sexual violence takes place at homes, in the community and in educational institutions. It is often perpetrated against men and boys. Uganda has adopted a zero-tolerance stance against sexual violence in a number of legislative measures.

Chapter IV of the Constitution of Uganda of 1995 emphasises respect for human rights and prohibits any form of discrimination on the grounds of gender, sex, age or religion among



others. Thereby, it recognises that every person is equal before the law. However, in practice, cases involving male victims are very minimal, with 99% of all cases concerning exclusively women. The reason could stem from extensive underreporting due to fear of being scorned. To date, this is still

one of the major obstacles lingering on the African context.

Much case law circulates on sexual harassment of women at workplaces, schools and institutions of higher education. On the contrary, men who are harassed by female teachers or bosses are afraid of coming forward and filing complaints due to the deeply-rooted culture that men cannot be victims of sexual harassment.

Cultural aspects further hamper the successful investigation and prosecution of sexual violence crimes committed against men. Sexual violence against women as a weapon of war has been recognised and has prompted women to speak out to testify. However, men continue to be perceived as strong and incapable of being victimised in this way.

H.E. Mirjam Blaak Sow emphasised that not only male victims are reluctant to report, but the states are also lacking facilities and forensic experts.

As a result, both international and domestic legislation have developed in a way that often exclude implicitly or explicitly men as a class of victims of sexual violence.

Although Uganda is a State Party to the Rome Statute since 2010, enforcement of the Statute's provisions is lagging behind. This can be largely contributed to cultural misconceptions that men cannot be raped. As a consequence, there is no legal instrument in the national or international sphere that is directed principally at outlawing sexual violence against men. On the contrary, all legal frameworks outlaw sexual violence against women and girls. For example, female genital mutilation is criminalised under Ugandan law, but there is no corresponding provision that outlaws forced male circumcision. This exemplifies the belief that only women can be victims of sexual violence.

All acts of sexual violence breach fundamental human rights irrespective of who they are targeting or under which circumstances. H.E. Mirjam Blaak Sow accentuated that sexual violence has been widely researched and chronicled. By contrast, albeit sexual violence against men has garnered increasing publicity in recent years, it nevertheless remains extremely under-researched and underreported.



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PROSECUTING SEXUAL VIOLENCE AGAINST MEN AT THE INTERNATIONAL CRIMINAL TRIBUNALS

Ms. Niamh Hayes, Legal Officer in the Gender and Children's Unit within the Office of the Prosecutor at the ICC

Ms. Niamh Hayes firstly analysed the way in which acts of sexual violence against men have been legally characterised. The International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) have processed a series of cases involving male victims of sexual violence, particularly in the context of detention centres. Various forms of sexual violence were committed against males in the concentration camps, including forcible nudity, forced masturbation, genital torture and beatings, and forced sexual violence between male detainees as a means of humiliation. However, those acts were often legally characterised as forms of torture, outrages upon personal dignity, cruel and inhumane treatment etc instead of explicitly being labelled as acts of rape or sexual violence. This goes back partially to the legal context of the way the Tribunals were operating in and the type of crimes they had under their jurisdictions.

A misunderstanding of what sexual violence entails, leads to mischaracterisation. Sexual violence does not only encompass sexual acts committed devoid of consent or acts committed for sexual gratification. It also includes acts that target a person's sexual function or identity. However, this very element has not been fully expounded in the jurisdiction of the International Criminal Court (ICC) and the Tribunals. Secondly, Niamh Hayes took a closer look at the definition of sexual violence at the international and domestic level. Partially, the crimes were mischaracterised as torture or other types of crimes in the ICTY jurisprudence because the definition of rape was obscure and was not explicitly analysed, but it has been rather developed over time by the judges. Also, in domestic jurisdictions, the terms 'forcible' and 'anal sex' are not explicitly included under the definition of rape.

Thirdly, the gender dynamics of different cultures have played their own roles. They have an impact not only on the victims' lives, but also on the likelihood that sexual violence would occur in the first place. Under traditional cultural conceptions, the worst thing that can be done to a man in an armed conflict is to treat him like a woman.

If we label sexual crimes for what they are and we finally call them sexual crimes, the likelihood that investigators will overlook the issue will diminish, as they will correct their wrongful stance, according to which men are perpetrators and women are victims. Moreover, prosecutors will eventually recognise the centrality of the sexual component of the violence rather than focusing solely on the violence itself.



LEGAL PROVISION FOR SEXUAL VIOLENCE AGAINST THE MALE GENDER IN SENEGALESE CRIMINAL LAW

H.E. Dr. Momar Diop, Ambassador of Senegal to the Netherlands

Mostly, gender-based violence refers exclusively to the suffering inflicted upon women and girls by male perpetrators. Without overshadowing the problem, it is necessary to simultaneously reinforce the relevance of the gender approach to include men.

H.E. Momar Diop emphasised that sexual violence against the male gender is considered a cultural taboo – the prevalent stereotypes in society silence men and make male victimhood invisible. In reality, sexual violence against men exists in peace time situations and during armed conflict. For example, in a peace context, pedophilia occurs in many countries and it is becoming more and more difficult to detect it in social relations and domestic life.

The gendered approach has led international relief, human rights NGOs and UN agencies to favour an approach that is focused on sexual violence against women, thereby giving rise to a hierarchy of the abuses with male victims being placed at the bottom of the hierarchy.

His Excellency Momar Diop suggested that legislation and societal acknowledgement must change to include the understanding that men can be and are also victims of sexual violence.

The international community must work based on the belief that respect for human rights is a universal principle for which we must fight without reservation and without any discrimination.



THE NEED FOR INTERNATIONAL COURTS TO INFLUENCE LEGAL DEVELOPMENTS ON GENDER ISSUES IN DOMESTIC JURISDICTIONS

H.E. Judge Geoffrey Henderson

H.E. Judge Geoffrey Henderson discussed the existing symbiotic relationship between international and national courts and how the national courts can influence the legal development on gender issues at the international courts.

He explained that international criminal courts and tribunals are characterised by a hybrid procedural and substantive legal regime. The creation of this regime constitutes and acknowledges an expansion of global developments that preceded their establishment. Moreover, there is a fundamental ongoing dialogue between domestic and international jurisdictions.

The interrelation between the domestic and international legal order is characterised by three different features. Firstly, the need for a systemic global justice compels domestic and international legal systems to strengthen each other. Secondly, both systems recognise common goals to work upon. Thirdly, such two systems feel the imperative need to cooperate with each other to achieve such goals.



LEGAL PROVISION FOR SEXUAL VIOLENCE AGAINST THE MALE GENDER IN NIGERIAN CRIMINAL LAW

H. E. Oji Nyimenuate Ngofa, Ambassador of Nigeria to The Netherlands

H.E. Oji Nyimenuate Ngofa gave an insight into the legal provisions for sexual violence against the male gender under Nigerian Criminal Law and the underlying stereotypical ideologies affecting male victims.

Sexual violence constitutes any sexual act or any attempt thereof by coercion. Sexual violence against men and boys is common and shows consistency in the way it affects victims and societies as a human rights violation. It transcends geographical regions and time periods. Today the silence surrounding sexual violence against women has been broken, but the same does not apply to sexual violence committed against the male gender. Effective justice and redress are absent as the existing measures continue to be applied in ways that do not support sufficiently victimised men and boys.

H.E. Oji Ngofa elucidated that in Nigeria the Violence Against Persons Prohibition Act (VAPP) was passed by the National Assembly, in which males were defined as possible victims. This amended the previous understanding in law that only women could be raped. However, the regional scope of the VAPP containing the new gender-neutral definition of rape is limited to the federal capital territory of Abuja.

H.E. Oji Ngofa encouraged all states in Nigeria to pass the law and domesticate the VAPP as an important step to remove any ambiguity regarding the application of rape law to female and male victims alike. This would ensure that men and women find equal protection.



THE HEALTH CONSEQUENCES OF SEXUAL VIOLENCE AGAINST MEN AND BOYS

Dr. Prisca Zwanikken, Senior International Public Health Advisor, KIT, Royal Tropical Institute

Dr. Prisca Zwanikken explored the physical, mental and social consequences of sexual violence committed against men and boys.

(1) **Physically**, male victims of sexual violence experience *inter alia* traumatic genital injuries, sexually transmitted infections, castration or impotence, abscesses and ruptures of the rectum, faecal incontinence and swollen testicles. Additionally, male survivors of sexual violence reported that they were forced into sexual servitude by female combatants who became pregnant.

(2) **Mental health consequences** suffered by male victims include post-traumatic stress disorder, depression, anxiety disorders and suicide attempts. They also experience deep feelings of shame, guilt, anger, nightmares and a loss of interest in sex. A male survivor described: ‘*After the rape I felt sick, I had trouble in my head. I used to shout, beat people and had other problems [...]*’ (Christian 2011). Sexual violence has also a deep impact on boys. Survivors who experience sexual violence in childhood are more likely to engage in risk-taking behaviours, such as sexual risk taking and abuse of alcohol and drugs later in life that can lead to negative health outcomes.



(3) Further, a myriad of negative **social consequences** arises from sexual violence against men and boys. Alcohol and substance abuse, social dysfunction and stigmatisation by one's family and community are regular occurrences. A male victim reported that ‘*I feel that people in the community look down on me. When I talk to other men, they look at me as if I'm worthless now.*’ Other social

impacts include marital problems, social withdrawal, inexplicable outbursts of anger, intrusive thoughts about sexual torture during intercourse, trouble trusting or establishing relationships and loss of interest in work. All these obstruct the male survivors from fully participating in life after the abuse, while there is also an increased likelihood of revictimisation. On top of that, there is an increased likelihood that additionally the wife and children of the raped victim can feel ashamed and stigmatised.

Dr. Zwanikken drew the attention to the dynamics of sexual violence in armed conflicts: sexual violence of men serves the perpetrators to establish their own power and dominance by exploiting the underlying cultural stereotypes. Drawing on the stereotype that men are perpetrators and not victims, the aim of the perpetrators is achieved to bring about the

emasculatation of male victims. Rebels or soldiers rape men to destroy their masculinity, status and their role in their own household, extended family and community (Christian 2011). The underlying narrative is that if men are unable to protect themselves, how are they then going to protect ‘their’ women and ‘their’ community. Alongside feminisation, also homosexualisation and the prevention of procreation are some of the underlying dynamics of sexual violence in conflict.

‘Men usually do not come forward, until they are ill or forced by the family members. There must be around 200 male victims or more here [in targeted villages], but only 40 come for treatment’ (Christian 2011). Non-reporting of sexual violence at the time of seeking medical care is estimated to be as high as 75%. A mixture of shame, fear of community discover, social stigma, fear of reprisals, fear of arrest and other culture-specific factors contribute to under-reporting. Oftentimes, also health workers are lacking the specific knowledge and skills to address the issue.

Dr. Zwanikken concluded that sexual violence against men and boys is more prevalent than ever thought. In armed conflict situations, sexual violence offences perpetrated against males amount up to 40%, with perpetrators being both men and women. The issue is often not recognised because of the difficulty for male survivors to come forward. More support is needed in the form of bolstering health and social services and by generating more research.

Men usually do not come forward, until they are ill or forced by the family members. Non-reporting of sexual violence at the time of seeking medical care is estimated to be as high as 75%. A combination of culture-specific factors and lack of specific training of health workers contribute to under-reporting.

CONCLUDING REMARKS

Barrister Sophia Ugwu, Founder and Board Chairperson at Centre for African Justice, Peace and Human Rights closed the conference by reflecting that sexual violence occurs frequently in peace situations and armed conflict. It transcends age, gender identity and sexual orientation. Presuming that men are perpetrators and women are victims of sexual violence fails to address innumerable cases of sexual violence perpetrated against males as a sophisticated military strategy to debase entire communities. Therefore, the wrongful understanding upon which the investigation and prosecution of rape and other forms of sexual violence as acts of male domination over women builds, needs to be corrected.



ACKNOWLEDGEMENTS

Special Guests

Very special thanks are extended to Janet Anderson, on whose vast experience in media and communication around justice and accountability we relied as an anchor for the event.

Our greatest appreciations also go out to our special guest Judge Howard Morrison who shared his expertise on sexual violence against the male gender under the UK law and emphasised the importance to generate more research as a way to develop a better understanding of this issue.



Award Ceremony

One of the highlights of the event was the Award ceremony of the Peace Ambassadors of the International Peace Campaign, Ms. Irene Di Valvasone, Ms. Rachel Emegha, Ms. Una Kadunić and Ms. Miracle Uche. We extend our gratitude to Judge Koffi Kumelio Afande (left) and Barrister Takeh Sendze (right) who accepted our invitation to present the awards to the volunteers.



Annex I: Event Programme

SYMPOSIUM ON “SEXUAL VIOLENCE: THE MALE PERSPECTIVE”

VENUE: SPEAKERS’ CORNER, THE HAGUE UNIVERSITY OF APPLIED SCIENCES, JOHANNA WESTERDIJKPLEIN 75, 2521 EN, THE HAGUE, THE NETHERLANDS

31ST JANUARY 2018

14:00 – 18:00

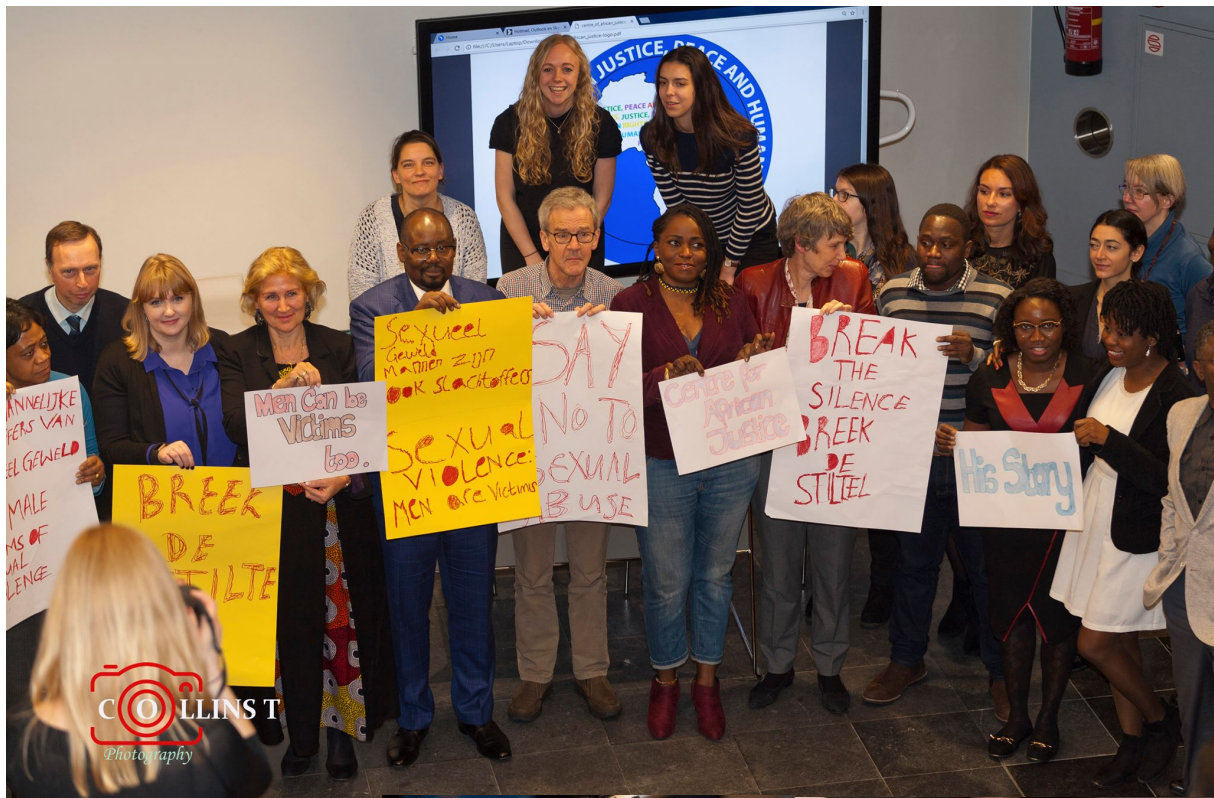
Programme

Time	Activity
13:30 – 14:00	Registration, meet and greet, visit to the art gallery.
Anchor	Janet H. Anderson
14:00 – 14:10	Opening Remarks – Barrister Adesola Adeboyejo
14:10 – 14:30	Presentation of Awards to Volunteers for International Peace Campaign – Judge Koffi Kumelio Afande Assisted by Barrister Takeh Sendze
Panel 1 Prosecuting sexual violence against men in International law: Historical development and lessons domestic jurisdictions may learn.	
14:30 – 14:55	Presentation by Faustin Kayihura Introduced by Anne-Marie deBrouwer (Questions to follow immediately after)

14:55 – 15:15	Presentation by Judge Joyce Aluoch <i>“Prosecuting sexual violence against men at the International Criminal Court (ICC): What domestic jurisdictions can learn from the development at the ICC”</i>
15:15 – 15:30	Presentation by Ambassador Mirjam Blaak Sow <i>Legal provision for sexual violence against the male gender in Ugandan Criminal law and existing stereotypical ideologies affecting male victims.</i>
15:30 – 15:50	Presentation by Naimh Hayes <i>Prosecuting sexual violence against men at International Criminal Tribunals.</i>
15:50 – 16:10	Q & A Session/Discussion
16:10 – 16:25	Coffee Break, visit to the Art gallery and networking
Panel 2: Re-conceptualization of sexual violence: subverting stereotypical ideologies and balancing competing interests between female and male victims of sexual violence	
16:25 – 16:45	Presentation by Judge Geoffrey Henderson <i>The Need for International Courts to Influence Legal Developments on Gender Issues in Domestic Jurisdictions</i>
16:45 – 17:00	Presentation by Ambassador Oji Nyimenuate Ngofa <i>Legal provision for sexual violence against the male gender in Nigerian Criminal law and existing stereotypical ideologies affecting male victims.</i>
17:00 – 17:20	Presentation by Dr Prisca Zwanikken <i>The health consequences of sexual violence against men and boys.</i>
17:20 – 17:35	Presentation by Ambassador Momar Diop

	<i>Legal provision for sexual violence against the male gender in Senegalese Criminal law and existing stereotypical ideologies affecting male victims.</i>
17:35 – 17:55	Q&A Session/Discussion
17:55 – 18:00	Closing Remarks – Barrister Sophia Ugwu
18:00	Reception





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