

**International Gender Justice Dialogue**  
**Opening Plenary, 20 April 2010**

Brigid Inder  
Executive Director  
Women's Initiatives for Gender Justice

Welcome to the International Gender Justice Dialogue. We are really delighted you are all here and thank you for coming despite the chaos created by the eruption of a volcano, the name of which no one outside of Iceland can pronounce. As you know we are missing over 40 participants at the Dialogue due to the volcanic eruption. Many of them were already en route to Mexico when the airports were closed. Several tried for three days to see whether the airlines would begin flying again in time for them to join us. Unfortunately most of the airports have not reopened and our friends are slowly returning home. But we want to acknowledge those who were meant to be with us here and whose perspectives, contributions and direct voices will be missing from this meeting. However as Liz will explain we have developed alternatives for them and others around the world to follow the Dialogue and contribute to it over the next two days. We will be explaining later in the meeting how everyone can participate in this work beyond this moment.

So we are 50 participants from 16 countries including leaders from the fields of international criminal law, Nobel Peace Laureates, representatives of the International Criminal Court (ICC), peace activists, women's rights advocates, United Nations personnel, crisis-response organizations, academics, communications specialists and donors.

There are advocates from current armed conflicts including Iraq, Afghanistan, Palestine and Israel, as well as activists from countries with a history of coups and military dictatorships including Guatemala, Honduras, and Burma.

So welcome!

The Women's Initiatives for Gender Justice first conceived of the International Gender Justice Dialogue in 2006 as the work of the International Criminal Court (ICC) gathered momentum and the provisions of the Rome Statute were being interpreted, tested and in some instances, diminished. As implementation of the Statute began, the importance of developing a clear, global agenda for advancing women's rights and gender justice for women in armed conflicts became apparent.

At that time we didn't have the resources or the institutional capacity to convene such a meeting but the idea continued to germinate.

In October 2009 we approached the Nobel Women's Initiative and invited them to collaborate with us on the Dialogue adding both the voice and profile of the Nobel Laureates as well as their experience in organising events.

And so it is our pleasure to be convening the International Gender Justice Dialogue in collaboration with the Nobel Women's Initiative.

### **Why are we here?**

Why have we come all this way, invested our time, reorganised our offices, left our loved ones, to be here?

We are here to develop a three-year global agenda to advance gender justice and women's rights focusing on the use of accountability mechanisms, and in particular through use of the ICC and regional human rights courts as complementary flag bearers for domestic prosecutions. And we are also here to advance gender justice through influencing and re-shaping the current frameworks for peace negotiations, specifically to ensure access for, and influence of, women's rights advocates during negotiations and in the implementation of agreements. We know peace talks and post-conflict transitional moments are key opportunities for the transformation of women's rights and gender relations.

## **Context**

So what is the context in which we gather? What is the state of the international criminal justice system and its capacity to ensure accountability for gender-based crimes? What is the status of the system of global security? What has been the work of the ICC? What progress has there been in the implementation of Security Council resolutions relating to women, peace and security?

In terms of global criminal accountability for violence against women in armed conflicts, the International Criminal Court is the most significant institution we have for addressing war crimes, crimes against humanity and genocide. The ICC, operational since 2003, has been working in four armed conflict situations - Uganda, the Democratic Republic of the Congo (DRC), Sudan and the Central African Republic (CAR) and recently opened an investigation in Kenya in relation to the events following the 2008 Kenyan election. The Court has issued 14 arrest warrants supporting over 100 charges for crimes against humanity and war crimes against militia leaders in each of the four conflicts as well as an arrest warrant for a head of state, President Al'Bashir of Sudan.

The ICC has four indictees in custody in the Hague and has two trials underway, both in relation to the DRC. Gender-based crimes have been charged in all four situations under investigation and in five out of seven cases brought by the Office of the Prosecutor (OTP).

In the three cases with charges confirmed, two have included charges for gender-based crimes but only 60% of the gender-based crimes charged have been confirmed by the Judges. This means that although the ICC is making some effort to investigate and charge gender-based crimes, the strategy underpinning the charges is still not developed nor robust enough to sustain the charges even at the early stages of the judicial process. Gradually the ICC charges have become a little bolder and more descriptive but largely the Court is struggling with both consistency and sufficient institutional competence to prosecute gender-based crimes.

The Court is operating in some of the most violent conflicts in the world. It is working in countries with limited functional state institutions and little public sector

accountability. Not surprisingly the ICC is therefore working in some of the most corrupt political systems around the globe. According to the 2009 Corruption Perceptions Index produced by Transparency International, all four ICC situations – Uganda, DRC, Sudan, the Central African Republic – rank in the top 30% of the most corrupt countries in the world.

The Court's work is compounded by the realities of ongoing conflicts, by the limited role states are able and willing to play in securing the arrests of indictees residing on their territory and by an international system of justice which is fragmented and still in the process of developing as a cohesive, mutually reinforcing body of law.

The Women's Initiatives for Gender Justice has been working with women in armed conflicts since 2004 and we have country-based programmes in each situation under investigation by the ICC. Unfortunately 15 of our partners from these conflicts were unable to make it to the Dialogue due to flight interruptions, so we do not have the benefit of hearing their experiences and analysis in their own voices. However from our work over the past six years with conflicts in East and Central Africa we know very well the views of our partners, women victims/survivors/activists, in these situations and their support for:

- the prosecution of gender-based crimes;
- their requirements for justice and their expectations of the ICC;
- the tension between the punitive formal justice model and the more comprehensive and complex agenda for what we call transformative justice, where the finding of guilt or innocence is accompanied by efforts to transform both communal and gender relations.

Women activists, victims and survivors in the conflicts before the ICC have a clear and localized understanding of 'their conflict'. More recently they have begun to see these conflicts in a national setting and to explore an analysis of the regional nature of conflicts and the overlapping private sector and state interests. In the case of the Great Lakes conflicts, the regionalisation of the conflicts includes intersecting political and economic interests, the trafficking of arms from

one conflict to another and the direct overlapping of militia groups and armed forces who operate in multiple conflict sites simultaneously.

Amongst the most difficult challenges and obstacles identified by women activists in armed conflicts are:

- the absence of human and legal rights for women in these situations;
- the high levels of gender-based violence;
- the impact of cultural, traditional and religious practices which continue to oppress and subjugate;
- the lack of access to economic and political power,
- the absence of women from leadership positions;
- the overwhelming impunity for crimes committed in conflict;
- the nonexistence of a fully functioning state such as DRC, Afghanistan, Iraq; or
- the over-functioning of an oppressive regime such as Sudan, Burma and to a lesser extent Uganda; and
- the fragility of human rights standards and state compliance with the rule of law in countries with a history of either military coups or civil unrest e.g. Honduras, Guatemala and Mexico.

So it is not surprising that for many women, their hope and expectations are high for an international body like the ICC to be an effective mechanism for accountability and justice and an international body that recognizes the human and legal rights that women are denied domestically.

But the ICC is only one piece of the international justice system. The ad hoc tribunals for Rwanda and the Former Yugoslavia, the Special Court for Sierra Leone, the Cambodia Tribunal are all continuing their work prosecuting some of those connected with the conflicts in these countries. The Rwanda and Yugoslavia Tribunals are in the wrapping up phase of prosecutions and the transfer of cases to domestic jurisdictions as the closure of 2012 draws closer. The work of the regional human rights courts provide a more localised access to justice to address human rights violations and have produced innovative jurisprudence in relation to women's rights, including sexual and reproductive rights and violence against women.

We all know the limitations of the law and justice process and we certainly know it isn't possible to end gender discrimination and violence against women through prosecutions alone. But it is surely only possible to effectively prosecute such crimes when an analysis of gender discrimination is applied.

We are also all aware of the institutionalised gender discrimination within international, regional and national judicial bodies and the discriminatory interpretations of the law. There are real challenges for justice institutions who are themselves struggling with gender inequality, attempting to address the criminality of gender-based crimes.

This Dialogue is also taking place in the same year Beijing +15. It is 15 years since the watershed Fourth World Conference on Women. This is also the 10-year anniversary of the adoption of United Nations Security Council Resolution 1325 on Women, Peace and Security. This historic resolution makes explicit the necessity and right of women to participate in peace negotiations and deliberations to end conflict in their countries and help write the new rules for restoring and transforming conflict-ridden societies.

Within the next 12 months, the United Nations will progress the resolution passed in 2009 to amalgamate four UN agencies and establish a new single entity to promote gender equality and women's rights. It is hoped the new 'gender architecture' will have a budget of around US\$1 billion per annum and be led by an Under-Secretary General post, a higher level appointment than any of the current UN agencies addressing gender issues.

In the past 18 months the UN has passed three key resolutions in relation to women and armed conflicts. These address the need to end impunity for those who commit sexual violence, strengthen the participation of women in peace talks and formally mandate UN Peacekeeping missions to 'protect women and children from rampant sexual violence during armed conflict'. Of these, Resolution 1888 calls for the appointment of a Special Representative of the Secretary-General for sexual violence in armed conflict. In February 2010, Margot Wallstrom of Norway was appointed to this position.

Our dialogue also takes place on the eve of the 10-year Review Conference on the ICC and its' founding treaty, the Rome Statute. The Review Conference, to be held in June in Kampala, will be attended by 111 States Parties to the Rome Statute and open to all United Nations members. As such this Conference will be one of the largest gatherings of States in 2010, outside of the UN General Assembly meeting.

The Review Conference is the first global meeting on the Rome Statute since its adoption in 1998 and will reflect on the work of the Court and its impact on issues for victims and its contribution to international justice and peace, amongst other areas. The Review Conference will also address the controversial adoption of the Crime of Aggression within the Rome Statute, thus expanding the jurisdiction of the ICC. The Crime of Aggression is controversial because of the tension between the permanent members of the Security Council and their allies, who wish to ensure a role for the Security Council in determining whether an *act* of aggression has occurred before the ICC would be allowed to begin an investigation as to whether a *crime* of aggression had been committed. Clearly this is meant to ensure that those most likely to commit, and those who most commonly have committed, acts of aggression can avoid criminal responsibility by controlling the accountability mechanisms.

### **Here and Now**

This, therefore, is the moment, the political location, the time and space in which we have gathered to create a global agenda for advancing gender justice over the next three years.

We're here to give voice to the desire for justice, for the need for accountability, to highlight the aspiration for lives lived free from violence, for an end to armed conflicts, cessation by state actors of violence against its own citizens during times of political upheaval and civil unrest, and a final debunking of the rationale for the use of force and the possession of weapons as a means to peace.

## **Gender Justice - 'Rape as a weapon of war'**

What does the term gender justice mean? To the Women's Initiatives for Gender Justice, it means justice cognizant and inclusive of the gender dimensions of violence. It means justice not blind nor deaf to the ways in which criminal acts and incidence of violence are perpetrated against women in particular forms, for specific reasons and purpose. It is justice informed by an analysis of the gendered nature, intentionality and impact of acts of sexualised violence-perpetrated predominantly by men upon women, sometimes also by men on other men, and on rare occasions by women on men. Every aspect and dimension of this violence has roots in gender identities, constructions and roles.

The phrase 'rape is a weapon of war' is an often used but limited description of the range of gender-based crimes committed against women, and we rarely hear what it actually means, nor why rape is used as a weapon of war.

The Women's Initiatives for Gender Justice believes rape is an effective weapon of war, because it relies on pre-existing norms, standards and beliefs regarding gender inequality – to create a breakdown within the community; to fracture individual and family networks; to splinter social and cultural connections and assert ethnic dominance through the use of the acts already legitimized as the means of expressing dominance – that is, through gender-based violence, more specifically sexual and most commonly rape.

## **International Gender Justice Dialogue**

Over the next two days we will be sharing our analysis, experiences, struggles, and successes as we develop a three-year global agenda to advance gender justice. We have a series of plenary panels to scope out some of the issues, to provoke and reflect, to evaluate the lessons we have learned in our work for gender justice. Tomorrow we will take these conversations into three working groups<sup>1</sup> for closer dissection and to allow time for brainstorming and strategising to identify the priorities for a global agenda. The working groups are self-

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<sup>1</sup> Justice and Jurisprudence; Peace Talks and Implementation; Communicating Gender Justice



selecting, you can choose which group you would like to attend and you will find descriptions of the groups in your Dialogue packs.

The Women's Initiatives is making a ten-year commitment to this process. We plan to convene an international gender justice dialogue every three years over the next decade, as we develop together a global agenda. We plan to continue to support and build a constituency and movement aware of and animated by gender justice, and to assess collectively what impact we can have over the next decade – on jurisprudence, on prosecutions, on peace processes and outcomes for women's rights, on prevention of violence against women and a normalising of accountability for these acts.