

women were violated and humiliated and told that they were too proud.

The report identifies the status of women within Rwandan society generally as an exacerbating factor in the violence inflicted against women on such a large scale. Elements in this area include that: at least one in five women is subjected to domestic violence by her male partner; with regard to maternal mortality, 63 per cent of deaths among women in 1993 were due to inadequate health care related to reproductive matters; women's participation in the National Assembly has never risen above 17 per cent; women constitute only 5.26 per cent of the government executive and 3.2 per cent of local government officials; women in Rwanda cannot inherit land, nor are they eligible for credits and loans; and a wife may not engage in commercial activity or employment without the express authorization of her husband.

In the section of the report dealing with the genocide and women victims of violence, the report reviews elements in the testimonies of sexual violence committed against women during the genocide and notes that the types of sexual violence recounted in these stories were rape and gang rape, sexual slavery, torture, mutilation, murder, and forced marriage. The report also notes that survivors continue to experience health problems, including: the effects of major injuries to reproductive organs; psychological trauma and depression; and psychosomatic disorders such as palpitations, nausea, insomnia, and frigidity. The SR stated that the women appear to have suffered a loss of identity with no memory, no rules to guide them and no standards to live by, and harbor enormous feelings of hatred and revenge. The SR also stated that while these women talk freely about the rape, they will not risk going to the courts of law.

The section of the report dealing with impunity and punishment of the perpetrators of the genocide recalls that it was not until August 1997 that the first indictment on the grounds of sexual violence was issued at the ICTR and that there were no cases of sexual violence before the national courts in Rwanda.

Among the points highlighted in the report related to the ICTR are: article 2 of the ICTR statute calls for the prosecution of persons who are suspected of having committed genocide, but does not imply that rape could be considered a measure of genocidal intent; article 3 of the statute specifically mentions rape as a crime against humanity and specifies that for rape to be considered a crime against humanity, it must be a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds; the same article refers to "torture" and "enslavement"; while prosecutors and judges had begun to address rape as a crime against humanity they had not begun to interpret rape as constituting torture and enslavement; and article 4 of the statute outlines the elements which may constitute a war crime under common article 3 of the Geneva Conventions addressing internal conflicts. The SR notes that — in recognition that the Office of the Prosecutor (OTP) had not been pro-active on the question of rape —

a number of measures were taken to address crimes of sexual violence, including the holding of two workshops with international experts to sensitize OTP staff on the issue of sexual violence, its investigation and its prosecution, and the establishment of a special task force — the Sexual Assault Team (SAT) for the purpose of charging and investigating sexual violence.

The report acknowledges the remedial measures taken by the OTP but suggests that there are three substantial reasons as to why so few prosecutions for sexual violence had actually been initiated.

First, the report states that the OTP is not pro-active, noting that the SAT does not go out and investigate or search for cases of sexual violence; rather, women victims or potential witnesses must approach the OTP. The SAT only pursues leads on its own initiative if, in the investigation of other offences, sexual violence emerges as an issue.

Second, women seem hesitant to come forward with their testimonies. This was explained as a reflection of their "culture" and traditional upbringing which are said to prevent women from speaking openly about private matters. The report notes, however, that the SR had no problem eliciting information and testimonies from victims and witnesses. Consequently, there was the impression that when encouraged and supported by women's organizations, women victims of violence seemed to believe that speaking is cathartic and may in fact lead to justice. Following on this, the report notes that individuals with whom the SR met during the visit suggested that the investigation strategy employed by the OTP is culturally insensitive, as are many of the investigators. The SR stated that there seemed to be a cultural wall between the victims and witnesses, and the investigators. Reference is also made to the fact that for some time all of the OTP investigators were male and, according to non-governmental and women's organizations, the exact words to describe some sexual acts do not exist in Kinyarwanda so that concepts and ideas are difficult for victims to express.

The third reason set out in the report for the small number of sexual violence cases before the ICTR was that many women were frightened of repercussions and reprisals. The report notes that the Victims and Witness Protection Programme of the ICTR was strongly criticized by non-governmental and women's groups, as well as by some victims who had testified before the Tribunal, partly in response to the killing of two witnesses who had testified in Arusha. Critics of the programme also noted that the main problem with witness protection was not in Arusha but in Rwanda, upon the witnesses' return.

The section of the report dealing with national trials notes that the Genocide Act of August 1996 characterizes "sexual torture" as a category 1 offence which carries a mandatory death penalty. The report notes that the Genocide Act also: permits confessions to be introduced as part of a controversial provision allowing for plea-bargaining; limits the scope of judicial review to issues of law