

Watch (HRW), Binaifer Nowrojee disputes this claim as fallacious. Nowrojee argues that giving rape testimony under any circumstance is difficult, but there are conditions which make the process more effective. Experience has shown that women respond better when the investigators (and translators) are women, they have experience in eliciting this testimony and are sensitive to the issue. None of these criteria were met by the initial investigative teams sent into Rwanda. In fact it should be stressed that in the case of Rwanda the investigators acted particularly poorly. Nowrojee states that the teams were all men who were alleged to have shown up at a site and asked "Has anyone here been raped?" Investigators received no gender sensitivity training nor any training in gathering gender-violence testimony.²⁴⁰ Human Rights Watch lawyer Binaifer Nowrojee explicitly links the ICTR's poor record on gender based crimes to the initial UN investigation teams. As Nowrojee points out, it would be difficult in the West to have conducted research according to this methodology but in Rwanda where there is a strong stigma attached to sexual assault, and it is no wonder that no women came forward under those circumstances. Therefore, it is not surprising that despite the progressive approach in the Statute, indictments were less than forthcoming.

A partial explanation for the poor investigation of crimes against women during the genocide is linked to Gardam's claim that crimes against women are taken less seriously. According to Nowrojee a partial explanation for the poor investigation of rape was a belief pervasive in the United Nations and the international community that rape is not a crime of genocide, and that investigators should focus on killings or genocide crimes, not what they consider 'crimes against humanity'.²⁴¹

Nowrojee states

They [U.N. investigators] think they should be concentrating on the killings or genocide crimes. These are crimes against humanity, and their opinion is, rape, well, rape is, you know, unfortunate, and sad, but too bad. It's not really an international crime.²⁴²

One can only wonder how many original indictments would have included sexual violence had the investigators been compelled to investigate it as an issue of equal import. One way to address the unequal treatment of crimes of against women is to continue with changes in data collection; specialized training for investigators, prosecutors and judges; and special provisions for women victims. An additional area is to reconsider the principles which guide the behaviour of the international actors in situations of armed conflict and the application of international humanitarian law. Taking the gender-differentiated experiences of armed conflict as the starting

²⁴⁰ Goodwin, op. cit

²⁴¹ Goodwin, op. cit.

²⁴² Nowrojee quoted in Goodwin, op. cit.