This PDF is auto-generated for reference only. As such, it may contain some conversion errors and/or missing information. For all formal use please refer to the official version on the website, as linked below.

Sex and International Tribunals: The Erasure of Gender from the War Narrative

https://www.e-ir.info/2013/06/27/sex-and-international-tribunals-the-erasure-of-gender-from-the-war-narrative/

CHISECHE MIBENGE, JUN 27 2013

'*Show me a woman who wasn't raped*!'

These words, thrown down like a gauntlet by a genocide survivor disrupted the common wisdom of transitional justice as the panacea to redressing gross human rights violations committed against civilians, and particularly women. The challenge to 'show me a woman' was made from a local perspective of intimacy between perpetrators and victims sharing homes and community space. In my book, *Sex and International Tribunals: The Erasure of Gender from the War Narrative*, it came to represent the binary position of those 'victims' who seek justice and those 'legal people' who administer it. The latter hear survivor testimony only to the extent that it complements the legal parameters set by their mandates and prosecutorial strategy. One of the key conclusions of the book is that so few war survivors can tailor their war narrative to fit the stringent and arbitrary requirements of international criminal law that prosecutors struggling to select credible victims and witnesses are left asking 'Show me a woman who was raped.'

The gendered dimensions of violence are evident in the case law of both the International Criminal Tribunal for Rwanda and the Sierra Leone Special Court and in the final report of the Sierra Leone Truth Commission (TRC report available here). Crimes like sexual slavery as a crime against humanity, and rape as a form of genocide are adjudicated upon. In *Sex and International Tribunals*, I do not claim otherwise. Rather, I ask the reader to interrogate the process of international justice for its prejudices and patriarchal culture that lead to an essentialized yet increasingly iconic image of the (brown) woman as a raped woman. I also posit that sustaining this iconic image necessarily conjures up the menacing specter of a militarized African masculinity.

Writers like Cynthia Enloe, Lisa Malkki, Cynthia Cockburn, Christopher Taylor, Marianne Ferme, Susan McKay, Dyan Mazurana, Mats Utas and Carolyn Nordstorm have made significant contributions to scholars' understanding of gender and its impact on the nature of political violence in Africa and beyond. *Sex and International Tribunals* argues that in comparison, legal scholars are wont to deny any gendered complexity in the war narrative. The term 'gender justice' falsely signifies that (i) gender has been mainstreamed into legal constructions of war crimes and (ii) women victims have been 'given a voice'.

In *Sex and International Tribunals,* I critique reductionism by addressing the outcomes for women, when they are excluded, as well as included, into the war narrative. Thus, when a woman testifies in court, she is required to present a narrative of violence that is sex-based and not gender-based. For example, the girl soldier is rarely called as a witness in the prosecution of the war crime of child conscription (The Prosecutor v. Morris Kallon et al. (RUF Case)). Boy victim-witnesses are regarded by prosecutors as the genuine child soldiers, whilst girls were merely concubines, camp followers, rebel wives, prostitutes, sex slaves, bush brides, etc. The girl soldier testifies chiefly about conjugal or coital harms, i.e. sex-based narrative. How many men raped her and in what sexual positions? This limited scope of her testimony cannot expand the gender analysis of child enlistment, and conscription; it only elaborates on the expanding category of the sexual depravities of armed combatants.

Isn't widespread and systematic sexual violence a prominent feature of contemporary and historic warfare?

Certainly. Are there other forms of gender-based violence against women (and men!) that occur in war? Yes. I argue that there are, and I draw alternative narratives from the case law as well as ethnographic studies that disrupt the dominant narrative of gender-based violence as mass rape. An important example included in the book is taken from the testimony of General Romeo Dallaire (head of the UN mission to Rwanda (UNAMIR) 1993-1994) describing the sexually mutilated corpses of Tutsi men as well as the corpses of women lying with their dresses over their heads (The Prosecutor v. Théoneste Bagosora). Dallaire and the Rwanda Trial Chamber immediately "see sex" and sexual violence in the obscene arrangement of the women's corpses. However, the (systematically?) castrated corpses do not elicit a legal discussion about sexualized forms of gender-based violence against men. The legal construction of this and other testimonies that refer to sexual mutilation of men is consistently 'non-sexual' and 'non-gendered'. The *genocidaire* apparently intends the same symbolic and physical harm when he amputates a head, a thumb or a penis. Another conclusion that I draw is that this 'gender neutral' narrative of violence against men is consistent with an institutionalized hetero-patriarchal world view: a man's body, unlike the weak, sexually objectified, and vulnerable body of a Tutsi woman, cannot or should not be sexually victimized.

Sex and International Tribunals argues that the prosecution of wartime sexual violence in Africa has created a debasing narrative about the bodies of African women. Its gender and feminist legal critique disrupts assumptions of international justice's impartiality and its independence from local influences. It also highlights the ways in which ruling elites conspire with international actors in erasing gender from the war narrative. It introduces a timely discussion as transitional justice takes root as an integral pillar of postwar reconstruction in Africa. It is written for anyone who wants to do justice to gender justice.

—

Chiseche Mibenge *is an Assistant Professor at Lehman College, a senior college of the City University of New York. She defended her PhD at Utrecht University School of Law in the Netherlands, and obtained her Law degree (LLB) from the University of Zambia.*

Sex and International Tribunals will be published by the University of Pennsylvania Press in 2013, but pre-orders are now available here. For further work by Dr Mibenge, please follow the links to access her interview on forced marriage as a war crime, her recently-published poetry, and her journal article on sexual slavery published in the *Journal of Peacebuilding and Development.*

References

Cockburn, C., 2001. 'The Gendered Dynamics of Armed Conflict and Political Violence', in ed. Moser, C.O., and Clark, F.C., *Gender, Armed, Conflict and Political Violence*, Zed Books: London, 13-30.

Enloe, C., 2007. *Globalisation and Militarism: Feminists Make the Link*, Rowman & Littlefield Publishers Inc.: New York.

Malkki, L. H., 1995. *Purity and Exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania: Violence Memory, and National Cosmology Among Hutu Refugees in Tanzania*, University of Chicago.

Mazurana, D., and McKay, S., 2004. 'Where are the Girls?' In Mazurana and McKay (eds.) *Where are the Girls? Girls in Fighting Forces in northern Uganda, Sierra Leone and Mozambique: Their Lives During and After War*, Rights and Democracy: Montreal.

Nordstrom, C. 1997. *A Different Kind of War Story*, University of Pennsylvania Press: Philadelphia.

Sanin, K., and Stirnemann, A. 2006. *Child Witnesses at the Special Court*, War Crimes Studies Center, University of California: Berkley.

Utas, M., 2005. 'Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman's Social Navigation of the

Liberian War Zone', *Anthropology Quarterly* 78, 403-43, 2005.

The Prosecutor v Isa Hassan Sesay, Morris Kallon, Augustine Gbao, Judgment Summary, Case No. SCSL-04-15-T, 25-02-2009.

Théoneste Bagosora, Trial Chamber Decision, Decision on motions for judgment of acquittal, ICTR-98-41-T 02-02-2005 (at footnote 63) testimony of General Romeo Dallaire, Transcript of 20 January 2004, pp. 31-33.

About the author:

Chiseche Mibenge is an Assistant Professor at Lehman College, a senior college of the City University of New York. She defended her PhD at Utrecht University School of Law in the Netherlands, and obtained her Law degree (LLB) from the University of Zambia.