

IWHR
DEHMUJER

INTERNATIONAL WOMEN'S HUMAN RIGHTS LAW CLINIC
EN LA DEFENSA DE LOS DERECHOS HUMANOS DE LAS MUJERES

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May 27, 1997

Judge Louise Arbour
Prosecutor
International Criminal Tribunal for Rwanda
The Hague, Netherlands
BY FAX: 011-3170-415-5345

Dear Judge Arbour:

We are writing, as a group of women's human rights ngos and experts, to continue our correspondence and exchange of views with you, as begun with your predecessor, Judge Goldstone, concerning the investigation and prosecution of sexual assaults, rape, and other gender-related crimes by the International Tribunal for Rwanda. While we have welcomed the interest in and sensitivity to the issue of prosecutions for sexual assault that you have expressed to many of us in different contexts, we are concerned lest this issue fail to get the priority it requires.

As the attached amicus curiae brief indicates, we are deeply concerned that the charges brought against Jean-Paul Akayesu do not include rape or any other acts of sexual violence despite specific testimony by at least two witnesses at his trial and the widespread documentation of sexual violence during the genocide and violence in Rwanda in 1994. Although the Tribunal has been specifically empowered to address issues of sexual violence, and you have written to us that you have directed the Investigation Unit of the Rwanda Tribunal to expand its investigative efforts in that respect, no indictment of the Tribunal confirmed by the trial Chamber to date, has charged anyone with responsibility for rape or sexual violence.

You may recall that in our letter of August 7, 1996 to Judge Goldstone we suggested that consideration be given to amending the indictment against Jean-Paul Akayesu with regard to command responsibility for the use of rape as a form of torture and instrument of genocide. At that time we urged the Prosecutor to conduct the necessary investigations and amend the indictment.

Inasmuch as the trial of Mr. Akayesu is approaching the defense phase, we are suggesting in the enclosed amicus brief that the Trial Chamber exercise its jurisdiction

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LAW IN THE SERVICE OF HUMAN NEEDS
EL DERECHO AL SERVICIO DE LAS NECESIDADES HUMANAS

to review the matter and call upon your office to consider amending the indictment to charge rape and other sexual violence within the framework of genocide, crimes against humanity and war crimes. We suggest this in view of both the factual testimony that has been presented in the trial to date and the further probative evidence which should be available to the Tribunal through the human rights investigations that have documented the prevalence, purposes and effects of rape and other sexual violence in the Taba Commune. Accordingly, we are simultaneously forwarding a copy of this amicus to the Trial Chamber.

As you may know, we acted similarly in the Tadic case and Judge Goldstone's welcoming response opened several years of productive dialogue during which the Hague Tribunal took leadership in the prosecution of gender violence. We hope that, likewise, this will assist you in taking the necessary action to amend the Akayesu indictment and supplement the record. And we look forward to a similarly productive process with you on other matters.

Indeed, we warmly welcomed your assurances last October that you would seek to establish a sexual violence investigation team to operate from Kigali. We understand from our monitors that you have begun training the staff to deal with sexual violence cases and we appreciate your leadership in that regard. At the same time, we are concerned that the investigative process has not improved and we fear that that is affecting the adequacy of other indictments in addition to that of Akayesu.

As you assert new control over the Rwanda office, we urge you to give priority to the formation of that sexual violence investigation team in Kigali, the installation of a high-level gender expert on site, continuing training, and the advancement of women throughout all job categories, including the highest level positions.

We look forward to continuing to work closely to support your leadership and commitment to making the Tribunal successful. As you said after your appointment by the Security Council, there is no justice issue more pressing than the prosecution of war criminals at the initiative of the international community. We believe it is vitally important that you look into these matters to assure that women will contribute to and share the benefits of this unprecedented and difficult search for justice.

As before, we look forward with great interest to the results of your efforts and stand ready to assist you in any way that seems appropriate.

Sincerely yours,

Center For Constitutional Rights
Center For Women's Global Leadership
International Centre For Human Rights And Democratic Development
International Women's Human Rights Law Clinic Of The

City University Of New York School Of Law
Jacob Blaustein Institute Forthc Advancement Of Human Rights
Latin American And Caribbean Women's Health Network
Lawyers' International Forum For Women's Human Rights
Rassemblement Algerien Des Femmes Democratiques
United Methodist Office For The United Nations
Women Living Under Muslim Laws
Women Refugees Project, Cambridge-Somerville Legal Services
Working Group On Engendering The Rwanda Tribunal

As Amici Curiae.

IN THE
TRIAL CHAMBER
OF THE
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

RE: *The Prosecutor of the Tribunal against Jean-Paul Akayesu*

AMICUS BRIEF
RESPECTING AMENDMENT OF THE INDICTMENT AND
SUPPLEMENTATION OF THE EVIDENCE TO ENSURE THE PROSECUTION
OF RAPE AND OTHER SEXUAL VIOLENCE WITHIN THE COMPETENCE OF
THE TRIBUNAL

The undersigned women's human rights legal scholars and non-governmental organizations, who have worked to ensure recognition of and accountability for violence against women in the UN system, and, in particular, to guarantee gender justice in the operation of the International Criminal Tribunals, hereby request, pursuant to Tribunal Rule 74, leave to file the following brief amicus curiae:

I - Introduction

1. Amici are concerned that the International Criminal Tribunal for Rwanda fulfill its mandate to ensure the prosecution of serious violations of humanitarian and human rights law including rape and other serious forms of sexual violence which comprise war crimes, crimes against humanity and genocide within the competence of the Tribunal under Articles 2-4 of the *Statute for the International Tribunal for Rwanda*, (Statute).