



UNITED NATIONS  
NATIONS UNIES

**International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda**

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**Office of the Prosecutor**

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Friday, 11 February 2005

Dear Ms Brunet,

I have been directed by the Prosecutor to respond to your fax and email expressing concern at the dropping of the rape charges against the accused Tharcisse Muvunyi who is the former Commander of military operations for Butare and Gikongoro.

I note in your email that you have rightly pointed out that the Office of the Prosecutor has brought charges under command responsibility for rape in the Butare area including the first charge of rape against a woman, Pauline Nyiramasuhuko. This is not the only rape charge contained in indictments currently being prosecuted by this Tribunal as rape charges are also in the cases of Muhimana, among others.

The rape charges against Tharcisse Muvunyi were dropped because some of the Prosecution witnesses cannot be traced while other Prosecution witnesses have refused or declined to testify. It serves no purpose to proceed with charges that the Prosecutor will not be able to prove beyond reasonable doubt, not because the crimes were not committed, but because Prosecutions witnesses refuse or decline to testify, or cannot be traced either because they have died or changed residence without leaving forwarding addresses.

The Office of the Prosecutor recognises the fact that even when evidence of widespread and systematic attacks are alleged in a particular region or area, it is still the duty of the Prosecutor to ensure that such evidence is presented before the court in a consistent and coherent manner, showing the individual criminal responsibility of the accused person, so as to pass the threshold of credibility required by such a due process. The Prosecutor can only discharge this obligation on the basis of available evidence. It will therefore be most imprudent to prosecute a rape charge supported by evidence which is inadequate to secure a conviction.

The Office of the Prosecutor begs to differ with you that investigations into sexual violence have not been vigorously pursued. The Office of the Prosecutor has established a Rape Data base of the result of intensive investigations of sexual crimes all over Rwanda during the period of the genocide. This database is continually updated and has been and continues to be, a source of information for the use of the various Prosecution Teams in the preparation of indictments as well as in the prosecution of the trials in the Tribunal.

The Office of the Prosecutor will continue to show its strong commitment to the prosecution of sexual violence. As the Prosecutor has stated on several occasions, such commitment must be backed by a strong base of evidence in order to ensure that our collective efforts are not thwarted or frustrated.

The Office of the Prosecutor maintains that the crime of rape should be prosecuted within the limits and full extent of the law as it constitutes, in the words of the Akayesu Trial Chamber, “one of the worst ways of inflicting harm on the victim as he or she suffers both bodily and mental harm”.

Regards

Dr. Alex Obote-Odora  
Special Assistant to the Prosecutor