Chapter 19

Justice Hassan Bubacar Jallow and Gender Justice in International Criminal Prosecutions

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[T]he investigation and presentation of evidence relating to sexual violence is in the interest of justice.¹

1 Introduction

I would like to thank the editors of this book for conceiving and implementing the idea of writing a book to celebrate one of the greatest jurists Africa has produced. I come from a community where as a general practice (with very scanty exceptions), commemorations in honour of great people, are carried out after their passing. I am happy that the editors of this great project have brought us together to write essays to reflect on some of Justice Jallow's contributions when he is still in our midst.

I am also privileged to have been invited to make a contribution to this collection from among so many people that have worked with Justice Jallow. I have had the opportunity of working with him for about ten years now at the United Nations International Criminal Tribunal for Rwanda.² He is a great inspiration to me, at both the personal and professional levels. He is gentle, respectful, but solid in enforcing principles and values. He listens, respects diverse views, and above all, does not shy away from taking decisions that enforce the norms he was appointed to enforce as the Tribunal Prosecutor. He acts with impartiality and independence. He is an admirable jurist and international civil servant.

It is not possible within the confines of this paper to discuss all Justice Jallow's contributions. I will therefore focus on one, namely his contribution towards the achievement of gender justice in international criminal prosecutions. Following this introduction, part II of this chapter provides an overview

² Hereinafter the "ICTR," or "Tribunal."
of the challenges of prosecuting rape and gender-based violence at international courts generally, and at the ICTR in particular, before Prosecutor Jallow assumed office as chief prosecutor.

Part III then discusses the actions and programs Justice Jallow implemented during his tenure with respect to the prosecution of these crimes, building on efforts by his predecessors, and the foundation laid by the seminal Akayesu Judgment. Part IV provides the concluding recapitulations.

It is argued that the effective prosecution of gender crimes calls for a multifaceted approach, a key component of which is a leadership in the prosecution office that is extremely conscious of the seriousness of these crimes, the challenges that must be surmounted to address them, and the need to inspire all staff involved in their investigation and prosecution. Prosecutor Jallow afforded such leadership that inspired attorneys, investigators and the entire prosecution office in taking all necessary steps – spanning the entire criminal process: from investigation, through to trial and appeal.

2 Responding to Rwanda's Mass Atrocities – Rape and Sexual Violence

In what has come down in history as Rwanda’s 100 darkest days, between April 6 and July 1994, about one million innocent civilians were slaughtered. Moreover, there were reports of widespread rapes and sexual violence targeting Tutsis throughout Rwanda.3

The UN Security Council, pursuant to Resolution 955 of 1994, established the ICTR to prosecute those responsible for genocide and other transgressions of international humanitarian law committed in Rwanda and neighboring countries between January and December 1994. Since its inception to date, the ICTR has indicted 93 persons, and of these, 534 were charged with rape and other acts of sexual of violence as acts of genocide, or crimes against humanity or war crimes.

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