

**Launch of the Policy on Sexual and Gender-Based Crimes
ICC Office of the Prosecutor
United Nations, New York
7 December 2014**

**Brigid Inder
Executive Director
Women's Initiatives for Gender Justice
Special Advisor on Gender to the ICC Prosecutor**

Good evening Madame President, President of the Assembly of States Parties, SRSG Bangura, Excellencies and distinguished guests. It is a pleasure to participate in this important event. The sexual and gender-based crimes policy being launched this evening is a testament to the determination of Prosecutor Bensouda to carry forth the promises and obligations bestowed upon her office by the Rome Statute.

This is the first policy on sexual and gender-based crimes produced by an international court because Fatou Bensouda is the first prosecutor to call for and prioritise such a policy and deliver on this commitment within her first two years in office.

To put this policy into perspective, despite the overwhelming numbers, millions, of mostly women and girls victimised through out history and until today by sexual and gender-based crimes, only 16% of those accused of war crimes, crimes against humanity and genocide have been convicted of sexual violence through international legal mechanisms.

Why do we need this policy? Because accountability for these acts continues to be exceptional and elusive compared to the scale of their commission.

One of the challenges to advancing accountability for sexual and gender based violence and tackling the epidemic levels of impunity is the partial integration, rather than the full integration, of women and concepts of gender within the structure of justice.

Systemic 'blind spots' resulting in both direct and indirect gender-based discrimination persist, and are reflected in the selective incorporation of 'gender' within legal theories and the incomplete integration of these issues within legal concepts and liability regimes. In practice, these 'blind spots' lead to an insufficient assessment of the evidence, unintended invisibility of gender issues in the adjudication and interpretation of the law, and an impunity gap on sexual violence that emboldens perpetrators and betrays victims of these crimes.

This historic and ongoing marginalisation in the law has created a gender debt, and unless and until we transform both legal norms and gender perceptions we will continue to fail generations of victims/survivors.

The Sexual and Gender-Based Crimes Policy goes to the heart of these challenges. It adopts a comprehensive approach to integrating gender issues within each area of the OTP's mandate, it recognises gender-based crimes within the context of underlying inequalities and discrimination, it addresses sexual violence committed against boys and men.

During the drafting process we tried to address both legal practices and policy imperatives and in the end we combined overarching principles for the OTP as a whole, as well as substantive operational strategies.

The Policy is unambiguous in its ambition, and clear in its goals.

With the codification of gender-based crimes in the Rome Statute and this policy, the ICC is attempting a kind of legal alchemy, infusing a gender analysis into established legal concepts and practices and transforming assumptions and static legal reasoning into justice outcomes which recognise the multi-faceted nature of sexual violence as well as the gender dimensions of other forms of criminality.

The Rome Statute created a global expectation of gender justice and I believe with smart and comprehensive implementation of this policy, the ICC will upgrade this expectation to the status of a global norm of accountability for sexual and gender-based crimes.

The Policy being launched this evening indicates an unequivocal commitment by the Prosecutor and her office to play their part. But real progress on this issue simply isn't possible without other legal actors playing theirs.

In order to change the record on sexual violence one of the most critical factors we must address is the subconscious bias exercised in traditional interpretations of liability for these acts. When it comes to sexual and gender-based crimes, historic and prevailing judicial approaches to individual criminal responsibility include an expectation that these crimes must be more explicit components of a common plan than any other category of crimes, and that preparation and contribution to acts of sexual violence must be unique to these crimes and different from the preparation and contribution to the other crimes which may be occurring at the same time, by the same perpetrators, under the same commander in the same attack. The use of sexualised violence as a tool for asserting ethnic dominance and political supremacy is still too often misinterpreted as incidental to these goals, despite the existing jurisprudence on this very issue.

As I mentioned earlier, until we change legal norms and gender perceptions in tandem, we will be unable to address the gender debt that exists as a consequence of ongoing marginalisation in the law.

It is a formidable task, but the debt is clear and payment is overdue.

With this policy and under the leadership of Prosecutor Bensouda, the ICC is poised to usher in a new era in accountability for sexual and gender-based crimes.

I believe this policy is a framework for implementation, a road map for gender justice and I hope a conscience for us all.
