



# **Delivering Justice to Victims of SGBV : How Do We Level the ‘Battlefields’?**

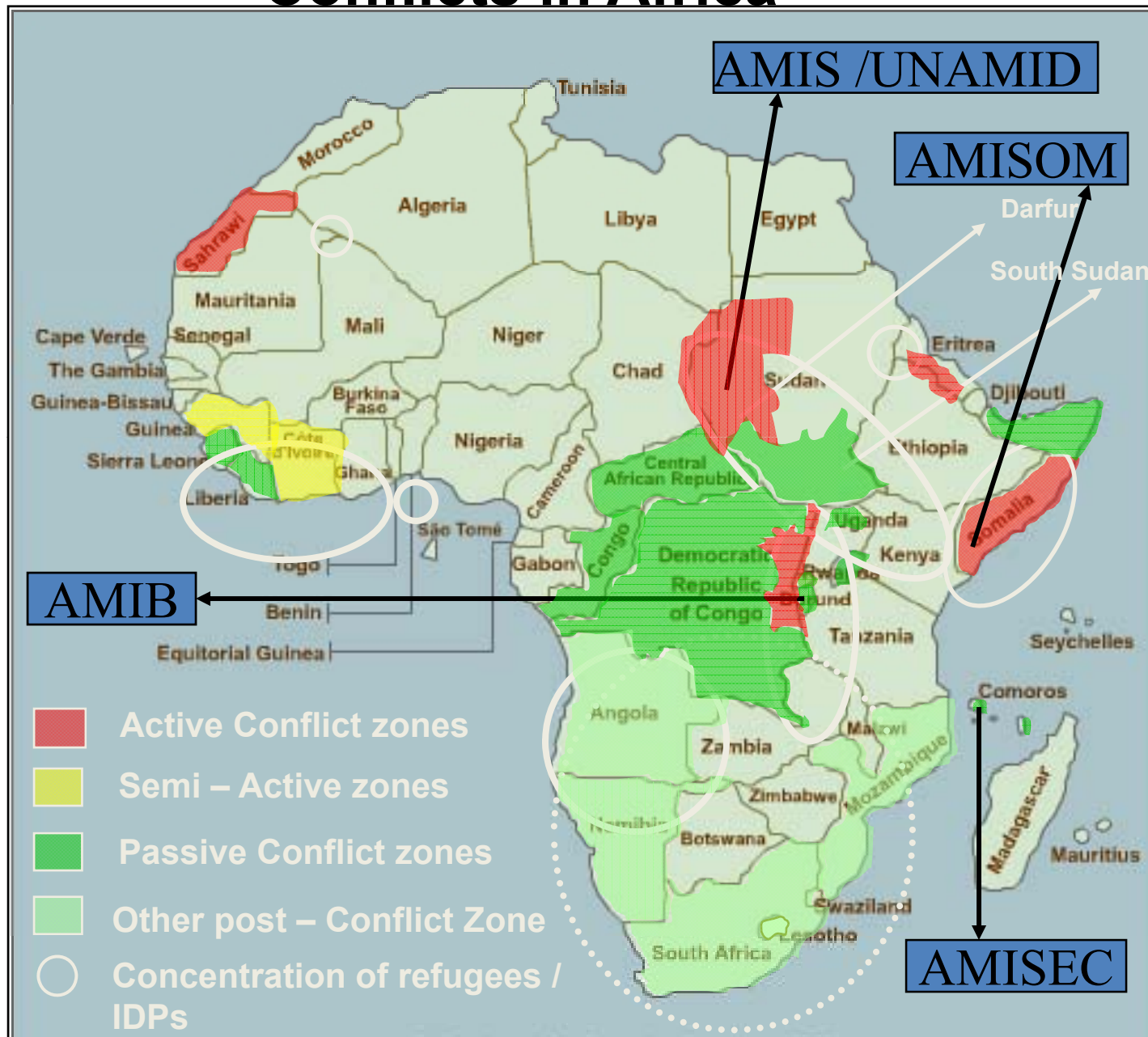
*Dr. Annie Barbara Chikwanha, Senior Research Fellow: Africa  
Human Security Initiative Project-Institute for Security Studies*

*Presented at the Regional Consultative Meeting on ‘The Power of Women’s Leadership and Movement Building: Gender Based Violence and Sexual and Reproductive Rights in Conflict and Post-Conflict Africa’, 28<sup>th</sup> – 29<sup>th</sup> April 2009, Commonwealth Speke Resort, Munyonyo, Kampala, Uganda*

## **Key questions**

- **What kind of justice do our criminal justice systems exhibit against a background of conflicts shown in the next slide? The minimalist view of justice?**
- **Is governmental power exercised through/via the existing laws?**
- **Do the officials exercise power in accordance with the law?**
- **The combination of complementary judicial and non-judicial strategies goes on without much scrutiny and we need to ask: where are the voices of the female victims?**
- **How have the states tackled the general environment of discrimination, which leads to violence against women, generally of a sexual nature, perpetrated by the state, by the community and by those we trust the most or in the private sphere?**
- **Why have most post conflict management processes, plans and policies of African states remained 'gender blind' in theory and practice?**

# Conflicts in Africa



# **Conditions that breed sexual violence and impunity**

- State oppression by dictatorial rulers
- Gross violations of human rights, civil wars,
- Persistent wars
- Insecurity
- Harmful cultural practices
- Discrimination
- Corruption
- Inadequate legal systems
- Defective criminal justice systems
- Misallocation of human and material resources

## Obstacles

- Lack of statistical data on the female victims of gender based violence hinders for policy formulation and program development
- No shortage of the relevant and requisite laws. From the meso- level (the sub-regional level in this case) to the macro level [the international level], there is a multiplicity of standards, norms and even legal frameworks but still the indivisibility of human rights has remained in abeyance
- We do need more empirical insight into how states have managed the relationship between human rights and legal pluralism and how this has impacted on human security for womenfolk
- The ‘Political economy’ of reproductive health impacts on the productivity of women and is an area which needs careful analysis by policy makers and planners.

## **Obstacles contd.**

- In most cases, gender-related issues are addressed through the principle of non-discrimination stipulated in scattered international conventions.
- Piecemeal/fragmented approaches to the international framework have done more damage than good
- The incremental approach creates room for non-compliance and non-committal as there will always be issues against the missing element.
- The approach is thus 'a justice avoidance and evasion' mechanism especially when it comes to addressing the plight of SGBV victims.

# Transitional justice mechanisms

**Prosecution of alleged perpetrators** before national courts, hybrid tribunals (such as the Special Court for Sierra Leone) or international courts (such as the International Criminal Court).

**Truth commissions** or other truth-seeking initiatives, including recording of survivor testimony, exhumation of victims' remains, and historical research.

**Reparation packages** for survivors providing restitution, compensation, and rehabilitation, actual or symbolic, as appropriate for abuses suffered.

**Commemoration** of victims and survivors through ceremonies or the construction of memorials or museums, often through conversion of sites of former abuse, such as prisons or detention camps.

**Reconciliation initiatives**, including healing ceremonies for victims and individual acts of acknowledgment, apology, symbolic payment or community service by perpetrators.

**Institutional reform** aimed at building fair, effective and transparent public institutions to safeguard against further abuse [the judiciary, the police, military and other security services]

## IDPs in Africa [millions]

Somalia	1,000,000
Kenya	200,000
Uganda	1,270,000
Rwanda	undetermined
Burundi	100,000
Zimbabwe	570,000
Angola	20,000
DRC	1,400,000
Congo	7,800
CAR	197,000
Nigeria	undetermined
Côte d'Ivoire	709,000
Togo	1,500
Liberia	undetermined
Ethiopia	200,000
Eritrea	32,000
Chad	179,000
Senegal	14,000-22,000
Algeria	undetermined
Sudan	5,800,000

## Why women avoid official justice mechanisms

- Space and distance
- Shortage of competent personnel
- The adversarial nature of the court process
- The informal system and alternative dispute resolution processes can be inaccessible and have problems of impartiality, independence and accountability
- SHAME

# Access: Economic opp. vs Justice

Obstacles to accessing economic opportunities	Obstacles to accessing peace and justice
Limited access to necessary technologies due to lack of information and know-how, and high prices	Limited access to legal support due to lack of knowledge [high illiteracy rates] and affordability
Lack of skills for product diversification	Lack of adequate skills to build capacity in articulating issues of injustice
Inadequate skills in the fields of production, business management and marketing	Lack of skills in articulating SGBV problems, cultural inhibitions
Difficulty in finding appropriate production sites at competitive prices	Difficulty in finding understanding law enforcement agents
Inadequate infrastructure and utilities, of which inadequate transport facilities from rural areas and insufficient power supplies are the most serious	Inadequate policing structures especially in peri-urban and rural areas
Limited access to finance and to information.	Lack of money and access to information on accessing just
A lack of organization and networking, both among women themselves, and between women and existing business associations and support institutions.	Lack of complementary networking amongst women's groups and victim groups

## Who resolves conflicts?

The people involved in the conflict	11
Family/friends/neighbors	14
Traditional chiefs/elders/mediators	30
Traditional courts	9
Local courts	14
Local administration	17
A religious organization or leader	10
A non-governmental organization	2
A vigilante group	3
The armed forces/police	34
Other government agencies	8
National courts	7
The armed forces of other countries	1
International mediators	1
don't know	4
No-one	2

# What can be done?

## One

**There are Key questions that require answers for us to move forward in every situation:**

- What is the mandate of the 'actor' and what are the procedures for reporting?
- Are these available to individuals and/or states?
- What do activists need to do to use the procedures? How does they work?
- What are the remedies available?
- What are the advantages of using the mechanism?

# Two

- Deconstructing authority myths
- Demystify patriarchal perceptions of honour, custom and tradition and emphasize alternative visions that are compatible with equality and human rights values
- Demystify the patronizing attitudes of law enforcement agencies
- Demystify the processes of the formal justice system
- Make pro-bono work on SGBV cases mandatory for all law firms- corporate social responsibility

# Three

- There is a disconnection somewhere between external intervention and domestic actors and between domestic actors at all levels. Making use of nodal forms of governance offers a workable solution. Actors can connect and converge on specific issues and maximize their synergies

# Inter-connectivity

## National level

- **Criminal justice system: the Courts at all levels; police, prosecutors and prison authorities**
- **Ministries of Justice, the Interior, and Education**
- **Parliament; bar associations and networks of lawyers and paralegals national human rights institutions; university law departments**
- **NGOs and civil society groups; traditional, customary or religious councils and associations; the media; [IDP –vulnerable ] communities and affected populations**
- **The public**

## Regional level

- **Courts and commissions, such as the African Court and the African Commission on Human and Peoples' Rights**

## International level

- **UNDP; OHCHR; DPKO and peacekeeping forces on the ground**
- **UNHCR; UNICEF; UNODC; UN human rights treaty bodies and special procedures of the Human Rights Council, including the Special Rapporteur on Independence of Judges and Lawyers; and NGOs.**

## **Requisite government action- Capacity vs Political will?**

- Ratification of international human rights instruments,
- Implementation of international human rights instruments,
- Drafting national action plans on human rights and legal education programmes,
- Creation of institutional mechanisms
- Establishment and strengthening of the legal framework for gender equality, ie: constitutional and legislative reforms  
Mechanisms to remedy violations of women's rights;
- Introduction of human rights and legal training programmes focusing on women's human rights in security sector?
- Legal provisions on women's equal participation with men in political life and decision-making processes [electoral laws]



Mazviita!!

[achikwanha@issafrica.org](mailto:achikwanha@issafrica.org)