

SA to Investigate Mass Rapes in Zimbabwe
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In a remarkable turn-around, South Africa's National Prosecuting Authority (NPA) and the South African Police Service (SAPS) have formally agreed to open an investigation into widespread rape perpetrated in the lead-up to Zimbabwe's 2008 presidential elections – a landmark decision that was made in response to a legal submission filed by AIDS-Free World, requesting that South African authorities investigate and prosecute the crimes.

The submission included testimony from 84 victims, reports from witnesses, doctors, and domestic and international NGOs, and the names of over 200 suspected perpetrators and orchestrators of the politically motivated rape. The Priority Crimes Litigation Unit of the NPA and the Directorate for Priority Crime Investigation of SAPS wasted no time in responding to the submission, demonstrating the gravity of the charges and the fact that, if left unaddressed, such crimes could be committed again during the 2013 elections.

The decision is a major surprise to anyone who has followed the twists and turns of the Zimbabwe torture case brought by the Southern African Litigation Centre (SALC) and the Zimbabwe Exiles Forum (ZEF), which the NPA and SAPS made no effort to pursue. And even when they were compelled by a High Court ruling to investigate the detailed torture allegations, the South African authorities opted to appeal the judgment rather than open investigations.

During the 2008 presidential elections, Zimbabwe's President Robert Mugabe and members of his ZANU-PF political party unleashed a ruthless campaign of violence against opposition party supporters in order to intimidate voters and secure the presidency. Their political strategy featured the widespread gang rape and torture of women throughout the country.

Since the 2008 elections, AIDS-Free World and our Zimbabwean partners have worked to document the mass rape and to seek accountability for the crimes. The numerous Zimbabwean individuals and organizations working with AIDS-Free World on behalf of the victims are afraid to be named publicly due to fear of retribution from ZANU-PF, especially as the 2013 elections loom and security deteriorates.

Over the course of nine months, a legal team assembled by AIDS-Free World took testimony from women from all over the country, many of whom were raped in ZANU-PF "base camps" in the days immediately preceding the June 2008 run-off election. The victims survived the rapes, but were left to cope with physical and psychological trauma, abandonment, unwanted pregnancies, and the lingering terror that their attackers were among the 15 percent of adults in Zimbabwe infected with HIV.

The extent of these crimes – their brutality and their impact on the survivors, their families and communities – is massive. The evidence we gathered demonstrates that the politically motivated rape rose to the level of crimes against humanity.

Yet more than four years later, none of these crimes has been investigated or punished. Until now.

At this moment, justice for the Zimbabwean victims of politically motivated rape rests entirely in the hands of South African authorities. Prosecuting the crimes against humanity domestically in Zimbabwe is not possible in the current political climate and legal system. Even the newly created Zimbabwe Human Rights Commission cannot investigate any of the politically motivated rape or other violence that took place in 2008; a clause inserted into the bill that created the Commission last year prevents the Commissioners from investigating human rights abuses prior to 2009.

The International Criminal Court (ICC) cannot address the crimes because Zimbabwe has not ratified the Rome Statute and therefore is not under the ICC's jurisdiction. South Africa, however, has both ratified the Rome Statute and incorporated it into its domestic law, giving the country international and statutory obligations to bring the perpetrators of such atrocities to justice. South Africa's proximity to and commerce with Zimbabwe also make it likely that perpetrators will enter the country, where they can then be prosecuted.

The implications and potential of the NPA's decision have profound significance. Their investigation opens the possibility that justice might finally be secured for the crimes that already occurred, and that future politically motivated rape in Zimbabwe might be prevented. It signifies that the blanket impunity that has protected Mugabe's regime for decades may finally be challenged.

It sends a message to ZANU-PF leaders, and to raping regimes everywhere, that orchestrating sexual violence of this nature and scale is an international crime for which they will be prosecuted.

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