

**Expert Workshop on VAW
Challenges, Good Practices, and Opportunities**

By Jade Johnston, IMADR intern

The Office of the High Commissioner for Human Rights (OHCHR) organized an expert workshop on 24 and 25 of November to discuss obstacles, challenges, good practices, and opportunities in eliminating all forms of violence against women. The OHCHR will result a summary of the information shared during the workshop that will be presented to the Human Rights Council at its 17th session and should contribute to the elimination of all forms of violence against women and furthering their protection. In the following report a detailed account of the aims, discussions and outcomes of this workshop are given.

Background

The Office of the High Commissioner for Human Rights (OHCHR) organized an expert workshop on 24 and 25 of November to discuss obstacles, challenges, good practices, and opportunities in eliminating all forms of violence against women (VAW). This workshop was organized at the request of the Human Rights Council (HRC) and in accordance with resolution A/HRC/RES/11/2 entitled “Accelerating efforts to eliminate all forms of violence against women,” that was adopted by the HRC in June 2009. The workshop was “open to the participation of Governments, regional organizations, relevant United Nations bodies, civil society organizations and experts from different legal levels.”

In accordance with the resolution, the workshop had two primary aims for discussion. The first was to consider “specific measures for overcoming obstacles and challenges that States may face in preventing, investigating, and prosecuting violence against women, as well as punishing the perpetrators of violence against women.” while the second was to examine “measures for providing protection, support, assistance and redress for women subjected to violence.” The workshop was organized with the intention of producing a summary report to be prepared by the OHCHR and submitted to the Council at its 17th session, while providing the opportunity for experts from different legal, professional and geographical backgrounds to contribute to the work of human rights mechanisms.

The workshop consisted of five expert panels that were organized around the following themes:

1. Challenges, good practices and opportunities in investigating cases of violence against women.
2. Challenges, good practices and opportunities in the prosecution of violence against women and punishment of perpetrators.
3. Challenges, good practices and opportunities regarding remedy and reparation for women subjected to violence.
4. Challenges, good practices and opportunities in the prevention of violence against women.
5. Challenges, good practices and opportunities in the protection of women subjected to violence.

Detailed information on each panel discussion is provided in the following.

Panel 1

Challenges, good practices and opportunities in investigating cases of violence against women

Three experts composed Panel 1 with the overarching theme being sexual violence in areas afflicted by conflict. The first speaker presented Columbia as a case study; the second analysed the social determinants of disclosing or concealing sexual violence in the DRC; and the third speaker presented an analytical framework of conflict-related sexual violence.

The presentation by Françoise Roth, Director at Corporación Punto de Vista, Colombia, shed light on the fact that sexual violence in Columbia is both driven by conflict and at the same time silenced by society. Roth asserted that nothing was being done in Columbia on any level to stop VAW and that any “supposed” initiatives were either very poor or non-existent. She stated that in a country with so many ex combatants there is no systematic research to investigate their experience with sexual violence, either as a victim or a perpetrator, nor is there attention given to the reproductive health of ex combatants. Roth continued by describing how thousands of corpses had recently been excavated from mass graves and that the primary focus of these excavations was returning the bodies to their families and not determining the cause of death or if they had been sexually violated. A huge problem in Columbia is therefore that sexual violence is not seen as an issue in and of itself, but as a domestic issue. For victims or families wishing to make claims about sexual violence the environment of impunity along with the lack of investigation and follow-up makes it very difficult. In Columbia Doctors are obliged to report crimes to the system, there is no epidemiological follow-up rendering this practice ineffective.

Roth concluded her presentation with three points. The first was to point out that coherent, quantitative data is badly needed in Columbia, and the second was that Columbia should guarantee access to all information by everyone. The third was to encourage investment by the international community on research and analysis of data and on long term quantitative investigation at the local level, in order to determine the local dynamics on sexual violence.

Columbia was present at the meeting and responded to Roths presentation by saying that they recognized the need to fight sexual violence and impunity through collecting data and that it was an area of priority. This need was also identified by the OHCHR and during the UPR and therefore a study was being launched that would be realized by the office of the Vice President. In this regard they would be “happy to exchange views in Geneva and Columbia. Roth responded by saying that she was aware of the laws that exist in Columbia and that it was “fine” to have good policies, but the practices needed to be better.

Serena Tiberia, Associate Human Rights Officer at the UN Joint Human Rights Office, gave a presentation that she described as “a series of thoughts, ideas and impressions” that had resulted from discussions she had had with colleagues based on their field

experience, including numerous interviews of victims of sexual violence and service providers. She said that her presentation introduced hypotheses that she and her colleagues hoped to test with data in later work. The central theme of her presentation was that the circumstance of an attack greatly plays into the probability of it being disclosed or concealed and they may therefore underestimate the number of attacks. She said that victims of sexual violence are rational actors who consider the potential costs and benefits when making the decision to report an attack. The implication of this is that the structure of incentives and disincentives to reporting, determine what is known about sexual violence. If victims systematically tend not to report incidents in a patterned way e.g. from certain regions, specific contexts, or by certain perpetrators, survey projections will underestimate hidden incidents. Consequently, if certain victims of sexual violence are more likely to report than others, data collection is similarly likely to capture cases with certain characteristics while missing others. This suggests that analysis based on what is disclosed will misunderstand the relationships between assaults in contexts where disclosure is probable and assaults where disclosure is improbable. (Please see annex 1)

The last speaker for this panel, Gillian Holmes, Senior Adviser to the Office of the Special Representative of the Secretary General on Sexual Violence in Conflict, added a legal and policy perspective to the panel. Her presentation was based on Security Council Resolution (SCR) 1888 that was unanimously adopted on 30 September 2009, which served as an action oriented follow-up resolution to SCR 1820. Resolution 1888 recognizes sexual violence as an explicit tactic of war and denotes sexual violence that occurs in a conflict or post conflict setting that has a direct or indirect causal link with the conflict itself. Conflict-related sexual violence is not synonymous only with rape. The ICTY, ICTR, Special Court for Sierra Leone and the ICC define it to encompass: sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other forms of sexual violence of comparable gravity, which may include indecent assault, trafficking, inappropriate medical examinations, and strip searches. Furthermore, depending on the circumstances of the offence, sexual violence can constitute a war crime, crime against humanity, act of torture or constituent act of genocide.

Holmes looked at VAW as a question of international security because this is the only way that the Security Council considers it. She said “to recognize sexual violence, as a security issue was to accord it priority and to justify a response from peacekeepers, peacemakers and peace builders as well as humanitarian and development actors.” In order to define when sexual violence poses a threat to international security the “6 Pillar Test” was designed and presented as follows:

1. Crime of concern to the international community as a whole.
 - The DCR was cited as an example here.
2. Command responsibility is entailed.
3. Civilians are targeted.
4. Climate of impunity-sexual violence “normalized” after conflict.
 - Liberia, the Ivory Coast, Nepal and the DRC were cited as examples.
5. Cross-border implications such as displacement or trafficking.
 - Chad
6. Ceasefire violation.

- South Sudan

Holmes concluded her presentation by pointing out the greatest practical challenges in the field to fulfilling Resolution 1888. As echoed by all panellists, sexual violence statistics are notoriously unreliable, and it is therefore extremely challenging to generate the kind of data the Security Council wants. Engaging non-State actors, including armed groups; establishing command responsibility; and building public trust in post-conflict security institutions all pose difficulty as well. The widespread normalization of rape as a chronic social problem poses a huge obstacle to stopping violence and the very threat of sexual violence itself serves as a barrier to women's participation in public life. Once a woman has been attacked there are logistical and infrastructural challenges to delivering services to survivors.

Panel 2

Challenges, good practices and opportunities in the prosecution of violence against women and punishment of perpetrators

Patricia Viseur Sellers, an Independent Legal Expert, began the second panel with a presentation entitled *Genocide Gendered*. She pointed out that in Security Council Resolutions in the context of human rights, there is always the presumption that international crimes happen in the context of armed conflict, however this is not always true. Sellers continued by asserting that although the Genocide Convention was a result of the aftermath of WWII and is bound in its historical origins, it contains provisions related to sexual violence. New manifestations of gender-based genocide, like the indictment of Omar al-Bashir, have given genocide a gender perspective.

Genocide has always been defined by specific acts, and limited to specific groups of who these acts can be committed against. The Convention lists these groups but does not include women, gender, sex, and political groups. Therefore Genocide has called on women to look at their inter-sectionality; what group they belong to, being a woman has never been the lead inter-sectionality. It is silenced.

Sellers described genocide as being a traditionally masculine crime, which begged the question why we look at genocide and why women have to be so included. She said that the assumption is that women are just trying to be like men by wanting to be included because it's a masculine crime. However she affirmed that: "In the real world one of the most evil things to do is to wipe out groups. There was a point when the persecution of women slid over to intent to commit genocide." She concluded by saying that "genocide is not gendered enough, and its not about being with the boys, its about protecting our humanity."

The second presentation of this panel turned attention to the European Court of Human Rights and its approach to due diligence and the prosecution of VAW. Andrea Coomber, Legal Practice Director at Interights, painted a pretty grim picture of the situation in Europe with most European courts considering domestic violence (DV) as collateral

damage in a messy marriage. Coomber said that in the UK 35% of murders are caused by DV and rape is extremely underreported, making it hard to justify that DV is rightly categorized as collateral damage.

Only five cases have reached the European Court of Human Rights for review; and Coomber presented two cases as the most noteworthy examples. The first case, *Bevacqua and S. v. Bulgaria*, involved a woman who was subject to years of abuse at the hand of her husband and whenever she reported it was told that it was a family matter and the authorities never responded. The European Court disagreed with this when it found that “insufficient measures had been taken in reaction to the behavior of Ms Bevacqua's former husband.” This was a ground breaking decision because its ruling found that domestic violence was not a private matter. The second case, *Opuz v. Turkey*, brought to the Court by Nahide Opuz, involved a woman and her mother who suffered years of brutal domestic violence at the hands of her Opuz's husband. Despite complaints, the police and prosecuting authorities did not adequately protect the women, and ultimately Ms. Opuz's husband killed her mother. In this case The European Court of Human Rights found Turkey in violation of its obligations to protect women from domestic violence, and for the first time held that gender-based violence is a form of discrimination under the European Convention.

It cannot be argued that the decisions in both cases were positive, but due to the limited jurisprudence of the European Court there is a huge disconnect between it and EU State practice. Treatment of victims by police and prosecutors is wildly insensitive and often causes re-victimization, which results in what Coomer described as a key problem, mainly that it is difficult to find women prepared to take a case. In conclusion Coomber suggested that States provide legal aid to women and have more women in their criminal justice systems. During the discussion section of this panel, she further stated that legal aid was just a start to getting women to come forward, broader investigative measures are needed because despite the need for police to gather evidence they often did not. She introduced the idea of police having cameras on their helmets, ect, in order to take the burden from victims. Other measures she outlined as being essential to women escaping violence were shelters; psycho-social support; and protective measures.

The last panellist was Zoya Rouhana, Director of KAFA enough Violence & Exploitation in Lebanon. In her presentation Rouhana described the consequences of living in a patriarchal society for women in Lebanon. Lebanon is party to Conventions protecting women, and women are equal under the constitution, however implementation remains very slow and equality is not being realized. Domestic violence is not covered under the penal code and women in Lebanon do not refer to the same judicial system when dealing with family affairs. They must instead apply to the sect under which their marriage was held. These sects not only do not comply with basic human rights standards, but actually allow marital rape. This practice places family matters beyond the reach of justice, claiming that they should be solved in private, while giving men complete control over women and leaving them vulnerable to harm. Women who do stand up to perpetrators of domestic violence are subject to many obstacles and further violence. They must

face the legal and economic costs of leaving home, failure to access legal institutions because they are in urban areas, fear of family reaction that they must stay loyal their husband, gender insensitivity by police, and lack of knowledge of their rights.

In response to the impossible situation that women in Lebanon are facing, KAFA campaigned for a draft legislation to protect women against family violence and after two years of pressure and lobbying, the draft law was approved by the Council of Ministers in April 2010. It was then transmitted to Parliament, and should be reviewed when they resume their next meeting. If the draft law is approved it will have to be sent to the General Assembly for final approval. The implementation of this law would be a milestone in protecting women. It affirms that family violence includes every act of VAW perpetrated by a family member, regardless if it is physical or mental. It also says that DV is not limited to the domestic sphere and applies to extended family as well. The victim, witness and anyone helping victim would also be protected under this law and the victim would be able to get a protection order.

Rouhana did not ignore the challenges that exist in getting the law approved or that will exist once it has been approved. The unstable political and security situation that Lebanon is in negatively impacts social issues and especially women's issues. This makes it difficult for them to know when the law will be discussed by Parliament. Finding government agencies with the will to lay down executive procedures on the one hand and an action plan on other is also proving difficult. The provision of funding various factors in protecting women e.g. health care, and housing remains an issue. Rouhana had campaigned actively and strongly supported this law but had no misconceptions that more than just a law was required to help women.

Panel 3

Challenges, good practices and opportunities regarding remedy and reparation for women subjected to violence

The first presentation of this panel focused on the necessary preconditions for giving adequate and gender sensitive reparations. Ruth Rubio-Marin, Chair in Comparative Public Law at the European University Institute, said that before determining the appropriate remedy it is important to understand: the difficulty in providing evidence to prove facts; the harm that follows violation; the long term effects of violations; and the inability to establish patterns of the consequence of violation. She said that the precondition is the understanding that the notion of harm goes beyond the notion of right holder, it might target an individual but the effects go beyond this individual to families and communities.

Rubio-Marin emphasised that once the preconditions have been fulfilled and gender specific remedies are crafted, it is important to make sure that whatever

opportunity the remedies framework provides is used to transform the whole process. She *drew attention* to the Inter-American Court System, saying that unlike the EU Court, it had been generous in having a broad understanding of who reparation beneficiaries could be. To illustrate her point she cited the “Cotton field” v. Mexico case, which marked the first time an international human rights court explicitly endorsed that reparations have to be gender sensitive. In this case sisters, women and other family members came in as harmed parties, and the Court put the due diligence obligation on the State and said they had failed. Rubio-Martin concluded her presentation by highlighting the need to try to subvert structural inequalities when giving reparations properly.

Sara Hossain, Member of the Consultative Group, Bangladesh Legal Aid and Services Trust, relayed the situation in Bangladesh and spoke of the benefits that PIL (public interest litigation) cases can have in enabling women to access justice and courts to fashion more broad and expansive remedies. In Bangladesh the Constitution ensures the fundamental rights of its citizens including equality and non-discrimination, it also provides for freedom of religion and prohibits State recognition of any one religion. However, Bangladesh has been subject to military interventions causing the introduction of religion and making it an Islam state, which has led to all interpretations of the constitution being read in a religious context. The impact of this on women has been extremely negative and resulted in their subjection to everyday violence in the name of Fatwas, and in the form of forced veiling, forced marriage, and control of their sexual behavior. The Supreme Court recently made the decision to reinstate the prohibition of a State religion and the country is now in a battle between the religious right and those wishing for equality.

Hossain spoke of three specific PIL cases; one on forced veiling, one on forced marriage and the other on a Fatwa handing down extra-judicial penalties over a woman’s sexual behaviour. The Supreme Court found all of the actions in these cases to be illegal because in each case the victim was protected both by domestic and international law and the perpetrator(s) acted without jurisdiction. Despite the decisions in these cases and the clear position of the Supreme Court in Bangladesh there is an endemic level of non-compliance with judgements and a lack of “trickle-down” when there is a decision. Other challenges that exist to women when seeking justice; there is no systematic availability of legal aid to women, there is a lack of witness and victim protection, there is gender bias within the criminal justice system and poverty serves as a hindrance as well. Based on the situation in Bangladesh, Hossain identified the following best practices: intervener petitions by women’s organizations, judicial activism, judgments that provide a combination of individual relief and broader social remedy, and remedies that focus on preventative aspects e.g. educational curricula of both secular and religious institutions, engagement of local government bodies, and government circular. In conclusion she said that moving forward required documentation and dissemination of progressive judgements and that it was important to have two-way traffic on progressive judgements. She emphasized the importance of looking at

what's happening on ground and how its being used, and said it was also important to see how the experience is being used.

Following Hossain, Ruben Carranza, Director of the Reparative Justice Programme at the International Center on Transitional Justice spoke about implementing reparations for female victims in armed conflict. Carranza pointed out the three key elements to consider when talking about reparations:

- Conceptual: how to make measures transformative and gender specific. Carranza said to accomplish both a lot of weight must be put on reparations and this has become complicated because they come from the work of truth commissions and courts.
- Practical: how to incorporate gender when responding to the challenges in registration participation and sustainability.
- Ideological: how goals of transitional justice and can be linked to gender?

From here Carranza used examples of cases in Cambodia, Nepal and in Sierra Leone to illustrate the conceptual challenges that had occurred in each instance when giving reparations. Carranza concluded by saying that reparations do not have to be given in a legal framework, which is a certain amount of money. Women in Japan who had been sexually enslaved during WWII demanded that their story be included in history books so that future generations could learn from their experience.

Panel 4

Challenges, good practices and opportunities in the prevention of violence against women

Dr. Jacqui True, Senior Lecturer at the University of Auckland, New Zealand, started the fourth panel by using political economy theory to address the prevention of VAW. Dr. True affirmed the importance of knowing the causes of VAW, she said "if we don't know the causes then we can't stop it, we can't just carry on saving one woman and one family at a time." The premise of her presentation was that economic empowerment and gender equality can serve as a deterrent to violence. True declared that women lacking economic rights are those most vulnerable to violence and asserted that VAW has a material base and is caused by gender, economic and social inequality, economic stress, conflict over resources, and financial instability. True called for broader preventative mechanisms, she said that the Secretary General had linked corporations with VAW, but did not identify mechanisms they could use to prevent VAW. True said that what they could do was provide a living wage because economic security is a huge factor in stopping people from becoming both victims and perpetrators of VAW.

Unfortunately most research conducted on VAW focuses on risk factors not prevention factors and most policy is on protection and prosecution and not on prevention. True said there is not enough research on the economic/political/social

factors or on the individual/behavioral factors that serve as either risk or preventative determinants of VAW. When looking at economic/political/social risk factors these may include acceptance of violence, male superiority, and low status of women; while on the contrary preventative factors in this area may include property/land rights for women, gender equality norms, and norms around violence (not acceptable to use violence to resolve conflicts). Individual/Behavioral determinant risk factors include low levels of education, alcohol abuse, and lack of independent income; while preventative factors include education (specific anti-violence programmes in school and general secondary levels), healthy parenting, and gender equality in the family. Dr. True stated that political economy theory helps us identify the causal mechanisms through which these factors affect VAW and inform policy interventions e.g. how gender discrimination in access to land rights and housing makes women vulnerable to systematic violence throughout their lifetime. Dr. True called for the mainstreaming of VAW prevention and said using VAW Impact Assessment methodology before and after a policy intervention or lack of intervention, and using research-based evidence of the determinants of VAW (risk and prevention factors) were ways to do this. Moreover, Governments should always consider the chances of VAW increasing or decreasing when making policy decisions and develop cost-effective measures to prevent. Dr. True concluded a policy recommendation, which is to “mainstream gender-sensitive violence against women assessments in all policies and programming in development aid, health and justice areas as well as economic empowerment, governance and emergency/disaster preparedness.”

Zarizana Abdul Aziz, Director of the Due-Diligence Project, turned attention to the challenges of law reform when shaping State response to VAW. Abdul Aziz began by asking what it is we want from law reform and saying that “the law can lead or the law can follow,” and despite law reforms violence continues. She focused on the United States during her presentation and said that in 1994 the US passed the VAW Act, thinking that this would send a message that authorities could no longer cast aside violence and stalking, as a personal problem. However, there was a case last year where the police were called to a home for abuse and when they arrived rather than protecting the victim they spoke with the perpetrator about football. This gave the message that he could engage in VAW with impunity. Abdul Aziz continued that if the police are not even treating VAW as unacceptable, the law is not efficient, it requires that it not only needs to be implemented, but that the public and authorities need to “buy in” to it for it to have an impact. States have a responsibility to address VAW, but because this is mainly committed by private actors this means the States responsibility is in due diligence.

However, Abdul Aziz pointed out the difficulties in applying due diligence to inaction. She said that when a State does not take action, it is not taking a neutral stance, inaction is not neutral. Progress must be aimed at primary prevention to stop VAW from happening, not stopping it once it happens. She echoed Dr. True in saying there are lots of laws on stopping it once it has begun, but not in preventing it. Abdul Aziz concluded by declaring that every time VAW happens it is an outrage

against society; the contract between an individual and the State means we give up violence to get protection. VAW is not embedded in any culture, what we need to do is root it out from all societies; society needs to uphold laws, and make the situation better.

During Panel 3 Ruth Rubio-Marin cited the “Cotton Fields” case, Andrea Medina-Rosas was a member of the legal team in that case and attended the workshop to talk about preventing VAW in the context of Latin America and looked more in depth at this case. The Inter-American Court talked about the duty of prevention, making this case an interesting analysis when looking at the duty to prevent, and the details of preventing VAW; which took VAW beyond just being a human rights violation, and sanctions against perpetrators.

Medina-Rosas told the story of the city of Ciudad Juárez, Mexico that is considered one of the most violent in the world. She said that starting in 1993 a woman set up a register of homicides of women appearing in the local press. Based on this documentation various organizations starting working with these denunciations at a local level, which then grew to become a national level and now works at an international level. The register had been making progress for eight years when in 2001, in an old cotton field, 8 women’s bodies were found. This caused a great deal of emotion and mobilized people because it came so unexpectedly in light of the progress that had been made. Three of the victim’s families put a case to the Inter-American Court of Human Right, and in 2009 the sentence was given that condemned Mexico for failing to guarantee women’s right to freedom. The Court said that the State have put up policies to prevent VAW and made sanctions, and on those 3 victims the State is responsible from the moment that the person goes missing from the family because there is a risk of being sexually tortured and murdered. In this case the State didn’t investigate. Thus these were two aspects of the failure to fulfill its duty to prevent, one was not putting policies in place and the second was not investigating once the women went missing.

According to Medina-Rosas, the situation in Ciudad Juárez has worsened since the Cotton Fields case, due to Mexico failing to comply with the ruling. Mexico published the sentence in media and recently Congress adopted a budget to take care of compensation in rulings, but all other acts e.g. investigation, database, public apology, direct care, follow-up health and psychological care, has remained absent. Men and women alike are being murdered. In 2010 a women is murdered every 29 hours, when they first started documenting it was every 10 days. Members of public and federal security forces, not just private partners, organized crime, or police, are committing these acts. VAW has not dropped there.

Despite the such situation in Mexico Medina-Rosas underscored 3 good practices.

1. Given the fragility of State and despite impunity, victims and relatives still try to obtain justice through filing.
2. There is strong support at an international level.

3. More civil organizations and University groups are being established and really naming what is happening by building concepts, and building models to name and document what is happening.

Medina-Rosas ended her presentation by calling for the establishment of a Latin American Commission to monitor the situation and access to justice.

During the discussion session of this panel Mexico responded to the presentation by Medina-Rosas saying they recognize the importance of what was said, but did not agree with the presentation regarding compliance with the judgment. Mexico said that there are several parts of the judgment that have not been complied with, but there are several where action is pending and they recognize their obligation to comply with this judgment. Action is being taken, although there are many areas where more work is necessary, but they have been fostering initiatives like the establishment of a Working Group on Discrimination against Women. Mexico also requested to hear more about good practices that had been identified in Mexico and elsewhere regarding the Inter-American Court judgment.

Medina-Rosas responded that it would be ideal if the burden of proof were transferred to the States, so they could identify if they have suitable outcomes to their prevention policies. They have to look at structural problems that impede investigation and information and look at the policies and results that come, and give women the effective enjoyment of their rights. She ended by saying that civil society cannot look at this the State has to.

Ahmad Zia Langari, Commissioner at the Afghanistan Independent Human Rights Commission, turned away from Latin America to focus on the causes of VAW and the law that came into place to eliminate VAW in Afghanistan. Langari presented the causes of VAW on three levels; the first at the family level, the second at the societal level, and the third at the Government level. On the family level VAW is largely due to the high percentage of illiteracy, the poor economy, the male dominated culture, gender discrimination (female babies are unwelcome and female children are subordinated), and the practice of wealthier men to punish their wife by taking on a second and not giving them permission to work outside of the home. At the societal level there is an extremely abusive environment, a cultural barrier to female education, the misinterpretation of Islamic text to women, low levels of education and social knowledge, less opportunity for women to engage in cultural efforts, and a poor culture of respecting women's rights that undermines women's role in decision-making at the community level. Lastly at the Government level Langari identified the poor political will to value women in decision making, the prevention of women to take senior positions in government, inadequate female education, poor rule of law with a culture of impunity, and the victimization of women as a result of the negative implication of informal justice (they traditionally have informal justice and in most cases women's rights are violated by decision maker in this framework.)

Langari described an initiative taken by an independent Human Rights Commission and other stakeholders; the 2009 law on the Elimination of Violence Against Women. The first draft of this law was made in 2008 and was enforced according to the President's decree, although the law was not adopted by Parliament. The President waited for the Parliament to go on holiday because when the Parliament is gone, the president has the right to approve laws, so it came into effect. This law serves to protect human dignity, strengthen and protect family relations, and struggles against culture, customs and practices that promote/allow VAW. It also protects victims and people vulnerable to violence, punishes perpetrators. It asserts that VAW is a crime and should not be committed, at home, in the government, in public places, and in public transportation, and that perpetrators will be punished. This law was adopted in pursuance of the Constitution and Islamic Shari'ah and VAW is now illegal.

Dr. Rita Sabat, Assistant Professor at Notre Dame University shifted the discussion away from Afghanistan to look at how international norms are being translated into the complex sociopolitical context in Lebanon, causing them to lose meaning. Sabat said that Lebanon has acceded to CEDAW, but with reservations that are problematic. There are laws that address adultery, rape, abuse and crimes of honor in the penal code, but there is an absence of a legal regime against family violence. By not taking on VAW at a State level it has made it a private affair. Lebanese society is fractured by different religious communities; there are 18 recognized confessions and 15 personal status codes and laws. These communities become very protective when the Government tries to introduce laws that pose a threat to them taking the focus away from the issue at hand. Sabat identified many challenges beyond the system of confessionalism that fractures society. The biggest of which is the culture of violence that developed during the civil war desensitizing people to violence and death. Others include that VAW cannot be researched unless society is united against it, it cannot be talked about in a conflict situation and that the communal clashes that are prevalent in Lebanon which threaten to escalate into civil war take focus away from VAW and make campaigning impossible.

There are also inherent principles in society that pose great obstacles to addressing VAW. These include the family honor and a family preservation filter. The family honor filter comes from the view that people are not born with rights they earn them through relationships, thus children know who has the resources to give them rights, causing sisters to reflect family honor in their actions and brothers to watch over sisters. The family preservation filter comes from the socializing of women to believe that wives and mothers are protectors of the home, so when there is violence in the home it stems from their failure and reporting this would only make their failure public. This idea about family preservation is fixed in society and women are not keen to give it up. Therefore Sabat concluded that the most effective way to deal with this situation would be to promote healthy relationships in order to chip away at the honor and preservation filters. She further emphasized best practices as working with religious and community leaders, having "bad touch, good touch" school programs, the economic empowerment of women who have to leave

their aggressors and aggressor rehabilitation programs, no fault divorce, and law reforms where compensation is built into the law.

John Kapito, Chairperson of the Malawi Human Rights Commission ended panel 4 by delivering a very direct presentation in which he asked that men take responsibility where they are wrong. Kapito came to discuss the status of women and girls in Malawi, but approached the subject from the perspective of condemning men's actions. He began his presentation by attributing men as the abusers and calling for their acceptance of this. He said that African men behave like kings, but he did not know who told them that they were kings. In his opinion this fact implied that men should therefore be in the forefront of going out and standing up to say where they went wrong because if they could identify their own mistakes then progress could be made in the right direction.

Kapito circulated a research paper he had written at the Malawi Human Rights Commission and released on the status of women and girls in Malawi and for that reason did not want to recount what was in this report.¹ Rather he chose to focus on a few issues he found of utmost importance. He began by describing the challenges that HIV/Aids creates for women in Malawi. Women are the ones responsible for being tested and only when found positive is the man brought into to the doctors office. In these instances the man always becomes angry and blame and stigmatizes the woman, despite the fact that culturally it is very rare for women to have numerous sexual partners, rather this is typical male behavior in society. This is not the only practice he described that infringes on women's rights, another equally disturbing practice is that of "removing the dust" once a woman's husband has died. This "degrading" practice requires that the woman have intercourse with another man before her deceased husband is buried in order to "remove dust" so that she is clean again and can be remarried. He emphasized that if women are not given social and economic protection they will continue to be abused.

In closing Kapito requested that all the men in the room put their hands across their chest and say "no more violence against women."

Panel 5

Challenges, good practices and opportunities in the protection of women subjected to violence.

Sarah Buel, Clinical Professor of Law and Director at the Diane Halle Center for Family Justice of the Sandra Day O'Connor College of Law at Arizona State University,

¹ Report can be found at:
http://www.nhri.net/2010/PRESENTATION_ON_HR_WOMEN_IN_MALAWI.pdf

put a face to the crime of VAW. She began the presentation by describing her experience with abuse. Buel suffered abuse at the hands of her husband for years and escaped in a time when this was unheard of. As a result of her experience and difficulties in escaping an abusive situation she started advocating for the elimination of VAW in 1977. At the time she thought that a law would be put in place allowing women to go to court and that the police would enforce it, then she planned to move on and do something else with her life. Now she finds herself thirty-three years later still working on the issue and VAW persists as a problem.

Buel said that in the US there are four battered women per day who are murdered by an intimate partner. Therefore it is necessary to think in terms of action planning to stop VAW. She identified five key elements of her strategy for changing the situation and helping victims. The first she said was in safety planning, women need help in planning how to get through the day when being stalked and terrorized. Buel found this to be one of the most overlooked aspects when dealing with VAW. The second and third points were holistic and sustained interventions. The fourth was linking with Universities; she described a rigorous program of how she utilizes her students to help the community and abuse survivors. The fifth element was that its necessary to use a 3-pronged approach to problem solving in cases of abuse and violence: first to identify what the problem is, then who is involved and lastly to find solutions on how to help.²

The last panellist of the day was Leanne MacMillan, Director of Policy & External Affairs and the Medical Foundation for the care of victims of torture, UK. Macmillan was very victim-oriented in her presentation and touched on many issues that lent new perspective to the day's discussion. Interestingly when talking about the situation of torture Macmillan described the "Bush factor," namely the practice of the Bush administration of torturing people, to have made the overall situation much worse. She turned from this fact to the work of the Medical Foundation. She said that they seek to take a holistic approach to the rehabilitation of torture survivors, which has lead to them providing protections, clinical services e.g. therapy and group work, and legal services including interventions in court where they provide medical/legal reports. These have proven important because they investigate the person's history of torture and serve as an important tool when talking about what is happening and who is doing it. These services also help victims of torture to remain in the UK. Macmillan emphasized that it is beneficial for victims if the gravity of the harm is recognized.

Macmillan continued by taking the presentation to a more personal level and speaking on behalf of victims. She said that when asked what they wanted, survivors

² Buel listed several websites where victims of violence and people wishing to raise awareness can go for information and assistance: www.instituteforsafefamilies.org, <http://new.abanet.org/domesticviolence>, www.familyjusticecenter.org, www.texas.edu/law/orgs/ssn, www.harlemchildrenszone.org, www.watch.mn.org.

often say that they need access rights to rehabilitation; an overall justice imperative: they want to stop the harm from happening to other people; and redress, although this is highly inaccessible; acknowledgement; support and compensation; and they want to be heard and have a say. She said that she had learned from survivors that they suffered great levels of humiliation, felt guilt for being unable to stop the harm, felt powerless to help themselves and others, and suffered severe physical and psychological consequences that stayed with them.

Macmillan brought a report released by the Medical Foundation called Justice Denied: The experience of 100 torture-surviving women of seeking justice and rehabilitation.³ Of the women in the report none of their perpetrators were prosecuted, this was not because none sought justice, but was due to ineffective access to justice. Based on these women's experience, Macmillan highlighted the need to unpack the issue of asking survivors to take on heroic acts. Court procedures and media exposure is often very upsetting to victims and puts them back on the rehabilitation track. She stressed that countries of asylum need to be able to recognize the signs of trauma. Survivors are often required to recount every detail of their ordeal, but it is "nonsense to expect a survivor to remember so much detail." There is a great need to ensure that decision makers understand the context of survivor disclosure and links to credibility, so that survivors can access justice.

Conclusion

To conclude this workshop Navy Pillay, the High Commissioner for Human Rights, came to say a few words. She said that she had worked on the issue of domestic violence for forty years and that she had most recently returned from Bolivia where 7 in 10 women is subject to domestic violence. She pronounced that there was still a lot of progress to be made in eliminating VAW and thanked the panellists and audience of the workshop for contributing to the two-day discussion. She said that the summary of the discussions would be presented to the Human Rights Council in June 2011 to contribute to making effective measures to eliminate VAW.

³ More information can be found and this paper can be requested at www.torturecare.org.uk