

Catalyst 2005
 Global Perspectives on Successful Implementation of Human Rights
 of Women
 The University of Essex
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Conference Report by: TREVA D. BRAUN AND MITCH DUFRESNE*

1. Introduction

In 2000, on the initiative of a group of postgraduate human rights students at the University of Essex, a series of topical seminars entitled *Key Points in Women's Human Rights* was held at the university's Human Rights Centre. In 2005, building on the success of that initiative, a group of postgraduates resolved to organize an international conference on practical strategies for advancing the human rights of women.¹ The *Catalyst 2005* conference, held on 6 May 2005, was designed as a forum for sharing global knowledge and experiences of key successes and strategies for the realization of women's human rights from diverse cultural, political and legal contexts. With the generous support of eight sponsors,² the event brought together judges, lawyers, academics, and practitioners from Iran, Bangladesh, Sierra Leone, Serbia and Montenegro, Turkey and the United Kingdom to discuss the successes in their regions and consider how those successes might be applied in other contexts.³ The conference attracted an audience of over seventy-five participants from the University of Essex and other UK universities as well as local non-governmental organizations, law firms and private individuals.

Conference co-chairs Kevin Boyle⁴ and Françoise Hampson⁵ opened the conference by pointing out that in the domain of human rights practical strategies – while often

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³ To read the full text of the papers delivered at *Catalyst 2005*, visit the conference website at <http://www.essex.ac.uk/catalyst>

⁴ Kevin Boyle is Professor of Law, University of Essex and former Senior Advisor to UN High Commissioner for Human Rights Mary Robinson

⁵ Françoise Hampson is Professor of Law, University of Essex and member of the UN Sub-Commission on the Promotion and Protection of Human Rights

frustratingly slow – were the only strategies that were enduring. With that in mind, the purpose of the conference was to catalyse among human rights practitioners and the public at large a drive toward greater utilization of proven regional successes in improving the realization of the fundamental human rights of women the world over.

2. Global Status of the Human Rights of Women: Key Successes and Challenges

Eminent human rights scholar Christine Chinkin⁶ delivered the opening paper on key international successes and ongoing challenges for women in the realization of their human rights. In her view, three recent developments stood out as among the most positive. First was the elevated status of women's human rights since the 1990s as part of the international human rights dialogue. In addition to a series of world conferences bringing global attention to women's rights as human rights, a new international enforcement mechanism for women's human rights had finally been established, under which cases were now being launched.⁷

The second was the success in bringing gender-based violence onto the international agenda. There was now international recognition that States had a legal obligation to exercise due diligence in eliminating, investigating, prosecuting and punishing perpetrators of such violence. It was also more widely understood that violence against women was rooted in discrimination and the social and cultural subordination of women, and that it acted to maintain that subordination. The early 1990s also saw considerable argument on rape and sexual abuse as genocide and crimes against humanity, principles that were now entrenched in the statute of the International Criminal Court and in the findings of other international criminal tribunals.

The third success which Chinkin highlighted was the effective use by women's non-governmental organizations and civil society generally of international mechanisms and institutions to advance the claims of women and, where those mechanisms were unfriendly to their claims, the creation of new mechanisms. 'People's tribunals', such as the one established in 2000 to determine the criminal liability of high ranking Japanese military officials in respect of the 'comfort women' atrocities of the 1930s and 1940s, provided a good illustration of civil society stepping in and using imaginative and innovative ways to end the long-standing silence surrounding violations of women's human rights. As a result, international human rights law was beginning to be seen as an instrument of global civil society and not just of States.

Among the greatest challenges for the years ahead, however, was that of overcoming a potentially dangerous sense of triumphalism in respect of the successes of the 1990s. With extensive work still to be done, human rights advocates had to guard against a sense of contentment. The guarantee of women's human rights had now to go beyond new instruments and institutions to challenge the structural inequalities and power imbalances that allowed continued violations to occur. Women had to finally begin to be seen not merely as victims but as transformative agents in national and international peace, development and human rights processes.

⁶ Christine Chinkin is Professor of Law, London School of Economics and Political Science

⁷ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, G.A. res. 54/4, annex, 54 U.N. GAOR Supp. (No. 49) at 5, U.N. Doc. A/54/49 (Vol. I) (2000), entered into force 22 December 2000

The second key challenge lay in the adverse impact of global capitalism on women's human rights. Social exclusion, unemployment, low paid employment, and structural adjustment policies all had particular impacts on women. While globalization had provided many new employment opportunities for women in the developing world, thereby increasing their autonomy and independence, the gap in women's human rights protection had widened as governments that should otherwise be the guarantors of human rights were increasingly unwilling to act where to do so would be to discourage commercial investment. This problem would continue to fester as long as corporate actors remained essentially unregulated by international human rights law.

A final challenge was the growing preoccupation of governments with national security which has left human rights as a whole in the shadows. As Chinkin stated:

At precisely the moment that women have sought to become insiders within the human rights movement as a whole, the human rights movement itself has become an outsider discourse, particularly in the context of national security. And when the discourse itself becomes marginalized, it is highly unlikely that there will be receptiveness to the claims of the most vulnerable or marginalized people within it, and advances that have been made for the promotion of such vulnerable people are challenged.

3. Human Rights of Women in the Family

Zeinab Ranjbar⁸ from Iran and Sara Hossain⁹ from Bangladesh focused their comments on the advancement of women's human rights in the domestic sphere. While the rights of women in the family remained perhaps the most difficult and underdeveloped of all human rights owing to the strong grip of cultural and religious patriarchy in many regions of the world, advances were being made, albeit at the 'frustratingly slow' pace alluded to at the opening of the conference.

Among the positive developments in the Iranian context were a series of amendments to national family law legislation. The age of puberty, and thus the minimum age for marriage, was recently increased from nine to thirteen for girls, with fifteen remaining the minimum age for boys.¹⁰ This also had the effect of raising the age at which girls could be considered criminally liable to thirteen, as such liability in Iran is tied to the deemed age of puberty. Further, while women continued to suffer discrimination in divorce matters,¹¹ new conditions were now being stipulated in marriage contracts which gave women increased rights to divorce, at least in certain egregious circumstances. Religious rights to polygyny had also been partially eroded by legislative amendments requiring permission of either the court or the first wife before a second wife could be taken. According to Ranjbar, 'the courts only grant permission under difficult circumstances such as if the first wife has a serious and incurable illness.' Women, presumably, were unlikely to give the necessary permission, although it was noted that questions might arise as to women's ability to assert themselves in this respect, particularly in remote and rural areas.

Ranjbar reported that critical shifts had also taken place in respect of certain traditional cultural practices in Iran, which she clearly distinguished as contrary to Iranian

⁸ Zeinab Ranjbar is a senior family court judge in Tehran, Iran

⁹ Sara Hossain is a barrister before the Supreme Court of Bangladesh

¹⁰ During the Q&A period, Ranjbar confirmed that despite these minimum ages, the vast majority of Iranians marry in their twenties.

¹¹ Men can divorce at will while women cannot.

family law and Islamic principles. The practices of *nabveh*,¹² *shaghar*,¹³ *fasileh*,¹⁴ *manzooreh*,¹⁵ and *bessan*¹⁶ were all reported as being prohibited and drastically reduced. Ranjbar described her personal participation in concerted, long-standing and widely successful efforts to eradicate 'honour' killings in her country. More than a decade of persistent action by the government, which included establishing an inter-agency task force, creating educational seminars, films and publications, garnering the support of the clergy and of tribal leaders, establishing penal prohibitions carrying ten-year sentences, and swiftly prosecuting perpetrators resulted in a ninety percent reduction in these killings. During the Q&A session, Ranjbar was asked what strategies had the greatest impact in eliciting the support of tribal leaders to eradicate these killings. She indicated that in addition to legal initiatives, public information and education campaigns, of particular importance was a series of speeches delivered directly by Ayatollah Khamenei, Iran's Supreme Leader as well as the head of the judiciary, to the relevant community leaders and tribespeople, condemning and demanding an end to 'honour' killings and confirming the right of women to choose their future husband without interference or punishment from family members.

Sara Hossain addressed the issue of forced marriages, with particular focus on the United Kingdom and South Asia. In the UK there were over 1,000 reported cases each year of women and girls being taken out of the country for forced marriage, predominantly to South Asian countries. This figure did not account for unreported cases or those occurring within national boundaries. In recent years extensive ground level mobilization, media support, public awareness, and political will had combined to catalyse legislative and policy changes in the UK, including new guidelines for police, social services staff and education authorities, and the establishment of a specialized government unit to provide case-by-case support and assistance for victims. A shift in attitude at the official level had also broken down perceived barriers to curbing this practice. Given that most of the victims had dual nationality with the South Asian country to which they were taken, the UK previously took the position that it could not intervene beyond making informal representations. However, with the increased attention that had been focused on the issue, the government now took the view that dual nationality was no longer an obstacle to formal representations and assistance.

Hossain observed that human rights abuses such as forced marriage were significantly easier to address when they concerned minority communities than when the practice was a more widespread custom of the majority population. In India, Pakistan and Bangladesh forced marriages are commonplace and therefore much more difficult to eradicate. While judicial interventions had occurred in these countries in cases where the woman had attained the age of majority, paternalistic views still prevailed for younger women and girls. A statement made in the reasons for judgment of one Bangladeshi judge is telling: 'Should not the Court impose its mature experience ... in judging the attitude of girls

¹² The right of a woman's paternal cousin to priority in marrying her, thereby allowing him to prevent her marrying anyone else. Disregarding his request often led to the murder of the woman.

¹³ 'Exchange' marriages, where a man offers his sister or daughter to another man in exchange for the right to marry that other man's sister or daughter.

¹⁴ Where a woman is given in marriage to the family of a victim as compensation for a crime committed by one of her family members.

¹⁵ 'Almsgiving' marriages, where parents promise to give their daughters in marriage to a descendant of the prophet Muhammad.

¹⁶ The giving of a woman as a 'gift' to another tribe to put an end to tribal differences.

in many such cases who are mostly guided by infatuation and flush of youthful romanticism without caring for tomorrow?’

Indeed, where a particular human rights abuse was a cultural norm, its existence as a problem was frequently denied at State level. This denial, unfortunately, was often mirrored to a large degree in the non-governmental sector which was also tied up in the cultural reality in which it was working. Further, by focusing too closely on narrow topics such as forced marriage, the tendency was to lose sight of how these problems fitted into the larger picture of domestic violence and patriarchal control of sexuality. One had to guard against ‘exoticizing’ these issues as embedded in culture and thus different from the domestic violence that occurred across cultures, and those arguments based on legal pluralism which threatened to allow discriminatory personal laws to prevail in multi-cultural societies had to be rejected. Finally, in fashioning remedies, better use of existing protocols needed to be considered rather than constantly seeking to develop new ones. For example, rather than establishing entirely new protocols and procedures for combatting forced marriage, forced marriage should be recognized as merely another form of domestic violence and existing mechanisms should be used for combatting such violence.

In closing, Hossain remarked that although the advances made by the UK government on the topic of forced marriage were to be applauded, it was not sufficient to stop there. The international obligation on States to provide technical cooperation to other countries demanded that where best practices were developed, they should be shared in order to hasten similar advancements elsewhere, particularly in contexts where the same human rights abuse was much more pervasive and challenging.

A particular problem facing South Asian women was highlighted during the Q&A session: the combination of social pressures and a lack of viable alternatives. A South Asian audience member related that in her culture a woman’s maternal uncle had the right to control her choice of husband. She eloquently explained that even if the woman were not strictly forced to accommodate the uncle’s decision, the pressure to conform was extreme. It was often not feasible to reject the decision or go to court as these women had to continue living in the community. Hossain confirmed that the vast majority of cases were not those that ended up in the courtroom, but those that were suffered quietly by countless numbers of women on a day-to-day basis. Among the most powerful weapons used by those who wished to exert dominance over women’s lives, she said, was emotional control. Women were faced with the need to fit in with and be accepted by their family and their community, even in the face of unjust and emotionally agonizing patriarchal dominance. Further, those who wished to reject familial pressures commonly had nowhere to turn, particularly in rural areas. In Bangladesh, for instance, there were merely six governmental women’s shelters and less than a dozen non-governmental shelters for a population exceeding 140 million. Strategies to provide women with shelters, assistance and social alternatives in both urban and rural areas were thus critical.

4. Violence Against Women

Four speakers on the afternoon panel addressed the complex and interrelated issues surrounding gender-based violence. They provided tools for developing successful strategies to eradicate violence against women, in contexts ranging from human trafficking to violence grounded in multiple discrimination.

The panel members agreed that successful strategies depended on consultation with the affected women to determine their needs rather than assuming what those needs are. It was also important to bear in mind when developing strategies that the disadvantage suffered was often the result of multiple discrimination, and, as a result, efforts for a sustainable solution had to draw on a variety of disciplines. The successful strategies presented by the panel members included lobbying government for the implementation of international standards, which often required legislative reform, making men part of the campaign to eliminate violence against women, taking advantage of the political climate at the right time, developing specialist services, and using an integrated and multidisciplinary approach in collaboration with other partners involved in the rights of women.

Jelena Djordjevic is one of the founders of *Astra*, the first women's organization in Serbia and Montenegro that addressed as a priority the specific issue of trafficking in women. She spoke about the variety of issues that arose in relation to the global phenomenon of trafficking in human beings, such as mobility of people and work services. One of the strategies for combating trafficking in women stemmed from the Palermo Protocol of 2000¹⁷ which set the international standards for counter-trafficking. This Protocol prompted countries in South Eastern Europe to change their national laws to be consistent with the new standards. The Balkans were significantly affected by trafficking due to the region's post-war economic and social conditions. Serbia is a country of transit, the origin and the destination for trafficking. In the last five years since the Protocol came into existence, there had been unprecedented involvement of various actors in counter-trafficking efforts, including international organizations, governmental organizations and NGOs.

An institutional framework was developed in the region, which included the creation of a national multidisciplinary team to focus on combating trafficking. There were four working groups tasked with specific aspects of the issues such as law enforcement. At the grassroots level, the plan had led to, among other things, the creation of shelters for women survivors of trafficking. Some of the greatest challenges in Serbia and Montenegro had been to determine how to negotiate with members of the government who were in some instances the very human rights violators of the past.

Christina Curry¹⁸ spoke about her experience on a project in Turkey called *Women Confronting Family Violence* and emphasized that it was essential to bring men into the campaign, underscoring that violence was everyone's concern. The strategy for the project regarding family violence was to take the lead from women's groups in Turkey and support the movement to change gender discriminatory laws regarding, for example, forced marriage. It was anticipated that these laws would soon come into force. She also emphasized the universality of violence against women and indicated some of the reasons Amnesty International decided to work on this issue in Turkey, including the existence of a strong women's rights campaign already in the country, the timing, the willingness of local NGOs to work with Amnesty International, the European Union accession process, and general European Union motivation in the area.

¹⁷ United Nations Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, G.A. res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I) (2001)

¹⁸ Christina Curry is from Amnesty International. Curry is a psychologist and has worked with torture survivors and in the area of general health related psychological disorders

Marai Larasi¹⁹ has worked for over ten years in the field of women's aid. Based on the needs identified by the women she met, it was apparent that there was a need to offer ethnically specialized services to women who often faced multiple forms of discrimination from inside and outside their communities. The specialist services also had to be developed and owned by the communities themselves.

Jane Esuantsiwa Goldsmith has vast experience over the last twenty-five years or more in advocating and promoting the rights of women and is currently a Commissioner of the Women's National Commission (WNC) in the UK.²⁰ To address issues of violence against women, the WNC has a multidisciplinary domestic violence working group. Goldsmith emphasized the need to look at violence in all its forms and apply an integrated approach to the complex issues. She travelled around the UK to listen to women in order to properly identify their needs. One had to allow the space to take away the shame and allow women to talk about their experiences and be believed, so that they could overcome fears of isolation. The WNC acted to channel women's voices so they were heard at the highest levels of policy making on domestic violence. In the fight against violence, women indicated that they wanted prevention, for example through media campaigns, protection, such as being able to stay in their homes after abuse is reported, and support, including training for professionals.

The UK's Domestic Violence Act of 2004²¹ had addressed some of the factors for which the WNC lobbied, but clearly it was the implementation that would prove whether it was worthy or not. There were a number of drawbacks to the legislation, such as a lack of a gender perspective. The lobbying continued for those things that did not make it into the statute, including financial assistance for those women such as asylum seekers with no recourse to public funds. Fortunately, international human rights instruments were now in place to support these efforts.

In conclusion, Goldsmith stressed the importance of political will, timing, collaboration, and strategic partnerships to tap the experience and expertise of the women's movement. An effective strategy required the inspiration and involvement of women survivors of domestic violence and needed to challenge how things were done. The women's movement needed leaders, not a hierarchy, and people who engaged their hearts as well as their heads.

During the question period that followed the presentation by the members of the panel, a number of points were raised including the importance of considering the male component of violence in the campaign against violence and the essential need for the education of boys and young men before they become actively violent. Curry highlighted the example of the national anti-bullying campaign launched in Australia in order to educate boys about self identity and positive relationships. Deirdre Fottrell²² emphasized the need to recognize the potential victimization of women by the legal process and the frequent failure of lawyers and judges to appreciate their professional responsibilities towards the complex issue of domestic violence.

¹⁹ Marai Lasai is Executive Director of the Nia project, UK (formerly Hackney Women's Aid)

²⁰ An independent advisory body to the UK government and an umbrella group for 400 women's organizations

²¹ Domestic Violence, Crime and Victims Act, 2004 Chapter 28, available at <http://www.opsi.gov.uk/acts/acts2004/20040028.htm>

²² Deirdre Fottrell is a barrister and lecturer in human rights of women at the University of Essex

5. Equal Representation of Women

Abator Thomas²³ focused her comments on the inequality of and discrimination against women manifested in the under-representation of women in politics. She explained that women constituted 52 per cent of the population in Sierra Leone yet only 14.5 per cent of the members of parliament were women. As she described, 'a democracy that is not engendered is in danger'. When government was made up solely or predominantly of males, it could not be said to be a government 'of the people for the people'.

While Director of the British Council in Sierra Leone, Thomas established a very successful project to gain equal representation of women in politics, called the 50/50 Group. One of the first efforts in establishing the group was to identify specific women to be considered for political candidacy. In order to reach gender representation, it was necessary to change the perception of women in politics and reshape the traditional views of women's role in society; the women had to be empowered and no longer marginalized particularly in public life. One concrete and clear indication of how women were viewed was evident in the challenge simply to get women included on the voting lists in a fair order rather than at the end of the list of candidates for whom the people of Sierra Leone could vote.

Much was achieved in the domain of changing the views of the role of women through training of the women, to impart to them much needed skills and confidence. As well, bringing the women together for training helped to develop an essential network for them across the country. The strategy of the 50/50 Group, based on issues of non-discrimination and equality, was highly successful in mobilizing the movement to achieve more representative numbers of women in public office in Sierra Leone.

Also of relevance to the issue of democratic governance were Christine Chinkin's comments earlier in the day, highlighting an important example of gender representation on the international plane. The International Criminal Court (ICC) is the first international judicial body to have provided in its statute a specific provision for the inclusion of women as judges on the court.²⁴ In the 2003 elections, seven out of eighteen judges elected to the ICC were women.

In response to questions from the audience, Thomas also underscored the need to make men part of the strategy to increase the overall acceptance of women as equal partners in society. She also stressed the importance of education as part of the strategy to achieve equality of women and remarked that the Ministry of Education in Sierra Leone was considering penalizing those families who failed to send their girls to school.

6. Moving Forward

In the final session of the conference, an open-ended group discussion was led by Deirdre Fottrell. Fottrell applauded the range of strategies that were being employed in different contexts and encouraged the cross-fertilization of these and other strategies by both practitioners and legislative and judicial bodies alike. There was much to be learned from different regions in terms of what was working and why; and human rights advocates should capitalize on the successes of others and avoid repeating mistakes.

²³ Abator Thomas is Minister of Health and Sanitation and former President of the 50/50 Group in Sierra Leone

²⁴ Rome Statute of the International Criminal Court (1998) Art.36 8(a)(iii)

Fottrell also urged women's rights advocates to consider stepping back and objectively critiquing where they stood and where they were going. She particularly encouraged a critique of the proliferation of processes and substantive instruments emerging from the women's rights movement, while considering how to make existing processes work more effectively in favour of continuing to drive forward new issues and legal infrastructure.

The group discussion that followed brought to the fore the urgent need to address ongoing systemic barriers to women's enjoyment of human rights. Women continued to face more severe economic, social and cultural constraints on their access to human rights than any other identifiable group. As Jane Goldsmith noted during the discussion, 'The law in a sense is a blunt instrument. It gives women rights, but whether they actually have any capacity or support to access those rights and make them a reality is another question.' In the months and years ahead, as the successes of women and men around the world who have achieved significant gains for the human rights of women continue to be built on, these systemic and structural matters will be among the most critical issues that governments, national and international human rights tribunals, courts and civil society must finally confront in a significant way.