Conference Report from the

Second Annual Women & Justice Conference:
Gender-Based Violence and Justice in South Asia

October 22-23, 2011, India Habitat Center, New Delhi
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Conference Overview: Purpose, Participants, and Outcomes

Background

The Second Annual Women and Justice Conference, “Gender-Based Violence and Justice in South Asia,” was hosted by Cornell Law School’s Avon Global Center for Women and Justice together with Jindal Global Law School and made possible by a grant from the Avon Foundation for Women. The conference was developed in further collaboration with UN Women, Virtue Foundation, Kriti Team, the International Center for Ethics, Justice, and Public Life at Brandeis University, and Acid Survivors Trust International (ASTI). The Conference was held in New Delhi, India, 22 and 23 October 2011 at the India Habitat Centre.

Purpose

The Second Annual Women and Justice Conference brought together stakeholders working on eradicating violence against women and girls from around the world: namely South Asia— including Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka—as well as Canada, France, Guyana, Norway, Singapore, South Africa, the United States, the United Kingdom, and Zambia. The Conference presented an opportunity for practitioners and scholars to share knowledge, insights, and strategies.

In addition to creating a dialogue across national boundaries, the Women and Justice Conference aimed to foster interactions among people who often operate in isolation from each other although working towards the same shared goals. To this end, this event brought together judges, scholars of law and other disciplines, human rights activists, survivors of violence, health care and legal professionals, and policy makers:

- To foster discussion on law, policy developments, and advocacy strategies to address gender-based violence.
- To enhance international collaboration and networks of stakeholders working to advance access to justice for women and girls.
- To examine opportunities for using international human rights frameworks and mechanisms to address gender-based violence.
To engage academia and scholarly works to inform the development of advocacy tools and strategies to address gender-based violence.

To support and strengthen national and international women’s movements.

Participants

The conference convened over 230 people from sixteen countries. Participants included senior and distinguished judges from national and international courts, including judges from the highest courts of Bangladesh, Nepal, India, and Sri Lanka, as well as judges from trial and appeal courts of the United States. Reaching across disciplines and borders, the event engaged economists, women’s studies scholars, legal professionals and scholars, and health professionals, as well as leading human rights advocates who are key figures in the global movement to end violence against women. A complete list of people who spoke at the conference is attached as Appendix 1 to this document.

Conference Format and Panels

The Conference took place over the course of two days with morning plenary sessions and three parallel, smaller-group sessions each day. Parallel sessions centered on panel discussions which delved deeply into important sub-themes presented throughout this report, such as acid violence, gender violence in conflict, and violence against girls. At the end of each day in an afternoon plenary session, commentators assigned to the parallel sessions commented on salient aspects that emerged from the discussions. At the end of each plenary session and parallel session, the floor was open to questions from the audience. After the conference, a colloquium of judges was held and a brief description of that is attached as Appendix 2 to this document.

Outcomes

Throughout the two-day event, participants addressed diverse issues related to gender-based violence, focusing on the interactions of social, legal, political, and economic factors that influence women’s experiences in South Asia. Speakers emphasized the pervasive problem of deeply-embedded discriminatory attitudes and the role judiciaries and lawmakers play in influencing these mindsets and related practices.

Participants noted the transnational nature of many gender-based crimes and the need for improved mechanisms to effectively prosecute international crimes such as trafficking or bride abandonment, and to pursue fleeing perpetrators. Participants pointed to equal
representation of women in judicial and government agencies, as well as gender sensitization programs for these actors, as essential to ensuring effective prosecutions and promoting meaningful protections for women.

This Conference Report sets forth the main themes and points raised at the conference, including the background on specific issues of importance, the successes and challenges of initiatives across the region and the world, and recommendations for addressing gender-based violence in South Asia.

The Scope of Gender-Based Violence in South Asia

Ms. Indira Jaising (Additional Solicitor General) (India) and Hon’ble Mrs. Justice Ranjana Desai (Supreme Court of India) (India) pointed out that gender-based violence in South Asia, as in other regions of the world, takes on diverse forms. Gender-based violence includes domestic violence, sexual harassment, acid attacks, individual and gang rape, exploitation of women in police custody, forced prostitution, forced marriage, bride abandonment, bride burning, dowry deaths, other "honor" killings, trafficking, sex-selective abortions, emotional abuse, and witch-hunting, among other acts. Approximately 50% of women in South Asia experience violence in their homes, and, as of 2004, an estimated 50 million women who would have constituted part of South Asia’s population were missing due to premature death caused by neglect and violence.

In one poll, gender experts deemed Afghanistan, Pakistan, and India among the five most dangerous countries for women, where, according to U.N. Women, “every three minutes an act of violence is perpetrated against a female.” These trends have caused South Asia to have “one of the most distorted sex ratios in the world.”

Conference speakers attributed gender-based violence against South Asian women to many factors, including:

- Gender norms that perpetuate gender inequality, such as:
  - the preference for sons to carry the family name or continue the family business,
  - gender division for housework and childcare, and
  - assumptions about women’s mental capacity and intelligence.

- Women’s and girls’ limited access to nutrition, education, health care, and economic opportunity due to restricted mobility and dependence on men, forced or early marriage, and lack of private or public decision-making power;
• The interplay of multiple forms of discrimination such as caste, disability, religion, sexual orientation, urban versus rural poverty, age, and migrant or refugee status;

• Political underrepresentation of women;

• Societal indifference to reform efforts or calls for justice;

• A culture of victim-blaming;

• Influences of conservative religious institutions;

• The disproportionate impact of conflict on women's safety and access to resources; and

• The failure to address transnational gender-based crimes such as trafficking, war-related sexual violence, and abandonment.

Throughout the conference, one problem unique to domestic legal systems—though widespread across national boundaries—became a common theme: profound and widespread limitations on women’s ability to meaningfully access domestic justice systems.

Speakers pointed to many factors limiting women’s access to justice, including:

• States’ failure to criminalize certain crimes, such as marital rape, trafficking, or cyber-crimes;

• Poor implementation of existing legislation aimed at protecting women;

• Laws that discriminate on the basis of gender, such as legislation limiting women’s inheritance rights or rights to support after divorce;

• Emphasis on alternative dispute resolution mechanisms, which pressure women to reconcile with abusers, negotiate in coercive circumstances, or treat gender-based crimes as private disputes;

• Lack of rights awareness among the populace and officials;

• Recognition and empowerment of discriminatory traditional local, cultural, and religious norms, such as patriarchal personal laws governing divorce and inheritance;
• Vilification of victims of abuse, such as when rape victims are charged for adultery;
• Conscious or unconscious judicial bias against women, such as when judges assume that rape victims are lying, that women misuse the law when invoking it against violent husbands or parents, or that a prosecutrix in a rape case is a woman of "easy virtue";
• Officials’ reticence to participate in sensitization programs;
• The expense of going to court to seek redress; and
• Women’s poor representation on police forces and judiciaries.

Anne F. Stenhammer, Regional Programme Director of UN Women’s South Asia Regional Office, remarked at the Conference opening that "justice remains out of reach for millions of women in South Asia." Many of the participating activists, lawyers, and judges expressed frustration at the slow pace of progress and emphasized the urgency of increased, swift, and comprehensive efforts at change in light of the dire status of women in South Asia.

Raj Kumar (Vice-Chancellor, O.P. Jindal Global University and Dean, Jindal Global Law School) noted that Jindal Global Law School is committed to academic excellence serving the global cause of erasing injustices and aims to bring thinkers on gender-based discrimination together. He recognized that gender-based violence in South Asia is a scorch on civilized society, though some try to justify it in the name of tradition. Dean Kumar stated that this attitude needs to be eliminated, commenting, “A culture where women fail to feel safe and protected is no doubt an uncivilized culture.”

Using Domestic and International Law to Eradicate Gender-Based Violence: Strategies, Successes, and Limitations

Legal Framework and Background

All South Asian countries have signed or ratified major international human rights treaties, including the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR), and they are therefore legally bound to recognize the right of non-discrimination. Unfortunately, reservations to CEDAW, including those by India, Pakistan, and Bangladesh, establish loopholes that undermine states’ obligations.
Precedents: Strategies, Successes, and Limitations

During the Conference’s first parallel session, Using International Human Rights and Comparative Law to Advance Women’s Rights in the Domestic Context, expert speakers shed light on efforts to use international laws in their own countries, including through initiatives and judicial decisions, that offer insights and guidance for stakeholders in other countries.

The Caribbean

Hon’ble Madame Justice Desiree Bernard (Judge, Caribbean Court of Justice) (Guyana) proposed generally that courts and judges more effectively employ international and regional covenants or treaties in combating gender-based violence. With respect to the Caribbean, Justice Bernard suggested that courts increase use of international law as authority to combat gender-based violence. Due to a tradition of conservatism and high regard for precedent, Caribbean courts have been reluctant to use international treaties, particularly on issues affecting women.

Several recent Caribbean court decisions apply international law in their decision-making process. In these decisions, judges relied on the Convention of the Rights of the Child (CRC) and CEDAW to strengthen protections for victims of domestic violence. Justice Bernard opined that these legal interpretations of international treaties are indicative of their increased effectiveness in the region and establish precedent that future judges may use.

To reinforce the importance of international and regional mechanisms in the domestic struggle against gender-based violence, Justice Bernard spoke about three initiatives addressing gender-based violence in the Caribbean. In 1980, regional collaborators drafted model legislation focusing on gender disparities and six related issues, including citizenship, domestic violence, equal pay, inheritance, sexual harassment, and sexual offenses, later adding equal opportunity and treatment in employment. This model legislation has been very influential. Indeed, the domestic violence model legislation was considered by virtually every country, and the Justice considered the reforms to be among the most important legislative initiatives to advance the rights of women during the 1990s.

In 1997, a colloquium organized by the Commonwealth Secretariat in Guyana aimed to increase sensitivity to and awareness of gender discrimination within the judiciaries of Caribbean states. Colloquium participants emphasized incorporation of international human rights into domestic legislation and encouraged its utilization in judicial decisions.
Also in 1997, Caribbean community member states adopted a charter of civil society, whereby heads of states declared their resolve to strengthen women’s equality before the law and to protect women against physical and mental violence, sexual abuse, and neglect. State parties now submit reports to the Secretary General of the Caribbean Community and must establish a national committee to monitor and ensure implementation of the charter. Unfortunately, like many international efforts, the system suffers from the lack of a monitoring mechanism and a failure to disseminate the charter, highlighting, again, the importance of domestic support of international efforts.

**Bangladesh**

Sara Hossain (Advocate, Supreme Court of Bangladesh; Legal Aid and Services Trust) (Bangladesh) highlighted advances in Bangladesh with recent court decisions that invoked international norms and progressive legislation in judgments concerning women’s rights and gender-based violence.

In one case, *Bangladesh Legal Aid and Services Trust and others vs. Bangladesh and others* ['Fatwa’ Case] (2010), the Supreme Court based its opinion on the ICCPR, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), CEDAW, and Human Rights Committee General Comment No. 7. In this case, the complaint alleged many incidents of extrajudicial punishments throughout the country, including a muezzin’s imposition of 101 lashes on a woman for refusing her uncle’s sexual advances, and a religious leader’s imposition of 101 lashes onto a woman who allegedly spoke to a man in the road. Significantly, the Court concluded that extrajudicial punishments imposed as means of executing fatwas were unlawful because they contravened the aforementioned treaties.

In *Advocate Md. Salahuddin Dolon vs. Bangladesh* (2009), a school director called his subordinate a prostitute and attempted to force female school employees to wear headscarves. The Court held that sexually-colored derogatory comments and attempts to impose a dress code on women amounted to sexual harassment. The Court based its reasoning on the Bangladesh Constitution, the ICCPR, the Universal Declaration on Human Rights (UDHR), ICESCR, and General Recommendation No. 19 of the United National Committee on the Elimination of Discrimination against Women.

While advocating for the use of international law, Ms. Hossain also discussed the tensions that arise when domestic decisions have broad-sweeping impact. For instance, advocates in Bangladesh must ask themselves whether traditional dispute resolution bodies should be abandoned or whether they should focus on a narrower argument. Her organization, the
Bangladesh Legal Aid and Services Trust, aims “not to have a trigger-happy approach,” where they simply try to have provisions of CEDAW “injected” into decisions or to advocate for blanket bans. Rather, they focus on the manner in which domestic legislation is interpreted, make arguments on narrow grounds, concentrate on transforming domestic judgments into change on the ground, and stay wary of the potential for backlash against judgments.

**Nepal**

Jyoti Sanghera (Representative, Office of the High Commissioner for Human Rights) (Nepal) first noted parallels between laws recently enacted and the format and example of UN conventions on human rights. For example, a law recently enacted in Nepal criminalizes untouchability in order to undermine the caste system. Despite this and the ratification of core international human rights conventions, a decade-long conflict in Nepal has left human rights law and relevant domestic laws unimplemented. Ms. Sanghera commented that Nepal does not have the human rights infrastructure necessary to address the extent of human rights violations in the country.

Ms. Sanghera brought this problem to light using recent examples of cases tried under the untouchability law. In two instances of violence toward Dalit women, the matters did not reach a court of law because traditional decision-making bodies settled the matters, even forcibly, with little or no remuneration for the victims. In a third instance, the court’s civil judgment awarding a Dalit remuneration for harm done was not enforced. Ms. Sanghera emphasized that Nepal, like other South Asian nations, faces the central tension between dispute resolution mechanisms and formal law that incorporates international human rights norms. She also believed that there are other obstacles to accessing justice: residing in remote areas where physical access to courts is difficult, time-consuming, and expensive; low rates of literacy; high rates of unemployment; and fears of reverting to a state of conflict.

**Closing Thoughts and Remarks**

During the question and answer session, Joan Winship, Executive Director of the International Association of Women Judges (IAWJ) (United States), reaffirmed the role of judges in promoting international human rights norms and equality jurisprudence. Through partnerships with IAWJ, women judges train their peers to develop a curriculum for giving judges tools to apply international law. One important tool that the IAWJ makes available is a database of cases concerning inheritance rights, the custody of children, and other gender-related issues. Judges around the world may use these cases in trying to employ successful legal frameworks in their own nations.
Finally, the closing remarks of this session focused around common themes for successfully implementing international human rights law in domestic legal systems: awareness amongst judges of comparative and international human rights dialogue, judges’ use of international conventions as authority in domestic cases, ensuring the effectiveness of these judgments through enforcement, and resolution of the differences between informal dispute resolution procedures and the formal legal system.

**Economic Empowerment as a Means of Eradicating Gender-Based Violence**

*Safeguarding Women through Secure Property Ownership Rights*

A central theme of the panel on economic empowerment was the importance of secure property rights for women as a means to reducing the likelihood of violence against them. Panelists discussed research that emphasized the importance of property rights over that of income or employment, and the positive outcomes of land distribution programs that target women.

While studies have often emphasized the importance of economic independence and employment in reducing women’s susceptibility to domestic violence, land and property ownership has received less attention. Yet, it has been shown that in Southeast Asia, women’s ownership of immovable property is a likely candidate for effectively combating gender-based violence. Owning immovable property, especially land or a house, gives women a place to flee abuse, a source of security, a position of bargaining power, and a means of cultivating crops or keeping livestock. It also improves women’s social status within a community and tends to gain them respect from men.

**Govind Kelkar (Senior Analyst, Programme and Research, Women’s Economic Empowerment, UN Women, South Asia Sub-Regional Office) (India)** concluded that, while income generation through employment is significant, the distribution of immovable assets and security in property rights plays a greater role in limiting gender-based violence. Land ownership increases women’s independence and, unlike employment, is not vulnerable to labor market shifts. There is indeed a close link between women’s control over and ownership of land and reducing violence.

Generally, speakers discussed the inverse relationship between property ownership and experiences of violence, and described efforts undertaken domestically to secure property ownership rights for women. Legislative reforms to put women’s rights to property and inheritance on equal footing with men’s and anti-discrimination efforts in the sale and
distribution of land were mentioned as the most important efforts that must be taken in order to secure property ownership.

Advocates based their conclusions about the link between gender-based violence and property ownership on field observations and thorough research. In her talk, Bina Agarwal, (Professor of Economics at the Institute of Economic Growth, University of Delhi) (India) discussed the research she recently published on the impact of women’s property status on their likelihood of experiencing domestic violence, in *Toward Freedom from Domestic Violence: The Neglected Obvious.*

Professor Agarwal explained that, due to the tendency to focus on women’s economic employment, women’s property status and the relationship between this status and exposure to domestic violence is an under-explored area of research. Employment, many have argued, provides inadequate security because it is subject to external factors, such as being unpaid in family businesses or having insufficient earnings to rent an apartment. Employment also does not necessarily lead to the ability to rent or own property in light of social barriers, such as discriminating landlords, which may prevent women from renting or buying.

By contrast, immovable property, Professor Agarwal proposed, offers more concrete security against social violence. Unlike employment, immovable property is less susceptible to uncertainties inhering in the labor market. Further, “[a] house or land also visibly signals the strength of a woman’s bargaining power – her fall-back position, and her tangible exit option.” Indeed, a woman can escape from abuse without having to make the difficult choice between abuse and homelessness. Professor Agarwal’s conclusions also support the fact that violence cuts across class, as women of all socioeconomic classes are vulnerable to violence.

In Professor Agarwal’s and Pradeep Panda’s empirical study of 502 women in India’s Kerala province, several conclusions came to light:

- Of women owning property, 49% of those who owned neither house nor land experienced domestic violence.
- Only 7% of women who owned *both* house and land experienced domestic violence.
- 18% of women who owned land and 10% who owned a house experienced domestic violence, respectively.
- Women who owned land were better able to escape violence. Among property-less women who experienced domestic violence, 19.1% left home and 67.7% of those who
left returned back home. Among those who owned land, home, or both, 70.6% left and
25% of those who left returned.

- Unlike what some have hypothesized in the past, women’s employment did not have an
  inverse correlation with vulnerability to abuse. In the study, if a woman was better
  employed than her husband, she experienced higher levels of violence, 69%, in contrast
  to the 7% of women who owned their own house or land and who experienced
domestic violence.

- Availability of social support and husbands’ employment also had positive correlations
  with reduced risk for domestic violence.

In sum, property ownership had an inverse correlation with domestic violence, while
employment did not. The odds of being beaten were twenty times lower for a woman who
owned a house and land than for a woman who owned neither. This study indicates that where
women own their own property, they are less vulnerable to domestic violence. Professor
Agarwal also suggested that immovable property also has the advantages of improving self-
esteeem, reducing tolerance for violence, and increasing security and resources.

The study aimed to assess correlates, rather than causes, of domestic violence, and the authors
acknowledged that the precise causation of domestic violence has “no simple answers.”
Nevertheless, in light of the strong links between property ownerships and reduced risks, Professor Agarwal noted that the study’s results indicate the need to go beyond legal
protections and shelters in order to combat domestic violence. Stakeholders must work to
improve women’s access to housing and land, which can provide an important source of
protection and empowerment.

Ms. Kelker also concluded, on the basis of her research, that women’s economic independence
and property ownership leads to reduced instances of gender-based violence.

First, Ms. Kelkar explained that one cause of gender-based violence is women’s lack of control
over economic resources. Consequently, a woman usually has little power in negotiations over
dowries and risks being denounced as a witch or otherwise targeted if relatives wish to acquire
her land or house. Ultimately, women often lack an exit strategy that would allow them to
escape from violence.

Ms. Kelkar’s recent study in the region of Haryana, done in consultation with UN Women and
unpublished as of the writing of this report, targeted a province famous for its skewed sex ratio
and incidence of female feticide. Women who were interviewed spoke of land’s protective advantage and stated that more women are now claiming shares of land and money from the sale of land. Trends suggested that if a woman acquires land, she gains respect from her husband and in-laws and is less likely to be subjected to violence.

Fortunately, research also exists about programs aimed at increasing secure property ownership rights for women, which would permit such models to be used across national boundaries. According to Hooria Hayat Khan (Assistant Manager, Legal Support Unit, Shirkat Gah, Women’s Resource Centre) (Pakistan), a land distribution policy in Pakistan has had significant successes in reducing gender-based violence. The program was initiated because cultural practices in Pakistan discourage women from owning or controlling land, and only 2% of women in Pakistan own land. The ownership of land in Pakistan is highly concentrated in general, with 64% of land owned by 5% households. Technically and legally, women in Pakistan are able to purchase or own property, yet social and religious norms are powerful forces in preventing them from owning land.

In September 2008, Pakistan’s provincial Sindh government initiated a land reform scheme aimed at distributing land, with one objective being to increase women’s land ownership. Women are 80% of the program’s beneficiaries. In this novel initiative, the government has been firm in prioritizing women for allotment of land previously owned by the state. Beneficiaries are fully supported for the first two years of their participation. Further, a consortium was delegated the responsibility of identifying landless people to benefit and furnishing them support packages, which aim to help them develop the land. In general, packages are worth 58,000 rupees for four acres of land.

Ms. Khan emphasized the great potential of a program such as this, as well as its necessity in a society where women are largely disenfranchised. Since land is a source of food, livestock, security, and power, it can play a significant role in decreasing women’s marginalization, bringing more women out of poverty and empowering them to be safe from violence. The program has indeed been a catalyst of change for women: many have acquired complete control over land, and the lives of their families have improved economically and socially.

One source of the program’s success is the stipulation that, when land is transferred in the name of a woman, she is unable to transfer or sell it for fifteen years. If she dies, only female heirs may inherit it. Such rules counter the influence of those, such as husbands or in-laws, who normally would be able to take a more accessible form of wealth away from women, such as earnings at a job or a transferable title. For many rural women, this has an empowering
effect and has opened the door to financial independence. For others, this land ownership is an avenue for gaining respect in the local community.

The Sindh government’s scheme has encountered challenges, however, including men’s general disapproval of the program. Through blind interviews, Ms. Khan determined the three central problems women face: 1) land given to women has been affected by salinity or water logging, rendering the land unusable; 2) local, influential landlords, unhappy with the program, file complaints in courts against these land grants, overwhelming women with litigation they may not have the resources to engage in; and 3) district supervisors make decisions in public assemblies that often require long-distance travel or require women to speak in a traditionally male environment.

Ms. Khan opined that while this program is imperfect, it is superior to other programs. She concluded that this scheme is capable of being refined and replicated, and can contribute to much-needed social mobility for women.

In conclusion, the panel sought to increase awareness about the importance of property ownership rights in protecting women from violence, where the focus had previously been on employment income. The stipulations were supported by field research across India and Pakistan, and including the results of ground-breaking reform efforts to distribute and secure property rights for women.

Local Initiatives Aimed at Eradicating Gender-Based Violence

Conference speakers discussed the status of gender-based violence in their countries, and local efforts to combat its root causes. Erica Steinberger (Partner (ret.), Latham & Watkins, LLP; Steering Committee, Avon Global Center for Women and Justice) (United States), panel chair for the session entitled Beyond the Law: Changing Attitudes Towards Violence, noted the importance of community efforts to change the cultural norms that condone or allow for gender-based violence. Advocates’ efforts in this area vary greatly, from establishing constitutional foundations to implementing social programs to effectuate change. Each country addressed its unique problems differently, though two predominant themes were presented: educating the community, especially men and boys, and outreach through and with judges or courts.

Important efforts to build foundations against gender-based violence have begun in Afghanistan, with the work of advocates such as Hasina Safi (Executive Director, Afghanistan Women’s Education Centre and Executive Board Member, Afghan Women’s Network)
(Afghanistan). Ms. Safi discussed changing attitudes toward gender-based violence that are finally being realized after a decade of Taliban control. The first important step was the passage of a new constitution in 2002 that requires women’s presence in government agencies and departments. Since then, the Afghanistan National Development Strategy Program and National Action Plan for Women of Afghanistan have outlined goals and safeguard with respect to important women’s rights. CEDAW has also been ratified without reservation in Afghanistan. However, Ms. Safi also discussed the extent to which the goals of these plans have largely been left unimplemented, resulting in the poor situation that women and girls currently find themselves in. For example, women and girls have between a five and seven percent literacy rate, as compared to the 27 percent overall literacy rate in Afghanistan.

Ms. Safi argued that policies “need to talk and walk” and can be effectively implemented by educating communities on women’s rights. For example, on the point of literacy, Ms. Safi stated that the Koran encourages women’s education but that most men are not aware of this. Communication and education, Ms. Safi argued, are key to the success of a women’s rights movement in a country where the women’s rights infrastructure is being established.

Joan Winship (Executive Director, International Association of Women Judges) (United States), discussed relevant efforts undertaken. Through a partnership with the IAWJ, the Afghan Women Judges Association (AWJA) conducted “a ten-week after-school program for high school girls and their teachers on their rights under the new Afghan constitution. Hundreds of girls and even high school boys participated.” Children learned about girls’ rights to attend school and to not be forced into marriage, as well as other protections afforded to them. The program experienced backlash, however, and an edict was issued banning it. In the meanwhile, AWJA focused on other issues and worked to reestablish the organization.

As further testament to the power of education, the Tanzania Women Judges Association (TAWJA) and IAWJ have trained Tanzanian magistrates and judges (both male and female) on international, regional, and domestic human rights laws protecting women against discrimination and violence. The trainings focus additionally on the connections that exist in many cases between HIV/AIDS and gender discrimination. In addition, TAWJA and the IAWJ have partnered with the Society for Women and AIDS in Africa Tanzania (SWAA-T) to implement a community-based program that educates rural women about their rights. Trainers make use of brochures with cartoon characters and stage dramas put on by teens in order to make information more accessible.
Despite unique problems, speakers from each country agreed that educating and including men and boys in local initiatives and dialogue was absolutely fundamental to decreasing gender-based violence. **Syed Saghir Bukhari (Regional Alliance Coordinator, MenEngage, UN Women) (Pakistan)**, stated that entrenched institutions are inherently masculine, limiting women’s entry or use of them. He continued to argue in favor of engaging both with men and institutions. Before engaging, it is necessary to understand men and institutions through research about why men may or may not engage in violence. Mr. Bukhari hopes for data that would help societies understand men and institution’s attitudes toward gender-based violence. After such research is completed, it may be used to understand how men act as “gatekeepers” as well as to communicate, educate, and collaborate with men.

Panel speakers went on to discuss specific programs they had undertaken to include men, boys, and youth in advocacy efforts. **Sonali Khan (Country Director, Breakthrough) (India)**, for example, discussed **Bell Bajao!**, launched by Breakthrough in 2008. **Bell Bajao! (“Ring the Bell!”)** uses media outreach throughout India to ask men and boys to help stop domestic violence. With the support of the Ministry of Women and Child Development and campaign ambassador, Boman Irani, the campaign is reported to have reached 124 million people. Bell Bajao! utilizes innovative tools to engage youth and work towards a culture of human rights, such as:

- Television advertisements that depict men and boys as intervening against instances of domestic violence;
- Video vans that travel throughout the country and promote audience participation and education with games, street theater, audio visual tools, and quizzes;
- An interactive blog on www.bellbajao.org, which provides a platform to discuss domestic violence. Witnesses, survivors, and advocates use this open space for personal testimony and reflection;
- A “Rights Advocates” program, including youth and community leadership training that seeks to help Indian youth recognize and fight domestic violence in their own communities. In 2008, the program trained over 100,000 people.

Understanding that courts need exposure to the context of gender-based violence just as communities need exposure to laws and rights, conference participants also learned about problem-solving courts, a kind of court model that has thus far effectively addressed gender-based violence by holistically inserting a judge into the life of domestic violence victims. The "problem-solving court" model being pioneered in New York State offers a methodology for
improving women's access to justice in cases of domestic violence. Arising out of the need to more effectively address repetitive problems such as domestic violence, the problem-solving court emphasizes increased training, understanding, and involvement for the judge as a means of furnishing increased assistance, protection, and effective redress for domestic violence survivors.

This model makes the courtroom more accessible to battered women in several ways. First, rather than having several courts for several issues, one judge is assigned to one family if there is evidence of violence in the family. This individualized attention prevents bureaucratic confusion, inefficiency, and assigning responsibility to a judge unfamiliar with the matter. If a woman comes to court, she must be seen the same day, no matter how full the docket is, in light of the risks associated with domestic violence and its time-sensitive nature. A specially-trained woman advocate is always available to accompany a woman in these circumstances.

After undergoing training, the judge should have a foundational understanding of the dynamics that a domestic violence survivor faces. A problem-solving court judge should be aware, for instance, that women in the United States who try to leave their abusive partners make, on average, seven to nine attempts before they are successful. Knowing this particular statistic and others can help judges understand the complexities of a given case and avoid pitfalls such as chastising a woman for not immediately leaving her abuser, which may make her hesitant to return to the court in the future. Most importantly, problem-solving court judges treat each domestic violence case as if it has the potential for deadly force, in light of the tendency for "minor" instances of violence to preview more harmful attacks.

Hon'ble John Rowley (Judge, Integrated Domestic Violence Court, Tompkins County, New York) (United States) shared his experience as a judge in a problem-solving court, explaining how the training he underwent allowed him to understand domestic violence situations more holistically, and to work at "changing the atmosphere of the court." As the problem-solving model is based on the leadership and commitment of the judge, Judge Rowley explained that he also takes opportunities to educate domestic violence survivors about the risks they face and to refer them to services that may be necessary for their protection.

Judge Rowley believes that accountability and consistency in compliance follow-up is another advantage of this court model. As he enforces his own orders, he personally "watches" offenders and holds them accountable for violations, contributing to the efficacy of the program and the investment of one judge in a position of knowledge and leadership.
Like the parallel session on the use of international and comparative law, the panel discussion of local efforts to address gender-based violence offered advocates from across the world an opportunity to share successful tools and strategies. As mentioned above, though the problems in each country are unique, similar tools can be used to initiate awareness and address gender-based violence.

**A Focus on Acid Violence**

Shirin Juwaley (Founder and Director, Palash Foundation) (India) illustrated the tragedy of acid violence in South Asia by sharing her personal story, the obstacles that prevented her from accessing the justice system in a meaningful way, and her ultimate establishment of the Palash Foundation, an organization with the mission of socially and economically reintegrating individuals with disfigurement and advocating on their behalf.

When Ms. Juwaley was twenty-four in 1998, her husband, an electrical engineer, began physically abusing her. Two months into their marriage, she asked for a divorce. Soon after, covered from head to toe and wearing gloves on a hot humid night in May, Ms. Juwaley's husband threw acid onto Ms. Juwaley's face. He husband fled the country that night and was never apprehended.

As Ms. Juwaley explained, her “experience with the law started then.” First, when she filed a complaint with the police and said, “I think it was my husband,” the word “think,” would later be pointed to as a source of doubt as to his guilt. When she attempted to give a second statement, she was told that the first would be given priority according to policy. She was told by her lawyer to file a 1498a complaint, falling under India’s domestic abuse statute, as no specific legislation addressed gender-based assaults with acid. Ms. Juwaley noted that her time in the courtroom “was the most depressing experience of my life.” At trial, in a courtroom full of men where she wore a burka to hide her face, the defense lawyer maligned her character, and others present treated her as if she had deserved her fate for asking for a divorce two months into her marriage. Seven years after the attack, Ms. Juwaley finally received a divorce and was awarded small, insufficient compensation. Her finances are depleted from her marriage and from the surgeries she needed after her disfigurement.

Ms. Juwaley learned that this experience is not uncommon. Other survivors of domestic violence explained that they had found the judicial system to be of “no use” and that the better strategy is to move on with one’s life.
Due to the expense, the plastic surgery necessary to restore her face to its initial state was not an option, and Ms. Juwaley experienced ostracism and discrimination both in and outside of the judicial system for this and other reasons. Her friends cut off contact with her because they were appalled at her demand for a divorce after two months, and because her deformation was understood as a bad omen. She stopped leaving the house because of the mistreatment she faced.

Ms. Juwaley started the Palash Foundation in 2010. A primary goal of this organization is to sensitize the community to and make the voices heard of women who have been disfigured through acid attacks.

Ms. Juwaley’s story, all too common, is important because it highlights three issues that must be addressed in order to tackle acid violence: 1) the enactment of laws to protect women from and provide them redress for acid violence; 2) the effective implementation of these laws by law enforcement and the judiciary; and 3) breaking down of the barriers to justice that victims face. Conference speakers engaged with these issues after providing background on the issue of acid violence.

Elora Chowdhury (Associate Professor, Department of Women’s Studies University of Massachusetts) (U.S./Bangladesh) proposed that acid violence, because of the disfigurement, stigma, anguish, and economic loss it causes, amounts to an aim at “ending women’s public lives.” As the Avon Center and partners explained in their 2011 report, *Combating Acid Violence in Bangladesh, India, and Cambodia*:

“Acid violence involves intentional acts of violence in which perpetrators throw, spray, or pour acid onto the victims’ faces and bodies, often intending to permanently disfigure and cause extreme physical and mental suffering to victims. Acid attacks cause immediate damage, disfigurement, pain, and long lasting medical complications for victims[.]”

Acid violence occurs in many countries, including Uganda, Ethiopia, and the United States. However, a significant number of attacks occur in South and Southeast Asian countries, where the cheap and easy availability of acid gives access to a dangerous weapon. Indeed, Bangladesh, India, and Cambodia have some of the highest incidence of acid violence in the world. Acid attack victims are primarily women, and perpetrators’ motives are often tied to gender inequality and discrimination. Acid violence is not a new phenomenon in this region—the first recorded acid attacks occurred in 1967 in Bangladesh and in India—but incidents have increased since then.
**Laws Addressing Acid Violence**

Among the most significant efforts undertaken with respect to combating acid violence was the passage of two laws in Bangladesh in 2002, one that punished perpetrators of acid attacks and another that regulated the sale, distribution, and transportation of acid. Since then, the incidence of acid attacks has decreased steadily and significantly.¹⁴ Monira Rahman (Executive Director, Acid Survivors Foundation) (Bangladesh) pointed out that the availability of statistics and data is itself an achievement because it is indicative of, at least, government awareness of the problem.

Aparna Bhat (Advocate, Supreme Court of India), noted this trend in Bangladesh, and criticized the Indian government for not passing similar legislation, noting that in India, the number of reported acid attacks has remained consistent and frequent. Ms. Bhat spoke about the negative response from the Indian government when she advocated for acid regulation—regulation fundamental to decreasing the incidence of acid violence. With respect to this effort, she asked all advocates to petition the Indian Supreme Court. Ms. Rahman and Sital Kalantry (Associate Clinical Professor of Law and Faculty Director, Avon Global Center for Women and Justice, Cornell Law School), commenting on this matter, recommended that advocates shift their focus to efforts to promote corporate responsibility in situations where states refuse to regulate acid. Such initiative focus may be particularly pertinent in India, where industrial use of acid is high and the incidence of acid violence is most frequent surrounding factories.

During two separate panels, a debate arose as to whether separate laws addressing acid violence were necessary or whether acid violence could be addressed sufficiently under existing domestic violence and assault provisions. Ms. Bhat opined that a separate bill penalizing acid attacks is not necessary, though additions to the penal code are essential to address the seriousness of the crime. After an acid attack, lawyers and courts in India may use penal code provisions for “grievous hurt,” which is insufficient in several respects, including: it does not address acid attacks as a form of gender-violence; it permits perpetrators to go free on bail—potentially subjecting victims to more abuse; and the standard remuneration is incommensurate with the emotional, physical, and monetary costs of an attack. By contrast, acid violence survivor Shirin Juwaley was in favor of specialized law, whether in the form of an addition to the penal code or a separate bill that would prioritize acid violence claims in courts and would provide for the appointment of an official to monitor the administration of justice in such cases.
Implementation of Measures to Curb Acid Violence

With respect to the implementation of measures to curb acid violence, Dr. Terri Kelly (Adviser, Acid Survivors Trust International) (United Kingdom), said that immediate, multi-pronged steps must be taken to ensure the effectiveness of laws:

- Gathering evidence in a systematic manner to assess with certainty trends of acid violence;
- Government oversight of the manufacture and distribution of acid;
- Enforcing strict punishments in penal codes;
- Government compensation to victims of acid attacks; and
- Providing rehabilitative medical and economic support to victims.

Valerie Khan (Chairperson, Acid Survivors Foundation and National Director, Groupe Developpement Pakistan) (Pakistan) spoke about the passage of the Acid and Burn Crime Act of 2011 in Pakistan, which levies hefty jail sentences for perpetrators of acid violence. She said that implementation of the act’s 14-year criminal sentence and one million rupee fine would be difficult to enforce, especially early on, because of the lack of awareness. Finally, Ms. Khan argued that other efforts with respect to acid regulation would need to be made in order to see a real decline in acid violence, including:

- Raising awareness among senators about acid violence and the trends of acid violence in industrial areas to secure the passage and enforcement of laws regulating the sale of acid;
- Establishing state-sponsored rehabilitation services for victims; and
- Establishing monitoring agencies to oversee both police officers and the administration of justice in courts.

Barriers to Justice

Ms. Khan’s last point on overseeing the administration of justice recalled the barriers to justice that women often face. Ms. Rahman commented that despite the passage of landmark laws in Bangladesh, only 10 to 12 percent of acid violence perpetrators are convicted in court. She believed that societal indifference and lack of awareness were the main reasons for this.
Conference participants suggested additional methods to break down barriers to justice, including:

- Provide training for women and girls on strategies for giving statements to police, navigating the court system (such as asking for a hearing in camera), and accessing available social and legal resources in the case of an acid attack;
- Educate people on the problem of acid violence with easily-understood tools, such as Lawyers Without Borders’ comic books on trafficking and radio programs in Liberia; and
- Establish and promote resources for victims, such as the Federation of Women Lawyers (FIDA) program in Kenya in which private lawyers provide volunteer legal assistance to women two or three days a week or remain on call for women who are raped, accompanying them to the police station and following up with prosecutors.

Conference participants noted that access to justice is fundamental to fighting any form of violence against women and especially important to women who wear the injustices of society on their faces and continue to be antagonized in a courtroom for the crimes of others. As Dr. Joan LaRovere (Co-Founder and Vice President of Virtue Foundation) (United States) noted, during the panel, Comparative Approaches to Advancing Access to Justice for Women and Girls, “If you are a woman in a difficult situation and you don’t know there is justice for you, how can you have education and economic empowerment? They are all interrelated.” After panel discussions addressing acid violence and access to justice, Shirin Juwaley, acid attack survivor and foundation founder, expressed a renewed belief in the power of the justice system and noted that she looks forward to efforts to break down barriers to justice for others.

**A Focus on Violence against Girls**

As Savitri Goonesekere (Professor Emeritus, University of Colombo) (Sri Lanka) summarized, violence against girls is undeniably related to violence against women and cannot be separated from the struggle for women’s rights. Gender norms that afflict women are identical to those that limit girls’ access to education and resources, and these norms make girls even more vulnerable to conflict and violence. Professor Goonesekere highlighted the struggles to implement CEDAW and related domestic laws, and to change attitudes towards women and girls.

Violence against women starts as early as the fetal stage, where, in South Asia, “the abortion of female fetuses is by far the most common practice accounting for today’s skewed [sex ratio at
Since the arrival of ultrasound and amniocentesis technologies in the 1970s, female feticide has remained a pervasive practice, challenging activists who want to maintain women’s right to abortion without facilitating eradication of the female population.

If a female fetus survives until birth, the next task is to survive infancy and childhood, overcoming “the prevalence of female infanticide” which is “usually conducted immediately after the birth of an unwanted daughter.” Because of the acceptance of murdering girl-children and neglecting those that are left alive, “although overall childhood mortality [in Asia] has continuously declined, the relative plight of girls has in some cases worsened over time . . . [In India and China], mortality among girls is 40 per cent greater than that of boys . . . Excess female mortality among children is closely related to early discriminatory behaviour, a phenomenon usually summarised as the ‘neglect of girls.’

Like women, girls experience multiple forms of gender-based violence, but they are more susceptible to certain crimes, including child abuse, female genital mutilation (FGM), early and forced marriage, trafficking, and neglect. These forms of gender-based violence are also often linked to other harms inflicted upon girls. For instance, “[e]arly and forced marriage has a number of harmful consequences . . . It usually leads to school dropout as well as early pregnancy and childbearing, which may harm the health of the girl and her child . . . Furthermore, girls who are married young are disproportionately affected by violence by their husbands . . . [D]owry-related harassment, especially from in-laws, can be extreme and can lead to death[.]”

Gender-based violence against girls, like violence against women, is strongly linked to deprivation of the right to education, health, and life.

During the Conference, participants and speakers highlighted two forms of gender-based violence to which girls are especially vulnerable: trafficking and sexual harassment.

**Trafficking**

**B. Bhamathi (Additional Secretary, Ministry of Home Affairs, Government of India),** pointed out that 62% of brothel workers in India began work as prostitutes before the age of 18. Of brothel workers, 63% had been trafficked “by deception,” and 75% percent of those trafficked had been trafficked by two or more individuals. The realities of brothel life are troubling, with over one-third of prostitutes facing sexually transmitted disease and 10% having been reported to be living with HIV or AIDS.
Hon’ble Virginia Kendall (Judge, U.S. District Court for the Northern District of Illinois) (United States) also spoke about the global pandemic of child-trafficking and the need for a more insightful approach from the public, the judiciary, and prosecutors in particular.

Judge Kendall emphasized and confirmed several of Ms. Bhamathi’s statistics on trafficking patterns around the world. First, victims are more likely to come from a low socioeconomic status with lower rates of literacy and education than those of upper classes. In areas of conflict or natural disasters where strife and chaos are rampant, children are particularly likely to be preyed upon by traffickers, often under a guise of taking children to a safe harbor. Culture, too, plays a significant role in trafficking patterns: although statutes may be in place to counter trafficking, the strength of certain cultural norms will often prevail over written law.

For instance, in Zambia, there is an established statutory scheme prohibiting child defilement. Despite these laws, HIV has spread throughout one particular community largely because of the influence of witch doctors who tell men in the community who have HIV that the way to cure themselves is to rape a girl who is less than twelve years old. This example illustrates the worldwide conflict between cultural norms and beliefs and written law. In India, Ms. Bhamathi revealed that 83% of brothel frequenters have never come into contact with the police as a result of purchasing sex services, as society has largely turned a blind eye.

Offenders have common characteristics as well. They seek a profit; they know how to isolate victims, make them fear law enforcement and virtually erasing their history and identity; and they take advantage of disparities in laws throughout the world, such as the lack of an age of consent in some countries. Offenders are savvy and take advantage of public corruption, without which they would be unable to accomplish the crime. Public corruption is one of the keys to facilitating trafficking because if public officials were not paid to ignore the problem, it would be much less likely to happen so freely and across borders. In India, Ms. Bhamathi pointed out that 16% of prostitutes had at some point paid off a police officer, either in exchange for release or because of extortion.

One inherent difficulty in addressing trafficking of children is the child’s inability to understand the crime. While most children can conceptualize a “dangerous person” who might harm them in some dramatic manner, most of child exploitation is a more subtle a form of coercion. Thus, first, children often do not understand the nature of what is happening to them. Second, at the trial stage, child-witnesses may be discredited for lying, in light of their instinct to fear law enforcement and their lack of comprehension of the crime.
Judge Kendall proposed several reforms to address child trafficking:

- Develop an anti-corruption strategy built on an analysis of the patterns of corruption;
- Develop a multi-stakeholder anti-corruption task force;
- Advocate for an anti-bribery convention and provide for extraterritorial jurisdiction for crimes of child trafficking;
- Train judges about “victimology” so that they better understand victims’ tendency to lie because of fear, coercion, and duress; and
- Train employees at ports of entry and hospitals to recognize human trafficking.

Judge Kendall has written extensively on the issue of corruption and trafficking, including her 2011 book, Child Exploitation and Trafficking: Examining the Global Challenges and U.S. Responses, which provides an in-depth discussion of the crisis situation of child trafficking.

Sexual Harassment

V.S. Elizabeth (Additional Professor, National Law School of India University, Bangalore) (India), opened her discussion by reminding attendees of the pervasiveness of sexual harassment, which takes place everywhere from schools to public spaces and places of employment. Professor Elizabeth argued that sexual harassment in different spaces is due to common causes, and that laws and court decisions should address harassment everywhere to ensure girls and women full protection.

In 1997, the landmark Vishaka v. State of Rajasthan case was decided by the Supreme Court of India, calling attention to sexual harassment in the workplace. Professor Elizabeth praised the decision, especially because the judgment was later construed as a force against sexual harassment in schools. After the decision, judgment letters were sent to most educational institutions in the country, requiring the creation of new policies and complaint committees, at least half of the members of which were required to be women. Since then, court decisions have consistently supported the instatement of sexual harassment policies in schools. Many universities have also taken up strict sexual harassment policies that surpass legal requirements.

Unfortunately, as Professor Elizabeth pointed out, sexual harassment in the public sphere remains a prevalent problem despite advances. Cultural mores and socialization are the
predominant factors contributing to its continuity, she opined. For example, girls and women are blamed as victims of sexual harassment for their manner of dress, or girls are socialized to accept sexual harassment as unalterable male behavior. In Indian movies, a man who consistently comments on and harasses a woman on a school campus later becomes the girl’s beloved boyfriend, sending pernicious messages to both male and female Indian youth. Furthermore, instead of addressing the problem, many parents and elders tell young girls to ignore the problem by “using a different bus stop or route to school” or dressing differently, which does not address the root causes of sexual harassment.

To decrease the prevalence of sexual harassment, Professor Elizabeth shared recommendations that had been raised consistently throughout the Conference: a renewed legal discourse about the problem and education targeting the youth about negative and false cultural norms.

A Focus on Gender-Based Violence in Areas of Conflict

Already disenfranchised, women and children bear disproportionately the consequences of conflict and war. Rape is employed as a means of warfare, a trend that led one former military officer to conclude that “[i]t is perhaps more dangerous to be a woman than a soldier in armed conflict.”

Further, in times of conflict when resources become scarce, women and children may be second in line to receive food, clothing, and medicine, as society may value them less than men.

The woman’s body as the site of conflict, both literally and theoretically speaking, remains a scarred remnant even after the geographical area in question has transitioned to peace. Muna Ndulo (Professor of Law, Cornell Law School; Director, Institute for African Development, Cornell University; Steering Committee, Avon Global Center for Women and Justice) (United States/Zambia), chair of the Conference panel on women and conflict, discussed the importance of engaging with women and children survivors after conflict, as their vulnerability continues. For example, UN peacekeeping soldiers may be responsible for atrocities against women and children, and host-country governments do not have authority to enforce punishment against soldiers found liable in such instances. One means of increasing female agency, as Professor Ndulo discussed, was to ensure the involvement of women in the process of rebuilding a nation as peacekeeping soldiers or especially as participants in the drafting of a new constitution and laws.

Addressing solutions to conflict, Valerie Khan (Chairperson, Acid Survivors Foundation and National Director, Groupe Developpement Pakistan) (Pakistan), lauded Security Council
Resolution 1325, the watershed Resolution establishing Women, Peace, and Security as part of the U.N. Security Council agenda. Ms. Khan also supported introducing more women peacekeepers throughout the transition process. In Pakistan, where there is a strong civil society, rule of law, and partnerships with NGOs, further steps are still required to decrease the disproportionate effect of conflict on women. Such steps include:

- Establishing a clear definition of gender, inclusive of those in the transgendered community, as a foundation for the rights discourse;
- Gathering much needed data and launching statistical analysis of gender-based violence during times of conflict to support the appropriate allocation of budget and resources to the matter; and
- Sharing information with NGOs to pool resources and solutions geared toward ameliorating the effects of conflict.

Drawing insights from specific examples, panel speakers discussed gender-based violence during conflict in Afghanistan, India, and Nepal.

**Afghanistan**

**Jamila Omar (Director, Human Rights Research and Advocacy Consortium) (Afghanistan)**, identified Afghanistan as a war zone and spoke about Afghan women’s limited access to education, NGO support, political participation, and justice.

Women and children access education and healthcare less than men because of the many threats to their security. Because of fears of kidnapping and violence, Ms. Omar explained, most families, especially in rural areas, do not allow women and children to go to school or even leave their homes for doctor visits. Because of the same security threats, NGOs are unable to provide essential services in rural areas. Violence and lack of infrastructure contribute significantly to low rates of literacy and poor health.

Political factions in Afghanistan often argue about women’s rights and, Ms. Omar explained, will often sacrifice women’s rights to settle an issue that could lead to more violent conflict. Further, despite policies allocating slots to women in government agencies, women’s access to the political process is still limited by societal barriers, especially those previously discussed, such as poor literacy rates and discriminatory gender norms.
Barriers to the justice system are pervasive, namely, police inaction, poor enforcement of laws, and corruption. Speakers discussed barriers stemming from differences between traditional local forums for justice and formal courts, both of which have weaknesses. Ms. Omar noted that these barriers are exacerbated, during war-time and conflict because resources that otherwise would have been used to increase access to justice are instead being used to wage a war or to stop war.

As a solution, Ms. Omar proposed that extra policy provisions and legislation be passed to strengthen local governments and undermine corruption and reactionary group elders. Addressing legislation adopted in 2009 aimed at protecting women from violence, Mariya Basher (Chief Prosecutor, Herat Province) (Afghanistan), said that measures strengthening enforcement, namely through international aid, are critical to ensuring the effectiveness of laws.

**India and Kashmir**

Vrinda Grover (Advocate) (India) first noted that the conflict over Kashmir has a unique position in an ill-equipped, post-colonial legal regime. A relic of colonialism, Indian law does not recognize “armed conflict” nor does it envision the state as potential aggressor of conflict. Consequently, international conventions and obligations that use the language of “armed conflict” cannot be implemented, and the state is not held accountable for its potentially egregious behavior. Conventions that would otherwise protect women in times of conflict are therefore ineffectual.

Ms. Grover also commented that women’s losses are not considered as valuable as losses experienced by men. While women, like men, may lose property, they are also subjected to attacks that are meant to “assault the community,” such as rape. Women are raped as an assault to the community, Ms. Grover argues, because aggressors believe that women are property of the community, their honor inextricably linked to the community’s well-being. In this sense, rape is an accepted form of warfare, perceived as merely the “collateral to war.”

Ms. Grover argued that states should adopt new laws to recognize armed conflict and to hold the government accountable as aggressors to conflict. She additionally argued that awareness efforts must be undertaken to undermine institutions’ current state of complicity.
Nepal

Hon’ble Mrs. Justice Sushila Karki (Judge, Supreme Court of Nepal), revealed the dynamics placing women in a more vulnerable position during or as a result of the ten-year conflict between Maoist insurgents and the government in Nepal. The conflict left an estimated 13,000 dead and almost 200,000 displaced. 87% percent of women originally lived in rural areas, though 60 to 70% were displaced after the conflict during their efforts to look for jobs. Among this group, many women and children were trafficked as a result of a false promise for employment. Women were also forced to join the insurgency and take up arms.

After the conflict, Justice Karki stated, women continued to face adversity disproportionately, especially with respect to barriers to justice and education. During the conflict, women feared filing claims in courts about violence they had faced for fear of retaliation, and police also failed to register cases and gather evidence or investigate claims. After the conflict, women’s pursuit of lost property took secondary priority in backlogged revolutionary courts. In a country with generally low literacy rates, women have an 11% lower literacy rate than men, and they attend schools at 14% lower rate than men.

Signaling progress, Nepal became the first South Asian nation to adopt a National Action Plan on Women, Peace and Security, based on Resolution 1325 of the U.N. Security Council, in early 2011. This will be fundamental to including women in the continued rebuilding of the nation. Also a step in the right direction, one third of the Constituent Assembly and various peace committee seats are reserved for women—though a fifty percent reservation would be ideal.

Despite years of awareness and advocacy efforts, Justice Karki advocated further efforts to protect the safety and rights of women in children in conflict or post-conflict states, including:

- Building and funding shelters for women and children;
- Offering self-defense courses for women and children;
- Making army and police officers responsible for ensuring the safety of women and children and enforcing their rights;
- Instating stringent laws punishing traffickers; and
- Over the long term, devoting resources to the education, security, and economic development of women.
Conclusion

The 2011 Women & Justice Conference highlighted and reinforced current initiatives aimed at combating gender-based violence. It also fostered meaningful exchanges among advocates, scholars, community members and judges who are committed to this shared goal. We hope that these transnational exchanges will continue in many forms and that the Conference’s panels and informal discussions will foster new and creative solutions to the problem of gender-based violence and help break down barriers to justice in South Asia and beyond.

Endnotes


2 Id.


9 Id. at 366.

10 Id.

11 Id. at 365.


16 Id.

17 Id.


19 MAJ. GEN. (RET.) PATRICK CAMMAERT, WILTON PARK CONFERENCE, MAY 2008.

APPENDIX 1:

2011 Women & Justice Conference Speakers

- Bina Agarwal (Director and Professor of Economics at the Institute of Economic Growth, Delhi University) (India)
- Flavia Agnes (Director, Majlis Legal Centre, Women’s Rights Attorney and Legal Scholar) (India)
- Hon’ble Justice M. Imman Ali (Judge, Supreme Court of Bangladesh)
- Mariya Basher (Chief Prosecutor, Herat Province) (Afghanistan)
- Hon’ble Madam Justice Desiree Bernard (Judge, Caribbean Court of Justice) (Guyana)
- B. Bhamathi (Additional Secretary, Ministry of Home Affairs, Government of India)
- Aparna Bhat (Advocate, Supreme Court of India)
- Cynthia Grant Bowman (Dorothea S. Clarke Professor of Law, Cornell Law School; Steering Committee, Avon Global Center for Women and Justice) (United States)
- Syed Saghir Bukhari (Regional Alliance Coordinator, MenEngage, UN Women) (Pakistan)
- Elora Chowdhury (Associate Professor, Department of Women’s Studies, University of Massachusetts) (United States/Bangladesh)
- Hon’ble Mrs. Justice Ranjana Desai (Judge, Supreme Court of India)
- Jocelyn Getgen Kestenbaum (Program Director, Virtue Foundation) (United States)
- V.S. Elizabeth (Additional Professor, National Law School of India University, Bangalore) (India)
- Savitri Goonesekere (Professor Emeritus, University of Colombo) (Sri Lanka)
- Vrinda Grover (Advocate) (India)
- Priya S. Gupta (Assistant Professor and Assistant Director, Centre for Women, Law and Social Change, Jindal Global Law School) (India)
- Barbara Holden-Smith (Vice Dean and Professor of Law, Cornell Law School; Steering Committee, Avon Global Center for Women and Justice) (United States)
- Sara Hossain (Advocate, Supreme Court of Bangladesh; Legal Aid and Services Trust) (Bangladesh)
- Indira Jaising (Additional Solicitor General of India; Director, Lawyers Collective Women’s Rights Initiative; CEDAW Committee Member)
- Shirin Juwaly (Founder and Director, Palash Foundation) (India)
- Sital Kalantry (Associate Clinical Professor of Law and Faculty Director, Avon Global Center for Women and Justice, Cornell Law School)
- Aanchal Kapur (Founder Leader, Kriti Team) (India)
- Ratna Kapur (Faculty, Geneva School of Diplomacy and International Relations) (India)
- Hon’ble Mrs. Justice Sushila Karki (Judge, Supreme Court of Nepal)
- Govind Kelkar (Senior Analyst, Programme and Research, Women’s Economic Empowerment, UN Women, South Asia Sub Regional Office) (India)
- Dr. Terri Kelly (Adviser, Acid Survivors Trust International) (United Kingdom)
- Hon’ble Virginia Kendall (Judge, U.S. District Court for the Northern District of Illinois) (United States)
- Hooria Hayat Khan (Assistant Manager, Legal Support Unit, Shirkat Gah, Women’s Resource Centre) (Pakistan)
- Sonali Khan (Country Director, Breakthrough) (India)
- Valerie Khan (Chairperson, Acid Survivors Foundation and National Director, Groupe Developpement Pakistan) (Pakistan)
- C. Raj Kumar (Vice-Chancellor, O.P. Jindal Global University and Dean, Jindal Global Law School)
- Joan LaRovere (Co-Founder and Vice President of Virtue Foundation; Attending Physician and Director of Innovations and Outcomes in the Cardiovascular Critical Care Program at Boston Children’s Hospital; Assistant Professor of Paediatrics at Harvard Medical School) (United States)
- Sara Lulo (Executive Director, Avon Global Center for Women and Justice and Adjunct Professor of Law, Cornell Law School)
- Sapana Pradhan Malla (Member, Constituent Assembly; Gender Advisor to the Office of Prime Minister and Council of Ministers; Founder, Forum for Women, Law and Development) (Nepal)
- Hon’ble Ms. Justice Gita Mittal (Judge, Delhi High Court) (India)
- Y.S.R. Murthy (Associate Professor and Executive Director, Centre for Human Rights Studies and Assistant Dean for Projects and Institutional Development, Jindal Global Law School) (India)
- Muna Ndulo (Professor of Law, Cornell Law School; Director, Institute for African Development, Cornell University; Steering Committee, Avon Global Center for Women and Justice) (United States/Zambia)
- Jamila Omar (Director, Human Rights Research and Advocacy Consortium) (Afghanistan)
- Hon’ble Mrs. Justice Ruma Pal (former Judge, Supreme Court of India)
- Smita Premchander (Founder and Secretary, SAMPARK) (India)
- Monira Rahman (Executive Director, Acid Survivors Foundation) (Bangladesh)
- Hon’ble John Rowley (Judge, Integrated Domestic Violence Court, Tompkins County, New York) (United States)
- Hasina Safi (Executive Director, Afghanistan Women’s Education Centre and Executive Board Member, Afghan Women’s Network) (Afghanistan)
- Jyoti Sanghera (Representative, Office of the High Commissioner for Human Rights) (Nepal)
- Stewart J. Schwab (Allan R. Tessler Dean and Professor of Law, Cornell Law School)
- Erica Steinberger (Partner (ret.), Latham & Watkins, LLP; Steering Committee, Avon Global Center for Women and Justice) (United States)
- Anne F. Stenhammer (Regional Programme Director, UN Women, South Asia Regional Office) (India/Norway)
- Hon’ble Justice Shiranee Tilakawardane (Judge, Supreme Court of Sri Lanka)
- Hon’ble Ann C. Williams (Judge, U.S. Court of Appeals for the Seventh Circuit; Steering Committee, Avon Global Center for Women and Justice) (United States)
- Joan Winship (Executive Director, International Association of Women Judges) (United States)
APPENDIX 2:
Judges’ Colloquium on Women and Justice
23 October 2011 – New Delhi

The conference on “Gender-Based Violence and Justice in South Asia,” organized by Cornell Law School’s Avon Global Center for Women and Justice and the Jindal Global Law School, ended with a session designed to promote productive dialogue among judges working in a variety of contexts. This “Judges’ Colloquium on Women and Justice” was overseen by the International Center for Ethics, Justice, and Public Life of Brandeis University, an organization with a long experience in offering programs to members of both domestic and international judiciaries.

The Judges’ Colloquium on Women and Justice brought together judges from Bangladesh, Guyana, India, Nepal, Sri Lanka, and the United States to discuss how issues of gender and violence affect judicial work. The participants came from supreme and high courts across the region, as well as both federal and state level courts in the United States. Notable was the representation of two “specialized courts” – the Special Court for Antihuman Trafficking in Mumbai and the Tompkins County Integrated Domestic Violence Court of New York State. The experience of the international bench on these issues was represented by a judge of the Caribbean Court of Justice, formerly a justice of the Supreme Court of Guyana.

The aim of the colloquium was two-fold: to provide a forum where participants could discuss the challenges of their respective courts vis-à-vis gender justice and exchange experiences and best practices; and to encourage cross-border networking among judges around these issues. The colloquium was introduced by Leigh Swigart, the Brandeis Center’s Director of Programs in International Justice and Society, and C. Raj Kumar, Dean of the Jindal Global Law School.

The colloquium began with a discussion of how judges might best overcome unconscious gender biases in the courtroom. Participants recognized that, like all human beings, judges are products of their societies and have been inculcated with the same values as their fellow citizens. It is therefore incumbent upon judges to become aware of their own prejudices so that their decision-making can be as unbiased as possible. This is particularly important when ruling on cases involving sexual violence or sexual discrimination, given the deep-seated nature of societal attitudes toward gender roles and behavior.

South Asian judges acknowledged that there is still a tendency in their societies to consider women responsible for their own victimization if they have not dressed modestly or have been in the wrong place at the wrong time. A U.S. judge characterized this as the “she asked for it” interpretation of sexual violence, one that is no longer acceptable in American courts. Judges may also carry assumptions about class-based behavior, it was noted, assuming that it is the disadvantaged classes that engage most frequently in domestic violence or selective feticide. These assumptions do not necessarily tally with reality, however. As one participant pointed out, “we know that violence happens in all sectors of society.”
It was agreed that judicial training is of paramount importance if women are to be treated equitably by justice systems. This training should focus on helping judges to understand and apply existing laws that can be beneficial to women and other vulnerable groups. In the United States, for example, victims can be protected by testifying in court by closed circuit television or, if underage, by remaining anonymous. But such protections are meaningless if judges do not know about or take advantage of them. It was also pointed out that judges should be encouraged to make use of the international treaties ratified by their countries, given the high standard of protection generally found under international law.

Training focused on legal education is not enough, however. It was also agreed that many judges need training that will help them to change their attitudes. One participant observed, “We have to be trained to understand bias. When you’re trained to identify bias, you take a step away from it consciously, and then you can make an impartial judgment. If you can train a judge to identify bias – through sensitization – you can move from equality on the books to real equality.” If there is resistance to the idea of undergoing a “gender sensitization” workshop, it was suggested that it might instead be styled a “human rights” workshop.

Participants brought up a number of other factors that impact women’s access to justice in their courts. Legal aid should be provided from the very beginning of a case to victims and plaintiffs lacking sufficient resources. Cases involving crimes of sexual violence should be as quickly resolved as possible to ensure the well-being of victims. And the necessity of sensitizing other actors in the justice system to the special needs of victims of sexual violence – in particular police officers – was emphasized by several judges.

In conclusion, the assembled judges suggested that the following measures should be enacted in their respective systems:

- There should be mandatory continuing legal education for judges with an emphasis on gender sensitivity training;
- Judges should adhere to a reasonable time frame in resolving cases involving gender violence;
- Courts should make sure that opinions, orders, and motions related to issues of gender violence are made public and disseminated to judges across their justice systems. Electronic filing of cases should help in this regard.
- Judges should have access to information technology and be trained to use it, in order both to avoid undue delays in delivering justice and to consult relevant jurisprudence from other jurisdictions.
- Judges should take an active role in making the criminal codes and procedures of their courts more friendly to women;
- Judges must protect victims from ridicule and harassment in the courtroom or by other actors in the justice system; and
- Finally, courts must show victims of sexual violence they will be able to attain justice.
Participants of the Judges’ Colloquium on Women and Justice:

- Hon’ble Justice M. Imman Ali, Supreme Court of Bangladesh
- Hon’ble Madam Justice Desiree Bernard, Caribbean Court of Justice (Guyana)
- Hon’ble Swati Chauhan, Special Court for Antihuman Trafficking in Mumbai
- Hon’ble Mr. Justice A.K. Ganguly, Supreme Court of India
- Hon’ble Justice Naima Haider, Supreme Court of Bangladesh
- Hon’ble Mrs. Justice Sushila Karki, Supreme Court of Nepal
- Hon’ble Virginia Kendall, U.S. District Court for the Northern District of Illinois
- Hon’ble Ms. Justice Gita Mittal, Delhi High Court (India)
- Hon’ble Barbara Rothstein, U.S. District Court for the Western District of Washington
- Hon’ble John Rowley, Integrated Domestic Violence Court, Tompkins County, New York
- Hon’ble Mr. Justice Arjan K. Sikri, Acting Chief Justice, Delhi High Court
- Hon’ble Justice Shiranee Tilakawardane, Supreme Court of Sri Lanka
- Hon’ble Ann C. Williams, U.S. Court of Appeals for the Seventh Circuit