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Sexual and Reproductive Rights in Conflict and Post-Conflict Settings: Funding at the Intersection of Two Fields

Tuesday, July 17, 2012
3:30pm-5:00pm

*Please note that these notes have not been reviewed
by the speakers or organizers of this session*

Session Organizers:

- Laura Katzive, Program Officer, Wellspring Advisors
- Lourdes Rivera, Program Officer, Ford Foundation

Facilitator:

- Pamela Shifman, Director, Initiatives for Girls and Women, NoVo Foundation

Panelists:

- Janet Benshoof, President, Global Justice Center
- Brigid Inder, Executive Director, Women's Initiative for Gender Justice

Sponsors:

- Ford Foundation
 - Wellspring Advisors
 - IHRFG Working Group on Sexual Health & Rights
 - Funders Network on Population Reproductive Rights and Health
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Pamela speaks about her trip to Uganda, and about the situation faced by women there, as well as the men who are committing the violence.

Pamela: Women across the board agree that the conflict was bad, but one thing that developed post- conflict that allow for their human rights to be respected and for new norms to be developed. Prior to the war, women depend on men. Post war, women can have businesses. Through earning money, they are empowered. They call upon humanitarian and donor community to empower them in that manner.

We have new normative framework that did not exist fifteen years ago. It is not happening on the ground. There is a need to bring together two fields of work that are usually not done together. Donors are not funding in the two different areas. It is about how reproductive rights are being addressed. There is a huge funding commitment to family planning, but very little conversation is about conflict and post-conflict countries.

We are hearing from Brigid and Janet about the challenges and opportunities available. Janet will be speaking to make the situation real. She is an activist lawyer who is puts paper into practice and show that gender equality is not a matter of policy but enshrined into law. Brigid has worked on the ICC and Rome Statute. She speaks about funding at the reproductive and sexual rights.

Janet: Thank you for the introduction. I am a human rights lawyer and the organization is human rights oriented. It is not a women's rights org, or a reproductive rights organization. Our philosophy is human rights must be gender equality. Litigating for the civil rights union. It is about pushing it. International law and human rights are pushing the whole thing. They are putting in norms and treaties. We are not radical, though we have a radical voice.

We have a Gender Justice Theory of Change. The goal is Human Rights-based global rule of law founded on de facto gender equality in power. The strategy focuses on time cross cutting legal tools, as well as international legal rights and strategies. It is not what the law is, but what it should be. Someone should speak for the watered up.

We look for low hanging fruit, international rules of law. Just cogents that the UNSC is bound by.

The problem is that women and girls are being denied abortions in armed conflict. Rights are absolute above any law. This denial is a violation of the Geneva Convention and the UN Convention Against Torture. Women and girls are dying from the denial of abortion.

The question is, why is this happening? Over the last ten years, US have increased its abortion ban. It is put on the US budget for US foreign aid. Every single humanitarian organization has that abortion ban. You cannot say abortion and the Geneva Convention in the same sentence. International Committee of the Red Cross (ICRC) has been a voice standing up for victims, but they throw people who want to get abortion out.

The focus is low hanging fruit and the real goal is to get people their right of the Geneva Convention - the absolute right of war victims to non-discriminatory medical care. It is about the absolute duties on conflict and donor states. About 60 states are covered under Geneva Convention.

The U.S. is absolutely bound by Geneva Convention. It is a legal strategy to crack it open and to get an executive order from President to lift ban on war rape victims and citing Geneva. We have to get ICRC to stop applying local law, and get the EU to do something about it.

Gender Justice Center submitted a Shadow Report to the Human Rights Council on how the US abortion ban violates Geneva Conventions, April 2010. In order to have a country questioned, you had to get to get a country to do it. We visited to the UK and Norway for support, from Sept 15-22 2010.

Norway and UK submitted questions about US abortion ban in advance. UK, unfortunately, messed up the submission of questions. But Norway did manage to ask. We have a narrow approach to put it back. Our shadow report was the only Universal Periodic Review recommendation to mention abortion.

Our secondary strategy is to pressure President Obama to Life abortion ban. We have had progress with the New York City Bar Association in March 2011, been mentioned in the NYT Editorial and have had influence on the Norwegian Policy Statement.

We want to be clear to the state that it is against the law. We are hoping to gain EU support for the campaign, to provide the support for it to happen. We want to get the legal heavy weights in Europe and get their services. The White House is impressed with the new players.

UNSC Resolution 1325 should be law. It urges states to segregate from US money from foreign money when funding ICRC

We don't have to look at framework, the time is right to use it to challenge patriarch structures and to increase new rights. Human rights law does not.

Once you get people to do abortions, it is going to change. Donor states are obligated to ensure that rights have to be given.

Brigid (explains the video): This is collaboration with witnesses to train our partners in conflict situations. In specific, gender justice videos and also domestic accountability issues. International Criminal Court is important for the Rome statute. We are good at reading ourselves into a law that excludes us. We use the video to magnify North Uganda, in a post-conflict situation, in Sudan of the 149 of Penal code. It highlights the Lord's Resistance Army (LRA) impact. One is on Kenya and the barriers to women reporting rape and access to medical services as a result of rape. The video includes bride kidnapping in Kurdistan. This was done through legal filings and 600 grassroots members. It is about claiming their place before ICC. All of the films have been videoed by our partners and what they want the video to portray. To bring in the videos that is not here directly here today, for advocates and gender justice.

Video in South Kivu, DRC.

The video focuses on the plight of women in the area, and how it is difficult to report or to get justice. Available on the website: www.iccwomen.org

It is difficult to digest, and it is very moving. It shows films as a larger community. There is a need to implement the laws, not that the law does not exist.

Rome Statue is the most advanced in regards to sexual violence. So much of it is sexual and reproductive rights. It has an impact on Sexual Reproductive Health and Sexual Rights. Rome Statue evolved out of many conferences. One, which Janet mentioned, is in international humanitarian law. It is considered an honor crime. It is seen as indecent rather than violent. We have moved on into the violence of the act. We have moved on from that, like Earth Summit and Beijing.

It builds our capacity to allow a feminist movement, to achieve global agenda that other social justice movements that could not yet achieve. Technology in 1990s was important. Impact over a series particularly.

Though we did not get sexual rights in Beijing, the fact that we tried it does change the conversation into aspirations of Sexual Health Rights, and Sexual Reproductive Rights. Occurrences in Rwanda and former Yugoslavia. Though there is a chapter of HIV and AIDS, and though there is Beijing

Conference, the framework at that point in time is actually inadequate and the UNSC response to these conflicts. We had to hear about rape as sexual violence, torture and genocide.

The tribunals were happening when the Rome statute was being discussed. It is no longer theoretical, but rather into the jurisprudence of the ad hoc trials. International Law has been developing and women's initiative is helping.

In 6 out of 7 situations in Libya, the charging record of the ICC is running into problems of sustaining the charges. 50% of sexual violence charges are dropped before trial. There is no other type of crime facing this. There are powerful African women who are in power in this situation, which puts in a different tone, relating to accountability issues.

This is only in Africa right now. Only Brazil is part of the ICC. In the UNSC, 3 out of 5 permanent members remain out of the jurisdiction of ICC, but remain the major players in security issues internationally.

For donors, it is already clear that there have been contribution in very fundamental ways in terms of focus. Court understands the need to prosecute. The issue is how to argue the gendered dimension at ICC.

More localized health centers are not able to produce health service. There is a need to seek the medical and social support that they need. In villages that we know of, it is often the militia groups who commit sexual violence. Second highest perpetrator is the Congo military. Former militia men were integrated, without any sort of retaining and vetting. It is predicated back in 2009, at the agreements, given the normal and required requirements. It was written to the Secretary General, about the issue and alerting about the possibility. It is a small project that link Sexual Health Rights with justice issues. Come to a transit house, and we offer support, some sort of counseling, and to a hospital that can offer them the surgery they need. They will then move back to the transit house, and it has become as site for other things as well, such as HIV/AIDS helps, community theatre and on healing. We don't expect to be service provision and we don't see it that way, but it is responding to the need. It is unethical not to respond to it. It is critical to consider this. To reframe some work. It is important to have explicit partners in this area.

Question: Question for Janet. Are there any legal counter arguments that you could be challenged by?

Janet: None. Initially people said cannot be done. Norway went with me to the US. No legal argument has ever been made; no factual argument has ever been made against this argument.

Question: It is about how you collect the data? What is its level of accuracy?

Brigid: Well, no because they come from the UNFPA. I can't tell you the exact numbers.

Follow up: You seem more qualitative rather than quantitative.

Brigid: We also are rigorous, and we did not present some information because we couldn't verify or cannot locate the victim to clarify. I am sure the UN is also rigorous. DRC can vary widely; there was a DOJ longitudinal study of 1.3million. We try not to focus on the numbers, not to play the numbers game. We are pushing for the domestic. It is on a scale not quite seen otherwise else.

Janet: the number game is another systemic discrimination. Statistics are people who are alive only, who add to the number, but not those who are dead. Women are raped to death. No one considers women raped to be violent.

Question: Rape is a weapon of war, but also of disorganized soldiers. Where do you put prosecution if it is a weapon of war or crime against humanity?

Brigid: Look at scale, to see if it is systematic or widespread. We have to consider if they knew or should have known, or if it is by the militia and they fail to prevent.

Question: Is that mid level or at the top?

Brigid: It is the high level people, like those who are the secretary general of the militia group. This is why we need to have local laws. While women like that the high level people have to pay for it, who is punishing their perpetrators? I would like to talk about Libya. 2,700 women have been raped, we have not heard of this number. We realized that we were the only women partnered up with the local women work. Your access and trust issues are completely different. We have managed to generate the document. We need to do more work to present to the ICC. They have not been able to access the information. There has been info in the NGOs that say that their sources are not reliable, but they are using it as a secondary material, rather than first person testimony. They just give leads and tell you that women are willing to talk about and testify. People hide behind sexual taboo, but that is not true. People want to talk.

Question: Strategies have to complement international legal strategy. There are limitations, such as ICC. You need other prosecutorial methods, and to catch all the other complicit people. You mentioned vetting and truth commissions. Theatre that you can get, they act revealing stories and creating public space for dialogue. The gendered nature of violence is so important and the ways in which we don't usually think about the gender. It is like Peru and paradigm of transition.

Brigid: We also talk towards capacity building and Uganda is an example around the importance of women to be involved. Women are not a part of the involvement and livelihood. Three groups of women were left out of reconstruction – widows, young women and young women returning from children. Within the marginalized, they were even more marginalized.

Janet: We were asked by the Iraqis, to ask the women to train the judges. We brought women leaders and open up a political space for women. The judges really work with them and new country, new transition and knew constitution, to crack it open to get post conflict justice.

Question: What about the problem with customary and religious laws? Or barriers such as not owning land, to be raped? But you still have to return to the land. Though we are opening these windows, the doors are still closed.

agreement

Question: This has not been spoken and discussed about gender violence against men, such as in Uganda. What facilities get served get offered to men? When ever the discussion is around men who have been raped, and gender based, they get laughed every time? What happens?

Brigid: There is a Kenya case before the ICC that did not recognize forced male circumcision as a gendered based violence. They couldn't argue the gendered aspect well enough that to convince the judges. The judges do the same. Out of 214, there were 13 men in the first 3 months. They are particularly raped, not other forms of sexual violence. There is enormous shame about men speaking up on the assault. The rate is different between genders. Prosecution is inadequate as a single strategy. What was the intention and how do we prosecute to get to intentionality of it? For the women, it is a reminder of our status. For men, they are to be down graded. It is an enormous scaling down for men, but not for women. We know it.

Pamela: There is a silencing of the Sexual & Reproductive Health funding world and the peace and security sector, they are not meeting in the middle. Do you have any advice or opportunities where we can bridge that gap?

Janet: We want to use international law to get our rights. Rather than bridging the gap, we wall between the gaps. We are focused on the globalization for international law, and for it to not have to feel so separate. As international law gets more complicated, you get different types of lawyers, you can use international law as a rights tool, that it can be the ties that bind that isn't now.

Brigid: Sometimes the prosecutions around can be the spear head, which we then can follow on the heel of that. It is difficult to challenge violence. It is important to have funding for grassroots or intermediaries that work with grassroots. The more money that we can get, the more secure. Multi-year grants are critical. They may find the size of the grants overwhelming. A staggered approach to match funding over a period of time is better for the grassroots organization.

Comment: It is about finding funding at the intersections. This can be done using the Foundation Center maps, as a way to capture intersectional work.