

1994

New Trend in Addressing Violence Against Women

Layli Miller Bashir

American University Washington College of Law

Follow this and additional works at: <https://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Human Rights Law Commons](#), and the [Law and Gender Commons](#)

Recommended Citation

Bashir, Layli Miller. "New Trend in Addressing Violence Against Women." Human Rights Brief 2, no. 1 (1994): 2, 15.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized editor of Digital Commons @ American University Washington College of Law. For more information, please contact kcley@wcl.american.edu.

New Trend in Addressing Violence Against Women

by Layli Miller Bashir

Violence against women is an age-old problem. Recently, however, a new-found commitment to women's equality resulted in the adoption of the United Nations Declaration on the Elimination of Violence Against Women (UN Declaration), the appointment of the United Nations Special Rapporteur for Violence against Women, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Inter-American Convention). Many women's rights activists feel that while these efforts are promising, additional emphasis must be placed on the need to prevent private acts of violence against women.

In December 1993, the international community took a significant step in combating violence against women when the General Assembly adopted the UN Declaration (Resolution 48/104). This document specifically recognizes the need to focus upon domestic violence, which was traditionally believed to be outside the purview of international law because it involves private rather than state action. The UN Declaration also shows little tolerance for the assertion of cultural defenses to violence against women. Article 4 declares that "states should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligation with respect to its elimi-

nation." In addition, the UN Declaration obliges governments "to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women." Specific abuses enumerated in the UN Declaration include violence within families, dowry-related violence, and female genital mutilation. "Other traditional practices harmful to women are also cited for correction in spite of their culturally-sensitive nature."

Despite the progress represented by the UN Declaration, some have questioned its effectiveness. Many of the UN Declaration's provisions are worded so that they may be construed as recommendations rather than obligations. Also, the UN Declaration may be interpreted to excuse inaction by poorer governments, as it provides that states may implement the provisions "to the maximum extent feasible in the light of their available resources."

In March 1994, the United Nations Commission on Human Rights fortified the UN Declaration by appointing Radhika Coomaraswamy of Sri Lanka to the post of Special Rapporteur on Violence Against Women for a term of three years. Ms. Coomaraswamy's responsibilities include

continued on page 15

Women's Reproductive Rights Advanced at Conference

by Gabriel Eckstein

"The challenge facing activists now is to carry forward the achievements of the Cairo Conference [on Population and Development] and to expand the ground gained at upcoming world conferences, in particular at the Fourth World Conference on Women [in Beijing in 1995]," said Donna Sullivan, Director of the Women in the Law Project of the International Human Rights Law Group. Sullivan spoke at the Conference on the

"Women's rights to health and reproductive choice are critical to their full participation in society."

International Protection of Reproductive Rights held at The American University on November 10-11, 1994. The Conference, hosted by the Law Group and the Women & International Law Program (W&ILP) at the Washington College of Law, brought together women and men



Conference participants (left to right): WCL Dean of Graduate Studies Claudio Grossman; WCL Dean Elliot Millstein; W&ILP Director Lauren Gilbert; Director of the Women and the Law Program at WCL Ann Shalleck; Egyptian attorney Mona Zulficar; and Conference keynote speaker Rebecca Cook.

from Europe, Africa, the Americas, the Middle East, and South Asia to evaluate the achievements of the Cairo Conference, with respect to women's reproductive health, and explore mechanisms by which international law could be used to advance women's reproductive rights.

"Women's rights to health and reproductive choice are critical to their full participation in society," asserted Lauren Gilbert, Director of W&ILP. Gilbert's sentiment underscored the principal theme of the Conference - women not only have the right to decide freely and responsibly

continued on page 10

The Human Rights Brief is a publication of the Center for Human Rights and Humanitarian Law in conjunction with the Washington College of Law at The American University. No portion of this newsletter may be reproduced without the express written permission of The Human Rights Brief. All correspondence, reprinting requests, and articles proposed for publication may be sent: c/o Center for Human Rights and Humanitarian Law, Washington College of Law, The American University, 4400 Massachusetts Avenue, NW, Washington, DC 20016. Ph. (202) 885-2719. Fax. (202) 885-3601. E-mail: HUMLAW@AMERICAN.EDU

Directors of the Center For Human Rights and Humanitarian Law
Robert Goldman Claudio Grossman Herman Schwartz

Executive Director
Robert Guiteau

Newsletter Staff

Editor-in-Chief Gabriel E. Eckstein

Articles Editor Samir Desai

Editorial Board Nadia Ezzelarab, Fernando González-Martín, Nicola Hillman, Alejandro Ponce-Villasis, Rochus Pronk, Ayesha Qayyum, Sergio Ramirez, Brian Tittemore
Advisory Board Sharon Healey-Scully, Antonio Maldonado, Claudia Martín, Diego Rodriguez, Françoise Roth, Jennifer Suman

Newsletter Staff Layli Miller Bashir, Angela Collier, Bina Desai, Michelle Domke, Alison Graves, Karen Graziano, David Hyden, Laura A. Langberg, Fatimah Mateen, Renate Nikolay, Dharman Niles, Jessica Roff, Claudio Santorum, Magda Theodute, Maria Rosario Valenciano, Klaus Weigeldt

An equal opportunity/affirmative action university.
printed on recycled paper



New Trend, continued from page 2

reporting annually to the Commission and preparing a draft report on the subject of violence against women for the Economic and Social Council. Her authority allows her to visit states to investigate allegations of violence against women and to issue urgent action appeals to governments to end abuses against women. As Special Rapporteurs are generally considered to be highly effective in their ability to bring issues to the forefront of international awareness, Ms. Coomaraswamy's appointment may have a significant impact in decreasing violence against women.

In the American hemisphere, the Organization of American States (OAS) approved the Inter-American Convention in June 1994. This document is significant as under Article 12, it provides for individual standing before the Inter-American Commission. It also represents an important contribution to the growing

concern for violence against women in stating that the "recognition and full respect for all rights of women is an essential condition for their development as individuals and for the creation of a more just, united and peaceful society." The Inter-American Convention's requirement that it be ratified by only two OAS members in order for it to take effect further emphasizes the growing commitment of states to women's equality.

Women's rights activists maintain that the international community has yet failed to address the importance of state responsibility for private actions that violate human rights. Recent events indicate that this criticism may be gaining acceptance. In March 1994, the United Nations Commission on the Status of Women considered testimony from non-governmental organizations (NGOs) on the discriminatory effects of judicial practices adopted by states in prosecuting private acts of sexu-

al violence. Witnesses testified that extensive evidentiary requirements, refusal to accept the testimony of the victim as credible, demands that the victim prove her chastity, and disproportionately low rates of conviction foster an environment in which women are discouraged from reporting sexual assaults. As evidenced by increasing numbers of NGO testimonies and reports, there is a growing international concern over the issue of state accountability for private acts of violence.

As described by the United Nations, women's inequality flows from the family to all levels of society and is caused by the systemic nature of discrimination. Consequently, mechanisms employed to remedy women's equality must seek to effect change among all strata of society and strike at the heart of the causes of women's subordination and abuse. ☸

FACULTY/STAFF NEWS

by Bina Desai and Michelle Domke

Upendra Baxi, visiting Professor of Law of the University of New Delhi in India, published *Inhuman Wrongs and Human Rights, Mambino's Helmet? Human Rights for a Changing World* in 1994, and, with Dr. Oliver Mendelssohn of Latrobe University in Australia, *Rights of Subordinated Peoples*. Baxi is also working on the development of the UN "Plan of Action" for a Decade of Human Rights Education.

Thomas Farer, Director of the J.D./M.A. Joint Degree Program in Law and International Affairs, consulted and commented on a draft constitution for Uganda in early 1994. Farer is now completing work on a project for the Inter-American Dialogue on "Collectively Defending Democracy in the Western Hemisphere," and is contributing to and editing a forthcoming book from this project which discusses how external actors can promote democracy in Latin America.

Lauren Gilbert, Executive Director of the Women and International Law Program (W&ILP), along with Ann Shalleck, organized the Conference on the International Protection of Reproductive Rights [see related story, page 2] where she presented a

paper on "The Reproductive Rights of Refugee Women."

Robert K. Goldman, Professor of Law, Louis C. James Scholar, and Co-Director of the Center for Human Rights and Humanitarian Law, continues to be involved in the issue of judicial reform in Peru (see story in *The Human Rights Brief*, vol. 1, no.2). Goldman is a Senior Consultant on a joint project of the International Human Rights Law Group and the American Society of International Law, undertaken for the UN Secretary General's Special Representative on Internally Displaced Persons, to compile international law norms applicable to internally displaced persons, identify possible deficiencies and gaps in the law, and suggest possible remedies.

Claudio Grossman, Dean of Graduate Studies, Professor of Law, Raymond I. Geraldson Scholar in International and Humanitarian Law, and Co-Director of the Center for Human Rights and Humanitarian Law, is currently a member of the Inter-American Commission on Human Rights. In May 1994, Grossman travelled to Haiti on a Commission mission to study the human

rights situation in that country. In September 1994, he participated in a training conference for human rights lawyers and activists organized by the Inter-American Institute for Human Rights in Santiago Chile. Grossman recently published two articles; one concerning the anniversary of the Inter-American Court on Human Rights and the future of the Inter-American system, and the other discussing individuals and cases currently before the Inter-American Court.

Mark Hager, Professor of Law, travelled to Guatemala this past summer to meet with labor lawyers, union activists, and labor organizations who are documenting labor rights abuses and litigating them before international tribunals. Hager also represents Haitian refugees in political asylum cases and trains WCL students to assist in the preparation of cases.

Nicholas Kittrie, Professor of Law and Edwin A. Mooers Scholar, is the founding chair of the American Society of International Law's Interest Group on the Status of Minorities and Other Communities. In July 1994, Kittrie was elected to the executive

continued on page 16