

Vulnerable Groups

Policy Booklet

January 2017



**EVERY
WOMAN
TREATY**

The next step in ending violence
against women & girls.

Table of Contents

1. Violence in Conflict Memo	2
Supporting Documents	13
1. Indigenous Girls and Women of All Ages Memo	35
Supporting Documents	47
2. Inclusive Groups Memo	68
3. Girls and Women with Disabilities Memo	80
Supporting Documents	92

NOTE: Memos were written using Everywoman, Everywhere, our original name.

Recommendations from the

**Expert Special Committee
on Violence in Conflict**

For a Global Treaty on
Violence Against Girls and
Women of All Ages

January 2017

1. Introduction of Treaty Content

1.1 Introduction

Violence Against Girls and Women is defined by the United Nations as:

"any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering . . . including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life."

There is growing evidence that conflict and pre and post-conflict situations often intensify Violence Against Girls and Women of all ages. While there is a set of international and regional documents in support of women and children's rights, they have proven insufficient, unsatisfactory, and at times even problematic, especially in situations related to conflict or fragile and unstable contexts. Manifestations of Violence Against Girls and Women of all ages in conflict, including preconflict and postconflict periods, include systematic rape, forced pregnancy, forced/early marriage, sexual slavery, trafficking, forced displacement, torture, and killing.

1.2 Legal Framework

The international humanitarian legal system, including the criminal tribunal and courts, have taken strong stands against violence against women and girls in conflict. This Violence in Conflict Expert Special Committee analyzed 37 international and regional policy documents intended to promote women's and girls' rights and to ensure they live free of violence. Additionally, Committee members presented case studies related to Violence Against Girls and Women of all ages in conflict, and their experiences further exemplified the important weaknesses in existing legal mechanisms.

This Committee identified some challenges related to Violence Against Girls and Women of all ages in conflict to include:

- No universal definition of what constitutes a conflict, as well as poor recognition of the conflict continuum;
- Important gaps in the definition and implementation of existing legislation;
- A lack of comprehensive services for survivors/victims that address their health, socio-economic, emotional and psycho-social needs.

This Committee reviewed the significant international documents directly related to the issues of Violence Against Girls and Women in conflict. Some of our findings include:

- The UN Security Council Resolutions on Women, Peace, and Security recognizes that armed conflict has a disproportionate and unique impact on girls and women of all ages;
- The Maputo Protocol, while it applies only to Africa, is also particularly specific and forceful;
- The Beijing and Vienna Declarations contain clear descriptions and condemnations of violence in conflict, but are not legally binding;
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is legally binding, although it does not directly address Violence Against Girls and Women in conflict, except for the non-binding General Recommendation 30;
- The inquiry procedure added by the Optional Protocol of the CEDAW allows the Committee to investigate serious or systematic violations of women's rights in a particular country—which is especially significant for conflict-affected countries. However, bringing complaints to the CEDAW Committee or the international courts requires a degree of time and money that makes it inaccessible for the vast majority of affected women and girls.

The definition and time frame of conflict

The current prevailing legal opinion on the definition of armed conflict defines two types of conflicts:

- International armed conflicts (IAC), between two or more States. This includes cases of partial or total occupation and wars of national liberation. ICTY proposed a general definition: "*an armed conflict exists whenever there is a resort to armed force between States*" that has been used ever since.

Conflict stops when hostilities stop.

- Non-international armed conflicts (NIAC), between governmental forces and nongovernmental armed groups, or between such groups only. The situation must reach a certain threshold of confrontation to be denominated NIAC, with two main criteria: a) minimum level of intensity and b) non-governmental groups must be considered "parties to the conflict," according to the Common Article 3 of the Geneva Conventions of 1949. The ICTY confirms this definition.

Conflict ends when these criteria are no longer fulfilled

This committee considers that this prevailing international definition presents several challenges in terms of effectively dealing with Violence Against Girls and Women of all ages.

- a. To limit the **time frame** to the actual conflict is not sufficient to deal with Violence Against Girls and Women properly, as the violence may start well before the conflict does, making *pre-conflict* situations important to look at. Similarly, the effects remain long after the violence ends, making *post-conflict* situations fundamental to deal with. Some examples include:
 - Psychological effects of violence that persist after the conflict is over;
 - The social context, particularly of impunity, which may persist for a long time, meaning that violence as a consequence of conflict does not end with the actual conflict; and
 - The breakdown of the health system and other infrastructure in armed conflict that particularly affects women and girls in ways that can lead to death long after the conflict has officially ended.
- b. The world has changed substantially over the past several decades and so has the nature of conflict and the **conflicting parties**. Some situations that can be described as *de facto* conflicts do not involve clashes between states, governmental forces, and nongovernmental armed groups, or between such groups only. Conflict, and conflict-related Violence Against Girls and Women is also generated by:
 - paramilitary groups that are state-sponsored and that are not in conflict with the government or with other armed groups,
 - terrorist groups that are not necessarily formally at war with governmental forces,
 - organized crime, such as drug-related conflicts.
- c. **Low-intensity conflicts**, including situations such as the one in Chiapas, Mexico, or Area A in the Palestinian Territories, are not covered by the prevailing text. This is problematic considering that violence against civilians, and particularly against girls and women, can be severe, despite the fact that actual warfare between conflicting parties is of low intensity. Human Rights Law may not be sufficient to cover these situations.

2. Summary of the Committee's Discussion of Treaty Content

Overall losses of girls and women as victims of violence in conflict have not been systematically considered, and there are multiple reasons:

- protection mechanisms are not always standardized;
- victims do not report violence;
- there is a widespread system of impunity toward the perpetrators in conflict;
- unstable environments;
- the definition of "**violence**," as well as "**conflict**," need clear and more detailed classification, including preconflict and postconflict periods (transitional periods), as research practice clearly confirms a significant increase of all forms of Violence Against Girls and Women of all ages in pre- and postconflict settings.

Moreover, the last decade of armed conflicts, with a dramatic increase in the numbers of refugees and internally displaced persons, among whom women and children represent approximately 70 percent, have shown the insufficiency of current protection mechanisms, calling for a re-examination of the existing legal and political commitments to end Violence Against Girls and Women of all ages in conflicts.

This Committee analyzed internationally recognized definitions of conflict and concluded that the current prevailing language requires further examination and expansion. This Committee discussed some of the more problematic conflicts: Rwanda, Bosnia, Sierra Leone, Liberia, Sudan, Somalia and Yemen. The current crisis in Syria was also discussed. Additionally, the Committee members raised the question of the legal norms and protection mechanisms in "failed countries," as well as in low-intensity warfare situations that may not be legally recognized as conflicts.

This Committee examined the classifications of forms of violence and concluded that there is space for modification in this area and that some forms of violence are not recognized in the prevailing documents related to Violence Against Girls and Women of all ages in conflict. Committee members examined an extended list of forms of violence, according to the different phases of a conflict (Table Forms of Violence Against Girls and Women in Conflict).

3. Concluding Comments by the Committee on Treaty Content

"Unresolved, sensitive, potentially contentious issues"

3.1 Special Considerations in the Definition of Violence Against Girls and Women of all Ages in Conflict

Committee members examined the extended list of forms of violence, organized by phases of the conflict (Table Forms of Violence Against Girls and Women in Conflict). This committee also discussed the following types of violence not fully addressed by the prevailing text:

- a. **"Secondary" Violence**, understood as new episodes of violence resulting from a first, initial act. Secondary violence is common, but not limited to, cases of sexual violence, including:
 - Honor crimes and killings, aimed at restoring the family's honor after a sexual assault, including, but not limited to, rape;
 - Maternal deaths as a result of rape; and
 - HIV-AIDS as a result of rape.
- b. **Violence** that is not perpetrated by soldiers or conflicting parties, but rather a **consequence of the social context created by the conflict**. For example, we know that conflicts tend to generate higher rates of some types of violence, including domestic violence and *forced marriage*, at the same time that the response systems become weaker.
- c. **Spiritual violence** as a consequence of conflict is an issue that is not addressed by current legal frameworks. Religion can be intertwined with conflict in complex ways, and women and their bodies are sometimes used to symbolize culture and religious traditions. Spiritual violence could include, but is not limited to, forcing religious beliefs and rituals upon girls and women or controlling the way they dress, their sexuality, or movements as a consequence of ideology, beliefs, or traditions.
- d. **Political violence** during conflict is another aspect. Women may be directly or indirectly excluded from political decision-making during conflict for a number of reasons, including the gendered nature of conflict. Conflict situations may also generate increased physical, psychological or sexual violence against girls and women who are participating politically. Although UN Security Council Resolution 1325 highlights the importance of women's participation and full involvement in all efforts for maintaining and promoting peace and security, political Violence Against Girls and Women is not considered.

3.2 This Committee considered the crucial issue of funding mechanisms and urges further exploration in order to identify an effective approach and methodology that will work effectively with the recommendations of the other 14 Expert Special Committees to enable successful treaty implementation at the domestic level for this global treaty on Violence

Against Girls and Women of All Ages.

4. Recommendations by the Committee on Treaty Content

Violence Against Girls and Women of all ages in conflicts is an impediment to the achievement of equality, development, and peace. Given that none of the existing internationally recognized documents fully solve the increasing and varied problems of girls and women in conflicts, there is a clear need for a new, legally binding document that will connect the existing instruments and strengthen and supplement their identified deficiencies. The members of the Violence in Conflict Expert Special Committee present the following set of recommendations for consideration to improve the existing legal framework and thus produce a measurable reduction in rates of violence against girls and women of all ages:

4.1 Regarding the definition and time frame of conflict, this treaty must:

- a. Take all phases of conflict into account, including preconflict and postconflict periods;
- b. Be broad enough to include different types of conflict, including low intensity conflicts as well as those that do not involve clashes between states, governmental forces, and nongovernmental armed groups, or between such groups only;
- c. Consider the different types of violence according to the conflict phases expressed in Annex 2.

4.2 State Parties must ensure that domestic legislation and policies are consistent with this treaty and fully implemented in order to produce a measurable reduction in rates of Violence Against Girls and Women of all ages, specifically:

- a. Recognizing that the adoption of the CEDAW, and other international and regional frameworks, has not led to the full implementation of commitments in domestic contexts. State Parties adopt this Treaty with the intent of furthering implementation and improving commitments at the domestic level.
- b. State Parties must establish an independent supervisory body at the national level, which will follow up all phases of the implementation as well as enforcement of adopted legal mechanisms.
- c. State Parties must decentralize and establish independent supervisory local and/or regional offices to monitor law enforcement, identify gaps, and provide support through sharing information and education.
- d. State Parties must further analyze and deepen research regarding laws and practices of other signatory State Parties, to enhance cooperation and exchange of knowledge and mutual support in treaty implementation.

4.3 State Parties must increase the political participation and engagement of women, survivors, practitioners, academics, and civil society in actions and decisions regarding Violence Against Girls and Women of all ages in conflict.

- a. State Parties must affirm the role of women in conflict prevention, negotiation and reaching agreements to end conflict and include them as equal partners in order to achieve long term and sustainable solutions.
- b. State Parties must strengthen or amend legal mechanisms that impact the involvement of women and nongovernment stakeholders in order to facilitate their participation in Violence Against Girls and Women actions and decisions.
- c. State Parties must improve dialogue and cooperation between policy makers, survivors, practitioners, academic, and research institutions, including providing fora for capturing and sharing good practices and lessons learned, on a regular basis.

4.4 States must consistently evaluate and monitor programs and systems to protect girls and women of all ages in conflict, including in the time periods before and after conflict is openly declared.

- a. State Parties must review both services and access to justice for survivors, and establish monitoring and evaluation mechanisms with input from women experts and survivors and nongovernment stakeholders.
- b. State Parties must review and ensure sufficient funding to address Violence Against Girls and Women of all ages effectively in conflict.
- c. State Parties must review and improve existing health care facilities for survivors of violence in conflict, particularly regarding practitioner training to address the post-traumatic effects of this violence.
- d. State Parties must make resources available for girls and women and disseminate information about rights to girls and women who have survived violence in conflict.

4.5 After an initial evaluation of programs and systems to protect girls and women of all ages in conflict, State Parties must undertake actions to consistently strengthen these programs and systems to ensure a measurable reduction in rates of Violence Against Girls and Women of all ages.

Committee Member BIOS:

(CHAIR) Violeta Momcilovic – Serbia

Mrs. Violeta Momcilovic is Program Manager at the Metamorphosis, Division of Good Governance, Human Rights and Anti-Discrimination in Belgrade. She received her third master's degree in Gender Studies from the University of Novi Sad's Center for Interdisciplinary Studies, and successfully defended her master's thesis on the Contemporary Gender Approach to the Global Problem of Women Refugees and Internally Displaced Women: A Comparative Study—Balkan and West African Wars. She also holds an MA in Political Science and a BA/MBA in Management and Banking. Violeta has 25 years of professional experience in public and private companies, nonprofit sector (NGO), and in scholarly research activities. She was the Project Associate of the Serbian Academy of Arts and Sciences' Balkan Institute, and has worked on broad issues of women, including the forced migrations during the Former Yugoslav Wars, especially on women refugees and IDPs posttraumatic stress. Violeta has working experience from Europe, South Asia, and West Africa. She was in Sierra Leone during the Ebola outbreak (2014), where she prepared The Questionnaire for the Ebola Survivors for the three most-affected countries in agreement and by recommendation of the UN/UNDP Resident Coordinator & Representative in Sierra Leone.

(Memo Drafter) Sandra Johansson – Spain

Sandra is a passionate feminist with a degree in Gender Studies and extensive experience in the field of women's rights and development, with particular emphasis on violence against women and girls and sexual and reproductive health and rights. Currently based in Spain, over the past fifteen years, she has collaborated with national and international civil society organizations, governmental institutions and research centers in countries across Europe, Latin America, Africa, Asia, and the Middle East. Her work to end violence against women and girls includes research initiatives, political advocacy at the international and national levels, and development and humanitarian programming, as well as campaigning and public awareness-raising.

(Memo Drafter) Stephanie Baric – USA (living in Israel currently)

International development professional with almost 25 years of experience managing women's empowerment and gender equality programs in the Middle East, Africa and the Balkans. Technical background includes addressing sexual and gender based violence, and girls' education. Worked as Program Director for ChildFund International's Early Childhood Development (ECD) campaign intended to position the organization as a leader in ECD programs through quality program implementation, knowledge management, strategic partnership-building, resource mobilization, and advocacy engagement. Led the design of

gender transformation interventions including increasing the role of male caregivers in childcare and rearing, and ending domestic violence and child abuse. Former Director of USAID flagship governance project in Yemen supporting capacity building for civil society and government in policy formulation and implementation with a focus on increasing women and youth participation. Worked as Acting Director and Senior Advisor for CARE's "Power Within: Learning to Lead" signature program supporting access to quality education and leadership skills development for young adolescent girls in 20 countries through strategy development and design of programs, cultivation of strategic partnerships, resource mobilization, and donor stewardship, and the implementation of a global advocacy campaign for ending child marriage in the country offices and the United States. Previous senior program management experience includes Assistant Country Director for CARE programs in West Bank and Gaza, Tanzania, and Egypt overseeing portfolios focused on sexual and gender-based violence, civil society strengthening, economic growth, governance, food security and livelihoods, water and sanitation, education, and health projects with funding from bilateral, corporate, and foundations, and major gift donors. She is fluent in Serbo-Croatian and working knowledge of French.

(MEMBER) Debbie Gross – Israel

Debbie has dedicated her life to caring, advocating, and supporting victims of abuse. For over 30 years she has been a leader in the field of crisis intervention in Israel and throughout the globe, with a special emphasis and understanding placed on religious and cultural sensitivities. Her goal has been to raise awareness of the issues of abuse and to bring about social change and prevent future abuse.

Debbie is a pioneer in advancing community education and awareness of abuse by giving lectures to teachers, professionals, school guidance counselors, rabbinic authority figures, and in the Israeli Knesset.

(MEMBER) Alice Neneh James – Sierra Leone

Alice Neneh James has been working with Actionaid Sierra Leone (AAISL) for 10 years both at a national and local level. She holds a master of science degree in Public Health from the University of East London–UK and is currently pursuing an online MSC in Strategic Human Resource Management at the University of Roehampton. She is a trainer for ActionAid's participatory methodologies and has supported communities to develop actions to recognize and develop their ability to respond to problems and needs they share. This has led to the establishment of strong communities that control and use their assets to promote social justice and help improve the quality of community life.

(MEMBER) Reem Abbas – Sudan

Reem Abbas is an award-winning blogger and journalist with a degree in journalism and sociology and a postgraduate degree in gender and migration studies. She currently works as the regional advocacy and communications officer at the Strategic Initiative for Women in the Horn of Africa (SIHA Network). As a human rights activist, she attended the Frontline Defenders Dublin 2013 Forum. Her blog on human rights, culture, and politics in Sudan won the 2011 BlogHer International Activist Award and she was voted by the UN Dispatch as one of the top Sudanese Twitter accounts to follow. Her writings and sociopolitical commentary were published in the *Guardian*, the *Women International Perspective*, the *Inter-Press Service*, *Women's-E-News*, the Doha Center for Media Freedom, and the *Index on Censorship* magazine among other online and print publications. She was a columnist at *Open Democracy* between 2012 and 2013. She also spent years working with Sudanese refugees in Egypt and published a profile on a young refugee musician in the book *Voices in Refuge: Stories from Sudanese Refugees in Cairo*, published by the American University in Cairo Press.

(MEMBER) Zainab Umu Kamara – Sierra Leone

Zainab has worked in various capacities ranging from a lecturer at LICCSAL Business College, to senior radio producer at the United Nations Radio in Sierra Leone, to Human Resources Manager at the Political Parties Registration Commission (PPRC) in Sierra Leone. She is currently the Acting Registrar of the PPRC and a board member of the Institute of Electoral Administration and Civic Education (INEACE). Zainab is familiar with the challenges women and girls face, having grown up in a country where women in positions of leadership are few and obstacles to women's progress abound. Yet she has excelled and is one of the few (young) women who share a seat with the men, the decision makers, at the table. Zainab is very passionate about women's development and advocates on multiple levels for their inclusivity in the decision-making process. Moreover, Zainab seeks to inspire confidence in girls and women letting them know that with God, faith, perseverance, and hard work they can attain even greater heights if they do not faint.

Supporting Documents:

- I. Legal Framework Research
- II. Consultation on Gaps and Definition
- III. Consultation on Conflict Terms

I. Legal Framework Research

The List of the UN, International and Regional Documents related to the Violence on Women in Conflict

I – UN Security Council Resolutions on Women, Peace and Security

The blueprint for gender and peacekeeping work for the Department of Peacekeeping Operations (DPKO) is rooted in Security Council Resolution 1325 (2000) which was the first Resolution to address the disproportionate and unique impact of armed conflict on women.

UN Security Council resolution 1325 (2000)

UN SCR 1325 is the first resolution to explicitly link women, peace, and security, stressing the importance of women's equal and full participation as active agents in the prevention and resolution of conflicts, peacebuilding and peacekeeping. It calls on member states to ensure women's equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and urges all actors to increase the participation of women and incorporate a gender perspective in all areas of peacebuilding. Resolution 1325 urges all actors to increase the participation of women and incorporate gender perspectives in all United Nations peace and security efforts. It also calls on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. The resolution provides a number of important operational mandates, with implications for Member States and the entities of the United Nations system.

UN Security Council resolution 1820 (2008)

Recognizing the impact that sexual violence in conflict has on the maintenance of peace and security, the Security Council adopted **Resolution 1820** which explicitly links sexual violence as a tactic of war with women peace and security issues. For the first time, sexual violence is not discussed as an inevitable feature of conflict, but as unacceptable and preventable. Security Council Resolution 1820 reinforces Resolution 1325 and highlights that sexual violence in conflict constitutes a war crime and demands parties to armed conflict to immediately take appropriate measures to prevent and protect civilians from sexual violence, including training troops and enforcing disciplinary measures. The Resolution noted that women and girls are particularly targeted by the use of sexual violence, including in some cases as "a tactic of war to humiliate, dominate, disperse and/or forcibly relocate civilian members of a community or ethnic group". Stressing that such violence could significantly exacerbate conflicts and impede peace processes, the text affirmed the Council's readiness to, where necessary, adopt steps to address systematic sexual violence deliberately targeting civilians, or as a part of a widespread campaign against civilian populations.

UN Security Council resolution 1888 (2009)

UN SCR 1888, as a follow up to Resolution 1820, mandates peacekeeping missions to protect women and children from sexual violence during armed conflict, and requests that the Secretary-General appoint a special representative on sexual violence during armed conflict, currently Zainab Hawa Bangura. The Council affirmed that it would consider the prevalence of rape and other forms of sexual violence when imposing or renewing targeted sanctions in situations of armed conflict. To enhance the effectiveness of measures for the protection of women and children by peacekeeping missions, the Council decided to identify women's protection advisers among gender advisers and human rights protection units. Other provisions of the text included the strengthening of monitoring and reporting on sexual violence, the retraining of peacekeepers, national forces, and police, and calls to boost the participation of women in peacebuilding and other post-conflict processes.

UN Security Council resolution 1889 (2009)

Resolution 1889 addresses women's exclusion from peacebuilding and the lack of

attention to women's needs in post-conflict recovery. It condemns continuing sexual violence against women in conflict and post-conflict situations and urges Member States, United Nations bodies, donors and civil society to ensure that women's protection and empowerment are taken into account during post-conflict needs assessment and planning, and factored into subsequent funding and programming. It emphasizes the responsibility of States to protect women and girls in armed conflict, including from sexual violence, and to prosecute perpetrators of violence. It also calls on all those involved in the planning for disarmament, demobilization, and integration programs in particular to take into account the needs of women and girls associated with armed groups, as well as the needs of their children. It requests the Secretary-General to submit a set of indicators to track the implementation of resolution 1325 and to ensure cooperation between the Special Representative of the Secretary-General on Children and Armed Conflict and the Special Representative on sexual violence in armed conflict, whose appointment had been requested by Resolution 1888.

UN Security Council resolution 1960 (2010)

Resolution 1960 calls for an end to sexual violence in armed conflict, particularly against women and girls, and provides measures aimed at ending impunity for perpetrators of sexual violence, including through sanctions and reporting measures. In the preamble of the resolution, the Council expresses concern at the slow progress on the issue of sexual violence in armed conflict, particularly against women and children. It reminds all states to comply with international law and for leaders to demonstrate commitment to prevent sexual violence, combat impunity and uphold accountability. Perpetrators of war crimes and genocide must be prosecuted, emphasizing the primary responsibility of states to respect and ensure human rights of people within their territory.

UN Security Council resolution 2106 (2013)

Resolution 2106 focuses on accountability for perpetrators of sexual violence in conflict and stresses women's political and economic empowerment. It calls upon Member States to continue fighting impunity by investigating and prosecuting perpetrators in

their respective jurisdictions. It requests the Secretary-General to expedite the implementation of monitoring, analysis and reporting arrangements on conflict-related sexual violence, and to help national authorities to address such violence within the context of justice- and security-sector reform. It reiterates its demand that all parties in conflict to stop all acts of sexual violence and enact specific time-bound commitments, including codes of conduct and military, as well as police manuals to prohibit such violence and hold violators of such orders to account.

UN Security Council resolution 2122 (2013)

UN SCR 2106 addresses the persistent gaps in the implementation of the women, peace and security agenda, as highlighted in the most recent Secretary-General's report. It aims to strengthen women's role in all stages of conflict prevention, resolution and recovery, placing the onus of providing them with seats at the peace table on Member States, regional organizations and the United Nations itself.

UN Security Council resolution 2242 (2015)

Adopted on the 15th anniversary of UN resolution 1325, UNSCR 2242 is the eighth and most recent of the UN Security Council's resolutions on women, peace and security. The resolution covers a variety of issues related to the WPS agenda, incorporating some of the recommendations from the Global Study. One of the key innovations in 2242 is the creation of an Informal Experts Group on Women, Peace and Security at the UN Security Council to facilitate a more systematic approach and enable greater coordination of implementation efforts. Resolution 2242 also addresses gender parity and perspectives within the UN architecture, particularly with regard to peacekeeping missions. The Resolution recognizes and condemns the continuing allegations of sexual abuse and exploitation by peacekeeping forces. However, it does not take up the full recommendations of creating an international tribunal to investigate allegations of sexual violence by UN personnel and peacekeepers, although it does promote effective training on such violations for troops, and timely, thorough investigations of wrongdoing. Finally, the Resolution devotes significant space to the interaction of women, peace, and security and violent extremism, an aspect that has been criticized for instrumentalizing women's rights by using them as part of a counter-terrorism strategy.

II – International/Regional documents

Convention on the Elimination of All Forms of Discrimination against Women - CEDAW

Entered into force—1981

Ratified – 189 countries / Signed—2 / Not signed or ratified – 5

Reservations – The key substantive reservations are to CEDAW Articles 2, 5, 7, 9, 15, and 16 (none of them is related to the VAW in Conflict)

The CEDAW does not include any specific language on violence against women and girls, although some of its general recommendations, as well as the optional protocol do.

General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations

Gender-based violence (arts. 1–3 and 5 (a))

Violence against women and girls is a form of discrimination prohibited by the Convention and is a violation of human rights. Conflicts exacerbate existing gender inequalities, placing women at a heightened risk of various forms of gender-based violence by both State and non-State actors. Conflict-related violence happens everywhere, such as in homes, detention facilities and camps for internally displaced women and refugees; it happens at any time, for instance, while performing daily activities such as collecting water and firewood, going to school or work. There are multiple perpetrators of conflict-related gender-based violence and these may include members of government armed forces, paramilitary groups, non-State armed groups, peacekeeping personnel and civilians. Irrespective of the character of the armed conflict, duration or actors involved, women and girls are increasingly deliberately targeted for and subjected to various forms of violence and abuse, ranging from arbitrary killings, torture and mutilation, sexual violence, forced marriage, forced prostitution, and forced impregnation to forced termination of pregnancy and sterilization.

Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women

Entered into force—2000

Ratified—106 / Signed—50 / Reservations are made to Articles 8 and 9 (none of them is related to the VAW in conflict).

The Optional Protocol entered into force on 22 December 2000, following the ratification of the tenth State party to the Convention. The entry into force of the Optional Protocol puts it on an equal footing with the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and other

Forms of Cruel, Inhuman or Degrading Treatment or Punishment, which all have communications procedures. The inquiry procedure is the equivalent of that under the Convention against Torture.

The OP does not create new rights, but it seeks to strengthen implementation of the CEDAW Convention by establishing two additional measures—the communications procedure and the inquiry procedure—to address violations of women's and girls' rights:

- The communications procedure gives individual women or groups of women the right to complain to the CEDAW Committee about violations of rights contained in the Convention;
- The inquiry procedure allows the Committee to investigate serious or systematic violations of women's rights in a particular country—which is especially significant for the conflict affected countries.

Declaration on the Elimination of Violence against Women

Adopted without a vote by the UN General Assembly Resolution 48/104 on December 1993.

The resolution is often seen as complementary to, and a strengthening of, the work of the Convention on the Elimination of All Forms of Discrimination against Women and the Vienna Declaration and Program of Action. It recalls and embodies the same rights and principles as those enshrined in such instruments as the Universal Declaration of Human Rights and Articles 1 and 2 provide the most widely used definitions of violence against women.

It is important to highlight that declarations are not legally binding.

ASEAN Declaration on the Elimination of Violence Against Women

Entered into force—2004

Promote comprehensive legislation on VAW in ASEAN region

Acknowledging the importance of intensifying efforts of ASEAN Member States to promote the rights of women and children, as well as to prevent and protect them from and respond to all forms of violence, abuse, and exploitation of women and children particularly for those who are in vulnerable situations, including domestic violence, women, and children who are sexually exploited, women and children with disabilities, women and children living with and affected by HIV and AIDS, women and children in conflict with laws, cyber pornography, and cyber prostitution, trafficking in women and children, women and children in disasters, *women and children in armed conflict, women and children in refugee camps, women and children on the move, stateless women and children, migrant women and children, women and children belonging to ethnic and/or indigenous groups, children in early marriage, physical abuse of children, bullying, discrimination against women and children in mass and social media, and others.*

Beijing Declaration and Platform for Action

Adopted in 1995 at the Fourth World Conference on Woman

Beijing Declaration is a global pledge to attaining equality, development and peace for women worldwide. The Platform for action requires immediate action by all to generate a just, humane and peaceful world based on fundamental freedoms and human rights.

Section D, Articles 131–149 referred on VAW in conflict.

Aggression, foreign occupation, ethnic and other types of conflicts are an ongoing reality affecting women and men in nearly every region. Gross and systematic violations and situations that constitute serious obstacles to the full enjoyment of human rights continue to occur in different parts of the world. Such violations and obstacles include, as well as torture and cruel, inhuman and degrading treatment or punishment, summary and arbitrary executions, disappearances, arbitrary detentions, all forms of racism and racial discrimination, foreign occupation and alien domination, xenophobia, poverty, hunger, and other denials of economic, social and cultural rights, religious intolerance, terrorism, discrimination against women, and lack of the rule of law. International humanitarian law, prohibiting attacks on civilian populations, as such, is at times systematically ignored and human rights are often violated in connection with situations of armed conflict, affecting the civilian population, especially women, children, the elderly and the disabled. Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles international human rights and humanitarian law. Massive violations of human rights, especially in the form of genocide, ethnic cleansing as a strategy of war and its consequences, and rape, including systematic rape of women in war situations, creating a mass exodus of refugees and displaced persons, are abhorrent practices that are strongly condemned and must be stopped immediately, while perpetrators of such crimes must be punished. Some of these situations armed conflict have their origin in the conquest or colonization of a country by another State and the perpetuation of that colonization through state and military repression.

Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)

Entered into force—2014

Ratified—21 / Signed- 18

Reservations toward Articles 30, 36, 37, 39, 44, 55, 58, 78 (Reservations referred to in Article 78, paragraphs 2 and 3, shall be valid for a period of five years from the day of the entry into force of this Convention in respect of the Party concerned. However, such reservations may be renewed for periods of the same duration).

At the Preamble, European Convention on Human Rights, European Social Charter and Convention on Action against Trafficking in Human Beings as well as international human rights

treaties by United Nations and Rome Statute of the International Criminal Court are recalled. *In Article 2, this Convention indicates that the provisions shall apply in time of peace and also in situations of armed conflicts in violence against women and domestic violence.*

The Istanbul Convention builds on existing women's human rights instruments by: including a range of harmful practices in its definition of violence, including stalking, forced marriage, forced abortion, and forced sterilization; holding States to the "due diligence" standard for preventing, investigating, and punishing violence against women by non-State actors; including a definition of gender that recognizes it as a social construct; requiring States parties to adhere to the treaty in times of armed conflict, as well as times of peace; and obligating States parties to recognize gender-based violence as a form of persecution in the context of asylum applications.

Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) *is the only Convention directed solely at eliminating violence against women*

Entered into force—1995

Ratified 32 out of 35 States (Canada, Cuba and the USA are not parties)

The adoption and widespread ratification of the Convention of Belém do Pará in the middle of the 90s represents a landmark in the struggle to protect the rights of women, particularly because it received more ratifications than any other treaty on human rights in the hemisphere, and it is the first treaty in history that specifically covers the issue of violence against women. The bodies responsible for overseeing compliance with the Convention are the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights, both of which are organs of the OAS. Although the "violence in conflict" is not explicitly mentioned, Article 9 refers to the potential victims during the conflict: "With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as *migrants, refugees, or displaced persons*. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict, or deprived of their freedom.

The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)

Entered into force—2003

Ratified—31 / Signed—16 / Not signed or ratified—5

Maputo Protocol guarantees comprehensive rights to women, including the right to take part in the political process, to social and political equality with men, to control of their reproductive

health, and an end to female genital mutilation.

Article 11 – Protection of Women in Armed Conflicts

- States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women.
- States Parties shall, in accordance with the obligations incumbent upon them under the international humanitarian law, protect civilians, including women, irrespective of the population to which they belong, in the event of armed conflict.
- States Parties undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.
- States Parties shall take all necessary measures to ensure that no child, especially girls under 18 years of age, take a direct part in hostilities and that no child is recruited as a soldier.

Fourth Geneva Convention (1949)

The **Geneva Convention relative to the Protection of Civilian Persons in Time of War**, commonly referred to as the **Fourth Geneva Convention** and abbreviated as **GCIV**, is one of the four treaties of the Geneva Conventions. It was adopted in August 1949, and defines humanitarian protections for civilians in a war zone. There are currently 196 countries party to the 1949 Geneva Conventions, including this and the other three treaties.

In the 1949 Geneva Conventions and Additional Protocol I, certain crimes are designated as "grave breaches." Classification of a particular crime as a grave breach is significant because States have a duty to search for persons who are alleged to have committed grave breaches, and, if found within their territory, to bring them before their courts or alternatively to extradite them for prosecution. The effect of the grave breach system is to create a hierarchy, with some violations of the law of armed conflict considered more egregious than others. Sexual violence is not expressly designated as a grave breach, although the view that sexual violence fits within other categories of grave breaches, such as "willfully causing great suffering or serious injury to body or health," and "torture or inhuman treatment," has gained acceptance. Nonetheless, the absence of express reference to sexual violence as a grave breach is a reflection of the international community's historical failure to appreciate the seriousness of sexual violence during armed conflict.

Another problem with the provisions of the Geneva Conventions and Additional Protocols is that they characterize rape and other forms of sexual violence as attacks against the "honor" of women, or at most as an outrage upon personal dignity. The implication is that "honor" (or dignity) is something lent to women by men, and that a raped woman is thereby dishonored. Failure of these instruments to categorize sexual violence as a violent crime that violates bodily integrity, presents a serious obstacle to addressing crimes of sexual violence against women. It directly reflects and reinforces the trivialization of such offenses.

The Rome Statute of the International Criminal Court (1998)

The Rome Statute is the first international treaty to identify crimes against women as crimes against humanity, war crimes, and in some instances, genocide. Nongovernmental organizations—including members of the statute thoroughly safeguarded women's rights. The Statute recognizes rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilizations, gender-based persecutions, trafficking of persons, particularly of women and children, and sexual violence as crimes under its jurisdiction.

Women victims and witnesses before the ICC can expect procedures designed to address their needs. The ICC Statute and Rules of Procedure and Evidence (Rules) offer important protections for victims and witnesses, particularly those who suffered sexual or gender violence.

- The Court is required to protect the safety, physical, and psychological well-being, dignity, and privacy of victims and witnesses, with special regard to factors such as their gender and whether the crime involved sexual or gender violence.
- The Statute and Rules also establish a Victims and Witnesses Unit to provide protection, security, counseling, and other assistance.
- The Court can institute measures to protect victims and witnesses during trials and pre-trial proceedings.
- The Court is also required to be vigilant in controlling the questioning of witnesses to avoid harassment or intimidation, especially in sexual violence cases.

International Criminal Courts (2002)

The ICC began functioning on 1 July 2002, the date that the Rome Statute entered into force. The Rome Statute is a multilateral treaty which serves as the ICC's foundational and governing document. States which become party to the Rome Statute, for example by ratifying it, become member states of the ICC. Currently, there are 124 states which are party to the Rome Statute and therefore members of the ICC.

Statute of the Special Court for Sierra Leone (2000)

Having been established by an Agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council resolution 1315 (2000) of 14 August 2000, the Special

Court for Sierra Leone (hereinafter "the Special Court") shall function in accordance with the provisions of the present Statute.

Article 2/Crimes against humanity – The Special Court shall have the power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population: a. Murder; b. Extermination; c. Enslavement; d. Deportation; e. Imprisonment; f. Torture; g. Rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence; h. Persecution on political, racial, ethnic, or religious grounds; i. Other inhumane acts.

International Criminal Tribunal for the Former Yugoslavia (1993)

United Nations Security Council Resolution 808 of 22 February 1993 decided that "an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991," and calling on the Secretary-General to "submit for consideration by the Council . . . a report on all aspects of this matter, including specific proposals and where appropriate options . . . taking into account suggestions put forward in this regard by Member States.

Article 2 – Grave breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(a) wilful killing; (b) torture or inhuman treatment, including biological experiments; (c) wilfully causing great suffering or serious injury to body or health; (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power; (f) willfully depriving a prisoner of war or a civilian of the rights of fair and regular trial; (g) unlawful deportation or transfer or unlawful confinement of a civilian; (h) taking civilians as hostages.

Article 5 – Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: (a) murder; (b) extermination; (c) enslavement; (d) deportation; (e) imprisonment; (f) torture; (g) rape; (h) persecutions on political, racial, and religious grounds; (i) other inhumane acts.

The International Criminal Tribunal for Rwanda (1994)

The **International Criminal Tribunal for Rwanda (ICTR)** was an international court established in November 1994 by the United Nations Security Council in Resolution 955 in order to judge people responsible for the Rwandan Genocide and other serious violations of international law in Rwanda, or by Rwandan citizens in nearby states, between 1 January and 31 December 1994. In 1998 the operation of the tribunal was expanded in Resolution 1165. Through several resolutions, the Security Council called on the tribunal to complete its investigations by end of 2004, complete all trial activities by end of 2008, and complete all work in 2012

The tribunal has jurisdiction over genocide, crimes against humanity, and war crimes, which are defined as violations of Common Article Three and Additional Protocol II of the Geneva Conventions.

Article 3 – Crimes against humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation; (e) Imprisonment; (f) Torture; (g) Rape; (h) Persecutions on political, racial and religious grounds; (i) Other inhumane acts.

Article 4 – Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II

The International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the Geneva Conventions of August 12, 1949 for the Protection of War Victims, and of Additional Protocol II thereto of June 8, 1977. These violations shall include, but shall not be limited to:

(a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; (b) Collective punishments; (c) Taking of hostages; (d) Acts of terrorism; (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution, and any form of indecent assault; (f) Pillage; (g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples; (h) Threats to commit any of the foregoing acts.

The Vienna Declaration and Program of Action (1993)

The VDP, at Part II, para 38, also calls upon the General Assembly to adopt the draft

Declaration on the Elimination of Violence Against Women and urges States to combat violence against women in accordance with its provisions. And that "violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular murder, systematic rape, sexual slavery, and forced pregnancy, require a particular effective response."

The World Conference on Human Rights expresses its dismay at massive violations of human rights, especially in the form of genocide, "ethnic cleansing" and systematic rape of women in war situations, creating a mass exodus of refugees and displaced persons. While strongly condemning such abhorrent practices it reiterates the call that perpetrators of such crimes be punished and such practices immediately stopped.

Kampala Declaration on the 4th Ordinary Summit and Special Session of SGBV (2011)

Sexual and gender-based violence is varied—as diverse in terms of victim, perpetrator, timing, and location as any other form of violence. Commentary on sexual violence has often been confined to defining encompassing domestic violence or wartime rape VAW. Conflict-related sexual violence is sexual violence which takes place in the context of, or is associated with, armed conflict. In war and peace, gender-based and sexual violence has significant and long lasting negative consequences for girl's and women's physical, sexual, and mental health, as well as negative implications for economic development and social progress in member countries and across the Great Lakes region.

The declaration affirms the ICGLR's pre-existing political commitments made under the Pact on Security, Stability and Development in the Great Lakes Region (2006) and the Protocol on Prevention and Suppression of Sexual Violence Against Women and Children (2006).

Protocol on Prevention and Suppression of Sexual Violence Against Women and Children ICGLR (2006)

The Protocol recognizes as punishable all forms of sexual violence identified in recent international law definitions of crimes against humanity, genocide and war crimes, while under Art 3(2) "Member States guarantee that sexual violence shall be punishable in times of peace and in situations of armed conflict."

Of particular interest in relation to reparations for crimes of sexual violence are Articles 2 and 6. Art 2(4) lists as an objective of the Protocol to "make provision for the establishment of a regional mechanism for providing legal, medical, material, and social assistance, including counseling and compensation, to women and children who are victims and survivors of sexual violence in the Great Lakes Region."

The Goma Declaration on Eradicating Sexual Violence and Ending Impunity in the Great Lakes Region (2008)

The Goma Declaration is a build up to the work of the International Conference on the Great Lakes Region (ICGLR) Protocol on the Prevention and Suppression of Sexual Violence against Women and Children and the ICGLR Project on Prevention and Fight Against Sexual Exploitation, Abuse and Gender-Based Violence and Assistance to the Victims. The ICGLR project provides an efficient and adequate framework for the prevention and fight against SGBV, and the prosecution and punishment of the perpetrators of sexual violence in the region.

GD requires various measures to ensure the protection of the special needs and human rights of women and children in conflict situations and promote the understanding of the impact of armed conflict on women and girls and the support needed to guarantee their protection and full representation and participation at all levels of decision-making in peace processes.

The Declaration of Commitment to End Sexual Violence in Conflict – G8 (2013)

Initially, 113 countries signed the Declaration. Since the signing, 155 countries have endorsed the Declaration, and at the Global Summit in June, the United Kingdom published **The International Protocol on the Documentation and Investigation of Sexual Violence in Conflict**, providing governments and civil society with a valuable tool on how to best collect evidence in cases of rape and other forms of sexual violence.

Among other things, the Declaration calls for:

- Adequate funding for sexual violence prevention and response efforts;
- Comprehensive, improved, and timely medical and psychosocial care for survivors;
- The exclusion of crimes of sexual violence from amnesty provisions in peace accords;
- The full participation of women in all decision-making processes during conflict, post-conflict, and peacetime;
- Strengthened regional efforts to prevent and respond to rape in war;
- Enhanced support for conflict-affected states for national security and justice reform efforts aimed at addressing sexual violence in conflict;
- Military and police training on prevention and protection obligations;
- Improved collection and access to data and evidence of sexual violence during conflict;
- Support and protect civil society's efforts to document cases of rape in war; and
- The development of an International Protocol on the documentation and investigation of sexual violence in conflict

Cairo Declaration on Human Rights in Islam (1990)

Article 3 – In the event of the use of force and in case of armed conflict, it is not permissible to kill nonbelligerents such as old men, women, and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered, and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war and to arrange visits or reunions of the families separated by the circumstances of war.

Durban Declaration and Program of Action (2001)

Adopted by consensus at the 2001 World Conference against Racism (WCAR) in Durban, South Africa, the DDPA is a comprehensive, action-oriented document that proposes concrete measures to combat racism, racial discrimination, xenophobia, and related intolerance. It is holistic in its vision, addresses a wide range of issues, and contains far-reaching recommendations and practical measures.

Program of Action, Other Victims,

- (a) Urges States: To recognize that sexual violence which has been systematically used as a weapon of war, sometimes with the acquiescence or at the instigation of the State, is a serious violation of international humanitarian law that, in defined circumstances, constitutes a crime against humanity and/or a war crime, and that the intersection of discrimination on grounds of race and gender makes women and girls particularly vulnerable to this type of violence, which is often related to racism, racial discrimination, xenophobia, and related intolerance;
- (b) To end impunity and prosecute those responsible for crimes against humanity and war crimes, including crimes related to sexual and other gender-based violence against women and girls, as well as to ensure that persons in authority who are responsible for such crimes, including by committing, ordering, soliciting, inducing, aiding in, abetting, assisting or in any other way contributing to their commission or attempted commission, are identified, investigated, prosecuted, and punished . . ."

III Reports and Supporting documents

Report of the Secretary-General (2013)

General Assembly, Security Council

Sixty-seventh session, Agenda item 33

Prevention of armed conflict – Sexual violence in conflict

The report presents information on parties to conflict credibly suspected of committing or being responsible for acts of rape and other forms of sexual violence. It highlights actions taken and challenges faced by States in conflict and post-conflict situations to protect women, men and children from sexual violence; the implementation of the monitoring, analysis and reporting arrangements; the deployment of women's protection advisers; the engagement undertaken by

the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict; the efforts of the United Nations system; and recommendations to strengthen efforts to combat this egregious crime.

Council of Europe—Parliamentary Assembly

Report: Sexual violence against women in armed conflict

Committee on Equal Opportunities for Women and Men

Rapporteur: Ms Miet SMET, Belgium, Group of the European People's Party

Sexual violence against women in armed conflict is a crime against humanity, a war crime, and an unacceptable—but, unfortunately, effective—weapon of war. Raping, sexually assaulting, and mutilating, forcibly impregnating and infecting with HIV/AIDS the wives, daughters, and mothers of the "enemy" not only have terrible physical and psychological effects on the victims themselves, they are capable of disrupting, if not destroying, whole communities.

It has taken centuries for sexual violence against women in armed conflict to be outlawed. It was not until 2008 that the international community, via United Nations Security Council Resolution No. 1820 on women, peace, and security, recognised that rape and other forms of sexual violence can constitute a war crime, a crime against humanity, and a constitutive act with respect to genocide.

UN Action Against Sexual Violence in Conflict, Progress Report (2013–2014)

The SRSG-SVC, as Chair of the UN Action network, is the global "voice" of the Stop Rape Now campaign that condemns conflict-related sexual violence, calls for an end to impunity, and advocates on behalf of survivors. Through strategic advocacy and political dialogue, the SRSG-SVC galvanizes action to combat sexual violence in countries affected by conflict and unrest. To mark the five-year milestone since the creation of UN Action, the network commissioned an independent, external review to take stock of achievements, highlight strengths and challenges, and provide strategic advice on the network's future direction.

Center for Justice and International Law (CEJIL)—Summary of proceedings:

Americas Regional Consultation convened for the United Nations Special

Rapporteur on violence against women, its causes and consequences, Rashida

Manjoo (March 16, 2015)

Participants agreed that a new convention could create the necessary space and an opportunity to discuss the definition of violence against women; and the inclusion and recognition of specific kinds of violence faced by women all over the world that have been invisible or not correctly or specifically addressed in other legal frameworks. This would allow for the study and the identification of the specific components of the obligations States have under international law to prevent and investigate violence against women. In particular, participants

referred to the importance of addressing reproductive and obstetric violence, violence in conflict and postconflict situations, political harassment, killing of women, torture, cyber-bullying, street harassment, forced displacement, and the situation of women human rights defenders.

Addendum to the Human Right Council Thematic report of the Special Rapporteur on Violence, its Causes and Consequences (A/HRC/29/27) (June 12, 2015)

Currently the treatment of violence against women in binding international law is rather limited and indirect. The most prominent treatment is indeed indirect: General Recommendation 19 of CEDAW, which incorporates violence against women into the treaty's anti-discrimination framework. Also indirectly, international legal entities such as the ICTY and ICTR may use treaty law on torture and genocide (e.g., Prosecutor v Kunarac et al. and Prosecutor v. Akayesu, respectively) to punish acts of gender-based violence, such as rape in times of conflict. In terms of direct legal address, however, the only avenue is via regional treaties such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003), and The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011).

II. Consultation on Gaps and Definition

Committee Consultation on Gaps & Definition

1. Sandra: examples of gaps:

Lack of safe spaces in Gaza strip—no safe spaces for women in the entire territory. There are clinics where they get psychosocial support and legal services but then they are sent home. VAW is considered a family issue, a private issue. Most shelters are designed for IDPs (internally displaced persons). There is sexual violence within these shelters. This results in more fear and despair amongst women.

Difficulty that women face to report violence— If a woman reports her husband due to DV or GBV the custody automatically goes to her husband until the court makes their decision. In practice, women are not likely to report the violence due to this. This can take years to resolve.

Early/Forced marriage among Syrian refugees in Jordan—About 1/3 of all Syrian refugee population marriages in Jordan involve a minor. This is very much related to the conflict. Also linked with pre-conflict, and social systems norms with women and girls. The number of cases has tripled between 2011 –2013. Some reasons: the marriages are done to ease economic burden to the family and reduce sexual violence by strangers to the girls. Also linked to conservative social and religious norms which can be a violation of women's human rights. There is some organized trade among refugee camps for bride shopping linked to wealthy men from Gulf States.

2. Stephanie: examples of gaps:

Will share notes on an example from Rwanda.

Women's empowerment and agency: programs related to women and girls focuses on knowledge but the real issue can lie within structure. The programs say that no one should suffer through violence and abuse but then we don't have the support services needed to follow up on this. In terms of structure, in many countries, there are many laws but there is a gap in implementation of those laws. Even when there is a commitment on the part of the govt to address VAW, they struggle to address the problem effectively because the problem is exacerbated because of a conflict where the vaw numbers tend to go up because resources
Example: 125% increase of DV cases reported (in one conflict).

Programs for men and boys tend to be reactive rather than engaging in prevention. This means damage is being addressed to women but the work needed with the society is not done.

3. Reem: examples of gaps:

Judges sometimes change reports of rape which come under Article 149—rape to Article 146 which is adultery. Under Shariah Law, victim needs 4 witnesses to the rape. Majority do not want to go to court—they are silent. They may not even go to the hospital (police are at the hospital). There is a form 8 for victims to fill out—it is not sensitive to the needs of victims. Society stigmatizes victims so they cannot get justice.

Public order laws: Related to dress, conduct of women, disproportionately target women, pushing them back into the homes. There are public order police. Women working in the formal sector are more vulnerable, they are sometimes slashed which is against international human rights. Women are made to keep themselves safe from the public order police. Especially activists, journalists, and other roles. These police sometimes ambush women as well.

4. Alice: examples of gaps:

Sierra Leone—most victims of sexual violence are minors. Age of consent is still not clear. Sexual violence is under-reported. Most of the violations have been reported to the police—still not confident that police are documenting the violations or protecting victims. The way cases are reported to women vs. men are very different. Women in university are experiencing sexual violence but not getting enough attention. They need to be documented and addressed. Government: women are still struggling to have safe spaces. Women were supposed to have safe homes 10 years ago—still not completed. We still have unwanted children from rape cases—they are struggling to get access to basic services. The govt. is clogging the ministry for women and children with cases and attention mainly focused on children.

We need to focus and develop the age of consent. We have tried to say that any rape case should be taken to court but we still have rape cases that are being sorted as family issues. It is still being said that a man can take the woman who was violated as a wife.

Women are not participating in the legal system—some of them cannot recognize the violations, this is a problem that must be addressed.

5. Violeta: examples of gaps:

Greece & Macedonia: some shelters are temporary centers for refugees which is a problem because the number of cases of attacks on women are increasing. We need to use our influence to address this.

Only 3% of resources are devoted to women's empowerment—lack of funding is a major problem with VAW. We must urge funding measures because current amounts are not sufficient.

Drafting of Definition of Violence Against Women and Girls in Conflict:

Need to Include Pre and Post-Conflict

Need language to break current stereotypes on what is a country in conflict and what is conflict.

Deeper analysis of current security protocols designed to protect

Preliminary Components of the Definition of Violence against women and girls in conflict:

Need to Include Conflict and Pre and Post-Conflict

Sexual violence

Listing all of the forms of VAW

Recognizing that women and girls are vulnerable

Recognizing that forms of violence are further exacerbated.
The type of response changes (in conflict) services need to be adapted
Secondary Violence—violence that is a result of a previous act of violence
Using VAW as a form of Warfare, it is a form of War

III. Consultation on Conflict Terms

1. Prevailing legal opinion on the definition of armed conflict

- a. International armed conflicts, between two or more States. This includes cases of partial or total occupation and wars of national liberation.

ICTY proposed a general definition: "*an armed conflict exists whenever there is a resort to armed force between States*" that has been used ever since.

Conflict stops when hostilities stop.

- b. Non-international armed conflicts, between governmental forces and nongovernmental armed groups, or between such groups only. The situation must reach a certain threshold of confrontation to be denominated NIAM, with two main criteria: a) minimum level of intensity and b) non-governmental groups must be considered "parties to the conflict," according to the Common Article 3 of the Geneva Conventions of 1949. The ICTY confirms this definition.

Conflict ends when these criteria are no longer fulfilled

1. Important issues and gaps in terms of definition and time frame of conflict

- a. To limit the **time frame** to the actual conflict is not sufficient to deal with violence against women and girls properly, as VAWG may start well before the conflict does, making *pre-conflict* situations important to look at. Similarly, the effects of violence against women remain long after the shooting ends, making *post-conflict* situations fundamental to deal with. Some examples include:

- Psychological effects of violence that persist long after the conflict is over
- The social context, particularly of impunity, may persist for a long time, meaning that violence as a consequence of conflict does not end.

- The breakdown of the health system and other infrastructure in armed conflict particularly affects women and girls, in ways that can lead to death
- b. The world has changed substantially over the past decades and so has the nature of conflict and the **conflicting parties**. Some situations that *de facto* can be described as conflicts do not involve clashes between states, governmental forces, and nongovernmental armed groups or between such groups only. Conflict, and conflict-related violence against women and girls is also generated by, for instance a) para-military groups that are state-sponsored and that are not in conflict with the government or with other armed groups b) terrorist groups that are not necessarily formally at war with governmental forces c) organized crime, such as drug-related conflicts.
 - c. **Low-intensity conflicts**, including situations such as the one in Chiapas, Mexico or Area A in the Palestinian Territories are not covered by the current definition. This is problematic considering that violence against civilians, and particularly against women and girls, can be severe, despite the fact that actual warfare between conflicting parties is of low intensity. Human Rights Law may not be sufficient to cover these situations.

1. Definitions of violence against women and girls in conflict

Sexual violence is fairly well covered by existing language, including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence of comparable gravity.

How are other forms of violence covered?

4. Important issues and gaps in terms definition of VAWG in conflict

- a. It is important to cover "**Secondary**" Violence properly, especially as a result of Sexual Violence, including:
 - Honor crimes and killings, aiming at restoring the family's honor after a sexual assault, including but not limited to rape.
 - Maternal deaths as a result of rape
 - HIV-AIDS as a result of rape
- b. It is important to cover not only **violence** that is perpetrated by soldiers or conflicting parties, but also violence that is a **consequence of the social context created by the**

- conflict.** We know that conflicts tend to generate higher rates of some types of violence, including *domestic violence* and *forced marriage*, at the same time as the response systems become weaker.
- c. Women's increased **mobility** as a consequence of conflict is a highly relevant issue, both in terms of exposure to risks and in terms of making help seeking, access to services and case management extremely difficult.
 - d. **Spiritual violence** as a consequence of conflict is an issue that is not covered by current legal frameworks. Religion is often intertwined with conflict in complex ways, and women and their bodies are sometimes used to symbolize culture and religious traditions. Spiritual violence could include, but is not limited to, forcing religious beliefs and rituals upon women and girls or controlling the way they dress, their sexuality or movements as a consequence of religious dogmas, beliefs or traditions.
 - e. **Political violence** during conflict is another aspect to consider. Women may be directly or indirectly excluded from political decision-making during conflict for a number of reasons, including the gendered nature of conflict as such. Conflict situations may also generate increased physical, psychological or sexual violence against women that are participating politically. Although UNSCR 1325 highlights the importance of women's participation and full involvement in all efforts for maintaining and promoting peace and security, political violence against women and girls as such is not considered.

Recommendations for a Global Treaty on Violence Against Girls and Women of All Ages

**by the Expert Special
Committee on Indigenous
Girls and Women of All Ages**

January 2017

1. Introduction of Treaty Content

1.1 Introduction

"In my trajectory as a leader, I have several experiences from both laws, in community justice and Karai Law, of the 'White.' Yes, we are discriminated as indigenous people in general, but [as] indigenous women we are three times more discriminated" (Justa, Guaraní).

Indigenous Women from diverse regions of the world, convened to contribute their knowledge, wisdom, expertise, and experience to inform these recommendations through a global consultative process. This consultation showed clearly that indigenous girls and women do not feel protected from violence because both customary and State laws have been inadequate to provide justice.

This Committee on Violence Against Indigenous Girls and Women of All Ages(Committee) seeks to address this gap in protection through a Global Treaty on Violence Against Girls and Women of All Ages. Recognizing that treaties, in general, are seen as a colonial practice and imposition, this Committee recognizes that every community has specific laws that should be respected. And these laws should be accorded with this treaty and other treaty bodies to reflect the voices of indigenous leaders around the world.

This Committee consulted experts of indigenous peoples to inform the principles of the proposed treaty with full respect to their self-determination and ancestral practices. This includes maintaining rights to indigenous language, kinship links, and/or other networks of support, belief systems, nonharmful traditional roles and practices, as well as natural resources and identity. The Everywoman Everywhere Coalition will continue to work with and learn from these experts to enable a treaty that is meaningful to all peoples.

It should be stressed that most international instruments for the promotion of the rights of indigenous peoples that address Violence Against Women were drafted by indigenous leaders who are aware of the importance of addressing the rights of a life free from violence for girls and women of all ages in their communities.

Recognition of self-determination will enable indigenous girls and women to strengthen and reclaim ancestral mechanisms and value the principles of complementarity and duality as ways to reach equality between women and men. Experts consulted for this process feel that reaching this goal will be a contribution to constructing a life free from violence.

The causes of family violence within indigenous peoples that tend to overlap and increase the likelihood of violence against girls and women of all ages include:

- I. The history and impacts of colonialism and the structural violence of race relations;
- II. Gender inequality and discrimination, including lack of informed consent;
- III. Customary and statutory standards on the minimum age of marriage;
- IV. Poverty, exclusion and limited access to services;
- V. The impact of stigma and discrimination on access to and quality of services;
- VI. The lack of legal recognition and identity, disruption of kinship networks; and
- VII. Dispossession from ancestral lands.

Indigenous cultures, societies and histories are unique and diverse, integrating body, mind, soul, and heart, with a deep spiritual and physical connection to their native lands. Suppression of indigenous culture is considered a form of state-sponsored violence and institutional (covert and normalizing) racism.

1.2 Legal Framework

1. The International Labour Organization issued in 1989 the Indigenous and Tribal Peoples Convention, 1989 (No. 169). This is the first document that addresses the situation of indigenous peoples. Women are mentioned in relation to gender equality in work. Violence against women is not mentioned. However, Article 12 establishes the measures that should be taken to eliminate violence against indigenous peoples: "The peoples concerned shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights. Measures shall be taken to ensure that members of these peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation or by other effective means."
2. The UN Declaration on the Rights of Indigenous Peoples is the most comprehensive document on the subject. Article 7 defines violence against indigenous peoples as the right to "live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing

children of the group to another group." Violence against indigenous women and children is addressed in Article 22: "1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children, and persons with disabilities in the implementation of this Declaration; 2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination."

3. The Outcome document of the High-Level Plenary Meeting of the General Assembly known as the World Conference on Indigenous Peoples also pays attention to Violence Against Women. It is the result of a collective reflection of indigenous leaders from all over the world, who convened in the UN Headquarters in New York in 2014. This document establishes the concrete actions that governments should implement to promote the rights of indigenous peoples. Violence is addressed in Paragraph 18 as follows: "We commit to intensify our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular, women, children, youth, older persons, and persons with disabilities, by strengthening legal, policy and institutional frameworks." Paragraph 19 adds: "We invite the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur on Violence Against Women, the Special Rapporteur on the Rights of Indigenous Peoples and other Special Procedures within their respective mandates. We also invite the Commission on the Status of Women to consider the issue of "the empowerment of indigenous women" at a future session."
4. The Convention on the Rights of Persons with Disabilities recognises that women and girls with disabilities are at greater risk of experiencing violence (Preamble q) and includes specific mention of the need for States to put in place effective legislation and policies to address violence against women and girls with disabilities (Article 16). Indigenous peoples are mentioned as a group at risk (Preamble p), but are not mentioned specifically in the rest of the document.
5. General comment No. 3 (2016) on Article 6 of the CRPD, adopted in August 26 2016, specifically addresses violence against indigenous women and girls with disabilities, emphasizing the complexity of the multiple discrimination they experience, as well as the obstacles to having actual access to justice.
6. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (better known as the Maputo Protocol), addresses the subject of

Violence Against Women; however, indigenous women are mentioned in Article 18 in regard to poverty reduction and equal access to education.

7. Goal 6 of the Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific specifically address Violence Against Women and briefly mentions the particular risk of indigenous women with disabilities in relation to violence.
8. Other international treaties that address Violence Against Women are less explicit of the rights of indigenous women and girls. This is the case of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which makes reference only to discrimination on the basis of ethnicity but does not mention indigenous peoples.
9. The same occurs with the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, also known as the Belém do Pará Convention. This treaty includes in Article 9 language related to violence on the basis of ethnic origins, but does not mention indigenous women and girls.
10. In the case of the UN Convention on the Rights of the Child, Article 19 calls for the elimination of all forms of abuse, violence and neglect against children. However, no specific mention to the particular situation of risk of indigenous girls is included in the treaty. The CRC emphasizes the need to promote cultural respect to the members of the various indigenous peoples, including their right to use their language and preserve their cultural heritage (Articles 17, 29 and 30).
11. Other treaties addressing women's rights do not include any substantial mention of indigenous women. Such is the case of the Convention on the Elimination of All Forms of Discrimination Against Women, which addresses the specific situation of women living in rural areas but does not mention the status of indigenous women in the text.
12. Indigenous women and girls are subject to several laws, depending on the region they live, but it is not clear whether they have access to justice. In some cases, traditional authorities get involved in the resolution of conflicts, while in others, it is the regional or national legislation that prevails to determine if an indigenous woman or girl has been subject to violence and abuse.
13. Most indigenous peoples in the world depend on the dominant majority to determine

whether customary laws will prevail. Some countries have formal agreements regarding which law will prevail, and in which circumstances and cases each of them will be enforced. However, in most contexts these formal agreements do not exist.

14. Customary laws may not be written but rather understood as longtime custom and practice. These are disproportionately enforced by patriarchal authorities, with little chance for indigenous women and girls to have a say in on its nature and enforcement.
15. Some indigenous women and girls express concern that they are disadvantaged by not having knowledge of State and/or non-tribal laws. As one indigenous woman said, "Our people do not know any other world, apart from the customary—which is exploitative and regard Violence Against Indigenous Women and Girls as a minor issues, to deserve any serious remedy."

2. Summary of the Committee's Discussion of Treaty Content

Indigenous girls and women of all ages have the rights to practice and maintain their traditions, and to be at the center of any and all decisions affecting themselves as members of/participants in traditional cultures. The State has a responsibility to protect Indigenous Women and Girls from violence and ensure their access to justice.

- States Parties must integrate indigenous/customary law with the laws of the State to develop a more effective system of protection,
- This should be done with the full inclusion of Indigenous Women and Girls in decision-making and also by enabling them to advocate in collaboration with other indigenous women and girls from different countries and regions.

Indigenous women and girls face many kinds of violence and discrimination:

- Physical, sexual, psychological, and economic violence may be hidden by claims that these are "traditional" or "cultural" practices,
- Lack of data, or even attention, to indigenous communities.
- Violence as a pattern of behavior maintained by tactics of power and control and exacerbated by conditions of privilege, entitlement, and status on one side;
- Poverty, such as overcrowding; poor access to health and education; lack of information on informed consent and the right to bodily integrity; and lack of information or access to legal resources, or stigma attached to accessing the

- same;
- Indigenous women and girls who are poor and forced to live on the streets or incarcerated are even more vulnerable to abuse due to racism and other forms of discrimination;
 - Access to justice may be compromised by a lack of interpreters and legal advocates;
 - Violence against Indigenous women and girls is normalized in many communities;
 - Many women and men do not identify Violence Against Girls and Women as a problem or a violation of an individual's rights;
 - Domestic and sexual violence may be sustained by family units that protect perpetrators and do not support survivors.

Because many indigenous communities, especially women and girls, have varying levels of education as well as sociocultural beliefs regarding male superiority, tribal laws may prevent women and girls from demanding legal rights, justice, and accountability.

For example, rape perpetrators may only be fined a goat and a pot of local beer, or worse, fined and compelled to marry the survivor. In some areas, the highest sanction applied to sexual offenses is expulsion from the community, which only transfers the problem to another region.

This global consultation process highlighted the tension between a strong identification with indigenous traditions and the awareness that customary law often protects perpetrators of violence against girls and women. Indigenous girls and women may be pressured to remain silent about violence in order to protect tribal leadership or sovereignty.

There is a tendency to invoke "sovereignty" to protect men in the community when they are the aggressor, and usually those who interpret and promote community norms are also men. As noted in the consultation, "Given the low levels of education and the fact that we all live in the same poverty stricken communities, our communities depend on the "protection and care," if any, by the wider dominant majority."

The development and acceptance of a global treaty on violence against girls and women of all ages will take substantial work to bridge the current gap between Indigenous communities and the State. There is a need for a plural and open exchange, one that seeks the cooperation and coordination between community justice and ordinary justice/plural legal systems. The principle of respect for women and girls must be fully incorporated into customary law. There are

difficulties with coordination between tribal law enforcers, community and standard justice, since many of these communities are far away from urban centers where there is a feeling of absence of State. The State authorities will have to be part of the community authorities or at least closely coordinate with them.

3. Concluding Comments by the Committee on Treaty Content

"Unresolved, sensitive, potentially contentious issues"

- The law alone is not sufficient, the breakdown of patriarchal culture must begin at home, in the community, the neighborhood, and school.
- There is a need to work in public policy, in construction, recovery, re-creation of meaning, formation of new moral codes, aligned with respect for human rights, taking account of the different cultures.
- For example, in the frame of ordinary justice/plural legal systems and indigenous justice, we are concerned about the use of reconciliation and/or compensation for damages for the acts of sexual violence, with the subsequent impunity and unprotection.

4. Recommendations by the Committee on Treaty Content

4.1 Proposed Definition:

Violence Against Indigenous Girls and Women of All Ages

- b. Violence against Indigenous girls and women of all ages includes but is not limited to all forms of physical, emotional, sexual, interpersonal, spiritual, cultural, and economic violence that can occur within families, extended families, and kinship networks, both within and outside the community, on the basis of imposed gender inequality and discrimination.

4.2 States Parties must acknowledge their duty to protect indigenous women and girls:

- a. States Parties to ban any forms of traditional practices that are violent or harmful physically, emotionally, economically, or spiritually.
- b. States Parties to review and revise the adoption of measures to prevent and eliminate violence against indigenous women and girls in regional and national regulations, where customary law does not prevail over other kinds of existing legislation.
- c. States Parties must uphold the right to protection through fully-funded access to justice for indigenous survivors of violence, including participative investigation, substantive

- relief, and support services;
- d. States Parties must implement measures to end discrimination against indigenous girls and women of all ages and promote sustainable, self-supported independence;
 - e. States Parties must take the necessary measures to improve the life conditions and implement poverty reduction strategies that specifically address the material conditions to guarantee the safety of Indigenous girls and women of all ages who want to break cycles of violence and abuse;
 - f. Considering that indigenous girls and women of all ages live in cultural contexts where private and home life is the most common social arrangement, States Parties should pay special attention to address the problem of domestic violence against Indigenous girls and women of all ages;
 - g. States Parties also must prohibit reparations or other forms of punishment that serve to commodify or re-traumatize women, such as exchanging goods in cases of violence or forcing girls and women of all ages to marry perpetrators.

4.3 States Parties must ensure that Indigenous girls and women are effectively consulted and engaged with to prevent and address violence against girls and women:

- a. States Parties must ensure that Indigenous women and girls are represented in any decision making that affects them and their communities. No consultation regarding Indigenous communities or issues shall be undertaken without the effective participation of Indigenous women and girls;
- b. States Parties must consult with Indigenous women consistently for the implementation of this Convention. The monitoring mechanism should include at least one indigenous woman;
- c. States Parties must recognize the ability and right to self determination for indigenous women and girls to navigate and transition in their own cultural environment free from harm, violence, and discrimination;
- d. States Parties to acknowledge that indigenous women have the knowledge base and skill set to determine their own authentic values in addressing positive transformative outcomes;
- e. States Parties should facilitate the necessary conditions for indigenous peoples to adopt and apply the content of the proposed treaty to their own set of customary laws and cultural practices;
- f. States Parties must ensure full rights to access and practice of traditional culture, including language, belief systems, and community networks. Traditional ways of networking and increased self-determination are deeply meaningful and supportive tools for survivors.

4.4 States Parties must integrate indigenous/customary law with laws of the State to develop a more effective system of protection:

- a. States Parties must clarify the relationship, the coordination and the reach of existing laws on jurisdictional Indigenous domain and other national, regional, and local legislation aimed at promoting the right to a life free from violence for girls and women of all ages;
- b. States Parties must provide the necessary funding to open safe spaces for discussion, revision, and analysis of the situation of indigenous girls and women of all ages, in order to create proposals for an effective interrelation between the two types of justice;
- c. States Parties must provide sufficient funding to enable dialogue between organizations of indigenous women and girls with other women's groups in different countries, and to implement an advocacy strategy in order to secure indigenous women's and girls' voices in initiatives to revise and amend laws to implement this proposed global treaty on Violence Against Girls and Women of All Ages;
- d. States parties must provide resources and mechanisms to undertake research relevant to strengthen sustainability and self determination for indigenous women and girls.

Committee Member BIOS:

(CHAIR) Caroline Herewini - New Zealand

Caroline Herewini is the Kaiwhakahaere (Chief Executive) of Te Whare Tiaki Wahine Refuge based in Porirua, Wellington, New Zealand. She is passionate about the Human Rights of ALL women, children, their families, and whanau to lead violence free lives. Based in Porirua City; Caroline has been the driving force behind the establishment and ongoing operation of Te Whare Tiaki Wahine Refuge Charitable Trust—an indigenous (people of the land) service underpinned by "Te Tiriti o Waitangi" (The Treaty of Waitangi) and its principles. A principle of obligation, roles, and responsibilities in consideration to Protection, Participation, and Partnership, to ALL women, children, families, visitors/guests in our land. She is the cochair & Management Support of Porirua Living Without Violence INC; and holds a diploma in social work from Victoria University of Wellington, New Zealand, and a bachelor's of social work from Whitireia Community Polytechnic New Zealand. Caroline has spent the last 20 years working tirelessly on the ground for women's refuge in New Zealand and has presented at national and international events in locations including Mexico, Washington, DC, Canada, the Netherlands, and Australia in regards to the "Impacts of Domestic Violence," "Indigenous Rituals of Engagement," "Indigenous bodies of knowledge as a praxis of empowerment," and "Sustainable Development: The power tool for women and girls." Caroline has attended the United Nations

Convention Status of Women in 2013, 2014, 2015, and 2016 as part of the Pacific Women's Watch New Zealand delegation and remains committed to ending all forms of violence against women and children in Aotearoa, New Zealand.

(Memo Drafter) Kelly Stoner – United States

In October 2011, Ms. Stoner was appointed as a Judge for the Seminole Nation of Oklahoma and as of October 2013, Ms. Stoner is a Victim Advocacy Legal Specialist for the Tribal Law and Policy Institute. For the past 20 years, Ms. Stoner has taught at the North Dakota School of Law and Oklahoma City University School of Law, where she was an Instructor teaching Tribal Law and Domestic Violence related classes. For eight years, Ms. Stoner directed the University of North Dakota Native American Law Project that served clients of the Spirit Lake Reservation. Ms. Stoner's caseload targeted domestic violence and sexual assault cases arising in Indian Country involving teen and adult victims. From 2001–2013, Ms. Stoner directed the Native American Legal Resource Center at Oklahoma City University School of law where she supervised law students prosecuting Domestic Violence, Sexual Assault, and Stalking cases in tribal courts and the Court of Indian Offenses and representing victim of domestic violence and sexual assault in civil matters in state, tribal and CFR Courts. Ms. Stoner has published in the areas of Family Law, Indian Child Welfare Act, and Domestic Violence Law.

(Memo Drafter) Dorinda Cox – Australia

Dorinda Cox is an Aboriginal (Noongar) woman with expertise in developing and delivering Aboriginal specific family violence and sexual assault programs and initiatives. Dorinda has over 20 years experience working in government and the nongovernment sectors, including: National Program Manager of the National Aboriginal and Torres Strait Islander Women's Alliance; Member of the National Council to Reduce Violence Against Women and their Children from 2008 to 2009 (that produced the Time for Action report and the National Plan Implementation Panel); Chairperson and associate member for Indigenous issues of the National Association of Services Against Sexual Violence (NASASV). Dorinda has authored several papers and articles in collaboration with others including working with indigenous sexual assault victims (2008), No Justice Without Healing, with Mandy Young and Alison Bairnsfather-Scott (2009), Closing the Gap on Family Violence; Driving Prevention and Intervention through Health Policy, with Victoria Hovane (2011). In March 2013, Dorinda represented the NGO sector of Australia along with other delegates from the Australian Women Against Violence Alliance at the Commission on Status of Women—Session 57 in New York, USA. Dorinda is the Director of Inspire Change Consulting Group.

(Memo Drafter) Ruth Howlett – New Zealand

Ruth has an extensive background in Project Management and Quality and Compliance

Auditing. Ruth has a diploma in business administration, a National Certificate in Health and Safety, Lead Auditor certification and is currently working on an international diploma in Quality Auditing. Ruth is currently working for The National Collective of Independent Women's Refuges New Zealand, where she is a Contract Monitor working nationwide. A survivor of DV herself, she is passionate about the welfare of women everywhere and actively supports initiatives driving social change both in her region and across New Zealand. Ruth has two sons, and has previously lived in the United Kingdom, although her family roots are in the North Island, New Zealand, where she now resides, in Wellington the capital.

(MEMBER) Hazel Hape – New Zealand

Ms Hape holds a diploma of marine sciences from Bay of Plenty Polytechnic 1993, a post-graduate diploma in Maori and Pacific Development Waikato University 2008, and a graduate diploma Bi-Cultural Professional Supervision with Te Wananga o Aotearoa 2010. She has worked with children, young people, women, men, families, whanau, hapu, iwi, indigenous peoples, and migrants in the fields of justice, welfare, education, and health at grassroots and frontline within nongovernment organisation levels for 23 years as a youth worker and social worker and has spent the last 10 years working as a domestic violence practitioner, campaigner, and mobiliser for Maori women's voices and agency, and is committed to ending violence against women and girls in New Zealand. Ms Hape currently serves as a Collective member of Tauranga Women Refuge, Bay of Plenty, and Te Whare Tiaki Wahine Refuge Charitable Trust Porirua, Board member of Night Shelter Bay of Plenty, Family Violence Clearinghouse Auckland advisory member, and is currently completing a Master Health Sciences with AUT University Auckland.

(MEMBER) Anne Todd – New Zealand

Anne Todd has worked for many years as a family lawyer. Since 1988, she has been on the Protection of Personal Property Rights and Counsel for Children Panels. From 1989–1999, she was on the Waikato Care and Protection Resource Panel and until very recently was appointed a Family Court Mediator. She has given various Seminars in Child Protection; "Women and the Law"; "Legal and Financial Aspects of ADARDS," on the Property (Relationships) Act (Prior, on the need for legislative actions in this area).

(MEMBER) Kamilia Ibrahim Kuku Kura – Sudan

Kamilia Ibrahim Kuku Kura is the Founder and Director of the Nuba Women for Education and Development Association. Between 1991 and 1998, amid frequent fighting in her native Nuba Mountains, Ms. Kuku Kura courageously spoke out on behalf of the civilians affected by the conflict. Arrested for her activism in 2006, she was later freed as a result of pressure from humanitarian organizations. She was told to abandon her work for human rights and subjected

to threats and surveillance, but she was defiant. Her life has been shaped by conflict and injustice, she says, so her pursuit for peace and equality persists. Drawing on her own experience of displacement from war, Ms. Kuku Kura elevates the status of women affected by conflict in Sudanese society. In addition to providing humanitarian aid to those in need, she offers vital education and literacy services while also advocating for women's rights. Recognizing marginalization and inequality as root causes of the conflicts in her country, she also works across ethnic, tribal, and national lines to increase the participation of women in peace processes as a member of the Taskforce for the Engagement of Women in South Sudan and Sudan. Previously, she served as Sudanese Coordinator for implementing the UN Security Council resolution advancing women's participation in peacemaking, as part of the Operation 1325 initiative.

Supporting Documents:

- I. Consultation on Tribal Elements, Aspects, and Considerations
- II. Consultation on Aboriginal Inclusion
- III. Regional Consultation
- IV. Africa Region Consultation Notes (Kabann)
- V. Africa Region Consultation Notes (Kamilia)
- VI. Maori – New Zealand Consultation Notes (Caroline)

I.Consultation on Tribal Elements, Aspects, and Considerations

Consultation on Tribal Elements, Aspects, and Considerations

DRAFT: Definition of Indigenous Women

BY: Kelly Stoner, Oklahoma USA

BASED UPON RESPONSES FROM:

NATIVE ALLIANCE AGAINST VIOLENCE (Tribal Coalition serving 38 federally recognized tribes in Oklahoma)

Northwest Society of Great Plains (Tribal Coalition serving 37 federally recognized tribes in Minnesota, Montana, Wyoming, North Dakota, South Dakota, Nebraska, and Iowa)

First Nations Women's Alliance (Tribal Coalition serving 4 federally recognized tribes in North Dakota)

Indigenous Women and girls are a component of tribal families and the tribal community, which is also comprised of the earth, animals and the spirit with all components being critical, equal, and balanced. Traditionally, indigenous women and girls were sacred, respected, and honored by tribes and tribal communities were free from violence. However, colonization resulted in a tribal weakening or disconnect the critical components of the tribal community. Violence against indigenous women ensued as tribal languages, tribal traditions and the tribal community balance which held women in such high esteem was weakened.

Types of Violence: Domestic Violence, Sexual Assault, Stalking, Sex Trafficking, Discrimination in decision-making and employment, financial abuse, child abuse, elder abuse, and verbal abuse.

Tribal Powers to Protect: In the United States, tribes do not have the power to criminally punish non-Indian offenders committing acts of violence in Indian Country. (We do have one new federal law that may narrowly address this issue). Tribal civil jurisdiction to issue protection orders on behalf of any person except tribal members must meet certain federal requirements. Tribal Courts are limited in their sentencing authority as well.

See: www.tribalcoalitions.org and www.tribalprotectionorder.org.

II. Consultation on Aboriginal Inclusion

- 1) Recognise the uniqueness and diversity of indigenous cultures, societies and histories.
- 2) Recognise that from an Indigenous perspective the causes of family violence are located in the history and impacts of colonialism and the structural violence of race relations since then.

These factors include:

- (1) gender inequality and discrimination;
- (2) customary and statutory standards on the minimum age of marriage;
- (3) poverty, exclusion, and limited access to services;
- (4) the impact of stigma and discrimination on access to and quality of services;
- (5) the lack of legal recognition and identity; and
- (6) dispossession from ancestral lands that tend to overlap and increase the likelihood of violence occurring in the lives of indigenous women and girls.

3) Acknowledge that family violence is generally seen as an issue focused around physical abuse and spousal relationships, in an indigenous community context, family violence includes a wide range of physical, emotional, sexual, social, spiritual, cultural, and economic abuses that can occur within families, extended families, kinship networks and communities.

4) Recognise that responses to family violence need to build on the strengths of indigenous families and communities and encompass indigenous concepts of social, emotional, cultural, and spiritual well-being.

5) Recognise the need to support, empower and enable communities to develop solutions appropriate to local conditions and needs.

6) Require that priorities and strategies for the improvement of programs and services be developed and implemented primarily at the local level and agreed with community service providers.

7) Recognise that to achieve improved outcomes, there must be whole-of-government coordination and continuing commitment at the highest of levels of government in addressing indigenous disadvantage and the underlying issues.

8) Recognise that to improve outcomes for Indigenous individuals, families and community, community and government agencies with the responsibility of coordination and delivery of family violence-related programs and services work together effectively to develop integrated and culturally appropriate responses.

9) Recognise that community organisations must be empowered and have sufficient resources to build the capacity and infrastructure at a local level to deliver effective "community led" approaches which result in improved and sustainable social justice outcomes.

10) Ensure the development and enhancement of program and funding arrangements for successful implementation of State funded Indigenous Family Violence Strategies.

11) Ensure the development and delivery of early intervention programs that respond to the underlying causes of family violence and promote strong and healthy persons and families.

The trans-generational effects of trauma occur via a variety of mechanisms including the impact on the attachment relationship with caregivers; the impact on parenting and family

functioning; the association with parental physical and mental illness; disconnection and alienation from extended family, culture and society. These effects are exacerbated by exposure to continuing high levels of stress and trauma including multiple bereavements and other losses, the process of vicarious traumatization where children witness the ongoing effect of the original trauma which a parent or other family member has experienced.

Even where children are protected from the traumatic stories of their ancestors, the effects of past traumas still impact on children in the form of ill health, family dysfunction, community violence, psychological morbidity, and early mortality.

Duran and Duran (1995) suggested that historical trauma becomes embedded in the cultural memory of a people and is passed on by the same mechanisms by which culture is generally transmitted, and therefore becomes "normalised" within that culture. This model of historical trauma provides a link between the intergenerational transmission of trauma and dysfunctional community syndrome.

III.Regional Consultation

Regional Indigenous Women and Girls Consultation					
Members:	Question 1: What are the holistic components that comprise indigenous women and girls?	Question 2: What types and forms of violence against women and girls are experienced in your community?	Question 3: Does your tribe have its sovereign powers to protect you intact or has it been restricted?	Question 4: Are women looking to have a choice about which law they utilise, customary or state, dependent on the circumstance?	Question 5: Do women feel tribal law protects them more or less than state law?
Caroline Herewini (New Zealand)	Taha tinana (physical well-being): maintaining a healthy lifestyle, e.g. eating well, exercising regularly and choosing to be alcohol and drug free. Taha whanau (family well-being): bonding and maintaining strong ties with whanau, love, respect, understanding, communication, sense of belonging, sense of purpose. Taha wairua (spiritual well-being): whakapapa	Physical, emotional, psychological, gender-based violence, verbal, financial, intimate partner violence, elder abuse, sexual, cyberbullying (text, email, social media), systemic/structural violence (institutionalised racism, people in	(a)Te Tiriti o Waitangi (The Treaty of Waitangi) The principles of partnership, participation and protection underpin the relationship between the Government and Māori under the Treaty of Waitangi. Partnership: it is about working together with our people, their family/whānau and	All legal sanctions are governed by the state, whether it is in the courthouse, restorative justice system, or mediation. Any other system would be considered in the realm of customary lore; which can be challenging and often not recommended in the domestic, family, intimate violence arena.	Only 20% of incidents are reported to the police. Therefore, it makes sense that the people who are more likely to know if women are being abused and hurt, are their intimate family (Whanau). Families (Whanau) make up the collective group (hapu), and hapu make up the wider

	<p>(genealogy: "from whose waters do I flow") being connected to past, present and future, journey of self discovery, personal growth, one's relationship with God.</p> <p>Taha hinengaro (mental/emotional well-being): self care, karakia (prayer), waiata (song), personal values/beliefs, whakapapa.</p> <p>Kotahitanga (unity): we are all one, strength in numbers.</p> <p>Kai (food): caring/sharing through process of preparing and eating kai together (whanau gatherings).</p> <p>Kaitiakitanga (guardianship): ones relationship with Papatuanuku (mother earth). Our role and responsibilities to look after our whenua (land/environment) which sustains us as people now and into the future.</p>	<p>authority abusing their position).</p>	<p>treating them with equality in the relationship;</p> <p>Participation: participation requires people to be inclusive, & our people to be consulted & part of the decision-making process, with good faith, honesty, respect & trust;</p> <p>Protection: it is about protecting our people from threats of their wellbeing & systems, structures & sanctions of in equality.</p> <p>The Treaty of Waitangi, signed in 1840 between Māori and the British Crown, is not law, but since 1975 many New Zealand laws have referred to the principles of the treaty. The first law to do so was the Treaty of Waitangi Act 1975, which established the Waitangi Tribunal. The act says that Māori can bring a claim to the tribunal about a Crown policy or practice (amongst other things) which was or is "inconsistent with the principles of the Treaty."</p> <p>(b)The Mataatua Declaration: www.mataatua.declaration</p> <p>Treaty of Waitangi is the only way in redress past/present injustices but there's no guarantee that the government will rule in favour of tangata</p>		<p>interconnection of the kinship links, the iwi (tribe). Given, indigenous people of Aotearoa (Tangata Whenua) feature negatively in every societal, economic, health, and environmental factor, I believe both situations leave women (wahine) marginalised and vulnerable.</p>
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			whenua (people of the land).		
Kelly Stoner (U.S.)- First Nations Women's Alliance	<p>There are ceremonies in most Tribes that help to bring honor and respect to Young girls who are transitioning from girl to womanhood/usually signified by the coming of menstrual time. (09–12 years of age)—because of colonization, and the effects of the boarding school era—many people are disconnected from language, ceremony, tradition and ritual. There is great shame with not knowing their cultural practices, so instead of admitting that they do not know, or they do not understand there may be no mention of these sacred rights to or from young women and their families. Lately in the past 10 years, there is a resurgence and a strong need to make efforts to learn language and ceremonial practice as there is GREAT COMFORT and a sense of BELONGING to their community and their families/peers. We also have an increase in the roles of women and ceremonies, they are facilitating ceremony for other women and they gather monthly for support/to pray usually during the full moon, as it is thought that the moon is our Grandmother and the Earth is our mother.</p>	<p>Many times there is exposure to family violence and /or parental addiction from the time of birth, early exposure, witnessing or personally experiencing either verbal, physical, and sexual violence. The realization is that as young girls can easily fall victim to any verbal/emotional abuse by same age boyfriends, classmates or others in the community. There is also a high instance of bullying with young girls. There are circumstances that exist that create an environment where the conditions create a vacuum in which it is easy to abuse the more vulnerable even if it be only based on physical stature.</p>	<p>YES. Banishment and Exclusions.</p>		

<p>Kelly Stoner – Native Alliance Against Violence</p>	<p>Indigenous women and girls should be honored and held sacred. They should have freedom from violence and should have full protection from all forms of violence and discrimination. They should have reproductive rights, life chances, and choices. They should be involved, or at the very least consulted, in all decision-making powers. They should be equally represented in our federal, state and tribal governments.</p>	<p>In Oklahoma in general, women and girls experience domestic violence, sexual violence, dating violence, stalking, sex trafficking, discrimination in decision-making powers and employment.</p>	<p>My Tribe's sovereign powers have been restricted from protecting me from certain crimes committed by non-Natives in Indian Country.</p>		
<p>Kelly Stone -Northwest Society of the Great Plains</p>	<p>Not sure what this means, guessing it is talking about the traditional thoughts that we are all part of the bigger picture. No one person makes up the community or the earth. We are the same as the earth, the animals and spirit world, not greater or less. This provides a different world view then the one we live in today.</p>	<p>All forms, financial, sexual abuse (across the ages) physical abuse, child abuse, elder abuse, verbal all types.</p>	<p>Currently the CRST does not have jurisdiction over the non-Indians but working on that.</p>		
<p>Claudia Herrmannsdorfer (LAC – El Salvador)</p>	<p>I think the customs and visions of their villages are determined by their formation. Unfortunately, many of these customary norms are a danger for women since they are based on the inequality and disadvantage on women; the exercise of masculine power is even justified from the foundation of "ancestral beliefs" with an enormous weight on women and girls. Today, this however, is not a norm for all original peoples; Latin America is very diverse in this aspect; in one country</p>	<p>Based on the information we have: domestic violence, rape, incest, and child marriage. Although, in Honduras, there is not a lot of research in this regard.</p>	<p>The native Honduran peoples call upon the Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries from the ITO (International Labour Organization) to maintain some norms. What I observed from some of the cases on VAW I took over is that there is a tendency to invoke "sovereignty" to protect men in the community when he has been the aggressor. Usually,</p>	<p>No, in the case of VAW they search the implementation of norms of the State, although with a lot of distrust toward institutions.</p>	<p>No.</p>

	there could be different ancestral customs; for example, in Honduras, it is very different to be a part of Lenca than to be from the Garifunas del Caribe, and for women it is different. The women from Lenca are under the description just stated but not the women from Garifunas that culturally have developed an attitude less submissive to the exercise of power by men.		also, those who interpret and promote norms are also men.		
América Romualdo (LAC – El Salvador)	In El Salvador the recognition of the existence of indigenous peoples is very recent and due to the history of repression towards communities, very few people speak the indigenous languages. The Lenca language is extinct and the Nahuat is in course of extinction. There are women that still use traditional clothing like the "refajo" (ruffled skirt) but generally they are more than 70 years old. Girls and young women no longer use these garments. With relation to traditional jobs like the elaboration of "petates" (woven bedroll), also it is mostly the older women who make these, young women or girls no longer do.	Sexual Violence Symbolic Violence Physical Violence Emotional or Psychological Violence Institutional Violence	In El Salvador there is no recognition of autonomy of indigenous peoples, since only national jurisdiction exists. All processes are made in the same tribunals.	At this time there is no a demand from indigenous women. What has been approved in El Salvador is the jurisdiction specialized in violence and discrimination against women. But in this case there are no specific procedures for indigenous women.	In some cases, the community has hidden the cases since these have to be processed by the national jurisdiction. Therefore, in many instances the community has left cases in impunity so that their leaders are not affected.

<p>The law 348, Integral Law to guarantee women a life free from violence, enacted on March 9, 2013, is not being enforced in all its capacity for multiple reasons. In one of the articles it mentions "take into account culture and origin of women to adopt, implement and apply appropriate mechanisms to safeguard their rights," in this article the observation made is that in all diverse cultures (chaco, amazonia, highlands, valleys) the relationship man-woman is structured from a patriarchal vision: how are women protected if there is a macho culture? On the other hand, there should be an effective coordination between indigenous justice and the standard justice, and this is not happening in many cases, there continues to be a gap between both justice instruments. Furthermore, the larger portion of standard authorities are men, this is not a guarantee that these authorities evidence or understand the</p>	<p>The worldview, Spirituality, Sacred Places, and Ceremonial Places of the indigenous villages: Around these elements principles and values of indigenous cultures develop. The holistic understanding of the indigenous cultures have an integral, complete and systematic vision of life and its dimensions. One tends to perceive the whole and not the parts. The interrelatedness and global scale of the indigenous vision is very important for the design, execution, and evaluation of politics, programs, projects, strategies, and evaluation of impact in development with this holistic vision. Taking this vision into account, public policies, programs, projects, and strategies will need to have a global integral focus. Cultural symbols: Heroes, historical characters, mythical, garments, corn (or any other sacred food), names, last names, and proper names for places. These elements which identify indigenous cultures will have to be respected within the frame of cultural diversity, linguistics, and how the identity of one people has been transferred in a generational form.</p>	<p>Based on research on "Indigenous Women and Girls facing sexual violence" by Public Centers of Research (Centros Públicos de Investigación) CONACYT" May 2015: In the Province of Potosí known by what its numbers reveal, women suffer more violence than the average of women of other provinces in the country, even beyond the national average. From every 100 women that suffers violence, 95 experience emotional violence, 49 economic; 27 physical, and 23 sexual. The challenge to make sexual violence evident in this group in particular becomes difficult because it becomes invisible, framed in imaginaries that "normalize it," in forced sexual practices that are justified in the matrimonial context or in an incest that is justified under the</p>		<p>Yes they are looking for the opportunity to clarify the relationship, the coordination, the reach of the Law on jurisdictional domain (Indigenous justice, community) and ordinary law (Law 348)— there are many advances in spaces of discussion, however, there is a need for projects with the funds necessary to have spaces for revision, analysis of indigenous women, to create proposals for an effective interrelation between two types of justices, and to implement an advocacy strategy between organizations of indigenous women, countrywomen, women in urban areas, to revise and adjust the law, with the adequate funds, and later on act on follow up and enforceability so that these adjustments are implemented.</p>	<p>Women do not feel protected right now because they do not find the adequate answers in any of the types of justices, for this reason they are left truly unprotected. Graciela Zolezzi Hypathia Group, Santa Cruz, Bolivia, in the socialization on a comparative research made about domestic violence in three indigenous villages in the lowlands in Bolivia, Chiquitano, Ayoreo, and Isoleño Guaraní, mentions some of the quotes of women who were interviewed in the study and some of the conclusions made: "What is typical of the OTB authorities, leaders, they act sometimes like judges and jury, where the one affected is family, in communities where everyone is part of a family. If the case where a woman is the one affected, it is much worse; if the other family has more power, then the case is closed." (Marlene, Chiquitana)</p> <p>"Women do not have where to stay, many authorities</p>
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<p>need of greater measures of protection to women.</p> <p>To indicate that between Quechuas it is natural the practice of partner violence and that it is considered a way to express their feelings "He(She) hits me because he(she) loves me; we will love each other, we will hit each other."</p> <p>Between men and women it becomes normal the custom of seeing women as property of the men, not only in terms of her identity, her spirits, but also in terms of all her being. Therefore, when it is time to protect women, aside from deconstructing these cultural and normalized patterns, these have have to be deconstructed in women themselves, this sense of possession and belonging. It is not easy, but if women do not take account of their own situation of property in front of men, especially in the symbolic aspect, it is very difficult that there will be a deconstruction and therefore, of prevention, that</p>		<p>framework of "uses and customs," this situation becomes more complex under the absence of the perspective of gender that institutions in charge of registering the incidents of sexual violence possess which break away from ethnic origin.</p> <p>The association that is established in marriage and "sexual obedience," ends up "normalizing" the violation coming from their own partners.</p> <p>There exists a considerate number of cases where sexual aggression is done by direct family members, including fathers of the victims; situations in which the recognition of the aggression and the decision to file a complaint becomes complex, given that victims tend to have difficulty to identify the acts committed on their bodies as acts of sexual violence.</p>			<p>follow a 'macho' culture, the first ones to hit their wives are the authorities, very little is applied in community justice." (Rosa, Chiquitana)</p> <p>"In my trajectory as a leader, I have several experiences from both laws, in community justice and Karai Law, of the "White." Yes, we are discriminated as indigenous people in general, but indigenous women we are three times more discriminated" (Justa, Guaraní).</p> <p>One of the most important conclusions of the study is the insufficient protection of the normative regulatory systems in their villages that do not assume equality in gender rights and that in the contrary establish the legality of norms that place a disadvantage the rights for women, due to their condition of gender: woman. We see a tendency to incorporate official authorities in the system of conflict resolution. It is observed that the inequalities of</p>
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<p>must begin from women themselves. If women continue replicating this conception of property of the woman to man and to the family (in their own family, in education, in the churches, in the courts, etc.) the situation of inequality and of violence that a woman suffers will change little or not at all only by the declaration of a law. The Plan to Combat Violence with focus on Indigenous Women puts emphasis in the prevention, because it is known that several governments have worked in the subject of attention, with the Legal Integral Municipal Services or SLIMs, officers defending children and the youth, now with the law The Strength to Combat against violence, or FELCV, looks like it should get to the homicide or the femicide to report the crime, but we see when a report is filed for abuse, the actors called to bring protection in most cases and due to different factors, do not give answer or</p>		<p>Some of the women that suffer from aggression do not identify themselves as sexually assaulted until a third person, very frequently an educational authority, health worker or someone from the community, helps them notice that the situation they live is sexual aggression. The federal and state legal framework, encourages that the defense for the aggressors disvirtue the offence of rape to the offence of incest. In a reality where in the meantime the incest constitutes a figure that reaches bail and the offence of sexual assault does not.</p> <p>In the time that these women are violated in their homes, their own family, the community and institutions that exist close to their surroundings seem to ignore the condition of violence in which these women live</p>			<p>gender point to the positive law as well as to call to the indigenous law, and it is necessary to advance to the interlegality, with a critical vision on the legality of gender just as applied, based on the cultural values, and to protect the exercise of human rights for women. There is the need to open a plural and open debate and one that seeks the cooperation and coordination between community justice and ordinary justice. In the frame of ordinary justice and indigenous justice, we are concerned about the use of reconciliation and/or compensation for damages for the acts of sexual violence, with the subsequent impunity and unprotection.</p> <p>In the same way, the highest sanction that is applied in sexual offenses, consists in the expulsion from the community, that only transfers the problem to another territory or zone.</p>
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<p>immediate assistance to women, which leads to the withdrawal of the report, or decide not to file a report later on, and as a result of this act, in many cases the spiral of violence triggers a femicide.</p> <p>This plan was meant to place a lot of emphasis in prevention, in the everyday, from deconstructing lyrics from national songs where these aspects continue to reproduce "macho" culture, belittling women. This unfortunately we continue to see as culture, but as a folkloric culture, thus the break down of patriarchal culture must begin at home, the community, the neighborhood, at school, etc. Therefore a law is not sufficient, there is a need to work in public policy, in construction, recovery, recreation of meaning, formation of new moral codes, aligned with respect for human rights, taking into the different cultures. There are difficulties with coordination between tribal law</p>		<p>under. When they begin to notice of their condition is once the forced sexual encounters have resulted in the beginning of a pregnancy. The authorities interviewed by the researcher, both coincide noting that it is necessary to recognize that incest is not a legitimate practice within indigenous communities. This is part of a social issue that is derived from the adverse conditions for psychosexual development, such as the overcrowding and the taboo historically constructed around sexuality. It is important to put forth this consideration because under the discussion that incest is part of "uses and customs" the State has limited its responsibility and reach in the prosecution and sanctions in these cases. It is necessary to recognize, the researcher</p>			
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<p>enforcers, community and with standard justice, since many of these communities are far away from urban centers where there is a feeling of absence of State. The State authorities will have to be part of the community authorities or at least closely coordinate with them, but generally, in many cases, these indigenous authorities see it as foreign or alien an intrusion of the authorities of the State. We should work on the acceptance from the community for the need to work together to eradicate violence. But analyzing all the State structure, we see that there is no commitment or a political will that is clear to give solution to these issues.</p> <p>In this frame of lack of awareness in the deconstruction of "macho" culture patterns, of prevention, of political will and economic funds, what effective advances can be reached with only the passing of a</p>		<p>considers, the omission that the State has done with respect to education on topics of sexuality to indigenous groups, and the need to recognize that the lack of knowledge of sexual and reproductive rights represents a fertile ground for sexual violence. Sexual and reproductive rights should defend the subjects but also put a guarantee from the State, searching in every moment the consistency between the law to the cultural difference, self-determination and autonomy of the indigenous communities; as well as human rights and sexual/reproductive rights of women.</p>			
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law?					
Sandra López – (LAC – Ecuador)	<p>In the Andean world, the visions of complementarity and duality are ones that define the relation between women and men. The Chakana, the symbol of the conception of the world explains clearly the need for an equilibrium between all elements for the sustainability of life: up-down, four elements, woman-man, sowing-reaping. Every element is necessary and its existence and protection guarantees the equilibrium in the whole system.</p> <p>Unfortunately, since the Spanish invasion the concept of complementarity and duality was altered, marked heavily by a Catholic medieval church that made that one gender be considered more than the other, altering the concept of complementarity to a basic concept of a woman for the service of a man, or the necessity for a woman to need a man to be happy, or maternity as a means of realization, etc. etc.</p> <p>Within complementary it is understood that within each person there are feminine and masculine aspects and that the feminine and masculine is complementary from its individuality. In this sense, there cannot be complementarity if one of</p>	<p>Violence in all forms: Psychological, sexual, physical, economic. In the case of women from the Saraguro village, violence against women is a subject that is not addressed publicly because men think that it is an attack against the principles of complementarity and duality and become very defensive.</p> <p>Sexual violence in schools and at home is the principal form of violence against girls. There is also abuse by the State, since intercultural education in their own language is not promoted. In the last few years, the resources for these programs that were an achievement of the indigenous movement in the last 90 years were taken away in Ecuador.</p>	<p>In the concrete case of the Saraguro village, there is no achievement on self-determination since the Convention 169 is very difficult to apply in Ecuador due to the local norms that demand a set of requirements that become barriers when it comes to achieve self-determination. The Indigenous justice is beginning to incorporate subjects on gender violence but there is no strong process in this regard.</p>	<p>There is a search for a choice in the case of Saraguro, but as was stated in the last question there are many barriers to obtain it.</p> <p>In a plan for advocacy that took place five years ago, the need to work in issue of gender violence within a global proposal towards self-determination was incorporated heavily. Women of the village of Saraguro have taken steps to achieve this, but the goal is still far ahead.</p>	<p>Considering that self-determination will give the possibility to reinforce and retake ancestral mechanisms and value the principles of complementarity and duality as pillars to reach equality and equity between women and men. Women feel that reaching this goal will be a contribution to construct a life free from violence.</p> <p>Currently the normative in Ecuador is weakened in the issue of violence against women and many are working for changes in the Integral Penal Code to guarantee the protection and processes facing of all types of violence.</p>

	<p>the parts is not exercising fully its rights. The situation of violence against indigenous women and girls in Ecuador, aside from the reasons of gender, involve a very strong component of discrimination against ethnicity. For this reason the vulnerability of their rights is greater. If we consider, additionally, the setback of the indigenous world since the invasion, the exercise of rights is very difficult, especially while more systems of subordination pass through the identity of peoples.</p>				
<p>Kamilia Kura (Nuba Mountains—Sudan)</p>	<p>Nuba mountains women are the symbol of steadfastness and struggle to face all challenges to maintain the family and society. Women in the Nuba Mountains of authentic peoples are characterized in various capacities in the community as follows: National origin History and Philosophy Education and special education Heritage and Culture Customs and traditions Territory and resources</p>	<p>Girls and women in the Nuba Mountains Face many types and forms of violence in community represented in the following: Psychology violence (domestic violence, harassment, child marriage) Cultural violence We find a multicultural Sudanese society proportion of ethnic and tribal diversity, we find different customs and traditions, and is reducing the importance of women in other communities, violence in some cultures women's classification,</p>	<p>The authority of the Nuba community practiced on the basis of the customs and traditions inherited and we find the influence of men who dominated all social walks. Male preference for the feminine culture starts from the first day of the birth of a child (girl) with the birth of discrimination. In this case, tribal law does not protect women, but also protects the perpetrators of violence against women; we find the beatings and humiliation of women in tribal law Many women keep silent to this act out of fear of divorce, and reputation, which is caused by community or the marriage of a man to other women.</p>	<p>(Questions 3 & 4 were combined)</p>	<p>Tribal law does not protect women because it focuses on the old stereotypical ideas adopted by the community always reduce the role of women and show women in a position of weakness.</p>

		Structural or institutional violence represented in employment for some women on the basis of race, color and political affiliation.			
Kabann Kabanankye – Uganda		Physical, economic, psychosocial cultural forced sexual violence, especially child violence and exploitation/early marriages (parents marry off their young daughters to earn a living). There is an assumption that the married girl is off from the household list to feed; further, the parents may use it a means to earn an income, to establish a link/network as a source where to get food; sexual exploitation including defilement/ domestic violence that includes wife battery/marital rape or difficulties of negotiating safer sex behavior for abused partners Gender based violence [GBV],	In Uganda, we have the penal code; and many other laws, including the Domestic Violence Act, 2004. But they are not implemented. They are inadequate. Yes, the sovereign powers [as enshrined in the national, regional and international protocols, guidelines and legislations], but these remain "paper tigers!" Every Ugandan is treated the same way. They very few provisions are neither known very limited awareness, enforceable or to the majority of Ugandans. They are more or less restricted to civil servants and or top government officials who know what is therein. Many people are unaware of such provisions.	Under the existing laws/ legislations, everyone is treated the same way! Only a handful of the elite/educated have modest knowledge/ awareness of the need to have specific laws. Because of the low levels in education, for the IW&G especially, coupled with the cultural beliefs (e.g. men's superiority over women), some of the cultural laws PROPAGATE DISCRIMINATION; they don't create avenues for indig. women and girls to demand legal rights, justice and accountability VAIW&G is normalized in many communities, so much so that women and men do not identify it as a problem or a violation of rights; in some instances, the acceptability of some levels of VAIW &G/ lack of support from family; including the acceptability and apparently common violence perpetrated by family members In some instances, for example, after rape,	The tribal laws are virtually nonexistent because of our very small or near insignificant population numbers.

		<p>nonreporting and seeking help especially with issues related to domestic violence, emotional violence where they publicly abused and humiliated, especially by the dominant ethnic neighbours; those in conflict settings experience increased risk of GBV, especially sexual violence/rape cases/ sexual assault; the abducted, the internally displaced; female abductees used as sexual slaves for socioeconomic and demographic characteristics: issues of poverty and high illiteracy levels/ low education alcoholism- drunkenness/ substance abuse</p>		<p>one is requested or is fined a goat and a pot of local beer; in a worse scenario, one is fined and compelled to marry the victim</p> <p>Given the low levels of educ. And the fact that we all live in the same poverty stricken communities, our communities depend on the "protection and care," if any, by the wider dominant majority. The wider dominant majority mainly depends on customary laws [most of which are unwritten, disproportionately enforced by not-very-literate community elders. Our people do not know any other world, apart from the customary, which is exploitative and regards VAIW&G as a minor issue to deserve any serious remedy.</p>	
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IV. Africa Region Consultation Notes (Kabann)

Definition of violence against indigenous women and girls for the draft Treaty

- ***What are the holistic components that comprise indigenous women and girls?***

- ***What types and forms of violence against women and girls are experienced in your community?***
- ***Does your tribe have its sovereign powers to protect you intact or has it been restricted?***
 1. In Uganda, we have the penal code; and many other laws, including the Domestic Violence Act of 2004. But they are not implemented. They are inadequate.
 2. Yes, the sovereign powers [as enshrined in the national, regional and international protocols, guidelines and legislations], but these remain "paper tigers!" Every Ugandan is treated the same way. They very few provisions are neither known/very limited awareness, enforceable or to the majority of Ugandans. They are more or less restricted to civil servants and or top government officials who know what is therein. Many people are unaware of such provisions.
- ***Are women looking to have a choice about which law they utilise, customary or state, dependent on the circumstance?***

Under the existing laws/ legislations, everyone is treated the same way! Only a handful of the elite/ educated have modest knowledge/ awareness of the need to have specific laws. Because of the low levels in education, for the IW&G especially, coupled with the cultural beliefs (e.g. men's superiority over women) ...some of the cultural laws PROPAGATE DISCRIMINATION; They don't create avenues for indig. women and girls to demand ;legal rights, justice and accountability VAIW&G is normalized in many communities, so much so that women and men do not identify it as a problem or a violation of rights; in some instances, the acceptability of some levels of VAIW &G/ lack of support from family; including the acceptability and apparently common violence perpetuated by family members

In some instances, for example, after rape, one is requested or is fined a goat and a pot of local beer....in a worse scenario, one is fined and compelled to marry the victim

Given the low levels of educ. And the fact that we all live in the same poverty stricken communities, our communities depend on the "protection and care," if any, by the wider dominant-majority.

The wider dominant-majority mainly depend on customary laws [most of which are unwritten, disproportionately enforced by not-very literate community elders. Our people do not know any other world, apart from the customary--which is exploitative and regard VAIW&G as a minor issues, to deserve any serious remedy.

- **Do women feel tribal law protects them more or less than state law?**

The tribal laws are virtually non-existent because of our very small or near insignificant population numbers.

V.Africa Region Consultation Notes (Kamilia)

Definition of violence against indigenous women and girls for the draft Treaty

- **What are the holistic components that comprise indigenous women and girls?**

Nuba mountains women are the symbol of steadfastness and struggle Calendar icon to face all challenges to maintain the family and society. Women in the Nuba Mountains of authentic peoples are characterized in various capacities in the community as follows:

National origin

History and Philosophy

Education and special education

Heritage and Culture

Customs and traditions

Territory and resources

- **What types and forms of violence against women and girls are experienced in your community?**

Girls and women in the Nuba Mountains Face many types and forms of violence in community represented in the following: Psychology violence (domestic violence, harassment, child marriage) Cultural violence we find a multicultural Sudanese society proportion of ethnic and tribal diversity, we find different customs and traditions, and is reducing the importance of women in other communities , violence in some cultures women's classification, Structural or institutional violence represented in employment for some women On the basis of race, color and political affiliation.

- **Are women looking to have a choice about which law they utilise, customary or state, dependent on the circumstance? Are women looking to have a choice about which law they utilise, customary or state, dependent on the circumstance?**

The authority of the Nuba community practiced on the basis of the customs and

traditions inherited and we find the influence of men who dominated all social walks. Male preference for the feminine culture starts from the first day of the birth of a child (girl) with the birth of discrimination. In this case, tribal law does not protect women, but also protects the perpetrators of violence against women; we find the beatings and humiliation of women in tribal law called the (disciplinary) many women keep silent to this act out of fear of divorce. And reputation, which caused by community or the marriage of a man to other women.

- ***Do women feel tribal law protects them more or less than state law?***

Tribal law does not protect women because it focuses on the Old stereotypical ideas adopted by the community always reduce the role of women and show women in a position of weakness.

VI. Maori – New Zealand Consultation Notes (Caroline)

1. What are the holistic components that comprise indigenous women and girls?

- Taha tinana (physical wellbeing): maintaining a healthy lifestyle e.g. eating well, exercising regularly and choosing to be alcohol and drug free.
- Taha whanau (family wellbeing): bonding and maintaining strong ties with whanau, love, respect, understanding, communication, sense of belonging, sense of purpose.
- Taha wairua (spiritual wellbeing): whakapapa (geneology: "from whose waters do I flow") being connected to past, present and future, journey of self-discovery, personal growth, ones relationship with God.
- Taha hinengaro (mental/emotional wellbeing): self-care, karakia (prayer), waiata (song), personal values/beliefs, whakapapa.
- Kotahitanga (unity): we are all one, strength in numbers.
- Kai (food): caring/sharing through process of preparing and eating kai together (whanau gatherings).
- Kaitiakitanga (guardianship): ones relationship with Papatuanuku (mother earth). Our role and responsibilities to look after our whenua (land/environment) which sustains us as people now and into the future.

2. What types and forms of violence against women and girls are experienced in your community?

- Physical, emotional, psychological, gender based violence, verbal, financial, intimate partner violence, elder abuse, sexual, cyber bullying (text, email, social media), systemic/structural violence (institutionalised racism, people in authority abusing their position).

3. Does your tribe have its sovereign powers to protect you intact or has it been restricted?

- No. Treaty of Waitangi is the only way in redress past/present injustices but there's no guarantee that the government will rule in favour of tangata whenua (people of the land).

4. Are women looking to have a choice about which law they utilise, customary or state, dependent on the circumstance?

All legal sanctions are governed by the state, whether it is in the courthouse, restorative justice system, or mediation. Any other system would be considered in the realm of customary lore; which can be challenging and often not recommended in the domestic, family, intimate violence arena.

5. Do women feel tribal law protects them more or less than state law?

- Only 20% of incidents are reported to the police. Therefore, it makes sense that the people who are more likely to know if women are being abused and hurt, are their intimate family (Whanau). Families (Whanau) make up the collective group (hapu), and hapu make up the wider inter connection of the kinship links, the iwi (tribe). Given, indigenous people of Aotearoa (Tangata Whenua) feature negatively in every societal, economic, health and environmental factor, I believe both situations leave women (wahine) marginalised and vulnerable.

Recommendations for a Global Treaty on Violence Against Girls and Women of All Age

**by the Expert Special
Committee on Inclusive
Groups**

January 2017

1. Introduction of Treaty Content

1.1 Introduction

Violence against girls and women of all ages is particularly acute for those who are excluded from the societal or community mainstream. This committee focused on identifying and examining highly marginalized groups of girls and women.

"Social Exclusion" and "Social Marginalization" is used widely across disciplines including in education, sociology, psychology, politics, and economics. Many socially marginalized communities, such as transgender girls and women, migrant workers, domestic workers, and incarcerated girls and women, lack access to both basic and need-specific healthcare services, and are subject to:

- arbitrary arrests and detention;
- cruel, inhumane or degrading treatment;
- and torture.

Marginalization can be understood as persistent inequality and adversity resulting from discrimination, social stigma and stereotypes. From inaccessible polling stations to information unavailable in minority languages to discriminatory laws to a lack of access to information. While members of highly marginalized groups share common hurdles to their ability to participate in political processes, there are also variations in age, socio-economic status, gender, ethnicity, or geography that can impact them in different ways. Members of an already marginalized population may face "double" or "triple" exclusion owing to their gender, age, or other characteristics.

This Inclusive Committee examined the spectrum and diversity of violence against marginalized girls and women and after much analysis, debate, and review, identified three categories as having the potential to have the general characteristics of the vast majority of communities of highly marginalized girls and women.

It is important to note that this Committee is referring to these representative groups as "highly" marginalized to denote the often extreme forms of violence perpetrated against these groups along with the extremely consistent levels of lack of access to justice and services experienced concurrently by these groups creating unlivable, untenable, and often extremely dangerous

circumstances for these groups compared to others:

- Lesbian, Bisexual, Transgender, Queer, and Intersex (LBTQI) girls and women,
- Girls and women who are living with HIV/AIDS, and
- Girls and women who work in the sex industry.

Many societies/cultures have institutionalised norms for gender and/or sexuality, and highly marginalized girls and women often do not fit neatly into anticipated roles. In addition, criminal statutes affecting marginalized people, in conjunction with state-sponsored hate speech, has meant that girls and women in the groups above are extremely stigmatized, discriminated against when accessing health care services, and at risk of arbitrary detention, police raids, torture, and state-sanctioned violence.

1.2 Legal Framework

A. There are two overarching flaws in the legal and policy framework relevant to highly marginalised girls and women.

- highly marginalised groups often are completely left out of international human rights treaties;
- many national laws regard highly marginalized people as criminals or otherwise undeserving of legal protection.

This means that international law is currently of limited use in addressing this type of violence. In such an environment, highly marginalised girls and women are at much greater risk of both community and state-sponsored violence, often extreme types and forms of violence. This is a stark and chilling reality on the ground.

B. Definitions and other language in human rights instruments typically

- use only the terms "woman" or "girl,"
- can exclude transgender and intersex women and girls,
- do not mention lesbian, bisexual or queer women,
- do not distinguish between self-determined sex workers and those forced into prostitution via trafficking or other coercion,
- or those living with HIV/AIDS.

So these categories can be easily excluded from legal protection.

C. Some treaties describe populations at higher risk that should be protected. For example,

- Article 4.3 of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (also known as the Istanbul

Convention) calls for measures to protect the rights of victims

- o "without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status."
- The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, also known as Belém do Pará Convention, in Article 9 says that
 - o States Parties "shall take special account of the vulnerability of women to violence by reason of among others, their race or ethnic background or their status as migrants, refugees, or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict, or deprived of their freedom.
- Article 24 of the Maputo Protocol calls upon States Parties to protect
 - o "poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs."

While the intention of such articles may be to protect marginalized women and girls, the language is so vague that protection is effectively discretionary rather than institutionalized.

D. International efforts to slow the spread of HIV/AIDS have recognized the importance of protecting the rights of people living with HIV/AIDS.

- UN AIDS has stated in multiple formats that strengthening the rights of people living with HIV/AIDS helps expand prevention, treatment and care of individuals and improves countries' overall management of the disease.
- Most recently, UN AIDS' 2016 Political Declaration is a good example; however, such Declarations are not legally binding.

E. Some treaties refer to girls and women working in the sex industry, often by urging signatories to act against trafficking and sexual exploitation. For example,

- CEDAW Article 6 states that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."

Focusing on law enforcement and criminal activities can too easily ignore the rights of

girls and women working in the sex industry, leaving them at risk of violence from police and other representatives of the state. Sex work is against the law in most countries, but in countries where prostitution is legal workers have the right to:

1. Occupational Health and Safety standards
2. Physical safety
3. Freedom from sexual harassment
4. Refuse unsafe work.

F. Although the language of many treaties does not include, much less help protect, marginalized women and girls, the UN human rights committees can raise awareness through questions and Concluding Observations.

- In 2015 the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) began tracking how seven UN treaty bodies address issues of sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC).
- The Committees are:
 - The Committee on Economic, Social and Cultural Rights (CESCR)
 - The Human Rights Committee (HRC)
 - The Committee on the Elimination of Discrimination Against Women (CEDAW)
 - The Committee on the Rights of the Child (CRC)
 - The Committee Against Torture (CAT)
 - The Committee on the Elimination of Racial Discrimination (CERD)
 - The Committee on the Rights of Persons with Disabilities (CRPD)

ILGA found that country reviews that raised SOGIESC issues in Concluding Observations increased from 2014 to 2015, as did relevant recommendations and references to intersex people.

- While there are many variables affecting what is discussed by treaty bodies, ILGA's monitoring of the Committees highlights ways that civil society organizations and treaty bodies can increase visibility for marginalized people who may lack explicit protection in the treaties themselves.

2. Summary of the Committee's Discussion of Treaty Content

This Committee had a series of discussions to examine the range and diversity of violence against highly marginalized girls and women including:

- A detailed identification, review, examination, and prioritization of priority groups of

highly marginalized girls and women;

- A discussion on State sponsored violence and the various forms of institutionalized violence against highly marginalized girls and women;
- How States have failed in their mandate to protect vulnerable groups;
- Examining how legal and policy frameworks address violence against highly marginalized girls and women through laws that often criminalize both actions and in some cases the very existence of highly marginalized groups;
- How institutions in many countries are equipped (or not) to address these issues;
- Whether highly marginalized people are criminalized or not;
- How South Africa is an example where there are very progressive laws, but institutions such as law enforcement are not willing or able to protect girls and women. As a result, highly marginalized girls and women experience extreme violence, including "corrective" rape, as a regular part of their lives;
- How stigmatization and discrimination further contributes to violence and prevents survivors from accessing justice;
- The fact that violence is not limited to the physical violence of something leaving visible physical scars;
- How the youth represent different genders, ethnicities, sexual orientations, economic statuses, education levels and religions, creating major variations among their needs and interests. This often results in differing priorities and can make it difficult for young people to achieve consensus and take collective action.

All girls and women from highly marginalized groups are at a significantly greater risk of violence and discrimination than those considered more mainstream, and members of different groups also are targeted in specific ways.

- LBTQI girls and women are particularly at greater risk of sexual violence in the form of "corrective" or "curative" rape, in which family members rape a girl or woman who is thought to be a lesbian based on the erroneous belief that doing so can "cure" her sexuality.
- Sexual minorities are also at greater risk of forced marriages, including early and child marriages.
- Transgender and intersex girls and women often are unable to have their gender identity legally recognized, and they can be charged with sodomy despite their gender identity.
- Girls and women living with HIV/AIDS may be criminalized for HIV transmission and are grossly stigmatized and denied access to equal treatment in healthcare, education and employment, thus relegating them to the peripheries of society.
- Girls and women working in the sex industry face higher levels of violence, social isolation, and exclusion, which deprives them of access to health care and justice when

they have survived violence.

For highly marginalized girls and women, the institutional violence and culture of impunity demonstrated by the mechanisms of the state, including law enforcement and the justice system, does not address the danger and violence they face. Instead, state sponsored violence is driven by laws that criminalize groups of people, and a hostile political climate contributes to stigmatization and isolation, as family and community members exert physical, sexual, and verbal abuse towards highly marginalized individuals.

Further, these forms of marginalization are compounded for women whose gender, HIV status, race, age, and ability are also highly marginalized, as well as for women in rural settings. Criminalization, shrinking economies, and failure to prioritize women's needs mean most of the individuals within the stated highly marginalized groups are unable to pay for private services when they are denied access to public services. Denial of access to full human rights for highly marginalized groups has ongoing substantial economic, social and health costs for the state, as well as slowing attainment of Sustainable Development Goals and other global targets. Therefore, state actors

- must be held accountable to the Universal Declaration of Human Rights (UDHR),
- the Constitution of the state they represent,
- and to link the Constitution with legislation and actions on the ground.

3. Concluding Comments by the Committee on Treaty Content

"Unresolved, sensitive, potentially contentious issues"

- The Committee had strong but not universal interest in the Nordic and New Zealand models that do not criminalise women working in the sex industry.

4. Recommendations by the Committee on Treaty Content

4.1 Proposed Definitions

- Marginalization can be understood as persistent inequality and adversity resulting from discrimination, social stigma and stereotypes.
- "Highly Marginalized" can be understood as adversity resulting from the experience of violence in a context of lack of access to justice and services based on discrimination, social stigma, or stereotypes.

- The terms "social exclusion" or "social marginalization" refer to social disadvantage and specific relegation to the fringe of society.
- "Gender" shall mean the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for women and men.

4.2 States Parties must condemn violence against girls and women in highly marginalized communities because they are human rights violations committed due to

- discrimination;
- social stigma;
- stereotypes;
- real or imputed sexual orientation;
- gender identity or expression;
- health or disease state;
- or real or imputed sex work status.

4.3 States Parties must recognize that they are accountable for upholding the UDHR and all other human rights instruments to which they are signatory, and this means that all girls and women, including those who are socially marginalized or who are from highly marginalized groups are entitled to access their full human rights.

4.4 States Parties must review and amend domestic legal frameworks in accordance with this proposed global treaty to ensure that the rights of socially and highly marginalized girls and women are fully protected and work toward full elimination of violence by producing a measurable reduction in violence against girls and women from highly marginalized groups. Domestic legislative amendments must be supported by specific actions to assist survivors and end stigma and discrimination. This includes:

- Adopting effective measures to ensure access to comprehensive nondiscriminatory health and rights services, to all women and girls regardless of their social, sexual or health status.
- Recognizing the intersectionality among marginalized populations that increases risk, such as between sexual violence and HIV transmission.
- Enacting legislative reform that condemns all harmful acts including that of pledging of females and other types of arranged or forced marriages.
- Repealing laws criminalizing women from highly marginalized groups including LBTQI women and sex workers.
- Addressing barriers to women's employment and economic self-sufficiency so that girls and women are not forced to sell sex for survival.

- f. Providing access to comprehensive sexual and reproductive health education and services to school age girls and boys to limit the spread of sexually-transmitted infections.
- g. Increasing access to safe abortion services, and other comprehensive services, including sustained psychosocial support and safe houses specifically for survivors of violence, especially girls and women from marginalized populations and whose lives are endangered in societies where they remain unsafe despite what the law says.
- h. Including girls and women of all ages in meaningful consultation on legislative, policy reform to produce a measurable reduction in violence against girls and women from highly marginalized groups.

4.5 States Parties must ensure that politicians and other representatives of the State do not use stereotypes, discrimination, or social stigma that may promote discrimination or harm against highly marginalized girls and women.

Further, States Parties must adopt and adapt the necessary measures to eradicate violence against girls and women caused by the tendency and/or diffusion through the media to use harmful stereotypes, discrimination, or social stigma that may promote discrimination or harm against highly marginalized girls and women.

Committee Member BIOS:

(CHAIR) Martha Tholanah – Zimbabwe

Martha Tholanah is a Zimbabwean woman openly living with HIV; she is passionate about issues of women's rights, access to basic services and HIV-related treatment, functional health systems, and environment and conservation issues. Qualified and experienced in medical rehabilitation and family therapy, she has worked in the public and nonprofit sector with disadvantaged and vulnerable communities. Martha has particular interest in movement-building, and has worked with communities amplifying voices for strengthening visibility to achieve social change. She currently worked as acting Director with Community Livelihoods and Enterprise Development against Stigma (CEDAS) Trust from March 2013 to September 2016, and is volunteer coordinator of the International Community of Women Living with HIV in Zimbabwe (ICW-Zim). Martha served on the Technical Review Committee of the Medical Research Council of Zimbabwe (MRCZ) from May 2012 to December 2016, serves on the Community Advisory Board (CAB) of the AIDS Clinical Trials Group (ACTG) in Harare, and Community Scientific Sub-committee (CSS) member on the global ACTG network. Martha was regional chairperson of the International Community of Women Living with HIV Southern Africa (ICWSA) from August 2012 to February 2016, and Global Chair of ICW from December 2014 to February 2016. She was Chair of GALZ (the membership association for the LGBTI community)

from April 2011 to January 2017, and is a member of the national volunteer committee (Volunteering for Development—V4D) that organizes and coordinates International Volunteer Day activities.

(MEMBER) Martha Jean Baker – England

My family were activists during the McCarthy era and we would sit in on the meetings they often had in our home. At University, I became active in the peace movement and civil rights issues of the time. I spent many years raising my three children and living in the UK and Germany before returning to the US. I worked for social justice and women's rights issues, mainly through WILPF, an organisation I knew through my mother. I became a spokesperson on a variety of human rights issues and was often asked to speak. With the encouragement of my partner, I began my legal studies shortly before my 50th birthday and after completing law school and passing the Illinois bar, we moved to London where I completed an LLM in Public International Law and International Human Rights. While a student in London I represented WILPF on the Coalition for the International Criminal Court where I worked on the elements of the Gender Crimes. I complete my last year as a WILPF International VP at the celebration of WILPF's 100th birthday in April.

(MEMBER) Erika Castellanos – Belize

Erika Castellanos is a transgender woman living with HIV from Belize. She is the cofounder and Executive Director of the Collaborative Network for Persons Living with HIV (C-NET+). Erika is an HIV and Transgender activist that has been working and advocating on issues of HIV, human rights, stigma, and discrimination and key populations in her native country, in the Caribbean and Latin America. Erika is presently a student at the University of Belize majoring in Social Work and in May of 2015 completed the LGBT Health Research Certificate Programme at the University of Pittsburgh. She has been the Belize focal point for the Latin American and the Central American Networks of People with HIV (RedLA+ and REDCA+, respectively) from 2010 to 2015. In 2015 became a member of the advisory group for REDCA+ and was elected as the GNP+ representative for RedLa+. Erika joined the Board of the Global Network of People with HIV (GNP+) in late 2015. Erika is also the Belize referral for the Latin America and Caribbean Network of Trans People (REDLACTRANS) and a member of the Caribbean Network of People with HIV (CRN+). She is a member of the Global Fund Advocates Network and most recently became a member of the Communities Delegation to the Board of the Global Fund. In addition, in 2016 Erika joined as a member in the IRGT (International Reference Group on Transgender and HIV/AIDS).

(MEMBER) Talent Jumo – Zimbabwe

Talent Jumo Madziva is a women's rights and development activist from Zimbabwe. A qualified teacher and development practitioner, Talent has more than 10 years' experience organising with and supporting local women's rights groups around their sexual and reproductive health and rights matters. Talent has used popular education tools to catalyze community focused and driven processes. She is the cofounder of the Young Women's Leadership Initiative, now known as Katswe Sistahood, which was formed in 2007, and has since then championed key agendas towards improved SRHR for girls and young women in Zimbabwe. Katswe Sistahood's focus is to support young girls and adolescents transition safely into adulthood, and Talent is the current Director and convener of the Katswe Movement building platform. She leads a strong team of young dynamic feminists who are equally passionate about grassroots girl/young women led processes. Talent is currently working to establish a Pachoto Centre for Girls & Young Women's Wellness and Empowerment—a physical one-stop centre for at risk girls. She is also passionate about life coaching for girls, and is currently studying to become qualified as a life coach.

(MEMBER) Gcebile Ndlovu – Swaziland

Gcebile Ndlovu has worked for the Government of Swaziland for eleven years as a public health nurse. She then left the public sector to work for Swaziland Hospice at Home as Director leading a team of nurses in palliative care. After seven years with Hospice at Home, she then joined the Joint United Nations Programme on HIV/AIDS (UNAIDS) as a National Programme Officer working with networks of people living with HIV/AIDS and the We Care programme within the United Nations. She was instrumental in the establishment of the Swaziland Network of People Living with HIV and AIDS. She worked for the United Nations for three years then moved on to work for the International Community of Women Living with HIV and AIDS (ICW). ICW is a global network of which Gcebile was a Regional Coordinator for Southern Africa. After having served the ICW for seven years she suffered a Cerebro-Vascular Accident (CVA) due to a fungal infection in the brain. Following the CVA in 2011, Gcebile suffered some paralysis of the right side of the body thus leading to inability to use that side of her body. Brain coordination and all senses are fully functional. Her main interest is in women's rights and women's health issues. This is due to her personal experience as a health worker and woman living with HIV and AIDS and has suffered some illnesses. It has helped her in being open about her status and having no fear in seeking appropriate help. It has also helped her realize the kind of services that are beneficial and need to be strengthened for women living with HIV and AIDS.

(MEMBER) Ricky Nathanson – Zimbabwe

Ricky Nathanson is a transgender woman and a member of the Southern African Regional Trans Forum, the Trans Women's Feminist Institute and All Africa Trans & Intersex Committee. Additionally, she is a Board Member of the Sexual Rights Centre in Bulawayo, Zimbabwe, and an avid human rights activist with a strong bias in all aspects of trans* related issues. She has

recently joined IRGT—an international group of women addressing HIV related issues. As a member of IRGT, she represents the group on VAW –Violence Against Women, whose main focus is working towards the development of a global treaty on violence against women and girls. She formed Trans* Education, Advocacy & Training [TREAT], which is an initiative that seeks to address the rights issues in the education, advocacy, and training about, and to, the basic violations of the human rights of the trans* diverse and gender nonconforming population of Zimbabwe in the areas of health, justice and the socioeconomy. She holds a qualification with the Institute of Chartered Secretaries of Zimbabwe; additionally, she is a qualified model, and as such is the founder and Executive Director of Ricochet Modelling Agency. She has a vibrant personality with exceptional people skills, enjoys interacting with all walks of life, and never shies away from whatever challenges are thrown in her way.

(Member) Miriam Banda – Zambia

Miriam Banda is a Zambian woman who has lived with HIV for the past 16 years. She was part of the first team of Adherence Support Workers under International HIV/AIDS Alliance ACER Project and has had a lot of experience in community mobilization and advocacy in relation to better access to treatment, care and support. She has served on the National Board of the Network of Zambian People living with HIV/AIDS (NZP+), rising from Vice Secretary to being elected National Chairperson of NZP+, Vice Chairperson of Network of African People living with HIV/AIDS Southern Africa Region, Vice President of the Network of African People living with HIV/AIDS and represented NAP+ on the Global Network of People living with HIV/AIDS. An ardent believer of women empowerment and emancipation, Miriam describes herself as an African Feminist as well as an anti-Stigma Champion and is the Interim District Coordinator of a new District Chapter of NZP+. She is currently a member of the Regional Board of Directors of the Southern Africa AIDS Trust and is in the process of writing a book about her life living with HIV as well as compiling her works of poetry.

Recommendations for a Global Treaty on Violence Against Girls and Women of All Ages

**by the Expert Special
Committee on Girls and
Women with Disabilities**

January 2017

1. Introduction of Treaty Content

1.1 Introduction

Violence Against Girls and Women of All Ages with visible and invisible disabilities has gone unrecognised within the general discourse of violence against girls and women and in the development of associated legislative, policy and service system frameworks at local, national, regional and international levels.

In addition to experiencing the same forms of violence as other girls and women, girls and women with disabilities also face additional and unique forms of violence, from a broader group of offenders and in a wider variety of settings than non-disabled girls and women.

Myths and stereotypes about girls and women with disabilities are used to justify and perpetrate violence against girls and women with disabilities and deny access to essential supports and services. This is the case in many justice systems where negative attitudes and assumptions about girls and women with disabilities results in extremely low levels of reporting and prosecution. They particularly condone harmful practices.

1.2 Legal Framework

Central to all efforts to ensure that girls and women of all ages with disabilities are included in the proposed treaty is:

an understanding that the *Convention on the Rights of Persons with Disabilities* (CRPD) adopts the social model of disability and rejects the medical model of disability. According to the social model, "disability" is the result of the interaction between people living with impairments and attitudinal and environmental barriers. Disability must therefore be understood as socially constructed and a human rights issue. The term "impairment" should not be used as a metaphor for lack, deficiency, or denial of access to the full range of human rights. "impairment" refers to the medical condition.

The CRPD recognises that girls and women with disabilities are at greater risk of experiencing violence (Preamble q) and includes specific mention of the need for States to put in place effective legislation and policies to address violence against girls and women with disabilities (art 16, 1).

General comment No. 3 (2016) on article 6, adopted on August 26, 2016, also describes violence against women and girls with disabilities as a priority that needs to be considered by the States Parties to ensure effective implementation of the Convention.

On 2 September 2016, the Committee on the Rights of Persons with Disabilities issued a General Comment on article 6 (Women and Girls with Disabilities) of the CRPD. The General Comment contributes to the advancement of all rights of girls and women with disabilities in general and for their right to freedom from exploitation, violence and abuse in particular.

The Committee identified violence as one of three main subjects of concern with respect to the protection of the human rights of women and girls with disabilities.

For the purpose of this proposed Global Treaty on Violence Against Girls and Women of all Ages, this Expert Special Committee on Girls and Women with Disabilities noted:

International and national laws and policies on disability have historically neglected aspects related to women and girls with disabilities. In turn, laws and policies addressing women have traditionally ignored disability. This invisibility has perpetuated the situation of multiple and intersecting forms of violence and discrimination against women and girls with disabilities.

Other international treaties are not as specific about the rights of girls and women with disabilities to freedom from violence and abuse:

- The *Convention on the Rights of the Child* ensures the rights of children with disabilities are included in the Convention by specifically listing disability in the list of prohibited grounds (art 23) but does not make a precise reference to violence against girls with disabilities.
- The *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP) mentions the "rights and special needs" of persons with disabilities in the list of groups that require particular attention in the implementation of the declaration (art 22, para 1). The declaration ensures that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination (art 22, para 2).
 - While indigenous girls and women with disabilities are not expressly identified in the Declaration in relation to guarantees against all forms of violence and discrimination, women, children and indigenous people with disabilities are specifically included in the Outcome Document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples of 2014.

While neither the Outcome Document nor the Declaration are legally binding instruments, they guide advocacy efforts related to the prevention and elimination of violence against indigenous girls and women with disabilities.

- The Council of Europe *Convention on Preventing and Combating Violence against Women*

and Domestic Violence (*Istanbul Convention*) also includes reference to women with disabilities.

- o The *Istanbul Convention* states that the implementation of the provisions of the Convention, and in particular, measures to protect the rights of victims, shall be secured without discrimination on any ground, including disability.
- The Inter-American Convention on the *Prevention, Punishment, and Eradication of Violence against Women (Convention of Belem Do Para)*
 - o invokes the importance of giving special consideration to disabled women subjected to violence (art 9).

The Convention does not sufficiently emphasize an intersectional approach or outline measures that should be adopted to ensure the safety of women who belong to groups at risk, including girls and women with disabilities.

- Specific mention of the rights of women with disabilities, and details about the steps that need to be taken to break the cycle of poverty and violence for girls and women with disabilities, are included in the *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol, art 23)*.
- Other treaties addressing women's rights do not include any substantial mention of women with disabilities in the treaty body text and/or action plans.

This includes:

- o the *Convention on the Elimination of All Forms of Discrimination Against Women*
- o the *Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities*.

Nearly every country has numerous legislative barriers that prevent girls and women with disabilities from enjoying their legal capacity on an equal basis with others. This continues today, despite the fact that these countries are signatories to the CRPD and have expressed a commitment to eliminate such barriers.

2. Summary of the Committee's Discussion of Treaty Content

A Global Treaty on Violence Against Girls and Women of All Ages must address the situation of violence against girls and women with disabilities, who represent 19.2% of the global women's population.

In many cases, violence is a day-to-day experience and consequently has become "normalised" in the lives of girls and women with disabilities. Many girls and women with disabilities do not

realise that what they are experiencing, or have experienced, is violence.

Some forms of violence unique to girls and women with disabilities include harmful practices such as:

- forced institutionalization; forced and coerced sterilization; forced and coerced abortion; forced removal of children on the basis of their mother having disabilities; forced contraception; forced and coerced psychiatric interventions; forced medication; withholding medication; withdrawal of essential technical aids; denial of provision of essential care; medical exploitation; chemical and physical restraint; violations of privacy; forced isolation; seclusion; deprivation of liberty; humiliation; and harassment.

Some of these forms of violence against girls and women with disabilities are sanctioned and sponsored by the State.

Violence perpetrated by the State also includes:

- discrimination and the general failure of many justice systems to respond to violence against girls and women with disabilities,
- the denial of their legal capacity,
- the over representation of women with cognitive and psychosocial disabilities in prison populations.

Perpetrators of violence against girls and women with disabilities include:

- partners and family members;
- formal (paid) and informal (unpaid) caregivers;
- health care providers;
- coworkers.

Disabled girls and women living in institutional settings, extreme isolation and in conflict situations also are at particular risk of experiencing violence.

- This isolation, even within family settings, includes lack of information in accessible formats about violence, reporting violence and where to get help, contribute to making girls and women with disabilities easy targets for perpetrators.

Myths and stereotypes about girls and women with disabilities are used to justify and perpetrate violence and deny access to essential supports and services.

- This includes within the justice systems where negative attitudes and

assumptions about girls and women with disabilities often result in extremely low levels of reporting and prosecution,

- This contributes and fosters the notion that harmful practices against girls and women with disabilities are condoned.

A comprehensive understanding of the full extent of violence against girls and women with disabilities is hampered by the lack of specific data on its prevalence and impact.

- For example, violence in the workplace is common for women with disabilities but rarely reported due to fear of job loss, as unemployment and underemployment rates are high for women with disabilities.
- In addition, many women and girls with intellectual and psychosocial disabilities are the target of human trafficking.

Clarity on the breadth and diversity of the experience of disability is needed; current understandings render many girls and women invisible and silenced.

It is important to become aware that persons with psychosocial disabilities can experience unique forms of violence in the framework of psychiatric methods.

- The World Network of Users and Survivors of Psychiatry identify these as:
"forced hospitalization or institutionalization, forced drugging, electroshock and psychosurgery, restraints, straitjackets, isolation, degrading practices such as forced nakedness or wearing of institutional clothing, are forms of violence and discrimination based on disability, and also cause physical and psychic injury resulting in secondary disability."

Girls and women of all ages with disabilities continue to be actively and/or passively excluded from the decisions made about them, having no voice or say in how they live their lives. Unless we have full knowledge of these realities to inform this proposed treaty there will continue to be gross injustices and violence in the lives of girls and women of all ages with disabilities.

3. Concluding Comments by the Committee on Treaty Content

"Unresolved, sensitive, potentially contentious issues"

- a. The Legal Capacity of girls and women of all ages with intellectual and/or psychosocial disabilities continues to be a complex concern in many legal jurisdictions and has proved a challenge for the full implementation of the CRPD and realisation of rights of girls and women with disabilities, notably the right to freedom from violence and abuse.

- While advances are being made in various jurisdictions, especially following the release of General Comment No. 1 (2014) article 12, "Equal Recognition Before the Law," the scale of changes required, including both attitudinal and environmental changes, is significant and calls for urgent and comprehensive attention.
- b. Girls and women of all ages with disabilities strive to live their lives fully in the community as included and valued citizens.
 - Major barriers to achieve this goal are the policies and practices that promote segregated and institutionalized services.

Policies and initiatives are needed to end these exclusionary settings, where girls and women with disabilities are at far greater risk of violence.
- c. The widespread assumption that a mother with a disability poses a risk to her children must be challenged.
 - Incorrect and limited interpretations of "the best interests of the child" (*Convention on the Rights of the Child*) must not automatically act against the rights and capacities of women with disabilities to keep guardianship of their children and the rights of children to remain with their mother, with and without disabilities.
- d. Effective engagement, consultation, and dialogue with girls and women of all ages with disabilities needs to be mainstreamed, along with sufficient resources for reasonable accommodations allocated at every stage of consultation and decision-making processes.
- e. Article 19 of CRPD has not been accomplished due to the social structures and policies that provide an option to force institutionalization of girls and women with disabilities.
 - This coercion becomes a form of violence.

4. Recommendations by the Committee on Treaty Content

4.1 The general definition of Violence Against Girls and Women of All Ages must include the experience of girls and women with disabilities and emphasize:

- All forms of discrimination, abuse and exploitation, be it physical, sexual,

psychological, emotional, financial, systemic, and harmful practices on the basis of the perceived and/or imposed inability of girls and women with disabilities to make decisions, express consent and act as witnesses.

- That vulnerability is not a characteristic of girls and women with disabilities; it is the social arrangements around body functions that prevent girls and women with disabilities from escaping violent situations, or report and be welcomed in centres to support survivors of violence. Girls and women with disabilities must not be referred to as "Vulnerable."
- That girls and women with disabilities experience forms of violence that non-disabled women do not experience, due to systemic and unquestioned forms of discrimination.
- Language, such as "special needs" or "suffering from a disability," is to be avoided. The Treaty should refer to this group simply as "girls and women of all ages with disabilities" according to existing international law.

4.2 The prevention of violence against girls and women of all ages with disabilities must be addressed from a twin-track approach in the proposed treaty to include:

- All relevant intersections to be identified,
- Guidance for specific actions provided,
- Language inclusive of violence against girls and women with disabilities being influenced by the types of disabilities and additional factors not limited to ethnicity, migratory status (including refugees), skin colour, gender identity,
- The specific context where they are inscribed, including poverty, street populations, war, post-disaster violence and other sociocultural circumstances and arrangements that legitimize exclusion of girls and women with disabilities.

4.3 States Parties must mainstream universal access to every measure to prevent and end violence against girls and women with disabilities to effectively address:

- universal access to decision-making processes for girls and women with disabilities
- facilities to support survivors who are girls and women with disabilities
- consistent allocation of adequate financial resources to prevent and end violence against girls and women with disabilities,
- the provision of information on violence against girls and women with disabilities,
- the needs of all girls and women with disabilities, including illiterate women, and

all other types of isolated and socially marginalized girls and women.

4.4 States Parties must consider independent living as a key point to prevent and eliminate all forms of violence and abuse against girls and women with disabilities.

4.5 States Parties must implement legislation, in line with article 19 of the UN CRPD, to ensure that disabled girls and women have:

- informed consent,
- the freedom to choose where and with whom to live,
- access to supported decision-making, as and when needed.

4.6 States Parties must remove legislative barriers that prevent girls and women with disabilities from:

- exercising their legal capacity to address violence,
- ensuring effective access to justice to address violence,
- having the support they need to make decisions, to address violence, in accordance with the UN CRPD.

4.7 States Parties must recognise that additional measures are required for girls and women with disabilities:

- living in public and private, institutional and segregated settings (including residential, aged-care and psychiatric facilities, boarding houses, prisons, refugee camps, disaster shelters, and detention centres) who are at particular risk of experiencing violence.
- effective prevention and mandatory monitoring and reporting systems must be implemented, to include the high percentage of incarcerated disabled women.

4.8 States Parties must support the exchange of experiences and information on good practices for the successful inclusion of girls and women with disabilities in international and in-country strategies and policies, so that prevention and elimination of all forms of violence against women is encouraged.

4.9 States Parties must provide research and disseminate good practices on access to justice for girls and women with disabilities.

4.10 States Parties must collect data about girls and women with disabilities experiencing, and at risk of experiencing, violence.

- Data must also be collected about all the services they use and attempt to use in

- reporting violence and when seeking help,
- States Parties are urged to encourage and be supportive of nonconventional methods of measurement and data collection.

4.11 States Parties must address myths and stereotypes of girls and women with disabilities and must act to eliminate the cultural barriers described above through actual inclusion in decision-making processes related to the adoption of policies to prevent and eliminate violence against girls and women of all ages.

4.12 States Parties must implement and adopt domestic laws in accordance with this proposed treaty to produce a measurable reduction in rates of violence against girls and women of all ages with disabilities.

Committee Member BIOS:

(CHAIR) Yolanda Munoz Gonzalez – Canada

Yolanda Muñoz is a wheelchair user and has been active in the disability movement since 1997. Her lived experience as a woman with a disability, together with her academic interests in Gender Studies, led her to participate in the Mexican movement to promote a human rights approach to disability. Among her contributions, she coordinated a national overview of the situation of women with disabilities in Mexico (2001–2003) for the National Institute for Women. She is currently based in Montreal and from January 2012 through December 2015 was Program Officer at the Disability Rights where she was responsible for grants oversight and technical support to DPOs in Haiti, Peru, Nicaragua, Mexico, and Lebanon. She also lectures on Gender and Disability at McGill University since 2006. Yolanda also worked at grassroots level in Montreal, to empower women with disabilities and to promote equal opportunities in education for postsecondary students with disabilities in Quebec. Yolanda is originally from Mexico and has an academic background in Japanese Studies from El Colegio de México, specializing in Gender and the Ainu People of Northern Japan.

(Memo Drafter) Truffy Maginnis – Australia

Truffy Maginnis is an Irish woman who has lived in South Australia for the last 35 years. She is a sister to three brothers, two of whom are deaf and one has had profound disabilities from birth. This family experience, and many years working alongside people who live with disability and the folk who love them, has filled her heart with joy and a deep understanding of why we must do better by and with them. The joy is tempered by the knowledge of the daily violence and humiliations experienced by people who live with a disability, in particular the disproportionate abuse of women with disability. Her awakening to feminist thinking in the 1970s has informed,

educated, challenged and inspired her to work towards a safer world for women. She is moved by the generosity and patience of women who live with a disability, in sharing their stories and bringing her along to more understanding. She currently works for the South Australian Health and Community Services Complaints Commissioner's Office as the Less Silence, More Safety Project Officer.

(MEMBER) Margie Charlesworth – Australia

Margie Charlesworth has taken on working for herself as an independent educator on the subject of violence against women with disabilities. Margie has worked as a systemic advocate in the interests of women with disabilities since 2001 and is passionate about the many issues that women with disabilities face in relation to all forms of violence and sexual abuse and rape. Margie has been advocating with mainstream women services in the effort to have equal access to services and support for women with disabilities who are experiencing violence. In 2012 Margie joined the Australian Women Against Violence Alliance (AWAVA) where in 2014 she was afforded the opportunity to participate in CSW59 in New York. It was during this time that she became interested in building her knowledge of the issue of violence at the International level. Margie strongly believes that there needs to be a strong and lasting binding agreement to eliminate all forms of violence against all women and girls around the world.

(MEMBER) Savina Nongebatu – Solomon Islands

In 2003, Savina Nongebatu travelled overseas for the first time as a woman with disability. It was the first experience where she learned about disability rights. In 2004, she was elected as the first female President of the Disabled People's Organization (DPO). As it was the "rebuilding phase" after the conflict, the DPO began its long process of rebuilding its status as an advocacy organization. She was re-elected in 2008, the same year Disabled People's Association of Solomon Islands (DPASI) changed to People with Disabilities Solomon Islands (PWDSI). In 2009, she was elected as Pacific Disability Forum Co-chair, a post she held until 2012. Since 2011, she was employed as the Office Manager for PWDSI. In 2012, she was awarded the US Women of Courage Award for her advocacy work in her country. She is currently involved with the Pacific Women Shaping Pacific Development Program.

(MEMBER) Stephanie Ortoleva – USA

Stephanie Ortoleva is a highly recognized international human rights lawyer, policy and development consultant, author, and researcher on issues of women's rights, disability rights and the rights of women and girls with disabilities. She is the Founder and President of Women Enabled International (WEI), which educates and advocates for the human rights of all women

and girls, with a special focus on women and girls with disabilities, in collaboration with Women's rights and women with disabilities' rights organizations worldwide. Her work with [WEI](#) focuses on human rights programming and training in developing, transition, and post-conflict countries, as well as consulting for governments, nongovernmental organizations and international organizations. [WEI](#) also engages with international human rights mechanisms to ensure the inclusion of women and girls with disabilities in international jurisprudence, policies and development programs. As a woman with a disability herself she brings the development, academic, and legal perspectives to her work as well as her personal experience as a woman with a disability. Stephanie has numerous scholarly publications and policy papers regarding women's rights, disability rights, sexual and reproductive rights, access to justice, violence against women, conflict and post-conflict situations, electoral and political reform, and rule of law. Stephanie has received numerous awards including being named a [Women's ENews 21 Leaders 2016](#).

(MEMBER) Cristina Ricci – Australia

Cristina Ricci has over 30 years experience promoting and protecting the rights of people with disability and has worked in nongovernment, government, and academic settings, across a range of portfolios including disability, mental health, health and education. She has previously worked for the Australian Human Rights Commission, The Mental Health Council of Australia, NSW Multicultural Disability Advocacy Association, University of Technology Sydney, the University of Sydney, among other organisations. She has coauthored major national reports which have resulted in significant systemic change for people with disability across Australia and delivered disability rights training internationally to Disabled People's Organisations, governments, and national human rights institutions delivering positive outcomes for people with disability, communities, and government. Cristina is now employed by WWDA as Director, Strategic Policy and Programs in a part-time role and working on the 12-month funded WWDA project Strengthening the voice of WWDA and Women with Disability.

Supporting Documents:

- I. Legal Framework Research
- II. Advocacy for Inclusion
- III. Carr Center Research Memo Review
- IV. Notes from Liaison to Disabilities Committee
- V. Notes on Definition (Carolyn)

I. Legal Framework Research

Legal Framework Research – Mentions of Women and Girls with Disabilities in International and Regional Documents			
Name of document	Istanbul Convention	Belém do Pará Convention	Maputo Protocol
term	Two mentions on VAWWD: 1) According to the CRPD and 2) nondiscrimination	violence against WWD (Article 9)—Brief mention, amongst other vulnerable (sic) groups.	One specific Article (23)
reference to human rights or women's rights	a violation of human rights and a form of discrimination against women		A) ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic, and social needs to facilitate their access to employment, professional, and vocational training as well as their participation in decision-making; b) ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination-based on disability and the right to be treated with dignity.
forms of violence	all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological, or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty	include physical, sexual and psychological violence <ol style="list-style-type: none"> a. including, among others, rape, battery, and sexual abuse; b. including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping, and sexual harassment in 	all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts

		the workplace	
sphere/perpetrator	in public or in private life	<ul style="list-style-type: none"> a. that occurs within the family or domestic unit or within any other interpersonal relationship whether or not the perpetrator shares or has shared the same residence with the woman b. that occurs in the community and is perpetrated by any person as well as in educational institutions, health facilities or any other place c. that is perpetrated or condoned by the state or its agents regardless of where it occurs 	in private or public life in peace time and during situations of armed conflicts or of war

Name of document	Convention on the Rights of Persons with Disabilities	Inter-American Convention for the Elimination of All Forms of Discrimination Against PWD	CEDAW
term	Article 16—Elimination of violence, exploitation and abuse	No mention on violence at all. No mention of women and girls with disabilities.	No mention to WWD
reference to human rights or women's rights	Special emphasis on women and girls with disabilities, although the article is also addressed to every person with a disability at risk		
forms of violence	Forced sterilisation, forced institutionalisation, neglect		
sphere/perpetrator	in public or in private life		

Name of document	Incheon Strategy (ASEAN Region)	CRPD Committee General Comment on WWD (Draft)	Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (A/RES/69/2–22 September 2014)
term	Goal 6—Elimination of all forms of violence, exploitation and abuse against women and girls with disabilities	Violence against women and girls with disabilities	Violence against indigenous peoples
reference to human rights or women's rights	Specific programmes should be developed to ensure the elimination of all forms of VAW&GWD, including independent living, support for survivors. Special emphasis on domestic violence. Inclusion of disability as a result of armed conflict and landmines.	Right to make decisions on where and with whom they want to live, right to live in the community, right to control their finances.	Paragraph 18: We commit ourselves to intensifying our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks.
forms of violence	Violence, exploitation, and abuse	"violence accomplished by physical force, legal compulsion, economic coercion, intimidation, psychological manipulation, deception, and misinformation, and in which absence of free and informed consent is a key analytical component". Women with disabilities face a confluence of violence which reflects both gender and sex-based and disability-based violence. It may be interpersonal violence or institutional and structural violence. Interpersonal violence includes such forms of abuse as economic, psychological, sexual, emotional, physical, and verbal threats and actions. Institutional and structural violence is any form of structural inequality or institutional discrimination that maintains a woman in a subordinate position, whether physical or ideological, to other people within her family, household or community. In terms of physical and psychological violence,	Not specified

		<p>women and girls with disabilities are victims of exploitation, violence and abuse (CRPD article 16), but are also subject to forms which are aggravated, amounting to cruel, inhuman or degrading treatment (CRPD article 15). According to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, certain forms of violence and abuse may be tantamount to cruel, inhuman or degrading treatment. Among these are cases of forced sterilisation or sterilisation without the direct consent of the woman involved, involuntary abortion, forced institutionalisation, and invasive and irreversible surgical practises without consent. Sexual violence against women and girls with disabilities includes rape and sexual abuse in all scenarios within both state and nonstate institutions, within family or the community. Institutionalized women and girls with disabilities are at a higher risk of violence than men or boys with disabilities. Women with disabilities may experience violence for longer periods of time due to inadequate pathways to safety. Violence may be based on gender or disability or both.</p> <p>DRAFT also mentions no control on sexual and reproductive rights and restrictions on the guardianship of their children. <i>(verbatim)</i></p>	
sphere/perpetrator	in public or in private life	In public and private life. Systems and legislation that legitimize violence.	

1. Report of the Office of the United Nations High Commissioner for Human Rights (2012) (A/HRC/20/5). Thematic study on the issue of violence against women and girls and disability. Paragraph 4. +
2. Report of the Special Rapporteur on violence against women, Paragraph 24, 25 and 26. 2011. A/HRC/17/26.
3. See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. 2013. A /HRC/22/53

II. Advocacy for Inclusion

Proposal for inclusion of Women and Girls with Disabilities as a Cross-Cutting Issue in the work of Everywoman Everywhere

Outcome: This proposal was shared with all the Expert Special Committees and resulted in several members of various committees stepping up to liaison with the Committee on Disabilities and other Committees. This also resulted in creating greater awareness to mainstream the needs of women and girls with disabilities.

The Expert Group on Violence Against Women and Girls with Disabilities encourages all the Sub-Committees working towards the content of the Convention on Violence Against Women to include a section about women and girls with disabilities in their final memos about the subjects that need to be taken into consideration in the final draft of the Convention.

We are aware that not all expert working groups have the needs of women and girls in mind when they are writing their memos. Thus, the Expert Group for Women and Girls with Disabilities wish to collaborate with your group to ensure that Disability will be included in your efforts towards the elimination of VAW. The Expert Group is proposing a twin-track approach, where there would be a specific article on women and girls with disabilities and other mentions throughout the document, where emphasis is needed in groups at high risk.

We ask this respectfully because we know that disability is a little explored subject in intersectional approaches, and therefore we extend this offer of collaboration to all Expert Working groups if they wish to establish a unified reference point surrounding disability rights.

Inclusion of women and girls with disabilities in international instruments that address violence against women is increasingly present, and is coherent with the content of the Convention on the Rights of Persons with Disabilities (Article 16), the Istanbul Convention, the Belém do Pará Convention, the Maputo Protocol, and the Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (A/RES/69/2–22 September 2014).

We look forward to hearing from you and we hope that you will find this proposal is pertinent with the goals of every Sub-Committee

In solidarity,

Margie Charlesworth* and Yolanda Muñoz
Cochairs
Sub-Committee on Women and Girls with Disabilities
Everywoman Everywhere

*Margie Charlesworth later stepped down as chair due to other demands on her schedule

III. Carr Center Research Memo Review

Search on **Global Universities Research Memos**
from the Carr Centre on violence against women and girls with disability.

<http://carrcenter.hks.harvard.edu/programs/violence-against-women-initiative/vaw-research-collaborations>

I used: disab*, handicapped, wheelchair, mental, deaf, blind, paraplegia, and quadriplegia, developmentally delayed, special needs, differently abled, reasonable accommodation as my search words.

1. AFRICA

LEGISLATIVE FRAMEWORK ON VIOLENCE AGAINST WOMEN A CRITICAL ANALYSIS OF THE GAMBIA, KENYA AND SOUTH AFRICA

**BY THE CENTRE FOR HUMAN RIGHTS FACULTY OF LAW UNIVERSITY OF PRETORIA
FOR THE INITIATIVE ON VIOLENCE AGAINST WOMEN CARR CENTER
HARVARD KENNEDY SCHOOL**

MAY 2015

Legislative Framework on Violence against Women. A critical analysis of the Gambia, Kenya and South Africa:

(page 11) SOA (Sexual Offences ACT) , in chapter 2 and 3, includes a wide range of sexual offences and they are defined to ensure that rape victims, both male and , are protected including the increased vulnerability of children and persons with mental disabilities

The SOA requires that police stations provide services to deaf, mentally disabled and lesbian, gay, bisexual, transgender and intersex (LGBTI) rape victims. In all six provinces the police recognised that the above mentioned groups are vulnerable. Despite that recognition of the police obligation to make special provision for access to service for vulnerable groups, most of the police stations did not have access to interpreters for deaf person's victims of sexual violence as well as links with outside organisations that could assist. However half of the police stations monitored had made provision for survivors with a mental disability. Lack of these

specialised services increases exclusion and isolation of persons with mental disabilities (page 15).

2. LATIN AMERICA AND CARIBBEAN

Nothing

3. MIDDLE EAST AND NORTH AFRICA

Nothing

4. ASIA

Why Bangladeshi Women would Benefit from a VAW Convention. A Study by: Irin Zaman, Nafia Ferdousi, Antara Tasmeen. School of Law, BRAC University 66, Mohakhali, Dhaka-1212 BANGLADESH

(page 7) The demanding of dowry is probably one of the root causes of domestic violence in Bangladesh, especially in rural areas. There are several reasons why this illegal demand is still a fixture in marriage negotiations; some of these came out during the project period, and some have been noted by Odhikar in its several years of documentation of dowry violence:

1. Initially the family of the prospective bride (father, mainly) agrees to pay dowry, as they had no choice and wanted to see their daughter married. The daughter may be over 16 years of age, may have a "dark" complexion, or may have some slight physical disability, which, to a bargain hunting groom, may help to increase the dowry demands.
2. Where dowry was demanded to enable the son-in-law to work abroad, the victim's family thought that she would be able to live well once her husband was working abroad. In some cases, the husband never did go abroad.
3. Dowry is such a common practice, that it is very rarely protested/ denied. The pressure to get a daughter married is high.

5. NORTH AMERICA

Legal and Implementation Gaps in the Protection of Women from Violence in the United States
By Rachel Goldstein

Data on violence against women in the US:

(page 2) In addition, women with disabilities are 40% more likely to experience intimate partner violence, especially severe violence, than women without disabilities.

**Learning from Women:
Effective & Strategic Survivor Engagement**

By Miranda R. Berry and Helah L. Robinson

**Candidates for Masters in Public Policy, May 2015 John F. Kennedy School of Government
Harvard University**

Prepared for the Everywoman Everywhere Coalition Faculty Advisor: Dr. Charlie Clements

March 31, 2015

(pages 23–24) Selected Consultation Methodology: Focus Group Discussions

As a result of this analysis, we selected focus group discussions for the consultation methodology. Focus groups will be conducted in different settings around the world using the methodology developed here to capture a global snapshot of barriers to accessing justice in VAW cases and changes survivors would like to see in the legal system.

Experts agree that four focus groups within a target group or community are needed before the information received becomes redundant. Given the Coalition's resource constraints and the Implementing Partner's time constraints, we recommend three to four consultations per country or target demographic. Groups should contain six to twelve participants. Participants in a single focus group should be relatively homogeneous, but each focus group should cover a different community of survivors (See Participant Selection Criteria in Section 3.4). For example, participants of each FGD may:

- Have experiences with different types of violence
- Be from urban vs. rural areas
- Represent a wide range of ages
- Be from different cities or regions
- Be able-bodied vs. disabled
- Be from an indigenous groups (i.e. scheduled castes or Native American women in the US)

6. EUROPE

Denial/obstruction of access to legal abortion as a form of violence against women. Focus on Poland

By Katarzyna Sękowska-Kozłowska

3. Jurisprudence of the UN treaty bodies

(page 8) The gender dimension of denial of access to legal abortion was however recognized by HRC in case of *L.M.R. v. Argentina* (2011). The communication was brought on behalf of a young woman with serious mental disability who had been raped by her uncle and became pregnant. Even though the law permitted abortion under such circumstances, the alleged victim was not granted the permission to terminate the pregnancy by the first instance court and the court of appeal. Despite finally winning the case before the Supreme Court, she was refused the operation by numerous hospitals and health centers. In consequence, she underwent illegal abortion.

In this case, likewise in the case of *K. L. N. H. v. Peru*, HRC found the cases to be a violation of Article 17 and Article 7 of ICCPR. It concluded: "the State party's omission, in failing to guarantee L.M.R.'s right to a termination of pregnancy, as provided under article 86.2 of the Criminal Code, when her family so requested, caused L.M.R. physical and mental suffering constituting a violation of Article 7 of the Covenant that was made especially serious by the victim's status as a young girl with a disability". Moreover, it went into merits with the applicant's allegation of violation of Article 3 of the ICCPR which grants equal right to enjoy all the rights set forth in the ICCPR to women and men. In HRC view, the lack of effective remedies that would enable the victim to exercise her right to legal abortion constituted „a violation of Article 2 paragraph 3 in relation to Articles 3, 7 and 17 of the Covenant." It can be read that: "the victim was deprived her right to effective remedy what violated her right to gender equality, her right to privacy and her right to freedom from inhuman and degrading treatment". Thus, HRC found iunctim between elements constituting the denial/obstruction of access to legal abortion as a form of VAW i.e. violation of reproductive autonomy, inhuman and degrading treatment, and gender discrimination.

Final Remarks

Page 17

In countries with restrictive abortion laws, there is always a tragic story behind each decision of legal termination of pregnancy. These are stories of women who were raped, whose life or health was in danger or who were confronted with delivery and upbringing of a child with serious disabilities. As confirmed by international jurisprudence, these women are in a particularly vulnerable position. Recognizing the denial/obstruction of legal abortion as a form of gender-based violence would support protection of the vulnerable against state's interference with their rights. The process of reconsidering the international legal framework on violence against women is the right momentum to take up the issue.

7. OCEANIA

Harvard Violence Against Women Research Report

Victoria University of Wellington, New Zealand

Contributors: Mollie Matich, Jasmine Harding, Caitlin Coughtrey, Grace Kahukore-Fitzgibbon and Emma Talbot

Wellington Community Justice Project

Supervisor: Dr Petra Butler

1 June 2015

B. Social Issues

i. Maori and Pasifika women

(page 6)

Data shows that Māori have a higher prevalence compared with other ethnicities of having one or more risk factors for FV in their families, including: having low economic standards of living, living in a high deprivation area, having poor mental and/or physical health, being a victim of crime in the last year, and living in overcrowded housing (Statistics New Zealand, 2012).

D. Issues for New Zealand

(pages 9–10) There has been a lack of evaluation of culturally appropriate approaches to addressing domestic violence (CEDAW concluding observations, July 2012). Three groups of women have been identified as "high needs" communities in New Zealand: Māori women, migrant women, and women with disabilities (CEDAW New Zealand Report, 2010)

Not just the bare essentials: vulnerable victims and violence against women in New Zealand sentencing law

Frances Gourley, June 2015

Introduction

(page 3) This article focuses on violence against women, but an anti-essentialist argument could be applied to many different groups, such as gay people, disabled people, or people of a particular ethnic group. Indeed, as described below, the courts have discussed the ability to defend oneself in relation to vulnerable victims other than women. Essentialism towards any

group is damaging and reductive.

The term "victim" is controversial because of the way in which it portrays women as disempowered and lacking any agency, a point that is addressed in more detail in Part IV. Despite this, in this article "victim" is still adopted when discussing the law in order to avoid confusion in terminology, as it is the term used in both the legislation and case law. Elsewhere, the phrase "women who are abused" or similar is used.

Part I: the law

(pages 4–6) Sentencing Act 2009

Some factors relate to the victim, which are factors to be taken into account at stage one of the sentencing process. The relevant parts of s 9 that address victims are:

S 9 Aggravating and mitigating factors

(1) In sentencing or otherwise dealing with an offender the court must take into account the following aggravating factors to the extent that they are applicable in the case:

f) that the offender was abusing a position of trust or authority in relation to the victim:

(fa) that the victim was a constable, or a prison officer, acting in the course of his or her duty:

(fb) that the victim was an emergency health or fire services provider acting in the course of his or her duty at the scene of an emergency:

(g) that the victim was particularly vulnerable because of his or her age or health or because of any other factor known to the offender:

(h) that the offender committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability; and

(i) the hostility is because of the common characteristic; and (ii) the offender believed that the victim has that characteristic:

The above nine factors reflect an intention on the part of Parliament to recognise the status of particular victims that can go to offender culpability. Since they are labelled as "aggravating factors" by the section, the inference is an intention that a sentence be exacerbated due to particular characteristics of the victim. Typical cases in which the courts apply the vulnerable victim provision in s 9(1)(g) are related to young children, elderly people, or people with physical or mental disabilities. For example, in *R v Finau*, the offender was being sentenced for sexually violating a 73-year-old woman in her home at night. The court stated, "as an elderly female living alone, the victim was particularly vulnerable." The courts are equally as clear about offending

against people with disabilities: in *R v Britz*, where a man sexually offended against a woman who had disabilities, the Court held it was not mitigating that the man also had such disabilities. Rather, the victim's disabilities were an aggravating factor .

Section 104 of the Sentencing Act imposes a 17-year minimum nonparole period for murder in certain circumstances. The section states that where a murder victim was particularly vulnerable because of his or her age, health, or because of any other factor, the 17-year presumption applies. This has generally been applied in a similar way to the 9 factor, often to disabled or particularly old or young victims. In *R v Little*, the victim was a seven-month-old baby. The Court stated "if 104(g) does not apply to a seven month old baby, it is difficult to imagine when it would apply." This section, unlike 9, does not require that the offender know of the victim's vulnerability.

Culpability factors in guideline judgments relating to vulnerability and violence against women (page 8): In *Taueki*, a victim's vulnerability was also defined as a culpability factor:

Where the victim is particularly vulnerable (for example a child or where there is a disparity in size or strength between the attacker and the victim), that will also be a significant factor in the assessment of culpability. Section 9(1)(g) of the Sentencing Act applies similar consideration that arise with victims who are disabled in some way or otherwise defenseless.

IV. Notes from Liaison to Disabilities Committee

Greetings to Martha, Martha Jean, Talent and Vidya and others from the Inclusion Sub Committee

It's Truffy Maginnis from the Women and Girls with Disability (W&GWD) Sub Committee here.

I have a particular interest in issues of Inclusion, too often W&GWD are invisible in the conversations about violence, as are the women you represent, LBT women, sex-workers, HIV+ women. I identify as a lesbian and am active in queer and feminist activism here in South Australia as well as standing against violence and rights denial of people with disability. If I think about the ableism of my queer community it abounds just as much as in the mainstream community.

Listening to your conversation together I was particularly struck by how closely it reflected the conversations the W&GWD group are having. In particular the aspects of State sanctioned violence against women, forced sterilisation of Positive women and sex workers, violence related to the criminalisation of identities/sexualities; forced abortions. These are all issues for W&GWD too.

Your conversation about what makes a group more susceptible to violence has had me thinking again about this. Again the commonalities stand out to me.

As well as those issues of marginalisation and social exclusion, there is a long history of being effectively hidden from the mainstream—LBT women because of the risks associated with being "out," W&GWD being incarcerated in institutions behind walls, or within families, not to be seen, sex workers and HIV+ women held as shameful and put out of sight or only in particular areas; not being seen as fully human; abnormal; dangerous; evil and of no value; described only in stereotypes.

Besides, of course, ubiquitous sexism and misogyny. I think these ideas are some of the reasons that institutions of power and their adherents see no difficulty in eradicating us. It also, as Vidya points out, highlights the challenge in finding a way to talk powerfully about the issues in our memos without giving excuses to ignore the importance of the information/reality.

I do training around issues of gender identity and sexual orientation in a western context here in South Australia and am only too aware that when I talk about sexuality in particular, the image folk have in their head is that of a gay man not a lesbian or bisexual woman. I think, too, the contemporary Gay Rights Movement's stories are dominated by male experiences. More hiddenness. Trans women constantly bombarded by different stereotypes the most lacerating being the denial of gender identity. So for W&GWD who identify as LGBT, the overlapping experiences of exclusion and exposure to violence and rights denial has extra layers.

I am, of course, saying nothing you don't already know but I see an opportunity to support each other's work in terms of the commonalities I'm noticing and a mutual recognition of them. Would you be interested in sharing some ideas?

V. Notes on Definition (Carolyn)

Notes on the definition of violence

(Excerpts from: Preventing Violence against Women and Girls with Disabilities: Integrating A Human Rights Perspective by Carolyn Frohmader (Women With Disabilities Australia), Associate Professor Leanne Dowse (University of New South Wales) and Dr Aminath Didi (University of New South Wales September 2015)

Definitions of violence frequently exclude the violence that women with disabilities experience in the many settings they live in, occupy and experience. Some definitions are more inclusive than others. However, despite the many and varied definitions within the various laws and policy frameworks of what constitutes violence most do not contain definitions which do justice to,

nor encompass, the range of settings in which women with disabilities live, occupy or experience, such as institutions or service settings. Nor do they contain definitions which capture the range of relationships and various dimensions and experiences of violence as experienced by women with disabilities, which may include the relationships they have with support workers, co-residents with disabilities and so on (Frohmaster, 2011; Frohmaster & Swift, 2012).

Violence against women and girls with disabilities includes physical, sexual, psychological and economic violence and abuse as well as institutional violence, chemical restraint, forced or coerced sterilisation, forced contraception, forced or coerced psychiatric interventions, forced abortion, medical exploitation, withholding of or forced medication, violations of privacy, forced isolation, seclusion, and restraint, deprivation of liberty, denial of provision of essential care, humiliation, and harassment (Women With Disabilities Australia, 2004, 2010a; Chenoweth, 1997; Dowse et al., 2013; Méndez, 2013, Healey, 2014, Frawley et al., 2015; Committee Against Torture, 2014).

Women and girls with disabilities also face unnecessary institutionalisation, denial of control over their bodies, lack of financial control, denial of social contact, employment, and community participation, and denial of the right to decision-making (International Network of Women with Disabilities, 2011; Women With Disabilities Australia, 2010a; Méndez, 2013; Woodlock et al., 2014).

Although women with disabilities experience many of the same forms of violence that all women experience, including domestic and family violence and sexual assault, when gender and disability intersect, violence has unique causes, takes on unique forms and results in unique consequences (Manjoo, 2012; Dowse et al., 2013; Frohmaster, 2014; Healey, 2014, Woodlock et al., 2014). Women with disabilities also experience forms of violence that are particular to their situation of social disadvantage, cultural devaluation and increased dependency on others (Swift, 2013; Healey, 2014; Woodlock et al., 2014).

For example, women with disabilities are more likely to be subjected to forced interventions which infringe their reproductive rights (such as forced sterilisation) than women without disabilities and men with disabilities. Women with disabilities in institutional settings are more likely to be subject to guardianship proceedings for the formal removal of their legal capacity. This facilitates and may even authorise forced interventions and other forms of violence. Aboriginal women with disabilities are more likely to be subject to indefinite detention than non-Aboriginal women with disabilities and women without disabilities. These human rights violations are perpetrated on account of the interaction and intersection of various layers of

identity, social position, and experiences. The resulting myriad of violations of rights in these examples include the right to non-discrimination, freedom from torture and ill-treatment, protection of personal integrity, right to legal capacity, protection from violence, abuse, and exploitation, right to family, right to health, right to live independently and be included in the community, and access to justice (Committee on the Rights of Persons with Disabilities, 2015; Committee Against Torture, 2014; Frohmader & Sands, 2015).

Violence against women with disabilities:

- can often constitute torture or ill-treatment—particularly when it occurs in institutional or residential settings, including for example, through practices such as forced or coerced sterilization, forced contraception, forced or coerced psychiatric interventions and other forced treatments, indefinite detention, sexual violence, and restraint.
- includes all acts of violence that result in, or are likely to result in, physical, sexual, psychological, or economic harm or suffering to women with disabilities, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life;
- includes all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit/setting or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim; and/or irrespective of the nature of the relationship between victim and perpetrator;
- is inclusive of those acts of violence which are more unique to women with disabilities—and that often occur in the context of, or as a result of, the settings which they live in, occupy and/or experience, and/or the relationships they experience within these settings, including violations of privacy, denial of control over bodily integrity, forced isolation and denial of social contact, denial of the right to decision-making, and denial of provision of essential care.