

HUMAN RIGHTS *advocacy*



UN *reform*



War's impact on women: Is the law adequate?

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THE effect of war on women is mostly ignored. Women are innately vulnerable during war. War forces them into unfamiliar roles.

It is not the war itself but its impact on women continues for generations. The real experience of war is not the shelling and bombardments. War for women is what happens afterward, the years of suffering hopelessly with a disabled member of families.

If husbands, brothers and children are injured or crippled, they have to be looked after years together by women. In addition, if men cannot work, it is devastating for women to run households. They have no money or are struggling when all property belonging to families are destroyed. Women either become beggars or menials or domestic helpers or take other humiliating jobs to earn money to keep the body and soul together.

Professor Hilary Charlesworth of Australian National University believes that there is considerable empirical evidence that women are affected by war or armed conflicts in ways that men are not. Globally women constitute only 2% per cent of regular army personnel (14% per cent of US forces are women) but as civilians they suffer disproportionately from armed conflicts.

TV footage of distressed Palestinian women, helpless women in Kosovo, distraught women in Darfur in Sudan and Congo during armed conflict are

too familiar with us.

The use of women as suicide bombers underscores the devastating extent to which they have been exploited.

Existing international laws All provisions of humanitarian law apply to both men and women. The provisions relating to women relate to violence against women in times of war, the needs of pregnant women and mothers, privacy, dignity and family unity, to name but a few.

International humanitarian law which many people mistakenly believe relates to only the delivery of humanitarian assistance. International humanitarian law is the body of law that protects those who are not or are no longer taking an active in armed conflict, and it also regulates the means and methods of warfare.

The most important law on armed conflicts are the four 1949 Geneva Conventions on Armed Conflicts. They seek to set the standards for states in respect of protection of sick, wounded, treatment of prisoners, and civilian persons during the war or armed conflicts. An additional Protocol was added in 1977 to the 1949 Geneva Conventions so that it may be applicable in civil war situations. The International Committee for Red Cross (ICRC) oversees and monitors the states' activities with regard to the implementation of the Conventions. The monitoring committee consists of all Swiss citizens.

ICRC has submitted some critical secret reports on the treatment of

prisoners of Guantanamo Bay by the US. The US initially took the position that since the prisoners are "enemy combatants", they are not within the reach of the Geneva Conventions. Later the US conceded that the Conventions apply.

Are current international laws for women adequate?

It was against the backdrop of violence against women during war or armed conflicts that the Geneva-based International Committee of the Red Cross (ICRC) launched a four year study of the needs of women affected by war, that could be used as a yardstick to measure the adequacy of international law in protecting the dignity of women.

Published in 2001, the Women Facing War study came to a number of conclusions which were incorporated into a Guidance Document listing best practices for the treatment and protection of women during times of conflict.

The study found existing refugee law, humanitarian law and the law of human rights do not adequately afford protection to women in situations of armed conflict. States need to treat the legal protection of women in wartime as an obligation.

It sounds trite to say that babies don't wait for a ceasefire to be born, but the reality is that conflict at once increases the need for health care, including reproductive health care and reduces access to it. It is now acknowledged that the worst case scenario has been pregnant women or babies die



from scarcity of food, water and insecurity occasioned by armed conflict.

It is acknowledged that "women" is not a women's issue only but violence against women is pre-dominantly a men's issue. Is it being acknowledged as such?

For centuries international law has been shaped and enforced by men. According to some women this has perpetuated the underlying gender bias of the law against women. It is the absence of contribution of women legal experts in the development of international law has produced an inadequate law for women.

Conclusion

Given the position, it is imperative that women's contribution to the development of international law is taken into account and the UN International Law Commission must realize that the body should have more women members in the Commission to have women's perspective in future body of international laws.

The author is former Bangladesh ambassador to the UN, Geneva.

LAW *alter views*



A corrupt energy regime or a dysfunctional energy policy?

NASER ALAM

IT is hardly surprising to see the country grapple with energy-hunger-strike. It is equally not so surprising that various quarters are taking this issue as the next agenda for a political dogfight. In any event, those at the government or those who were in government have both failed the nation in terms of its energy policy and its implementation.

The country has seen increased activities in the energy sector as a whole -- in all three sections in the stream up, mid and down. Exploration activities for gas, downstream initiatives for power generation, and some mid-stream activities for transportation of gas or electricity have dominated the investment arena for a while. The debates on gas reserves have been virtually disappeared currently, tussle with IOCs on cost recovery has been minimised to some extent, and increased advocacy on domestic utilisation of untapped and trapped resources has been going on for a long time. Successive governments have tried and failed to correct the defaulting energy chain. The current government from the very beginning of its term has been active on securing a 'power point' through implementing a '2012 energy vision'. It appears that the last decade has provided less and lesser sustainable energy remedy to the ever-hungry consumers.

Now the 'power crisis' is set to become a 'crisis for power' at the top level of government. It appears inevitable. We have a national energy policy of 1995, which is so broad in its terms that hardly anyone can understand what really the priorities are. An energy policy so broad in terms can only malfunction or refuse to function because of lack of specific directions. There are insufficient directives to meet the stated goals. This conclusion is legitimate considering the current scenario. Even if one may try to give some credit to the current policy, its failures are apparent. The reasons are manifold; but one can easily allege that corruption is the only reason for lack of success in this sector (since the media alleges so). I would perhaps be inclined to think more fundamentally. Do we have a coherent energy policy?

It feels good to see that the successive governments have accepted that the 2012 or a 2020 vision can be implemented through installation of more CCGT power plants. This certainly can use some of the trapped resources. According to the estimations available in public domain, the trapped gas resources already discovered can safely run enough power generators so that there can be excess availability in the country to go for a power piling of the generators by now. In other words, the current crisis must have been possible even to think of. But the reality is that with the demand raising and outage increasing and availability shrinking, the country is virtually



facing the grimmest power crisis in decades.

It can be understood that 9/11 terrorism, internal political unease and global investment trend economically and geo-politically adversely affected inroad of investments into the overall energy sector, especially the power sector. However, a balancing fact is the increasing interest in the energy sector by investors. The government has tried to woo the local investors and this has resulted in several changes of the power generation policy -- with little success, though.

A normal demand analysis would perhaps put Bangladesh as one of the most desired countries for power investors' league table. The current regulatory regime is probably one of the most attractive in terms of investment security. Given all of these positives, it is surprising that the government is losing grounds with the prospective investors. Be it alleged corruption or otherwise, this is unacceptable and a clear failure.

Now let me look at some of the issues that may justify the government's rethinking of the energy policy. It appears that the government may be willing more to set a track record of increased inflow of overall FDI. While this may impress many for the time being, however, reality lies in balancing the demand and supply of energy, especially electricity for agricultural, industrial and domestic needs. The government clearly lacks a clear policy on 'energy in agriculture'. An agro-based economy cannot survive and flourish without a dedicated policy on this. A general energy policy is a sham considering lack of specificities applying to agriculture. There is a sustained and increasing need in this sector. The government has been advocating agro-industrial activities for a few years. What we need now is a comprehensive agro-supportive energy policy, which should include dedicated roles on power plant location, guidelines on load shedding to prioritise the agro-based sectors, and technical facilities on forecasting seasonal demands. This may be in the round streamline the policy on agro-industry itself. Similar policy must be catered for the key industrial sectors.

The domestic consumption is growing by the hour. Climate changes are pushing pick hour demands even higher. There is no authoritative certification process for the energy appliances. Rapid unchecked growth of the dependence on appliances is making the demand erratic, and most alarmingly inexplicable. Adequate research facilities are very much lacking on demand forecasting, appliance suitability, and consumer affordability and behaviour. These must be catered for in the rethinking process, if the people were to be governed by any government.

Finally, the government apparently feels shy in advocating more openly to and in creating a level playing ground for the domestic investors. Moreover, the domestic investors are lured into generation side of the business in the power sector, and exploration side of the gas sector. The government is apparently lacking in its efforts to revamp the midstream sector. Understandably, this sector attracts less short-term financial gains for the investors, but public-private-partnership initiative is a real option here.

Absence of the steps mentioned above are bound to make it dysfunctional. One can hope that the government will wake up to the timely call for power!

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RIGHTS *corner*



Rape victims denied legal abortion

MEXICAN officials actively prevent rape victims from gaining access to legal and safe abortion, and they fail to punish rape and sexual violence inside and outside the family, said Human Rights Watch in a report released on March 7, 2006.

The 92-page report, "The Second Assault: Obstructing Access to Legal Abortion after Rape in Mexico," details the disrespect, suspicion and apathy that pregnant rape victims encounter from public prosecutors and health workers. The report also exposes continuing and pervasive impunity for rape and other forms of sexual violence in states throughout Mexico.

"Pregnant rape victims are essentially assaulted twice," said Kenneth Roth, executive director of Human Rights Watch. "First by the perpetrators who raped them, and then by officials who ignore them, insult them and deny them a legal abortion."

In Mexico, abortion in general is illegal, but rape victims have the legal right to a safe abortion under all state criminal codes. However, women and girls who approach the authorities to exercise this right face multiple obstacles, Human Rights Watch found.

A number of agencies in various Mexican states particularly the state attorney general's office, public hospitals and family services employ aggressive tactics to discourage and delay rape victims' access to legal abortion. A social worker in Jalisco, for example, showed scientifically inaccurate anti-abortion videos to a 13-year-old girl who had been raped and impregnated by a family member. Some public prosecutors threatened rape victims with jail for procuring a legal abortion, and many doctors told women and girls, without cause, that an abortion would kill them.

As a result, many rape victims seek to resolve their situation by resorting to back-alley abortions that endanger their lives and health. Underage girls raped by their fathers or other family members often find themselves with no other alternative than to carry the imposed pregnancy to term.

"The Mexican government needs to ensure that rape victims do not have to endure dangerous back-alley abortions or imposed pregnancies," said Roth. "A public official who fails to inform rape victims of how they can obtain a voluntary legal abortion is contributing to a human rights violation and should

be disciplined."

When abortion is criminalized, a number of human rights are threatened, including the rights to equality, nondiscrimination, life, health and physical integrity. Since 1994, U.N. human rights bodies have expressed particular concern with countries where access to abortion is restricted for pregnant victims of rape or incest. Human Rights Watch upholds the right of all women to decide independently about matters related to abortion without interference from the state or others.

According to Mexican government estimates, more than 120,000 women and girls are raped in Mexico each year. But government surveys also show that nearly 10 percent of Mexican women are victims of physical assaults each year. Worldwide, physical assaults against women include rape in 30 to 40 percent of the cases. This suggests that actual annual rape figures in Mexico could be more than 1 million a year.

Mexico's legal framework does not adequately protect women and girls against sexual violence. Until recently, the Mexican Supreme Court held that rape between spouses was not a criminal offense if it serves some sort of reproductive purpose. This ruling was overturned by the court only in November. A number of states still do not criminalize domestic violence specifically, or only do so in cases of repeated violence.

Girls are even less protected than adult women under law. Most state penal codes in Mexico define incest as sex between parents and children or between siblings that is consensual, and they penalize the underage victim at the same level as the adult perpetrator. Therefore, abortion is illegal in cases of pregnancy through incest, as defined by Mexican law, since the law defines incest as consensual sex, not rape. In most of Mexico, the age of consent for sexual activity is 12, and only in Mexico state is it over 14. This means that the crime of statutory rape in much of Mexico only applies to girls who in many cases are too young to become pregnant.

In theory, non-consensual sex between family members is penalized as rape. However, prosecutors do not always charge perpetrators of incest with rape, even where consent was clearly lacking or the victim was under the age of consent. In Guanajuato, for example, Human Rights Watch interviewed a woman who had been sexually abused by

Culminating months of intensive negotiations, the United Nations General Assembly on March 15, 2006 voted overwhelmingly on a resolution setting up a new Human Rights Council to replace the much-criticised Human Rights Commission prompting Secretary-General Kofi Annan to hail this as an "historic" development which will help improve the lives of millions of people worldwide.

Welcoming the vote, which was greeted by prolonged applause, Mr. Annan, who first suggested the creation of the new Council in a report to the General Assembly one year ago, said it gave the UN "a much needed chance to make a new beginning in its work for human rights around the world."

The resolution was adopted by a vote of 170 in favour with 4 against the United States, Israel, the Marshall Islands and Palau with Venezuela, Iran and Belarus abstaining. In opening remarks to the Assembly before the vote, General Assembly President Jan Eliasson, who led the often contentious negotiations on the issue, called today's session a "decisive moment" not only for human rights but for the standing of the UN as a whole.

Highlighting several elements that would make the Council a "significant improvement" over the much-maligned Commission, he noted the Council's higher status as a subsidiary body of the General Assembly, its increased number of meetings throughout the year, equitable geographical representation and also the voting rights associated with membership.

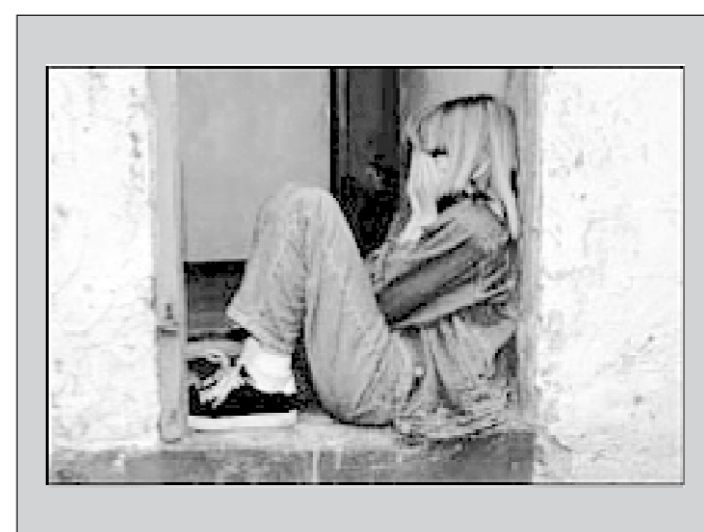
"Members of the Council would be elected by the majority of the members of the General Assembly, in other words by an absolute majority. Each candidate would be voted on individually and directly and would have to obtain at least ninety-six votes of support in a secret ballot," Mr. Eliasson said. "The General Assembly, by a two-thirds majority of members present and voting, could suspend the rights of membership of a Council member who commits gross and systematic violations of human rights," he added.

The new Council will have 47 members. The first elections are planned for 9 May and the first session will take place on 19 June, according to the resolution. In a statement, Mr. Annan, who is travelling in Africa, thanked the Assembly President for his efforts in bringing this "sensitive matter to a conclusion," but acknowledged that this was "only the first step in a process of change," adding that "now the real work begins."

"The true test of the Council's credibility will be the use that Member States make of it. If, in the weeks and months ahead, they act on the commitments they have given in this resolution, I am confident that the Council will breathe new life into all our work for human rights, and thereby help to improve the lives of millions of people throughout the world," Mr. Annan noted.

He went on to say that while the resolution "gives us a solid foundation, on which all who are truly committed to the cause of human rights must now build," no country would be wholly satisfied with every paragraph, although such was "the nature of international negotiations."

Source: UN News Service.



her father at least since the age of six and who also faced criminal charges for "incest." She had two children as the result of these rapes.

"State laws on domestic and sexual violence fall significantly short of Mexico's international human rights obligations," said Roth. "The definition of incest as voluntary sex is an insult to the thousands of girls who suffer abuse daily. No one, and least of all girls raped and impregnated by their fathers or brothers, should be forced to carry a pregnancy to term."

Selected testimony

"Graciela Hernández" (victims' names changed for protection), a 16-year-old girl in Guanajuato, was raped weekly for more than a year by her father. The official legal record from her complaint against her father in 2002 reads:

"Then my father took me to a hostel... He penetrated me, and it hurt a lot when he penetrated me. I cried and I said to my father that it hurt a lot... I want to declare that I don't want to have the child that I am expecting, because I will not be able to love it. Because it is my father's, I will not be able to love it. (The authorities did not authorize a legal abortion.)"

"Lidia Muñoz," a 25-year-old rape victim, was intimidated by medical personnel in a public hospital in Mexico City in 2005. An NGO representative who was present gave the following account:

"When she got the authorization and went to the hospital to have the [abortion] done, the doctor in charge of her care said to her: 'We are going to have many problems, because we are going to have to do a death certificate [for the aborted fetus]."

Source: Human Rights Watch.