



PRIO

UN Special Rapporteur Margot Wallström Visits PRIO

The Special Rapporteur told the audience about progress, challenges, and priorities in the fight against sexual violence in conflict.

PRIO Gender, Peace
and Security Update

Second Issue 2011

The PRIO Gender Peace and Security Update is an electronic newsletter published by PRIO's Gender Team in response to growing interest among the public for information about women, peace and security issues. The newsletter will keep readers informed of the latest developments both internationally and in Norway in relation to UN Security Council Resolution 1325 (2000)



Margot Wallström, UN Special Rapporteur on Sexual Violence in Conflict, visited PRIO 15 June 2011. Wallström was appointed Special Rapporteur by UN Secretary General Ban Ki Moon in February 2010, as a part of the Secretary Generals efforts to reduce and combat the widespread use of violence against in contemporary armed conflicts. Wallström has focused significant attention on the scourge of rape in the DRC. However, she also lists Colombia, Bosnia-Herzegovina, Central African Republic (CAR), Cote d'Ivoire, Sudan and Liberia as focal countries, and has recently paid significant attention to the worrying reports of systematic use of rape by Gaddafi-loyal fighters in the conflict in Libya.

Thematically, the problem of impunity and the need for holding perpetrators

of armed violence accountable for their actions in a systematic way has been a major priority for her investigations and recommendations. Wallström has contributed to a growing understanding of how rape during conflict is being used as a weapon, strategically employed to undermine the morale of the enemy and to break down the social fabric of local and national communities. Understanding the use of rape in conflict on these terms is crucial for the recent international development, where sexual violence is being prosecuted as war crimes by special tribunals and by the International Criminal Court.

A great number of civil society organizations showed up at PRIO for the meeting, including representatives of field-based organizations, activists, and

researchers. Wallström opened her talk at PRIO by reflecting on madness – the madness of taking on a task such as hers, and the madness of the widespread occurrence of sexual violence in conflict. Sexual violence is in a greater or lesser extent a feature of all armed conflicts, though there are massive challenges associated with gathering reliable data and ensuring accurate reporting and measuring of occurrences. As the Special Rapporteur stressed several times during her intervention, there is still a sense of the unavoidable about sexual violence committed in times of conflict. This tacit acceptance, not necessarily of the acts themselves but of their unavoidability makes it even harder to challenge impunity and to start creating preventive measures aiming at eradicating sexual violence in conflict.

Wallström is a firm believer in the use of naming and shaming techniques when calling for accountability, legal action and an end to impunity. While such strategies may appear toothless, Wallström claims that making herself a nuisance and refusing to just quietly “go away” after making her point has proven quite effective.

Indeed, much of the work of Wallström and her small and overstretched office focus on efforts to challenge impunity and to bring perpetrators of sexual violence to justice. The issue of prosecution of armed actors for sexual violence committed during conflict seems a particularly weighty argument on the side of justice when justice is seen as a

question of trade-offs with reconciliation. This particular type of war crime is almost exclusively targeted at civilians, and the resulting trauma for the victim is often severe and multiple. The victim often experiences additional trauma through the taboo that surrounds sexual violence in many cultures, and the exclusion they often experience at the hands of their partners, families or societies.

It seems a convincing argument that these situations in particular make a strong case for why reconciliation without justice for the victims can be hard to achieve. The widespread impunity for such acts in many local and national courts is a cause for concern, and it is not clear that international courts are able to provide victims with a real sense of justice and reparation. Wallström points to this shortcoming in both international and national courts when she, in an address to the UN Human Rights Council, said that “women argue that they have got law, rather than justice”.

The important work towards an end of impunity for sexual violence in conflict is making slow and uneasy progress, and when asked to identify issues under her mandate where progress can already be detected, this is what Wallström points to. She identifies a changing trend in that never before have high-level soldiers standing trial before the ICC been charged with counts of sexual violence. This has also been seen in military courts, and although the procedures and framing may

not be ideal, the processes have generally been considered fair and just. Wallström particularly mentioned the prosecution of high-level fighters from the conflict in the DRC as encouraging. Several members of the Congolese army are standing trial before national courts on charges of wartime rape, suggesting increased acknowledgement of the severity of this type of crime as well as of the need to hold commanding officers accountable for gross or systematic uses of sexual violence by soldiers under their command.

This meeting was a good opportunity for civil society to provide input to the Special Rapporteur, both reflecting their particular work and experiences, and giving feedback on the work carried out by her office thus far. About ten organisations had been asked to prepare comments and questions, and several took the opportunity to inform Wallström and the audience about their activities and lessons learned from their research or field presence. Unfortunately there was no time for the audience and the Special Rapporteur to engage further on these topics, leaving several interesting inputs unexplored. It can nevertheless be expected that Wallström left the meeting with new ideas, new knowledge and new questions based on the wide range of expertise and perspectives present in the room. ■

Thematic prosecution of international sex crimes

In the context of Margot Wallström’s visit to PRIO and the emphasis that she

has placed on ending impunity and ensuring prosecution for sexual violence during conflict, it is worth noting the research being carried out by PRIO associate Morten Bergsmo and the Forum for International Criminal and Humanitarian Law (FICHL) on thematic prosecution of international sex crimes.

Morten Bergsmo is a Senior Researcher at the University of Oslo, and Visiting Fellow at Stanford University, as well as an initiator of the FICHL. The concept of thematic prosecution may be quite foreign to the average lay person. Bergsmo explains:

“When many war crimes are committed in an armed conflict, criminal justice is normally unable to prosecute all cases. A prioritization of cases is required. That may entail placing more emphasis on some crimes than others. International sex crimes can, for example, be singled out for prioritization. That can be referred to as thematic prosecution.” This type of prosecution can be particularly beneficial in issue areas marred by widespread impunity due to the crimes being largely ignored. “Successful prosecutions of war crimes do generally speaking address impunity directly and they can contribute a sense of justice to victims, whether it is pursuant to thematic prosecution or not. Thematic prosecution may be a way to give more attention to crimes previously ignored, provided there is adequate justification,” Bergsmo explains.

FICHL organized an expert seminar in

Cape Town in March 2011 where several legal experts addressed different aspects of thematic prosecution and investigation of international sex crimes. According to the participating academics at the workshop, benefits of thematic prosecution include increased attention to and understanding of the given type of crime, and potentially more targeted and wide-reaching use of investigative resources. FICHL have published a policy brief based in part on the two expert seminars they arranged earlier in 2011, and are planning two anthologies to be published by Torkel Opsahl Academic E-Publisher.



The FICHL expert seminar.
Photo courtesy of www.ficHL.org

The policy brief, available from [http://www.ficHL.org/fileadmin/ficHL/docu-ments/FICHL Policy Brief Series/FICHL PB4.pdf](http://www.ficHL.org/fileadmin/ficHL/docu-ments/FICHL_Policy_Brief_Series/FICHL_PB4.pdf), is a very good introduction to the different debates currently surrounding thematic prosecution of sex crimes in international as well as national courts.

The issue is still in its infancy, according to Bergsmo, who says that “We do not have clear-cut examples of thematic prosecution of international sex crimes in internationalised criminal jurisdictions. Arguably the Yugoslavia Tribunal engaged to a certain extent in

such practice. However, the question now is whether a strong rationale for such thematic prosecution can be developed. The FICHL seminar in Cape Town in March 2011 started this debate. As far as we know, there has only been one publication on the topic, in a Norwegian Festschrift to Helga Hernes in 2008.”

Several of the contributors address the topic in light of the impact it can have on the victim’s sense of justice and reparations, and how thematic prosecutions may err on the side of scale over impact as it may remove the prosecution and sentence further away from the individual victims and their need for a sense of justice. However, it is also quite conceivable that thematic investigations and prosecutions of sex crimes in many cases is the only way a number of perpetrators of such crimes may be tried, as it focuses the limited resources of the court and prosecution on this particular category of crimes. In a broader perspective, this may also serve a more general purpose of bringing attention to the severity and prevalence of sex crimes and to reinforce the normative prohibition of such acts. Increased awareness and precedence that breaks down perceptions of sex crimes as less serious or less relevant for post-conflict and restorative justice may play an important role in the fight against impunity for perpetrators of sexual violence.

The FICHL project is noteworthy in the way it combines in-depth research and principled debates with practical expe-

rience of legal practitioners. The trade-off between efficient use of resources and the victim's experience of closeness and relevance of the prosecution to their particular victimization is one of several important questions worthy of further discussions, and this research appears to be of particular relevance to the Special Rapporteur and others who are concerned with ending impunity for sexual violence in conflict. ■

Civil Society Help Push the Norwegian 1325 Agenda Forward

On Tuesday the 21st of June, the Norwegian MFA invited researchers, practitioners, activists and other civil society representatives to a meeting in the network for gender, peace and security work in Norway. The network is part of the Norwegian strategic plan for implementation of Resolution 1325 from 2011-2013, which was launched earlier this year (see PRIO GPS Newsletter No. 1 2011). A significant bulk of the meeting was therefore dedicated to discussing how the priorities listed therein are being realized. Additionally, the MFA had invited a panel of three practitioners with different significant experiences and expertise on gender aspects of peacebuilding to share their experiences with the group towards the end of the meeting.

The meeting was opened by Hilde Klemetsdal, project leader of the 1325 project at the MFA who asked State Secretary Ingrid Fiskaa to go through the most important activities carried

out by the Norwegian government to follow up the obligations and goals of the revised strategic plan. The first thing she sought to emphasise was the efforts made to strengthen the women, peace and security perspective in international operations. She told the group that Norway were focusing their efforts in this regard on several arenas, including discussing gender, peace and security issues with key UN peacekeeping troop contributing countries such as India, Pakistan and Indonesia, and pushing the 1325 agenda within NATO. She also said that there was a continued domestic focus on ensuring a mainstreamed gender perspective within military and police entities involved in international operations.



Ingrid Fiskaa addressing the room.
Photo: Hilde Wallacher

She also put strong emphasis on the importance of realising the immense potential for women's participation in post-conflict peacebuilding, a theme that was also to be echoed by the panel of experts later in the afternoon. According to Fiskaa, Norway's support for DCAF (the Geneva Centre for the Democratic Control of Armed Forces) was an important part of realising these ambitions of the strategic plan, in addition to routinely emphasising the point in multilateral and bilateral relations.

The State Secretary was challenged on this point both by the Norwegian Church Aid and by Torunn L. Tryggestad from PRIO. The NCA made the point that even though Norway was traditionally a strong ally for the NGOs when it comes to female participation in civil society peacebuilding initiatives, they missed a strong commitment to support the involvement of women and of civil society in UN-led processes. These two things are often strongly interlinked, as civil society organisations are often women's access point to peacebuilding in many conflict and post-conflict areas. Fiskaa admitted that while they were working politically in the UN to increase the acceptance of the important role of women and of civil society, this perspective often got lost in the "heat of the moment" when a process is being played out.

Tryggestad made the additional point that while it is commendable that Norway lobby for the inclusion of women in peacebuilding processes around the world, the peace and reconciliation group at the MFA is still a very male dominated environment where as recently as a couple of years back its delegation was all male. And while Fiskaa has a point when she points out that it takes time to build competence among women, and that Norway now has a woman involved in a peacebuilding process on the Philippines, it is nevertheless far from clear that Norway is doing enough at home to rectify this enormous imbalance.

The panel of experts addressing the group in the second half of the meeting had significant insights to contribute to this particular debate. The discussion was chaired by State Secretary Espen Barth Eide, and on the panel we had Leymah Gbowee, Donald Steinberg and Sanam Anderlini who shared their diverse experiences related to the role of women in different peacebuilding processes.

Resonating across experiences from Liberia, Angola, Afghanistan and UN-based work on the development of resolution 1325 was recognition of the importance of empowerment of women and of recognizing that women have and ought to be able to exercise agency. Gbowee told the audience how important it is that women are included at all stages of a peacebuilding process. If they are excluded at the early stages and at the lower levels of consultation and mobilization, she said, they would also be excluded at the higher levels and in the negotiations. She also made the very valuable point that ensuring women at the table does not equate ensuring that regular women's voices are heard or that somehow the grass-root is represented. For all representatives at the negotiating table it is of essential importance that there are mechanisms to ensure accountability of the participants to the larger community.

Steinberg, speaking from his experience from peace talks in Angola, made the obvious but crucially important

point that including women in peace talks is not just a "right" thing to do, it is also a smart thing to do. Peace talks that do not reflect the perspectives and interests of 50% of the population will have a slim chance of success, meaning that mainstreaming of gender perspectives and the inclusion of women at all stages and levels of a process ought to be a very attractive option for competitive negotiation leaders. Reflecting on the failed process in Angola where he was involved, he said that a peace negotiated by fighters and for fighters would often fail to enjoy the necessary legitimacy in the wider community. Particularly, he said, the fact that former fighters would grant each other amnesties from atrocities committed against civilians, including widespread use of sexual violence, put a significant strain on the volatile peace. Summarizing Steinberg's points, his lessons learned are that empowerment and real participation of women is essential to ensure efficient peacebuilding.



Donald Steinberg, Leymah Gbowee, and Sanam Anderlini, the expert panel. Photo: Hilde Wallacher

The last speaker on the panel, Sanam Anderlini, also emphasized the importance of empowerment and to recognize that women are not just victims

but that they have agency in conflict and in peacebuilding processes. She took issue with the concept of the token "gender person" who gets thrown into all aspects of an organization and who receives very little respect but is at the same time expected to be able to provide the gender perspective on a vast and very diverse range of subjects. She also made the compelling argument that there is a lot to be gained from establishing alliances at leadership levels, especially with male leaders. Significantly, those at leadership level may come to realize that this is not only sensible from a rights perspective, but also from an efficiency perspective. Excluding 50% of the population from processes meant to build sustainable peace after violent conflicts can't be expected to yield ideal results that enjoy the necessary local legitimacy.

The three speakers only made a short stop at the 1325 network meeting on their way to a meeting of the Oslo Forum, an informal platform for high-level mediators and other key individuals involved in peacebuilding. The Oslo Forum would have a record level of 30% female participation this time, which is somewhat encouraging although the agenda reflected the tendency of having one token gender break-away session thrown into a mix of conventional themes that, at least to an outsider, failed to reflect any significant ambition to take seriously the challenge of women's exclusion from peace processes. However, if Anderlini's somewhat cynical point about the

importance of ensuring that the “gender language” is spoken by the (male) leadership, the presence of these three people at the Forum might just make a little bit of a difference. ■

CMI Seminar on Gender Justice

CMI, the Chr. Michelsens Institutt in Bergen, recently invited interested researchers to a three hour seminar on the topic of gender justice and legal pluralities. The seminar aimed at presenting and discussing the impact of legal pluralities on women’s rights in different legal systems in Latin America and in Africa. Presentations were given by Rachel Sieder, senior research professor at the Centro de Investigaciones y Educación Superior en Antropología Social (CIESAS) in Mexico City, and research fellow at the Institute for the Study of the Americas at the University of London; and Anne Hellum, professor at the Department of Public and International Law at the University of Oslo.

Both researchers emphasized the essential importance of context for understanding the ways that systems of legal pluralities may impact gender justice and women’s rights. Rachel Sieder’s research on Latin American cases showed the inter-sectionality of legal systems such as regimes based on indigenous claims to autonomy; national legal regimes to a greater or lesser extent transformed by multicultural or pluricultural legal reforms; and regional and international law have an impact on gender justice. She was partic-

ularly concerned with the impact on indigenous women, as they overwhelmingly are victims of a triple and intersecting discrimination based on gender, ethnicity and class. This, combined with low literacy (especially in the majority language), low rights awareness, the existence of structural violence and patriarchal domination, and corrupt and inefficient justice systems makes indigenous women’s access to justice and legal reparations severely limited.

Among scholars of legal anthropology, there is a strong tendency to assume that legal pluralities are inherently disadvantageous, particularly for marginalized groups of a population. Sieder proposes a more pragmatic approach. For example, the intersecting discrimination of indigenous women in Guatemala suggests that there will be no real access to justice for these women without proper justice for indigenous peoples. At the same time, giving legal status to traditional indigenous norms and justice regimes may come to legitimize and institutionalize discriminating and oppressive practices that women in these communities seek to challenge.

Anne Hellum shared some thoughts on legal pluralities and gender justice in Africa. She stressed how legal pluralities must be seen in the light of local history and pre-existing legal regimes. In many African countries, legal pluralities are a legacy of British colonial rule, and as such reflect a context in which the “native” population did not

have access to the judicial systems of the elites, but were given the legal space to seek justice under regimes reflecting real or perceived traditional practices. However, legal pluralities are also often claimed by minority groups as a key aspect of autonomy, seen both in cases concerning indigenous peoples and, recently in Northern Europe, in claims made by immigrant groups facing racism in their host countries. Overlapping legal systems, thus, are challenging, but neither inherently good nor bad for marginalized groups.

In Hellum’s case studies from several African states, parallel systems of mediation and justice are sometimes the only effective avenue for dispute settlements for many women, as the courts are highly corrupt and function as inaccessible, closed spaces. This provides a space for third party mediation that has been filled by a fauna of NGOs, including many women’s organizations. Such platforms may provide useful spaces for women’s organizations to exercise this third-party power, though this access is often determined by existing legal frameworks and by donor policies.

While external actors such as aid organizations often intend to utilize such spaces in order to expand women’s real enjoyment of rights, they may lack the comprehensive insight necessary to negotiate the opposition this may be faced with. They therefore run the risk of aiding in the restriction of space for women rather than to realize inten-

tions of improving women's positions and access to justice and enjoyment of rights.

Both Sieder's and Hellum's research exist in the intersection between anthropology, sociology and law. One of the benefits of this cross-disciplinary

research seems to be how it is able to illuminate how law is not a disengaged and technical phenomenon, but a set of dynamic entities that are unequally applied and accessible, and that carries different meaning, impact and relevance depending on the cultural, social and historical context on which it is

applied. These lessons ought to be shared with activists, policy makers and NGOs seeking to change, challenge or utilize legal framework in their efforts to improve women's livelihoods and rights enjoyment. ■

International News

The Nobel Women's Initiative, composed of six women Nobel Peace Prize laureates on May 23-25 held the conference "Women Forging a New Security: Ending Sexual Violence in Conflict" in Montebello, Quebec. The goal of the conference was to make new connections in order to build peace and stability in conflict-affected regions and to launch a campaign geared at ending sexual violence in conflict. For more information see

www.nobelwomensinitiative.org/ ■

News from Norway

The Oslo Forum 2011 Annual Mediator's Retreat took place on June 21-23. It is organized by the Norwegian MFA and the Centre for Humanitarian Dialogue, and is meant as a platform for senior third-party mediators and other key individuals involved in peace processes to share knowledge and experience. The meeting had a record attendance of 30% women, and one separate break-away session with a gender focus. This was entitled *Gender in Mediation: Why all the Fuss?* For more information see

<http://www.osloforum.org/>

The Norwegian Defence University College organised a one-day international

conference on 'Sexual Violence, the Armed Forces and Military Operations' in Oslo, 17 June. The aim of the conference was to highlight the role sexual violence plays for the armed forces and in military operations and provide the armed forces with concrete tools to prevent and respond to conflict-related sexual violence. For more information see www.forsvaret.no/gender ■

News from PRIO

Helga Hernes and Inger Skjelsbæk

Attended the launch of *Women and War: Power and Protection in the 21st Century* at the United States Institute for Peace in Washington DC. The book was edited by Helga Hernes, Kathleen Kuehnast and Chantal de Jonge, and Inger Skjelsbæk contributed a chapter entitled "Sexual Violence in the Post-Yugoslav Wars." In connection with the launch Hernes and Skjelsbæk participated in a panel discussion at a symposium discussing the themes of the book. Helga Hernes closed the launch by giving a well-received summary of discussions and a short presentation of the book.

Ragnhild Nordås

Presented a paper entitled *What do we know about sexual violence in conflict?* at the Norwegian Defence College conference on Sexual Violence, The Armed Forces and Military Operations on 17 June.

Attended the conference "Women forging a new security: Ending sexual violence in conflict" arranged by the Nobel Women's Initiative in Montebello, Quebec, Canada on May 23-25.

Inger Skjelsbæk

Gave a presentation on *PRIO Research on Sexualised Violence* at the 1325 Research Network Meeting on 26 May.

Presented a paper on *Why Rape? Perpetrators of Sexual Violence Crimes in War; An Analysis of Court Transcripts from the International Criminal Tribunal for the Former Yugoslavia (ICTY)* at the International Studies Association (ISA) Convention in Montreal, Canada. The panel title was "The Gendered Discourses of Sexual Violence" on 17 March.

Gave the presentation *Sexual violence in war and conflict; misinterpreted masculinities or an unavoidable side effect?* for Amnesty International at the University of Oslo on 31 March. Other panelists were Morten Bøås from FAFO and Jon Rian from FOKUS.

Torunn L. Tryggestad

Attended a meeting of the 1325 Network Meeting organized by the Ministry of Foreign Affairs on 21 June.

Organised a one-day meeting at PRIO for the *1325 Research Network* (researchers based in Norway), 26 May. Close to 20 researchers conducting research on 'women, peace and security' related topics met to discuss research projects and exchange views and ideas.

Gave a presentation on *UN Security Council Resolution 1325 – 10 Years On* at the Annual Women's Conference organized by Kvinners Frivillige Beredskap (KFB) on 10 May.

Gave an introductory lecture for the newly established PRIO Research School in Peace and Conflict on *Peace and Conflict – What's the Relevance of Gender?* on 12 April.

Presented a paper on *Collaborative Governance: Gendering the UN Security Agenda* at the ISA in Montreal on 18 March.

Gave a lecture on *Women's roles in crisis and war* at an MA course in International Crisis Management organized by the Directorate for Civil Protection and Emergency Planning on 9 March.

Hilde Wallacher

Attended the CMI seminar *Gender Jus-*

tice and Legal Pluralities: Latin American and African Perspectives on 24 June.

Attended the 1325 Network meeting on 21 June.

Attended the Arms Trade Treaty Preparatory Committee session at the UN in New York on the 28 February-4 March, including the IANSA Women side event *Disarmament Through Education – Women Take the Lead*. ■

Recent PRIO Publications

Wibben, Annick T. R (2011), *Feminist Security Studies. A Narrative Approach*, PRIO New Security Studies Series, London and New York: Routledge Taylor and Francis Group ■

Other Recent Publications

Enloe, Cynthia (2010), *Nimo's War, Emma's War. Making Feminist Sense of the Iraq War*, Berkeley, Los Angeles, London: University of California Press.

Garner, Karen (2010), *Shaping a global women's agenda. Women's NGOs and global governance 1925-85*, Manchester and New York: Manchester University Press.

Griffin, Penny (2009), *Gendering the World Bank. Neoliberalism and the Gendered Foundations of Global Governance*, New York: Palgrave Macmillan

Gender Aware Security – The Make of

UN SC Resolution 1325. *An Evaluation of 1325 and its implications for an altered view on military security*, Swedish National Defence College.

Hellum, Anne and Bill Derham (2010), *The Making and Unmaking of Unequal Property Relations between Men and Women: Shifting Policy Trajectories in South Africa's Land Restitution Process*, Nordic Journal of Human Rights Vol. 2 2010.

International Criminal Tribunal for the Former Yugoslavia (ICTY) (2011): Crimes of Sexual Violence web site at <http://www.icty.org/sid/10312>

Kaufman, Joyce P. and Kristen P. Williams (2010), *Women and War: Gender Identity and Activism in Times of Conflict*, Kumarian Press.

Kuehnast, Kathleen, Chantal de Jonge Oudraat and Helga Hernes (eds) (2011), *Women and War: Power and Protection in the 21st Century*, Washington: United States Institute for Peace Press.

Leatherman, Janie L. (2011), *Sexual Violence and Armed Conflict*, War and Conflict in the Modern World Series, Cambridge: Polity Press.

Towns, Ann E. (2010), *Women and States. Norms and Hierarchies in International Society*, New York: Cambridge University Press.

UNIFEM (2011): Resources on Women, Peace and Security web site at http://www.unifem.org/materials/item_detail.php?ProductID=186 ■



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