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VIOLENCE AGAINST WOMEN: BEYOND THE LIMITS OF THE LAW

*Moira L. McConnell**

Violence against women exists in various forms in everyday life in all societies. Women are beaten, mutilated, burned, sexually abused and raped. Such violence is a major obstacle to the achievement of peace and the other objectives of the Decade, and should be given special attention.¹

From [an analysis by the World Bank in 1993] broken down by region and age group, rape and domestic violence emerge as a significant cause of disability and death among women of reproductive age in both the industrial and developing world. In established market economies gender based victims account for nearly one in five healthy years of life lost to women aged 15 to 44.²

In the ongoing struggles against violence in the family, society and the State, we recognize that the State is one of the main sources of violence and stands behind the violence committed by men against women in the family, the work-place and the neighbourhood.³

The insecurity outside the household is today the greatest obstacle in the path of women. Conscious that, compared to the atrocities outside the house, atrocities within the house are endurable, women not only continued to accept their inferiority in the house and society, but even called it sweet.⁴

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1. *Forward-Looking Strategies of Implementation for the Advancement of Women and Concrete Measures to Overcome Obstacles to the Achievement of the Goals and Objectives of the United Nations Decade for Women*, ¶ 181, U.N. Doc. A/Conf.116/PC/21 (1984) [hereinafter *Forward-Looking Strategies*].

2. LORI L. HEISE ET AL., *VIOLENCE AGAINST WOMEN: THE HIDDEN HEALTH BURDEN* 17 (World Bank Discussion Paper No. 255, 1994).

3. GAIL OMVEDT, *VIOLENCE AGAINST WOMEN: NEW MOVEMENTS AND NEW THEORIES IN INDIA* 1 (1990) (quoting Nari Mukti Sangharsh Sammelan, Resolution, Feb. 8, 1988).

4. OMVEDT, *supra* note 3, at 1 (quoting Peasant Women's Alliance: Thought and Direction, Draft for Shetkari Mahila Aghadi, Second Session, Amraoti, Nov. 8,

I. INTRODUCTION

That I am writing about developing strategies to deal with domestic violence in mid-1995 and that it is still a central and largely unaddressed global problem is tragic.⁵ It is also alarming that a central theme in the entire story of domestic violence is that a lot is said but little is done to solve the problem.⁶ The first quote set out above is drawn from a United Nations document, *Forward-Looking Strategies*, written in 1985, toward the end of the "Decade for Women."⁷ *Forward-Looking Strategies* is a comprehensive social action plan to bring women into full and equal participation in a peaceful society by the year 2000. A decade later, with less than five years left before the turn of the century, women are still experiencing the same violence and inequality in the same way and at the same or even greater level.⁸ While there are some indi-

1989).

5. This paper is based on the author's experience in working at a local level on developing a more effective response to the problem of domestic violence. It is specifically written as a reflection on observations about emerging strategies to achieve change, rather than as a catalogue of the written work to date. The fact that the author has not cited the numerous important articles and reports written by others is not a comment on their utility but arises rather from a critique on the nature of legal writing and claims of authority made "below the line." The Law Reform Commission of Nova Scotia, a Canadian agency, published a Report recommending steps the government could take to eradicate what is now largely regarded by women as an epidemic of violence against them. See LAW REFORM COMMISSION OF NOVA SCOTIA, *FROM RHETORIC TO REALITY: ENDING DOMESTIC VIOLENCE IN NOVA SCOTIA* (1995). As an academic writing and teaching in the field of international law, the author has been afforded the opportunity to develop and pursue the relationship between legal theory and feminist practice. The irony of preparing a Report which in a sense simply adds to the already significant accumulation of similar reports is not lost on the author. However, this awareness prompted a great deal of critical reflection as to what could usefully be said that did not simply replicate existing work. The resulting position taken by the Commission is somewhat unique for a law reform agency in that the Commission concluded that law per se is not particularly the problem or the answer.

6. The problem is perceived more to be one of social action to turn rhetoric into reality. Now, we have the words, but the problem is how to keep people to them.

7. The United Nations declared the decade 1976-1985 the Decade For Women: Equality, Development and Peace. G.A. Res. 3520, U.N. GAOR, 30th Sess., Supp. No. 34, at 95, U.N. Doc. A/10034 (1975). In 1972, the General Assembly had proclaimed 1975 as International Women's Year. G.A. Res. 3010, U.N. GAOR, 27th Sess., Supp. No. 30, at 67, U.N. Doc. A/8730 (1972).

8. It is unquestionable that little has really changed in the last ten years. A recent Amnesty International Report indicates that with civil wars in Europe and

cations that the policy makers and others in positions of power in society are finally beginning to accept the arguments and the virtual mountains of evidence advanced by women over the last few decades to document their oppression, there is little, if any, change to women's daily experiences. Although some women are experiencing more economic opportunities, violence still remains a central problem.⁹

Clearly, this paper begins from a less than optimistic position. How could it begin otherwise? It is now 1995, a decade after *Forward-Looking Strategies*. In the last ten years women have patiently and methodically refined and developed their understanding of the problem and the nature of women's experiences of violence by men and have devised numerous strategies to create change. In fact, women have a well-developed and sophisticated understanding of their situation and their oppression. The fact that it is not a women's problem but society's problem is now increasingly the focus of concern and action. The problem can be reduced syllogistically: Why do men abuse women? Because women let them. That this is still an inescapable conclusion, despite the variety of legal and policy instruments available to a society to address the issues, is a critical point. Men are violent towards women because society, irrespective of the level of economic, social, and legal development, allows them to be. Statistics from around the world demonstrate that "being female is life-threatening."¹⁰

While there seems to have been little progress or change in terms of the day-to-day experiences of women, there have been some changes in the way that violence against women is understood and characterized by society and law-makers. How-

Africa, violence against women is increasing. See *Rights Group Critical of Canadian Actions*, GLOBE & MAIL (Quebec), July 6, 1995, at A11. The Report specifically targeted Canadian action overseas. *Id.* The UN Population Fund has also recently identified the empowerment of women as the key to social and economic development. See Jane Gadd, *Empowerment of Women Urged*, GLOBE & MAIL (Quebec), July 6, 1995, at A7.

9. There is a double burden for women who are also members of groups that suffer oppression or violence for reasons of racism or homophobia, agism or other discriminations. This double burden is usually described as intersectionality. See generally BELL HOOKS, *YEARNING: RACE, GENDER AND CULTURAL POLITICS* (1990); Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy*, 104 HARV. L. REV. 1419 (1991) (for a discussion of this problem in the context of race).

10. *Women and Violence*, 19 WOMEN'S INT'L NETWORK NEWS 47 (1993).

ever, the extent to which this change in perception creates a change in behavior remains a key question. Moreover, women are changing the focus of their strategies to respond to the oppression experienced in the form of domestic violence.

This paper considers the role of law in general, and international law in particular, with regard to domestic violence. This discussion is "law-centric" in that it assumes that law has a central role in any social understanding and that it is through law that governing structures articulate the rules, policies, and values of society. However, law or law-making does not necessarily have any meaning in experience or any effect on conduct. Law is, after all, simply a collection of words that reflect a society's ideas or expectations. The response of societies to violence in general, and the abuse of women in particular, has been largely developed by male-dominated institutions for institutional ends.¹¹ Indeed, the struggle for change in the face of intractable resistance on the part of men has caused women to adopt arguments on all fronts as to why it is in the self-interest of society, i.e., men, to change. These arguments include that we will not have peace until there is equality and violence is eliminated,¹² that there are immense social costs because women who are oppressed are unable fully to participate in the economy,¹³ that violence has health costs,¹⁴ and that gendered violence is equally "family" violence.¹⁵

There are also more theoretical legal arguments advanced; for instance, that there is an obligation in any "civil society" to respond to domestic violence and violence against women as

11. See comments by Rosanna Langer, *Male Domestic Abuse: The Continuing Contrast Between Women's Experiences and Judicial Responses*, 10 CAN. J.L. & SOC'Y 65 (1995). The fact that women's experiences are described and constructed by society and men is not confined to women's experience of violence. See, e.g., Alice J. Dan & Lisa Monagle, *Sociocultural Influences on Women's Experiences of Premenstrual Symptoms*, in *PREMENSTRUAL DYSPHORIA, MYTHS AND REALITIES* 201 (Judith Gold & Sally Severino eds., 1994) (where the authors discuss the social negotiation over the nature of the menstrual experience).

12. See *Forward-Looking Strategies*, *supra* note 1, ¶ 181.

13. See OMVEDT, *supra* note 3 (quoting Nari Mukti Sangharsh Sammelan).

14. See HEISE, *supra* note 2.

15. There has been a great deal of debate about the impact of this connection and strategy in achieving women's equality in that, while concerns for the family might cause change more quickly, violence against women should not be made invisible in the family unit.

state matters because they constitute discrimination, a human rights violation,¹⁶ and/or torture.¹⁷ To this end, the variety of explanations, rationales for change, and the extent of study and research regarding domestic and gender violence is staggering. Women have been forced to explain in painful detail the obvious in order to persuade, cajole, coerce, threaten, and otherwise indicate to those with political power that there is a problem which is a matter of concern to everyone, that it is not a private problem, and that it must be solved.

It is interesting then, given all the national or domestic policy studies that have been carried out, that the greatest advances, in terms of articulating the issues and developing some specific strategies for social change, have been made through international legal instruments.¹⁸ It is important to understand that the line between "international" and "national" is non-existent in terms of the day-to-day event. That is, there is no such thing as "international domestic violence," but simply domestic violence experienced by women in locations throughout the world. Therefore, it may seem surprising to argue that international law may positively inform national law and policy since international deliberations and instruments appear distant and unrelated to the daily events women experience. Nonetheless, in developing effective local responses, the international strategy provides a useful critical and practical tool to create the necessary broader social change.

Before exploring this conclusion, Part II of this discussion will briefly describe the fundamental characteristics of international law. It is suggested that these characteristics are the fundamental cause of international law becoming the site

16. A good collection of comments on this and other issues is found in *HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES* (Rebecca J. Cook ed., 1994) [hereinafter *HUMAN RIGHTS OF WOMEN*]. The contributors cover many issues, including ethnicity, theoretical discourse and feminist theory.

17. See Rhonda Copelon, *Intimate Terror: Understanding Domestic Violence as Torture*, in *HUMAN RIGHTS OF WOMEN*, *supra* note 16, at 116.

18. See, e.g., *Forward-Looking Strategies*, *supra* note 1; *infra* note 26 and accompanying text. The author makes this comment with a full awareness of the longstanding critique of international law as gendered and that the social construction and organization of the state, nationally and internationally, has depended upon the "sexual division of labour" which "privileges male voices and concerns." See Hilary Charlesworth, *Alienating Oscar? Feminist Analysis of International Law*, in *RECONCEIVING REALITY: WOMEN AND INTERNATIONAL LAW* 1, 9 (Dorinda G. Dallmeyer ed., ASIL Studies in Transnational Legal Policy No. 25, 1993).

where the most has been achieved for women in terms of language, law, and practical strategy. Part III discusses the evolution of international law and its attempts to specifically address violence against women. This section goes on to explain how these international legal strategies inform national policy.

II. CHARACTERISTICS OF INTERNATIONAL LAW

International law as a subject has been a matter of discussion and debate for centuries among academics. A good portion of the debate turns on whether it exists as a real legal system at all. In general, law is understood, irrespective of socio-political context, to be a system of rules embedded in an authoritarian structure. That is, a necessary precondition for law to be law is that some entity has to enforce it. In simple terms, this is the difference between law and morality, although the two may overlap and, at times, the force of morality may, in fact, be more persuasive.

In most systems, the subjects have no particular choice of rules or laws which will be accepted. Most states of the world, irrespective of their political systems (democratic or otherwise) are based on systems of law and social order which are authoritarian in structure in that rules are imposed on the citizenry by the state or the government.¹⁹ These sovereign governments of the world operate within specific geographical and territorial spheres which also involve political and cultural boundaries.

The international system then can be understood as a conglomerate of authoritarian structures, largely dominated by men, which operate on a system of relationships between each of these structures. However, the system in which these authoritarian structures function is not itself an authoritarian system. The rules under which it operates are consent based, aside from a few exceptions. There is no authoritarian system in place to enforce international rules. In addition, a state can change its mind and withdraw from most rules if it no longer wishes to be bound. Furthermore, most of the rules are respectfully written to allow for maximum flexibility and relativity in interpretation. In short, the system is sometimes de-

19. See generally Charlesworth, *supra* note 18. There are fine glosses on the determination of who the "state" is, but in general, the systems are authoritarian.

scribed as international relations rather than international law since the main characteristics of a legal system are missing.²⁰ If there are enforcement or sanctioning possibilities aside from the extremes of military, trade or political persuasion, they reside in honor, public commitment, and accountability.²¹

In this respect, then, international relations and laws, despite being largely controlled by men interacting with each other, comprise a system in which the world's patriarchal, authoritarian structures are embedded in a peculiarly anti-patriarchal, anti-authoritarian structure. Attempts to develop clear rules of international conduct are defied by the elasticity of the concepts and the unbudgeable propositions of autonomy and equality, at least in principle, of each state. However, the fact that the system is inhabited by political and social constructs (states) behind which lie highly authoritarian systems, has an impact on international decision-making and behavior.

III. INTERNATIONAL LAW ADDRESSES VIOLENCE AGAINST WOMEN AND INFORMS NATIONAL POLICY

There have been attempts at the international level to develop binding rules of behavior between states and even to set standards for the behavior of states toward their citizens. Many women have criticized these attempts at international law, usually in the form of human rights law, because of their gendered nature.²² That is, the rules have, much as the rules of national society, dealt with relationship issues considered important and appropriate by the participants, mainly men. Accordingly, issues of concern to women or that reflect

20. As noted above, legal systems tend to involve a set of rules for behavior and the possibility of some sort of enforcement of the rules if not followed. Effectiveness in regulating behavior tends to be an assumed characteristic of the legal system. See *supra* note 19 and accompanying text.

21. A good description of "non-sanction" enforcement techniques is found in FREDERIC L. KIRGIS, JR., *INTERNATIONAL ORGANIZATIONS IN THEIR LEGAL SETTING* 524-54 (2d ed. 1993).

22. Anne Tierney Goldstein, *Teaching Women's International Human Rights Law*, in *RECONCEIVING REALITY: WOMEN AND INTERNATIONAL LAW*, *supra* note 18, at v. She notes that many writers start with an approach that exposes "the systematic engendering of international law and the concomitant marginalization of issues that affect women." *Id.* at xi. She also notes the problems of evaluating the current state of the law because "to the extent that any branch of law has been written by men and with men's concerns in mind, the shape of that law will not begin to address the full range of problems women face." *Id.* at xii.

womens' descriptions of problematic behavior have not been dealt with. For example, family law and violence against women have been dealt with as private matters of internal national regulation and not as matters of concern between states. This treatment has led to definitions of violence, or other unacceptable political behavior such as torture, that are cast in terms of "public political" acts, and do not reflect the view that violence against women is also a political act of terrorism or apartheid.²³

It is precisely around the issue of violence that women have been able to mobilize globally because it is a shared experience.²⁴ Although there may be some differences in perspectives regarding the emphasis of concern,²⁵ the fact remains that it is a shared experience that women of all classes, races, and nationalities are violated by men and these violations are supported and condoned by social and institutional structures.

There are a number of statements that have been made by women about their experiences that have been accepted in the international sphere by the United Nations regarding violence against women and are reflected in numerous international

23. See generally Copelon, *supra* note 17; REBECCA J. COOK, THE ELIMINATION OF SEXUAL APARTHEID: PROSPECTS FOR THE FOURTH WORLD CONFERENCE ON WOMEN (ASIL Issue Papers on World Conferences No. 5, 1995). See also Shelly Wright, The Death of the Hero: Gender and Race in the Law of Torture (June 1993) (paper given at the Feminist Theory Workshop at Columbia University, on file with author), where she points out that the definition of torture does not include acts committed by men on women in the home. This description of torture encompasses generally politically motivated violence where state actors (usually men) perpetrated acts such as kicking male genitals, inserting pins under nails, and burning with cigarettes in a public context designed to use physical force to control the mental state of the person. According to Wright, the rape, assault, and brutalization of women by men is not generally catalogued in our incidents of torture. Indeed, women are generally left out of the discussion of torture. Yet, why could we not equally see that where the state condones acts of violence and oppression, amounting to torture of one individual against another, the state is no less responsible for the torture? The problem is that we simply have not seen this as torture.

24. See generally HOOKS, *supra* note 9. It has become easier for women to discuss the fact that for some women, issues of racism and other oppression may mean that they are torn politically in their allegiance as to which issue to deal with first. This problem is sometimes described by academics as "intersectionality," that is, the person is the intersection of interests and oppressions.

25. See *supra* notes 12-15 and accompanying text.

legal documents dealing with domestic violence.²⁶ They include:

- 1) the definition of who is human and what human rights are has been a male-centered definition;²⁷
- 2) violence is a form of discrimination against women and a barrier to equality;
- 3) discrimination through violence is global in scale;
- 4) although the violence appears to be generally treated by states as private or individual violence, it is in fact state supported and condoned both explicitly and implicitly; and
- 5) law itself is ineffectual, and accountability and leadership by men are necessary prerequisites for experienced changes.

In 1945, the UN Charter was adopted, containing a clause regarding the "equal rights of men and women."²⁸ In 1946, the United Nations Commission on the Status of Women was formed.²⁹ In 1948, the Universal Declaration of Human Rights was adopted which asserted the equal rights of humans and required that people "should act towards one another in a spirit of brotherhood."³⁰ It has been frequently noted that this "social contract" essentially amounted to a balancing of claims and needs among a male elite.

26. See, for example, Recommendation 19 of the Committee monitoring the implementation of the Convention on the Elimination of Discrimination Against Women regarding violence against women. *Report of the Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19*, U.N. GAOR, 47th Sess., U.N. Doc. A/47/38 (1992). See also *Report of the Committee on the Elimination of Discrimination Against Women*, U.N. GAOR, 47th Sess., Supp. No. 38, at 5, U.N. Doc. A/47/38 (1992) (stating, *inter alia*, that "Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men"); *Declaration on the Elimination of Violence Against Women*, G.A. Res. 104, U.N. GAOR, 48th Sess., Supp. No. 49, at 217, U.N. Doc. A/RES/48/104 (1994).

27. This means that the state of world human rights defined from a woman-centered perspective instead of a male-centered perspective is abysmal, and arguably, there is no such thing as human rights as they do not exist in many countries for women. Under our current definitions, international human rights have been largely measured and defined in terms of the male experience, and these rights have been experienced in a context in which women are a subjugated, oppressed, and generally excluded people. The most striking example of this is the division of life into the public and private spheres, a division which is reflected in all areas of law and government whether, international, national or regional.

28. U.N. CHARTER pmbl.

29. E.S.C. Res. 11, U.N. ESCOR, 2d Sess., Annex 14, at 405, U.N. Doc. E/90/Rev. 1 (1946).

30. G.A. Res. 217, U.N. GAOR, 3d Sess., art. 1, at 71, U.N. Doc. A/810 (1948).

The oppression of women historically has not been questioned or even entered into the discussion of human rights because women were not in the public eye. They were hidden in the private sphere of the home under the protection of father and husband. The effect of this has been noted recently by Catharine MacKinnon when she argues that:

Not only does this statist structure of international human rights leave men's so-called private acts against women out, no state has an incentive to break ranks with states as such by moving to set a human rights standard for women's status and treatment that no state yet meets within it or seems to want to be held to internationally [N]o state effectively guarantees women's human rights within its borders, so internationally, men's states protect each other from women's rights the way men protect each other from women's rights within states.³¹

The Convention on the Elimination of all Forms of Discrimination Against Women³² (Women's Convention) was adopted by the General Assembly in 1979, and by 1995, 140 states had ratified it with reservations.³³ The Women's Convention declares that the states party to it condemn discrimination against women in all its forms and agree to undertake policies to eliminate discrimination. In its preamble, it notes that discrimination against women, which violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women on equal terms with men in the political, social, economic, and cultural life of their countries, hampers the growth of the prosperity of society and the family, and makes more difficult the full development of the potential of women in the service of others and of humanity.³⁴ The Women's Convention also accepts the view that the

31. See Catharine A. MacKinnon, *Comment: "Theory is Not a Luxury," in RECONCEIVING REALITY: WOMEN AND INTERNATIONAL LAW*, *supra* note 18, at 83, 90.

32. See Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter Women's Convention]. It is also sometimes described by the acronym CEDAW, although this is also often used to refer to the Committee monitoring its implementation.

33. See COOK, *supra* note 23, at 7 & app. III (citing U.N. Doc. CEDAW/SP/1994/2 (1994) and U.N. Treaty Office as of May 1, 1995).

34. See Women's Convention, *supra* note 32, pmbl., 1249 U.N.T.S. at 14-16.

development of any state requires the participation of women on equal terms with men.

Effective power in every state is in the hands of men whose self-interest as such may appear to lie in maintenance of the status quo. Their definition of normality, nature, or divine will centers on male ascendancy and female servitude. They do not find it oppressive of women or unjust that man should be the hunter, provider, and protector or that women should care for the home and the children. The values of their cultures, religions, and homes often appear to idealize relations between men and women that perpetuate a conservative imagery in which men are active and visible, women passive and invisible. The Women's Convention requires not that this pattern be inverted but that it be equalized. Nevertheless, the change the Convention requires compels the male leadership of states to reconsider and change the states' most fundamental political, social, economic, and religious structures, and to revise the culture through which its peoples define and comprehend themselves.³⁵

Although it recognized these fundamental issues, the Women's Convention also had a significant gap. It did not address violence against women either as discrimination or as a human rights abuse,³⁶ nor was it explicitly discussed or dealt with as an issue of state responsibility. In fact, at the national level, states have never acknowledged responsibility for what is regarded as private violence, which is treated as a matter of individual crime instead of massive oppression. Domestic violence was, and still is, viewed as a largely private act which states generally have not and do not deal with.³⁷

In 1992, the Committee of the UN (CEDAW), which monitors implementation of the Women's Convention, recommended that its text be interpreted to include violence against women as a form of discrimination.³⁸ This recommendation was part

35. Rebecca J. Cook, *State Accountability Under the Convention on the Elimination of All Forms of Discrimination Against Women*, in HUMAN RIGHTS OF WOMEN, *supra* note 16, at 228, 252.

36. Obviously, discrimination is indistinguishable from a human rights equality claim; however, the difference in language and use of a variety of labels and claims is an important point.

37. See Wright, *supra* note 23.

38. See *Report of the Committee on the Elimination of Discrimination Against Women*, *supra* note 26.

of a growing international understanding that gender-based violence is a major impediment to women's equal participation in public and private life. CEDAW's recommendation also stated that the Women's Convention should be understood to apply to both private and public acts within states.³⁹ There were numerous recommendations setting out specific actions that states parties to the Convention should take. However, the provision which holds states accountable for individual violence is very significant in that it asserted states' responsibility for the acts of their citizens toward each other.

In 1992, a draft Declaration on Violence Against Women was developed which took the view that gender-based violence was an abrogation of women's human rights and called upon states to take action.⁴⁰ In 1993, at a Conference in Vienna on Human Rights,⁴¹ a Global Tribunal on Violations of Women's Human Rights, after several hearings, issued a statement which called upon states to establish mechanisms to prevent, investigate, and provide redress for women's human rights violations including: 1) the establishment of an International Criminal Court to protect and enforce women's human rights; 2) strengthening the Women's Convention; 3) the recognition that many of these violations take place in the private sphere of the family and that domestic violence is a violation of human rights, and that the 1994 Year of the Family should recognize all forms of supportive relationships that exist inside and outside institutionalized family relationships; and 4) the establishment of a special Rapporteur with a broad mandate to investigate violations of women's human rights (this has now occurred).⁴²

In 1993, the Declaration on the Elimination of Violence Against Women (Declaration) was adopted by the United Nations General Assembly.⁴³ The Declaration defines violence

39. *Id.*

40. *Monitoring the Implementation of the Nairobi Forward-Looking Strategies for the Advancement of Women: Violence Against Women in all its Forms*, U.N. ESCOR, 36th Sess., Annex, Item 4, U.N. Doc. E/CN.6/1992/4 (1992).

41. It should be noted that the Conference was not necessarily viewed as helpful to women and was subject to criticism from women's groups. See, e.g., *Women's Rights at the World Conference*, 3 WOMEN'S HEALTH J. 38 (1993).

42. *Violence Investigator Appointed*, GLOBE & MAIL (Quebec), Mar. 5, 1994, at A7; *Violations on Trial*, 3 WOMEN'S HEALTH J. 45, 48 (1993); *Vienna Declaration and Programme of Action*, U.N. GAOR, World Conf. on Hum. Rts., 48th Sess., pt. II, ¶¶ 18, 38, U.N. Doc. A/CONF.157/24 (1993).

43. See *Declaration on the Elimination of Violence Against Women*, *supra* note

against women to mean any act of gender-based violence that results in or is likely to result in physical, sexual, and psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.⁴⁴ These acts are considered to be violations of women's human right to equality.⁴⁵ Importantly, from a feminist perspective, the Declaration contains an assertion acknowledging that violence against women is a manifestation of the historically unequal power relations between men and women, which have led to the domination over and discrimination against women by men, and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position to men.⁴⁶

The explicit recognition that the governance of the world is male-centered and that violence against women is an issue of human rights and equality is important. However, the most significant aspect of the work done internationally has been to recognize the limits of law, perhaps necessarily because it is in the context of international relations where enforcement possibilities are limited. It is here that international law as a model for developing effective strategies to deal with domestic violence has been most helpful.

In the local or national sphere, women working on the issue of violence have been confronted by the fact that while most of the efforts to create change or resolve problems are largely justice and legislative system directed, these efforts do not, and will not, create the necessary social change. Put bluntly, even if abusers the world over were locked up, the fundamental problem of violence towards and oppression of women would remain. Jailing or similar sanctions of individual abusive males has some impact as a deterrent. However, the larger project of overall social change, i.e., the societal and individual internalization and understanding of the notion that this violence is unacceptable, is not achieved due to the lack of consensus about the issue.

That the existing domestic sanctions are ineffectual for the

26.

44. *Id.* art. 2.

45. *Id.* pmbl.

46. *Id.*

most part is similar to the problem faced internationally where there are no real penal sanctions possible short of war. It is through sanctions such as shame and condemnation within the international community that conformity to international norms is encouraged. There is increasing recognition of this fact by women at the national and local level. Thus, after observing the lack of any real change in their experience, women's advocates are becoming increasingly interested in the monitoring of government actors such as police officers and judges, regular reporting of domestic violence and violence against women, public and personal accountability, and shaming as viable measures toward the more fundamental social changes required. Given the history that most women have experienced in connection with the ineffectiveness of penal sanctions, shaming and social condemnation of the activity, as well as of any inaction on the part of state actors, are more, or at least as, likely to be effective as points for change than anything else.

International agreements hold states accountable for omissions or failures to act. The state in turn must be accountable internally to women for its responses. This international accountability successfully meets the tendency on the part of national governments to point to passage of legislation as indicia of an effective response to a problem. For example, a local report on domestic violence cited the strategies of accountability, independent monitoring, and personal and public accountability as key components in keeping people to their word and forcing change.⁴⁷ For many women, this approach also meets the concern that the feminist social action agenda not become lost in the need to respond to immediate harm.⁴⁸

It is also of interest that women's advocates and service providers are increasingly interested in a model of response which involves a coordinated community response premised on accountability of agencies in the community to each other.⁴⁹ A

47. See *supra* note 5. While it seems perhaps illusory, the fact is that eliminating family violence is now a "quality of life" line item in a Canadian provincial budget (Government of Nova Scotia, April 1995) and is a measure of effectiveness of a government department which is a start. In responding to the quantitative dilemma posed by a measurement of decreases in violence, the government will, of course, realize it will have to ask women if there is a change.

48. Deborah Prieur, *Wife Assault: Reclaiming the Feminist Agenda*, VIS-A-VIS, Spring 1995, at 1.

49. Observations from informal meetings attended by the author (Spring-Sum-

similar system of web-like accountability is, essentially, the governing dynamic of international relations.⁵⁰ This network of accountability is seen as a more appropriate response to domestic violence and a more effective means of achieving social change.

IV. CONCLUSION

International law and the concepts that have been developed in the form of legal instruments and statements have advanced the situation for women at the more local and experiential level. International agreements are legal documents which most groups could not achieve in their domestic or local sphere because they are mostly statements of agreed upon values and principles rather than legislation. That there has been adoption of specific views of the discrimination against women by the international community legitimizes the views of women nationally. These international standards, in turn, can be used by women throughout the world as local standards, and as a further endorsement of their view of the problem. Importantly, there is now an international basis for placing responsibility on the state for violence by men against women. Furthermore, the acknowledgement of women's rights at the international level demands that attention be given to the more hidden aspects of violence in the economic structures that keep women in oppressive situations. It can only be hoped that the multifaceted international efforts, which refuse to see passage of laws as the single or even a primary answer, but instead focus on underlying systemic change, will result in eradication of violence and the related systems that maintain the inequality of women.

mer 1995) (Halifax, Nova Scotia).

50. Visually, the model resembles a web of interrelated sectors all dependent upon each other's responsibility to shared values and goals. For a more extensive discussion of this architecture of relationships, see SALLY HELGESEN, *THE WEB OF INCLUSION* (1995).

