

AN INTERNATIONAL LAW STRATEGY TO STOP CRIMES AGAINST WOMEN

Riane Eisler, J.D.

On May 29, a 14 year old girl and her 15 year old sister were left hanging from a mango tree after being gang raped and murdered in a village in India. Two days earlier in Pakistan, 3-month pregnant Farzana Parveen was stoned to death in front of the Lahore courthouse by her relatives for marrying without their consent. Tragically, these are not isolated crimes. They are part of a deeply entrenched global pandemic of violence against women.

What is new is that, unlike 25 years ago when I wrote the first article on women's rights as human rights published in the *Human Rights Quarterly*, the silence about the socially condoned crimes that rob millions of girls and women of their lives is being broken. Yet even today there are places that have no laws against femicide and other horrors. And in many places where there are such laws, they are not enforced.

A central principle of international criminal law is that when a State fails to protect people from widespread, large-scale abuses that cause great suffering or serious injury to physical or mental health through its policies and laws or through the failure to enforce its laws, it is complicit in these human rights abuses.

Indeed, we are all complicit if we avert our eyes from the widespread, systemic, and atrocious crimes against women and children that continue unabated and unprosecuted in our world. It is generally recognized that failure to report a crime is itself a crime. For their sake – and for the sake of us all – we cannot continue to fail the most vulnerable among us.

The Rome Statute (especially Article 7 on Crimes against Humanity), the principle of Responsibility to Protect (R2P), and a growing number of UN Conventions, Covenants, and Declarations can – and must – be used to stop these crimes.

The Global Pandemic of Violence against Girls and Women

According to UNIFEM, up to six out of every ten women experience physical and/or sexual violence in their lifetime. A World Health Organization study of 24,000 women in 10 countries found that physical and/or sexual violence by a partner varied from 15 percent in urban Japan to 71 percent in rural Ethiopia, with most areas in the 30-60 percent range. A World Bank report estimate shows that violence against women is as serious a cause of death and incapacity among women of reproductive age as cancer, and a greater cause of ill-health than traffic accidents and malaria combined.

This has horrible consequences for the victims and for society.

In addition to the loss of lives and perpetuation of traumas from generation to generation with all the adverse human and social consequences that flow from this violence, the

economic costs are huge. For instance, a report from the US Centers for Disease Control and Prevention estimated that the cost of intimate partner violence in the United States alone exceeds US\$5.8 billion per year: \$4.1 billion for direct medical and health care services, and nearly \$1.8 billion in productivity losses due to absenteeism. In other words, domestic violence not only violates human rights; it also hampers productivity, reduces human capital, and undermines economic development.

The economic costs mentioned above do not include the cost of lost human potential resulting from the brutalization of girls and women.

The psycho-social costs are also horrific. When children observe this violence and domination of women, they internalize – before their critical faculties are formed, while the neural connections in their brains are being laid – a model of our species in which difference, beginning with the most fundamental difference between female and male, is automatically equated with dominating or being dominated, with being served or serving. This model provides a mental map for all in-group versus out-group rankings, be they based on race, religion, ethnicity, sexual orientation, and so forth.

Violence against women is also a major factor in perpetuating cycles of violence. As long as domination of male over female continues to be enforced through violence, generation after generation learns that it is permissible, even moral, to use force to impose one's will on others – be it in intimate or international relations.

International Law

The Crimes against Humanity Section of the Rome Statute holds those officially or unofficially acting for governments responsible when there are well-known, widespread, large-scale abuses against civilian populations that cause great suffering or serious injury to physical or mental health, but are not included in a state's laws, or if there are laws, they are not enforced.

However, to date this principle has been applied only when crimes against girls and women occur in the context of armed conflicts – even though the overwhelming majority of crimes against girls and women take place in “normal” settings. Therefore, we must:

1. Expand the interpretation of the Rome Statute, particularly sections of Article 7 - Crimes against Humanity, to include egregious, widespread, and systemic practices that cause women and children great suffering or serious injury to physical or mental health but are not punishable under a state's laws or if there are laws, they are not enforced.

2. Amend the Rome Statute to include gender and childhood under the description of protected groups.

My recent chapter in a Cambridge University book, “Protecting the Majority of Humanity: Toward an Integrated Approach to Crimes against Present and Future Generations,” details this proposal. A short excerpt follows.

Legal Remedies

The two news stories at the beginning of this paper are from the Asia Pacific area. While the pandemic of violence against women and girls is global, it is noteworthy that the *2010 Asia-Pacific Human Development Report* states that “Few countries have adopted or implemented laws prohibiting violence against women, despite widespread evidence of discrimination and assault. Nearly half of the countries in South Asia, and more than 60 percent of those in the Pacific, have no laws against domestic violence.” This illustrates the urgent need for international intervention. The following sections of the Rome Statute can be used to this end:

1. Article 7, Crimes against Humanity, especially Article 7a – Murder; Article 7b – Extermination; Article 7h – Persecution; and Article 7k – Other inhumane acts.

The Rome Statute specifically includes “the most serious crimes of concern to the international community as a whole.” The section on crimes against humanity specifically covers “murder, extermination, persecution,” and other inhumane acts “when committed as part of a widespread and systemic attack directed against any civilian population, with knowledge of the attack.” Crimes against girls and women are widespread, systemic, and widely known. Crimes such as “honor Killings” are murders. Extermination “includes the intentional infliction of conditions calculated to bring about the destruction of part of a population. Persecution means “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity” (and includes gender), and Section 7 k covers “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.” According to the statute, “attack” means “a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population,” which, a SEQ CHAPTER \h \r 1s international law expert Antonio Cassese explains, means that it is part of a widespread or systematic practice that is either part of a governmental policy or is tolerated, condoned or acquiesced to by a government or *de facto* authority.

Cassese further states that crimes against humanity may be committed by individuals acting in a private capacity, provided that governmental authorities approve of, condone, or fail to prohibit and punish such private actions. Hence, tolerance or acquiescence by a government to not only official acts but also widespread acts by individuals should be under the purview of the Crimes against Humanity clause of the Rome Statute.

The argument can be made that even though only section 7h (Persecution) lists gender under the categories of protected groups, it does not need to be specifically listed for widespread crimes against girls and women to constitute crimes against humanity. If this argument is not accepted, the following additional approach can be used:

2. Amend the Rome Statute to list gender and childhood in addition to “national, ethnical, racial, or religious group” so as to protect girl babies and children under the provisions of Article 6 a – Killing members of the group, 6b – Causing serious bodily or mental harm to members of the group, and Article 6c – Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in

part.

For more details on using international law as outlined above, please go to:
HYPERLINK "[http://www.partnershipway.org/learn-more/articles-by-riane-eisler/peace-human-rights-violence-terrorism/](http://www.partnershipway.org/learn-more/articles-by-riane-eisler/peace-human-rights-violence-terrorism/Protecting%20the%20Majority%20of%20Humanity%20Dec%202010.pdf/view?searchterm=Protecting%20the%20Majority)

Protecting%20the%20Majority%20of%20Humanity%20Dec%202010.pdf/view?searchterm=Protecting%20the%20Majority" [Protecting the Majority of Humanity: Toward an Integrated Approach to Crimes against Present and Future Generations](#). See also HYPERLINK "www.saiv.org, the website of the Spiritual Alliance to Stop Intimate Violence, co-founded by Riane Eisler with Nobel Peace Laureate Betty Williams.

Or email HYPERLINK "<mailto:eisler@partnershipway.org>" eisler@partnershipway.org

Using international law to protect the majority of humanity – women and children – is an idea whose time has come. I appeal to you to be a leader to make this a reality.

HYPERLINK "<http://www.usatoday.com/staff/2543/kim-hjelmgaard>" [Kim Hjelmgaard, USA](#)

[TODAY](#) India gang-rape victims left hanging from tree. 8:58 p.m. EDT May 29, 2014

BBC News Asia, 27 May 2014 10:46 ET. Pakistan woman stoned by family outside Lahore court.

R. Eisler, "Human Rights: Toward an Integrated Theory for Action," *The Human Rights Quarterly*, Vol. 9, No. 3, August 1987. See also R. Eisler, "Human Rights: The Unfinished Struggle." *International Journal of Women's Studies*, Vol. 6, Number 4, Sept/Oct 1983; R. Eisler, "Human Rights and Violence: Integrating the Private and Public Spheres," in *The Web of Violence*, L. Kurtz and J. Turpin, editors, Urbana, Illinois: University of Illinois Press, 1996.

See e.g., United Nations, Treaty Series, vol. 1249. Convention on the elimination of all forms of discrimination against women. 18 December 1979. New York; UN General Assembly resolution 44/25. Convention on the Rights of the Child, 20 November 1989. New York; UN General Assembly A/RES/48/104. 85th plenary meeting. Declaration on the Elimination of Violence against Women. 20 December 1993. Retrieved from

HYPERLINK "<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>" <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>, HYPERLINK "<http://www2.ohchr.org/english/law/pdf/crc.pdf>" <http://www2.ohchr.org/english/law/pdf/crc.pdf>

HYPERLINK "<http://www.unicef.org/crc/>", HYPERLINK "<http://www.un.org/documents/ga/res/48/a48r104.htm>" <http://www.un.org/documents/ga/res/48/a48r104.htm>.

C. García-Moreno et al. WHO Multi-country Study on Women's Health and Domestic Violence against Women. World Health Organization: Geneva, 2005. . Retrieved from: HYPERLINK "[http://www.who.int/gender/violence/who_multicountry_study/Introduction-Chapter1-Chapter2.pdf](http://www.who.int/gender/violence/who_multicountry_study/Introduction-Chapter1-%09Chapter2.pdf)" http://www.who.int/gender/violence/who_multicountry_study/Introduction-Chapter1-Chapter2.pdf;

UNIFEM 2007. Retrieved from : HYPERLINK "http://www.unifem.org/gender_issues/violence_against_women" http://www.unifem.org/gender_issues/violence_against_women

UNIFEM 2007. Retrieved from: HYPERLINK "http://www.unifem.org/gender_issues/violence_against_women" http://www.unifem.org/gender_issues/violence_against_women

See e.g., A. Cassese, *International Criminal Law*, New York: Oxford University Press, 2003, page 93.

R. Eisler. Protecting the Majority of Humanity: Toward an Integrated Approach to Crimes against Present and Future Generations. In Sebastien Jodoin and Marie-Claire Cordonier Segger, editors. *Sustainable Development, International Criminal Justice, and Treaty Implementation*. New York: Cambridge University Press, 2013.

2010 Asia-Pacific Human Development Report, Retrieved at HYPERLINK "http://www2.undprcc.lk/ext/pvr" \t "_blank" <http://www2.undprcc.lk/ext/pvr>

A. Cassese, *International Criminal Law*, New York: Oxford University Press, 2003, page 65.

. A. Cassese, *International Criminal Law*, 2 edition, New York: Oxford University Press, 2008, page 125

For example, former U.S. Secretary of State Hillary Clinton has repeatedly emphasized her intention to make women's human rights a global priority Retrieved from HYPERLINK "http://thomas.loc.gov/cgi-bin/query/F?c111:4:./temp/~c111FBvBLY:e0" <http://thomas.loc.gov/cgi-bin/query/F?c111:4:./temp/~c111FBvBLY:e0>