

Why the Convention Against Torture can redress violence against women

By Sagorika Platel

The usefulness of the Convention Against Torture (CAT) in preventing violence against women is not immediately apparent. Joanna Renkin, senior associate and manager of the pro-bono community support program at Landers and Rogers and Rachel Ball from the Human Rights Law Centre opened a recent lecture by Professor Claudio Grossman by noting that CAT was originally drafted to reflect contexts in which men are often tortured. It has taken some creative re-interpretation for this convention to be applicable to the experiences of women. Ms Ball also pointed out that Australia's review under CAT was due to occur in August this year and as a result, it was a good time to think about the ways in which CAT could be used as an effective advocacy tool for women.

Prof. Grossman, who is currently Chair of the United Nations Committee Against Torture, started by giving an overview of CAT and some of its articles. Prof. Grossman noted that CAT defines torture as any act, physical or mental, whether at the instigation, consent or acquiescence of a public official, where severe pain or suffering was intentionally inflicted for a range of purposes including discrimination. Such acts are also prohibited if they meet the slightly lower standard of "cruel, inhuman or degrading" treatment or punishment. Under Article 14 of CAT, states must ensure that victims have a means of reparation and redress against those responsible for acts of torture.

Prof. Grossman put forward the idea that if gender violence were considered a form of discrimination, then this violence could amount to torture. He noted that women and girls are victims of violence because they are the objects of stereotyped gender roles and, as a result, there is a discriminatory undertone to such violence. By accepting the idea that violence against women and girls is a form of discrimination, a parallel can, in some situations, be drawn between torture and gender violence. Prof. Grossman also used this contention to support the proposition that domestic violence is no longer confined to the private realm but that it is now a human rights issue in the international arena when it reaches the level of torture or cruel, inhuman or degrading treatment defined in CAT.

Prof. Grossman then dealt with the argument that CAT should not prevent violence against women and girls if such violence were part of a cultural or traditional norm. He said that the CAT committee rejects the idea that violence against women and girls

should be sanctioned where it is part of cultural practice, such as the practice of forced marriage in Yemen or so-called crimes of honour. He argued that CAT places the values of criminal law where they should be, meaning that it prevails over questions of honour and cultural practices.

Prof. Grossman also discussed the problems arising when gender intersects with other characteristics such as having a disability, being an orphan or an immigrant. These women and children become 'open game' for abuse and therefore more vulnerable.

Fortunately, the CAT Committee is able to monitor and address instances of gender violence in countries that have ratified the Convention. Prof. Grossman referred to Ireland and Slovakia as examples of how the convention was used to supervise and address violence against women and girls. With regards to Ireland, Prof. Grossman noted that the CAT committee addressed the need to criminalise female genital mutilation, to take various measures to reduce domestic violence and to clarify the scope of legal abortion in situations where pregnancy would risk the mother's life. With regards to Slovakia, the committee report recommended that all allegations of involuntary sterilisation of Roma women be investigated and prosecuted diligently, which resulted in the Slovakian government establishing a commission to investigate the allegations.

After Prof. Grossman's presentation, Fiona McCormack, chief executive of Domestic Violence Victoria, gave some poignant statistics on the Australian situation. She noted that family violence is rife in Victoria and that it accounts for one woman being murdered every week, 50% of child protection cases and the single most significant contributing factor for women and children leaving home, incidentally making women and children the largest cohort of homeless persons in Australia. Fiona expressed her frustration with these statistics but explained that the situation is what it is today because family violence has been an under-resourced area for many years and that it has been excused to a certain extent on a cultural basis.

The event was a fascinating look at how the Convention Against Torture could be used to address an historical blind spot in international human rights law.

Claudio Grossman's lecture, held at Lander and Rogers, was a joint event with the Human Rights Law Centre.