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# **Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development**

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**EVIDENCE**

**Thursday, February 10, 2011**

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**Chair**

**Mr. Scott Reid**



## Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

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• (1305)

[Translation]

**The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)):** Welcome to the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development.

Today, February 10, 2011, marks our 44<sup>th</sup> meeting, and we will be discussing sexual violence against women and children.

[English]

We are going to have a quite distinguished witness in a moment, but I can see that we haven't yet established a sound link. While we're waiting for the technician to take care of that, we will deal with two procedural matters.

First of all, Mr. Silva has submitted a motion today, which will be circulated. Under our rules it won't be available for debate until next Tuesday, but it relates to the blasphemy laws in Pakistan. Second, Professor Cotler had a suggestion that he alerted me to regarding a potential item for discussion. I thought, professor, you could enlighten us about that.

**Hon. Irwin Cotler (Mount Royal, Lib.):** About a year ago I introduced a private member's bill, Bill C-483, which was to provide a remedy for victims of the most heinous of crimes—war crimes, crimes against humanity, and genocide—to give them a civil remedy against foreign governments and their officials who perpetrated these atrocities. Right now the State Immunity Act immunizes these foreign governments and officials from any suit, although there are commercial exceptions. In other words, if there's been a breach of contract, you can sue, but if you've been a victim of genocide, you can't. We had someone from each of the parties support it on introduction.

To sum it up, there was a case that just came down, the Kazemi case, which was a suit brought against the Government of Iran. I can crudely summarize it by saying that the court felt that for the most part, it's Parliament that should deal with this. Jayne Stoyles, executive director of the Canadian Centre for International Justice, asked me if we might consider hearing her and a law professor expert who would come before us and make submissions on that issue, with the hope that maybe the government would take over this private member's bill or a variation thereof, in light of the fact that courts have now turned the case over to Parliament. The private member's bill is there, and we have this anomalous legal situation in

which you could sue for breach of contract, as I said, but not for being a victim of the most heinous of crimes.

Two witnesses would come before us. One would be Jayne Stoyles, the executive director of the Canadian Centre for International Justice. The other would be, I believe, a law professor from the University of Ottawa.

**The Chair:** Would both come to the same meeting?

**Hon. Irwin Cotler:** Yes, both would come to the same meeting.

**The Chair:** Do we have agreement to invite Ms. Stoyles and the law professor for a meeting to take place at some point after the break? I see we are agreed.

Let's see if our technician has hooked things up with Madame Arbour.

Madame Arbour, are you able to hear me?

**Hon. Louise Arbour (President and Chief Executive Officer, International Crisis Group):** Yes, I can. Can you see and hear me?

**The Chair:** I can certainly do so.

Everybody, you can use your earpieces to hear Madame Arbour more clearly and also to receive translation.

**Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC):** We continue to be faster than technology.

**The Chair:** In that case, it gives me great pleasure to welcome Madame Louise Arbour, former Justice of the Supreme Court, who is going to testify all the way from Brussels as part of our hearings into sexual violence against women and children. Since no further introduction is needed, perhaps I can turn things over to you, Madame Arbour, and invite you to make a presentation. Once you're done, we would like to have members of the committee ask some questions. We anticipate this will take, all told, about an hour.

I invite you to begin your presentation.

• (1310)

**Hon. Louise Arbour:** Thank you very much indeed.

[Translation]

Thank you for inviting me to speak to you about sexual violence in conflict zones and about the role that Canada can play to minimize its devastating consequences, particularly its impact on women and children.

The organization that I head, International Crisis Group, is committed to preventing and resolving armed conflict. Our analyses and recommendations are based on an on-the-ground presence in 27 countries and cover some 60 countries and territories affected or threatened by conflict.

I don't want to make generalizations about a reality that manifests itself differently in every context, but it is safe to say that civilian populations tend to be unstable in countries in which the rule of law is largely absent. Not surprisingly, this is very often the case in countries at war or recovering from a crisis.

I will illustrate my points with examples from Haiti, Sudan and Afghanistan, as Canada has a special role in these three countries. I would like to emphasize once again that, while sexual violence plays out differently in each case, sexual violence is nearly always a hidden by-product of war, just as it is often overlooked in peace time by countries whose cultures either deny its existence or tolerate it.

[English]

This presents a grave challenge for international efforts to eradicate sexual violence as a byproduct of war. Just over 10 years ago, the Security Council of the United Nations adopted what was meant to be a landmark, resolution 1325, and the last two years have seen some developments related to its implementation and, indeed, additional resolutions. However, 10 years after the initial Security Council initiative, in my view it has yielded so little progress on the ground that there are causes for questioning whether the whole thrust of that doctrine is sound.

I'm sure you're familiar with the overall situation in Haiti. For women and girls in the tent cities in Port-au-Prince, Security Council resolutions must seem very remote. Sexual violence was pervasive in Haiti even before the earthquake and the subsequent humanitarian disaster, as the rule of law was weak and years of development efforts failed to construct a functioning criminal justice system. The crisis has further increased the vulnerability of many women and girls. Data are unreliable, but widespread abuse and rape have been reported in the 1,200 to 1,300 IDP camps in the capital, which house over one million residents.

In Sudan, rape has long been identified as a weapon of war in Darfur. The Darfur peace negotiations led to a comparative lull in overall violence over the past few years, but clashes that did continue between the government and various rebel factions have been accompanied by cases of rape, gang rape, and other physical assaults thought to be carried out by all sides. The last couple of months, with the eyes of the international community on the south's referendum, have seen an escalation of violence in Darfur. Humanitarian agencies have been denied access to areas between the north and south of Darfur, and IDP populations, especially women and children, are thought to be particularly vulnerable.

The situation in Sudan is aggravated by the systematic denial by the government of the extent and even the existence of widespread sexual violence. The government is prone to accuse international NGOs of fabricating a problem that they then use to obtain funding from their western donors, for whom this is a popular cause.

In South Sudan, despite the Comprehensive Peace Agreement between the north and the south and the jubilation around the

landmark referendum, one recent study has suggested that women continue to suffer rape and other forms of gender-based violence. Sexual violence is carried out with impunity by the police and armed forces, since soldiers feel a sense of entitlement as liberators above the law. Intercommunal violence, such as the deadly attacks in Jonglei in March and April of 2009 on which the International Crisis Group has reported, now appears to include the specific targeting of women and children.

In Afghanistan, the government and its international backers struggle to meet many of its citizens' rights and needs, but the failure to ensure the equal rights enshrined for women and girls in the Afghan Constitution, not to mention the Convention on the Elimination of All Forms of Discrimination against Women, to which the country is party, is especially stark. These shortfalls can't be scrubbed away by reference to Afghan cultural norms. They should be seen in the context of an American-led international intervention, in which justice and meaningful efforts to build rule-of-law institutions have been largely absent.

The pervasive impunity in Afghanistan is a major driver of support for the insurgency. It also underlies the widespread sexual violence against both women and girls—about 85% of which is purportedly carried out by family members—or against young boys, an important but under-reported practice perpetrated as much by pro-government militias, nominally the West's allies, as by insurgents.

A lack of political will, together with discrimination against women in both the formal and informal justice systems, reinforces the impunity and entrenches cultural attitudes and abusive practices that deny women their rights, including protection against sexual violence.

● (1315)

In Haiti, Sudan, and Afghanistan, as well as in the eastern provinces of the Democratic Republic of Congo, entrenched patterns of abuse against women intersect with newer trends emerging from social breakdown associated with armed conflict.

The tendency, especially on the part of donors, to outsource work linked to sexual violence to civil society or to humanitarian actors is understandable in the face of governments' reluctance to tackle sexual violence, and in the case of Darfur and the DRC, even the state itself is implicated. However, law enforcement and justice are basic public goods, and therefore they are the preserve of state actors. The extent to which they can be contracted out to civil society groups is limited.

NGOs can open clinics but not courts. While civil society groups or peacekeepers might be able to provide short-term protection and assistance to victims, their work must be complemented by longer-term development of state capacity to prevent sexual violence and to punish perpetrators. This is, of course, part and parcel of a larger effort at building state institutions in the justice sector, broadly defined.

But efforts at protection are not enough, at least not as presently configured. Conflict is, of course, about power. Whatever its root causes and its innumerable contextual complexities, virtually every deadly conflict relates to power—how it's controlled and how it's distributed.

Understanding the particular vulnerability and victimization of women, especially in the grossest cases—life under a compulsory burka, or brutal rape by militias in the DRC—is not that hard, but rather than assuming that they need protection, which is already a paternalistic attitude, and then failing miserably to protect them, why not draw the more obvious conclusion, which is that women need to protect themselves, and then help them get on with that?

It's not an unreasonable assumption that if we were to put as much money directly into the hands of women in war zones—not just microcredits, but the kinds of resources that flow freely to the military, for example—that kind of funding would help secure for women a real seat at the table in peace talks and ensure that they became powerful enough to protect themselves and their children.

It's often said that international assistance is inevitably a reflection of a society's domestic policies. The greatest impetus for the protection of women in Canada from sexual and gender-based violence came from the full legal empowerment of women as equal citizens in the 1982 Canadian Charter of Rights and Freedoms and in the federal government court challenges program, which allowed women to take charge of the issues that affected them and to seek, by themselves and for themselves, just and fair solutions.

Transposed to the international scene, Canada can champion the empowerment of women in war-torn countries by helping to build credible institutions of governance—parliaments, courts—and, in parallel, by giving women directly the means to advance their own interests. I believe the development of a country-tailored program that would reflect that policy line would stand a real chance of having an impact.

• (1320)

[Translation]

Thank you once again for inviting me to speak today. I am sorry that I was unable to join you in person. I am in Brussels, where it is raining, but rest assured that I am available to answer any questions you may have for me.

[English]

Thank you very much.

[Translation]

**The Chair:** Thank you very much, Ms. Arbour.

[English]

I think we can go to eight-minute questions today. I would encourage members to try dividing their time, as I think it's unlikely that....

If we have a little time left over, we might have a chance to get in one or two other questions. To be on the safe side, though, if you have more than one party member who wishes to ask a question, I think you should divide your time.

We will begin our eight-minute rounds with either Mr. Silva or Mr. Cotler. I'm not sure which of you wants to take the lead.

**Mr. Mario Silva (Davenport, Lib.):** Thank you very much, Mr. Chair.

First of all I want to thank Louise Arbour for making time to speak before this committee. I want to thank her for all the work she's done with the UN and our courts, and also in working with the International Crisis Group, which has been an organization I've monitored over the years. It has done an excellent amount of good work and advocacy, as well as good work on the ground in helping those who have issues of human rights.

Your presentation was quite powerful and very thoughtful, and I was struck by your understanding of the importance of power and politics. I think all of us in politics understand the importance of power and how it can be misused to deal with issues and bring about conflicts around the world.

We are engaged, as you mentioned, quite strongly in what's going on in Haiti and in Afghanistan. We have sacrificed lives. I have raised concerns about what is happening with the administration of President Karzai; some of the testimony we've heard over the past has been quite troublesome.

I think you are right. Those victims who have come before this committee, the NGOs, and all the women advocates say you need to have women at the table. It's very important that women be very much a part of the structure of the discussion and also be part of the solution. Empowering women is very important.

I want to ask you specifically about the issue of human trafficking. We've talked about sexual violence. What is happening in those countries around the trafficking of women and young children? Is that becoming an even greater problem over the years, or do you see that as not being as relevant as the issue of sexual violence in these particular countries?

**Hon. Louise Arbour:** Thank you, Mr. Chairman.

Should I answer the questions in turn, or take all the questions?

**The Chair:** Normally we hope to have a dialogue, so please answer them as they come in. That might give a chance for further response.

**Hon. Louise Arbour:** Thank you very much.

First let me stress again how much I agree with the necessity to focus on the empowerment of women and not just the victimization of women. I think that side of UN resolution 1325 has in some cases been overemphasized.

On the issue of empowerment, I think we need to talk seriously about real power, not just cosmetic power or the appearance of power. Giving women seats at negotiation tables when they have nothing to deliver as part of structuring a peace deal or a post-reconstruction framework—when they don't have weapons to surrender, when they don't have money to bring, when they don't have a constituency that speaks loudly behind them—is more cosmetic than real in terms of trying to create a space for the empowerment of women. That's the trap I'm afraid we have fallen into in allegedly “bringing women to the negotiation tables”, but not as power brokers or power holders.

Conflict is about power and fuel for power. The realities in modern armed conflict are the same as they've always been: money and weapons. For the most part, women have neither. That is the reality. I think we have to speak very frankly about what we mean by the empowerment of women and how some of it, at times, is not empowerment. That's why it doesn't have much impact on the ground.

On the question of human trafficking, I haven't looked at that issue since I left my post as the United Nations High Commissioner for Human Rights, where considerable work was done on human trafficking, and particularly on the trafficking of women and girls. A lot of it is endemic and doesn't take place just in conflict situations. It may be aggravated by conflict that causes migration to become an issue. Displacement inevitably is a fertile ground for trafficking. People are anxious to leave; they flee, and then they will look at all kinds of opportunities, many of them illegal. They therefore fall prey to the trafficking very rapidly.

I think it's important to recognize that human trafficking is also linked, in many parts of the world, to the lack of opportunities for economic migration. For a long time we've had a functioning system of protection for political migrants under the convention to protect refugees, but we don't have an international framework to really guarantee and ensure the proper protection of economic migrants. I think the question of human trafficking is able to thrive in that kind of environment.

Thank you.

• (1325)

**Hon. Irwin Cotler:** I'd like to thank you again for your presentation, Madam Justice Arbour, and put two brief questions to you, flowing out of your presentation and your experience.

You spoke about the need for a country-tailored program in terms of allowing women to protect themselves—in other words, where Canada can champion the empowerment of women in that regard, as you put it. You used as an analogy the court challenges program. Regrettably, that court challenges program, whose importance I would share with you, has been dismantled, so I'm wondering about Canada's credibility with regard to initiating empowerment of women in terms of parliaments and courts, as you put it. You said, "NGOs can open clinics but not courts", so the first thing is this: how do we get the Canadian government to do internationally what it has turned its back on domestically?

The second question follows from your own experience as the special prosecutor for the international criminal tribunals for the former Yugoslavia and for Rwanda. They established important principles and precedents regarding sexual violence in armed conflict. I was wondering about something that came to mind in listening to your presentation. As you said, this is about power and enforcement. What about an initiative establishing an international criminal tribunal with respect to sexual violence in armed conflict that would deal with the kinds of cases you mentioned—Haiti, Sudan, and the like?

Those are the two questions.

**Hon. Louise Arbour:** Thank you.

I used the example of the court challenges program in large part because I believe that it's one of the rare examples—but in a sense should be a classic one—of a real form of empowerment, not a paternalistic one. Women very much took the lead, and, as you know, many other groups—some minority groups, essentially equality-seekers—were given the means to advance their own interests by themselves. Whether through a similar program—and I wouldn't suggest exporting that particular program, because in the many countries we're talking about there are not even any functioning courts to go to—or something that uses exactly that concept, a non-paternalistic policy that is serious about talking about empowerment of equality-seekers, or in the case we're talking about, victims seeking not only redress for themselves but a profound change in policies and cultural assumptions....

To a large extent I think that has been the genius of the Canadian charter and of government assistance to equality-seekers and others with constitutional claims in coming to court. In doing so, they were not only seeking redress for themselves and advancing their own interests, but in a sense they were advancing the interests of a larger group who could intervene, or not, but in any case whose rights were advanced. We could try to design, as I said, country-specific policies, whether it's for the DRC, for the Sudan, or Haiti, that utilize that imaginative concept and adapt it, not necessarily to empower women, as I said, to take their cases to non-existent courts, but so that they'd be given the means to seek redress for themselves. In that way, they could advance the interests of others, not by purely providing services but by giving them the tools.

Again, I made the remark—and I didn't want to be flippant when I said it—about doing it not just through microcredit, but with real money. I don't want to be disparaging about these microcredit initiatives, which are very important, particularly, and maybe more specifically, in peace-building and the reconstruction of societies to give women a space in the economic playing field, but in the case of conflict, power needs real money. I think we can look at trying to develop initiatives that will mirror the court challenges program. They don't have to be exactly that, but things that are inspired by the same sentiment: that women are perfectly capable of looking after themselves and their children if they're given proper tools, meaning not cosmetic tools, not artificial tools, not paternalistic assistance, but real means to advance their own interests.

As I understood your question, the idea might have been to look at creating a dedicated court that would look at sexual violence or rape as weapons of war. It would look at it in the context of armed conflict. Down the road, one might imagine, for instance, a dedicated chamber in the International Criminal Court. I would be very wary of dissipating the little energy that there is in the international system in supporting the existing vehicles. As you know, the International Criminal Court has suffered some setbacks, including a recent resolution by the African Union at its last meeting calling for the deferral of indictments against President Bashir of Sudan and for the deferral by the Security Council of the case that the prosecutor brought against some persons in Kenya. I think the system is still looking for the establishment of its credibility and legitimacy as an overall international criminal court. I would be wary about launching parallel initiatives.

Having said that, at the same time I've never been a very big fan of mainstreaming these issues. They tend to disappear. Maybe we need to encourage the prosecutor of the ICC, for instance, to have a dedicated capacity in his office to ensure that sexual violence is constantly investigated and given the proper importance. As I said, possibly down the road, when the ICC is a fully operational judicial institution, it might have a specialized, dedicated chamber, which I think would give a lot more visibility to these issues than when they are buried in an indictment that may contain multiple counts, including some dealing with these issues.

Thank you.

•(1330)

**The Chair:** Thank you.

[*Translation*]

Ms. Demers, you have the floor.

**Ms. Nicole Demers (Laval, BQ):** Thank you very much, Mr. Chair.

Ms. Arbour, it is truly a privilege and an honour to have you with us today.

I found your presentation fascinating. I am very saddened by the fact that so many women and children still suffer in countries where we should be doing more to help. I want to know how we can do better, how we can do more. I know that we do not provide enough assistance and that the money we do provide is very often misused. I agree with you when you say that if we gave more money to women directly, they could take charge of their own destiny and be better equipped to protect themselves and their children.

In your view, how would that take shape? Do you think UN Women has a role to play in empowering these women?

•(1335)

**Hon. Louise Arbour:** Thank you very much.

Like you, I think the real challenge is developing programs. We can hardly expect to show up with bags full of money ready to be handed out to women, even though that seems to be the case in other situations, with money being handed over to warlords and even heads of state. We still need to come up with something a bit more sophisticated than that.

As for UN Women, I have recently had a few meetings with Ms. Bachelet. I am very confident in her leadership. I think that the creation of UN Women and the fact that the United Nations is focusing on this issue will have a positive impact.

As I said in the beginning, I have some concerns about the actual doctrine at play. Programs are not the only problem. Resolution 1325 serves as the foundation not only for all the UN's efforts, but also for those of many member states, who model their own foreign aid programs on it, especially in cases of armed conflict. The resolution has two pillars. First, it recognizes the specific victimization of women and children—and not just child combatants—in situations of armed conflict. Second, it recognizes the importance of empowering women so they can contribute to the peace process.

As I mentioned in my opening remarks, here we are ten years later, and I am not so sure that the initiative has yielded much progress. Of course, we need to continue taking care of victims. And no government, including Canada's, is doing enough. For instance, we give local NGOs money to open clinics. I am not suggesting we abandon those efforts altogether, because we do still need to support victims, especially in situations like the one in the Congo. You have no doubt heard just how severe the sexual violence can be and that it very often requires considerable medical attention. I am not trying to minimize that, but it is by no means enough.

As far as giving women power goes, I would say we have been much too tame, focusing solely on bringing women to the table for the so-called peace process and reconstruction talks. If women are to make a real contribution, they have to have something to bring to the table. It is not enough just to give them a seat, while the powerful players do all the negotiating. Having a seat and having power are not one and the same. A seat alone is not enough.

To really empower women, we need to give them more significant resources than we have in the past. Resources that are meaningful, not necessarily limitless. For instance, we need to stop the stigmatization of women. Being raped already comes with a huge stigma, but imagine if, after being raped, you could return to your village with the financial means necessary to stop relying on those who were supposed to protect you but did not do so. This does not always require excessive resources, but rather, tangible ones that visibly influence power.

**Ms. Nicole Demers:** How do we make sure these resources make their way to these women? Could Canada play a role in that? How?

**Hon. Louise Arbour:** It comes back to what I said earlier. A country's foreign aid policy is often a reflection of its own experiences and values. Think back to when the government decided to start sending family benefit cheques directly to mothers instead of fathers. It was a pretty radical idea at the time. I am sure there were some skeptics who thought, as we often hear, that the husbands of these women would force them to hand over the money right away. There are all kinds of stereotypes that go along with that. True, in some cases, women may not be able to manage the money they are given or may be intimidated or forced into handing it over immediately, but not always.

Figuring out who to send the family benefit cheque to is not the real problem, and the same metaphor applies here. There are ways to give women real money or the equivalent in material goods, which not only symbolize power, but also give it.

In a number of African countries, for instance, a cellular telephone is first and foremost a symbol of power, but the ability to communicate is also a means of protection. The only people with cell phones are the local NGO representatives. This is one example of a very tangible measure.

We need to develop well thought-out tailored programs on a country-by-country basis. Clearly, we will not arrive at the solutions by sitting down and talking, but by speaking directly with these women on the ground and asking them what would have the dual effect of protecting them while giving them visible power that the men, themselves, would envy. That is how the dynamic of the victimization of women in conflict will start to change.

• (1340)

**Ms. Nicole Demers:** So we need to rethink how we deliver aid. Instead of assuming that our way is the right way, that our tools are the right ones, we need to speak with the people on the ground and ask them what they need so we can give them the right tools.

**Hon. Louise Arbour:** That is what I believe.

Finally, our approach to women in armed conflict has never really taken into account, because they do not fit the stereotypes, women combatants, women who become involved in the conflict, despite their limited means. Some of those women are in the streets of Egypt right now. They are part of every armed conflict. This is a much-hidden reality, in my opinion, because it does not fit the classic model of the woman as a victim or peacemaker. Make no mistake, some women have taken charge of their destiny, and they fit all kinds of models.

We should take into account this group of women, who, very often, are combatants. They fight, they engage in armed combat, and when the conflict ends, they disappear. They, too, should have a say in the solution; we need to understand why they became involved in a society that attaches little importance to them and that uses very masculine means. We should listen to what they have to say to learn why they decided to take control in their specific context and why, in many cases, they were unable to retain control once the conflict was over.

**Ms. Nicole Demers:** Thank you.

**The Chair:** Thank you.

[*English*]

Mr. Marston, please.

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** Thank you.

Thank you, Madame. I'm very pleased to be able to take part in this discussion with you. I've been an admirer of your work for a long time. I'm very proud that we have a Canadian carrying our flag around the world in the manner that you have done.

You said early in your testimony that the international intervention in Afghanistan had not succeeded in the area of justice or building

the rule-of-law institutions. My party has been supportive of our troops in Afghanistan but very concerned about the intervention and how it's been managed. I, for one, believe the failures are not the failures of Canadians, but the failures of an international community there.

At this committee we've heard very disturbing testimony about a practice called "boy dance". A young child dances for a period of time and then is awarded as a sexual prize to one or more of the men in the room. We've heard that this has actually occurred at police stations and places like that. It seems to match up with what you've said in your testimony regarding military and police power.

It appears that allowing sexual assaults of this nature—and, more broadly, the attacking of women as well—is in a way a transferral of power from whoever is the government of the day, either by benign neglect or impunity, to the military and to the police to ensure their future support. Sadly, tragically, taking the power away from others by these acts is, in a way, empowerment for them.

I would be curious to hear your opinion: are the police and military sexual assaults more prevalent than actual civilian-to-civilian assaults?

That's one question. I'll go through a couple of things, and then you can answer as you feel.

I have to wonder, from your testimony, if there's broad-based support on the ground for the establishment of the rule of law in the supporting institutions. Our forces, the international forces, can do as much as possible, but there has to be that need within the community, within the peoples of a country, for it to be truly successful. There has to be a foundation. There have to be the bricks to build with, so to speak. I'd like your view on that. We all knew that the Taliban ruled with tyranny when they were there, but what were the cases of assaults and cases of that nature under their reign?

On resolution 1325, you've indicated that there has not been complete and enthusiastic support from the international community. I would suggest that's probably the reason—that it's not had the outcomes that we've wanted right along—but that's more of a comment on your comments.

Perhaps you'd like to respond to the first part.

Thank you.

• (1345)

**Hon. Louise Arbour:** Thank you very much.

On your first question, the victimization of boys in particular in Afghanistan was well known to agencies working on the ground for a long time—UNICEF, for instance—but it had not penetrated mass media. It just started to surface in recent years, and it's clearly very much part of the concerns we have to address in terms of the welfare of children generally.

You asked whether assaults, particularly sexual assaults, tended to be perpetrated more by security forces, such as the military or the police, or by civilians. I think that in virtually all the societies from Afghanistan to the Congo, for instance, where we see massive sexual violence, it was not all invented by the conflict. A lot of violence was quite prevalent. In Haiti it is the same thing. It is very prevalent in societies in which impunity is rampant. Discrimination against women and neglect of children are very prevalent, and therefore these practices are largely entrenched and extremely difficult to reverse.

Certainly the studies I've seen suggest that in Afghanistan almost 80% to 85% of sexual violence against women is perpetrated by family members, so in answer to your question, this would be very much a civilian-based form of sexual violence, which is not to say that security forces don't do it as a form of retaliation, particularly when opportunities present themselves when they have people in detention. We see it in these kinds of environments. I think it depends largely....

I don't know the breakdown of the statistics. For instance, in the Congo there's been a lot of attention to the question of sexual violence. It's usually portrayed as being primarily caused by militias and armed forces, including the armed forces of the government of the DRC and a whole range of militias on all sides. They're usually described as the main perpetrators of sexual violence. I don't know the extent. It's also very prevalent in civilian societies and within family units, and I suspect it's just as unpunished when it comes from these sources.

Finally, you mentioned what life was like and what justice was like under the Taliban. I think we have a pretty good sense of that. What's very alarming now is the lack of official justice infrastructure in Afghanistan, which we have documented. We've published a series of reports. In particular, deficiencies of the justice system in Afghanistan are very alarming in part because it has fed into the insurgency, appalling as it may seem, and we, the International Crisis Group, have people on the ground who could document that. Some people who despair of getting any form of non-corrupt, reliable justice from their government will turn to the Taliban for their resolution. It starts with land disputes and neighbour disputes and redress after an assault. They will turn to the Taliban, which, everything else being equal, would not necessarily be their first choice to dispense justice, but there's no alternative. The state is so profoundly absent.

After almost a decade of international efforts in Afghanistan, it's quite alarming to see how little institution-building will have been left behind by the time international public interest fades for the pursuance of not only of the combat operations, but of an international development presence in Afghanistan. That is particularly alarming.

I think the World Bank, which is in the process of finishing a report on the relationship between development and conflict, will come out endorsing exactly that: investment. Long-term investment in institution-building is the only way to leave behind a set of functioning institutions in the justice sector after conflict.

• (1350)

Until that is in place, I think everything else will fail at addressing these issues, particularly the issues of sexual violence and discrimination against women.

**The Chair:** Thank you. Unfortunately, that uses up your time, Mr. Marston.

**Mr. Wayne Marston:** Thank you.

**The Chair:** I turn now to Mr. Sweet.

**Mr. David Sweet:** Thank you, Mr. Chair.

Thank you very much, Madame Arbour, for the great work you've done as well as for your testimony today.

I'll pick up right where my colleague left off. I'll begin with the first question on my list.

Mr. Marston was just asking about how we inculcate the dedication, the commitment, the idea of democratic institutions—democracy, very much in and of itself—into states that heretofore have really not known that. They don't have the habits of democracy. They don't have the institutions.

Do I oversimplify it by saying it's just a raw exercise in education in order for that to stick? You make the case very well that it's very difficult to have police with some kind of integrity if you don't have the democratic institutions behind them and the right framework in which to operate.

**Hon. Louise Arbour:** I think a lot of people are asking themselves that question, the question of whether we have rushed into the exporting of democracy in a fashion that, in my view, was maybe just a little too focused on the holding of elections. There's a lot more to democracy than a series of periodic elections. There's the building, first of all, of elections that yield parliaments, not just a strong executive and not just a nominal parliament. There's the culture of a loyal opposition: the idea that if you lose, first of all you'll get another chance, and you have to work in the interests of the state even though you don't have to be on the side of the government. The culture of opposition is very absent in a lot of environments in which we rush to elections and then are surprised at the result.

Finally, and having in mind particularly Afghanistan, I would say that we're not going to go very far in promoting democracy, and certainly not by celebrating fraudulent elections. Tolerating would be bad enough, but celebrating, frankly, is a bit rich, and I think we've done too much of that—tolerating for others what we would never accept for ourselves and exporting a really impoverished version of democracy that has been reduced not only to electoral mechanisms, but to second-rate electoral mechanisms at that.

**Mr. David Sweet:** By the way, I just wanted to let you know that the spirit of opposition is quite alive and well here in Canada, and I know my colleagues are happy that I mentioned that.

One of the points you made was very interesting, and I'm wondering if there are some measures governments can take to help NGOs to bridge.... You mentioned, from Mr. Marston's question, that this whole issue of the prevalence of boy dancing is just beginning to get out in the mainstream media right now. They've been victimizing these young boys for generations. Is there a way for governments to help NGOs bridge that gap?

There is boy dancing, and we've heard lately about the ubiquitous nature of the persecution and slavery of Christians in these third world countries. Right now we're talking about violence against women, and particularly the way rape is used as an instrument of violence and control. I don't think that has made the mainstream media internationally, at least to the degree that the victimization has. Is there a way we can help in that regard to get the word out in the free world to individual people?

• (1355)

**Hon. Louise Arbour:** Well, that speaks about the international and national media and the choices they make in their reporting. Frankly, as an international NGO, essentially, that works on the ground, we see to a large extent the poverty of international reporting from the ground up. The media are extremely concentrated.

In terms of helping national NGOs, which I think is the starting point if we deal with these kinds of issues, on the one hand, as I said before, NGOs can build clinics but they can't build courts, so we should never abandon the government-to-government assistance to build state-based institutions. There is no substitute for that. NGOs can't run prisons. The entire justice sector cannot, one hopes, entirely be privatized. I think there are some who believe parts of it could be privatized, but we all understand that it's essentially state-owned.

In other sectors, support for national local NGOs is really critical. If I could leave you with one thought when it comes to international assistance, it would be that many countries, as you may know, have passed legislation preventing their own national NGOs from receiving foreign funding, or in some cases limiting their budget to no more than, say, 10% of foreign funding. This is a very pervasive way for governments to shelter themselves particularly from human rights organizations who would challenge them, although they're very happy to receive lots of money and assistance for their own programs.

This is something that I think should be government-to-government and in international forums. Certainly Canada could champion the issue that international aid and international assistance should flow not only to state institutions but to civil society actors. That's what democracies are about. Again, it's about the empowerment of people to advance their own interests.

That blockage, I think, is really alarming, and it's quite widespread—

**Mr. David Sweet:** Good point.

**Hon. Louise Arbour:** —even in countries that otherwise deserve and receive a tremendous amount of western-based donor assistance.

**Mr. David Sweet:** Yes. That's a very good point.

Lastly—I know that the time always ticks on here—you mentioned that you were concerned about the international commitment, for lack of a better word, regarding resolution 1325.

I always considered the UN special rapporteurs as being almost auditors general out there, highlighting and reporting on the seriousness of situations.

I'm wondering if there's been any dialogue in the United Nations or if anybody has raised the idea that having a.... I know there is a UN special rapporteur on human trafficking in general, but if there were a special rapporteur assigned particularly around this resolution 1325 and sexual violence, would that not raise the alarm bells and bring much more transparency to it? Maybe there would be more pickup internationally.

**Hon. Louise Arbour:** Actually, I had that in my original text. I didn't want to put you to sleep by reading for too long, so I skipped the part in my text that would have answered your question.

**Mr. David Sweet:** I feel flattered that we were actually thinking of the same thing.

**Voices:** Oh, oh!

**Hon. Louise Arbour:** The Security Council enacted two subsequent resolutions. In one of these resolutions, it established—it's a Security Council-based post, and therefore quite potent—a special representative of the Secretary-General on sexual violence in conflict and a group of rule-of-law experts who are supposed to come and assist states, so I think initiatives have been put in place to try to document issues and to assist states. I'm just not sure....

In the same way, I should also mention that there is a lot more dedicated effort to increasing the number of women in peacekeeping missions through contributing countries in both the police and military sectors, again on the assumption that if you have more than 2% or 3% women as peacekeepers, they will be more attentive to the need to protect women, and women who are victimized will be more forthcoming in talking to them.

I don't want to suggest that no initiatives have been taken, but I would reiterate that there is a whole form of empowerment of women that I think escapes the reach of this resolution, which is very focused on victims and on peace talks.

• (1400)

**Mr. David Sweet:** Has that rapporteur been assigned, or is that simply a resolution that hasn't been filled yet?

**Hon. Louise Arbour:** No, it's fully operational. Margot Wallstrom is the special representative of the Secretary-General. She's been on the ground in the DRC. That's fully in place.

**The Chair:** That concludes the questions.

Before we let our witness go, perhaps I'll just ask, Madame Arbour, if there is anything else you wanted to add as a concluding remark.

**Hon. Louise Arbour:** I don't think so. I think the questions have given me a lot of opportunity to stress the points I made in my opening remarks.

I should simply say that I'm really delighted that you are looking at this issue. I think the whole question of the advancement and protection of women and of human rights generally in the context of the eradication of armed conflict itself is a very worthy enterprise, so I congratulate you for having taken on that issue.

Thank you.

The meeting is adjourned.

**The Chair:** Thank you very much. That concludes the questions.

Thank you very much, everybody, for being here.

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