

DAY II 20th April 2016	
Parallel Sessions II “Women, Legislation and Human Rights”	
organised by the College of Law	
Theme:	International Law and Human Rights
Chair	Dr. Joyce McConnell, Provost, West Virginia University
Speaker	Mr. Michael Lancaster Steiner, University of Manchester
Title	<i>“People get the government they deserve” but what about legal protection?: Establishing legal liability of international organizations in the area of economic, social, and cultural rights”</i>

ABSTRACT

International law has two principal sources: convention and custom. While conventional law is both easily defined and readily identifiable, the exact opposite is the case with custom. One area in which that is distressingly evident are the economic, social, and cultural rights obligations of international legal subjects. Although most states are bound by these duties through treaties, the only avenue by which other legal subjects—such as international organizations and non-state entities—can be made liable is through customary law. To do so, however, first requires that these rights be accepted as being customary.

Opinion is divided on how a norm even becomes customary law, let alone which norms have achieved that status. A number of commentators have endeavored to impute customary character to economic, social, and cultural rights, but the assumptions and methodology supporting such attempts raise serious doubts about the legal soundness and authority of their conclusions. Most often, in order to justify ascribing customary status to economic, social, and cultural rights, commentators resort to dubious interpretations and “progressive” redefinitions of the very process of customary law’s formation. While their motivation for so doing may be laudable, their unorthodox and radical approaches invite adverse reactions from the preponderance of the academia, commentators, practitioners, and legal subjects, thus greatly retarding the cause of elevating economic, social, and cultural rights to the status of customary law.

Following a survey of the literature, jurisprudence, and legal subjects’ practice, the conclusion is inevitable that economic, social, and cultural rights have not attained the customary legal status, nor are they likely to do so in the future. The repercussions of such a conclusion are dire, as it means that millions of the most vulnerable people in the world—a disproportionate amount of them being women who are particularly affected by this type of human rights—remain unprotected and without any guarantee of the rights and comforts the populace in the developed world takes for granted.

Theme	International Law and Human Rights
Chair	Dr. Joyce McConnell, Provost, West Virginia University
Speaker	Dr. Adetun Ilumoka, Prince Sultan University
Title	<i>“Women’s Role in the Democratisation of the UN Human Rights System”</i>

ABSTRACT

The creation of the UN Human Rights Council over a decade after the World Conference on Human Rights in Vienna in 1993, ushered in a new wave of optimism about human rights by advocates especially those from the “Third World”. The structure of the new Council and its

introduction of new processes such as the Universal Periodic Review seemed to herald greater democratisation of the human rights enforcement. However, in contrast to the pre-Council criticisms of human rights as reflecting Western values and agendas (as reflected in the Asian values debate) we are now faced with post-Council criticisms of the new roles and participation of countries in Africa, Asia and the Middle East in enforcing human rights and setting priorities for action. These States are accused of having a poor human rights record and not taking human rights seriously.

This paper examines the structure and processes of the Human Rights Council focusing on the opportunities and challenges that the introduction of new processes have generated for the advancement of women’s human rights in particular, at both the domestic and international level. I argue for greater engagement with human rights discourse at the domestic level, in educational curricula and by women, as an important means of democratising the discourse and reflecting the concepts and priorities of ever greater numbers of the world’s inhabitants. This will advance a more meaningful and legitimate bottom-up approach, rather than an ineffective top-down one which is out of tune with local contexts in which enforcement predominantly takes place.

Theme	International Law and Human Rights
Chair	Dr. Joyce McConnell, Provost, West Virginia University
Speaker	Dr. Pasquale Borea,
Title RUW	“The GCC Human Rights Declaration: The Historical outcome Of The 35th GCC Supreme Council”

ABSTRACT

Thesis

The paper focuses on the 35th Gulf Cooperation Council (GCC) Supreme Council and its main outcome: the GCC Human Rights Declaration. The paper proposes an analysis and a commentary of the GCC Declaration. The main articles of the GCC Declaration are compared to the provisions of the UN Universal Declaration and similarities and divergences between the two documents are highlighted.

Methodology

The article constitute the first study on the GCC Human Rights Declaration. The text of the Declaration has been officially published in Arabic language only and the article contains the first English translation of the document with the aim of increase the awareness of the international scientific community.

The methodology used is primarily related to the analysis of texts and secondary sources available on the topic.

The analytical approach related to the main articles of the GCC Declaration is aiming at a commentary of the provisions of the GCC Declaration which are compared to the provisions of the U.N. Universal Declaration with the purpose of demonstrating that the provisions of the GCC Declaration, properly contextualized, represent a step forward in the Human Rights policies of the Arab Region.

The secondary sources available on the topic are significantly low in number and in scholarly relevance, and most of them are using a distort approach in comparing two texts, the GCC Declaration and the UN Declaration, very different between them. Most of these approaches are criticizing the GCC Declaration without an appropriate reflection on the value of the GCC document.

Conclusion

The article provides a reflection on the value of the Declaration for the future of human rights policies amongst the GCC countries and the wider Arab region. Using an objective approach, the article contests the critical and aprioristic reading of the document as a weak and non- effective document. Rather, using an objective approach oriented to the contextualization of the GCC Human Rights Declaration, the article will comment on the provisions of the Declaration which are comparable to the UN Universal Declaration and will provide a reflection which aims at demonstrate the positive steps forward in the field of Human Rights policies undertaken by the GCC countries.

Key words: Human Rights, Gulf Cooperation Council, United Nations, Universal Declaration

Session III	
Theme	Women’s rights in armed conflicts
Chair	Mr. Nawaf Mohamed Al Seyed, Trust Partners Law Firm, Bahrain
Speaker	Dr. Louna Farhat, RUW
Title	<i>“Women and current armed conflicts. A study that examines the possible ways and methods to stop the systematic abuse and violence against women during wartime”</i>

Women’s righ

ABSTRACT

Although all communities suffer the consequences of armed conflict, women and girls particul affected because of their sex. Widespread violence against women has been documented in m contemporary armed conflicts, with examples stretching from the former Yugoslavia war to Rwar Nigeria to Afghanistan and lately Syria and Iraq. Nevertheless, the sexual assault and violence aga women in wartime has been the case since ancient times but it has gained much more atten starting from World War II. To resort to systematic sexual abuse and violence against women tactic of war is- nowadays and through international instruments and international tribunals- a

crime and a crime against humanity. It has No religious grounds; it is a military tool to suppress people and bury their dignity and destroy their honor and ego.

The United Nations Security Council addressed the impact of armed conflict on women for the first time in 2000 by adopting Resolution No.1228. Several other resolutions were further adopted by the UNSC in particular; Resolution 1820 adopted in 2008 on sexual violence in conflict and post conflict situations. This resolution aimed at halting acts of sexual violence against civilians in conflict zones with greater stress placed on the prevention and punishment of sexual violence as well as protecting victimized women in post conflict situations.

The paper will examine these developments in four main parts. Part 1 will discuss the forms of indecent assault women face during wartime, exploring illustrative examples from ancient history to the present time. Part 2 will explore the applicable international instruments on the protection of women during war times from one hand, and the international community reaction towards such atrocities against women on the other hand. Part 3 will mainly discuss the possible international methods to prevent or stop the crimes against women and the legal/moral grounds that exist to support such interventions. Finally, Part 4: general remarks and conclusions.

Theme	Women’s rights in armed conflicts
Chair	Mr. Nawaf Mohamed Al Seyed, Trust Partners Law Firm, Bahrain
Speaker	Dr. Elimma C Ezeani, Robert Gordon University Scotland
Title	“Rape and Sexual Violence in War- Establishment of a Non-Derogable Norm?”

ABSTRACT

International rules and custom have not always out-rightly condemned and punished rape and sexual violence against women as a war crime. Its contemporary evolution under the jurisprudence of the International Criminal Tribunal for Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and its strategic inclusion in the Rome Statute of the International Criminal Court (ICC) is of therefore of significance and demands continued support and protection. This paper examines Sexual and Gender Based Violence (SGBV) against women in conflict and the manifest disregard of the rules and norms of International Humanitarian Law (IHL) as they relate to rape in war, and its perpetrators. It reviews the immediate concern with the continued absence of women who suffer from this grave crime, in peace processes, an absence which United Nations Security Council Resolution 1325 hoped to address. The paper argues that the Resolution has not managed to address its objective.

This paper proposes that for women to uphold their right to sexual autonomy in war or in peace, decisions of the ICTR and the ICTY condemning rape and sexual violence as international crimes, must be preserved as a non-derogable norm in IHL. It also argues that women must be at the forefront in changing the culture and mind sets which consider their sex as ready targets in war. The limited involvement of women in political groups that discuss international crimes and matters relating to international humanitarian law, the very few women lobbyists that appeal to domestic governments and legislators on matters of rape and sexual violence and the underwhelming condemnation of rape and sexual violence against women in war time and in peace time, is largely to blame for the continued prevalence of these atrocities.

What the decisions of the courts both at the ICTR and the ICTY have done is to remove the strict restrictions both in media reports and legal reviews, on what constitutes rape and sexual violence and how these crimes are to be interpreted in IHL. These judgements have come at a most opportune time with ever-increasing numbers of women trafficked as sex slaves, raped and violated, as a result of war. The potential impact for stronger domestic punitive measures against rape and sexual violence in peace time cannot be overemphasised. It is of utmost urgency that the condemnation of rape and sexual violence as international crimes should be replicated by domestic courts and regional tribunals. The judgements of the courts also deserve wider dissemination through schools, publications, media and public discourses. This paper aims to contribute to stimulating discussion and assisting the dissemination of these remarkable advances in the judgements of international tribunals on rape and sexual violence.

Session IV	
Theme:	Women's rights and women empowerment
Chair	Ms. Dana El Ghareeb, Al Tamimi and Co. Law firm
Speaker	Dr. Entisar Alsetri, Consultant
Title	"Determinants Of Bahraini Women's Empowerment"

ABSTRACT

In Bahrain where the economic and political reforms started to take place in the year 2000, women thrived to develop their status and participation in public affairs. This paper addresses the need of extensive qualitative research where the literature about Bahraini women and empowerment both as a meaning and a practice is still limited. Placing women at the center of analysis by using a mixed methodology of qualitative and quantitative techniques, this paper is a part of in-depth research that investigates the meaning of empowerment as "enablement" and the perceptions of Bahraini women towards the determinants of their empowerment. These include the increase of women's influence in power relations and also their skills of agency. Women's perceptions, experiences and needs being marginalized for decades from creating

knowledge and therefore from having an impactful role in development, this paper examines and emphasizes the importance of implementation of a multidimensional visualization approach to women's empowerment and its determinants based on women's voice.

Keywords: Empowerment, Power, Agency, Women's voice, Development, Politics of women's empowerment.

Theme:	Women's rights and women empowerment
Chair	Ms. Dana El Ghareeb, Al Tamimi and Co. Law firm
Speaker	Dr. Hanaa Motasim, Dar Al Hekma
Title	<i>"The Recreation Of Place In Conditions Of Displacement – Internally Displaced Women In Sudan"</i>

ABSTRACT

Displacement as a topic has obtained much attention in recent times particularly in the Middle East. This was started at the turn of the century with the invasion of Iraq and has reached exponential levels after the Arab spring and the responding backlash in Syria. Similarly the void left after the Arab spring has caused catastrophic effects both on Yemen and Libya. In all these countries hundreds of thousands have been forced to flee their homes either within borders as internally displaced or beyond as refugees. For these people the question of 'home' and 'place' becomes paramount. We attempt through this paper to question how these concepts are reconstructed in such circumstances, focusing specifically on the role that women may play in helping reconstruct such notions.

From my field experience, working with internally displaced women in Sudan for a period of five years, I have been able to deduce lessons which may have important repercussions in the understanding of place-making in conditions of displacement. Prior to the conditions in Syria, Sudan had the largest number of displaced persons worldwide, reaching a figure of 4 million. The longest war in Africa (between the North and South 1983-2005) had resulted in a flood of Southern Sudanese internally displaced seeking refuge in the northern capital, Khartoum. Their reception there has been less than festive and they were accepted by the government as a strategy of monitoring and control. In the period of their stay in the capital they have been subject to several forceful relocations causing them to be further displaced within the city. How the women chose to respond to these conditions has been particularly interesting and their strength and willingness to find structure and balance in such conditions has been inspiring.

Place making as a concept has been highly attacked by postmodern scholars who have focused in much of their writings on the loss of place, constantly perceived as a global and encompassing phenomenon. Internally displaced women in the case of Sudan have continued to create the semblance of home and structure in highly volatile and unpredictable circumstances. Our paper thus seeks to negate the concept of placelessness and insists that place continuously remains present and could be constantly recreated and thus never completely dismantled even in the most dire of circumstances