

Conference Report: 2nd Asia Pacific Conference on Reproductive and Sexual Health

By: Anita Jowitt^[*]

The 2nd Asia Pacific Conference on Reproductive and Sexual Health was held in Bangkok on 6 – 10 October 2003. The theme of the conference was “moving into action: realising reproductive and sexual health and rights in the Asia Pacific region.” The conference was attended by about 1500 activists, doctors, lawyers, parliamentarians and academics from around the region. A combination of plenary sessions, oral presentations, poster presentations, satellite sessions and field trips ran over the course of the conference.

As the links between reproductive and sexual health and law remain unclear to some this report begins by discussing the relevance of the conference to lawyers, or legal academics. It then outlines the presentations that dealt directly with the Pacific Islands, before turning to consider the content of the plenary sessions. As there were so many parallel sessions, and these sessions tended to focus on ‘micro’ issues (reports of experiences in a particular area for instance) the content of individual sessions is not considered. Instead only the more ‘macro’ plenary sessions, that highlight a number of broad themes, are discussed. As with any conference report, the ‘important parts’ and the interesting research questions raised are very much influenced by my own interests. This report necessarily details my view of parts of the conference.

Relevance to lawyers

The relevance of this conference to lawyers comes from the links between reproductive health and human rights – the ‘right to health’, as included in the International Covenant on Economic, Social and Cultural Rights, is a widely accepted rights concept.^[1] In the field of reproductive health the International Conference on Population and Health 1994 (the ICPD) Program of Action clearly sets out the link between rights and reproductive and sexual health:

7.2. Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law... [Reproductive health] also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases.

7.3. Bearing in mind the above definition, reproductive rights embrace certain human rights that are already recognised in national laws, international human rights documents and other relevant United Nations consensus documents. These rights rest on the recognition of the

basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes the right of all to make decisions concerning reproduction free of discrimination, coercion and violence as expressed in human rights documents...[\[2\]](#)

Law can also create barriers to the realisation of this human right, through means such as criminalising abortion, not recognising rape if it occurs in the context of a marriage, not providing an adequate framework for the reporting of, and response to, domestic violence, criminalising various sexual acts and only permitting fault based divorce. The actual implementation of laws is another area of concern for lawyers.

Pacific Content

There were only a few presentations that dealt directly with the Pacific Islands. These included a poster presentation by Dr Rufina Latu outlining the Secretariat of the Pacific Community's work in the area of adolescent reproductive health; a presentation by Dr Mili Kaitani on social control of the reproductive behaviour of Melanese men, reporting some of the findings of her PhD; a presentation by Maggie Kenyon and Chris T'eo reporting on experiences in implementing sexual and reproductive health programmes for men in the Pacific; and my own presentation, discussing the limits of law as a strategy for protecting sexual rights in the Pacific. Dr Latu also joined a panel in a satellite session discussing the experiences of family planning associations, after I'emaima Havea, Executive Director of the Tonga Family Health Association was unable to attend. An MP from Fiji, Dr Gunasangaran Gounder, spoke at the Symposium of Parliamentarians on Sexual and Reproductive Rights Legislation.

The other sessions resonated with the Pacific experience, and provided a rich source of inspiration for research in the Pacific, as discussed below.

Plenaries

The first speech of the first plenary, given by Nancy Northup, discussed US foreign policy and abortion. US international policy, popularly known as the global gag rule, forbids foreign NGOs that receive US funding from using their own money to provide legal abortion services, counsel about abortion, advocate to liberalise abortion laws et cetera. Its legal basis, the 1984/1985 Mexico City Policy, was rescinded by Clinton in 1993, and reinstated by Bush on his first day in office in 2001. The effects of the global gag rule on Asian NGOs and the UNFPA were outlined, which leads to one question – what is the effect of this policy on the Pacific?

Also interesting were the democratic and international law implications of the relationship between state sovereignty, aid and neo colonialism. This is a favourite theme in the Pacific. Northup's quoting of Susana Galdos Silvos highlights the issue in the context of US foreign policy about abortion:

We believe in democracy, as do you, citizens of the United States. But democracy is not only for one country. The Global Gag Rule, we feel, is against democracy because it makes a distinction between the U.S. and the rest of the world. That is to say, it applies to us, Latin American, African, Asian women, and not to U.S. women. It is very discriminatory — it tells us that we in low-income countries cannot make and implement our own laws, nor make changes to them.[\[3\]](#)

Sundari Ravindram, speaking about health financing reforms in Asia, discussed the concern for identifying the most equitable, and realistic, approach given current political priorities and always scarce resources. Different approaches to financing – including user pays, pre payment, social security systems, private insurance, and government/donor funded schemes - were addressed. The discussion focused on experiences of Asian countries with large populations, and large disparities in wealth. Whilst experiences were not directly relevant to the smaller Pacific countries then the potential funding options set up a possible research frame for exploring the question of health funding in the Pacific (and helps to question IMF/World Bank orthodoxy about health funding issues).

Professor Dennis Altman provided a general overview of the HIV/AIDS epidemic and its politics. The familiar story that individuals, leaders and countries hide behind tradition, culture and religion rather than responding to the disease is not unique to the Pacific.

Renu Khanna discussed fundamentalism, conflict and the implications for sexual and reproductive rights. Her presentation discussed conflict in Gujarat between Muslims and Hindus, and the need to rethink rape law in the context of conflict and improve health services to cover both physical and psychological damage. The struggle to recognise sexual crimes in a conflict situation, practically as well as legally, and to allow voices to be heard has parallels in the Pacific. Stories of rapes of Indians after the 2000 coup make an obvious parallel. In Solomon Islands and Papua New Guinea there are also crimes because of conflict and crimes because of breakdown in law and order. Maybe these examples are not as extreme as the Gujarat example, but these voices have not been heard, regionally or internationally.

The place of fundamentalism at the conference was also interesting. Post 9/11 the prioritisation of the ‘war on terrorism’ at the expense of ‘wars’ on poverty, HIV/AIDS trafficking of people, drugs et cetera has changed the orientation of developed countries. This point was explicitly made several times throughout the conference. Ms Khanna’s discussion of fundamentalism defined it as not only a religious issue, but rather as a

dogmatic rigid world view, intolerance of the other, and construction of an entire framework, not often amenable to reason, and a certain system of (il)logic to legitimise a world view. In many cases these are of rightist persuasion but one sees such tendencies often in left persuasions too.

Such a definition is hard to disagree with, but the very fact that the language of the ‘war on terror’ is appropriated for a conference on reproductive and sexual health and rights in Asia and the Pacific is a reflection of the place of the development agenda within global politics currently.

Radhika Chandiramani discussed how a rights perspective of sexuality and sexual health allows one to move beyond the narrow, medicalised perspective that had limited considerations of sexual health in previous years. Sunila Abeysekera discussed the definitive advantages of rights “when you define something as a right you define it tangibly, and you give it legal basis... you can claim the right from state and non state actors.” The difficulties of the definitive role of rights were also highlighted. Talking about moral values or ethics and reproductive health involves talking about what is right and wrong and is difficult, and subjective. As Abeysekera said, “The big difficulty of using a rights framework is that a single personal ethical viewpoint becomes right, and other viewpoints are silenced.” Whether legal standards should be equated with ethical standards, a key question in sexual rights, came through in questioning in a number of plenaries throughout the conference.

Susan Paxton, in a presentation detailing research on discrimination due to HIV status, provided evidence of another important theme – that changing the law does not automatically mean that behaviours will also change. A challenge for lawyers arising from this presentation is to identify strategies that will make legal change have more of an impact on actual behaviours.

At the closing plenary Dr Gounder talked about problems of law reform in Fiji. As an example, he discussed the Family Law Bill, which was in process for 11 years^[4], the debate not changing, but reiterating the ‘foreign law – neo colonial control’ rhetoric which is so familiar to the Pacific. In terms of the role of law makers, Gounder’s argument was rooted in the idea that “we are living in a global village, we can’t be left behind.” In this environment “leaders must take the lead”, taking cues from international trends. Change, however, must come from the grassroots, as changing laws will not, in itself, result in changes in society. The dichotomisation of ‘top down/bottom up’ strategies of change that characterise much development policy, both in the Pacific and elsewhere separates politicians (in this context members of Parliament) from people, which, Gounder argued, is an artificial and harmful distinction. Instead, politicians need to be viewed as part of society, and need to engage more with the people, so the laws they make are not seen as being outside of society. Representative Nereus Acosta, from the Philippines summarised the tensions that are faced by societies coming to terms with sexual rights and democracy. These tensions include foreign, imperialist, modernist ideas as opposed to local ideas, values and traditional culture. The need to move beyond this either/or paradigm is vital, and law can provide aspirational focus to help this paradigm shift, even if it is not immediately practical.

Conclusion and acknowledgements

The conference closed with a 7 point call to action for presentation to APEC leaders. These points “stressed the importance of sexual and reproductive health and gender equality for overall socio-economic development...”^[5] A practical, activist oriented impetus was thereby created.

As indicated above, this report only details my view of parts of the conference. Daily conference news letters are available from the conference website www.apcrsh.com and provide more detail on some of the presentations and activities.

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^[1] Opened for signature on 16 December 1966 (entered into force 3 January 1976).

^[2] Programme of Action of the UN ICPD (1994) <http://www.iisd.ca/Cairo/program/p07002.html>

^[3] Original source Susana Galdos Silvos (2001) ‘Statement by Susanna Galdos Silvos’ http://www.reproductiverights.org/pr_01_0214ggrsilva.html

^[4] The Family Law Bill was passed by Parliament in late October 2003 although is not due to be implemented until January 2005.

^[5] The full call to action can be found at the following URL: <http://www.apcrsh.com/calltoaction/calltoaction.html> (Accessed 6/12/03)

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