Benefits and limitations of human rights frameworks: the case of interpersonal violence

**Analytic report on the CAHRV cross-cutting workshop
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CAHRV has spent two years building transnational perspectives on interpersonal violence through its four sub-networks and conferences. The work has two foundations - a framework of human rights violations and the methodological and epistemological standpoints of participating researchers, with particular expertise in the fields of gender and generation and an interest in intersectionality. The Valencia workshop provided an opportunity to explore the connections, tensions and dilemmas between human rights thinking, social theory and research and policy and practice responses to interpersonal violence. The programme was devised with the intention of prompting debate and exploring different positions (see Appendix 1): in particular the political and legal processes involved in defining, advancing and gendering human rights, the creation of global norms and international law, was discussed simultaneously as addressing the theoretical and empirical questions involved in clarifying what it means to study and address interpersonal violence. The extent to which the seminar was able to encompass all the areas of interpersonal violence which CAHRV[1] has identified within its remit offered a route for teasing out differences in approach across disciplines, research traditions and discourses. This in turn pointed to possibilities and barriers in achieving the overall project objectives of overcoming fragmentation and creating a more holistic approach – a task that should not be underestimated given the diversity of theoretical groundings and epistemological commitments within the network, let alone in the wider international research and practice communities. This report is not a documentation of the workshop, but rather a reflexive re-working of the content to contribute to the work of the final year of CAHRV. The paper begins addressing several confusions that emerged in Valencia and outlines the contours of both human rights and interpersonal violence. The process and impact of gendering human rights is explored, and the issues to emerge in the workshop with implications for CAHRV outlined.

Human rights (HR) has been a taken for granted background to the work of CAHRV, including the sub-networks. Once brought to the forefront a tension rapidly emerged between the foundations of human rights and social research: the former relies upon assertions of universality, commonalities and setting boundaries, whereas the latter has, especially in the last decade, paid increasing attention to diversity, differentiation and cultural contexts. Theoretically, therefore, the two framings of CAHRV could be seen to be pulling in opposing direction, or located at opposite ends of a spectrum. Such a picture, however, oversimplifies the challenges within each arena. For example, there are philosophical and technical debates about both the reach of each field and measurement – of the extent of interpersonal violence and of HR violations. One debate illustrating this overlap explored how to define and measure domestic violence: a critical question for SN1 of CAHRV, and how it is answered determines a key measure/indicator of violations of women's human rights. The disjunctions between some prevalence research definitions (any *incident* of physical, sexual or psychological abuse in a specified time period) and those from practice (a *pattern* of coercive control including physical, sexual and psychological abuse) result in substantially different findings across incidence, prevalence and the gendered distribution of victimisation and perpetration. That there is no consensus about one of the most basic measures illustrates why the search for transnational indicators is proving difficult. Thus the fields have debates in common, even if some of the language used is not always compatible, with the questions of inclusion and exclusion, boundaries and borders critical and the scope of concepts like gender based violence having implications for both. Protagonists in each arena – as exemplified in Valencia - argue for delimiting and extending definitions. A common and unresolved theme, therefore, is the reach, and through this the interconnections, between the CAHRV's overarching concepts.

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[1] I have not included any discussion of the points made about trying to 'fit' the concerns of the genderpower network to the themes of FP6.

Some ground clearing: confusions, elisions and ongoing debates

Formally, human rights are defined by international law, aspects of which may be introduced into domestic law, through both constitutions and statute. Human rights has also, at the end of the twentieth century, come to have a more normative, and vaguer, meaning: a fundamental moral basis for regulating the contemporary geo-political order. A human rights violation is to treat a person, or group of people, in a way that undermines, denies or violates any legally established human right. Established human rights are defined by international law, primarily the conventions of the UN, although regional bodies such as the Council of Europe are also important actors. Human rights, therefore, are in some ways more limited in scope than civil rights under national law – especially relevant to violence - at the same time to the extent that they constitute aspirational normative standards for human freedom and well-being they are more extensive than national laws.

Initial conceptions of HR applied only to states and state actors, but have gradually been extended to encompass civil society and private actors in certain contexts. It is not, therefore accurate, to claim as some participants in Valencia did that human rights law exists to "eliminate all forms of violence against all people". Most human rights are only indirectly connected to violence, covering matters such as the right to a fair trial, freedom of thought and expression, access to education, shelter and health care, in accordance with principles of non-discrimination/universal values. Original formulations that explicitly deal with violence refer only to torture, and 'cruel and degrading treatment'; specifications which led some feminists to analyse domestic violence, for example, as torture (Copelon, 1994). Whilst certain conceptualisations of structural violence might encompass more of the human rights agenda, they do so at the cost of what CAHRV has sought to prioritise – violence that has been traditionally associated with the private sphere and which as a result historically and still to some extent today is less likely to be accorded recognition as 'crime' or 'harm'. Whilst there was limited support for using 'structural violence' as a framework, since it offers too little space for agency and accountability, there was strong interest in developing structural explanations, and analytical perspectives with respect to social inequalities, such as gender and generational orders and other forms of systematic discrimination and social exclusion.

What precisely is included within interpersonal violence is also a matter of ongoing discussion within CAHRV, including the overlaps and intersections between violence against women, children and the elderly. The unresolved question of the inclusion of men as victims of interpersonal violence in the public sphere, an interest in explicating how this connects to the reproduction of gender orders, has been discussed in SN2 and SN4. In Valencia the relevance of structural violence was raised alongside a range of other 'abuses' which would not in any common sense or legal understanding be designated as violence. Just as HR cannot be stretched to include all violence and aggression, nor should interpersonal violence become so inclusive a concept that is both means everything and nothing and is disconnected from the work of SN1 and SN3, both of which have delimited their remits, and even so found it difficult to cover both abuse of women and children. A further challenge has been the extent to which expertise in CAHRV and the available evidence base emphasise domestic violence, and thus fail to integrate not only sexual violence (rape, sexual assault, sexual harassment, sexual exploitation) but also forms of violence experienced primarily by BME[2] communities (for example, FGM/C, forced and early marriage, crimes in the name of honour). Thus even with respect to interpersonal violence, strands and individuals within CAHRV are pulling in different directions, with respect to inclusion, boundaries and differentiation.

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[2] 'Black and minority ethnic' – a concept used in the UK rather than 'migrant', since many individuals are citizens, third or fourth generation who define themselves as British, not migrants. The latter concept us used to refer only to recent arrivals, many of whom currently are white Europeans.

There is no doubt that the academy thrives on multiple voices and debate, the creation of new fields, making the ambition of CAHRV to overcome fragmentation an inherently difficult one, reflected in our meetings where both concerns to include (more forms of violence, children, the elderly, men) and to differentiate (between nations, social groups and even individuals) have been to the fore. Both trends represent significant barriers to any form of integration. Perhaps our original ambitions were more subtle and theoretical – that we intended to take critical perspectives on gender, generation, race and class into research fields and academic disciplines associated with interpersonal violence. If this is/was the case much of our collective work to date has not addressed this explicitly.

Foundations, discourses and trajectories
Human rights originate as a philosophical concept – linked in direct and indirect ways to ideas about the inherent worth and dignity of 'man' in most secular and religious belief systems; some view it as implicit in notion of modernity and civilisation. The concept is explicitly invoked in the aftermath of the 2nd World War, as a strategy to prevent future genocides by providing grounds and mechanisms for limiting the powers of states over their citizens. HR emerge, therefore, to protect the individual from the state and in traditional liberal tradition the private sphere was excluded from consideration as being outwith with reach of the state. The United Nations (UN) Charter, 1945, sets out what were then understood as the human rights and fundamental freedoms which all human beings should enjoy without distinction as to race, sex, language or religion. It was followed in 1948 by the Universal Declaration of Human Rights, which includes the following as basic entitlements: the right to life; the right to equality; the right to liberty and security of person; the right to equal protection under the law; the right to be free from all forms of discrimination; the right to the highest standard attainable of physical and mental health; the right to just and favourable conditions of work; the right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment. From this point on human rights are fundamental to all UN Conventions and have come to form the basis for the International Criminal Court. The UN human rights machinery is now extensive, setting policy across many areas, investigating complaints and regulating compliance.

From the perspective of CAHRV, the most relevant UN conventions that either establish the basic framework or address aspects of interpersonal violence are:
- The International Covenant on Civil and Political Rights (ICCPR) 1976 – 144 parties
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) 1976 - 142 Parties
- Convention on Eliminating Discrimination Against Women (CEDAW) 1979 – 165 parties
  - The Beijing Platform for Action (BPfA) and the Outcome Document and subsequent documentation of Beijing +5 and +10
- Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, 1987 – 118 parties
- Convention in the Rights of the Child including the protocol on sexual exploitation – 1990 – 191 parties
- Convention Against Transnational Organised Crime – 2001 including the Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children

Whilst the most recent - the trafficking protocol - is the most explicit in setting out rights for victims of HR violations, these aspects have been underplayed in state responses (Kelly, 2005).

In the second half of the twentieth century human rights become not only a legal, but also a political and normative concept – a recognised basis for claims about rights and subjecthood with respect to the state, and for claims and negotiations between states, within and outside the UN. Whilst there are undoubted social justice gains here, the more HR is de-linked from structural power relations and

legal definitions the danger is it becomes a free-floating normative concept to be invoked in any context. Micha Brumlik (2004) argues that a distinction needs to be made between civil and human rights to ensure clarity as to the legal basis and political structures which underpin each: governments provide civil rights, human rights protect citizens from governments.

Intellectual engagement with human rights has been primarily within the fields of law, critical legal studies and political science, with sub-fields emerging more recently within childhood and women's studies, and more latterly sociology. At the level of policy and practice human rights provide a foundation for law in many European countries through the nationalisation of the European Convention on Human Rights, the jurisdiction of the European Court on Human Rights and the influence of the Council of Europe. Other regionalised implementations can be seen in, for example, the Universal Islamic Declaration of Human Rights and the African Charter of Peoples and Human Rights, both of which emerged in 1981.

Human Rights principles
Given that human rights were intended to function transnationally, jurisprudence outlined a set of principles which underpinned their meaning and application. Human dignity, bodily and personal integrity and privacy constitute the foundational ethical standpoint. In addition human rights are regarded as:
- universal – apply to all human beings in all contexts;
- indivisible – have to be considered as an integrated whole;
- interdependent – the realisation of each depends on the realisation of others;
- interrelated – ones cannot be denied or suspended without putting the whole framework into question;
- inalienable – they cannot be taken away.

In combination, these principles are intended to ensure that governments cannot 'cherry pick' the rights they are willing to recognise and protect for all, or any section of, people on their territory. This does not mean that will be no violations, but that there are no grounds for creating localised exceptions. The power of human rights is both the extent to which states respect them and the extent to which the principles can be successfully invoked by civil society actors in local contexts. The application to everyone living within national boundaries is also important, as it asserts that human rights must be respected for those who break the law, including by evading immigration law[3]. Tensions for academics immediately arises with respect to the overarching and totalising discursive claims of human rights thinking, on at least four levels:
- contemporary discomfort with universalist claims;
- the failure of the philosophy and machinery to prevent genocides;
- the burden of association with liberal individualism and colonialism;
- recent tarnishing as human rights have been invoked in the late twentieth century to justify military action.

A further limitation, noted in Valencia, is that whilst many European states draw on human rights discourse extensively in their foreign policy, they make minimal references to it internally. This is also reflected in how NGOs frame their activity, with HR being used extensively in the global south and residually in the north.

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[3] Such rights are frequently not realised across Europe, with practices of interning refuges and stateless people increasingly common, and the denial of rights to basic services such as health care and education to illegal migrants, including those who have been trafficked and smuggled. Whilst human rights advocates highlight such practices as human rights violations, the desire to avoid such obligations is the reason some states fail to sign, or more commonly ratify, conventions – including the recent Council of Europe one on trafficking.

Expansion and extension

A number of commentators refer to generations of human rights, noting that the evolving jurisprudence has dramatically extended the original vision. Feminists and children's rights activists have been amongst the most creative and effective in expanding subjecthood and the reach of human rights. In the case of women, violence was critical in this intellectual and activist project, whereas abuse played a less critical role with respect to children. Radhika Coomaraswamy (1997), first UN Special Rapporteur on violence against women, its causes and consequences argues that there have been four generations of rights:

- political and civil;
- economic, social and cultural;
- group rights, especially for indigenous peoples;
- women's rights, challenging the public/private boundary.

Whilst the second and third generations clearly establish collective rights, it is only the women's rights agenda that challenges the limitation to states/state actors: one key theme in the feminist project has been to open up the private sphere, the hitherto protected space of the family, intimacy and sexuality, to public scrutiny – human rights simply extended this to international law. Human rights thinking has also placed increasing emphasis on the inherent dignity to be afforded each individual, including the promotion of their well-being, and states are expected not only to refrain from violating human rights directly but also to exercise 'due diligence' in redressing violations, and protecting citizens from further abuses. A further example of the expanding reach of HR is the partial adoption of the positive rights thinking implicit in Amartya Sen's capabilities approach to development which forms one pillar of the Millennium Development Goals.[4]

Gendering human rights

> *Few movements have made so large an impact in so short a time as the women's human rights movement… [it has] to a large extent, also transformed the way human rights issues are understood and investigated* (Human Rights Watch, 1995, xiii).

> *A revolution has taken place in the last decade. Women's rights have been catapulted onto the agenda with a speed and determination that has rarely been matched in international law... women's rights discourse [had] a special trajectory, facilitating its emergence as a major innovation of human rights policy within the framework of international law; a process of 'international norm creation'* (Coomaswamy, 1997. p6).

Charlotte Bunch (1990) reminds us that women's rights were for many decades regarded as too trivial, abuse of women regrettable but cultural/private and too pervasive to be of concern to mainstream human rights activism. The extraordinary process whereby feminists not only reversed these perceptions, but also transformed the meaning of human rights is increasingly documented (Kelly, 2004; Merry, 2006). Key moments include: a general recommendation to the CEDAW Committee (n.19,1992) which recognised violence against women as a manifestation of unequal gender relations, noting it was 'one of the crucial social mechanisms by which women are forced into a subordinate position'; a strong statement on violence against women at a the 1992 UN human rights conference in Vienna; a General Assembly resolution in 1993 to the effect that women were entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field[5].

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[4] www.un.org/millenniumgoals/
[5] Adopted by the General Assembly of the United Nations, 20 Dec 1993. A/RES.48/104 (1993); article 3)

The 1993 UN Declaration on the Elimination of Violence Against Women defines violence as a form of discrimination – a weaker concept than oppression, but providing a direct link to CEDAW - the convention on equality between women and men. The use of the word 'elimination' was more radical, setting a goal reflecting feminist aspirations of ending violence against women: a logical and necessary ambition given the analysis that it constituted a barrier to equality. This was further embedded into UN frameworks in the outcome document from the Beijing Fourth World Conference on Women, in which violence was one of 12 priority areas for action and placed at core of objectives to the achievement of gender equality.

> *Violence against women is an obstacle to the achievement of the objectives of `equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence women is a matter of concern to all States and should be addressed. Knowledge about its causes and consequences, as well as its incidence and measures to combat it, have been greatly expanded since the Nairobi Conference. In all societies, to a greater of lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The low social and economic status of women can be both a cause and a consequence of violence against women.* (Fourth World Conference on Women Beijing, China, 4-15 September 1995. A/CONF.177/20 (1995), section D para 112)

Not only does the above analysis echo Sylvia Walby's (1990) contention that violence is one of the six structures of patriarchy, but ensures that violence is understood as constituting a form of discrimination. The wording asserts that the most basic and fundamental of human rights - the right to life, liberty and security of the person - apply to women, to gender violence, including in the family and private sphere. Whilst simple and obvious on one level, these two moves document the success of feminists adoption of a dual key approach to lobbying – to include women in mainstream human rights thinking and to expand the mainstream to encompass feminist perspectives. The broad definition of violence against women which resulted represents a combination of existing UN language and feminist understandings, and was the first UN approved declaration that explicitly applied to behaviour within the family. Of similar importance was a clause specifying that claims to culture, tradition and religion could not be used by states to avoid their obligations. From this point on VAW was read into the terms of CEDAW, with states parties now expected report on efforts to address and eliminate it. Purna Sen argues this process as created 'a benchmark and a point of leverage for government action against violence against women' (2003: 16), and along with many commentators argues that it changed the parameters of human rights forever. Increasingly VAW/gender based violence is addressed across the UN machinery[6], and a major report by the UN Secretary General is in preparation. Perhaps most importantly this new interpretation of human rights provided legitimacy for the issue and the feminists who had worked on it, heralding major growth in attention and funding for this area in developing countries (Sen, 2003).

There is, however, a substantial critique of the claims to transformation, with pessimists arguing that the initial lack of integration between the generations of rights means that political and civil rights – the individual and state relationship – continue to be privileged. Given the principle of

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[6] See for example: recent resolutions such as that on honour crimes; the proliferation of relevant special rapporteurs (Trafficking, harmful Cultural Practices, The Difficulties of Establishing Guilt to Crimes of Sexual Violence) in addition to one on Violence against Women, its causes and consequences; integration into the work of UNDP, UNHCR, UNFPA, UNICEF, UNIFEM, WHO.

interconnection this weakens the entire project, since social and economic justice are prerequisites for participation in civil society and the polity. The optimists counter that whilst the project is far from completion, UN treaties and conventions are living instruments that evolve, 'tools that carry political weight' for social movements to use (Reilly, 1996). Christine Chinkin and Hilary Charlesworth (2000), two key human rights theorists, chart a route through the middle arguing that human rights discourse has responded to the 'different voice' of feminism, and the 'categories of challenge' it produced. At the same time international law is itself a gendered system, beginning with the key concepts of man/humanity. They point to the oversimplification within HR of the complexity of the structural foundations of inequalities and the creation within the now extensive jurisprudence of competing rights. With respect to the latter the one most commonly cited is between women and children, but increasingly salient is the right to practice faith, given that many faiths have as matters of doctrine support for inequality especially with respect to gender and sexuality, but also to some extent generation. Seen in the context of CAHRV, some of these doctrinal positions legitimise, and even in extreme forms advise, forms of interpersonal violence, and religious leaders and institutions appear to be conducive contexts in which abuse of children and women has been widely practiced with minimal sanction. The absence of mechanisms for adjudicating the contradictions and tensions between rights is an increasing difficulty, with more than a little parallel in some areas of practice addressed by CAHRV. An important, but often neglected point made by the authors is that whilst rights discourse presumes an autonomous individual, women are positioned in complex webs of relationships and responsibilities – what feminist philosophers now term 'relational autonomy'. This theme also has parallels with explorations in CAHRV about interventions – whether they should rely solely on women's stated preferences as autonomous individuals, or whether the state and agencies should work from recognition of the contextual constraints on agency that interpersonal violence often creates.

Among political scientists more broadly, whilst many recognize the not inconsiderable limitations of human rights, there is an increasing contention that respect for them is becoming part of statehood, and the ability to conduct international relations.

How far has gendering extended the reach of human rights
The relevance of human rights discourse to practitioners working on interpersonal violence, and to change at the local level was raised in Valencia. Sally Merry (2006) makes a strong argument that it has had a profound impact on women's perceptions (an argument that might be also developed in relation to children), including with respect to naming violence and seeking interventions as a rights bearer who is deserving of safety, dignity and respect. This has primarily been achieved through NGOs in the global south using HR as a route to providing education and training for women/advocates, and reflects processes documented in the west, but which have not been explicitly framed in human rights terms. Purna Sen (2003) emphasises the importance of HR to feminists living in unconducive contexts, that it provides a language and framework that constitute a set of new normative standards for women's lives, grounds to legitimise their own work and make demands on governments.

Some critics have pointed to the western enlightenment foundations as a major problem in the entire HR project. Islamic scholar An Na'im (1995) regards this as not the most central problem, since the foundations of human dignity exist globally, the more complex question, in his view, is how to give notions of rights cultural legitimacy in contexts where the concept of the individual is not central. This represents a challenge for all contemporary social movements, since their claims have been articulated primarily through notions of individual rights. A number of HR instruments, including CEDAW and the CRC, could be read as refusing this oppositional dualism locating women and children as both individuals *and* members of families and communities. Women are also seen as

citizens, whilst children are accorded rights and responsibilities appropriate to their age and development. Developing this line of thinking with respect to policy and intervention might open up fruitful avenues.

An example of the still developing impact of gendering human rights can be seen in work around the International Criminal Court. Here efforts were made to ensure that the complex, diverse and unique aspects of women's lives were recognised in its founding documents. Not only was sexual violence recognised as a war crime, but gender itself acknowledged as a basis for persecution and the structure and composition of the court has been 'gendered' (Chappell, 2003). The way in which rape was recognised and defined also reflected contemporary feminist theory: it begins from the right to sexual autonomy and that the harm of rape is experienced by women as embodied persons for whom the intersections of gender and ethnic identity may be salient. Defining rape, for the first time in international law, as sex in coercive circumstances is considered a watershed, avoiding the narrowness of penile-vaginal penetration, eschewing evidence of force or exclusions by relationship (such as marriage). Here the challenge was to push the constructs of law to recognise women as multi-dimensional (Chappell, 2003, p6), to embrace intersectionality. The positive outcome was certainly not a forgone conclusion, since the inclusion of forced pregnancy was resisted vigorously by the unholy alliance of the Vatican, Christian and Islamic fundamentalists, who now constitute a coalition operating at UN levels under the banner 'no new rights'. Again there are pessimistic and optimistic interpretations, with some arguing that sexual violence has not been recognised as automatically as grave as other crimes against humanity (Chappell, 2003, p12) and/or that women are still positioned in the discourse as 'other' within a gendered hierarchy of rights (Charlesworth and Chinkin, 2000)[7]. These authors also note that feminist HR activism has created new norms and systems of accountability, that women are no longer confined to welfare and protection approaches but are moving towards positions of entitlement within international law. Again there are connections here with the evolution of intervention approaches to gender based violence, and articulations of children's rights.   Explicating the difference between protectionist and entitlement/rights based approaches to intervention offers another route for CAHRV to develop over-arching concepts.

Sally Merry offers something of a reflection on these positions viewing human rights as a
 transformative cultural practice, which encompasses a specific conception of a person: someone who is entitled to autonomy and security of the body and equality.

The question of the human rights violator is more complex, with considerable discomfort still among traditional human rights scholars with the move from a focus on states and state actors to include feminist positions that stress accountability for individual perpetrators and critical perspectives on masculinity. Whilst some of the more recent conventions have made limited moves in this direction – for example, the reference to targeting demand in the trafficking protocol - these stand out as exceptions. When Radhika Coomaraswamy (1997) asked whether only a state with a 'Scandinavian aura' could make real the aspirations underpinning the women's human rights movement, she was referring by metaphor to the necessity for statesto be active, interventionist and explicit in promoting new norms for gender relations. If the norms remain at the level of international law and do not permeate down into the realm of everyday life, then the foundation of feminist analysis and understanding will have been lost. It is this loss of feminist ideas/framing which exercises critics of human rights approaches the most.[8]   The pessimist position is based in a 'theoretical scepticism'

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[7] One critical issue often highlighted here is the way in which reproductive and sexual rights are not considered fundamental, universal and indivisible even by HR advocates; Amnesty International, for example, has consistently avoided having a position on abortion.

[8] Highlighted here are the compromises necessary to get agreement at the transnational level, doubts that the state can every deliver protection, and fears that international activism has drained resources from local struggles for minimal gain.

(Harvinsky, 2005), which views the mainstream as having endless capacity to absorb challenges and the law/litigation as incapable of delivering equality. Others draw on the concepts of 'world travelling' (Gunning, 1991) and 'travelling theories' (Merry, 2006) to indicate the way in which human rights has provided a unifying framework for transnational feminism, ground from which to challenge the 'naturalness' of gender divisions and expose hierarchy. Merry in particular offers a route through dualism by discussing HR consciousness (local/individual) and HR mechanisms (transnational/collective); a process that can be simultaneously universal and locally rooted, as a set of philosophical and legal concepts are translated into the vernacular, and given local "cultural relevant wrappings". According to Merry inside each vernacular package is a radical challenge to the gender order.

In similar vein I have concluded an exploration of the process refusing an either/or position:

> *One is left to ponder on whether the language of human rights both provided something and took something away. Through its vocabulary and machinery feminists created a, perhaps unprecedented, way to transcend differences and achieve agreed goals: they not only spoke a 'common language' with each other, but one that could be heard within the UN and international law. It is unlikely that the more challenging language of domination and oppression could have performed these functions. At the same time, it remains an open question whether rights-based claims can be extended to encompass the feminist (and UN) aspiration to end violence against women through the deeper social transformation of gender orders and gender relations.* (Kelly, 2004)

Here again there are strong parallels in the work of CAHRV, with the critical question of how far recognition of interpersonal violence at the nation state and local levels has had any impact on incidence or prevalence, and in what conditions does law set new norms which influence behaviour and perception. The question of gender equality and violence is also challenging, with some researchers pointing to an apparent paradox between progress on traditional measures of gender equality, which do not include violence, and levels of reported assaults (see, for example, Whaley, 2001)[9].

Further implications for CAHRV
The relative reach and overlaps of forms of interpersonal violence and human rights violations is a critical issue for CAHRV. Both violence against women and child abuse (including sexual exploitation) have been defined as human rights violations within international law, and their precise meaning expanded in the development of work within the UN machinery. In both instances the connection of violence to systematic discrimination is a critical element in the specification, as is the understanding that their enactment serves to confirm and continue inequality. Where there are incontrovertible human rights issues involved, states that are signatories to the relevant conventions have international obligations to address the violations through both intervention and prevention. It is not possible to make such arguments for all the forms of interpersonal violence that CAHRV has explored. It is, however, possible to address at least some, as participants suggested in Valencia, as forms of violence that are implicated in the 'causes' in UN terms, 'roots' in CAHRV terminology, of human rights violations such as violence against women and children.

Whether violence between men and violence men experience related to sexual orientation, can be included within 'gender based violence' (GBV) is a further complication. As noted in Valencia to designate that something is 'gender based' is to make a strong claim, which needs to supported

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[9] Reported both to official sources and to community based surveys.

empirically and conceptually. Some groupings in the UN have clearly decided, for political reasons[10], to read sexuality into gender, by including violence against lesbians and gay men with respect to their sexual orientation (what is variously termed 'hate crime' or homophobic violence') within 'gender-based violence.   This is one of the ways in which meanings are changed by custom and practice.   From a social theory perspective simply reading sexuality into both sex and gender results in a unsatisfactory fudge producing both an insecure base for addressing sexual identity and a recipe for conceptual confusion. CAHRV can, of course, produce a revised and more inclusive definition of GBV. For this to be of use, and gain any legitimacy three issues must be addressed: a theoretical rationale; the political point within and outside of the network; an exploration of the intended and unintended consequences.   There is no consensus on whether a re-definition is needed within CAHRV, and whilst producing one, or using one of the fudges currently in circulation offers a technical route out of some internal debates, the danger is that the only outcome will be to add a further layer of confusion in the already thick soup of competing definitions. A potentially more useful contribution would be to lay out the core concepts, and the range of ways they have been used, and address the question of competing definitions more explicitly. We might even map the overlaps and disjunctions: commonalities provide one ground for integration, but a clearer sense of diversity is not necessarily divisive.

The core concepts in the creation of interpersonal violence as a field of study have emerged from feminist, psychological and criminological perspectives; and feminism has undoubtedly been a major source of challenge and creativity, moving discursive constructions away from both individual pathology and structures in which there are no people. The key concepts have been practices of power and control, the assertion of entitlements within constructs of gender and generation. A consensus in Valencia was that CAHRV does not approach violence as a thing, but rather as interactional acts/events, processes that take place over time within social and cultural contexts.

Throughout the work of CAHRV the need for, but challenges in creating, a shared lexicon, has been a cross-cutting issue, in work within sub-networks and across the whole project. Moving in this direction would be a major contribution to overcoming fragmentation. Debates at Valencia made clear the need for conceptual layering, addressing the areas of explanation, measurement, law and rights which can operate at the individual, national and transnational levels. Building a common language use, even if not an entirely shared conceptual framework,
within CAHRV would be a significant achievement. By this I mean having a shared understanding of what core concepts mean within CAHRV, what they include and exclude, whilst not everyone will use all of the concepts in their work, or may even engage critically outside CAHRV.   We might, for example, create some new, or revise existing overarching concepts and a key decision to be made at some point is the boundary with 'not violence', which has been various termed 'peace', 'care', 'safety' and 'security' in discussions in SN4.
There is more space for action and innovation here than in re-working human rights violations.   One possibility here would be to return to early concepts and re-examine them. To use an example from my own work, could the continuum of violence against women (Kelly, 1987) be extended to encompass generation, address relative normalisation/criminalisation, state responsibilities, gender and generational patterning of victimisation and offending?

Implications for CAHRV and critical questions
Within CAHRV what is included in 'interpersonal violence' and perhaps more significantly what is focused on in the actual work of the sub-networks continues to be debated. Whilst at an overarching level the intention was to include violences suffered and perpetrated by women, men and children,

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[10] These will be some combination of a wish to 'include' LGBT communities and to maintain a visibility for sexuality issues in the face of considerable organised opposition.

including an interest in overcoming fragmentation across connected fields of study, in practice this has proved difficult to achieve. This workshop was recognised as the first at which children's experiences were less marginalised, whilst the limited attention paid to forms of men's violence against women other than domestic violence continued to be an issue. It remains an open question whether this tendency to revert to a domestic violence framing is due to the current state of research and/or because the most active members of CAHRV have expertise in this area. Whatever the reason, work to date has not built a strong foundation for a more integrated approach to interpersonal violence. Some of the contributions pointing out the need for gendered analysis of child abuse, including neglect and corporal punishment, offer one pathway here, linking to the call for a gendered analysis of elder abuse in the first phase of the project. But currently CAHRV has little to offer other than recommendations, although individual network members have made significant contributions to the fields.

Explanation and measurement
Most of the work on measurement of violence has been done in SNI, and here again the most extensive discussion concerns domestic violence. There are, however, recurring questions with respect to meaning and interpretation:
- how do we make sense of and deal with acts which respondents do not define as abusive, but instruments and laws do;
- how do we study acts which respondents do define as abusive/violence but institutions and laws do not;
- how can research methods and conceptual definitions take account of acts which are/are not abusive depending on (cultural) (?) context.

The extent to which research instruments can (and should) reflect these variations sets the parameters of whether transnational methodology which measures the same things is possible. There are further questions that have been less widely discussed, and are currently being explored within SN1: how far it is possible to create layered definitions that are operationalised in data analysis. The presentation on the Irish prevalence survey provided a clear example of how applying analytic definitions to data changes basic findings, and suggests that we ought to spend more time exploring theoretically informed analysis.

Victim and/or perpetrator
The status and positions of victim and perpetrator have also threaded through CAHRV meetings in various ways. Here there is limited cross over with human rights, except to the extent that being accorded victim status in a legal sense is a form of entitlement, and nowhere is this more evident than with respect to trafficking and prostitution of minors. Across Europe adults trafficked into the sex industry who are detected by authorities and not defined as a victim may be open to criminal charges, at least in relation to immigration, and in some countries also prostitution offences. Minors may also face prostitution charges in some countries and/or being taken into particular provision designed to address delinquency. Thus, in terms of rights and services, being able to claim the status of victim is a route to support rather than censure, services that can deal with the impacts of trauma. In too much contemporary – primarily English speaking – feminist theory the rights aspect of victim status is often either ignored or conflated with notions of victimhood as a chosen or imposed identity. The limitations of the term 'survivor' in providing a route out of the negative menaing which is seen to inhere in the term victim are even greater when placed in the historic context of the use of this concept in Europe. These debates have, however, overshadowed other questions about which contemporary and comparative research is needed. How is the concept of victim connected to gender and generation? Does being an 'empowered' victim – ie having a sense of rights and entitlement - create tensions with being seen and treated as a 'victim' by state agencies, and even

some NGOs? Are 'victims' still expected to be weak and defenceless?   Why are young people, and young women in particular, more frequently denied the status of victim?

Similarly in explorations of those who are both victim and perpetrator, the presumption is usually made that victimisation invariably not only precedes, but causes, perpetration, but the mechanisms involved in this switching of positions is rarely explored outside psychodynamic perspectives.   Even if one takes the connections at face value, what kind of 'mitigation' for acts of violence can having been victimised oneself be – in terms of explanation, intervention and legal contexts – and in what circumstances? This is not simply a legal matter but has implications in prevalence research: for example, should 'defensive' violence be coded differently, and if so how? In terms of explanations, should previous victimisation be used in constructing conceptual frameworks, including 'risk factors' for both re-victimisation and perpetration?

The complexity of some individuals, especially children and adolescents, positioning as victims and perpetrators has been a recurring theme in CAHRV, and represents a point at which interpersonal violence and human rights approaches could be seen to pull in different directions. Whilst in terms of HR doctrine perpetrators have the same human rights as other human beings, they are also to be held to account for violating the rights of others. An HR approach would, however, raise questions about ways in which this takes place which implicate states as HR violators: one possibility here was whether setting the age of 10 for criminal responsibility in England and Wales contravenes children's human rights under the Convention on the Rights of the Child. States negotiate these boundaries variously, with some – for example Germany – setting the boundary for criminal responsibility at 14, whilst retaining differential sentencing rules, such as not allowing adolescents to be sent to adult prisons, and setting limits on the length of time they can be incarcerated. The underlying rationale here is that the behaviour of young people is open to change, resocialisation is possible. A relevant example here, which exposes complexities in the relationships between rights of victims and perpetrators are cases of honour killings, in which older men instruct young brothers or cousins who are either below the age of criminal responsibility, or will have limited sanctions imposed, (that could be the 10-year-old, which does happen, but much less often) to conduct the murder[11].   Adolescence presents a particular challenge to states and researchers in managing the balance of rights and responsibilities, an example of the complex interweaving of gender and generation.

Processes of change
One important theme at Valencia was how as social researchers we can document and analyse local histories of development of discourses of rights and engagements with the state. Whilst human rights may play a small part in these accounts, in most European countries they play a marginal role. Feminist activists have made demands of the state to intervene to protect women and children, and to sanctionperpetrators. Commentaries from a number of countries reveal concerns about over-intervention, both with respect to certain communities and when mandated to do so regardless of victim wishes. Here the 'right' to protection may be in tension with the right to self-determination, and has the most complex contours where women and children are living with domestic violence and women refuse intervention. In a number of jurisdictions we know that pressure is placed on women through references to children's safety, and even instances where children are removed on the grounds of 'failure to protect'. Simplistic notions or rights offer limited help here.

Some discussion took place about whether interventions can be crafted to take account of the specific context in each case, especially the extent and history of violence and the relative strength

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[11] A number of countries have attempted to resolve this conundrum by attempting to charge those who organised the crime with either conspiracy charges or new offences that allow the charge of murder to be laid. There are, however, few examples as yet of successful prosecutions.

of victims to protect themselves. This kind of differentiation – of the context and resources of individuals – whilst the bread and butter of social research is not easy to develop social policy around. Social research tells us that where professionals have considerable discretion, stereotypes and prejudice frequently determine the form and extent of intervention. The question of whether police officers could ever be trained to make these kind of informed and nuanced judgements was raised, and whether engagement with feminist services can transform not just what police officers do, but how they understand their role and the wider social context. Evaluations of UK police with respect to domestic violence[12] are now much more positive in terms of their demeanour and where women are seeking to manage violence, they are less positive where women were seeking strong intervention. The latter has been found to increase where there are specialist domestic violence courts and advocacy projects.

The question of whether social change is precipitated by legal reform or legal reform follows social practice was also addressed. Examples of both processes were offered: Sweden making physical punishment of children illegal was the former, Germany and marital rape the latter. The first sought to establish new social norms the latter to codify them. Perhaps we need to ask more complex questions about the origins and outcomes of change processes. Even here the notion that a change is largely symbolic has been used as a criticism, but certain symbolism could have widespread consequences. For example, both the UK and France have criminalised not just the practice of FGM/C in their own territory but taking a child out of the country for it to be practiced. France has over 100 convictions, the UK none. Does this mean that the UK change is only symbolic, and the bodily integrity of girls at risk is less protected? Before such a conclusion can be drawn the extent to which in the UK the law has been used in a preventative vein, to change social norms needs to be explored, since women's NGOS have primarily drawn on the law to build child protection responses. Creating legitimacy for preventative intervention, space for girls to resist, changes practices which may have as or even more long term impact than successful after the fact prosecutions, such long term change is far more than symbolism.

A further issue which has emerged in SN3 is that not only have European countries different traditions of using or not using law, but also diverse intervention systems, which are more or less gendered and have varying powers. Law, policy and practice are all involved in patterns of changing relationships between state/police/women, men and children, and the ongoing engagement about the appropriate boundaries between autonomy/self-determination, violence and state responsibility. These boundaries are as relevant at the micro level of relationships and households as in social theory, national and international law, and finding a close fit across all these levels is less than simple. For example, it is at least in principle possible to draw on HR to argue that interpersonal violence should or should not be treated the same as violence that takes place in the public sphere between strangers, and to argue that interventions should be the same in all circumstances and across all forms of interpersonal violence (ie there should be no thresholds, violence is violence), or should take into account relevant social positioning (child/adult; citizen/migrant etc). One version of the universalist approach would argue that the removal law should be applied to child and elder abuse[13]. The transferability of interventions across forms of violence is a further way of exploring integration, and of exposing fragmentation in law, rights and policy.

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[12] Findings with respect to rape and stalking are more equivocal.

[13] This is already theoretically possible in England and Wales, but is rarely invoked. In Germany, the removal law provision was subsequently inserted into child protection law, with the additional proviso that an adult perpetrator can only be barred from the child's home if there is a responsible and protective adult who will continue to live there with the child. The more usual process of child removal is used in the case of single parents or where there is evidence that both parents are abusive.

Connected and competing frames

Human rights thinking is a transnational framework, rooted in law and the cultural process of norm creation; an example of the integrative tendencies of globalisation and what one social theorist has called 'moral cosmopolitanism' (Shaw, 2005). Human rights can be viewed as part of globality, both the emergence of attempts to forge transnational civil society committed to social justice and as invoked to justify neo-imperialist foreign policy. It can be said, therefore, to be simultaneously part of regressive and progressive global projects. Interpersonal violence is an overarching concept which CAHRV has used to encompass violences associated with gender and generation, and potentially racialised violence, although limited work has been undertaken here.

Valencia and this report exposed the overlaps and exclusions across the two frames with implications for research and for practice, alongside the challenges of seeking to integrate perspectives on violence experienced by women, men, children, the elderly and racialised minorities. This paper has argued that we need a theoretical vocabulary in a field where the conceptual development has taken place primarily with respect to women and children, and the dominance of men. Simply 'adding men back in' as victims of violence, and making all victimisations equivalent takes us into a terrain where the overlaps with human rights concept shrinks, and the role of violence in the inequalities of gender and generation are obscured. At the same time there would be gains in terms of men's studies and certain understandings of masculinity. Whilst intellectual work is inherently about questioning, re-thinking, re-reading, re-working concepts and frameworks in the light of new evidence, what CAHRV uniquely offers is a context in which the intended and unintended consequences of shifts in definitions and understanding can be explicitly addressed within the context of addressing integration.

Towards the end of the workshop the clarification that HR violations are our theme/topic, but not our explanatory/theoretical framework was made, and the overlaps and boundaries between HR, violence and crime illuminated by a series of questions:

      Is all violence a HR violation?
      Is all violence criminal?
      Is all crime a HR violation?

The answer to all three is no, both transnationally and between countries represented in CAHRV. For example, transnationally prostitution is no longer explicitly viewed as a human rights violence, and only the exploitative aspects are expected to be criminalised. In Sweden prostitution is defined in law as a form of violence against women, and buying sex is a criminal offence. Policy in Germany and the Netherlands in contrast regards it as a civil right to choose to sell sex. A more detailed exploration here would illuminate that policy focuses on different rights – Sweden challenges the right to buy, Germany and Netherlands institutionalise the right to sell.

CAHRV needs to document the overlaps and distinctions between: violence; men's violence against women and children; child abuse; elder abuse; interpersonal violence; gender based violence; human rights violations. This would illuminate some of the reasons for fragmentation, suggest more and less fruitful routes for integration, and illustrate the inherently political process that determines what is and is not recognised as violence[14].

Some key questions which need to be addressed in the final year include:

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[14] The attraction to the left of structural violence has always been that it identifies states and businesses as the key actors; for dominant groups and lawyers narrower definitions have been preferred; researchers and practitioners may use narrow or broad; for those who have been harmed and diminished wider definitions validate their experiences.

- What are we seeking to integrate, de-fragment and why? Why has the issue of violences experienced by men as victims occupied more discussion time than child abuse, sexual violence more broadly?

- Is specialisation an overarching theme – reflected in research and service provision – and does differentiation create fragmentation? The three planets are a clear illustration here of specialisation in terms of law, staff and discourse creating fragmentations which have proved enormously resistant to integrative approaches. Are there examples where the opposite process can be demonstrated?

- Concepts such as the continuum and intersectionality emphasis connections, multi-dimensionality – attempts to accommodate similarity and difference concurrently – overcoming fragmentation relies on doing this at some level of analysis.

- How should 'gender based violence' be defined – are we using it as a descriptive or analytic concept, and how far is it to be linked to the human rights framework? Whatever resolution is made of this question it begs the question of how generation and race as foundations of violence are to be included, and thus does not really provide a clear route to the kinds of integration that CAHRV needs to explore.

- How are we to define the condition of 'not/non violence' in interpersonal relationships? What do the concepts of human dignity, human security, safety, safeguarding have to offer?

- How might we theorise the links between public and private violences, conjunctional and structural aspects, and the connection to durable inequalities?

- Are there conflicting rights, intersectional/complex contextsor Layers of rights – individual and collective?

- Whilst HR has offered an important framework for women's NGOs has it been at the expense of the explicit power of naming which feminist analysis has undoubtedly provided? What are the discursive effects of importing HR discourse into research and or policy, using 'gender based violence' rather than 'men's violence against women and children'?

By way of a conclusion

Since Valencia the expert group on rape and sexual assault met and spent one session attempting unsuccessfully to develop the three planets to their field of study. Social World/Arena theory, as used by Corinna Seith (2001, 2003) in her study of institutional responses to domestic violence in Switzerland, may offer an alternative which can accommodate both forms of violence, national and transnational contexts. Using it as a tool would point to overlaps and possibilities for integration, which the planets model currently precludes, since it is based on separations. Social World/Arena theory can accommodate a range of forms of violence, and can be applied in ways that do not flatten national, or even regional variations in approach and interventions.

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