



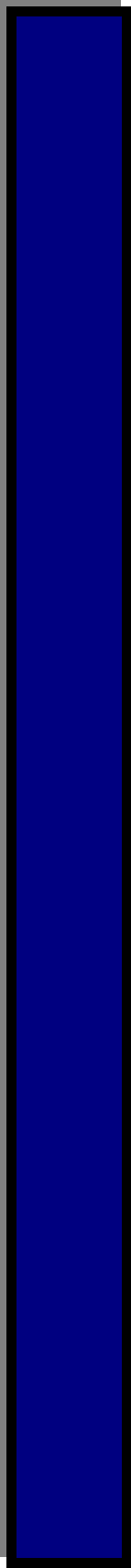
## VI. DEFINING ACCOUNTABILITY AND DEVELOPING TARGETED DEMANDS

The political dimension of a popular tribunal/hearing involves identifying who and/or what entities are accountable for the violations recounted and formulating specific, targeted demands toward the elimination of these and similar abuses of human rights in the future. This section aims to assist those directly working on drafting of testimonies and/or the statements of judges and respondents, to identify and flesh out the accountability issues involved. It also seeks to guide the process of developing targeted recommendations and demands with respect to each testimony.

As stated earlier, the overarching objective of a popular tribunal/hearing is to “provide women with a supportive public space in which to articulate and make visible their human rights concerns.” This objective should remain central throughout the preparatory process, especially as testifiers and their support persons work to define issues of accountability and to develop targeted demands in each testimony. It’s important not to eclipse the powerful, personal accounts of testifiers with a lot of technical details on treaties and international agreements. At the same time, each testimony should strike a balance in highlighting both the personal responsibility of the individual perpetrators (where applicable), as well as the institutional responsibilities of relevant state and non-state entities. Each testimony should also conclude with a set of specific targeted demands aimed at eliminating the kinds of violations recounted in the testimony. However, bear in mind that the statements of judges and/or respondents will serve to reinforce and reiterate the main arguments around accountability and the specific recommendations for each case, including the more formal and technical aspects involved. However, the testimony must provide the basis for these statements. The following subsections provide a brief overview of some key issues and debates, as well as a suggested framework for a more comprehensive and gender-aware approach, in the definition of accountability within a human rights framework.

### UNDERSTANDING HUMAN RIGHTS ACCOUNTABILITY

The preamble to the Universal Declaration of Human Rights proclaims: “member states have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.” Similarly, the covenants on economic, social and cultural, as well as on civil and political rights assert the “obligation of



states under the Charter of the United Nations” to achieve the same goals, while the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW or the Women’s Convention) proclaims that “states parties to the International Covenants on Human Rights have the obligation to secure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights.” It is clear, therefore that the framework of international human rights as set out by the UN Charter, the Universal Declaration of Human Rights, and the subsequent treaties defines states as accountable for the promotion and protection of the human rights of all people living under their jurisdiction. To be accountable is to be obligated to take responsibility for one’s actions and to be “subject to giving an account,” as the dictionary puts it. Further, even if a state is not directly responsible for private acts, it may be guilty of a lack of diligence to prevent, control, or punish such private acts through its executive, legislative or judicial offices. In every situation of human rights violation, therefore, the state is answerable for its role in the failure to protect and promote the human rights in question. Nonetheless, the human rights machinery that has evolved over the last 50 years focuses almost exclusively on states whose officials engage directly in human rights abuses.

In bringing gender-specific human rights violations to light, women continue to challenge and expand the understanding of what accountability for human rights entails. The international human rights system has generally focused its attention on state-sponsored violations (especially abuses of civil and political human rights that are more likely to be exercised by men in public contexts), including denials of freedom of expression and movement, arbitrary detention, and torture at the hands of state authorities. But women’s experiences demonstrate that violations of the human rights of women often take place in the private contexts of home, family, religious, and cultural practices, and in the increasingly privatized arena of economic production and exploitation. Even within the traditional understanding of human rights, violations directed at women such as rape by the police or military have often been “privatized” and made invisible. While it is essential to fully address such gender-based state-sponsored violations, it is also necessary to expand the definition of “accountability” so that abuses of women’s human rights perpetrated in private contexts and by non-state actors can also be effectively challenged.

## **TOWARD AN EXPANDED DEFINITION OF ACCOUNTABILITY**

A more comprehensive understanding of accountability that would be truly responsive to women’s human rights concerns requires that states are held accountable for:

- Violations resulting from direct state action or policies either within their territories or abroad;
- Violations perpetrated by non-state actors of one state - including private citizens, multinational corporations and/or private institutions - within the territory of another state;
- Violations perpetrated by non-state actors against any person living and/or working within their territory, or over whom they have regulatory powers;
- Violations resulting from the actions or policies of any international institution of which the state is a decision-making or voting member, including the international financial institutions, such as the World Bank, the IMF, the World Trade Organizations.

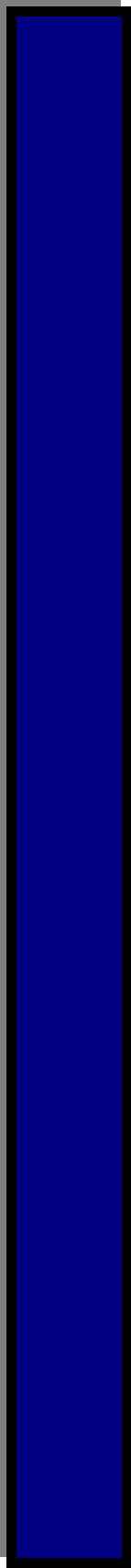
### **The Role of States**

In order to achieve this level of accountability for human rights, each state must:

- Refrain from directly perpetrating violations of human rights;
- Monitor and address the human rights impact - including the gender dimensions - of all national legislation and policymaking.
- Take proactive steps to prevent human rights abuses by non-state actors - either private individuals or institutions - and to promote respect for human rights throughout the society.
- Hold accountable non-state actors - individuals or institutions - who have violated human rights, including ensuring appropriate punishment for violators and compensation for victims;
- Be accountable as members of collective governing or policy-making bodies such as the UN General Assembly, Security Council, or the international financial institutions, and adhere to international human rights obligations in these contexts.

### **The Role of the United Nations**

In defining accountability, we also include the United Nations both as an international governing body with the mandate to protect and promote human rights and as a collection of agencies and programs that carry out or sponsor programs in many regions of the world. Throughout the entire range of its operations, the UN is obligated to respect the human rights of those affected by its programs and policies and to give special attention to gender concerns. In addition, the UN as an institution has a particular responsibility to eradicate gender-based discrimination and harassment within its own bureaucracy. In particular, the devastation in women's lives wrought by international economic policies that improv-



erish women, and foster economic and sexual exploitation, demands the development and implementation of UN measures that will monitor the human rights costs of current and emerging macroeconomic policies enforced by international financial institutions. Such measures must include the provision of avenues for redress for those who have suffered human rights abuses as a result of the imposition of harsh economic regimes.

In summary, accountability for women's human rights means that the UN must:

- Monitor the gender-sensitive compliance of member states with all human rights agreements and standards.
- Integrate women's human rights and gender perspectives throughout the entire human rights machinery, including in the work of the International Criminal Tribunal/Hearings, all of the human rights treaty bodies, working groups, rapporteurs and commissions, as well as in the work of the specialized agencies.
- Ensure respect for women's human rights in the UN policy and program areas.

### **The Role of NGOs**

Achieving accountability for women's human rights is a multi-layered process and will require diverse strategies. NGOs (preferably in partnership with and supported by governments) have a key role to play in the process to secure accountability, which includes the following major elements:

- Documenting violations: this entails naming the perpetrators (public or private, individual or institution) and detailing the violations along with the international treaties and agreements that have been breached;
- Identifying and utilizing existing human rights mechanisms and legal processes on behalf of women in order to secure the punishment of perpetrators and the provision of gender-sensitive remedies on behalf of the victims. It may also be necessary to demand and develop new processes and procedures;
- Securing explicit commitments to women's human rights from governments in national and international forums;
- Calling for, developing and executing local and national women's human rights implementation plans;
- Mobilizing, organizing and lobbying to build public support and political will toward implementing women's human rights;
- Using the media to expose situations of abuse.

## IDENTIFYING ISSUES OF ACCOUNTABILITY IN TESTIMONIES AND DEVELOPING SPECIFIC DEMANDS

Answering the questions below (in conjunction with the guidelines provided in Section IV) will allow you to build a fairly comprehensive overview of the accountability issues in each testimony. The same process, by exposing serious breaches and omissions in each case, will also help to suggest a targeted list of demands and recommendations.

A compilation of principal human rights international agreements and additional instruments relating to the human rights of women can be obtained from:

***Women and Human Rights: The Basic Documents***

Center for the Study of Human Rights

Columbia University

420 West 118<sup>th</sup> Street

1108 International Affairs Building

Mail Code: 3365

New York, NY 10027 USA

Ph: (1-212) 854-2479; Fax: (1-212) 316-4578

E-mail: [cshr@columbia.edu](mailto:cshr@columbia.edu);

Website: <http://www.columbia.edu/cu/humanrights>

For a list of women's human rights resources, regional ratification charts indicating which country has signed which treaties, and the full text of key international human rights documents order:

***Rights of Women: A Guide to the Most Important UN Treaties on Women's Human Rights***

International Women's Tribune Centre

777 UN Plaza, 3rd Floor

New York, NY 10017, USA <http://www.womenink.org>

Specific international human rights documents can be obtained by visiting:

**UN Website**

<http://www.un.org>

**UN Womenwatch Website**

<http://www.un.org/womenwatch>

If time permits, ask testifiers and their support persons (in collaboration with a member of the human rights advisory group if needed), to prepare a 1-2 page summary of accountability for each testimony prior to the tribunal/hearing. Such summaries are extremely useful in identifying patterns in the failure of states and other parties to be accountable for their actions and/or inaction; ensuring that the demands and recommendations put forward by testifiers are technically and legally accurate; and informing the process of advising the judges in making their recommendations.

### Who is responsible for perpetrating the violation(s)?

- Private individual or institution;
- State actor, institution or agency; and/or
- UN entity

**What are the international human rights treaties and/or agreements that have been breached and how?**

**How is the state culpable?**

- Did an agent of the state carry out the violation(s) recounted?
- Did the state permit, condone, or ignore the actions of a non-state actor in committing the violations?
- What actions did the state take in response to the abuses described in terms of: (1) policing and judicial measures; (2) policy implementation; and, (3) legislation?
- What should the state have done?
- What do we want the state to do now?

**Do existing human rights instruments and processes work to ensure redress in this and similar cases?**

**What is required to ensure that the human rights standards most relevant to the case at hand are upheld and implemented at the local, national, regional, and/or international levels?**

Tribunal/hearing testimonies should not exclusively highlight the failure of states and/or United Nations entities to be accountable on any of these levels. They should also develop recommendations to remedy the situation and make demands that will strengthen the protection and promotion of women's human rights.

**STATEMENTS BY JUDGES OR RESPONDENTS**

As outlined in section V, judges or respondents will use the testimonies and supporting material to produce a final statement detailing what entities are accountable in each case. In doing so, they will provide a brief introduction to existing human rights instruments and mechanisms which were established to protect against such violations. As far as possible, the statement by a judge or respondent will also make recommendations on the steps that must be taken to prevent such violations in the future; to secure reparations in the case in question; and, to punish the individuals responsible. As stated in section V, it is imperative that copies of the testimonies and all supporting documentation be sent to the judges and respondents well in advance to allow them sufficient



time to produce a powerful and effective statement of recommendations and demands.

### **POST-TRIBUNAL REPORT OR STATEMENT**

Immediately after the tribunal/hearing, a statement should be drafted that provides a brief overview of the program followed by the core recommendations and demands made by the judges and testifiers. Producing and distributing such a statement to the media/press, governments, and other targeted groups (see list in Section VIII) is an effective means of amplifying the impact of the event and ensuring that the core messages and demands of the tribunal/hearing reach a wider audience. The statement can also be used as a lobbying tool in the weeks and months after the tribunal/hearing to pressure governments to strengthen their protection and promotion of women's human rights (See Appendix 3 for a sample post-tribunal/hearing statement issued after the *Vienna Tribunal/Hearing for Women's Human Rights* in 1993).