

EVAP Ep. 22_ Sareta Ashraph

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SPEAKERS

Sareta Ashraph, Jaclyn Streitfeld-Hall

J Jaclyn Streitfeld-Hall 00:12

Welcome to Expert Voices on Atrocity Prevention by the Global Center for the Responsibility to Protect. I'm Jaclyn Streitfeld-Hall, Research Director at the Global Center. This podcast features one on one conversations with practitioners from the fields of human rights, conflict prevention and atrocity prevention. These conversations will give us a glimpse of the personal and professional side of how practitioners approach human rights protection and atrocity prevention, allowing us to explore challenges, identify best practices, and share lessons learned on how we can protect populations more effectively. Today, I'm joined by Sareta Ashraph, International Criminal Barrister, who's currently consulting for the Center for Justice and Accountability, and the US Holocaust Memorial Museum Center for the Prevention of genocide. Thank you for joining us today, Sareta.

S Sareta Ashraph 01:03

Thanks. It's lovely to be here.

J Jaclyn Streitfeld-Hall 01:06

You have extensive experience in documenting and investigating atrocity crimes throughout your career. Can you talk a little bit about what that experience has been to this point? And I think I'll talk to you a little bit more later about what goes into investigating potential atrocity crimes.

S Sareta Ashraph 01:24

Yes, of course. I am a Barrister called to the bars of England and Wales and also the bar of Trinidad and Tobago, where I'm from. Very early on in my career, I was lucky enough to end up working in Sierra Leone in 2003, which is really shortly after the war had ended when the DDR

demobilization rehabilitation process, disarmament rehabilitation process was still ongoing. And I joined a defense team, the Sesay defense team for the Special Court for Sierra Leone. And that started at a time in life when I became Counsel at Trial and Appeals level in this trial, which extended over six years in Sierra Leone, during which time I was largely based in Freetown, which was a tremendous experience not only on understanding how international plays out on the ground, how these trials are put together, but also really living in a place where people who have been affected by these crimes, which you know, have taken up so much kind of academic space and thought space amongst those of us who are fortunate enough to live outside of conflict ridden areas. After Sierra Leone, I went off, and I did a variety of other things, including working for the Commission of Inquiry on Libya, immediately after Gaddafi's regime fell in Libya. And then into working on Syria, the Commission of Inquiry in Syria, where's I was Chief Legal Analyst from 2012 to 2016, so throughout the bulk of the very intense hostilities and I think my experience of working on Syria really has continued, I've never really left working on Syria. After working with Col, I did a short stint helping set up the Syria mechanism before moving to consultancies and then to UNITAD. So UNITAD was set up by the Security Council, I think largely as a result of a lot of advocacy of Yazidi groups, and it's set up specifically to collect, analyze and preserve evidence of the crimes of the Islamic State in Iraq. And so for that I was in Baghdad, and then later on, into Dohuk helping with investigations, not only in relation to the Yazidis, but across the whole span of ISIL crimes occurring mainly in northern Iraq. Since then, I've been doing consultancies, as you mentioned, so I'm now a Senior Legal Consultant with the Center for Justice and Accountability out in California, still doing a lot of work on case building efforts on Syria and Iraq. And with the US Holocaust Memorial Museum, Simon-Skjoldt Center for Prevention of Genocide, where we look at situations of emerging genocides, or already documented genocides, and that can span anything from looking at the Hazara in Afghanistan, the Uyghurs in Xinjiang, what is happening in Myanmar, and of course, continuing to monitor some of the allegations being made around Ukraine. So it's it's been quite diverse. I've been very lucky.

J

Jaclyn Streitfeld-Hall 02:12

What is the process that goes into investigating potential atrocity crimes? I think what's interesting to me about your career is that you've looked at situations where you've actually had access to the country and to where the conflicts have taken place, as well as situations like Syria where the government is hostile to the Commission of Inquiry and you're probably investigating from the outside all the time.

S

Sareta Ashraph 05:02

I would say that it's definitely shifted in my career. And I'm not massively into my career. So it's shifted in a relatively short space of time in two ways. One is kind of mechanically, and the other is, I suppose, then the attitude to the approaches that are taken from a more kind of pragmatic basis. There was really this understanding at the beginning, that still, I think exists, that the way that you investigate crime is just you go out and you speak to people and that's still very much the case - speak to survivors, speak to witnesses, emphasize the need to ensure that those interviews are being done, respecting confidence, but also more recently deepening into this idea of what is become almost like a kind of a cliched phrase of trauma informed survivor centered interviewing, but really kind of digging into what that means. Now, I think there's this, because of technology, because of the role of social media, and the way

information to travel about how crimes are committed, but also, in some ways how crimes are designed, orchestrated, how people are recruited to commit crimes, how people are indoctrinated to commit crimes. There's also now much more of an emphasis on, one, trying to collect open source information - so opensource investigations have become a much larger part. But beyond that, the question of how you analyze information, because a lot of emphasis goes on investigations and collection of information. But now the amount of information that you're collecting is enormous. If you look at the Islamic State, just the amount of output, if you look at the Syrian conflict, even if you tried to look at all the videos of the Syrian conflict, I think it would probably exceed many human lifetimes. So it becomes this question of, we have all this information, how do you actually make sense of it? How do you find evidence of crimes from amongst almost like a huge amount of static noise? How do you find what's valuable? And so that is an aspect that I think has changed in the investigation analysis of international crimes. The other which I think is just as important or potentially more important, and certainly, I think for the survivor communities more important, is that I think it went from being quite extractive, the approach, very early on, it was changing already when I started, but very early on, it was almost like internationals, who had you know really interesting academic experience, training, parachuting in, collecting information, getting paid, that money immediately going to bank accounts, which are outside of the country involved, and then leaving at the end. And there was this kind of sense of capacity building, but the capacity building was very different from, almost existed in a kind of adjacent field from the accountability driven work. Now, what we see are two things. One, there is a much bigger recognition, one of the importance of having people from the affected regions involved in investigations in a variety of ways, whether that's through outreach, whether that's through being actually inside investigation teams, and some of the roles, having input into the design of investigations. As part of that there's been already a rise in the understanding of the deep importance of civil society work and civil society documentation as part of international investigations and trying to figure out a way that that can work within what are often very confidential investigations done by units, like for example, [UNITAD](#), or the [IIIM](#) for Syria, or even the ICC. The second part of that is that there has been this greater understanding of the need for a more intersectional approach. So what I often call a gender competent, intersectional approach. So the mechanics of the investigation affect the substance of the investigation. If the investigators, one come from/are dominated by a particular group, say white male investigators from Canada, that's going to have an impact on what the investigation looks like. It's not just a matter of diversity though, because I think sometimes just pinning intersectional approaches with the diversity of the who's doing the work. It's important, but it's one part of it. The other part is just understanding how crimes are committed against different people in different ways and the impact of marginalized intersecting identities. And so I'll give you an example of something that really was only noticed after the fact which is in the civil war in Colombia, which I did not have any work on at all, you saw high rates of sexual violence across the conflict, but it became apparent that actually in areas where you had indigenous communities and against women who have Afro Colombian descent, you had even higher rates of sexual violence. And so I think there is now not this idea of a crime committed going in and understand it, but saying contextually, how do the underlying inequalities, prejudices, biases in that society affect how the crimes are designed, how they are committed, what their impact is against different groups in a way that, obviously gender tends to be a primary prism. I think it's important that it is a primary prism in many ways. But it's also now looking at beyond gender, like how gender and race, ethnicity, religion, age, for example, into place that we don't end up with an understanding of an investigation plan, implementation strategy, that ends up with an understanding of crimes, which is not just male centric, but often adult centric, which often then just excludes and renders invisible whole portions of the victim and survivor community. So I would say that is another really big change and a really, I think, profoundly important, and also very exciting change, because it's ushered

in conversations, which I think a lot of people didn't know were needed. And I think we continue to uncover how important these different viewpoints are, and how we can improve the way in which we're relating to survivors and victims, including survivors and victims, but even also seeing survivors and victims.

J Jaclyn Streitfeld-Hall 11:25

Absolutely, I think that's an incredibly important shift in the right direction, not just for accountability and survivors and victims. But also when we think about prevention in other situations, like the wealth of knowledge you're getting on the nuance in situations now can inform how we think about prevention in the future, which is really important in these situations.

S Sareta Ashraph 11:55

We see that of course, most viscerally when it comes to genocide, because the Genocide Convention has within it this legal duty to prevent genocide. And if you cannot recognize genocide, and cannot see the full spectrum of genocidal acts and the full community of genocide victims, then you're really not going to be able to prevent or to punish it in any way that is full and meaningful for everyone who's been affected.

J Jaclyn Streitfeld-Hall 12:31

Absolutely. You know, to go back to some of the experiences you've mentioned in your career, you noted that through both the Commissioning of Inquiry in Syria **and your work with UNITAD**, you looked at the the crimes against the Yazidis. I was wondering if you could share a bit about the crimes perpetrated by the Islamic State across Iraq and Syria against the Yazidi population and other minorities, and what went into the Commission of Inquiry's genocide determination.

S Sareta Ashraph 13:03

The Commission of Inquiry in Syria was mandated by the Human Rights Council to look at violations of international law inside Syria. Obviously, the initial attack by ISIL against the Yazidi community happened in northern Iraq, where the majority of the Yazidi community are based. But by late August, early September 2014, so really weeks after the initial attack, which occurred on the 3rd of August 2014, we were seeing in the Syrian inquiry from Syrians who were fleeing areas that were then held by the Islamic State, information about events that we hadn't heard before. And that was specifically around this idea that ISIS was convening slave markets, that there were people being sold, women and children being sold in these areas. And that basically allowed, it opened the door for the Commission of Inquiry in Syria to look at what was happening inside Syria, within the relation to the Yazidi population. My first hearing of the Yazidi population did not occur in the context of ISIS. I was in Iraq for investigations in relation to Syria, a year before ISIL even emerged visibly in Iraq, obviously they were there, but in terms of have been able to seize territory in Iraq. And we were driving with a driver who was actually from an Arab Christian community, and we were driving past the villages. And he turned to me said, oh do you see those villages over there in the mountain? I said, yes. He said,

oh the people in those villages worship the devil. And it just goes to show. I mean, the Yazidis obviously, I should say at the outset, do not worship the devil and would be horrified by and are continually horrified by this misconception of what is an incredibly peaceful and beautiful religion. But it goes to show like the depth of the prejudice, the misunderstanding, the misconceptions of this very small religious group, and also it gives you an inkling into the repeated historical persecution and the modern day discrimination that they faced. And so when ISIL comes about. When ISIL emerges, and it doesn't drop from the scene, there's a long history of ISIL with links back to Islamic State in Iraq to al Qaeda in Iraq, to the insurgency, which followed the American invasion, and even amongst the senior members ISIL, the Baath party. So I always think it's really important to understand ISIL as not just this group that is incredibly brutal and appeared and wants to return the world to the seventh century, a world in which they look to the seventh century, but they build very much on the prejudices that were already in Iraqi society and in fact, in other areas where the Yazidis exist in Syrian society, in Turkish society. So when it comes to the Col Syria, we were really tipped off initially by these mentions of slave markets in Syria. And this led to essentially a full scale investigation which focused on Yazidi women, mainly Yazidi women, who were taken into Syria. And that uncovered, what we found in the June 2016 report was not simply that ISIL had committed multiple crimes against humanity and war crimes, but also that they had committed genocide against this group through the commission of all five genocidal acts. The one thing that I would say is that when it comes to ISIL, they are unusual as a perpetrator in some senses, because they really do not try to hide or reframe their conduct. So a lot of genocidal groups will say, it was a war and people got killed, or they were attacking us. So, they essentially reframe it to indicate like we had no genocidal intent, it was just chaos. With ISIL that's not true, ISIL was very across the board, whether it comes to their attacks on the Shia when it comes to attacks on the Christians, and when it comes to attack on the Yazidis specifically, they are very transparent about what they do and why they do it. And that's partly because they believe it to be theologically sanctioned. But it's also because they are building upon very deep rooted dislikes of these groups that long predate necessarily the organization itself, ISIL itself. So just to give a little bit of a summary of ISIL's attack on these Yazidis, which is one of the better known victim survivor communities of ISIL crimes. On the third of August 2014 ISIL attacks the Sinjar region of northern Iraq. This is about just under two months after ISIL has taken control of Mosul City on the 10th of June and Tal Afar on the 16th of June 2014. At the time, they have been in control of Raqqa, which is the de facto Syrian capital for some time. In between if you draw a straight line between Raqqa and Mosul, it flows precisely through the Sinjar region which is the homeland to the majority of the world's Yazidi population. The Yazidi population has been historically persecuted. Even today, there are some communities that will not for example, buy food from Yazidis, because they consider these Yazidis for example to be unclean. So, the Yazidis have historically been marginalized, they are living in a very rural area without a tremendous amount of infrastructure. They're also a very, in some ways, close community because both parents need to be Yazidi for the children to be Yazidi, and that has resulted in a number of different things, different consequences, one of which is that the women themselves are kind of kept close to the home. So often you see women have been pulled out of school by 16 because their village probably doesn't have a secondary school, they don't want their male children to travel and potentially come into contact with other non Yazidis. So very limited female social and financial independence within the very rural Sinjar community which is relevant to the impacts of the crimes that ISIL is about to commit. ISIL pours into Sinjar at about 2-3 am on the morning of the 3rd of August 2014. Sinjar is divided into north and south, the mountain range in the middle about 100 kilometer long Mount Sinjar, which has historically been a place of safety for the Yazidis in previous attacks, including the 1915 Armenian Genocide when Yazidis who were also attacked during that genocide fled to seek safety on Mount Sinjar. ISIL attacks in a very coordinated action, it has multiple units

operating on both sides of the mountain. So there's very little military targets in the mountain, it became very clear that the targets of the attack were the Yazidi community. It was also clear that they were prepared to hold thousands of people - and when I say people actually that disguises the fact that they were prepared to hold thousands of women and children in holding sites that were being prepared deeper within the territory of the Caliphate. And generally attacks unfolded in a very mechanical way, almost like a conveyor belt. And interviews that I did, probably after the fifth or sixth interview, it was very clear, often what the next stage they were about to describe to me was. So consistent was the kind of pattern of crimes that ISIL committed. In general ISIL came in, if they captured Yazidis, they would separate the men and boys out. In some instances the men and boys were killed almost immediately, and often executed in front of their families, or at least within earshot of their families, in some cases. We've also documented a couple of instances where women who were past childbearing age were also taken away and executed. A mass grave filled with remains of older women was found in southern Sinjar, and it's been excavated by the Iraqi government with the support of UNITAD few months ago now. For some men who were forcibly converted, who pretended to convert, they were then taken into a system of what was essentially a twilight zone of not quite being accepted as Muslims, but still not treated as though they were fully Yazidi. And they were essentially enslaved. They were kept in very specific locations, sometimes with their families if their families were there, but they were being forced to go out to work, to do what is very gendered forced labor, building buildings, taking care of cattle, working on construction. And that continued for a few months until about the spring of 2015, when ISIL seems to have determined that those conversions were not real, possibly because Yazidis were escaping, and those men disappeared. And it's been very difficult to find out what happened to those men after April 2015, so the families will still refer to them as missing. But generally, it is presumed that they were killed at that point. For the women and girls, they had a much longer span of violations committed against them in captivity. Almost immediately, women, girls and younger boys - so boys who are above the age of about 13-14 were often killed with the men, if the men were killed at the time of capture - and they were taken, the women and girls were taken away, off into first a holding site in Sinjar for about 24 hours and then to holding sites in Tal Afar and Mosul where they were registered. And then the majority of them were sold then to other ISIL fighters and enter the system of sexual enslavement. Now, often when people hear about these Yazidis, the one thing that they will know is the system of sexual enslavement because it's something that was really focused on in the media; the Yazidis community, also the many advocates of female survivors of sexual violence, including Nadia Murad, who won the Nobel Peace Prize. But in fact, I think it's really important that we don't reduce the experience of women in situations of mass atrocity. Yazidi woman in this situation but in general, I think across the board women and girls as being just victims of sexual violence. Because they suffered enslavement as a whole being forced to work in the homes of fighters, often aspects of torture and other inhumane acts in terms of being beaten, being starved, being denied medical treatment. They often suffered, what I call a subcategory of sexual violence, which is reproductive violence, which is coined by Rosemary Gray, which is forced pregnancies in some cases, forced abortions, forced use of birth control, and really were treated as cattle. To the point where you could gift a Yazidi woman or girl, you could put them in your will, and pass them along and so on. So that happened to women and girls over nine. And then for boys once they hit the age of seven, they were then taken off to be indoctrinated and then forcibly recruited into ISIL forces. So, fully understanding what happened to young Yazidi boys has really only been possible more recently, after the fall of ISIS in 2017, when a number of Yazidi boys were essentially found as ISIL forces were arrested and brought back. And obviously, all surviving Yazidis have been highly, highly traumatized, but the situation of Yazidi boys forced to fight with ISIS has attracted less attention and certainly fewer resources in terms of helping that particular community of Yazidis.

J

Jaclyn Streitfeld-Hall 25:34

I think that really highlights what you were saying at the beginning about how important that shift towards intersectional approaches in investigations and justice. So much nuance in this situation comes from understanding how women, boys, girls and men were treated so differently and it's relevant to who they were as Yazidi, not just who they were by gender...

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Sareta Ashraph 26:01

The violations very much pivot around gender and age, sex and age really. But I think it also highlights the fact that when we're speaking about gender crimes, and understanding the role that gender plays in the design, the commission and the impact of crime, we're not only speaking about women and girls. One, we're also trying to notice how children are being rendered invisible by being grouped in with communities of adults, which even I will stop and have to say: No, also all the boys and girls are being sold. They're not just being erased, because the impacts on children are different, the reasons why people target children, because it sometimes will be different. But it also indicates that men and older boys are being attacked, specifically because of their gendered roles, or their perceptions of their gender roles. And there's reasons to why they are attacked in those ways. And that doesn't just go for the type of crime, right. It's not simply that men are being killed. And these other stuff happened to women and girls and younger boys. It's also that actually, even if you are the victim of the same crime, that crime can be committed against you in different ways because of the identifiers which the perpetrators find most important. And gender is always one of those. I mean, gender permeates every aspect of human life. And it certainly permeates how crimes are committed and why they are committed, and why are they designed in particular ways. I'll give two examples. One is Rwanda, so we're going all the way back now to the 90s. Where you have both obviously, high rates of killing of men, the number of men killed in the Rwandan genocide, in fact, affected the sex ratio of Rwanda. I think still continues to this day to affect the sex ratio, it creates demographic changes to the entire community. But what we saw was that men were killed, often with, for example, with clubs, with with bullets, so horrific killings, but often quite swift. Whereas invocation of female Tutsi victims, they were really affected by the propaganda that was put out about the Tutsis. So you had for example, which leveraged existing prejudices against Tutsi women. So in the anti Tutsi propaganda and the Hutu supremacist publications such as kangaroo which became the subject of the media trial, in the ICTR. You saw Tutsi women being cast as believing themselves to be superior Hutu women and beauty and charm and displaying an attitude of arrogance. Four of the ten infamous Hutu commandments that were published in an edition of kangaroo focused on the duplicity of Tutsi women. And it actually came up in the jurisprudence with the ICTR. In the media trial, in the human trials talking about the presentation of Tutsi women as femme fatales focus particular attention on Tutsi women and the danger that they represented to the Hutu community and that danger was explicitly associated with sexuality. So when women were attacked, the massive scale and barbarity of the lethal violence, so we're not talking just about sexual violence that people or women survived, but the lethal violence reflected, not only a kind of group hatred, but also it stood at the intersection of group hatred and women hate and hatred, and it reflected the misogyny of the propaganda. So as I said, Tutsi men were summarily executed at their homes, at places of refuge, at churches killed by machetes or nail studded clubs, horrible ways to die in particular. But a large number of women were murdered as a direct unintended consequence of brutal sexual violence and torture. So, the methods have displayed the misogyny of the

perpetrators and their need to humiliate and diminish Tutsi women and girls and that included impaling them with objects, pouring boiling water on them, mutilating them by cutting off their breasts and women dying from blood loss. So everyone in the end has been murdered, the crime of murder has been committed. And that crime was in this case consisted of acts of genocide. But the way that they're killed, betrays a lot about what the perpetrator thinks of the victim and what they're trying to accomplish in that. More recently, when it comes to the Rohingya, the Global Justice Centre has a [really interesting report](#) about legal analysis of gender crimes against the Rohingya, which came out in September of 2018. And there they had written that while Rohingya men were generally killed by gunshot, women and girls were stabbed, slashed or burned, means typically used when destroying objects and property, and some of the knives used were knives that were generally used for killing animals in slaughterhouses. So again, I think we continue learn and relearn how gender, how age affect the types of crimes committed, but also how each crime tends to be committed.

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Jaelyn Streitfeld-Hall 31:41

I'm glad you ended on that note, because it speaks to something that I've struggled with for a long time. And I know I'm not alone here as the wider atrocity prevention community is grappling with this as well. You're talking about the hatred of women and the misogyny of the perpetrators, and the conscious choice to perpetrate crimes in a particular way. And what frustrates me is that we have evidence from Rwanda and the 1990s. We've talked on this podcast about atrocity situations even prior to that, with Patricia Sellers and others, about where there's been a gendered aspect to how atrocity crimes are carried out. So we have all this legal and investigative knowledge of the gendered nature of crimes, but somehow still, with decades of knowledge seemed to lack either an understanding or a way to articulate to policymakers a causal link between hatred of women, misogyny within societies, restriction on women's or LGBTQ rights, gender based persecution and atrocity crimes.

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Sareta Ashraph 32:53

And I think when we speak about gender, and really not only gender, any sort of marginalized identities, how they're impacted by our ability to recognize them and see them as full victims of crimes, even see the ways in which they've been victimized. But gender doesn't just affect what the perpetrators do. Gender really also dictates, in many ways, the international response and the response of lawmakers and policymakers to different crimes. And this is not necessarily even international criminal issue, I think the pull to recognizing when a crime has been committed, whether that's domestically or in a situation of mass atrocity, and it's been tackled under the rubric of international criminal law, the pull towards recognizing crimes when they are committed against or through acts that disproportionately affect men, which disproportionately affect people that are valued more in society. It draws from the greater seriousness with which view and investigate in these crimes that happen to affect men more than women. That was a bit more of a complicated way of saying it, I suppose the simpler way of saying it is we are better at investigating crimes, we are better at litigating crimes, we expend more resources to do so, if we consider the people that the crimes have been committed against to be valuable. And that happens domestically. If you look at the kind of the current conversation in America. You can see all around the questions around police violence, this question of why are we not getting any traction when it comes to police killings of African American victims. But even within the community of African Americans, you can see African

American women it's still much more of a struggle to have those crimes investigated and litigated and that has resulted in the #SayHerName campaign that comes of Breonna Taylor. But even within an even smaller community, if you look at the rates of Violence against, for example, members of the transgender community, or even the whole panoply of the LGBT community. But if you look at particularly members of the transgender community who are of color in the States, I'm sure it happens everywhere, but the stats that we have drawn out of the American experience, you can see the idea that trying to get something properly investigated and then prosecuted is really difficult when the whole society does not really value the victims, but also has developed almost a greater tolerance for when violence happens to those victims. And so that translates very directly into situations of mass atrocity, that when it comes to some victims, if we see the value in them, we see the crimes against them. And across the world, the one thing that we can say, is generally across the world, is that women are not valued. Women don't have any commensurate political economic power. They are massively victims of male violence. In the UK this week, there have now been multiple situations of women being the victims of violence. It's become a kind of a thing on Twitter, just a screenshot the headlines, which are just indicating six bullet points of different stories about women being attacked, often lethally. And so I think when it comes to discussing policymakers, it's not just thinking about why is ISIL doing this to these minority groups, to these women, and so on. It's also going more, how are we, when we are doing the investigations? What are we bringing to the table in terms of how we see these groups, and I think that's also has to be true of policymakers. And until you get policymakers to go through that process of reflection, or you bring in and elect people or have people promoted, who are just more gender competent, have a better approach, then it's always going to be a bit of an uphill and often nonlinear battle to get this taken seriously.

 Jaclyn Streitfeld-Hall 37:10

Thank you for joining us for this episode of expert voices on atrocity prevention. If you enjoyed this episode, we encourage you to subscribe to the podcast on Apple Podcasts, SoundCloud or Spotify and we'd be grateful if you left us a review. For more information on the global centers work on R2P, mass atrocity prevention and populations at risk of mass atrocities, visit our website at www.globalr2p.org and connect with us on Twitter and Facebook at GCR2P.