“Help the justice system bend to children instead of expecting children to bend to the justice system”: Payal Shah of Physicians for Human Rights on child-centered justice, documenting evidence, and building systems to protect children over the long term.

Lissa Harris
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Lissa Harris: Could you introduce yourself and talk a little bit about the problem that you're working on and how you're addressing it?

Payal Shah: I am Payal Shah, Director of Research, Legal, and Advocacy at Physicians for Human Rights (PHR). We work specifically on the problem of trying to address barriers to access to justice for survivors of sexual violence and conflict and crisis, including child survivors. In particular, what we've seen in our work is that there are many specific barriers that child survivors experience, especially in conflict settings. There's been a lot of progress over the past several years in recognizing that interviewing survivors and documenting evidence, forensic evidence, especially from survivors of sexual violence, can be really harmful. This is all the more the case for children.

However, the fear around doing harm has led to a gap in accountability so that the solution is often that professionals refrain from engaging children from collecting any evidence of the violations that they've experienced for fear of doing harm, which is a really important check on how things move forward. Yet, it is leading to impunity. We've been trying to link practitioners working on conflict and crisis together with the experts that have been working on child sexual abuse at the national and local level for decades, and we've been building evidence of trauma-informed survivor center practices to support child survivors of sexual abuse and sexual violence.

We've seen that there's been a lot of progress made in local and national entities and agencies, civil society organizations who have been leading the path in evidence-based approaches to mitigate harm, avoid re-traumatization, and pursue justice and accountability in line with survivors' preferences and desires. Our work aims to address this knowledge gap, share good practices and lessons learned, and support the practitioners in conflict and crisis, in adapting these different solutions to the context that they're working or assessing if they are appropriate or work in their context.

Then, we are sharing the innovations that are coming from these practitioners who have also been tackling this problem for some time. It's helping to share information and help support innovation across this ecosystem.

Lissa Harris: Talk a little bit about your audiences and how you engage with them, how you find them, and what kind of interactions you have.

Payal Shah: We have a few different audiences. Our mission is focused on supporting those in conflict and crisis and creating ecosystems that allow for the collection of the evidence necessary to support survivors in their access to justice. Our first audience is frontline healthcare workers, police lawyers, and judges, and working with them to understand how to engage and interact with survivors in a way that is respectful, rights respecting, trauma-informed, and ultimately effective for access to justice and accountability. That's one key audience. We have networks that we support in different conflict-affected areas including the Democratic Republic of the Congo and also post-conflict settings and post-crisis settings.

For example, we have networks in Iraq and Kenya and several other countries. Through these networks, we're seeking to build capacity to support innovation and amplify innovation and good practices that these networks are developing and designing. Then, we look at those audiences that are necessary for scaling good practices. That includes national officials, national actors,

international actors, including policy makers and policy setting organizations, and human rights bodies like the Committee on the Rights of the Child, and then also, for example, the Office of the Prosecutor at the International Criminal Court.

We think about these entities who work across many contexts and how we can ensure that these good practices are being reflected in a guidance document that's being developed. For example, the policy on Crimes Against Children that was developed by the International Criminal Court's Office of the Prosecutor is a guidance document that will impact many conflict settings, including the conflict settings where we have networks on the ground like Democratic Republic of the Congo (D.R.C.), but also, much more broadly. That's another key audience for us.

The last is the national practitioners and local practitioners that are working on sexual violence against children more day to day. They're a key audience for us because we want to make sure there's a dialogue going back and forth between international practitioners and experts on the ground who have been working for decades to build justice systems that respond to survivors' needs.

Also, ultimately what we have seen is a large part of ensuring access to justice for children in these contexts is building resilient systems. Not just systems that spring up in a time of conflict or crisis, but actually creating systems from the get-go that are in place when a crisis is unfolding. For example, we've done a lot of work in the Democratic Republic of the Congo, including specifically in Eastern D.R.C. and in North and South Kivu. We started our work there in response to the escalating crisis and conflict there. Then, as the conflict deescalated somewhat for a little while, we continued our work, and we continued to build tools like a standardized forensic documentation form, and a mobile application called MediCapt, which digitizes that form and allows for the digital transfer of evidence and other tools to support frontline workers on the ground and create systems that are already in place to respond to conflict. In 2021, when the conflict in Eastern D.R.C. started to escalate again and is now at acute levels, those systems were already in place. Now, what we're doing is mobilizing through the networks that we've been working with to gather crucial forensic evidence of conflict-relates sexual violence, including affecting children.

We're continuing to roll out things like this forensic documentation form that was adopted in this interim period and continue to go from there. It's a really important approach for us to continue to work with those who find themselves, their jobs, slowly pivoting to be treating internally displaced persons as waves of conflict ebb and flow.

Lissa Harris: Can you talk about what makes your approach distinct from other organizations that are adjacent to your work?

Payal Shah: We always work in partnerships. There are a lot of organizations that without whom we could not do our work, and we're constantly learning from so many others. We sit at the intersection of science, medicine and the law and aim to pursue human rights, accountability and justice for human rights violations and prevent future violations utilizing that really specific intersection. Many organizations work in these different areas and do fantastic work. We view ourselves as creating a space where we can bring together these different disciplines and share the expertise that each of these disciplines has on ensuring the enjoyment of human rights for all.

We have always led with a survivor-centered approach, and we lead with a scientific understanding of what trauma is. We also look at what evidence means, both evidence that's necessary for courts, like what are evidence-based practices, and think about the data and the validation and not just replicating things without properly evaluating if they're working. That kind of rigor is something that PHR is proud of. It's something we try to bring to our work, and I hope it adds value for others in thinking about whether to take up or amplify certain efforts.

Lissa Harris: Is there an example or a story that you can share that illustrates the impact of the work that you do? What's the evidence that you use to know whether what you're doing is working?

Payal Shah: There are a few different ways that we do that. One of the most important examples is one that actually predates me, so I can brag about it without any feeling of ego. It's the Kabomo case that PHR worked very closely on together with a range of national local partners and some international partners to take forward. It was a case involving 40 young girls who, over a period of months, were being abducted from their homes in the middle of the night in the village of Kavumu in DRC. They were then found in fields the next morning and eventually brought to Panzi Hospital and other health workers for forensic evaluations.

PHR had been working closely with Panzi on building capacity and trainings around forensic documentation of sexual violence. As we were working together with the Panzi clinicians, we and the clinicians started to identify a pattern and seeing that this case keeps repeating. They were seeing attacks with a similar modus operandi happening. Then, together with these clinicians who we had built the capacity with, there started to be the formation of a network of professionals at the local level who were aimed at promoting justice for these cases.

PHR was a partner to this network and supported with medical expertise, with guidance from good practices internationally, with forensic documentation and supported these survivors' pathway to justice using that specific medical-legal lens. We advocated for the first time the use of child-friendly survivor protection mechanisms in court. We advocated together with our partners to allow children to not have to testify in open court for families and others to be covered so that they couldn't be identified, and to use voice modification technology.

These were things that weren't being used at that time, in this case, in a mobile military court in D.R.C., but were important to the survivors and their families to go forward. PHR's work in that setting was to engage with our partners, hear what the needs were, suggest different solutions from the work that was happening on sexual abuse, child sexual abuse globally, and workshop together with our partners what might be effective in D.R.C., what might not be, and how we advocate for that support. Ultimately, this led to the prosecution of a sitting local parliamentarian for rape as a crime against humanity.

That was a landmark judgment. It's still one that's being cited internationally as a good practice. It's from this experience that we came to this particular problem that we're working on, which is how do we more holistically tackle the kinds of barriers that impede justice, that hinder survivors from being able to come forward safely. They also hinder frontline defenders and others who are trying to champion change from being able to do so because they don't know how. We also ask how do we continue to create spaces for people to exchange and share ideas?

Over the last three years, that led to us running a medical-legal community of practice and supporting those who are working to advance justice for child survivors. That group has started to put out technical guidance and different pieces, including earlier this year, our guidance on informed consent assent and dissent for children in justice proceedings for conflict-related sexual violence. This is a story of how we went from, "This is a win in one court, in one significant case, but one case, and how we're trying to build from there into something that can transform lives globally."

Lissa Harris: Building on that to inform policy and best practices in a more broad sense.

Payal Shah: Exactly. For example, that guidance document on consent is what we are using in our own engagement with the UN Committee on the Rights of the Child, which is developing a new general comment on children's access to justice. We don't know yet if they will reflect these standards on consent, assent, and dissent or not in their final general comment, but if so, it's a really important way to make sure that these good practices don't just sit in some people's

heads and in one town or in one city or in one country, but we can all learn from each other and tackle this problem that is unfolding on such a global scale.

Lissa Harris: Is there something you tried that really didn't work out the way you thought it would, that you learned something important from that maybe others could also?

Payal Shah: One thing that we've really been reflecting on quite a lot, especially as we've been responding to this escalation in this crisis in D.R.C., but also in our work in Ukraine and other areas with active conflict, is how difficult it is to build systems in the moment of crisis. It is incredibly tricky. I alluded to this earlier, that frontline defenders are almost in a more humanitarian mindset at that point. They're focused on day-to-day care because the needs are so acute, but what that means is that we sometimes miss opportunities for proper forensic documentation and proper medical-legal right documentation and support for survivors.

There's all the more of the feeling of resource constraint, which can make it difficult to implement the additional measures that may be needed to support more vulnerable or marginalized populations that are facing intersectional discrimination such as children. We've been reflecting on how we best do this. We did try in the early stages of this escalation and conflict in D.R.C. to mobilize international experts, for example, to come and do trainings on how to interview child survivors in line with evidence-based practices. It was very difficult to get visas. The government was in a practical lockdown mode.

It was something where we tried for quite some time and then finally, we're like, this is not going to work. We have to come up with a new solution. We did, and that was effective. But it is an important lesson learned about how tricky it is to build these systems in those acute moments, the need to think about how we have the tools ready so that when a conflict is starting and those on the ground need practical interventions how do we make sure we have what they need? In Ukraine, for example, that's been something we've been working on, especially when the conflict was just starting.

We were getting a lot of requests from frontline responders in emerging crises to “just give us anything you have.” We've been working on trying to package what we have into a concrete set of links and documents that provide what you need to do if you have nothing and no time at all. Here's the protocol to follow. That's been an important lesson learned. We've gotten a lot of feedback from our colleagues about how to do this better. How do we make sure we're not inundating them with studies of why something works, but rather pragmatic guidance on "here's what you can do tomorrow.”

Lissa Harris: What do you feel like the main challenges are that you are still working to overcome? What are the kind of broad-scale barriers that stand in your way?

Payal Shah: There are a lot of broad-scale barriers. There's a crackdown on human rights globally. It's been very difficult, especially when we think about conflict and crisis, to get the right attention paid to the issues that we are identifying. It continues to be a difficult environment for human rights defenders and the people that we work with. In conflict in particular, there's the humanitarian sector which needs to provide services day-to-day, needs to meet acute needs, but part of how they can preserve their access and provide that care is to not be doing things like documenting for accountability, because that is seen as political and can lead to barriers and access.

There is still such an urgent need for that kind of documentation, but it's risky and it can be difficult and can lead to healthcare workers being targeted. That's something we've seen in many parts of the world; we continue to see that as a major challenge. Impunity for sexual violence generally and then especially against children, continues on a widespread scale. That also just continues to be an issue where there's been a big backlash on gender equality and the gender rights movement writ large.

We certainly see that trickling down into our work and into the scope and scale of sexual violence that we see. I also see a lot of misconceptions and myths about who can be the target of sexual violence, what does sexual violence look like, and then also a focus on gender and sexual violence and not gender-based violence broadly. Those are all leading to the invisibilization of certain survivors and the experience that they have and their access to remedy whatever that looks like for them. Those are some of the big things, but overall there is a feeling that it's not that we need to be thinking about justice in different ways.

We need to think about more immediate ways that survivors can access remedy, because justice proceedings take a long time. Accountability in particular takes a long time, and there's a lot of important work being done to address those gaps. How do we get some relief [to them] sooner because it's very difficult. Lastly, what we've seen in our work is that there is such an important role for healthcare workers to be playing, and yet increasingly, we are seeing healthcare workers being targeted in conflict, in violation of international law.

That's been another area where we see a lot of challenges in supporting survivors in conflict settings in particular, including child survivors who have acute needs. One thing that came up in our interviews is that for children, the impact of the trauma that they face in conflict is so long

term, it's significant and it impacts their entire life course. If we don't get them the care they need, including the mental health care they need when they're young, it really can cause profound oppression of communities even after a conflict is over. It's so important for us to be thinking about how we can ensure the prioritization of access to healthcare, both forensic documentation, but also mental healthcare and sexual and reproductive healthcare. For child survivors, these impacts are profound and reverberate throughout their lives.

Lissa Harris: To what extent are shifting cultural norms part of your work, and if it is, if you could speak a little bit to what strategies are most effective at getting things to shift?

Payal Shah: A lot of the way that PHR works on this is through our capacity development efforts. That is work that we do at the local level with those individuals who are interacting directly with survivors to help talk through and think about the kinds of cultural norms that may be impacting care for survivors. Our approach is to share scientific evidence, share what our experts know as physicians, and then also through public health and other evidence.

That includes things like understanding and sharing the data on who is affected by sexual violence, what sexual violence can look like, and why clothing or what somebody is wearing is not relevant to a prosecution of sexual violence. Even things like dispelling myths. One fact I am always struck by in PHR's trainings is when we start educating on how there is no ability to do virginity testing, That does not exist, and the absence or presence of a hymen is not indicative of sexual violence, and you cannot prosecute or acquit somebody based on that information.

That is something that always ripples through our trainings. You can see the people that are attending react like, "Whoa, what?" Especially judges who have often made decisions based on things like this. We do quite a lot of work that is about giving people the data and the facts that they need to ensure access to justice and dispel the kinds of myths and misconceptions that often impede that pursuit.

Lissa Harris: Can you talk about who your main partners are, and how do you cultivate and maintain these relationships?

Payal Shah: Because we sit between these legal, scientific and medical communities, we have a diverse range of partners. Our partners include everything from one-stop centers that are providing comprehensive care to survivors, to government officials and government agencies who we develop capacity building initiatives with or we work with to build cases or other things. We have partners who we work with that are survivor-led organizations that we might work with

to do participatory action research. Then we also have a lot of partnerships with academic institutions who could also be a partner for us in doing research.

Then, civil society organizations largely are partners in advocacy and in documentation. So it is quite robust. We have offices on the ground and consultants and staff on the ground in many countries where we work. An important part of our work is ensuring we're close to the communities that we're working with. For example, we have an office in D.R.C., we have an office in Kenya, an office in Iraq, and we also have colleagues that are based in Ukraine and elsewhere.

We aim to ensure that we're accessible to our partners and that we are able to be present and responsive to the work and developments that are occurring in that work. We also aim to ensure that we're listening. That's so important to ensure that we're always open to direction and feedback and recognizing that the communities who are most impacted are the ones that should be really helping drive and lead the efforts. That's a principle that drives us as an organization to ensure that we're not pursuing an agenda on our own, that we are working together with those that are closest to these violations.

Lissa Harris: What do you think the main insights are, the teachable lessons that could be drawn from your work that others working in similar fields who want to accomplish similar goals could learn from?

Payal Shah: The most creative and innovative approaches that I've seen to tackling human rights violations have come from interdisciplinary spaces. The advice I give to anyone who's interested in taking on this work is to get out of your own bubble. I worked for many years in an organization that was largely lawyers. I'm a lawyer, and we had a lot of partnerships with other colleagues from other disciplines, and we tried to bring that multi-sectoral perspective. What drew me to my work PHR was reflecting on those collaborations I had in my past role and feeling like we need more of this.

We need a lot more cross-sector dialogue. We need to ensure we're not just operating from one way to do human rights, but recognize that there are so many different approaches that are necessary to create an environment where human rights can be enjoyed and respected. My advice is to continue to reach across and learn together from each other. The other one is to ensure that your advocacy is done in partnership and together with the communities that you're representing or trying to support. That is something I always say, especially to the young human rights defenders based in the U.S., that it is important to take the time to build your strategy. It's important to ensure that it's reflective in line with and amplifies the calls of communities as

opposed to something that feels like a good idea sitting here where I sit, for example, in New York.

Lissa Harris: What do you think is most needed from other actors or partners to advance change in this field?

Payal Shah: Honestly, there's a lot of incredible work being done by civil society organizations. It's important to continue to support spaces for people to learn from each other, learn about each other's efforts, and reflect and think about what it means for their own efforts. That's an important investment that's needed. We've also seen a lot of funding shifts around sexual and gender-based violence in particular. We've seen a lot of pulling back from this, especially this space on sexual violence and gender-based violence. It is important to continue that focus and continue to prioritize these efforts.

There's also a need to think hard about child survivors and children in particular, especially in international justice processes, because they're often shut out of those processes. Even to the extent they're brought into them, they're not given or able to access the resources that they need to understand what the process is to make decisions around the process. There's quite a lot of work that has to be done there.

One thing that we continue to advocate for is that children do have a right to participate in these processes. It's up to us to help the justice system bend to children instead of expecting children to bend to the justice system. That requires an investment in building those kinds of supports for children into the system as a whole. That is an investment that is necessary, and we have to change the way we think about justice to ensure that children are not left out.

Lissa Harris: Is there anything coming down the pike that you think has the potential to make a significant impact in the field in the next five years?

Payal Shah: It's been great to see the growing momentum around trying to address this kind of transience on access to justice for children. I have been excited to see, for example, the Committee on the Rights of the Child putting out this general comment. I was excited to see the Office of The Prosecutor at the International Criminal Court putting out their policy. I think there's still a lot of work to be done to take these types of tools and translate them to practical tools that can be used at the local level. I'm excited to see how the rollout of these kinds of things happens, but also to do the work of trying to translate these advances into real change. Right now, conflict is happening at such a large scale.

It feels like it's popping up everywhere. It's been really challenging and it's hard. That's not a super optimistic answer, but I'm hoping things like the ministerial conference that are coming up will be a space to reflect, too, on what we need to meet this moment. Because the needs are huge. As an organization that's relatively small, it's hard to see the inability to reach all of those who are asking for support. There is such a clear need for more investment in this space to do this work and to change these systems.

Lissa Harris: What do you think would move the needle in that department? What would be a gamechanger for this effort?

Payal Shah: Ultimately, this needs to be something that continues to be on the global agenda. It's not that it's not there at all, but there's a constant underinvestment. I continue to come back to funding but the need for resources to fund these programs is a very real need.

We've heard quite a lot from survivors that these justice processes are long and yet, there are such acute day-to-day needs. It's important for us to think about how we integrate some of these responses, how we ensure that we're not asking people to enter these processes of justice and accountability without also thinking about the day-to-day support they need. We also need to think about ensuring their safety and protection from retaliation and all these other elements.

We also need to ensure we are not allowing certain conflicts and crises to be forgotten or conflict related sexual violence in these crises to occur with impunity. For example, PHR had done quite a lot of work documenting sexual violence in Tigray, Ethiopia, where it's estimated over 10,000 cases of sexual violence have occurred during the escalation of violence there. Yet, the international community, even in the face of all of this evidence, didn't vote to continue international monitoring of what was happening in Tigray or in Ethiopia more generally. That is a political will question, where we're allowing these other political considerations to trump our commitment to ending sexual violence, ending sexual violence affecting children, ensuring that there isn't impunity for these kinds of violations, and then ensuring that these survivors can access justice. The lack of political will is so fundamental and it needs to be addressed. We need to think about how we ensure that it's clear how devastating these kinds of impacts are, but also the impact that it has on stability in the community, in the region, the country, and what it means for these kinds of violations to go unaddressed. That's something I think about quite a lot.

Lissa Harris: Thank you so much for talking with me today.

Lissa Harris is a freelance reporter, science writer (MIT '08), and former local news entrepreneur based in upstate New York. She is currently working as a consultant on capacity-building and local solutions-oriented community projects in the rural Catskills.

***This conversation has been edited and condensed.*