
Gender based violence and human rights: Indian perspectives

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ABSTRACT

Now-a-days human rights violations are committed against men as well as women, their impact clearly differs depending on the sex of the victim. Studies of the subject indicate that all acts of aggression against women exhibit some characteristic or other that provides a basis for their classification as gender-based violence. This means that such violence is directly related to the unequal distribution of power and to the asymmetrical relationships that exist between men and women in our society, which perpetuate the devaluation of women and their subordination to men. Gender-based violence can take many forms and, depending on the type of relationship that is its context and the type of power being exerted, this crime may therefore fall into any of the following categories like rape and incest, sexual harassment at workforce, sexual violence against women detainees or prisoners, acts of violence against displaced women, trafficking in women and domestic violence. The following study explores the last of these crimes in detail, but also discusses the other forms, since in recent years it has led to the establishment of new institutions and the adoption of legislative amendments that have served as a focal point for collective action by women. The proposals presented here are based on the indivisible nature of Women's rights, on the obligation of the State to protect and uphold those rights, and on the conviction that respect for human rights is also an essential condition for the development of our countries and the full citizenship of all their inhabitants. A case is also made for the necessity of analysing the subject of human rights and gender-based violence from a perspective that holds out the possibility of cultural changes of a structural nature that will entail respect for Women's rights and will call into question the inevitability of violence as an element in gender relations.

Keywords: Gender, Violence, Human Rights

INTRODUCTION

International concern over gender based violence has increased considerably in recent years. Violence against women is a persistent and universal problem occurring in every culture and social group. Around the world, at least one in every three women has been beaten, coerced into sex, or otherwise abused in her lifetime – most often by someone she knows, including a member of her own family, an employer or a co-worker. Violence against women has been called “the most pervasive yet least recognized human rights abuse in the world.” Violence against women is often known as ‘gender-based’ violence because it partly stems from women's subordinate status in society. During this session we will examine the meanings of the concept ‘gender-based’ violence, what types of violence are considered ‘gender-based’, where gender-based violence occurs, who are its main victims and perpetrators. We will also explore gender-based violence as a violation of women's human's rights.

Gender-based violence’ and ‘violence against women’ are terms that are often used interchangeably as most gender-based violence is inflicted by men on women and girls. However, it is important to retain the ‘gender-based’ aspect of the concept as this highlights the fact that violence against women is an

expression of power inequalities between women and men. Violence against women and girls is one of the most prevalent human rights violations in the world. It knows no social, economic or national boundaries. Gender-based violence undermines the health, dignity, security and autonomy of its victims, yet it remains shrouded in a culture of silence. Victims of violence can suffer sexual and reproductive health consequences, including forced and unwanted pregnancies, unsafe abortions, traumatic fistula, sexually transmitted infections including HIV, and even death.

Gender-based violence is violence against women based on women's subordinate status in society. It includes any act or threat by men or male dominated institutions that inflict physical, sexual, or psychological harm on a woman or girl because of their gender. In most cultures, traditional beliefs, norms and social institutions legitimize and therefore perpetuate violence against women. Gender-based violence includes physical, sexual and psychological violence such as domestic violence; sexual abuse, including rape and sexual abuse of children by family members; forced pregnancy; sexual slavery; traditional practices harmful to women, such as honor killings, burning or acid throwing, female genital mutilation, dowry-related violence; violence in armed conflict, such as murder and rape; and emotional abuse, such as coercion and abusive language. Trafficking of women and girls for prostitution, forced marriage, sexual harassment and intimidation at work are additional examples of violence against women. Gender violence occurs in both the 'public' and 'private' spheres. Such violence not only occurs in the family and in the general community, but is sometimes also perpetuated by the state through policies or the actions of agents of the state such as the police, military or immigration authorities. Gender-based violence happens in all societies, across all social classes, with women particularly at risk from men they know.

Gender-Based Violence: A Human Rights Violation

The conceptualization of violence against women and girls as a violation of human rights was one of the achievements of the women's movement during the Second World Conference on Human Rights in Vienna in 1993. In March of the following year, the United Nations Commission on Human Rights set forth a resolution that integrated women's rights within the mechanisms assuring protection of human rights. In answer to the request of women's organizations at the Vienna conference, this Commission also named a Special Rapporteur on Violence Against Women. The Special Rapporteur's mission is to receive and investigate information on situations of gender-based violence throughout the world.

Also in 1993, the UN General Assembly adopted the Declaration on the Elimination of Violence Against Women (DEVAW), which is currently the main international document addressing the problem of gender-based violence. In DEVAW, the UN offered the first official definition of gender-based violence. In the remaining time we will explore the definition of gender-based violence found in the DEVAW.

Women enjoy the same rights and freedoms as men, and autonomy, under the terms of the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Elimination of All Forms of Discrimination against Women.

Although since the 1970s women have participated widely and visibly in the movement to defend human rights, they have not always been able to place their gender related demands at the centre of that struggle. It was not until the late 1980s that women became fully aware of their status as persons having a legal identity and began to act accordingly, questioning the essentialist view of social hierarchies and the "normality" of their subordination. In this context, their demands for human rights are also a consequence of their demands for new ways to exercise their citizenship and their desire to do so on an equal footing in accordance with the principle that the most basic right is the "right to have rights". Linking the issue of gender-based violence with human rights offers new possibilities for analysis and for the struggle to end discrimination against women.

Gender-based violence in the household is a flagrant transgression of the principles enshrined in the Universal Declaration of Human Rights. Among others, violence against women is a violation of the right to life, liberty and personal safety, of the right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment, of the right to equality before the law and to equal protection under the law, of the right to a fair trial, of the right to freedom of movement, and of the freedom of assembly and association.

Since human rights are indivisible, it is impossible to recognize or defend some of those rights but not others. Women's rights should receive the same attention as the rest and should be considered in conjunction with those regarded as being the most pressing or important. An integrated approach to human rights is the only way to ensure respect for each and everyone of those rights and thus prevent them from being reduced to mere formal categories lacking in substance.

DOMESTIC VIOLENCE AGAINST WOMEN

The main victims of domestic and family violence are normally children, the elderly and women, but research shows that most victims are women; at the global level, at least one out of every 10 women has been attacked by their spouse or partner. International statistics indicate that 2% of the victims of acts of violence committed by a spouse or partner are men; 75% are women, and 23% are cases of reciprocal violence. These data point up a number of the phenomenon's peculiar characteristics and underscore the vulnerability of all women, regardless of their age or socio-economic status.

Domestic violence calls into question the family as a social institution that provides security, protection and affection, as well as the roles and functions traditionally assigned to each of its members. It also reveals its paradoxical character. Even though, in our countries, the existence of different family structures and forms of cohabitation is recognized (ECLAC, 1993b) and these structures are now being subjected to a critical analysis, families are, for the most part, organized around the power of the male members at all hierarchical levels. It is structured, therefore, on the basis of strong bonds of domination and notably unequal power relations, all of which has an impact on women. The role assigned to women in conjugal life is based on submission, dependence and the acceptance of the indisputable authority of the man and of an array of norms and behaviour patterns that limit women's development. In this context, men can punish women or control their forms of expression, mobility and sexuality. Violence in the home is used as a functional instrument of power to reinforce male authority and supremacy and to enforce women's fulfilment of the obligations that society imposes upon them within the family. Research findings indicate, in general, that gender-based violence in the home cannot be attributed to individual pathologies or psychological problems, nor to factors derived from the socio-economic structure or the external environment, since aggression and abuse occur in all social strata. The only major differences observed between social strata have to do with the prevalence of physical, psychological or sexual damage or injury. Alcoholism, unemployment, overcrowding and other such problems are not considered to be direct causes of violence but are instead thought to act as associated factors or trigger mechanisms. Violence against women in the home has a number of particular characteristics that differentiate it from other types of aggression and abuse; these include the space in which it takes place, the actors involved, and the set of psychological factors that enter into play, all of which contribute to the complexity of the problem and may obscure its significance and perception.

SEXUAL HARASSMENT IN THE WORKPLACE

The equality of opportunities for men and women in the labour force is jeopardized by the sexual harassment of women in the workplace, which is a violation of the right to equitable and satisfactory working conditions, as well as the right to sexual freedom. Sexual harassment in the workplace is understood to be any intentional sexual behavior within the context of a working relationship, which influences the

possibility of employment, job stability, performance or working conditions or atmosphere and which is distasteful or offensive to the victim. It entails blackmail, threats or pressure, and is manifested either directly or indirectly in acts that range from very subtle behaviour to open sexual aggression.

Although sexual harassment is a highly complex problem that distorts interpersonal relationships and is difficult to identify and delimit, it is generally agreed that the power relation between those involved is unequal and abused. Since women generally occupy lower-ranking positions in the employment structure, they are more vulnerable to this practice, although cases where women harass men also occur. The elements that make sexual harassment possible are the total concentration of power in the hands of a male boss on whom a woman depends in order to obtain or keep her job and who determines her wages, job performance evaluation, possibilities for promotion, training, and the kind and degree of difficulty of the work she must do. There are also risk factors such as women's lower level of job skills, the lack of social recognition of the tasks they perform, the more dependent nature of their employment situation, and their lesser degree of autonomy and decision-making power. Besides these elements, there are also women's socially conditioned lack of assertiveness in resisting and reporting instances of intimidation and coercion and the socialization that leads them to think that seduction, overt or otherwise, forms part of any relationship with men.

Power held in the workplace but also out of the "cultural power" which men exercise over women, in accordance with the predominant gender system which discriminates against women through the control, disposition and use of their sexuality and bodies. There are also cases, therefore, of sexual harassment among colleagues or on the part of lower ranking employees of women managers. In these cases, harassment is a mechanism used to debase their role in the work place, their professional capabilities and their leadership abilities and to draw attention to their sexuality, while at the same time undermining the exercise of power of authority by women. Despite its negative character, many women put up with sexual harassment and suffer it in silence, with feelings of shame, confusion, anguish, fear of ruining their reputation or of reprisals, and with guilt feelings in a social environment that normally places the blame on them, based on the stereotype and myth of the "temptress". It is difficult for victims to prove that they have been harassed, which heightens the negative consequences, not only for their mental health, but also in the workplace, since harassment affects female workers'

Sexual harassment is not limited to the workplace. This form of abuse of authority and blackmail is also found in educational institutions, where it consists of imposing undesired sexual activity on female students as a requirement for passing a course. There is a tremendous lack of statistical information on this form of harassment in the region, due to the absence of studies on the causes, forms and consequences of sexual harassment of female students. Furthermore, when incidents of this nature do become known, they are usually extreme cases of rape or abuse of minors.

Conclusion

Hence, violence is not simply a gender issue and it is perpetrated by both men and women. In lessening the impact of gender based violence or abuse on men, women, and children, it is indispensable to be recognized that these are human relations problems and not a gender issue. Current practices of making arrests without a warrant often with little or no evidence of violence or probable cause, forcing men from their homes and children with nothing more than the clothes on their back, searches without a warrant, property seizures without legal redress, mandatory arrests based on nothing more than hearsay, assuming the accused is guilty until proven innocent, denial of the right to confront their accuser and obtain witnesses in one's defence, punishment and imprisonment that occurs before trial or without one, public censure for crimes men have not committed, and more, signal the emergence of a police state and an attack upon the very fabric of our freedoms. Consequently, such oppression has led to increased levels of violence being tolerated in society and a degradation of the family unit. To protect men and women their civil liberties must

be restored, as free people are demonstrably intolerant of violence and abuse of anyone, be it perpetrated by domestic partners, state and national governments or foreign countries. Whatever actions are taken, it should be recognized that families are the cornerstone of our civilization, and that children want and need both parents.

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