

DOMESTIC VIOLENCE AGAINST WOMEN: THE CONCEPT IN INTERNATIONAL TREATIES AND THE MEASURES TO PROTECT WOMEN FROM DOMESTIC VIOLENCE

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ABSTRACT: One of the major violations of human rights that cause physical, sexual, and psychological harm or suffering to a large number of women worldwide is domestic violence within the family or domestic unit. International treaties and conventions condemn domestic abuse against women all over the world, and also, international organizations have expressed their concern for women's human rights and made efforts to end all forms of violence against women. In order to address domestic violence, both governmental and non-governmental organizations should implement plenty of policies, such as the adoption of preventative measures, the establishment of legal responses against perpetrators, and the assistance of survivors in rebuilding their lives. All notwithstanding, the aforementioned initiatives could be important steps in preventing domestic violence against women, alleviating its consequences on victims, and reducing other types of abuse in the future.

KEYWORDS: domestic violence, women, prevention, physical and mental assistance.

1. INTRODUCTION

Domestic violence is one of the major problems that many women face around the world, with about one in three women reporting having experienced it. In many countries, women face different forms of violence, including physical and mental abuse, which can have serious effects on their lives. An estimated 20 to 50 percent of women varying from country to country have experienced domestic violence [1]. It's a percentage that many experts find staggering, saying it reveals a global crisis of violence against women.

International and regional organizations strive to protect women from violence by enacting international treaties and agreements.

Numerous international agreements protect the rights of women. While some of them are general in nature, others are specifically aimed at preserving women's rights in a variety of areas including safety, security, and physical and mental well-being.

According to international agreements and treaties, all human beings, regardless of gender, are equal and have the same rights. According to Article 2 of the Universal Declaration of Human Rights: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." [2]

In addition, the other significant international treaty is the international covenant on civil and political rights. Article 2(1) of the convention states: "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." [3]

The mentioned article prohibits any kind of discrimination among people and the UN Third Committee unanimously supported the first part of the article, which forbids discrimination based on personal characteristics and identification, with no votes against it [4].

While according to international documents, all individuals, irrespective of their gender, are entitled to all rights and freedoms, domestic violence against women continues to be one of the most serious violations of human rights, and so, there are emerging tendencies in international law to address this problem.

The worldwide community has shown concern for the human rights of women in a number of meetings but the critical point is that the applicability of human rights to the violence against women started at the U.N. Conference on Women held in Copenhagen in 1980 which found that Domestic violence as an offense to the dignity of human beings is the complicated problem [5]. Also, five years later, the other crucial U.N. Conference was held in Nairobi, which was one of the influential conferences regarding women's rights, and issued a recommendation on violence against women in its final report. [5]

2. THE CONCEPT OF DOMESTIC VIOLENCE AGAINST WOMEN

Domestic violence is one of the major human rights violations which occur in both developed and developing countries. According to article 1 of the Declaration on the Elimination of Violence against Women, the term "violence against women" means "any act of gender-based violence that results in, or is likely to result in,

physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”[6]

Intimate partner or domestic violence is one of the forms of violence against women commonly in different countries [7]. The Convention against all Forms of Discrimination Against Women, enacted by the UN General Assembly in 1979, did not deal with domestic abuse against women, but in 1993, the definition of domestic violence was included in the Declaration against Violence Against Women (DEVAW) (OHCHR General Assembly, 1993) [8]. According to Article 2(a) of DEVAW, domestic violence means “Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.” [6]

In addition, according to article 3(b) of the Istanbul Council of Europe Convention on preventing and combating violence against women and domestic violence, “domestic violence shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.” [9]

Therefore, domestic violence against women is prohibited under international treaties as an example of a violation of one's human rights.

3. THE MEASURES TO RESOLVE DOMESTIC VIOLENCE AGAINST WOMEN

We could implement a variety of measures to address violence against women, each of which, when used appropriately, can significantly reduce the problem and protect the victims. We will look at each of these policies, in turn, to see how they might work together as crucial measures to address domestic violence against women. These policies include preventative measures, the legal response against perpetrators, and providing assistance to survivors in rebuilding their lives.

3-1. preventative policies

Domestic violence against women is a problem that exists all around the world and has numerous reasons. Cultural factors are one of the most significant and prevalent causes, particularly in developing nations, which leads to domestic abuse against women.

In some patriarchal communities, there is actually still inequality between women and men since men are seen as more dominant and hence have access to more special rights than women. Also, women are reluctant to challenge traditional stereotypes because they believe they do not deserve the same privileges as men and they are not aware of their fundamental human rights.

The patriarchal ideals in that society may encourage an environment where violence might thrive even though they don't expressly endorse violence against women. [10]

There are numerous international documents that outline fundamental rights for all people, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and Istanbul Convention Action against violence against women and domestic violence.

One of the most crucial subjects of debate is human rights education. Everyone should be made aware of human rights standards and norms through formal and informal education, including students, teachers, attorneys, women, refugees, and children, in order to instill respect for one another and build strong democratic societies [11]

If women are acquainted with their basic human rights, they will be able to overcome social preconceptions that hinder them from believing they have the same rights as men. In the long term, increasing women's understanding can contribute to the development of a more liberal, democratic society and the reduction of all types of domestic violence against women, including both physical and psychological abuse.

Therefore, one of the preventive strategies to deal with domestic violence is to educate women about their fundamental rights both directly and indirectly through schools, universities, the media, and other means which can assist in preventing both physical and psychological violence against women.

3-2. Legal response

In the past, human rights organizations frequently did not challenge governments for what happened to women in the private sphere, while domestic violence against women is no longer a private matter and is now recognized as a violation of human rights because women should have the same fundamental civil and political rights as men and be protected by the law [12].

According to article 5 of the universal declaration of human rights: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” [2]

The aforementioned article states that cruel, inhuman, and degrading treatment is generally forbidden. It does not specify particular instances, but we could argue that a variety of mistreatment of women, such as violence,

sexual abuse, physical and mental harm, and other conditions that cause a major threat to the health and personal security of women, can be considered an example of the violation of article 5.

In addition, according to article 7 of the international covenant on civil and political rights: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.” [3]

While it is against fundamental human rights, torture is employed to get confessions from convicts and has long-lasting impacts on the physical, mental, and emotional health of those who endure it, given that it is against the law, and Article 7 of the ICCPR reconfirms the UDHR's ban on torture in Article 5 [13].

Each year, a number of cases concerning domestic violence are referred to international or regional courts. For instance, some complaints against European countries are brought before the European Court of Human Rights. One of the most tragic cases is related to the complaint of *EM v Romania*.

“In *EM v Romania*, the applicant’s partner had threatened to beat and kill her if she did not leave their apartment. After returning home, he then proceeded to hit her with his fists and various objects, with their daughter witnessing the abuse. The assault caused severe injuries to the applicant which the medical report stated was the result of repeated beatings with a hard object. The European Court of Human Rights found that, as the injuries suffered by the applicant had required eight to nine days of medical care, they were sufficiently severe to fall under the scope of article 3.” (Overmeyer, Nina. 2021) [14]

It should be asserted that according to article 3 of the European convention on human rights: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” [15] Thus, according to the opinion of the court, the violence that the woman suffered from her husband is one of the examples of article 3 of the European Convention on Human Rights.

The criminal punishment of the perpetrator is one of the most important factors to be considered in cases of domestic violence against women. Beyond the international sphere, national legislation can have a significant role in the protection of victims of domestic violence and the punishment of perpetrators. In some countries, the government strives to combat domestic abuse of women by passing enforceable legislation. In contrast, there hasn't been much success in other countries in the establishment of strict legislation to address the problem. For instance, Switzerland is one of the countries that has been successful in the advancement of domestic abuse protection.

According to Art 28b of the Swiss Civil Code:

“(1) to obtain protection from violence, threats or harassment, the applicant may request the court, in particular, to order the offending party to refrain from:

1. Approaching the applicant or from entering a defined area around the applicant’s dwelling;
2. Frequenting specified locations, notably particular streets, squares or districts;
3. From making contact with the applicant, especially by telephone, in writing or electronically, or from harassing the applicant in any other way.

(2) If the applicant lives in the same dwelling as the offending party, the applicant may ask the court to order the offending party to leave the dwelling for a specified period. This period may be extended on one occasion for good cause.....” [16]

Therefore, it can be claimed that international treaties and conventions, along with domestic laws, are important instruments to confront the perpetrator in order to protect the victim.

3-3. Recovery measures

Women are among the groups of people who are more vulnerable in various situations than others and who may experience mistreatment based on their personal characteristics.

Besides that, violence and mistreatment targeted specifically at these groups of people may have more serious consequences and they might require significantly more consideration and attention.

Victims of domestic violence need a variety of services from public and private organizations. Many of them were susceptible to being severely physically harmed by smashes, slaps, punches, and kicks. It is important to note that many of these injuries may also be vulnerable to psychological traumas like humiliation, ridicule, denigration, and insults, therefore abuses are not limited to simply physical wounds. Domestic violence victims require medical care in addition to their basic necessities of a safe place to live, food, and clothing in order to treat the physical and mental injuries caused by domestic violence. [17]

Some European nations adopted measures to assist women who are the victims of domestic violence, such as holding regular web meetings with survivors of domestic violence to share good procedures and solutions and support the victims (Estonia), the Blue Card procedure, which provides a person affected by domestic violence with comprehensive specialist assistance corresponding to their needs upon suspicion of violence (Poland), and creating the Helpline "Violence Against Women" for Domestic Violence Victims, which provides access to specialist women’s support services, women’s shelters or healthcare providers (Germany). [18]

After experiencing physical, mental, or sexual abuse within the family or domestic unit, or by a former or current spouse or partner, one of the most important considerations which are occasionally overlooked in

practice is the implementation of requirements to improve the victim's well-being and help survivors rebuild life after experiencing domestic violence. The governments could adopt appropriate policies, such as providing free medical treatment and mental counseling to protect victims of domestic violence to heal and recover from the abuse.

4. CONCLUSION

In conclusion, it is critical to note that while there exist international accords that defend and protect women's rights, more international treaties, particularly those that pertain to women's rights, should include stronger clauses that impose severe penalties on nations that violate women's rights as the states are legally bound by some of these agreements but not by others. Additionally, by examining cases of rights violations against women in both developed and developing nations, we can create a more thorough and comprehensive approach to enact laws and regulations that, in addition to serving as a deterrent, also provide an effective punitive system to punish perpetrators who do so and provide an effective health system for the survivors.

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