

HUMAN RIGHTS AND TRANSNATIONAL CULTURE: GENDER VIOLENCE REGULATED BY GLOBAL LEGISLATION

Issa Ram Nath,

Assistant Professor, Dept. of Political Science, Mangaldai College,

Email - nathissaram0@gmail.com

ABSTRACT:There is a wide range of localization processes associated with the worldwide creation of human rights responses to violence towards women in the contemporary period of human rights advocacy. Local and global discourses and meanings are intertwined in activists' work. In this process, culture is understood in a variety of distinct and sometimes conflicting ways. It is difficult to see the value of local cultural activities when they are seen through the prism of a universal concept of culture. Activists who bridge the gap between worldwide human rights ideals and local complaints are highlighted in this article, which takes an anthropological approach to culture.

KEYWORDS:Legal polycentricity, Human rights, Law and globalization

INTRODUCTION:

Gender-based violence affects one in three women at some point in their lives, making it a global problem. It is becoming increasingly apparent that the world community views the abolition of this type of violence as a matter of urgency. "Eliminate all kinds of violence against all girls and women in public and private areas," states one of the SDGs. An outstanding review of the existing data on violence against women is provided by a recent special series of the Lancet on this topic, which underlines that while worldwide recognition presents a potential for increased government commitment, remedies will not be easy or quick [1].

A law criminalising violence against women enshrines the rights of women to live in peace. It is necessary for laws to perform a symbolic function, suggesting that this type of behaviour is not acceptable in society. The accompanying punishments may achieve deterrence. It's possible that one or the other of these levers will be effective in reducing violent crime. Observing which method is more successful is, of course, quite difficult, but we do have indirect data on both fronts. Victims' needs can be met by legislation that ensures their safety and gives them access to resources. This article examines the possibilities and limitations of legislative action and how international and national laws might interact and norms in ways that can help reduce the danger of violence in the world today. Civil society movements on a local and global scale have played an important role in establishing women's rights to live free of violence under international and state law, particularly in the last decade or two. However, addressing the underlying norms and behaviours that lead to violence still has a long way to go [2].

International human rights legislation is the subject of much discussion, and this inquiry throws some insight into that discussion. Some argue that international accords and conventions are toothless, while others point to examples of how they have served to organise women's groups throughout the globe. The following is an example of a possible effect channel. There are a number of ways in which international laws and norms influence domestic policy making, including the creation of standards for legal provisions, creating

standards for globalisation to both advocate and monitor, and mobilising domestic civil society around in these new shared expectations of personal and state behaviour that have been established by a significant number of countries. The following evidence demonstrates this causal chain in action.

Of course, the consequences might be both positive and negative. International standards can change as a result of collective activity. For example, the 1993 United Nations World Conference on Human Rights approval of the Vienna Declaration and Program of Action is considered a watershed milestone in the women's movement. There had been many years of advocacy and mobilisation for women's human rights by civil society through the Global Campaign for Women's Human Rights. Women's rights were eventually recognised as human rights as a result of this.

A large part of our motivation stems from the potential social norm-shifting influence that more progressive legal standards may have on the culture of violence. There is no doubt that laws are a kind of government intervention in the formation of social norms. According to a recent micro-analysis published in Klugman et al. (2014), women who reside in countries with domestic violence laws are seven percent less likely than women who live in countries without such laws to be subjected to violent treatment [3]. Statistical significance was found despite the lack of a direct link between the two variables. According to this same study, for every year a country has such legislation in place, the prevalence of domestic violence decreases by about 2%. It's evident that both groups of nations have different levels of violence, and it's possible that countries with a lower tolerance for violence are more likely to pass laws prohibiting violence. However, laws alone are not adequate to abolish violence, and these findings demonstrate the possibility of legislative reform as a preventative approach [4].

However, it is apparent that regulations alone are not enough to stop violence against women. Despite the existence of some form of legal protection in most countries, violence is still widespread and enforcement is weak. This approach has several flaws, not the least of which is that it fails to address the root causes of violence [5]. In light of this, understanding legislation and legal changes can help to transform the norms that lead to or at the very least sanction or accept violence. Advocacy and campaigns to bring about reform can be used to challenge formal domains such as laws. Internalized informal social norms are more difficult to modify. Among these informal elements are the cultural norms and practises that are firmly ingrained in the culture, as well as the systemic and community-level norms and practises that influence individuals. It takes a lot longer for cultural norms to evolve than it does for official policy or legislation, and vice versa.

GENDER-BASED VIOLENCE: ITS SIGNIFICANCE AND EMPIRICAL TRENDS

One in three women today will experience some form of violence at some point in their lives. There is no location more dangerous for a woman with her own house in most countries. In South Asia, intimate relationship violence is perpetrated at a regional incidence of 43 percent, while some national studies estimate that as many as 70 percent of women have been victimised by violence from a current or former partner. There are more than 700 million women in the globe.

As seen in Figure 1, regional averages can obscure large differences across countries. An outlier when it comes to rates of partner violence in East Asia is Timor Leste; in the same way, in their respective areas, Bolivia and Tajikistan are outliers with substantially higher rates than the regional norm. Among African countries, the Democratic Republic of the Congo has had the largest number of recorded cases of domestic violence. However, despite

the fact that statistics have improved over the last decade, measurement issues persist, necessitating caution when interpreting results and comparing them across countries.

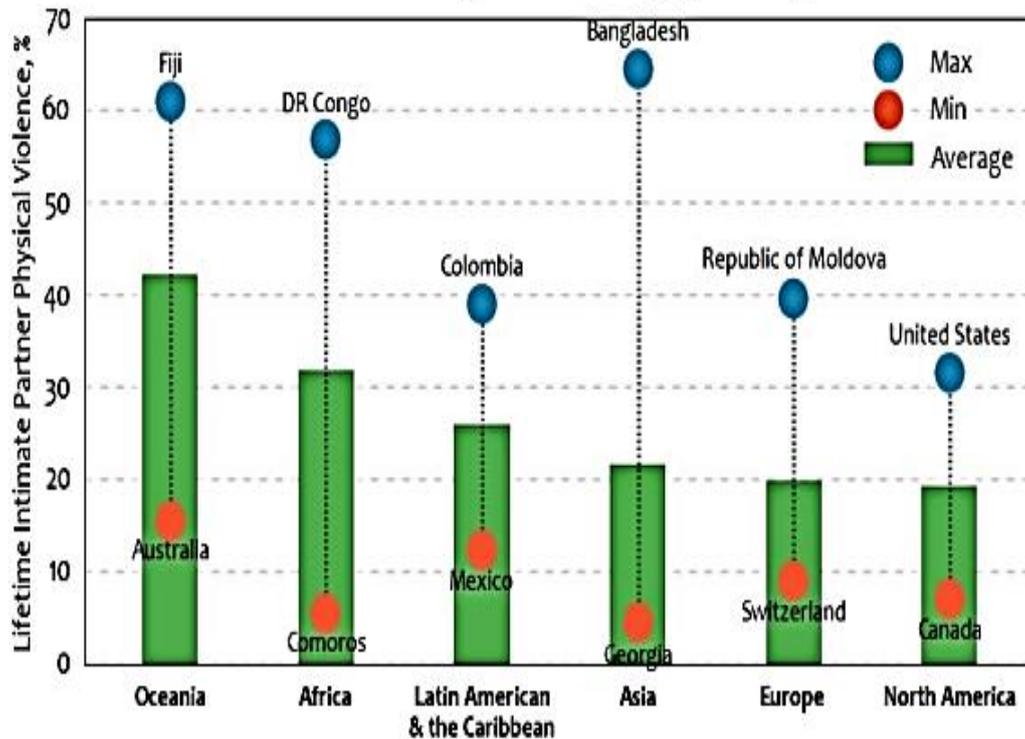


Figure 1: Lifetime Rates of Spouse Or partner Physical Assault, 1998 to 2014: regional or national averages

In terms of the lifetime estimates of violence, changes made or deterioration in the risk of attack are not considered. Population surveys may be used to assess current prevalence rates by asking respondents about their prior years' experience with violence. To track progress toward the UN's Sustainable Development Goals, this indicator has been included alongside others, such as personal experience with violence over the course of a lifetime. Intimate partner violence occurred at a global average rate of 10% last year, with the highest rates occurring in Cameroon, Sierra Leone, and Uganda at 27%, and the lowest in Singapore and Switzerland at about 1%.

Despite the fact that this study does not analyse the underlying causes of domestic violence, it emphasises the relevance of societal norms – and notably of the idea that men have the right to regulate their wives' behaviours. There was a link between men who reinforced traditional attitudes and behaviours, such as those who exercise authority and control in their intimate relationships, as well as violence in India, according to the International Center for Research on Women (ICRW), which shows the importance of attitudes among men and women, including attitudes toward violence. Women with rigid views of masculinity were approximately 1.35% more likely to be victims of violence than women with equitable views of relationships, and men with rigid ideas of masculinity were nearly 1.35% more likely to be perpetrators than men with equity views of relationships. There were more men and women who held strict conceptions of masculinity in Uttar Pradesh, as well as more males who said they had committed domestic violence in the last year than in any other Indian state.

THE INTERNATIONALISATION OF PERTINENT LAWS:

Gender-based violence is addressed in a wide range of international treaties, declarations, resolutions, and the case law of international criminal courts. This section opens with a

survey of the relevant body of international law. Looking at international and regional evidence, we see a wave of nations enacting legislation against domestic abuse during the last three decades. This shows how legal and normative shifts have influenced national lawmaking.

INTERNATIONAL LAW:

Gender-based violence has been defined in international agreements and declarations, and these definitions have been used to create norms both worldwide and in national legislation, as we will see below. When nations ratify international treaties such as CEDAW, the question is whether or not they comply with their obligations. Do international agreements put internal pressure on countries to comply or not?

Prior to examining the importance of collective action, we first examine relevant international and regional treaty law and then highlight a number of key international declarations.

There is no greater wellspring of international law than treaty law, because treaties are rooted on accountability and responsibility. In order to exercise their obligations under international treaties, states parties are needed to take concrete steps toward realising such rights. The important international treaties addressing gender-based violence are discussed in this part, which is followed by a discussion of the jurisprudence that follows. Discrimination based on sex is prohibited by the 1976 International Covenant on Civil and Political Rights. "Inhuman or humiliating treatment" under the ICCPR should be read to ban violence against women, it has been suggested.

For the first time, women's rights have been recognised and protected by the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Laws, rules, conventions, and practices that discriminate against women must be changed or abolished to comply with this mandate. "Discrimination against women in all its manifestations" was not specifically prohibited under the original CEDAW. The CEDAW Committee, which monitors states' adherence to the Convention, has published further recommendations in which "discrimination" has clearly been defined to encompass violence against women. To be more specific, the General Recommendation No. 19 (1992) of the Committee on the Elimination of Racial Discrimination encompasses all forms of violence against women, including physical, mental, or sexual injury or suffering. That states might be accountable for private activities if they fail to work diligently to avoid rights breaches or investigate and punish violent crimes and provide compensation is made clear in this suggestion. 16 Gender-based violence and other forms of discrimination can only be prevented if the state takes action.

National governments are required to submit reports on CEDAW on a regular basis to a committee at the UN headquarters in New York. Committee members can ask government officials questions, and their responses are made public online. The four-year reporting period allows countries to report on the steps they have taken to meet their duties under the convention. The CEDAW Committee has made a total of 32 judgements regarding gender-based violence since 2004. Committee determined that Hungary had breached its commitments under CEDAW in 2005 because it did not offer "the internationally required, coordinated comprehensive and effective protection and assistance for victims of domestic abuse." As part of the CEDAW reporting process, feminist groups and others have the chance to voice their concerns via written shadow reports and informal and formal discussions. There are several instances where the frequency of shadows reporting considerably outnumbers the official reporting (Table 1). In order to put pressure on governments, civil society can use the

Convention's international norms to expose and appeal to them. Additionally, several examples of national effect, such as Turkey's domestic violence law, which CEDAW directly influences.

| Country | Report | Shadow Report/s |
|----------------|--|---|
| India | 4-5 (submitted in 2012, concluding observations in 2014) | 24 |
| Indonesia | 6-7 (submitted in 2010, concluding observations in 2012) | 5 |
| China | 7-8 (submitted in 2012, reply to list of issues in 2014) | 48 (34 since August 2014) |
| Afghanistan | 1-2 | 7 |
| Argentina | 6 | 17 |
| Australia | 6-7 | 8 [7 + 1 report from National Human Rights Commission] |
| Congo | 6-7 | 3 |
| United Kingdom | 7 | 32 [27 + 5 reports from National Human Rights Institutions] |

Table 1: CEDAW – Selected nations' official and unofficial reporting

DECLARATORY STATEMENTS, INTERNATIONAL NORMS, AND RESOLUTIONS:

The most fundamental worldwide framework for combatting violence against women is the Universal Declaration of Human Rights, adopted in 1948. Among the values it spells forth are the rights and ideals that all people—including women—should have in terms of equality, safety, liberty, integrity, and dignity. Even if they lack the binding power of treaties, international declarations and resolutions significantly impact the evolution of international law. Violence against women has seen a number of significant developments since the early 1990s. After being recognised as a human right for the first time at the 1993 United Nations World Conference on Human Rights in Vienna, Austria, women's rights were integrated into human rights norms and practise. Because of the contradiction between the public and private realms, women's human rights were largely absent from the human rights agenda prior to this. Interpersonal violence was traditionally considered beyond the purview of human rights activism since it was viewed as an issue that could only be addressed in public spaces. In Vienna, everything changed. That year, the General Assembly adopted the UN Declaration on the Elimination of Violence Against Women ("DEVAW"), which defines violence as "any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to ladies, including threats of such acts, coerced or arbitrary deprivation of liberty, as to if occurring in public or private life." [6]. To prevent, investigate, and punish violence against women, whether committed by the state or by private individuals, the Declaration's Article 4 requires that member states decry violence against women and not rely on custom, tradition or religion as an excuse to avoid their responsibilities to end it.

In addition, the DEVAW is significant since it defines marital rape as violence against women for the first time. Despite the fact that individual governments do not sign and approve statements, DEVAW has had a significant impact. DEVAW's broadened definition, as we will see below, has led to a shift in domestic law from focusing on physical abuse to

include other forms of violence, such as marital rape. Established in 1994, the Special Rapporteur on violence against women at the United Nations is a non-permanent position. Reporting to the Human Rights Council of the United Nations, this agency is charged with gathering data on violence against women while also making recommendations on how to "eradicate all forms of violence against women." [7]. the international human rights framework could be used to address discriminatory laws or customs like (national) exceptions for marital rape or defence of honour, which exempt perpetrators of violence from sanctions and represent the consent of the state, stated Radhika Coomaraswamy, the first such Rapporteur in 1996. she Violence against women is a violation of human rights acknowledged by several major international declarations.

For example, the Beijing Platform for Action urges governments to establish and execute criminal, civil, labour, and administrative consequences to punish and compensate victims of wrongdoings. Violence against women must be eliminated through legislation that is adopted, implemented, and reviewed by governments to guarantee its efficacy. The Beijing Platform, on the other hand, does not have any legal standing. "All forms of discrimination and violence against women and girls shall be abolished," declares the UN General Assembly Resolution Changing Our World: the 2030 Agenda for Sustainable Development [9].

Sexual assault in conflict has been a more pressing issue for the world community in the last two decades. Numerous atrocities, including those in Rwanda (1994), Yugoslavia (1993), Sierra Leone, East Timor, Japan, Haiti, Myanmar, and Afghanistan 30), and other places across the world have been condemned by the UN Security Council and international tribunals. Resolutions 1325, 1820, 1888, and 1889 of the Security Council on Peace, Security, and Women deal with the role of women in creating peace and sexual violence against women in war.

EFFECTS ON NATIONAL LAWMAKING OF INTERNATIONAL HUMAN RIGHTS AND COLLECTIVE ACTION:

Becoming a signatory to an international human rights treaty may or may not influence national human rights law and policy. What other elements, such as collective action, play a role? When international law is translated into domestic law, do legal safeguards lead to better outcomes? The time has come for us to begin delving further into these vital issues. When international pledges are followed by legislation or change that addresses gender-based violence, the World Bank has found a strong association. Legislative activity is often linked to significant worldwide events. After the 1993 United Nations Declaration on the Elimination of Discrimination Against Women and the 1994 Inter-American Agreement on the Prevention, Punishment, and Eradication of Violence Against Women, there have been significant rises in violence against women. A number of nations at the period, including Bolivia, Colombia, Costa Rica, El Salvador, Honduras, Jamaica, the Republic of Korea, Malaysia, and Peru, enacted legislation to combat violence against women. When this law was first introduced in 1993, the United Kingdom and the United States had it, but it focused on domestic violence.

Htun and Weldon (2012) examine national government responses to gender-based violence in detail, who give a useful cross-country analysis. One of the questions they raise is why certain countries have adopted more comprehensive strategies for combating violence than others, and why some governments are moving more quickly in this direction. Data from four decades and 70 countries is analysed to look at six different forms of government response to violence against women: victim services, judicial reform, particular policies for vulnerable

groups of women and professions, preventive and administrative change. In their research into the factors that influence government action, they discover that international norms, the presence of effective policy machinery, and the existence of strong, independent feminist movements, i.e. groups that embrace an independent agenda and exist from outside formal political parties or trade unions, all play an important role. There was no substantial correlation between the degree of national GDP and the level of democratic progress, and the participation of women in national legislatures.

COLLECTIVE ACTION AND CHANGING NORMS:

Collective action has never had it so good, and the technologies we use to make it happen are constantly evolving. It is now possible for such groups to use the power of social networks and internet platforms to inspire, initiate, and facilitate people's need to highlight and find solutions to shared problems, including gender-based violence, which can mobilise and impact well beyond the site of any particular event, as demonstrated by the response to Delhi's gang rape of a young female student in 2012. There is a significant potential for raising awareness, motivating action, and addressing problems on a scale that was previously constrained by geography and cultural conventions.

Violence in Asia is becoming more widely recognised and addressed as a social and policy issue because to the global environment of norm dissemination and advocacy networking, as explored by True (2016). One of the most well-documented examples of the growth of international feminist networks and NGOs is Asia Pacific Women and Law and Development (APWLD), a network of more than 180 local organisations spread across 25 Asian countries that advocate for women train them to draught legislation. Today, there are several examples of worldwide movements. In order to make a point, a few well-known examples should be cited. Campaigns like Hollaback, Stop Street Harassment, and Collective Actions for Safe Spaces all revolve around social media and networking. There is a global movement called 80 One Billion Rising, which uses flash mobs all across the world to raise awareness of gender-based violence. This year's International Day for the Eradication of Violence Against Women (IDEVAW) falls on the 25th of November, which is White Ribbon Day, the greatest effort in the world of men striving to stop men's violence against women. It's critical to keep in mind that civil society may have a finite amount of room to operate in the future. The procedure isn't necessarily a straight line either. Women's organisations in China have been targeted and repressed in the wake of the 2015 ratification of China's first national law against domestic abuse, thanks in part to the efforts and lobbying of women's organisations and the 20th anniversary of the landmark Beijing Conference.

IMPROVING RESPONSIVENESS:

Evidence suggests that the efficacy of services can be undermined by fragmented approaches to violence. Inaccessibility and complexity for those seeking aid might result from this fragmentation. Thus, the Victorian Commission stated above has recently suggested the construction of "Support and Safety Hubs" in every community. To make it easier for victims of domestic violence to get the help they need, a single intake point in a prominent location would be ideal. This would allow services and law enforcement to have all the information they need about the risks and needs of different family members, making it easier for victims to get the help they need. A wide range of countries, including Latin America and South Asia, have used this sort of strategy. However, there is a lack of proof that these so-called "one-stop shops" have actually been implemented. Reporting and demand for services rises when enough resources and staffing properly support complete one-stop shops.. For example, a district hospital in Kenya saw a ten-fold increase in the reporting of rape in the three

months following the implementation of comprehensive post-rape care services. Victims of rape in South Africa can get compassionate care at One-stop Centers that bring together police, courts, health care, and social services in one location.

CONCLUSIONS:

The new Sustainable Development Goals represent a new global agreement on the unacceptable nature of violence against women. International and national laws—including China's most recent draught domestic violence legislation, which recognises women's right to a life free of abuse—are acknowledging this. In many countries across the globe, legislation prohibits and criminalises violence, but it also provides a range of support channels for victims and their families.

It is the responsibility of every state that has ratified CEDAW to safeguard women from violence and to enforce legislation that aims to prevent and punish such abuse. Violence against women is defined in the 1993 Declaration on the Elimination of Violence against Women as include rape in the context of marriage. These materials are clearly being used to create standards for domestic law against violence, including the definition and breadth of relationships that are covered, as well as protection and assistance options. The data demonstrates that this is true.

There has been progress in outlawing violence against women, but more work is still done. National legislation and initiatives aimed at altering social norms against violence are needed to give life and force to international commitments made under international law.

REFERENCES:

1. Abeyratne, R., & Jain, D., 2013, Domestic Violence Legislation in India: Pitfalls of a Human Rights Approach to Gender Equality, *The American University Journal of Gender, Social Policy & the Law*, 21(2), 333-378.
2. Das, S., 2015, The Effect of the Adoption of a Pro-Women Domestic Violence Policy on Dowry Violence: Empirical Evidence from India, *Economic Record*, Vol 91, 78-93.
3. Gangoli, G., and Rew, M., 2011, Mothers-in-law against daughters-in-law: Domestic violence and legal discourses around mother-in-law violence against daughters-in-law in India, *Women's Studies International Forum* 34, 420- 429.
4. Heise, Lori L et al, 2015, Cross-national and multilevel correlates of partner violence: an analysis of data from population-based surveys, *The Lancet Global Health*, Volume 3, Issue 6, e332 - e340.
5. Mandel, S., 2014, The Impossibility of Marital Rape: Contestations Around Marriage, Sex, Violence and the Law in Contemporary India, *Australian Feminist Studies*, 29:81, 255-272.
6. Prabhat, J. et al., 2006, "Low male to female sex ratio of children born in India: national survey of 1.1 million households", *Lancet*, vol. 367 (January 2006), pp. 211-18.
7. Bhatia, M. 2012, "Domestic Violence In India: Cases Under The Protection Of Women From Domestic Violence Act, 2005", *South Asia Research*, vol. 32, no. 2, pp. 103-122.
8. Das, S., 2015, The Effect of the Adoption of a Pro-Women Domestic Violence Policy on Dowry Violence: Empirical Evidence from India, *Economic Record*, Vol 91, 78-93.
9. Krishnan, S., 2014. Responding to Rape: Feminism and Young Middle-Class Women in India. In: M. Alston, ed. *Women, Political Struggles and Gender Equality in South Asia*. Hampshire: Pangrave Macmillan, pp. 19-32.