

4 Gender-based Violence

Meeting the Challenge to End Gender-based Violence

Tina Johnson

Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed.

(United Nations, 1995: para. 112)

Conceptual Framework

Gender-based violence: an overview

Gender-based violence is violence that is directed at individuals on the basis of their gender, with women and girls making up the vast majority of victims (though boys and men can also be the target). It is indiscriminate, cutting across racial, ethnic, class, age, economic, religious and cultural divides. Gender-based violence takes place throughout society: in the home, in the community and in state institutions (including prisons, police stations and hospitals). It can be grouped into five main, though not exclusive, categories:

- 1 Sexual violence – e.g. rape, incest, forced prostitution and sexual harassment;
- 2 Physical violence – e.g. wife battering and assault, ‘honour’ killings, female infanticide, child assault by teachers and gay bashing;
- 3 Emotional and psychological violence – e.g. threats of violence, insults and name calling, humiliation in front of others, blackmail and the threat of abandonment;
- 4 Harmful traditional practices – e.g. female genital mutilation,

Gender-based violence is violence that is directed at individuals on the basis of their gender, with women and girls making up the vast majority of victims (though boys and men can also be the target). It is indiscriminate, cutting across racial, ethnic, class, age, economic, religious and cultural divides.

denial of certain foods and forced and/or early marriage;

- 5 Socio-economic violence – e.g. discriminatory access to basic health care, low levels of literacy and educational attainment, inadequate shelter and food, economic deprivation, armed conflict and acts of terrorism.

Violence against women “is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women,” and is “one of the crucial social mechanisms by which women are forced into a subordinate position compared with men” (United Nations, 1993). Women’s lack of social and economic power, accepted gender roles and the low value put on women’s work perpetuate and reinforce this subordinate position. Early marriage, inheritance of widows and male control of property encourage female dependency, particularly in regions with high under- and unemployment of women and poor access to social welfare services, and limit women’s ability to escape violent situations.

Intimate partner violence

The most widespread form of gender-based violence is physical abuse of a woman by a present or former intimate male partner. Thirty-five studies from a wide variety of countries show that, in many of them, one-quarter to more than half of women report such abuse (Heise et al, 1994). Forty per cent of all female homicide victims are killed by their intimate partners in the UK; while every year thousands of women suffer dowry-related deaths or are disfigured by acid thrown in their faces by rejected suitors in Bangladesh, India, Nigeria or Pakistan (UNIFEM, 2003). There is also considerable overlap between physical, emotional and sexual violence. Sexual abuse or rape by an intimate partner is experienced by between 12 and 25 per cent of women at some time in their lives (WHO, 2000). This is not considered a crime in most countries, since it is assumed that a marriage contract provides a husband with the right to sex with his wife whenever he chooses (UNICEF, 2000).

Violence against girls

A growing number of studies, particularly from sub-Saharan Africa, indicate that girls' first sexual experience is often unwanted and frequently forced (Garcia-Moreno and Watts, 2000). Research has shown that 36–62 per cent of all sexual assault victims are aged 15 or less (WHO, 1997). In addition, cross-cultural data from rape crisis centres reveal that 40–58 per cent of the sexual assault cases they deal with involve girls aged 15 and under, including girls younger than 10 or 11 (Heise et al, 1994). In fact, the younger a girl is at first sexual intercourse, the more likely that sex is forced. The abusers are frequently male relatives, family friends or other men in influential positions, such as teachers.

A growing number of studies, particularly from sub-Saharan Africa, indicate that girls' first sexual experience is often unwanted and frequently forced.

Harmful traditional practices

It is estimated that some 130 million women and girls, mainly in Africa, the Middle East and Asia, have undergone some form of FGM, which has both immediate and long-term negative health and psychological effects (UNFPA, 1999). Early marriage also exposes girls to physical violation and trauma, as well as greater health risks during pregnancy and childbirth.

Sex work and trafficking in women and girls

Women often take up sex work because they have no other way of supporting themselves or their children, or their entry into sex work may itself be as a result of violence. They are then at risk of further physical violence and rape, especially where this work is against the law, as the police may assault instead of protecting them. In a survey of prostitutes in Bangladesh, for example, 83 per cent had been raped and 91 per cent had been beaten by the police (WHO, 1997). In addition, trafficking is now among the fastest growing criminal activities worldwide and within countries (Sauerbrey, 2002). The International Organisation for Migration estimates that 700,000 women are transported, mostly involuntarily, across international borders each year for the sex trade (Binder, 2002). Two million girls between the ages of five and 15 are introduced into the commercial sex market each year (UNFPA, 2000).

Violence against women in armed conflict

In situations of armed conflict, currently experienced in some 30 countries, women and girls are often systematically targeted

Gender-based violence adversely affects victims, family members, perpetrators, communities and nations on profound emotional, physical, psychological and economic levels.

for abuse, and rape and sexual assault are widespread. Rape has been used as a deliberate weapon of war in many conflicts, including in Central Africa and the Balkans. Women and girls make up 75 per cent of the world's 22 million refugees, asylum seekers or internally displaced persons, putting them at particular risk of gender-based violence.

Gender-based violence and HIV/AIDS

Gender-based violence and HIV/AIDS are intersecting epidemics. Women's relative lack of control over their sexual lives and methods of preventing HIV and other sexually transmitted infections due to violence or fear of it is one of the main factors behind the spread of AIDS (Johnson, 2002). This lack of control is experienced not only by women who are sexually assaulted, but also by those in relationships where they are unable to negotiate condom use with their partners. Violence both exposes women to HIV infection and limits their ability to participate in and benefit from HIV/AIDS prevention methods and treatment.

Consequences of gender-based violence

Gender-based violence adversely affects victims, family members, perpetrators, communities and nations on profound emotional, physical, psychological and economic levels. It accounts for more death and ill health among women aged 15–44 worldwide than cancer, obstructed labour, heart disease, respiratory infections, traffic accidents or even war (World Bank, 1993).

Some of the consequences of gender-based violence are feelings of hopelessness and isolation, guilt and depression, or suicide. The more severe or longer term the abuse and violence, the greater the impact on women's autonomy, sense of worth and ability to care for themselves and their children. In concrete terms, it may lead to bruises, cuts, broken bones or limbs, unwanted pregnancies, sexually transmitted infections (including HIV/AIDS), permanent disabilities or death. Rape and domestic violence are major causes of disability and death among women of reproductive age in both developed and developing countries. In the latter, it is estimated that gender-based violence accounts for 5 per cent of the healthy years of

life lost to women of reproductive age (World Bank, 1993).

Victims may also suffer from a loss of human potential and wages, resulting in personal economic hardship and depressed overall development. Violence – and the threat of violence – reduces women’s and girl’s opportunities for work, their mobility and their participation in education and training, community activities and wider social networks. In addition, there are direct economic costs to the country as a whole. For example, the direct annual cost of violence against women in Canada has been estimated at Canadian \$684 million in the criminal justice system and \$187 million for police. Counselling and training in response to violence is an additional \$294 million, making a total of over Canadian \$1 billion a year (Buvenic et al, 1999). The Governor of the Reserve Bank of Fiji Islands estimated the costs to that country to be \$300 million, or 7 per cent of the gross domestic product (GDP).

Gender-based violence on the international agenda

The 1989 Convention on the Elimination of All Forms of Discrimination against Women does not refer specifically to gender-based violence. However, lobbying and advocacy work undertaken primarily by women’s NGOs have led to increasing international understanding of this as a human rights issue. In 1992, the CEDAW Committee adopted General Recommendation 19, which identifies gender-based violence as a form of discrimination against women that seriously inhibits their ability to enjoy rights and freedoms on a basis of equality with men.

At the 1993 UN Conference on Human Rights in Vienna, governments signalled their recognition that this was an urgent issue to be addressed by calling for the drafting of the UN Declaration on the Elimination of Violence Against Women, adopted unanimously by the General Assembly in December of the same year. Violence against women was one of the Critical Areas of Concern of the Beijing Platform for Action, the document agreed to by governments at the UN Fourth World Conference on Women in 1995. This outlines three strategic objectives: to take integrated measures to prevent and eliminate violence against women; to study the causes and consequences of violence against women and the effectiveness of preventive measures; and to eliminate traffick-

Commonwealth governments ... agreed in the 1995 Commonwealth Plan of Action on Gender and Development that women's human rights and the elimination of violence against women, the protection of the girl child and the outlawing of all forms of trafficking in women and girls would be priority areas for action.

ing in women and assist victims of violence due to prostitution and trafficking.

Commonwealth governments further agreed in the 1995 Commonwealth Plan of Action on Gender and Development that women's human rights and the elimination of violence against women, the protection of the girl child and the outlawing of all forms of trafficking in women and girls would be priority areas for action. Eliminating gender-based violence is also integral to the achievement of the Millennium Development Goals adopted by 189 governments across the world in September 2000, and formally endorsed by Commonwealth Heads of Government in the Coolum Declaration of 5 March 2002.

Overview of Achievements

As noted above, the international community, regional bodies and national governments have in recent years affirmed their commitment to eliminating gender-based violence. It has been recognised as a human rights issue and as essential for the empowerment of women and for poverty eradication and equitable, sustainable development. Significant efforts have been made to update legal frameworks and initiate law reforms. A number of countries have adopted integrated approaches to tackle gender-based violence, and there are numerous examples of good practice in areas such as regional co-operation, public education and gender-awareness training for the police and judiciary.

Legislative changes

Substantial progress has been made to develop and put in place laws that address family violence and abuse, rape, sexual assault, FGM, trafficking and other gender-based violence. UNIFEM (2003) reports that at least 46 nations now have laws that explicitly prohibit domestic violence and 13 more are drafting new laws to do so, while in many others criminal assault laws have been amended to cover domestic violence. Marital rape is now recognised as a crime in 45 countries.

In the Caribbean, the Commonwealth Secretariat and the

Caribbean Community (CARICOM) Secretariat have collaborated on the development of model legislation on women's human rights. The legislation covers eight areas: domestic violence, sexual offences, sexual harassment, equal pay, inheritance, citizenship, equality for women in employment and maintenance. National governments in nine Caribbean countries have used the model legislation to introduce new legislation and/or revise existing laws. Guyana, Jamaica and St Lucia, for example, have enacted new domestic violence legislation. The Domestic Violence Act (1999) of Trinidad and Tobago widens the definition of 'domestic abuse' found in the 1991 Act to include psychological, emotional and financial abuse, as well as physical and sexual abuse. It also recognises that many couples in the country are part of 'visiting' or 'cohabitating' relationships rather than being married, and gives the police greater powers to take the perpetrators of violence into custody.

In Asia, under Malaysia's Domestic Violence Act (1994), domestic violence is attached to the Penal Code under definitions and procedures for hurt, criminal force and assault. This enables it to be classified as 'criminal behaviour' under federal jurisdiction (rather than coming under the Sharia jurisdiction of the states) and ensures its applicability to all Malaysians. A recently-added section in the Indian Evidence Act (section 114A) makes it an offence for persons in a custodian role (policemen, public servants, managers of public hospitals and remand homes and wardens of jails) to have sex with people for whom they are responsible.

In Southern Africa, Mauritius, Namibia, Seychelles and South Africa have passed legislation to deal specifically with domestic violence. Under the Protection from Domestic Violence Act, passed in Mauritius in 1997, for example, victims may report cases of domestic violence to enforcement officers who provide a range of services from transport to help with preparing an affidavit for presentation to a magistrate. The magistrate can issue an interim occupation or protection order to protect the victim while the case is being heard. Botswana, Seychelles and Tanzania have each amended their laws to allow evidence to be given *in camera*, to widen the definition of rape, to deny bail to persons charged with rape and to provide for stiffer sentences for convicted rapists. Malawi and Tanzania have amended their penal codes to address the

National plans of action to tackle violence against women have been instituted in many countries.

issue of people running businesses for prostitution and/or transporting or trafficking women for the purposes of prostitution. In a landmark judgement in 1999, the High Court of Malawi ruled that arresting a woman for prostitution but leaving her male partner free was discriminatory and unconstitutional. Mauritius has adopted provisions for severe penalties for trafficking in children.

In the Pacific, the criminal code in Papua New Guinea has been amended to include domestic violence as a criminal offence, and the Enticement Act and Adultery Act have also been amended. Legislation on sexual violence has also been passed and an amendment made to the Evidence Act to make it easier for victims of sexual violence to testify and to win justice.

Government policies

National plans and systems

National plans of action to tackle violence against women have been instituted in many countries. In East and Southern Africa, these plans were developed at national workshops on gender-based violence held in ten countries. The plan of action that emerged from the Mauritius workshop, for example, later endorsed by Cabinet, committed government and non-governmental stakeholders to undertake concrete legislation, services and preventative programmes to assist victims in a co-ordinated and efficient manner, and to sensitise the public on the law and procedures for its use.

The National Family Violence Networking System was developed in Singapore in 1996 to integrate the management of family violence. This system links police, prisons, hospitals, social service agencies, the courts, prisons and the Ministry of Community Development and Sports (MCDS) in a web of assistance for victims and perpetrators of family violence. Programmes include mandatory counselling for victims and perpetrators, training of social workers, and police, public education and court, police and community programmes.

More victim-friendly courts

A number of different approaches have been taken to making the courts more accessible to the victims of gender-based viol-

ence. For example, there is growing support in the Caribbean for family courts, which have been established in Belize, Grenada, Jamaica, St Lucia and St Vincent and the Grenadines. This is in line with a suggestion in the CARICOM model legislation that domestic violence cases should be heard at the magisterial level and decentralised. The courts are staffed by trained judiciary and supported by social services.

In the Pacific, the Chief Magistrate of Vanuatu introduced new rules in the Magistrates Courts in 2001 which provide for the granting of domestic violence protection orders and the provision of some security for survivors of domestic violence, as well as penalties for breaches and faster tracking of cases. In Papua New Guinea, good behaviour bonds, implemented by the Magisterial Service, assisted the victims of domestic violence.

Sexual harassment policies

The Fiji Islands Ministry of Women and the Fiji Women's Rights Movement are developing a policy on sexual harassment in the workplace. In Botswana, the Public Service Act was amended to include sexual harassment as misconduct.

Examples of good practice

Integrated approaches

Several countries have developed integrated approaches. For example, the Partnerships Against Domestic Violence Programme is a collaborative effort between the Australian Government and the States and Territories, and the business sector, NGOs and the community. Key projects include: community education campaigns; national competency standards for workers dealing with domestic violence; prevention workshops for young people; a clearing-house for information and best practices; and perpetrators' programmes. In Bangladesh, the Multi-Sectoral Programme on Violence Against Women is a government project led by the Ministry of Women and Children's Affairs with the participation of several related ministries. Naripokkho, a women's NGO, provides technical assistance in detailed project formulation, implementation and evaluation.

Although NGOs are the foremost providers of shelter to the victims of violence, Project Haven in the Philippines shows how governments and NGOs can pool their resources to

respond to the needs of victims and survivors. The project is hospital-based and offers medical services, crisis intervention and healing, referrals, education and training, research and documentation for women victims of violence. The Women's Crisis Center (WCC) trains hospital staff on gender-sensitive handling of survivors and provides the psycho-social component and referrals to other agencies and institutions.

Similarly, Malaysia's WAVE (Women Against Violence) Campaign was launched at the federal and state levels in July 2001. The Ministry of Women and Family Development coordinates the initiative and fosters co-operation between government agencies, NGOs and the private sector. Training of volunteers is conducted in collaboration with NGOs and includes management of domestic violence, rape and sexual harassment cases by hospitals, police and the welfare department. Once trained, the volunteers are placed in the Ministry where they handle telephone calls and make appointments in the Ministry's counselling unit.

In Papua New Guinea, the Family and Sexual Violence Action Committee meets on a regular basis to review progress and identify ways forward. Its members come from government agencies, the private sector, NGOs, community groups and donor agencies.

Regional co-operation and agreements

One example of regional co-operation is the model legislation mentioned earlier that was developed by the CARICOM Secretariat and the Commonwealth Secretariat. This has been used not only by governments but also by NGOs and inter-governmental agencies in their research and advocacy work. UNIFEM also brought together other UN agencies and NGOs from Latin America and the Caribbean to develop an awareness-raising campaign, launched in 1998, around the theme 'A Life Free from Violence: It's Our Right'. The campaign was subsequently replicated in other regions.

Model legislation was also developed in the Asia-Pacific region, where the first Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime was held in Bali in February 2002. It was intended to assist governments in drafting domestic laws criminalising people smuggling and trafficking in persons.

In 1998 Member States of the Southern African Development Community (SADC) agreed to an Addendum (to the SADC Declaration on Gender and Development) on the Prevention and Eradication of Violence Against Women and Children. This commits them to take urgent measures to prevent and address violence against women and children through legal, social, economic, cultural and political means and to adopt legally-binding instruments to ensure that these commitments are translated into action. More recently, the 2003 Protocol on the Rights of Women in Africa supplemented the provisions of the African Charter on Human and Peoples' Rights by requiring State parties to take appropriate measures to prohibit all forms of violence against women, identify the causes, punish the perpetrators and ensure effective rehabilitation and reparation for victims.

Governments in the Pacific region adopted the Pacific Platform for Action in 1995, which identified violence against women as a critical area of concern and urged the Pacific to work towards its elimination. At the NGO level, the Pacific Women's Network Against Violence Against Women, established in 1992, has played a key role in developing the skills and organisational capacity of NGOs working to end violence against women across the region. With 23 members in ten countries, it provides an important mechanism for sharing successful approaches and strategising to overcome resistance and constraints in work to end violence against women.

A number of regional workshops – in Southern Africa, Asia and the Pacific – have been held to strengthen partnerships for eliminating gender-based violence, jointly organised by the Commonwealth Secretariat and key national, regional and international stakeholders.

Using international law at the national level

National courts are increasingly looking to international norms for the purpose of deciding cases “where the domestic law – whether constitutional, statute or common law – is uncertain or incomplete” (Bart, 1997:117). In 1999, for example, the Supreme Court of India stated that international instruments – CEDAW, the International Convention on Economic, Social and Cultural Rights, the Beijing PFA – “cast an obligation on the Indian State to gender sensitise its laws, and

A number of regional workshops – in Southern Africa, Asia and the Pacific – have been held to strengthen partnerships for eliminating gender-based violence, jointly organised by the Commonwealth Secretariat and key national, regional and international stakeholders.

the Courts are under an obligation to see that the message of international instruments is not allowed to be drowned” (Chinkin, 2000:60). In East Africa, the International Women Judges Federation has been working with universities and judiciaries to promote the use of international human rights instruments in national settings.

Improving the police response

Several countries have set up special units in the police force with a specific mandate on violence against women. For example, trained women police officers in the Victim Support Unit in Barbados provide counselling to victims of rape and child abuse, helping them to cope with their experience and preparing them to testify in court. In addition, a Regional Training Programme for Police Officers and Frontline Workers dealing with domestic violence is being co-ordinated by the Caribbean Association for Feminist Research and Action (CAFRA).

In the Philippines, Women and Children Protection Desks (WCPD) have been created by the police to improve their level of response to women and children who are victims of gender-based abuse, exploitation and discrimination. In Bangladesh, the Centre for Women and Children’s Studies (CWCS) has brought together NGOs and police to design a training manual for law-enforcement personnel on gender-based violence, and have trained more than 400 police officers in 12 regions.

An integrated Community Safety Strategy for safer homes, streets and schools has been developed by Cook Islands. Important aspects of this include working with the police “from the inside out”; challenging police leadership and organisational culture; and collecting, analysing and sharing information with key partners.

Gender-awareness training for the judiciary

Gender Judges and Equality is a regional project in Asia that was conceived and initiated by Sakshi, an NGO in New Delhi. Workshops are held to sensitise senior members of the judiciary to women’s issues and help them view matters from a woman’s perspective. The strategy is to allow judges to exchange views and points of law as well as initiate debates with their

peers on issues related to violence against women. As a result of the workshops, the conveners have received requests for materials from participants and there have been several positive rulings by the sensitised judges on cases related to violence.

At the national level, workshops were held in Jamaica in 1998 to sensitise justice system personnel – including judges, police, clerks of the court, lawyers, probation officers and social workers – to a gender perspective. In Canada, the Western Judicial Education Centre (WJEC) organises continuing education programmes for judges from the west and northwest. While a key element is ‘peer leadership’ (i.e. judges are trained by other judges), other interested people, including women and members of racial minorities, can participate in the sessions. At a workshop on gender equality, for example, survivors of sexual assault and crisis centre workers gave judges first-hand information about violence against women.

Advocacy and public education

There are numerous examples of advocacy and public education initiatives from many different countries. Among the more innovative is the series of Grade 1–10 textbooks produced by the Simorgh Women’s Resource and Publication Centre in Pakistan to promote equality and equity in gender relations as well as to teach children about violence in the context of power relations. The NGO carried out teacher training to familiarise teachers with the whole process and methodology of participatory teaching. It started with four schools but is now supplying books to over 30.

Other public education activities from various regions include a national ‘One Act Play’ competition by women at the grassroots in Mauritius; the development, production and distribution by fem’LINKpacific in Fiji Islands of media materials as community education tools to bring violence issues into the public sphere, particularly in rural areas; and the use of radio and television programmes, school and community discussions, information pamphlets and leaflets in St Vincent and the Grenadines to promote public awareness.

Several countries have made an effort to make the law accessible to more people. In Botswana, for example, after a review of the Children’s Act to harmonise it with the Conven-

Several countries have made an effort to make the law accessible to more people.

tion on the Rights of the Child, the Act was translated into Setswana, the local language. The Government of Bangladesh has attempted to popularise and disseminate CEDAW by translating it into Bangla.

Men's initiatives

In Malawi, the Network on Violence Against Women and the Malawi Human Rights Resource Centre (MHRRC), which coordinate non-governmental activities within the country, hold an annual Men to Men Symposium that gets more men involved in the issue. UNIFEM's End Violence Campaign encouraged men to demonstrate against violence in Kenya and South Africa, and helped to increase the involvement of men worldwide in the White Ribbon Campaign working to end men's violence against women. Other initiatives led by men include Men Against Abuse and Violence in Mumbai, India, focused on ending domestic violence, and Men Against Violence Against Women (MAVAW) in Trinidad and Tobago, which runs community-based programmes and produces leaflets on anger management and bumper stickers against battering.

Monitoring and indicators

The Third Ministerial Meeting on Women, convened by the Economic Commission for Latin America and the Caribbean (ECLAC) and the Caribbean Development and Co-operation Committee (CDCC) Secretariat in 1999, identified the need for ongoing review, monitoring and implementation of legislation to counteract and eradicate violence against women. ECLAC subsequently conducted a study to evaluate the implementation of domestic violence legislation in Antigua and Barbuda, St Kitts and Nevis, St Lucia and St Vincent and the Grenadines.

International Women's Rights Action Watch (IWRAP) Asia Pacific has developed a framework to monitor governments' implementation of CEDAW. The Asia Pacific Research and Resource Centre for Women (ARROW) has developed a framework of indicators for monitoring violence against women.

At the national level, the NGO Naripokkho in Bangladesh monitors the incidence of violence against women in the

country through scanning national newspapers, collecting nationwide information on reported cases from Police Headquarters, and from reports from members of Naripokkho's networks. In addition, 22 police stations in Dhaka Metropolitan Area, two public hospitals and the Special Court trying cases under the Repression of Women Act are monitored regularly on handling of cases of violence against women. Partner organisations in 30 small towns are being trained and provided with technical assistance to carry out similar monitoring at district level. Findings are regularly shared in workshops with police, health-care personnel, lawyers and public prosecutors.

Providing accurate data

In order to collect data on violence against women, the World Health Organization (WHO) started a Multi-Country Study on Women's Health and Domestic Violence Against Women in 1997. The aims include: obtaining reliable estimates of the prevalence of violence against women in different countries in a standardised manner that allows for inter-country comparisons; and using the findings nationally and internationally to advocate for an increased response to gender-based violence. The study teams co-ordinate with research institutions, ministries of health, other government entities and NGOs. As of 2003, data collection had been completed in Bangladesh, Brazil, Japan, Namibia, Peru, Samoa, Tanzania and Thailand.

The Economic Commission for Latin America and the Caribbean (ECLAC) is also working on a gender statistics and indicators model to measure the incidence of and trends in violence against women.

Gaps, Constraints and Opportunities

National policy and institutional and legal frameworks

National policy and institutional and legal frameworks are still often inadequate, and co-ordination among different parts of government is lacking. Women's human rights have not been fully realised due to non-harmonisation of laws, lack of domestication of international treaties and the absence of a human rights framework for planning and programming. Stakeholder

National policy and institutional and legal frameworks are still often inadequate, and co-ordination among different parts of government is lacking. Women's human rights have not been fully realised due to non-harmonisation of laws, lack of domestication of international treaties and the absence of a human rights framework for planning and programming.

interventions generally remain fragmented, poorly co-ordinated and isolated.

According to UNIFEM (2003), only 17 nations have distinct legislation referring to sexual assault, while as few as three have legislation that specifically addresses violence against women as a category of criminal activity in itself. Laws tend to focus on domestic violence and rape and not deal with other violence such as sexual harassment and traditional practices such as FGM (only 14 countries have adopted laws on sexual harassment and nine have specific legislation outlawing FGM). Moreover, many countries do not recognise spousal rape in domestic violence laws, and those that do have laws against it often provide exemptions.

Civil laws that may appear to have little to do with violence may also limit women's ability to protect themselves and to leave violent situations – for example, if they have no legal access to divorce. Discriminatory laws on inheritance and the ownership of property also mean that women lack the economic ability to leave abusive relationships. There is a tendency in some countries to require mediation or other forms of alternative dispute resolution for family law matters, leaving women open to further abuse. Laws against trafficking may punish women for being illegal immigrants rather than prosecuting the traffickers.

Model laws have been developed that can be replicated or adapted to local situations. Commonwealth Law Ministers expressed their support in May 1999 for Commonwealth co-operation around the UN Convention to combat transnational organised crime (including its Protocols on preventing, suppressing and punishing trafficking in women and children, and on the illegal trafficking of migrants). An opportunity was also identified for co-ordinated, collective action to fight the commercial sexual exploitation of children using existing Commonwealth schemes for mutual assistance and co-operation in criminal matters.

Law enforcement

Criminal law is not enforced effectively and is therefore limited as a deterrent. Where women are offered no protection by the State, they are frequently afraid to bring charges. The

majority of cases of violence against women are thus not reported. Those cases that are reported often do not result in successful prosecutions. Law enforcement officers, medical officers and judicial personnel can be insensitive to the needs of threatened and abused women and children. Despite the prevalence of violence against women, research from many countries – including Australia, Bangladesh, Canada, India, New Zealand and the UK – has shown that it tends to be treated less seriously by the police than crimes against men or property. There continues to be a perception of domestic violence as a private matter. Victims of gender-based violence may face further abuse in the judicial system due to a continuing tendency to think that women call sexual abuse or harassment on themselves by the way they dress or act. The issue of appropriate treatment as well as adequate punishment for perpetrators has not been a focus.

The dissemination of judicial decisions from other jurisdictions and shared understanding by judges can be important tools in addressing gender-based violence. For example, judicial colloquia held in the Commonwealth that focused specifically on the promotion of the human rights of women and the girl child through the judiciary produced recommendations that recognise the duty of an independent judiciary to interpret and apply national constitutions and laws in conformity with women's human rights. Gender sensitivity training for all levels of the court system and for the police have had encouraging results. Reforms of criminal justice systems may require evidence on the woman's past history to be inadmissible (as, for example, in the Bahamas and Barbados) and aggressive questioning and harassment in court to be prohibited (Chinkin, 1999).

The dissemination of judicial decisions from other jurisdictions and shared understanding by judges can be important tools in addressing gender-based violence.

Women's knowledge of and access to the law

Laws are of limited use if women do not know that they exist or are unable to take advantage of them. Due to economic, religious, social and cultural constraints, women's legal literacy and consciousness about their rights is generally low in developing countries, particularly among rural women.

Without access to legal information or legal aid, women may stay in abusive relationships or fail to apply for protection orders

or maintenance for their children. A study in the Eastern Caribbean found that applicants and respondents in domestic violence matters were generally under-represented by lawyers, who did not consider such cases financially viable. A lack of legal assistance has a marked effect on success in court, and the personal and financial consequences for women can be far-reaching.

There is a need for legal aid and advisory services. Government-funded specialist women's legal services could play an important role in providing advice, information and referrals on legal matters that affect women. They could also help in overcoming the attitudinal barriers that women confront in the legal system, and help courts dominated by male judges and lawyers to understand female perspectives. National women's machineries (NWMs) could be instrumental in the systematic dissemination of information to women about their rights.

Human and financial resources

Support (as measured in budgetary allocations) for programmes addressing gender-based violence is limited. There are serious gaps in service provision, particularly for the victims of rape and other sexual violence, and services are not widespread enough to cover rural communities. Those services that do exist are handicapped by a chronic shortage of human and financial resources.

Governments have largely depended on women's groups and other NGOs for the provision of services and programmes, yet NGOs in many countries do not receive financial support from governments. In addition, NGOs often depend on donors, which threatens the viability and sustainability of their programmes.

There is inadequate participation by women in the formulation of policies, strategies and activities designed to ensure their economic empowerment. Capacity and information to engage the political leadership, as well as to support structures for women in power, are inadequate. NWMs are often under-resourced and have little clout within government. In the absence of high-level political commitment they face difficulties developing policy frameworks and action plans, let alone co-ordinating other key ministries.

It is important for gender-based violence to be seen as a national issue, not a 'women's issue'. The problem is not so much that resources are scarce but the manner in which they are allocated. Gender-responsive budgets provide an opportunity to examine the effects of government expenditure and revenue policies on women and men. They can also reveal the gaps between policy and budget.

Traditional norms, beliefs, practices and attitudes

In a statement to the 2001 session of the UN Commission on Human Rights, the Asian Legal Resource Centre noted that progress to stop violence against women in Asian countries was seriously hampered by governments' failure to recognise that cultural values and traditional patterns had not changed (UNIFEM, 2003). This problem is not limited to the Asian region but is widespread.

Such customs and traditions may lead to a high level of acceptance of and justification for gender-based violence, particularly that occurring in the home. Women as well as men often perpetuate stereotypical gender roles and adhere to a belief in women's inferiority. Practices such as early marriage and FGM that attempt to control women's sexuality may continue even if formally legislated against. Judges in many countries in sub-Saharan Africa continue to apply discriminatory customary laws with regard to women's inheritance or ownership of property despite law reforms that give women equal rights. Traditional systems of conflict reconciliation, such as *bulubulu* in Fiji Islands, may be used to protect the honour of perpetrators of crimes rather than to bring justice for female victims.

States parties to CEDAW are obliged to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices" based on ideas that one sex is superior or inferior to the other or on stereotyped gender roles (article 5). One important entry-point is education about gender equality from an early age. Another is community-based work and advocacy to influence attitudes and customs. A workshop in Southern Africa, for example, identified elders – as traditional advisors or marriage counsellors – as a special target for

It is important for gender-based violence to be seen as a national issue, not a 'women's issue'. The problem is not so much that resources are scarce but the manner in which they are allocated.

A major obstacle in the search for solutions to violence against women has been the lack of reliable data on the root causes, magnitude and consequences of the problem.

community-based education programmes to prevent the perpetuation of gender-based violence. NGOs in Kenya have successfully introduced alternative rituals to FGM to celebrate the passage of girls into womanhood. They have also involved men and boys as advocates for change.

Inadequate data

A major obstacle in the search for solutions to violence against women has been the lack of reliable data on the root causes, magnitude and consequences of the problem. Countries will not be able to eliminate gender-based violence until they identify the true incidence and causes of types of violence that are most prevalent in their own society. It is currently difficult to compare data between countries because statistics are not collected in a standardised way. Countries may have looked at different populations, and abusive acts are differently defined and/or are considered crimes in some countries but not others. Police records may include gender-based violence under a general heading such as assault, making it difficult to extract the number of incidents involving women. In addition, sexual crimes tend to be under-reported, making it difficult to come up with accurate figures. While women's groups may be able to collect more data, UNIFEM (2003) points out that few of them have the means to provide the level of statistical evidence that is needed to build a valid record.

Conclusion

Despite legislative, administrative, judicial, educational and other efforts by governments, regional and inter-governmental agencies, and non-governmental and civil society organisations to address gender-based violence, it remains endemic throughout the Commonwealth and other parts of the world. Clearly, a different approach is needed to tackle this cross-cutting and complex phenomenon on all fronts.

The Commonwealth Integrated Approach to Eliminating Gender-based Violence was developed as a guide to government planning and action at the national level, and also involves collaboration with NGOs and civil society. It includes

enactment of laws, co-ordination of key government ministries and the setting up of government systems. An integrated approach is intended to respond to the needs of all, while ensuring that those of the victim – whether to trained medical attention, counselling or legal recourse – are paramount. It enables different stakeholders to work in a co-ordinated manner to understand the problem, develop strategies to address it and take joint action at the local and national level. It promotes efficiency and adequacy of services and service delivery so that women are facilitated at all levels through a variety of organisational networks. The resource base is increased and the expertise and experience of the organisations involved are maximised.

Stakeholders include victims and their families, communities, institutions such as the police, cultural and religious leaders, employees, educational institutions and perpetrators. Within each category there are those interested in maintaining the status quo and those who wish to change it. Often, agencies and support systems work in isolation from each other, resulting in duplication and fewer achievements as well as wasting limited resources. The criminal justice system is generally punitive rather than preventive, and while women need the protection of the law, “the limitations of a predominant reliance on the legal system to eradicate violence against women has been pointed out repeatedly” (Clarke, 1998). Gender-based violence is not a ‘women’s issue’. It is a human rights violation as well as “an obstacle to the achievement of the objectives of equality, development and peace” (United Nations, 1993). Addressing it within a holistic framework can change the societal values, attitudes and behaviours that condone or encourage it, and eventually bring about its elimination.

References

- Binder, David (2002). 'In Europe, Sex Slavery is Thriving Despite Raids', *New York Times*, 20 October, p. 8.
- Buvinic, Mayra, Andrew Morrison and Michael Shifter (1999). *Violence in Latin America and the Caribbean: A Framework for Action, Technical Study*. Washington, DC: Inter-American Development Bank.
- Chinkin, Christine (2000). *Gender Mainstreaming in the Legal and Constitutional Sector*. London: Commonwealth Secretariat.
- Clarke, Roberta (1998). *Violence Against Women in the Caribbean: State and Non-State Responses*. New York: UNIFEM.
- Committee on the Elimination of Discrimination against Women (1992). 'Violence Against Women', General Recommendation 19, UN Doc. A/47/38.
- Coomaraswamy, Radhika (2003). 'Integration of the Human Rights of Women and the Gender Perspective: Violence against Women', Report of the Special Rapporteur on violence against women. E/CN.4/2003/75, 6 January.
- Garcia-Moreno, Claudia and Charlotte Watts (2000). 'Violence Against Women: Its Importance for HIV/AIDS', *AIDS* 14 (supplement 3), pp. S253–S265.
- Heise, Lori with Jacqueline Pitanguy and Adrienne Germain (1994). *Violence Against Women: The Hidden Health Burden*. Washington DC, World Bank Discussion Paper #255.
- Johnson, Tina (2003). 'Sex, Violence and Death – The intersection of two global epidemics: HIV/AIDS and gender-based violence', MA thesis, Columbia University, February.
- Piot, Peter (1999). 'HIV/AIDS and Violence against Women', presentation at the panel on Women and Health, 43rd Session, UN Commission on the Status of Women, New York, 3 March. www.unaids.org/whatsnew/speeches/eng/ny3march99.html 21/05/02
- Rwezaura, Bart (1997). 'Protecting the Rights of the Girl-Child in Commonwealth Jurisdictions'. In Byrnes, Andrew, Jane Connors and Lum Bik (eds), *Advancing the Human Rights of Women: Using International Human Rights Standards in Domestic Litigation*. Hong Kong and New York: Commonwealth Secretariat.
- Sauerbrey, Ellen (2002). Statement by the US Representative to the UN Commission on the Status of Women, at the 3rd Committee, 9 October. USUN press release #148 (02). http://www.un.int/usa/02_148.htm 10/11/02
- United Nations (1993). 'Declaration on the Elimination of Violence against Women', General Assembly resolution 48/104, 48 UN

- GAOR Supplement (No. 49) at 217, UN Doc. A/48/49.
- (1995). *Platform for Action and the Beijing Declaration*, Fourth World Conference on Women, Beijing, China, 14–15 September. New York: UN Department of Public Information.
- United Nations Children’s Fund (UNICEF) (2000). ‘Domestic Violence Against Women and Girls’, *Innocenti Digest* (6), May.
- United Nations Development Fund for Women (UNIFEM) (2003). *Not a Minute More: Ending Violence Against Women*. New York: UNIFEM.
- United Nations Population Fund (UNFPA) (1999). *Population Issues*. New York: UNFPA.
- (2000). *The State of the World Population – Lives Together, Worlds Apart: Men and Women in a Time of Change*. New York: UNFPA.
- World Bank (1993). *World Development Report 1993: Investing in Health*. New York: Oxford University Press.
- World Health Organization (1997). ‘Violence against Women Information Pack: A Priority Health Issue’. Geneva: WHO.
http://www.who.int/frhwhd/VAW/infopack/English/VAW_infopack.htm
21/05/02.
- (2000). *Violence Against Women and HIV/AIDS: Setting the Research Agenda*, meeting report, Geneva, 23–25 October. Geneva: WHO.