



Gender and Violence: Some Philosophical Thoughts

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ABSTRACT

The concept of gender-based Violence enjoys considerable interest today due to the prominence given the subject by the international community and gender advocates, whose efforts and theories led to the development of significant responses to gender-based violence. Violence against women and girls is an everyday occurrence. This paper examines gender and violence from the feminist perspective as a scientific foundation for understanding the phenomenon. It is recognized that violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Gender based violence violates and impairs or nullifies the enjoyment by women of their fundamental human rights and freedoms. Combating gender based violence has been a great challenge in many parts of the world, including Ghana. The paper being both philosophical and practical in nature, explores the violence against women in Ghana to demonstrate how the feminist theory has aided the development of strategies to combat gender based violence.

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1. INTRODUCTION

"I hear every day that somebody has beaten the wife, but women don't come to report the men. I also keep quiet in my house²". This statement underscores the fact that violence is a daily occurrence in the lives of women and girls. More often than not, violence is perpetrated at home. Kimmel (2000) points out that women are still more likely to experience violence in the home from an intimate partner than anywhere else. Not surprisingly therefore, violence against women has been recognized globally as a problem and attempts are being made to address it.

At the Beijing Conference of 1995, it was recognized that violence against women is an obstacle to the achievement of the objectives of equality, development and peace and that it violates and impairs or nullifies the enjoyment by women of their fundamental human rights and freedoms. It was also one of the key reasons behind the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as the United Nations Declaration on the Elimination of Violence Against Women 1993 (the Declaration). The Declaration provides, inter alia, that *"....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 that ... that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men..."*³

Recognizing violence against women (VAW) as a crucial social mechanism, by which women are forced into a subordinate position, is an important step, but recognition alone is not sufficient. VAW can only be eradicated or minimized by

² By a Queen mother in Ghana, see Coker-Appiah and Cusak, 1990

³ See Preamble RESOLUTION A/RES/48/104, ADOPTED BY THE GENERAL ASSEMBLY, [on the report of the Third Committee (A/48/629)] 48/104, Declaration on the Elimination of Violence against Women, 24th February 1994.



identifying the underlying factors and applying appropriate strategies to deal with it. As with all social problems, it entails examining what scholars within the field have postulated as being the underlying causes and examining the various strategies or responses adopted to deal with the problem. Only then can we map further strategies to deal it.

This paper, therefore, examines gender and violence within the feminist literature as a scientific foundation for understanding the phenomenon. The paper then discusses what has been done to deal with VAW. To appreciate the problem better, Ghana would be used as a case study. Thus, largely this paper is both philosophical and practical in nature.

2. GENDER AND VIOLENCE

Scientific understanding of human violence is one of the most urgent tasks of our time. According to Punch, (2000), violence is multifaceted because there are many different forms of violence, which are exhibited in a wide range of contexts: youth violence; gang violence; school violence; street violence; intimate violence, and domestic violence. Valier (1997) writes that violence is not only physical (aggression, abuse or even assault) but can also be verbal (bullying, humiliation, and intimidation). It can also be overt or covert like in language and literacy, abstraction, interpretation and representation. Jackman (2002) also proposes a generic definition of violence that focuses unequivocally on the injuriousness of actions, detached from their social, moral or legal standing. According to him, violence includes all actions that directly inflict injury as well as those that either threaten or result in injury. He specifies that injurious actions and outcomes may take many forms, immediate or delayed, certain or probabilistic. Violence also includes assaults on the personhood, dignity, sense of worth or value of the victim (Scheper-Hughes and Bourgois 2004).

The World Health Organisation has also stated that violence is a gendered phenomenon indicating that violence has become *...a social construct that differentiates*



the power, roles, responsibilities and obligations of women from that of men in society ...” (WHO 2003:19).

From the foregoing, it would appear that whatever the definition, it is generally agreeable that violence is gender-based, socially constructed and what is considered as violent varies according to specific socio-cultural and historical conditions. Similarly, it is multifaceted. It can be physical, verbal, overt or covert.

What then, is the relationship between gender and violence? Within the feminist literature, gender constitutes an important constituent of violence. Gender refers to those characteristics or attributes assigned to men and women by society. These attributes are socially-constructed attitudes, beliefs and expectations of what men and women should be, do and how they should relate to one another⁴. Indeed, it has been suggested that gender is a risk factor especially in relation to who the perpetrator and the victim are.

So who commits violence? Anecdotal evidence suggests that men commit or authorize most of the violence that are committed in the world. While men commit violence against fellow men, and some women commit violence against men⁵, research has suggested that most of the victims of violence are women and most of the perpetrators are men. In a study in the Gauteng province of South Africa, Vettel et al (2008) found that 70% of 90% of the cases of rape are committed against black women. Several studies on violence in Ghana have confirmed such assertions. Asante, R.K.O. and Hammond, E. K. (2008) for example, found that over 90% of the offenders in a study conducted over a six month period, were males, most of whom were artisans and farmers between the ages of 20 and 34 years and most of the victims were adolescents and young adults in their twenties.

⁴ See Prof. Attafuaah, “*Gender & Gender Mainstreaming*” a presentation at a seminar organised for CHRAJ Legal Officers and Investigators, February 7, 2006

⁵ See DOVVSU, Bolga, capital of the Upper East Region, Ghana, where in the year 2008, victims of violence were mostly men and the perpetrators were mostly women. This calls for further research.



In the feminist literature, the relationship of gender to violence is well established. Some scholars argue that it is through violence that men exercise and assert their authority over women. Indeed, some of the feminist research did focus entirely on violence because of this assertion, Dworkin (1974:12); Hamner (1984:25); Stanko (1974:17). These scholars assert strongly that men employ violence as a weapon to dominate women in all spheres of life and that one of the methods used in acquiring that weapon is to exercise power through violence to erode women's agency to mount a challenge (Nussbaum2008:98). For them, the weapon is often effective because it is in violent situations that women often suffer serious injuries and limitations to their agency.

Nussbaum highlights how violence incapacitate women's agency, nothing that in some countries women "*...have nominal right of political participation but without having this right in the sense of capability... and this is because ... they may be threatened with violence should they leave home*" (Nussbaum 2000:98). Messner (1997:5) and Connell (1995:97-82) maintain that most, if not all contemporary societies, are characterized by men's privilege such that men in general receive a patriarchal dividend. This explains why in most societies men determine who gets what, when and how.

Crucially, many scholars agree that the effectiveness of power lies in its representation and acceptance as normal and natural. Violence invariably occurs within a specific context and therefore manifests features of that context. Thus, the less overt and more taken for granted a system of domination is, the harder it is to resist and less likely it is to provoke overt reaction. In most cases, therefore, the immediacy of violence in the everyday lives of women is accepted as normal. In other words, people know and even expect it. This is because; it is silenced, but not silent. Foucault (1980) rightly points out that this silence concerning violence should be understood not just in terms of what is not said but also in terms of how women speak about violence and what they are allowed to say.

3. RESPONSES TO GENDER VIOLENCE: GHANA CASE STUDY



Domestic violence is a problem that is increasingly drawing the attention of citizens; gender advocates and the Ghanaian state as a whole but combating it has been a great challenge, especially woman abuse and other forms of violence. Just as elsewhere, it requires scholars moving beyond trying to “win a point” in the “name of science” (Renzetti, 1997, p.vi). It is also the view that no matter how we study or try to explain violence against intimate partners, the perspectives we offer are often irrelevant to those who experience it (DeKeseredy & MacLeod, 1997). After all, who knows more about abuse than the people who experience it?

Feminist scholar Claire Renzetti (1997) has stated that while the causes of and solutions to the gender violence are not individualistic but rather structural, we cannot lose sight of individuals. However, the challenge is to disentangle the complex relationships between individuals and society, including our own roles in this dialectic. (p.vii). Therefore, responses to gender violence should take cognizance of the victims and the perpetrators, as well as the causes, type, and source of the violence, among others. The responses must seek to address structural causes. They must also seek to prevent perpetrators from continuing to visit violence on women.

Various studies have shown that gender based violence in Ghana occurs in various forms and manifestations. In the first half of 2002, about 679 cases of spousal abuse cases were reported to the Domestic Violence and Victim Support Unit off the Ghana Police Service (DOVVSU) and on an average day, up to 35 women and children report cases to DOVVSU.

Since its establishment DOVVSU recorded 109,784 cases of violence against women and children between 1999 to May 2010. The forms of violence recorded include sexual violence (rape, defilement, assault, sexual harassment), domestic violence (wife beating, psychological and physical violence, murder, denial of financial support, etc)

In a study conducted in 1999, it was found that one (1) in three (3) women in Ghana experienced physical violence and twenty percent of women who had their first



experience of sexual intercourse did so against their will. 33% of women had been fondled or touched against their will (sexual harassment). The study further indicated that both psychological and economic abuse were high in the country. Furthermore, twenty percent of the women interviewed had been prevented by their male partners from seeing their families and friends and a further 33% was prevented from speaking to other men. Whilst 10% of women had earnings taken away from them, 8% of women were prohibited from going to work, selling or making money⁶.

Asante, R.K.O. and Hammond, E.K. (2008), reviewing one hundred and twenty seven (127) violence-related reports on the internet (Ghanaweb) for 6 months, found that the incidence of defilement and rape was highest. Over 90% of the offenders were males whether a group or individually. Most of the offenders were between the ages of 20 and 34, most of whom were female students. The largest groups of perpetrators were artisans and farmers. The most common violent acts were rape and defilement and the perpetrators were relatives, neighbors or acquaintances of their victims.

Information from DOVVSU indicates that the highest incidence of violence recorded were assault, rape, defilement, abduction and causing harm and abortion. Apart from assault, defilement was the most prevalent, followed by rape, and abduction. Child stealing and kidnapping were also significant.

Indeed, over the period 1999 to 2010, in Accra alone, over 58,133 cases were recorded at DOVVSU. This includes 17,104 cases of assault, rape-1317, defilement-4731, criminal abortion-180, kidnapping- 53, forced marriages-30 and murder-3. In 2010 alone, it recorded 6224 cases⁷.

Thus, the studies and the statistics from DOVVSU show that violence against women is a very serious problem in Ghana. Of the 10 regions in Ghana, if one region records 6224 in 2010 alone or 58,133 in eleven years, then the situation can be alarming when the figures of other regions add up to the Accra figures. No doubt,

⁶Gender Studies and Human Rights Documentation Centre, 1999. Report of Research on Violence Against Women and Girls in Ghana.

⁷ “Data on Domestic Violence cases Recorded ACCRA DOVVSU from January 1999 to December 2010



serious measures have to be taken to combat violence against women and Ghana has not relented in its efforts to deal with the problem.

Measures taken in Ghana to combat violence against women, to a large extent, is influenced by international efforts to deal with the problem. The United Nations Bill of Rights (the UDHR, the ICCPR and the CESCRC) set the foundation for the promotion and protection of fundamental human rights and freedoms, and for that matter, gender violence is not to be tolerated. The Conventions guarantee equal rights for all human beings, men and women, boys and girls, alike. Discrimination and torture or such inhuman treatment is forbidden. State parties are to respect, promote and realize these rights.

The Convention on the Elimination of All Forms of Discrimination Against Women seeks to remove discrimination against women in all areas where such discrimination is encountered. It is the view of some writers that gender-based violence was not specifically treated but since gender violence is a form of discrimination, and the CEDAW seeks to eliminate ALL forms of discrimination against women, the matter does not arise. It is a non-issue.

The Committee on the Elimination of Discrimination against Women (the Committee) clarified the issue of what constitutes discrimination [against women]. It provides that discrimination against women includes gender-based violence, that is, violence that is directed against a woman because she is a woman or affects women disproportionately.”⁸ Gender based violence includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

The adoption of the Declaration on the Elimination of Violence Against Women (the Declaration), which was the result of recognition of the enormity of the problem of

⁸Convention on the Elimination of All Forms of Discrimination against Women, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, General Recommendation 19, Violence against Women (11th Sess., 1992), U.N. Doc. HRI\GEN\1\Rev.1 (1992), *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (last visited Feb. 1, 2006) [hereinafter CEDAW General Recommendation 19].



violence, marked another milestone in the struggle to combat gender violence or violence against women. The Declaration affirms that “violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms.” Therefore, state parties should not only “... condemn violence against women” but they “...should not invoke any custom, tradition or religious considerations to avoid their obligations with respect to its elimination.” The Declaration also enjoins states parties to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women whether those acts are perpetrated by the State or by private persons.

Another significant development was the appointment of U.N. Special Rapporteur on Violence Against Women, which also signals the growing global understanding that systemic domestic violence constitutes a violation of women’s human rights.

In adopting the Beijing Declaration and the Platform for Action on Women⁹ at the Fourth World Conference, governments expressed determination to prevent and eliminate all forms of violence against women and girls which was one of the “*critical areas of concern*”. The Platform for Action urged governments to, inter alia, “enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society”.

Among the several initiatives which Governments were asked to implement with regard to gender-based violence includes gender mainstreaming, actively encouraging, supporting and implementing measures and programmes aimed at increasing the knowledge and understanding of the causes, consequences and mechanisms of violence against women among those responsible for implementing policies aimed at combating gender based violence, such as law enforcement officers, police personnel

⁹United Nations Fourth World Conference on Women, Beijing, China, September 1995.



and judicial, medical and social workers. The UN system continues to give guidance on legislative measures to address violence against women.¹⁰

All these measures were followed in 2000 by the adoption of the United Nations Millennium Development Goals, where the elimination of violence against women was singled out as being integral to the achievement of gender equality.

Initiatives were also taken outside the UN system on gender violence, such as the Commonwealth Plan of Action on Gender and Development, the Nairobi Forward-looking Strategies for the Advancement of Women, where a set of measures to combat violence against women was recommended. The African Charter on Human and Peoples Rights equally recognize the rights of women to be free from violence.

To put the discussion under this section in context, it has to be noted that is a loyal member of the United Nations and for that matter, she fulfills her obligations under international law. As a signatory to the UN Declaration on the Elimination of all Forms of Violence against Women and which mandates state parties to condemn violence against women and to prevent the use of custom, tradition or religious consideration as pretext to perpetrate violence against women, Ghana has taken quite a number of important measures to eliminate violence against women. These include legislative, law enforcement, institution building and strengthening, (courts Police, CHRAJ) and civil society Initiatives.

The 1992 Constitution, being the fundamental law of the land, guarantees the enjoyment of fundamental human rights and freedoms to all persons in Ghana. Under the Constitution every person is entitled to his/her personal liberty and no person shall be deprived of this liberty except under conditions permitted by the Constitution. The dignity of all persons shall be inviolable. Furthermore, all persons shall be equal before

¹⁰Report of the Expert Group Meeting on “Good practices in legislation on violence against women” organized by United Nations Division for the Advancement of Women, United Nations Office on Drugs and Crime, United Nations office at Vienna, Austria, 26 to 28 May 2008.



the law and no one be discriminated against on grounds of gender, race, color, ethnic origin, religion, creed or social or economic status.

Though discrimination on the basis of gender is outlawed in Ghana under the 1992 Constitution, the CHRAJ, supported by Courts in Ghana, have had to intervene to make a definitive pronouncement on whether or not sexual harassment is discrimination and therefore constitutes a violation of the fundamental human rights and freedoms of the victim.

In the case of *Tetteh v. Norvor*, the complainant, who worked as a flight attendant, complained that her employer, the Managing Director and owner of Fan Airways Ltd, dismissed her because she had refused to acquiesce to his unwelcome sexual attention and demands. The Commission found, *inter alia*, that the conduct of the respondent constituted sexual harassment in the workplace, which amounted to discrimination based on sex.

In the other case of *Manso and Norvor*, the complainant filed a complaint with the Commission alleging that the respondent had sexually harassed her in the course of her employment with the respondent and caused her to terminate her employment with the airline. She alleges that the conduct of her employer constitutes discrimination on the basis of her sex, contrary to article 17(2) of the 1992 Constitution of Ghana.

On a preliminary objection that sexual harassment is not a form of discrimination, and therefore, does not constitute a violation of fundamental human rights and freedoms under the Constitution, the Commission held, *inter alia*, that: 1) sexual harassment constitutes a form of sex discrimination and is also an unwarranted impediment to the individual's right to work in an environment free from discrimination and that to the extent that it injures the dignity and self-esteem of the person, causes, humiliation, embarrassment and awkwardness, sexual harassment constitutes a violation of fundamental human rights of an individual to freedom from discrimination.



Criminal legislation in the country prohibits violence against women, especially female genital mutilation, cruel widowhood rites, defilement, rape, the practice of Trokosi¹¹, and torture. The punishment for some of these crimes has been enhanced considerably. The Children's Act prohibits forced marriages and betrothals, and grants children the right to refuse forced marriages and betrothals. Any person who has information about the abuse of children shall report the matter to the Social Welfare. Trafficking in persons is a crime.

Though the criminal law seems to have covered a lot of grounds in its scope of application, advocates argue that marital rape is still permitted under Ghanaian law, citing section 42(g) of the Criminal Offences Act 1960, Act 29. This section provides that *"a person may revoke any consent which he/she has given to the use of force against him, and his consent when so revoked shall have no effect for justifying force; save that the consent given by a husband or wife at marriage, for the purposes of marriage, cannot be revoked until the parties are divorced or separated by a judgment or decree of a competent Court"*. However, the Domestic Violence Act, 2007 (Act 732) appears to have filled the lacuna in section 4, which we shall discuss shortly.

Consistent with the recommendation¹² of the UN, Ghana passed the Domestic Violence Act, 2007 (Act 732), to provide a holistic and effective legal framework for addressing domestic violence in Ghana. The Act criminalizes various acts of violence—physical, sexual (within or outside of marriage, and between a wide variety of individuals in a domestic relationship including family and non-family members such as house-holds and people who do not physically live together, economic and psychological abuse, intimidation and harassment. It makes provision for protection orders, psychological and rehabilitative service for victims or perpetrators, as well as processes for promotions of reconciliation.

¹¹ Is a practice in which young girls are forced into slavery to atone for offences committed by family members.

¹² Article 1 of CEDAW and General Recommendations No. 12 (1989) and 19 (1992) of the Committee on the Elimination of Discrimination against Women



One of the biggest obstacles to dealing with violence against women in Ghana is poverty. Many women can hardly sustain themselves without the support of the man and the state is not prepared to take care of a woman in the absence of the man, who provides all the necessities of life to the family. Therefore, many women victims of violence prefer to endure the violence than to report the violence and lose a bread winner. To resolve this problem, the Act establishes a Support Fund, which is to be used to provide basic material support to victims of domestic violence, tracing the families of domestic violence, rehabilitating, reintegrating, and providing shelter for victims of domestic violence, among others.

As mentioned earlier, to deal with the concerns that marital rape is not a crime by virtue of Section 42(g) of the Criminal Offenses Act 1960 (Act 29), the Act provides that “the use of violence in the domestic setting is not justified on the basis of consent”¹³.

Institutional Measures have also been put in place. A Ministry for Women and Children’s Affairs has been established to deal with women and matters concerning children. Ghana also established a Domestic Violence and Victim Support Unit under the Ghana Police Service. It was created to respond to the increasing reports of gender violence in the country. The establishment of the Domestic Violence and Victim Support Unit (DOVVSU) represents a defining moment for policy towards domestic violence and a means of fulfilling Ghana’s obligations under international law. A National Plan of Action, established in accordance with the Beijing Conference, developed by Ghana in 1996 (UN, 2004) is being implemented.

On return to constitutional rule in 1993, a Commission on Human Rights and Administrative Justice (CHRAJ) was created to protect and promote fundamental human rights in Ghana. The CHRAJ is yet another institution that protects women and children from violence.

Therefore, Ghana seems to have in place an impressive legislative and institutional framework to deal with gender related violence.

¹³ Section 4



Through the use of alternative disputes resolution process, the CHRAJ is able to protect abused women and children. It has power to go to apply for maintenance and support for abused or neglected children. In the year 2009 alone, the CHRAJ received a total of 2,952 complaints of neglect of children (non-maintenance), 250 relating to child custody, forced marriages- 129, defilement- 16, incest- 3, and rape- 3. It also received a total of 1,907 complaints including assault and battery (162), and witchcraft accusation, spousal battery, 162, sexual harassment-57, discrimination based on sex, (10), and witchcraft -5, among others¹⁴

4. CONCLUSION

The feminists' theories have not only helped to shape international opinion on gender violence but they have also provided the impetus required by the international community to respond to the problem of violence against women. Theories on violence against women mean little, if they do not aid in ameliorating the suffering of those who experience it almost on daily basis. Right from the onset, the United Nations Bill of Rights guaranteed equal rights for all persons, men and women alike and that no one shall be deprived of these rights. The International instruments that followed the Bill of Rights strengthen that system and urge state parties to adopt all the necessary measures to eliminate violence against women.

Domestic violence is a growing and complex problem in Ghana and eliminating it requires a combination of strategies, namely legislative and institutional, combined with law enforcement and the application of stiffer sanctions, as well as safe protection for victims to ensure that it does not recur. With a required legislative and institutional framework to deal decisively with violence against women, what remains in Ghana is effective implementation of the laws, policies and strategies.

¹⁴ CHRAJ., 2009 Annual Report (draft)



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