

# RECONCEPTUALIZING HUMAN RIGHTS LANGUAGE: Gender and Violence

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I congratulate the François-Xavier Bagnoud Center for Health and Human Rights for organizing this Conference at the close of the series of United Nations (UN) World Conferences held during this decade. In all these UN meetings, the debates around issues of the environment, human rights, population, women's rights, and the habitat have reconceptualized the international human rights language, which has been questioned and expanded.

We gather here today to share ideas that are quite new and to express these ideas with a language that is being reshaped through the tensions, conflicts, and alliances that permeate the UN political arena.

Even though, still today, there is not agreement among experts in international law as to the exact meaning of human rights, there seems to exist a consensus that human rights are inherent to the human being. It is, however, important to remember that the conceptualization of human beings as subjects entitled to rights is historical and not necessarily applied in terms of biology. In terms of rights, some persons are seen as more human than others, as more legitimate citizens than others. Women have always been seen as less human, lesser citizens, from the time of Ancient Greece until today. Thus a social history of language, a social history of rights, a social history of health and violence exists. It is to this social history that I would like to speak.

International human rights language, which emerged with more strength and visibility after World War II, expressed mainly men's views, strategies, perceptions, and values. And the individual rights as conceptualized, for instance, did not encompass a gender dimension.

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In recent decades efforts have been made—and women have played a key role in making them—to redefine the concept of human being, detaching it from the abstract idea of mankind based on the adult male, which has been dominant in national and international law. Due to the political struggle of many actors, and mainly the work of civic organizations and social movements, this abstract idea of mankind is being replaced by a concept of humanity based on the diversity of individuals. Differences of sex, race, ethnicity, age, socioeconomic status and sexual orientation are being applied to define specific spheres of protection for the individual and to bring new dimensions, such as domestic violence, health, sexuality, and reproduction, to the human rights language.

Called by some authors the second and third generation of human rights, this new language, which tries to encompass a more diverse and egalitarian view of humanity, has been much discussed and, after extensive debates, partly affirmed in the UN Conferences at Rio, Vienna, Cairo, and Beijing.

Efforts have also been made to incorporate the principle of the indivisibility of human rights into national and international laws, treaties, and declarations. The Vienna Conference on Human Rights in 1993 contributed significantly, not only to the affirmation of the principle of indivisibility, but also to the commitment of national governments and international organs to its implementation.

The World Health Organization's recognition of health as a right illustrates how a concept can move beyond its original frame of reference. We are thus in a changing scenario, and the pairing of violence and health and human rights would have been considered awkward one or two decades ago. In many places, here or in other countries, it still looks awkward today. Despite advances, the human rights language is not necessarily known, approved, and incorporated into customs, attitudes, and laws, at both national and international levels. There is always a gap between international human rights language, government rhetoric, and concrete results. The size of this gap has to do with power and politics and results from the tensions, struggles, and alliances of many actors in national and international political arenas.

The definition of the various spheres of life entitled to human rights protection, their recognition by national governments, and the efficacy of the use of human rights as an instrument for protection from “negative rights” and entitlement to “positive rights”, thus varies from country to country and at different moments in the same country. Some dimensions of human rights, such as reproductive rights or protection from gender violence, can be seen as more contentious than others by a certain government at a given moment.

What I would like to emphasize is that the social perception that certain behaviors, attitudes, customs, and laws are violent or express social relations permeated by violence, is historical and determined by the power relations and values predominant in each society. Thus, ideas of order and disorder and of crime and punishment change in a given country and between countries because these ideas express social dynamics and not absolute truths.

In Brazil, for instance, crime and punishment have been defined basically in relation to the dominance of the white, middle- and upper-class male. It has been so because, throughout the centuries, this group has monopolized the resources, the prestige, and influence to determine what is order and disorder, deviant and legitimate, crime and punishment in Brazilian society.

To understand why, for so many years, gender violence was invisible in Brazilian society and why it is still so in many other countries, we should look at the ways society views women in all spheres of social, political, and economic life, and not only in relation to physical or sexual abuse.

The inclusion of certain issues in government rhetoric, in laws and norms, derives from the power structure of a society. This explains why, for so many centuries, violence against women did not have a social existence in many countries, why it was not until 1979 that a UN Convention more explicitly treated violence against women, why this issue was not addressed in a UN Human Rights Conference until the 1990s, and why it was 1994 before countries of the American hemisphere agreed upon a convention with a regional scope, the O.A.S. InterAmerican Convention to Prevent, Punish and Eradicate Violence Against Women, of Belem do Para.

In Brazil, for example, in the 1970s and 1980s, a new political culture emerged, deeply rooted in the demands of social movements, asking that the concept of democracy be enlarged to include as full citizens those who had been placed in zones of social apartheid. I propose that we analyze gender violence and human rights, taking the concept of citizenship as a starting point, to follow the fragmentation of this citizenship concept. This exercise would result in a map of those who are more or less citizens, more or less excluded in a given country at a given time. Just as geopolitical maps change as a result of wars, disputes, and alliances, this symbolic map of citizenship rights also changes. As a result of activism by civic society at large, women's movements, and governmental bodies, such as councils for women's rights, in particular, the new Brazilian Constitution, written following 21 years of a military régime, recognizes the role of the state in preventing domestic violence.

We should, therefore, also adopt a more optimistic view and see recent events as signs of important changes in the balance of power in national and international arenas. Changes that will enlarge the scope of the human rights concept, so as to include, as intrinsic parts, the dimensions of health and gender violence.

### **Suggested Readings**

J. Pitanguy, "From Mexico to Beijing: A New Paradigm," *Health and Human Rights*, 1 (4) 1995:454-460.

E. Friedlander (ed.), "Look at the World Through Women's Eyes," plenary speeches from the NGO Forum on Women, Beijing, 1995. Distributed by Women Inc., 1996.

J. Kerr (ed.), *Ours by Right: Women's Rights as Human Rights* (London and New Jersey: Zed Books, 1993).

N. Bobbio, "A Era dos Direitos," Campos (ed.), Rio de Janeiro.

N. Reilly (ed.), "Without Reservation: The Beijing Tribunal Accountability for Women's Human Rights," (New Jersey: Center for Women's Global Leadership at Rutgers University, The State University of New Jersey, 1996).