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VIOLENCE AGAINST WOMEN: AN OBSTACLE TO EQUALITY*

SHEILA DAUER**

Violence against women is the human rights scandal of our times. The underlying cause is discrimination, which denies women equality with men in all areas of life. In 1991, the United Nations (U.N.) committee that monitors the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) issued General Recommendation 19, which states that violence is a form of discrimination.¹ Violence obstructs women from enjoying their fundamental freedoms and human rights. When women are abused in custody, raped by armed combatants, treated as spoils of war, or terrorized by violence in their home, unequal power relations between women and men are manifested and, at the same time, reinforced because violence is one of the crucial social mechanisms by which women are forced into subordinate positions.

Violence against women is widespread. We all know this. One in three women in the world will be beaten, raped, or attacked during their lifetime.² Also this year, more than 15,000 women in China will be sold into sexual slavery, 200 women in Bangladesh will be horribly disfigured when their spurned husbands or suitors throw acid on them, and more than 7,000 women in India will be murdered by their

* Dr. Sheila Dauer was the keynote speaker at the University of Maryland School of Law Women, Leadership & Equality Program and International & Comparative Law Program conference entitled, *The Global Advancement of Women: Barriers and Best Practices*, held at the University of Maryland School of Law on April 6-7, 2006. These are her remarks.

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1. Convention on the Elimination of All Forms of Discrimination against Women, *General Recommendation No. 19*, ¶ 6, U.N. Doc. A/47/38 (Feb. 1, 1992). See also AMNESTY INT'L, IT'S IN OUR HANDS: STOP VIOLENCE AGAINST WOMEN 69 (2004), available at <http://web.amnesty.org/actforwomen/reports-index-eng> [hereinafter STOP VIOLENCE AGAINST WOMEN].

2. *Id.* at 3.

families and in-laws over disputes about dowry.³ In conflicts around the world, rape is used as a weapon of war. For example, in Bosnia and Rwanda rape was used not only to punish and humiliate individual women, but also to destroy the close ties of the community.⁴ In Darfur, Sudan, over 200,000 civilians have been killed, 2.5 million civilians have been displaced,⁵ and women and girls have been targeted for sexual assault.⁶ And, during these conflicts, women are abducted and forced to serve armed combatants as domestic and sexual slaves.

Violence is also hidden. In many places, women are too ashamed and too afraid to report it. These women know that the report may either not be taken seriously or that they will be threatened for speaking out.

And, of course, violence is not something that happens only in other countries. In the United States, a woman is raped every six minutes⁷ and battered by an intimate partner every fifteen seconds.⁸ In U.S. prisons, female inmates are raped and sexually coerced by corrections officials, and pregnant prisoners are shackled while they are in labor, in delivery and after child birth.⁹

3. See AMNESTY INT'L USA, VIOLENCE AGAINST WOMEN: A FACT SHEET 1 (n.d.), available at <http://www.amnestyusa.org/women/pdf/violence.pdf> [hereinafter VIOLENCE AGAINST WOMEN FACT SHEET]; AMNESTY INT'L, BROKEN BODIES, SHATTERED MINDS: TORTURE AND ILL-TREATMENT OF WOMEN 8, 11, 35 (2001), available at [http://web.amnesty.org/library/pdf/ACT400012001ENGLISH/\\$File/ACT4000101.pdf](http://web.amnesty.org/library/pdf/ACT400012001ENGLISH/$File/ACT4000101.pdf).

4. STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 50.

5. Alfred de Montesquiou, *U.N. Says Sudan Terrorizing Civilians*, ABC NEWS, Nov. 18, 2006, <http://abcnews.go.com/International/wireStory?id=2664411&CMP=OTC-RSSFeeds0312>.

6. See Amnesty International USA, Background: The Conflict in Darfur, http://nwsa.amnestyusa.org/site/c.aeJLI0OCiRH/b.2570649/k.95B9/Darfur_Background.htm (last visited Mar. 21, 2007).

7. U.N. DEPT OF PUB. INFO., *Women and Violence*, U.N. Doc. DPI/1772/HR (1996), available at <http://www.un.org/rights/dpi1772e.htm>.

8. See, e.g., Betty DeRamus, *Strong Will, Faith Break Sad Legacy of Domestic Violence*, DETROIT NEWS, Sept. 26, 2005, at 1B ("The FBI, for instance, reports that a woman is battered every 15 seconds in the United States."); Pam Russell, *We Must Call Domestic Violence by its Right Name*, MORNING CALL (Allentown, Pa.), June 20, 2005, at A7 (citing same FBI statistics); Jodi Reynosa, *Find a Way Out of Domestic Abuse*, STAR-GAZETTE (Elmira, NY), Oct. 7, 2003, at 8C (citing same FBI statistics).

9. See AMNESTY INT'L, "NOT PART OF MY SENTENCE": VIOLATIONS OF THE HUMAN RIGHTS OF WOMEN IN CUSTODY (1999), available at [http://web.amnesty.org/library/pdf/AMR510191999ENGLISH/\\$File/AMR5101999.pdf](http://web.amnesty.org/library/pdf/AMR510191999ENGLISH/$File/AMR5101999.pdf); VIOLENCE AGAINST WOMEN FACT SHEET, *supra* note 3, at 2.

Poverty also plays an important role here.¹⁰ Although women from all socioeconomic groups are at risk of physical, sexual, and psychological abuse, according to the World Health Organization, women living in poverty suffer disproportionately.¹¹ For example, in 2005 fifty percent of the cities surveyed by the U.S. Conference of Mayors cited domestic violence as a primary cause of homelessness.¹² In the United States, significant barriers to obtaining housing forces survivors of domestic violence to choose between homelessness and further violence against themselves and their children.

So why, despite all we know about violence, does it continue to be so pervasive and so widespread? It continues because laws, policies and practices discriminate against women, denying them political, economic and social equality. In 2004, in some countries, legislation may actually condone violence directly.¹³ For example, laws may cover some forms of violence but exclude others from the definition, like marital rape. In some legal systems, the state will recognize a defense of honor, passion or provocation only on behalf of a husband in cases of alleged adultery. In others, sons, fathers, uncles, and so on may also be immune from punishment for engaging in violence and ill-treatment of women and girls. Sometimes, the detailed provisions of a law undermine its stated purpose. In Egypt, for example, there is a law prohibiting female genital cutting, but it refers only to operations performed outside hospitals by people without a medical qualification.¹⁴ In some countries, even if legislation does not condone

10. See, e.g., STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 39-48; AMNESTY INT'L USA, ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ESCR) AND WOMEN: A FACT SHEET 1 (n.d.), available at <http://www.amnestyusa.org/women/pdf/economicrights.pdf>; U.S. DEP'T OF JUSTICE, VIOLENCE AGAINST WOMEN: ESTIMATES FROM THE REDESIGNED SURVEY 1 (1995), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/femvied.pdf> ("Women . . . in families with incomes below \$10,000 were more likely than other women to be victims of violence by an intimate.").

11. WORLD HEALTH ORG., WORLD REPORT ON VIOLENCE AND HEALTH: SUMMARY 15 (2002), available at http://www.who.int/violence_injury_prevention/violence/world_report/en/summary_en.pdf.

12. U.S. CONFERENCE OF MAYORS – SODEXHO, INC., A STATUS REPORT ON HUNGER AND HOMELESSNESS IN AMERICA'S CITIES 5 (2005), available at <http://www.usmayors.org/uscm/hungersurvey/2005/HH2005FINAL.pdf>.

13. STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 30.

14. *Id.* at 88. See also Annual Review of Population Law, Female Genital Mutilation Laws, Egypt, <http://annualreview.law.harvard.edu/population/fgm/Egypt.fgm.htm> (reproducing text of Order No. 261 of 8 July 1996 of the Minister of Health and Population and citing U.S. DEP'T OF STATE, FEMALE GENITAL MUTILATION (FGM) IN EGYPT 3 (1997)) (last visited Mar. 21, 2007).

violence directly, the laws treat women differently from men and confer fewer or lesser rights on women.¹⁵

Violence continues because governments implicitly condone it by ignoring acts of violence in the family and community, thus allowing impunity to be the norm. In Kenya, women are often laughed out of the police station when they try to report domestic violence to police.¹⁶ In Russia, the court system still requires that women first try reconciling with their abusive partners. In Jordan, a man may receive a reduced prison sentence of six months to one year for killing his sister if he proves that he did it in the name of honor.¹⁷ In Juarez and Chihuahua, Mexico, over 400 young women have disappeared and later been found dead, many of them raped and sexually mutilated, but the government is doing very little to investigate, prosecute, or punish the perpetrators.¹⁸

This type of violence continues because in many societies gender roles reinforce male power in general and more specifically male power over women's bodies and lives. In Africa and the Middle East, millions of women undergo genital cutting in the name of chastity or purity.¹⁹ In many countries, the Sharia defined crime of Zina — sex outside marriage²⁰ — is not only upheld at the local level, but also has become part of a national penal code.²¹

In Afghanistan, even after the end of the Taliban regime, women's prisons are filled with women accused of Zina, women who have run away from abusive husbands, and women who wanted to marry a man of their choice.²² Amnesty International received a report about a sixteen-year-old girl who was abducted from her home, forced into marriage, abused and raped, and then when she tried to run away was caught by the police and sent to prison for deserting her husband.²³ If released, she could be killed by her husband or her family, again, for going against the family's honor. Although, President Karzai granted immunity in 2003 to twenty women who

15. *Id.* at 87-88.

16. *Id.* at 30, 90-91.

17. *Id.* at 7.

18. See AMNESTY INT'L, INTOLERABLE KILLINGS: 10 YEARS OF ABDUCTIONS AND MURDERS OF WOMEN IN CIUDAD JUÁREZ AND CHIHUAHUA (2003), available at [http://web.amnesty.org/library/pdf/AMR410262003ENGLISH/\\$File/AMR4102603.pdf](http://web.amnesty.org/library/pdf/AMR410262003ENGLISH/$File/AMR4102603.pdf).

19. STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 30.

20. See Wikipedia, *Zina (Arabic)*, http://en.wikipedia.org/wiki/Zina_%28Arabic%29 (as of Mar. 16 2007, 06:27 GMT).

21. STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 88, 94.

22. *Id.* at 88-89.

23. *Id.* at 19.

were all consequently released from prison,²⁴ one of those women was killed and a number of them disappeared.

Violence continues because the perpetrators of violence often act with impunity gained from the fact that they are rarely held accountable for these acts. Women who are victims of gender-based violence often have little recourse because many state agencies are themselves guilty of gender bias and discriminatory practices. Therefore, many women opt not to report cases of violence to authorities because they feel they will be ostracized or shamed by their communities.

The repercussions of violence against women can be felt throughout society. Actual or threatened violence creates an atmosphere of fear that limits the lives of women. It restricts their freedom of movement and ability to participate in public decision making, and it negatively affects their standard of living. Violence against women impoverishes society economically, politically, and socially by limiting the active role that women can take in the development of their community.

So, what does a human rights perspective contribute to the solution? One of the achievements of the women's rights activist movement has been to apply a gender lens to the human rights regime. In 1993, at the second World Conference on Human Rights in Vienna, Austria, Amnesty International was privileged to be able to join with the women's rights movement when their campaign actually achieved the Declaration on the Elimination of Violence Against Women (DEVAW) from the U.N. The DEVAW states that violence against women is a human rights violation.²⁵ The human rights perspective changes the perception of violence from an abuse in the privacy of the home to one of public concern and public responsibility. This means that public authorities are required to allocate resources and to take action. The human rights perspective obliges governments to respect, protect and fulfill women's human rights on an equal basis with those of men. Human rights treaties and declarations state that governments themselves must not perpetrate the violence and that they have an obligation to prevent, protect against and punish violence against women, regardless of whether the perpetrator is a state employee or a

24. *Afghan Women Prisoners Released*, BBC NEWS, Nov. 10, 2002, at http://news.bbc.co.uk/1/hi/world/south_asia/2436163.stm.

25. Declaration on the Elimination of Violence Against Women, G.A. Res. 104, U.N. GAOR, 48th Sess., Supp. No. 49, U.N. Doc. A/48/49 (1993), available at <http://www.ohchr.org/english/law/eliminationvaw.html/>.

private actor. These are not empty words — rather, governments have a responsibility to apply due diligence to this task.

Another achievement of human rights activism has been to campaign for and finally achieve official U.N. recognition that economic, social and cultural rights are indivisible from civil and political rights, and that all of these are interdependent. For example, now one finds official recognition at the intersection between HIV/AIDS, violence against women, marginalization and poverty.²⁶ Poverty is both a predictor for HIV infection and a growing outcome of the epidemic.²⁷ Violence, or the fear of it, inhibits a woman's capacity to negotiate safe sexual practices, especially within marriage. Numerous reports suggest that women living in poverty, particularly single mothers or AIDS orphans who are now caring for their siblings, increasingly come under pressure to seek income through transactional sex, thereby increasing their vulnerability to HIV infection.²⁸

In the face of these facts, we all want to take action. As a world-wide organization with over 1.8 million members,²⁹ Amnesty International can mount actions to call for respect for all women's rights and we can demand protection from human rights defenders. For instance, using the human rights approach, Amnesty International has called on and continues to call on the world's wealthiest governments to meet their human rights obligations by: ensuring that contributions to the global fund to fight AIDS, tuberculosis, and malaria match the huge and growing need; including funding for HIV/AIDS projects in bilateral aid programs; alleviating the debt burden for impoverished countries; and interpreting and enforcing trade agreements relating to pharmaceutical patents in a manner that contributes to women's realization of their right to health. In short, Amnesty International can help all of us — working in our different ways — to meet the global challenge of making human rights applicable and implemented globally.

Framing violence as a human rights issue also creates a common language for the work of anti-violence activists around the world. It encourages the universal application of these principles by facilitating dialogues at the global, regional, national, and local levels. This is aimed at making human rights applicable in local contexts

26. STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 41.

27. *Id.* at 41-47.

28. *Id.* at 42.

29. About Amnesty International, <http://web.amnesty.org/pages/aboutai-index-eng> (last visited Mar. 4, 2007).

around the world. As Charlotte Bunch, a leader in the women's human rights movement noted, "[o]ne of the challenges of human rights in the Twenty-first Century is finding ways to defend the universality of the human right of every person while also respecting the rich multicultural diversity that exists among us."³⁰

Over the past twenty-five years, women around the world have discussed strategies for making human rights concepts more relevant locally. Human rights language provides principles. These principles can frame visions of respect for women's human rights, but they do not dictate the exact content of the visions — that is up to the women locally to realize. Women have used the human rights framework to strengthen their own local mobilization for action and, at the same time, to link to a larger international human rights movement. For example, Amnesty International in Turkey joined Turkish women's rights organizations for a campaign to obtain passage of a law criminalizing both domestic violence and honor crimes. That was in 2005. Not only was that law passed, but it included a section that for the first time required municipalities of over 50,000 people to build shelters for women fleeing violence.³¹ Until that time, there were maybe five or six in the entire country.

In Pakistan in 2002, Mukhtaran Bibi, a thirty-year-old, illiterate villager, was gang raped as fulfillment of a sentence handed down by a village counsel, also known as a panchayat.³² Now, women cannot sit on a panchayat or a jirga nor can they give evidence, even in cases when their own death might be the sentence. The panchayat and the jirga, from that point of view, violate a woman's human right to be considered equal before the law. Mukhtaran Bibi's brother had been accused of having sex outside of marriage with a woman of a higher status tribe. In order to restore the honor of this higher status tribe, the village counsel sentenced his sister, Mukhtaran Bibi, to be gang raped. In this society, the shame of rape would have caused women like her to commit suicide. Instead, she courageously brought a criminal case to the police. At the same time, the village Imam was so outraged at this rape, which he considered to be entirely un-Islamic, that he rallied

30. Charlotte Bunch, *Toward 2001: Human Rights Depend on Women's Rights*, RAISING OUR VOICES, (Newsletter of the Global Fund for Women), Feb. 2000, available at <http://www.globalfundforwomen.org/publications/newsletter/2000-02/>.

31. See Amnesty International, Act Now, Turkey: Shelters Need Government Support, <http://web.amnesty.org/actforwomen/tur-251106-shelteraction-eng> (last visited Mar. 4, 2007).

32. STOP VIOLENCE AGAINST WOMEN, *supra* note 1, at 96.

against it in a Friday sermon. This was picked up by the news media.³³ It also brought the well-developed Pakistan women's human rights movements to Mukhtaran Bibi's aid, which was able to pursue the case. Mukhtaran Bibi has since become a human rights activist. She was awarded some compensation from the Pakistan government as a result of the case. Then, New York Times journalist Nicholas Kristoff wrote about her in a number of Op-Ed pieces,³⁴ and, as a result, Mukhtaran Bibi received enough contributions to start two new schools in her village, one for boys and one for girls. Both schools teach literacy and human rights education.³⁵ Mukhtaran Bibi is now reading at a fifth grade level, studying in the very school she founded, and planning to open a shelter for women fleeing from violence.

During Mukhtaran Bibi's struggle, Amnesty International monitored developments in the case, and we co-sponsored her speaking tour to the United States. At the same time, we received reports that in the Pakistan province of Sindh, officials were trying to legalize the panchayat and the jirga despite the fact that in 2004 the Sindh high court had held that these counsels should be banned from exercising criminal justice functions. Amnesty International members around the world have approached Pakistan government officials, visited Pakistan embassies and asked that the Sindh bill not become law. By publicizing the indigenous support from Mukhtaran Bibi's case and bringing international support to bear, Amnesty International has thus far helped an existing domestic drive to prevent the jirga system from becoming a part of the Sindh province's criminal justice code.

Accordingly, ending violence requires the activism and advocacy of all of us: the legal community, concerned members of the public and women's rights and human rights movements. For our part, in March 2004, Amnesty International launched the human rights campaign "Stop Violence Against Women."³⁶ Our members worldwide have joined with women's organizations to call on leaders to end discriminatory laws. We are insisting that governments adopt and effectively apply laws to protect women. We are insisting that rape,

33. See, e.g., Gloria Steinem, *Mukhtaran Bibi*, TIME, Apr. 30, 2006, available at <http://www.time.com/time/magazine/article/0,9171,1187392,00.html>.

34. Nicholas D. Kristof, *A Heroine Walking in the Shadow of Death*, N.Y. TIMES, Apr. 4, 2006, at A23; Nicholas D. Kristof, *Mother of a Nation*, N.Y. TIMES, Apr. 2, 2006, at 12; Nicholas D. Kristof, *The Rosa Parks for the 21st Century*, N.Y. TIMES, Nov. 8, 2005, at A27.

35. See Steinem, *supra* note 33.

36. Amnesty International, Campaigns, Stop Violence Against Women, <http://web.amnesty.org/actforwomen/index-eng> (last visited Mar. 21, 2007).

domestic violence and other forms of violence against women be criminalized and that authorities bring the perpetrators to justice. Here in the United States, Amnesty USA joined the national task force³⁷ for the reauthorization of the Violence Against Women Act (VAWA).³⁸ We were able to deliver over 92,000 signatures to Congress and help get VAWA 2005 passed.³⁹ Together, we all must ensure that VAWA is fully funded, including important new titles having to do with housing, economic security and Native American and Alaska Native women. The appropriations process begins in January 2007.

Amnesty International USA has also approached U.S. authorities with our concerns about the policy to spread the "Abstinence Only Until Marriage" program as the only way to fight AIDS.⁴⁰ This deprives literally millions of women and girls abroad of their human right to receive full and accurate science-based information about health.

In the future, Amnesty International USA will look at the relationship between the lack of adequate housing in the United States and women's inability to leave violent situations. And, we will look at the right to housing as a human right.

Violence may be global, but it is not inevitable and it should never be acceptable. Everyone at all levels and in all countries needs to speak out against it. Challenge biased attitudes, challenge the laws and practices and call on governments and leaders in both secular and religious institutions to announce zero tolerance for violence against women. Working together, I know that we can bring about a world where everyone, including women, lives in dignity, free of violence, with the ability to enjoy their human rights and fully contribute to society.

37. See National Task Force to End Sexual and Domestic Violence Against Women, Violence Against Women Act Reauthorization, <http://www.vawa2005.org/> (last visited Mar. 30, 2007).

38. VAWA was first enacted as part of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (codified in scattered sections of 42 U.S.C. and 8 U.S.C.). It was then largely reauthorized in the Violence Against Women Act of 2000, Pub. L. No. 106-386, 114 Stat. 1491 (codified as amended in scattered sections of 42 U.S.C.).

39. See Press Release, Amnesty International USA, Congressional Reauthorization of Violence Against Women Act (Dec. 17, 2005), available at <http://www.amnestyusa.org/news/document.do?id=ENGUSA20051217001>.

40. See Press Release, Amnesty International USA, U.S. Efforts to Combat AIDS Epidemic in Caribbean Hindered by Funding Restrictions, Says Amnesty International (July 11, 2006), available at <http://www.amnestyusa.org/escr/document.do?id=ENGUSA20060711002>.

