

## Reconceptualizing Peace and Violence against Women: A Work in Progress

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**I**n its traditional definition, peace is seen as absence of war or of conflicts between or within states. This negative definition, where peace becomes synonymous with nonwar, deprived of a positive meaning of its own, does not account for the complexity of such a concept, nor does a utopian conceptualization that understands peace as a world in total harmony without any conflict.

Peace is a process, and its definition is a work in progress, one in which feminists have been engaged in bringing new dimensions to the concept of violence and demanding new instruments with which to regulate conflicts, defend victims, and punish aggressors. Feminists have struggled to regulate the war that takes place within the walls of the home, locating war and peace on the microsocial level, just as pacifists have struggled to regulate wars between states and establish limits to the indiscriminate use of violence through conventions, treaties, and international tribunals.

Violence and conflict are not the same. Conflicts are inevitable and have been experienced by states, groups, communities, families, and individuals throughout the history of humanity. Violence, as a way to solve conflicts, should be contained, regulated, punished, and avoided. Peace can mean negotiating instead of confronting, using diplomacy instead of militarism, using mediation, and rejecting the use of force to prevent or resolve conflicts.

However, certain conditions are required in order to effectively solve a conflict by negotiation on an equal basis with respect for the other, be that other a nation, an ethnic or religious group, or a husband or partner. Among these conditions, the imbalance of power, from the interpersonal to the global, stands as a major obstacle to peace.

Feminists have redefined peace by including the crucial dimension of gender relations in its realm, pointing out that domestic and sexual violence are obstacles to peace and that the imbalance of power that char-

I dedicate this article to Maria da Penha, to her courage and dignity in struggling against the culture of impunity around violence against women.

acterizes gender relations is a major obstacle to mediating conflicts without the use of violence against the most vulnerable. A prerequisite for peace, necessary to solve conflicts without violence and thus to reinforce peace, is a recognition by national governments and by the international arena that women are equal citizens and that national laws and international conventions should protect them from violence in its multiple manifestations.

The struggle against violence against women is not limited to physical, sexual, and psychological aggressions expressed in individual or collective gestures, attitudes, and behaviors; it is also a struggle to change the contexts (legal, cultural, economic, political) that shape how men and women experience their lives and that shape individual and social attitudes, collective practices, and symbolic representations of gender.<sup>1</sup> The task is enormous, and even if progress has been made, violence against women is pervasive, takes many different forms, and is still present worldwide—with different intensity and reach, but always present.

Gender violence, seen as detached from the concept of peace, still has widespread social acceptance and is legitimated by laws, customs, culture, and religious beliefs that place women in a second-class category. Its public visibility is the result of a political struggle led mainly by women's movements in their national arenas and in international coalitions. In this article I will focus mainly on the contribution of Brazilian feminists to the redefinition of peace in their struggle against gender violence in Brazil.

### **The Brazilian experience**

The structural characteristics of a society—its cultural patterns; its political and economic junctures; and the dynamics among actors such as governments, nongovernmental organizations (NGOs), religious authorities, universities, the private sector, the media, and other players in the political arena—have an effect on the definition of violence in a given time and place. Thus, the ideas of order and disorder, crime and punishment, are not absolute truths but rather dynamic concepts that can change over time. There is also frequently a distance between what is perceived as violence, what is regarded as a crime, and what is punished as such. The distance between those perceptions is shortened through political action and political will. Shortening this distance is a major condition for peace.

For many centuries in Brazil, violence against women did not exist as a social and political issue. This was so because women were a second-

<sup>1</sup> For a comparative analysis of violence against women in eight countries and the role of culture, see Pitanguy (2007).

class category in many spheres of life, including the family, the labor market, the educational system, and the political sphere. Laws, policies, customs, and values expressed this exclusion or fragmentation of women's rights. A classic example of the nonrecognition of domestic violence as a crime is the fact that in the colonial period of our history, we were ruled by laws that did not punish men who murdered their wives in situations of adultery. The worst form of violence, taking the life of a human being, was socially accepted as a legitimate act.<sup>2</sup> Although this kind of legislation was overruled with independence, it left a cultural heritage evident in defense lawyers' use of the argument that killing is a legitimate defense of honor in order to free, or ask for minimum penalties for, men who murdered their wives or lovers.<sup>3</sup>

One of the first platforms of the feminist movement, which became an organized movement in Brazil in the mid-1970s, was to denounce this argument and to point out that juries' acceptance of it meant that the victim suffered a second homicide at the hands of the judicial system. This was a major struggle since for centuries cultural values and societal arrangements have treated violence against women as an invisible or secondary issue. This social perception depends ultimately on the gender power relations that legitimate (or do not legitimate) the resolution of conflicts between men and women with the use of violence.

The secondary position of Brazilian women within society at large and in civil codes, particularly family law, has denied women the full entitlement to the right to life and to the state's recognition of domestic violence as a crime. The denial of women's full citizenship rights in legal codes is in itself an act of violence and violates the basic prerequisite for peace, the power balance between those in conflict.

The public policies in place in a given society are directly related to the balance of power. They are an instrument to concentrate or to distribute power among different groups and interests. As the imbalance of power between those involved in a conflict is a major obstacle to peace, public policies that protect the most vulnerable contribute to a more equitable and peaceful society.

Understanding the crucial role of the state in providing instruments to reduce gender inequalities, Brazilian feminists have been addressing the state since the 1970s, asking for laws, institutional spaces, and policies

<sup>2</sup> From the sixteenth to the nineteenth centuries the Filipino Code ruled the colony and considered adultery a major crime to be punished only when committed by the woman.

<sup>3</sup> In 1991 the Superior Tribunal of Justice rejected this argument on the grounds that the honor of a man lies within himself, not his wife, who is not his property.

that would recognize and enhance women's human rights. In the 1980s, the creation of women's police stations (*delegacias das mulheres*) to respond to women victims of domestic violence—usually not seen as a crime by police officers—was one of the first victories of the feminist movement in bringing limits to the violence inside the home, a lawless and uncontrolled territory until then. Also in the 1980s, state machineries to advance the situation of women were created.<sup>4</sup>

At the normative level, a crucial advancement for the enlargement of the concept of peace was the 1988 Constitution's recognition of equal rights for men and women in the family, as well as the state responsibility to prevent violence within the family and to respond to it.<sup>5</sup> This constitutional provision establishes the state's responsibility in cases of domestic violence and represents a paradigmatic shift in the concept of human rights, traditionally circumscribed to the relations between the individual and the state, bringing the relations between private individuals into its realm.<sup>6</sup> Five years after this constitution was ratified, in 1993, the UN International Human Rights Conference also recognized that domestic violence was a human rights violation.

The UN conferences that took place during the 1990s are a landmark in terms of advancing women's rights and reducing gender inequality worldwide. These international gatherings, where Brazilian feminists have participated in transnational coalitions, have played a key role, contributing to a new concept of violence against women, one that incorporates the universality, the indivisibility, and the inalienability of human rights. In this new century the Durban Conference brought to the table the issues of diversity, stigma, and xenophobia, calling attention to the fact that violence against women intersects with variables such as race, ethnicity, sexual orientation, social class, and other hierarchical status classifications that increase the vulnerability to violence and bring barriers to the achievement of justice and access to services—and to peace.

A major victory of feminists from the Americas was the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, also known as the Belem do Para Convention. This convention adopted the broad UN definition of violence against

<sup>4</sup> The creation of the National Council for Women's Rights in 1985 was key to the advocacy work to assure women's rights in the new constitution, written after the redemocratization of the country.

<sup>5</sup> Paragraph 6, article 228, of the Federal Constitution of Brazil.

<sup>6</sup> The Center for Women's Global Leadership of Rutgers University played a key role in coordinating an international women's movement seeking this recognition.

women and set up the obligation on the part of signatory nations to prevent and respond to it.

However, progress was not linear; in spite of the advancements, a major backlash against the preconditions for peace took place in 1995 when new federal legislation (law 9099/95) with the aim of solving so-called minor conflicts in special courts, thereby speeding up the judicial process, was enacted. While the law was positive in its goal, aggressions that took place in domestic conflicts and that did not result in homicide or “serious” injuries were placed within its purview. Since the definition of serious injuries is subjective and tends to be deformed by the degree to which a society accepts violence against women, in situations of domestic violence the procedures of these special courts were all in favor of the aggressor: they sought reconciliation between the parties, putting the victim face-to-face with the perpetrator, and if the victim had enough courage to pursue the process, the sentences of these courts were a passport to impunity since the aggressor was usually condemned to do social work in the community or to pay a basket of food to a school or an orphanage.

These sentences encouraged aggressors to pursue violent behavior, increasing the vulnerability of the victims. Many times, women who took their cases to these courts were eventually murdered. Feminists argued strongly against the use of this law in cases of domestic violence, seemingly a major step backward in their pursuit of the prevention or control of violence against women.

A group of NGOs, including Cidadania Estudo Pesquisa Informação Ação (CEPIA; Citizenship Studies, Information, Action) decided to work together to change this situation, proposing new legislation on violence against women that would guarantee the protection of the victim and the punishment of the aggressor. This coalition of NGOs, with the advice of jurists specializing in penal process and constitutional law, and with the political support of the Federal Bureau for Public Policies for Women, drafted a law project that was approved by the Congress in 2006 and sanctioned by the president.

This legislation, known as the Maria da Penha Law (law 11340/06), represents a major advancement in terms of creating conditions for peace.<sup>7</sup> It combines civil and penal law and understands that violence against

<sup>7</sup> The law is named for Maria da Penha, a woman who suffered a homicide attempt by her husband, becoming paraplegic as a consequence, and who, in spite of her struggle to have him condemned, saw the process last for years. Feminists took the case to the Inter-American Court of Human Rights, which condemned the Brazilian government for negligence in 2001. Finally, her husband went on trial and was condemned.

women encompasses physical, psychological, sexual, and patrimonial violence.<sup>8</sup> As violence against women usually recurs, the law allows protection of the victim from the moment that she denounces the abuses in a police station until the end of the judicial process.

### Conclusion

Brazilian feminists have advanced in creating more equality between men and women in the family, in the labor force, in the political sphere, and in bringing a criminal definition to bear on violence against women. The concepts of human security and vulnerability have been extended. These are important steps toward more equitable gender relations, a crucial condition for peace.

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### Reference

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<sup>8</sup> Patrimonial violence refers to any act or attitude that would financially or economically harm the victim, such as not allowing her to work, not letting her have access to her money or property, or destroying or hiding important documents.

## Crossing the Border: Racism and Sexism in a Conflicted Country

**Emiliana Bernard Stephenson**

**W**orldwide, the struggle of human rights defenders, governments, and civil society to achieve democracy in third world countries has opened a window for minorities to be more active and visible and to move toward the inclusion of all actors within society. As in other developing nations, Latin American democracies are unstable and have frequently suffered the impacts of silent and external phenomena. Rights have been