

SHELTERS AND THEIR PURSUIT OF HUMAN RIGHTS

Presentation by Dwamena-Aboagye, Angela¹ (Ghana), at the World Conference of Women's Shelters, Edmonton, Alberta Canada. 11th September, 2008

Real Cases

- A police officer in one of the rural regions of Ghana narrated this to a researcher: "This case haunts me. This woman (he pulls out her picture from a police docket) reported 23 times to this station that she was being repeatedly battered and sexually assaulted by her husband. On each occasion that she reported, we wrote on the docket 'frivolous', or 'referred to family head for settlement'. Soon after the 23rd report of battery, her husband killed her – actually hacked her into pieces in the market square with a machete. We did nothing to help her."
- 37 year old Victoria faced severe physical and verbal abuse from her husband George of eight years, with whom she had one child. She and her child were referred to our Shelter by the Police after a particularly severe incidence of assault during which her husband attempted to strangle her. At the shelter, Victoria was counseled, provided medical treatment and other services. George was arrested and given bail but escaped while on bail and is still in hiding. Victoria stayed for almost one year and was finally resettled in a community of her choice where she is working as a receptionist in an academic institution. She is not sure when George would re-surface.

What are the national and international human rights frameworks?

Human rights are these rights that every human being possesses and is entitled to enjoy simply by virtue of being human. Human rights are based on the fundamental principle that all persons possess inherent human dignity and that regardless of sex, race, colour, language, national origin, age, class or religion or political beliefs. They are all equally entitled to enjoy their rights.

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The international human rights frameworks developed within the UN and related bodies from which Shelters take their inspiration and mandate to work are reasonably known to many women and human rights advocates, counselors, shelter workers, etc. These include:

- Universal Declaration on Human Rights²
- International Covenant on Civil and Political Rights³
- International Covenant on Economic, Social and Cultural Rights⁴
- Convention on the Elimination of All forms of Discrimination Against Women⁵
- Convention Against Torture⁶
- Convention on the Rights of the Child⁷

Other relevant human rights instruments with morally binding provisions on state parties of the UN include:

- UN CEDAW Recommendation 19⁸
- Declaration on the Elimination of Violence Against Women (DEVAW)⁹
- The Beijing Declaration and Platform for Action¹⁰
- United Nation's Convention Against Trans-National Organized Crime.¹¹
- The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nation's Convention Against Trans- National Organized Crime.

Important regional instruments have also been developed. In Africa, these include:

² Adopted and proclaimed by the General Assembly of the United Nations on 10th December 1948

³ Adopted by General Assembly of the United Nations in 1966; entered into force on 23rd March 1976

⁴ Adopted by General Assembly of the United Nations in 1966; entered into force 3rd January 1976

⁵ Adopted by General Assembly of the United Nations in 1979; entered into force on 3rd September, 1981

⁶ Adopted by General Assembly of the United Nations in 1984; entered into force on 26th June 1987

⁷ Adopted by General Assembly of the United Nations in 1989; entered into force on 2nd September 1990

⁸ UN CEDAW Committee, 11th Session, 1992

⁹ Adopted by General Assembly of the United Nations on 20th December, 1993

¹⁰ Fourth UN World Conference on Women, Beijing China on Action for Equality, Development and Peace, September 1995

¹¹ Adopted by General Assembly of the United Nations in 2000; entered into force 29th December 2003

- The African Charter on Human and Peoples' Rights¹²
- The Protocol on the African Charter on Human and Peoples' Rights on the Rights of Women in Africa¹³

These near universally accepted instruments that are supposed to be applied to all human beings underscore the non-negotiable fact that women and girls who form the majority of victims and survivors of sexual and gender-based violence are human beings, and as such are also entitled to the full range of human rights.

The human rights instruments taken together call upon State Parties first, and other actors such as the international community, private and corporate bodies, civil society institutions, etc., to ensure the rights of all persons, including women and girls. These rights and freedoms include:

- Rights to life, dignity, liberty, security;
- Freedom from torture, violence, discrimination, and abuse, irrespective of gender/sex, race, disability and other classifications.
- States are also to protect rights to a decent life, health, social security, and work, among others.

International human rights recommendations and declarations such as UN CEDAW General Recommendation 19, the DEVAW and the Beijing Platform for Action make clear provisions for States specifically with respect to violence against women, defining violence, outlining impacts and creating obligations on States to act to prevent and protect from violence.

The official definition of violence against women comes from the Declaration on the Elimination of Violence against Women (DEVAW). It states:

- ◆ The term violence against women means any act of gender-based violence that results in or is likely to result in physical, sexual or psychological **harm or suffering** to women,

¹² Adopted by the Organization of African Unity in 1981; entered into force on October 21, 1986

¹³ Adopted by the 2nd Ordinary Session of the Assembly of the African Union in Maputo, 11th July, 2003

including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or private life.

Other details in the Declaration stipulate that violence encompasses but is not limited to:

- ◆ Physical, sexual, psychological violence occurring in the family, including battering, sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.
- ◆ Physical, sexual and psychological violence occurring within the community, including rape, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.
- ◆ Physical, sexual and psychological violence perpetrated or condoned by the state wherever it occurs.

The 1995 Beijing Declaration and Platform for Action states clearly that “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.”

After defining violence against women and its debilitating impacts, succinct provisions are made these human rights instruments on how to effectively deal holistically with the issue.

In 1992 the UN CEDAW Committee adopted a General Recommendation (Recommendation 19). The Committee noted that states are obliged under CEDAW to take steps to provide the following:

(a) **Effective legal measures**, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including *inter alia* violence and abuse in the family, sexual assault and sexual harassment in the workplace;

(b) **Preventive measures**, including public information and education programmes to change attitudes concerning the roles and status of men and women;

(c) **Protective measures**, including refuges, counseling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence.

Under the Specific Objectives of the Beijing Platform for Action, specific claims are made on States to take several actions, to:

- a. Formulate and implement, at all appropriate levels, plans of action to eliminate violence against women;
- b. Allocate adequate resources within the government budget and mobilize community resources for activities related to the elimination of violence against women, including resources for the implementation of plans of action at all appropriate levels;

Thus taken together, international women's human rights law makes the State responsible for condoning or tolerating acts of violence against women through active participation in such acts or through inaction against violations.

Most countries of the UN have ratified or acceded to these instruments, and are legally and morally obliged to actualize their provisions within the national arena. The extent to which this is done is the subject for another conversation; suffice to say that many countries also have national constitutions and laws that speak to protection of human rights of their citizens, guaranteeing equality before the law, non-discrimination, freedom from violence and many other rights provisions.

Relating all this information to the real cases recounted above in this paper, women's human rights advocates, shelter workers and persons who work in the field of sexual and gender-based violence whether occurring in the domestic or public sphere, are aware that such violence:

- arbitrarily puts a woman's right to life at risk
- denies women the right to liberty and security of person
- abrogates women's right to be free from torture and cruel, inhuman, degrading treatment
- deprives women of their right to dignity and victimizes them
- inhibits women from exercising their right to enjoy the best attainable State of physical and mental health
- prevents a woman from realizing her right to equality in the family
- denies women the right to effective remedies

Shelters and Human rights

Shelters are set up by State, private or civil society institutions or groups to provide a range of services in response to different categories of persons. For our purposes, we will examine what shelters do for women who face abuse or violence.

The Shelters movement across Europe and North America find very strong roots in the women's movement and its response to violations against women. In a sense, shelters were set up to address issues that have direct implications for human rights protection, particularly of women and (their) children. Most shelters offer temporary accommodation, counseling and therapy, medical care, child care, legal aid; referrals to police and other social services such as education and skills training, as well as economic empowerment for victims/survivors of domestic or other violence.

Some shelters restrict themselves to specific areas of specialization, such as sexual assault, trafficking, immigrant issues or domestic violence. Many others, such as The Ark Foundation's Shelter for Abused Women and Children in Ghana cover a broad range of areas. This shelter is the first in Ghana, set up in 1999. It offers services to women and child survivors of sexual and gender-based violence, including domestic abuse, and those fleeing from harmful traditional practices such as forced marriages for girls and cruel widowhood and inheritance practices, among others.

Like most shelters for women, it works from a 'women-centered'¹⁴ approach, emphasizing the agency of the woman survivor and collaboratively working with her to enhance her safety, self awareness, well-being and empowerment. Shelter workers conduct risk assessments with their clients, supporting them with strategies to ensure safety and also meet their practical needs, among others.

Whatever the area of work or specialization, shelters consciously or unconsciously work to promote the human dignity, human rights and welfare of the survivors who use their services. By offering accommodation, the right to be protected from violence, abuse and discrimination is ensured; by offering support for practical needs, the right to dignity and a decent life is upheld. By providing legal services, the right to judicial remedy and compensation is pursued; by supporting clients with child care, the right to family is preserved; by providing or referring for medical and therapeutic or psychological care, the right to attain physical and mental health is upheld. Every service offered to a survivor, where appropriately done serves the interests of human rights protection and promotion under the various international and national human rights instruments.

Many shelters are also networked to other institutions, services and personalities, for the purposes of fund raising and resources mobilization; advocacy for change in policy and legislation that inures to the benefit of women and other survivors of abuse; referrals for other sources of support such as linking up survivors for bank loans and capital for businesses or skills, etc. Networking helps shelters to build community, break the sense of isolation, especially for the survivors, and ensures there is financing and other support to continue work. Human rights protection and promotion is best within the context of community, where people begin to accept that they are a link in the chain of reaching towards a decent standard of living for everyone, including themselves. Thus though a survivor may not be in the public eye while residing in a shelter because of the level of

¹⁴ This is basically a feminist approach to working with women survivors, where the issue is seen through women's eyes; women's voices are listened to; facilitates economic and personal empowerment. See for e.g., Goodman, L.A and Epstein D., (2007) *Listening to Battered Women: A Survivor-Centered Approach to Advocacy, Mental Health and Justice* (APA Books) (<http://books.apa.org/books>)

risk she faces, the discreet links of the Shelter organization to other actors in the community contribute directly to ensure that she enjoys a modicum of her human rights, and that her wellbeing is upheld.

Challenges for Shelters in pursuing human rights

- *Public recognition and acceptance of human rights of women is still an issue*

Human rights concepts and instruments have been around for quite sometime, and are being consistently being expanded through judicial interpretation and legislative making processes at international, regional and national arenas. However, public perception in many developing countries of the relevance of fundamental human rights provisions to the daily lives of citizens in many countries remains low. Particularly with respect to women, minorities, persons with disability and children, advocacy for human rights protection almost always seems to be an uphill task. In many developing countries, judges routinely fail to use ratified human rights instruments in their judgments; much less so in cases relating to women. Women's personhood, bodily integrity, autonomy and human rights still remain largely unaccepted. Indeed, many countries have not integrated such ratified instruments in their national legislation and do not make much effort in mainstreaming human rights education into the public discourse or school curricula. As a result important work such as running shelters are perceived in some countries as a western form of intrusion; a foreign concept being spearheaded by western brain-washed feminists to break up the family unit; set up to give refuge to disobedient and recalcitrant women who need to be disciplined and shown their proper place.

When The Ark Foundation set up its Crisis Response Centre Project, under which the Shelter was established, those were some of the words used to describe our work. Ten years on, there has been a degree of improvement in the public perception and the recognition that women's rights violations are rife and are wrong, but generally the public is ambivalent about women's human rights protection and the advocacy that goes with it.

- *Poor knowledge of human rights frameworks and how to advocate for enforcement*

Related to the above point is the fact that many persons who work as advocates, social workers, counselors and staff of shelters do not have enough knowledge about the actual contents of human rights frameworks and instruments. For some who are aware of the provisions, there is little skill or knowledge on how to use them to gain enforcement of the rights of a survivor, or how to pursue advocacy to get the State to live up to its obligations. Many shelter workers and women's rights advocates in the developing world rarely use the legal systems available under their national constitutions or the regional or international bodies to claim rights which actions may have far reaching implications for human rights protection than a case by case, one-on-one approach. While a case-by-case approach is important for individual survivors' needs and rights, the application of human rights advocacy and litigation, in conjunction with other interested organizations (such as a collaborative project between Shelters and feminists or women lawyers associations on aspects of legislation or judicial enforcement) may, in my opinion have far reaching consequences for tackling the issue of violence against women from a broader perspective and with more concrete impact on a bigger population of victims and potential victims.

- *State inaction, tolerance or complicity*

It is trite knowledge that many countries, especially those in the developing world fail to exercise political will in protecting the human rights of women generally, and particularly the right of women to be free from violence. Many countries still use the pretext of culture and tradition to cloak violations of women. Many States fail to recognize that they are accountable for protection of women's rights issues, and are accountable for tolerating, condoning or actively violating women's human rights.¹⁵ Such an attitude leads to neglect of important work such as tackling violence against women. Some state correctional and educational institutions have been found to have high rates of abuse and

¹⁵ See Cook, R., (Ed) (1994) *Human Rights of Women: National and International Perspectives* (Univ. of Pennsylvania Press)

sexual harassment of women and girls, and have little interest in addressing such issues. In Ghana for example, there is no state run shelter for abused women – the only one that exists is run by a women's rights NGO. Few other NGOs are beginning to set up shelters for survivors. Many countries lack specific legislation to deal with domestic violence, and other penal legislation on violence, such as assault and sexual offences laws are usually discriminatory against women, obsolete or simply not enforced. Judicial prejudices against women remain, increasing women's danger and frustrating shelter workers and advocates in their bid to get justice for women.

- *Poverty*

Poverty is not the cause of violence against women, but it is factor that cannot be ignored in most developing countries. Poverty aggravates violence towards women, and increases their vulnerability even after they have left the abusive situation. Statistics show that the majority of poor people are women and girls, and pro-poor policies need to be targeted carefully to systematically address feminized poverty. The interface between gender based violence and the increase in the vulnerability of women and girls to HIV/AIDS is adding more fuel to a bad situation. Human rights cannot thrive in impoverished conditions, and the work of shelters becomes more challenging as many poor survivors approach them for help. Poverty limits the options available to survivors to free themselves from abuse; a situation which "tempts" shelter workers and advocates to apply a more welfarist approach (as against an empowerment approach) to deal with survivors in the bid to support them the best way possible.

- *"Gender Wars"*

The backlash against women's rights work generally, and specifically work with women survivors of domestic and other forms of violence seems to be affecting the 'women centered' approach of advocates and shelter workers in some developing countries. Because issues such as Father's rights and violence against men by women are gaining currency, advocates and shelter workers seem to be re-working and toning down their

application of their understanding of the dynamics of power within gender relations, especially in relation to the family. In my opinion, there is an increasing tendency, for example to resort to couples and marriage counseling even in abusive relationships as a first resort at some agencies mandated to deal with gender-based violence. This undermines the rights of women to be heard in a confidential manner, and ignores the power and control dynamics of abusive relationships, thereby increasing the danger to the woman survivor. While violence meted out to men cannot and should not be ignored, it is important for advocates and shelter workers to be mindful of power and use of power in gender relations, so that the appropriate interventions can be applied in any one situation.

- *Lack of Batterer's intervention Programs*

Many countries in the developing world lack specific legislation to address domestic abuse; much less programs that link perpetrators to correctional programs and treatment (where necessary). In Ghana for example, experience working with women abused by their intimate partners or spouses shows that majority of survivors do not want to leave their partners – they want the abuse to stop. While shelter workers and advocates strive to counsel and do safety planning with such survivors, it is easy to understand how lack of batterer's programs that promote their accountability for their violence as well as ensure penal sanctions for violations serves to whittle away the gains of such efforts when the survivor returns to a continuing situation of abuse.

- *Burn out, attrition and safety issues*

Shelters, advocates and shelter workers are still few and far between in the developing world. In Ghana for e.g., with a population of 23 million, only one battered women's shelter exist. Lagos, a major city in Nigeria with a population of almost 14 million also has only one known battered women's shelter. There's no doubt that this work is difficult, rewards little and gets poor recognition by governments. Even women's rights organizations that do not run shelters are affected by high attrition rates of staff

because of inadequate remuneration and sacrificial working conditions; this is even more so for women's shelters. Safety for shelter workers and advocates cannot be guaranteed, compromising their human rights because the State does not offer police security and protection for such work. Some shelters have to pay the Police to guard their premises. More importantly, the continued safety of survivors after life in a shelter continues to be a challenge. Police protection for survivors is not guaranteed, and many countries do not have restraining or protection orders legislation. Impunity by perpetrators remains a threat to the survivor's right to life, liberty and freedom from violence

- *Poor co-ordination and networking*

Shelters do not and cannot work in isolation. Networking is of critical importance, and well established systems of referrals to other agencies ensure that survivors are receiving the range of services they require. Many countries in the developing world lack effective coordination between agencies mandated to provide services, and there are hardly any systematized approaches and operating standards for tackling the range of issues a survivor needs to deal with¹⁶. Shelters do what they do best – they cannot for example, prosecute perpetrators. In the situation where the Police fail to properly investigate, or treat the case as less deserving of attention and action because of prejudicial attitudes, there is little shelter workers can do. Insisting the police live up to their responsibility many even have worse consequences for the survivor's case. Such situations have implications for affording human rights protection to survivors. There is therefore the need to deal with standards setting and systems coordination for monitoring agencies, supporting survivors, tracking, documenting

¹⁶ See for e.g., Dwamena-Aboagye, A (2004) 'National Advocacy Strategy Project Paper proposing Formulation of a National Policy for Implementing a Coordinated and Model Framework and Approach to Violence Against Women and Children in Ghana.' See also, Kelly, P. (1996) *Domestic Violence Helpful Comments & Questions*, (Office of Women's Policy) 7th International Congress on Women's Health Issues; and Hague, G. (2000) *Reducing Domestic Violence... What works? Multi-Agency Fora*, Crime Reduction Research Series Briefing Note – University of Bristol

among other things, as matters of State policy-making and practice.

- *Financing*

Sustained funding for shelters and the broader work for women's rights advocacy and services provision has become a subject of grave concern. Donor agencies are increasingly withdrawing financing for such work into other arenas. There is also the subtle but true fact that donors generally view this kind of work as wasteful, preferring the application of a rights-based approach that holds governments accountable to meet the needs of their citizenry. While policy advocacy from a rights based perspective is of the utmost importance, one cannot wish away the reality that a poor, vulnerable, abused or socially excluded man or woman would find it extremely difficult to fight for his/her rights; to engage government on dialogues for meeting citizen's demands. Women's rights advocates are working hard to influence the direction of aid, financing for development and related forums to ensure that funding for their work is not undermined¹⁷. It is an uphill task, but necessary to undertake so that persons who are violated, excluded and marginalized, including survivors of gender based violence may continue get their concerns addressed.

Conclusion

Shelters consciously or unconsciously pursue human rights, especially for, with, and on behalf of survivors. Many shelter workers do so without much thought to the risk to themselves or the enormous sacrifices they make. It is however of the utmost importance that Shelters increase their knowledge of human rights and how to gain recognition and enforcement of human rights for survivors through strengthened collaboration with other parties. Shelters also have to integrate the values of human rights – the dignity, worth and respect for all human beings on an equal basis – in their own organizational and internal work and practice. The relevance and worth of the work

¹⁷ Women's rights and gender equality advocates have been participating in international forums on Financing for Development and the Paris Declaration on AID Effectiveness. See for e.g., Kerr, J (2007) *The Second FundHer Report: Financial Sustainability for Women's Movements Worldwide*. Several Position papers have been issued by Women's Rights organizations on the Paris Declaration. See for e.g., websites for UNIFEM (www.unifem.org); AWID (<http://www.awid.org>); FEMNET (www.femnet.or.ke)

that Shelters do and its implications for human rights protection cannot be overemphasized. It is important that governments, the international community and global and national actors recognize this and give Shelters their due through financial support and encouragement.