

# The Violation of Human Rights in Mexico: Gender Violence

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This article presents an analysis of the violation of human rights in Mexico regarding gender violence. The authors state that the protection of human rights should not be conceived only from a positivist position, but from a sociological dimension that sees gender violence as a form of discrimination against women.

*Keywords:* gender violence, international studies, human rights

## Introduction

This article focuses on gender violence in Mexico, stating that the protection of human rights should not be conceived only from a positivist position, but from a sociological dimension. In order to examine this position, we analyze different aspects, including the concept of violence, family violence, the cycle and types of violence, and then gender violence. We conclude with an analysis of gender violence as a form of discrimination that results in violation of human rights in Mexico.

## Violence

The root meaning of the word “violence” brings us to the concept of force. The noun violence is related to the verbs “violate,” “rape,” “force,” among others. Then, we note that violence always involves force or imposes the use of force causing intentional damage.

In common terms, we can also state that violence means the action or effect of violating or becoming violent; an action against the natural way to proceed; force exerted on a person to force him/her to do what he/she does not want to do.

From the legal point of view, “violence” viciously affects human consent; it is a physical or moral coercion exercised by a person over another, with the intention to enable his/her consent for the approval of a contract that otherwise will not be granted (*Diccionario Jurídico Mexicano*, 2001).

Legal doctrine also distinguishes between physical and moral violence. The first results in acts that result in the disappearance of the victim’s will. In this case, there is no will and consequently the legal act produced is nonexistent. Moral violence is exerted by means of psychological pressure, twisting or diverting the will of the victim. The material violence element consists in bullying behavior, manifested in physical coercion or threat.

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Violence can also be seen as the exercise of power through the use of force (physical, psychological, economic, and political) and implies the existence of a real or symbolic “up” or a “down,” commonly taking the form of complementary relations: parent-child, man-woman, teacher-student, and employer-employee.



Figure 1. Elements of the definition of violence.

Figure 1 includes some definitions used to explain the concept of violence within the social context, taking into account the various ways of exercising violence, one can speak of social, school, work violence, and the violence within the basic cell of society: family violence.

### Domestic Violence

The most common form of violence in society is unfortunately the one caused in the family, the oldest human institution, which is a key for understanding and functioning as a member of the society. Through the family, the community is responsible for preparing their members, so they can successfully fulfill their social role.

Nevertheless, domestic violence is a social conflict, which is registered as a historical phenomenon linked to the subjugation of the weaker sectors: women, elderly, and children. As Yllán and De la Lama (2002) stated, “... These are mostly victimized, but there also have been cases of violence against spouses” (p. 4).

The European Council (2011)<sup>1</sup> has defined family violence as:

Any act or omission committed within the family by one of its members that affects the life or physical or psychological integrity or liberty of another member of the same family, causing serious damage to the development of personality.

In Mexico, the family is one of the contexts in which violence occurs in a most alarming way. This is exacerbated by multiple interrelated factors that are the product of the structured social inequalities of the society. The multi-causal origins may be diverse: poverty, male unemployment, alcoholism, drug addiction, female employment, educational level, social class, ethnic, religion, life cycle, or the urban and rural regional contexts.

Domestic violence focuses on physical violence against women and children, but also exists against the disabled, the elderly, between brothers, adolescents against their partner, between gays, as well as between polygamous or polyandrous families.

### The Cycle of Violence

The cycle of violence is one of the basic concepts to understand this phenomenon; we owe this concept in first instance to Leonore Walker. It is an iterative process that meets certain stages and allows us to understand

<sup>1</sup> An international organization whose main objectives are respect for democracy, the state of law, and human rights.

how a loving relationship became violent and how difficult it is for the battered woman to break this dangerous link.<sup>2</sup>

In tracing the history of the couple facing violence, almost invariably signs of dating violence are observed, signs that once instilled doubts or fears about whether to marry or not, such as demonstrations of jealousy, anger, domination, and control. All these statements were not duly taken into account, heralding a male oppressive behavior, at the thought of separation. Instead, the ideal of romantic love and the myth “that he will change with marriage” prevailed.

Phrases, such as “You are going to be mine or of anyone,” “If you leave me, I will kill you,” and “You are everything to me,” all enclose a perceived violent potential blurred by the myths and stereotypes in a patriarchal culture. It may sound like very flattering for a woman who tends to feel that she is not valued enough or gets engaged with someone showing her this type of affection.

Sometimes, the episodes start in the honeymoon, pregnancy, or the birth of the first child. There are a number of basic premises that the couple keeps tacitly about the values attributed to masculinity or femininity. For example, a woman must accompany the man, be caring, loving, and be attentive to his wishes; a man must be strong and determined, and must protect the woman and carry out the home.

Thus, the couple build a relationship of emotional dependence that keeps them together; they feel good and always need the approval of their companion; and they fit perfectly like pieces of a puzzle, becoming each one the center of the other’s life. The wife is the perfect woman that accompanies and follows the man and holds in everything he undertakes, showing that she could give up her personal ambitions for the sake of a common future. Thus, the man feels reaffirmed in his self-esteem and power, as this woman promises to be everything to him and spend her life and her love, making him believe that this compensate for his early emotional deprivation. This small little boy, neglected by their parents, finds in his partner someone who will satisfy his enormous need for affection and be attentive to his every wish.

After a while, the ambiance between the couple changes, tensions build; there is dissatisfaction with certain aspects of coexistence, and economic events occur, such as job changes, unemployment, economic instability, and pregnancy of the first child, and the man’s jealousy concerning some of the woman’s friends or coworkers or any other situation, no matter how small causes discomfort. Then, psychological aggression began, such as teasing, put-downs, making her not valued, which has a devastating effect. Attacks on her intellectuality, her self-esteem, and her body disguised as a joke, to undermine her self-esteem.

Then, physical attacks continue, a push that makes the woman fall or a slap that surprises her. First, she is puzzled. She did not think he could react that way; she thinks that this will never happen again. If the situation repeats itself, she does not show her anger. She thinks that she is the one who did something wrong to make him angry, so she denies the undeserved aggression. She lacks self-esteem, she feels complete only with her husband, and she cannot think that her marriage has failed, because she has put her whole life into her marriage.

Later, both seek explanations for his reaction by looking at external events, labor problems, debts, etc., that appear to justify his behavior and both agree that they want to forgive and forget.

Over time, the coexistence wears out and the relationship deteriorates, increasing frustration for the couple. Added to this, the man’s inability to express his feelings makes that anything unleash his anger, shouting insults. The woman becomes the target of his fury and when she least expects it, he beats her again. The wife begins to

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<sup>2</sup> In most cases, women are the victims within the family.

wonder what she did wrong and will always find an excuse to blame herself. Later, she will come to think that her lack of intelligence prevents her from finding any solution, coupled with the inability to react against the man's violence leads to a trap that consumes her more and makes her waste her life and her soul. After he reacted violently, the man began thinking about the consequences of what he did, he shows repentance, but it reserves most of the guilt for her. He asks her in a tender way, not to get him nervous, he can mourn, pleading, and make all kinds of promises and assurances that it will not happen again. This second honeymoon is followed by expensive gifts and a whole array of kindness (Chávez & Barros, 2003).

Maltreated women usually feel guilty and believe that they deserve the punishment they get; for not being able to have a good marriage or for not avoiding conflict. This is, in many cases, the reason why after the criminal proceedings had started, that some women decide to abandon the procedures. They try to improve their relationship, especially if they are financially dependent on their partners.

The financial dependence of women is an enough reason for man to increase his dominance. Abandon a spouse or partner that is the provider represents for many women losing their only source of income, which makes them perceive that this situation can be worse than continue living with their violent partner.

The impact of violence on the quality of life of people is deep and includes not only physical but emotional or psychological harm. The negative impact of violence on the quality of life of women is evident in addictions, suicides, frequent hospitalizations in psychiatric units, recurrent disease, difficulties in academic and job performance, lack of staff satisfaction, among others.

The term domestic violence refers to any form of abuse, whether physical, psychological, or sexual, which takes place in the relationship among family members. As any abuse, it involves an imbalance of power that is exercised from the strongest to the weakest with the ultimate aim of exercising control over the relationship.

### **Types of Violence**

Physical violence is any non-accidental action that causes or could cause physical injury or disease in the body as bruises, burns, slapping, etc.. One of the most widespread practices is the emotional violence; blackmail and manipulation are part of this and have the function of controlling the victim. When the offender obtains what he wants, then he uses guilt and shame to keep controlling the victim. The most vulnerable to suffer this type of violence are the minors when their family life is manifested in violent forms of attitudes among family members.

According to Lammoglia (2005), in the scheme of emotional violence, there is a face violence or child abuse by neglect of the parents in conflict. Being the children of the victim makes them feel guilty for the disputes between their parents, so the children assimilate the learning of violent behavior that they could repeat in their adult life, thinking that violence is inherent in the family

Another form of violence is sexual violence. This involves the imposition of a behavior of sexual nature or sexual connotation against the will of the victim, using force and intimidation. It can also be a cause of other crimes, such as incest and rape.

Economic violence occurs around spouses who are dedicated exclusively to their homes, because they are afraid to leave their partners due to their economic dependence. Because the husband tells them that they only serve for staying in the house; the women feel that they cannot do anything on their own resources. This makes them feel that they are alone and incapable, which leads them to remain in their violent marriage.

Verbal violence is one of the most common strategies of aggression; with the famous phrases that come to hurt the woman saying that she is good for nothing, or “You are just like your clumsy father”; “You eat like a pig”; “You suck”; “It had to be you”; “I do not love you anymore”; “you are so fat”; etc.. These phrases are highly damaging and hurtful to women.

Psychological violence is manifested in any act or intentional conduct that produces devaluation and suffering of the victim.

### **Gender Violence**

Violence is a complex phenomenon that has been present in different civilizations and at various stages of development; its practice is a problem that transcends the formation of societies. Society is the result of a complex combination of factors that reproduce themselves in the family. A dysfunctional family introduces dysfunctional elements in society, causing social problems.

In this social phenomenon, causes and psychological, sociological, anthropological, and biological factors that damage different social structures, therefore, cause a deterioration of human relationships.

In the scheme of family violence, there is special emphasis on gender violence and violence against women. Gender violence has been defined by the World Health Organization as:

The intentional use of physical force or power against oneself, toward another person, groups or communities causing probable consequences, such as physical injury, psychological damage, developmental disorders, abandonment and even death. (Krug, Dahlberg, Mercy, Zwi, & Lozano, 2002)

Gender-based violence was also defined in 1993 by the United Nations, in the *Declaration on the Elimination of Violence Against Women*, as follows:

Any act of violence towards females, which has or may have resulted in damage or physical, sexual or psychological suffering to women, including threats of such acts, coercion and arbitrary deprivation of liberty, whether occurring in public or in private.

In this way, we can understand gender violence as the violence perpetrated against women to discriminate against them, maintain inequality, and power over them.

Among the types of gender violence, we find almost the same that occur in family violence, for example, physical violence, consisting of behavior involving physical abuse by the perpetrator, which causes bodily harm; sexual violence, such as the imposition of intercourse; psychological violence, exercised through emotional manipulation of the aggressor; and economic violence, when resources for subsistence and other types of violence are not provided.

In gender violence, there is also a cycle of violence, with reference to Walker (1979), who noted that there are three phases of violence: (a) the tension phase, characterized by psychological abuse; (b) the assault phase, when the tension phase reaches its limit, then the discharge tension occurs through physical, psychological, or sexual violence; and (c) the phase of calm or reconciliation, which takes place after the aggressor has committed the abuse and feels sorry and distressed, uses emotional manipulation strategies, apologizes, and makes promises for change.

Violence against women violates their human dignity; it is a manifestation of inequality between women and men in society. So, eliminating violence is essential for the individual and social development of women and a step towards their equal participation in life.

Precisely for this reason, the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women* in 1995, recognized that violence against women is a violation of human rights and the fundamental freedoms, which limits the recognition, enjoyment, and exercise such rights and freedoms (National Commission to Prevent and Eradicate Violence Against Women, 1995).

The state in a limited extent has tried to lessen the impact of violence against women due to their gender, taking steps, such as legislative reforms that resulted in criminal offenses and stiffer punishments for female murders,<sup>3</sup> including severe sanctions, the creation of mediation units to address this problem and their regulations, municipal as well as state programs, among others. However, these are palliative measures that do not solve the underlying problem of gender-based violence, because it is a social phenomenon at large, coupled with the fact that the state seeks to punish violence with more violence.

In addressing this issue of gender violence in the Mexican social reality, using a gender perspective, it is important to place people in certain specific areas and not forget that there are different ways in which women are taking on new roles or social practices of coexistence as well as how they have transformed gender relations in public and in the private arenas.

### **Gender Violence, a Form of Discrimination That Violates Human Rights**

Since the Mexican government published a decree in the *Official Journal of the Mexican Federation* on June 10, 2011, amending the first article of the constitution of the United Mexican States, our constitution prohibits various forms of discrimination, including those related to gender. This legislation prevents any act that violates human dignity. In this way, the Mexican government adheres rights to the constitution that are recognized in international treaties.

Based on this, it can be stated that the gender discrimination is a form of violence that violates human rights, and therefore, it is against human dignity, in other words, by human rights:

The basic needs of human beings, in all times, places, and cultures that are synthesized in the course of history in subjective public rights, both individual and social, they share in common that they are all related to the need of respecting the dignity of the person and of all the values that are part of that dignity, which are basically freedom, equality, and solidarity. (Programa Venezolano de Educación-Acción en Derechos Humanos [PROVEA], 2008)

According to Faúndez (1996):

The notion of human rights relates to the affirmation that the dignity of the individual remains against the state. Public power should be exercised in the service of man: It cannot be used lawfully to offend inherent rights of a person and must be a vehicle for the individual to live in society, in terms that are consonant with the same dignity that is inherent to him or her. Contemporary society recognizes that all human beings, by virtue of being, have rights against the state rights, which has the duty to respect and guarantee human rights and is called to organize actions for their full protection. These rights, attributes of every person and inherent to the human dignity, that the state has the duty to respect, protect, or fulfill are what we now call human rights.

Thus, we can say that human rights constitute the cornerstone of every human being by his/her mere existence. Therefore, it is the natural law that the state must recognize these rights and dignify them in all areas of his/her existence.

In order to understand the concept of human dignity, we must recognize that the word “dignity” is a vague term, which makes it difficult determining what the limits of the protection are. For example, in the case in

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<sup>3</sup> Female violence is an extreme form of gender violence, product of the violation of human rights.

which it cannot establish strictly the exact time when there is a violation against human dignity. This fact, added to the plurality of interpretations that have been given to the idea of dignity, contributes to the skepticism of many authors on a possibility of finding a common consensus that may have a significant role in law and even convert a destitute expression of content (Fernández, 2003).

Von Wintrich (1957, as cited in Fernández, 2003) argued that the dignity of “a man as an ethical-spiritual being, is by its very nature, conscious and free, because he can search for his or her self-determination, prepare himself and act on the world around him.”

In turn, González (1986) pointed out that dignity is the category in which a human being is endowed with intelligence and will, distinct and superior to all creation, establishing a treatment throughout concordant circumstances with human nature. The dignity of the person constitutes the supreme value and the legal principle which is the basic backbone of the entire constitutional legislation and is a source of all fundamental rights, radiating the whole legal system that must be interpreted and applied in accordance with the conditions under which that dignity is respected in a better way (Nogueira, 2015).

Truly, the idea of dignity should be analyzed from the field of morality and law, so any form of discrimination of human beings, regardless of what is prohibited by law, constitutes an impairment to their personal sphere, among which there is significantly gender violence, which constitutes a violation of their human rights.

### Conclusion

The recognition of a human right in our constitution, although it is a benefit for the protection of human beings, should not be examined from a positivist posture, because the true effectiveness of the law must be analyzed from a sociological dimension. In this analysis, we found three perspectives of law: axiological, normative, and sociological, because the effectiveness of law must be analyzed from the effectiveness it produces in society. In the case of domestic violence, it should not be analyzed from a normative position only, but from its causes, and we need to implement public policies that seek to avoid it, only then the Mexican State will be meeting the protection of human rights.

Therefore, the state should implement policies to prevent violence against women, ensuring the human rights for all by not affecting their freedoms, especially the right to life.

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