NEW FORMS OF GENDER-BASED VIOLENCE

Sexual violence against children and adolescents as situations of gender-based violence

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The terms of social, symbolic, legal and political recognitions establish living conditions and their frameworks, which is why feminism calls for the permanent expansion of borders concerning the recognition of human rights. In this sense, as several authors have pointed out, the fight for the eradication of sexual, patriarchal and gender-based violence has become an epistemology for social change [1].

In this article, I shall justify why it is important to articulate public policies that consider children and adolescents, along with women, as subjects of gender-based violence. Before delving into this reflection, I want to state the reasons that have led me to avoid the use of the expression ‘minors’ and use ‘children and adolescents’ instead to refer to girls, boys, and adolescents under the age of 18, a very heterogeneous group in relation to the development of their progressive autonomy, which has a legally and internationally recognised specific protection system related to age.

‘Minors’ is, actually, a pejorative and outdated term, suited to the guardianship paradigm and not to the paradigm of comprehensive protection of rights. It is pejorative to identify childhood and adolescence based on what they have not yet done (come of age) and

therefore through what they lack. Language is never neutral, and so when one insists on talking about 'minors', children and adolescents are built performatively as *projects of adults,* instead of subjectivities that exist, live, have rights and contribute their worldviews to society. Childhood and adolescence are not the future: they are the present.

From the *guardianship paradigm* (already abandoned by the majority of legislative systems that organise institutional intervention with a focus on human rights), children and adolescents are treated as people in development, immature and incomplete, in other words the emphasis is placed on what girls, boys, and teenagers need to have to be able to interact in the adult world. That is why they are considered objects of protection.

As the childhood researcher Gerison Lansdown explains, the predominance of a guardianship model in the construction of our relationships with children has prevented the development of an adequate recognition of their capacity for real participation, and it is their need for protection which adults have used to justify their resistance to granting girls, boys, and teenagers the right to make decisions about their lives [2].

Since the *paradigm of comprehensive protection* introduced by the International Convention on the Rights of the Child (1989 UN), children and adolescents are considered subjects of rights. And instead of invoking the notion of growth to deprive them of rights and replace their autonomy, calls for a greater effort to guarantee them comprehensively. In this sense, the notion of *progressive autonomy* was introduced [3].

In Latin America, organisations that comprehensively defend the rights of children and adolescents, including the rights to their political organization, propose a paradigm of *children's protagonism* that does not empty the notion of participation of its democratising content. Thus, Liebel and Martínez [4] apoint out that if we want to strengthen the rights of participation what we have to do is de-paternalise the concepts of what is protection and make the rights of participation an integral part of this protection. This proposal clearly fits the model of centrality in the rights of women, children and adolescents introduced by the *Framework Protocol for an intervention with due diligence in situations of gender-based violence* (2022), by the Government of Catalonia, which puts women, children, and adolescents, their rights and their needs at the centre of the intervention, emphasising their autonomy in making decisions and due diligence in fulfilling the obligations of public administrations.

> It is important to articulate public policies that consider children and adolescents, along with women, as subjects of gender-based violence

On the other hand, *intersectionality* (Art. 3.k Law 5/2008) as an approach to intervention in the face of gender-based violence demands not to assume a single, natural, supposedly neutral notion of childhood, but the diversity of childhoods as social constructs must be

acknowledged, situated and intersected by gender, social class, ethnic, racial, cultural, religious origins, among other categories of analysis.

Sexual violence against children and adolescents is gender-based violence

Sexual violence, despite not being the only form of gender-based violence against children and adolescents, is a clear example of the subject of the *woman* not being the sole recipient of gender-based violence. The legal-political line of thought that I defend has as its starting point the consideration of sexual violence as gender-based violence, not only when girls and women suffer from it, but also when it is suffered by boys and teenagers. What qualifies a form of violence as gender-based violence must not only be the gender of the subjects who suffer it with greater incidence (indisputably women), nor the subjects who exercise it with proven pre-eminence (men), but also the mechanisms that are set in motion and the impact they have, in order to organise gender-generic inequality, in intersection with age as the criteria for the distribution of social, symbolic, political, economic and legal power. We are dealing with a complex structural phenomenon, which must also be conceptualised in complex terms.

In this regard, I insist upon the need identified by Pineda & Toledo to *formulate a conceptual, theoretical and ethical framework for sexual violence, which is not limited by the current regulatory framework*. Even though great advances have been made in the legal recognition of rights of women, children and adolescents in many of the countries of the world, the legal understanding of sexual violence is still firmly marked by the patriarchal thinking and context still in force [5].

That is why I insist on the need to address all sexual violence that women, children and adolescents can suffer from as sexual violence. While it is beyond dispute that there are a higher number of girls and female adolescents, both cis and trans, who suffer from sexual violence, cis and trans adolescent and boys and girls are also highly exposed to such violence, in both cases exerted by male aggressors. The intersection of gender, age and other marks of oppression and social subalternization is thus identified, as structural causes of these kinds of sexual violence, the crux of masculinity and adultocentrism.

This does not mean that sexual violence is neutral in relation to gender, but precisely that the hegemonic subject of the prevailing patriarchal domination asserts itself not only in relation to the sex-gender category, but also and simultaneously in relation to sexuality, age, ethnic and racial origins, social class, and functional, cognitive and mental diversity.

> Structural causes of gender-based and sexual violence can be found in the intersection of gender, age and other marks of oppression and social subalternization

It is crucial to understand that without the feminist theoretical-political background, which has allowed us to understand gender-generic inequalities in all of their complexity, we cannot understand which actions constitute sexual violence, nor why they occur. Feminist explanations, which are very broad and diverse [6], agree that we are not dealing with an individual problem, with an irrepressible sexual impulse, but with an abusive exercise of power, an abusive exercise of male, oppressive power, an abusive exercise of domination.

This explanation can be seen in the sexual violence of the family sphere, in which aggression systematically restores patriarchal power in this material and symbolic space: the family. The aggressor has the bodies (people) as part of his territory, his domain. Sexual violence in the domestic sphere occurs against women and girls but also against boys, because what there is behind the aggression is not an impulse of heterosexual pleasure, but the exercise of patriarchal and adultist domination, which go hand in hand.

Sexual violence against children and adolescents in institutional fields, such as education, must also be understood and addressed as gender-based violence, because the structural causes are in the mechanisms of control and disposition of bodies that the patriarchal and adult-centric organisation and its order of inequalities enable. This consideration allows us to organise comprehensive prevention and reparation in the face of sexual violence: it is about removing every one of the layers that make an order of male privilege possible, and democratising highly hierarchical institutions that pave the way for sexual violence. Understanding that we are not dealing with an individual problem, with an isolated sexual predator, but with a social problem, leads the intervention back to a daily task of social transformation.

In addition, the so-called *bloody rape,* committed by unknown aggressors by means of force or the threat of force, is explained in relation to the functioning of the gender structure and the (masculine and sexist) mandate to rape. Authors such as Rita Segato (2003) point out that to rape is to exercise masculinity in the masculinist imaginary, which is why many aggressors believe that what they do is not rape, it is something else, it is to be as they have been taught to be, it is to be men [7].

Although these explanations require further development, they allow us to understand that what qualifies sexual violence as gender-based violence is, first of all, the gender structure that constructs the rape mandate as an exercise of hegemonic masculinity, and that this operates as a space of power to organise social inequalities. Precisely the need for permanent confirmations reveals the instability and artificiality of the order of inequalities.

> We need to understand that we are not dealing with an individual problem: gender-based violence is a social issue

On the other hand, it must also be pointed out why the confusing terminology of *child sexual abuse* is resolved inappropriately, since it does not allow us to understand why this

violence occur, and in addition, it can hide the structural causes and the aggressor subjects. All this will make it more difficult to organise comprehensive prevention and reparation effectively, that is to say, with due diligence.

Conclusions

Throughout the article I have introduced the reasons why, in line with the Framework *Protocol for an intervention with due diligence in situations of gender-based violence,* by the Government of Catalonia, it is necessary to consider and intervene by addressing all sexual violence against children and adolescents as gender-based violence, regardless of the sex-gender of the victims. This has theoretical-political consequences, among which I stress from this perspective the importance of organising public policies for the comprehensive prevention and reparation of sexual violence against children and adolescents, and understanding that the classification of violence as gender-based has to do not only with the subjects but also with the mechanisms through which they operate and the order of power relations they assert.

REFERENCES AND FOOTNOTES

1 — See:
• Bodelón, Encarna (2008). “La violencia contra las mujeres y el derecho no-androcéntrico. Perdidas en la traducción jurídica del feminismo”. In: Laurenzo, Patricia; Maqueda, María & Rubio, Ana. *Género, violencia y derecho*. Spain: Tirant lo Blanch Editorial, pp. 275-300.

• Butler, Judit (2004). *Precarious Life: The Powers of Mourning and Violence*. Verso.

2 — Lansdown, Gerison (2005). *The Evolving Capacities of the Child.* Innocenti Insight. Florence: UNICEF Innocenti Research Centre [available online].

3 — Progressive autonomy is a principle that enables the decisions that girls, boys and teenagers can make for themselves. It starts from the fact that they are subjects of rights, so they can exercise these freely and autonomously, however, this exercise is carried out gradually, according to their degree of development and maturity. So it can be said that at a higher level of autonomy they have more independence in the exercise of their rights and need less assistance from legal representatives. Fixed ages cannot be established to determine the degree of autonomy, because the process of maturity is not a linear process applicable to all girls, boys and teenagers alike. The development of autonomy is progressive depending on maturity, the social, economic and cultural environment in which they develop, as well as subjective characteristics.

4 — Liebel, Manfred; Martínez, Marta (coord.) (2009). *Infancia y Derechos Humanos. Hacia una ciudadanía participante y protagónica*. Perú: Ifejant, Instituto de Formación para la Educación de Jóvenes, Adolescentes y Niños Trabajadores de América Latina y el Caribe (Training Institute for Educators of Young People, Adolescents and Working Children of Latin America and the Caribbean) [available online].

5 — Pineda, Montserrat; Toledo, Patsilí (2016). *Marc conceptual sobre les violències sexuals. Violències sexuals: un marc conceptual, teòric i ètic*. Antígona & Creación Positiva research group.

6 — See:

• Brownmiller, Susan (1975). “Against Our Will: Men, Women and Rape”.

• Bergen, Rakel; Edleson, Jeffrey; Renzetti, Claire (2005). *Violence against women: Classic papers*. Pearson Education, New Zealand, pp. 5-8.

• Mackinnon, Catharine (1979). *Sexual Harassment of Working Women: A Case of Sex Discrimination* (19th edition). Yale University Press.

• Segato, Rita (2003). *Las estructuras elementales de la violencia: contrato y status en la etiología de la violencia*. Brasilia.

• There are also important contributions from authors such as Adrienne Rich (1980) and Carole Pateman (1988), among others.

7 — Diana Scully, in her analysis of a corpus of interviews with 114 convicted rapists, contrasts the psychopathological model and postulates based on a feminist perspective the assumption that sexual violence has a sociocultural origin: men learn to rape. The feminist thesis sees rape as an extension of normative male behaviour, the result of adaptation to the values and prerogatives that define the male role in patriarchal societies. Rita Segato, in her research on brutal rape, identifies the “rape mandate”, brought up by society and which governs the psychosocial horizon of the sexually aggressive man, due to the presence of *agents in the shadows*. The mandate expresses the social precept that this man must be able to demonstrate his virility, as proof of dominant masculinity and subjectivity. The subject does not rape because he has power or to show that he has it, but because he has to obtain it. In this way, the author puts on the table that it is not about finding a psychological causality of rape thanks to the identification of specific psychopathologies, but showing how the social universe bursts into the intrapsychic dimension by channelling individual actions through it.



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