NEW FORMS OF GENDER-BASED VIOLENCE

Obstetric violence and violation of sexual and reproductive rights

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Conceptualisation of sexual and reproductive rights

Sexual and reproductive rights are a set of rights related to the sexual and reproductive dimensions, which are constantly evolving. Specifically, sexual rights are based on the recognition of women as sexual beings, and sexuality as a fundamental part of their personality and identity. Sexual and reproductive rights include the right of all people to enjoy a satisfying and pleasurable sex life, and the right to be able to express their desired and chosen sexual and gender identity.

Reproductive rights refer instead to the reproductive self-determination of people and consider reproduction to be an option, as they regard women's reproductive capacity as a possibility that can be carried out or not. Therefore, they guarantee the recognition of the right to make decisions about one's reproductive life, to decide whether one wants to have children, and if so, how many or when.

In order to materialise, sexual and reproductive rights need an ethical framework that

respects the rights of other people. Sexual and reproductive rights are based on the acknowledgement of sexuality throughout all life, that is to say, that people are sexual beings who must be able to exercise these rights since they are born until they die [1].

> Sexual and reproductive rights synthesise the specific application of human rights in terms of sexuality and reproduction

In summary, we can say that sexual and reproductive rights synthesise the specific application of human rights in terms of sexuality and reproduction. In other words, they refer to fundamental rights of the entire population without exceptions, which must be guaranteed and protected. However, as we will see, there is still a long way to go before this is effectively guaranteed for everyone.

Origin of sexual and reproductive rights

The definition and articulation of these rights has been gradually and fundamentally included in a series of agreements, treaties, conventions, and international meetings. They have been mostly non-binding, but they have contributed to forging a common framework of reference regarding the aim of state public policies in this matter. Some of these international agreements should be stressed for the importance of their contributions.

First, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was approved in 1979, acknowledges women's rights as human rights, and includes the right to information on family planning. Second, the International Conference on Population and Development (ICPD), held in Cairo in 1994, in which the terms sexual and reproductive health were adopted, replacing the concepts of maternal and child health and family planning that had been used until then. This definition went beyond the emphasis on demographic goals and recognised that people are the central axis of development, understanding that reproductive rights contribute to the improvement of people's quality of life. In this way, it also acknowledged women's right to sexual and reproductive health without the need to link it to the process of pregnancy and motherhood, as it had been until then. Third, the 4th World Conference on Women of the United Nations (Beijing, 1995), in which the concepts of sexual and reproductive rights were introduced for the first time.

Despite this progress, the construction of sexual and reproductive rights scores a history of violations of these rights that extends throughout the world and reaches modern times. All these violations have a common feature: preventing women from having full control over their sexuality and reproduction. For example, in the 1960s the aim and motivation for the establishment of these nascent sexual and reproductive rights was based on the concern of the countries of the Global North about the rapid population growth of the Global South. Policies influencing reproductive behaviour of people emerged. Therefore, rather than an acknowledgement of women's rights as we know them today, the motivation for the

establishment of these rights was purely pragmatic: to control the demographics of certain countries through birth control [2].

A clear example is when women in the Global South, mainly African and Latin American, were sterilised without their knowledge or informed consent; or the one-child policy in China, which led to forced abortion for many women [3]. The prohibition and serious limitations of abortion laws in many other countries and here in Catalonia, which put women in life-threatening situations, is another example. It is estimated that these prohibitions and limitations result in 25 million unsafe abortions per year around the world [4].

Finally, despite the fact that sexual rights are universal (and therefore all people, without any kind of discrimination, have the right to fully enjoy them) access to them is stratified [5]. That is to say, matters such as origin, language, situation of administrative irregularity, identity or disability, among others, can determine the viability of certain choices when one or more of these conditional factors are met. For other people, these rights may be easier to achieve despite the limitations they may present.

In the case of reproductive rights, an example of stratified reproduction is that certain categories of people in a society are encouraged to reproduce and become parents, but others are not. This theory suggests that the control of each person's reproductive capacities is unevenly distributed in society and that it is stratified based on axes such as gender, disability or origin. This stratification is consolidated by public policies, ideologies and private business practices.

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In the field of sexual rights, an example of this stratification can be found in the difficulty of accessing education and information on sexualities during certain periods of life, such as in childhood, in adolescence or old age. These age groups are traditionally excluded from sexuality because apparently sexuality would be only suitable for a certain age group, namely adult life. However, sexuality is a process that begins at birth and it is built throughout life. Furthermore, it is essential in our development as human beings. Another example can be found in the lack of access to sex education for disabled people, given that they are also not seen as people incapable of having sexuality.

The inclusion of obstetric violence in the law: implications

Obstetric violence refers to a set of practices that degrade, oppress and intimidate women and people with a capacity for pregnancy in different ways within the framework of

reproductive health care, mainly during pregnancy, birth and postpartum. It is a violation of women's reproductive rights. It can be physical, for example, through the use of unnecessary procedures in pregnancy and childbirth, the lack of respect for the natural rhythms of childbirth, over-intervention or over-medicalisation. It can also be expressed in terms of psychological violence, for example, through the infantilization of women, the omission of information, contemptuous and humiliating treatment, or the disregard of women's and people with a capacity for pregnancy's emotional needs.

We state that obstetric violence is sexist violence because it takes place in a patriarchal context that exerts an influence on healthcare practices performed on women in the reproductive and perinatal stages. At the same time, we can also consider it a form of institutional violence, as it is reproduced by the staff of public institutions and has as a result the impediment of the exercise of the rights that guarantee a life free of sexist violence.

Finally, like any other form of sexist violence, it is reinforced by the intersection of the different axes of oppression. For example, this violence is experienced more frequently by young pregnant women, disabled women, and migrant or racialised women, among others. In addition, this violence has traditionally been invisible owing to issues linked with matters that have a gender component, such as the masculinity, prejudices, and ignorance that society displays, and due to the specific biases of gender as an analytical category in the health sector.

The inclusion of the protection of sexual and reproductive rights and obstetric violence in Catalan legislation, and its importance in the current context

Laws are necessary instruments to guarantee socially demanded rights. In this sense, Law 5/2008 is a good example, as it was created, among other reasons, from the interpellation of feminist movements in Catalonia.

Despite the fact that Law 5/2008 already included the violation of sexual and reproductive rights as an expression of sexist violence in the social and community spheres, with the amendment of the law, obstetric violence and the violation of sexual and reproductive rights are now also considered a way of exercising sexist violence on a specific or repeated basis. The fundamental difference lies in the fact that, being a form of violence, it has its specificity in the practices that shape it, and it can be appear in other forms such as psychological, physical, or institutional violence.

Specifically, the modification considers violation of sexual and reproductive rights actions like preventing or hindering access to truthful and necessary information for making autonomous and informed decisions, which can prevent or hinder women from being able to make decisions about their sexual practices and preferences, and their reproduction. Some of the expressions of sexist violence that the new law includes as an example are the

difficulty in accessing contraceptive methods and methods of preventing sexually transmitted infections and HIV. The law also includes the lack of access to assisted reproduction, practices such as forced pregnancy and forced sterilisation, the prevention of abortion in legally established cases, as well as all gynaecological and obstetrical practices that do not respect women's decisions, body or health, and emotional processes.

On the other hand, the amendment of this law, with the inclusion of intersectionality as a characteristic to be fulfilled by all public policies, is a step forward that we will have to see how it materialises. But for starters, it should take into account the conditions of people's socio-economic and cultural backgrounds, as well as the life itineraries that place women differently in social hierarchies and, therefore, with unequal opportunities to exercise their rights. For this reason, guaranteeing the enjoyment of rights under conditions of equality and dignity requires knowing and recognising the particular situations and needs of women [6].

This amendment is also particularly relevant now. Despite the fact that the attack on sexual and reproductive rights has been a constant, nowadays, the attack on these rights has acquired a new dimension. The history of the alliance of economic, political and religious power reaches a new dimension, and the attacks perpetrated by anti-rights groups have as strategic objectives key issues such as abortion, gender identity or sex education. The choice of these issues is not irrelevant because these rights are deeply rooted in sexual and reproductive autonomy and self-determination.

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Finally, the inclusion of obstetric violence and the violation of sexual and reproductive rights in the law presents us with a series of challenges, such as thinking about what prevention we need against this violence. Other important issues have to do with recovery and repair. For example, the introduction of due diligence —understood as the obligation of public authorities to adopt legislative measures and any other order to act with the necessary agility and efficiency and to ensure that the authorities, staff, agents, public entities and other stakeholders acting on behalf of these public powers will behave in accordance with this obligation, with a view to preventing, investigating, prosecuting, punishing and adequately repairing acts of sexist violence and protect its victims— which requires us to work not only to guarantee these rights but also to detect omissions that also constitute a violation.

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