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WOMEN'S RIGHTS IN THE CHURCH - IN THE CONTEXT OF SEX ABUSE

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Abstract

Towards the end of the 20th century the increased awareness of women's rights has resulted in the critique of culture, tradition and practices responsible for depriving women of their rightful place in the family and society. The creation of international instruments, laws and protections for women have given women the opportunity to take their place in all spheres of life like politics, business, law enforcement, etc. However, in the Catholic Church women are still kept submissive to patriarchal authority. The nature of religious leadership that compels women to go to men for spiritual guidance and most of all for confession has created a number of problems for women in their working relationship with the clergy, especially sex abuse. Looking at this problem from the framework of universally accepted women's rights and protections, it is important for the Church to take steps to address this grave issue.

Keywords: Canon Law, Culture of Silence, Human Rights, Priest, Sexual Abuse, Violence, Women's Rights

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Introduction

The Concept of Rights for women or of women's autonomy were totally absent in the patriarchal Indian society about fifty years ago. Although intermittently down the ages women around the world have been agitating for various rights like the right to vote, the right to fair wages and labour benefits, etc., women have been rather reticent when it came to sexual rights and sexual violence. Across the board, culture and religious belief have kept women subjugated to men who were seen to 'own' the women in their family. Husbands had full claim to the body of their wives. Parents made decisions about their daughters' future. Even marriage vows required the woman to obey her husband. Before domestic violence was recognized as a crime of violence against women, there was a law that men used "to restore" their conjugal rights, if for reasons of violence, some brave women decided to move away and deny her husband access to her body. Today, cruelty is a ground on which the judge can deny restoration of conjugal rights to a spouse.¹

The Bill of Human Rights promulgated by the UN towards the latter half of the 20th century helped women to begin to demand that Human Rights be considered as Women's Rights as well. The need to articulate a more detailed declaration of women's rights was strongly felt at the 1993 Vienna World Conference on Human Rights. The Declaration at the Conference stated that the "Human Rights of Women and of the Girl-child are an inalienable, integral and indivisible part of universal Human Rights," and declared a commitment to eliminate "Violence against Women in Public and Private Life."

Victims of violence gave personal testimony of their experience at the Vienna conference. Their stories highlighted the need for a clearly defined instrument to protect the rights of women. The Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) was thus born. It states that "...the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields." This short statement encapsulates the importance of the promotion of Women's Rights as Human Rights for the good of all. It underscores the obligation of States, including

¹See Paluk Sharma, "Restitution of Conjugal Right, A comparative Study Among Indian Personal Laws," <https://www.indianbarassociation.org/restitution-of-conjugal-right-a-comparative-study-among-indian-personal-laws/>.

that of Vatican, to work towards the promotion of women's rights for true development and peace in the world.

The Vatican and Women's Rights

Second Vatican Council's Pastoral Constitution on the Church in the Modern World states,

All men [*and women*] are endowed with a rational soul and are created in God's image; they have the same nature and origin and being redeemed by Christ, they enjoy the same divine calling and destiny; here is a basic equality between all men [*and women*] and it must be given ever greater recognition. It is regrettable that these basic personal rights are not yet being respected everywhere, as is the case with women ... (GS #29)²

The document narrows down women's rights to the choice of husband, education and cultural benefits. In addition, the Holy See, who maintains a delegate in the Committee for the Status of Women (CSW), has not ratified CEDAW on the grounds that

the CEDAW understanding of the respective roles of men and women denotes an understanding of absolute equality between men and women and ensuring its practice. For the Roman Catholic Church, it seems to mean something different: an understanding that equality between men and women is contrary to fundamental tenets of the faith. Also, the Holy See cannot comply with CEDAW provisions regarding family planning because the fundamental tenets of the Roman Catholic Church prohibit it.³

The Code of Canon Law: "A baptized male alone receives sacred ordination validly" (CIC, 1024). Canon Law that was formulated at a time when the concept of women's rights was absent continues to be maintained as the canons are based on Church's teachings that foster patriarchal ideologies which lead to discriminatory practices against women.

The Holy See uses religious canon to opt out of human rights obligations especially with regard to women and other sexual minorities. This is because it differentiates between its legal obligations and subjects those obligations to "higher" ones dictated by religious law.

We need to acknowledge that it is ordained men who define those "higher" obligations of religious law, men who have created a legal

²Those in italics added.

³Newell Majorie, "Reservation As A Means Of Reconciliation: A Comparative Analysis Of The CEDAW And The Fundamental Tenets Of The Vatican As Church And State," A Note published by Ind. Int'l & Comp. L. Rev., 2016 - HeinOnline. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/iicl26&div=13&id=&page=>.

framework called Canon Law to define their power, position and legal standing in the world with regard to the teachings of Jesus, who himself gave us only one command “Love one another as I have loved you.” The entire Christian faith and spirituality is based on this law.

Church and Violence on Women

Human rights are built upon human dignity, which comes from the fact that man is made in the image and likeness of God and is called to communion with God. Human rights are inherent to every human person derived directly from our creator God. “The roots of human rights are to be found in the dignity that belongs to each human being” (*Compendium of the Social Doctrine of the Church*, No. 152).

Human rights are universal. Inasmuch as they are founded upon human nature, they are “present in all human beings, without exception of time, place, or subject” (*Compendium*, No. 153). These rights, like the natural law upon which they are ultimately based, apply equally to all humans irrespective of condition.

The indivisibility of human rights means that we are not entitled to select some human rights and ignore others or promote one to the expense of another. The indivisibility of human rights requires that they be recognized to “apply to every stage of life and to every political, social, economic, and cultural situation” (*Compendium*, No. 67).

In the gospel of John (Jn 8:2-11) men brought the ‘woman caught in the act of adultery’ to Jesus. There is always speculation about what Jesus wrote on the ground. But we know that he said “He who is without sin can cast the first stone” at her. There was no man who could condemn her except Jesus, but He gave her life back to her and helped her to live it to the full. Jesus’ action demonstrates his understanding of the human condition coupled with a deep sense of pastoral mercy. He is concerned about the woman who falls victim to crowd anger and potential violence. He appears to have challenged the men to look into themselves which prevented them from doing violence to the woman. Jesus makes the response to stop violence against women and girls a pastoral imperative of our faith.

Pope John Paul II’s Apostolic Exhortation, *Mulieris Dignitatem* which was the first Papal document in the Catholic Church to address women, states,

Domination indicates... the loss of stability of that fundamental equality which man and woman possess in the `unity of the two`. The violation of this equality which is a gift and a right deriving from God the Creator, involves an element to the disadvantage of woman, and also diminishes the true dignity of the man (MD, 10).

The Catholic Bishops' Conference (CBCI) of India committed itself to work for the Empowerment of Women in Church and society through the adoption of a Gender Policy in December 2009. Its Policy on Violence to Women stated thus: "The Church will work towards elimination of all forms of violence against women and advocate zero tolerance to any act of violence against women and children. The Church will establish institutionalized mechanisms to end gender related violence in all areas of social and religious life."⁴

Though violence to women in India is a common and deeply entrenched reality which should have merited a whole chapter in *The Gender Policy*, it is embedded under an "Area of Special Concern" in the third chapter "Areas of Implementation," subsection (iii). This indicates the low priority this burning issue is given by the hierarchy.

Under "Strategies," it proposes to "Condemn domestic violence through church documents, pastoral letters and homilies and formulate vigilance and grievance cells in Church institutions especially in rural areas." One hardly ever hears a homily when domestic violence is even mentioned, while misogynist homilies are common. Vigilance and grievance cells are unheard of anywhere.

A study conducted by Streevani, Pune on familiarity with the Gender Policy among parish councillors in India, found that an overwhelming proportion (84%) of respondents who were largely educated to the level of graduate or post graduate level, had been in the Parish Council for a reasonably long duration, (56% for over 3 years) were unfamiliar with the Policy.⁵

While the Church is diligent in making good statements and policies, following up on the policies is a big lacuna in implementation and administrative functioning.

⁴Gender Policy of the Catholic Church of India., page 29, published by the Catholic Bishops Conference of India 2010, http://www.cbci.in/downloadmat/gender_policy.pdf.

⁵George, Sr. Julie SSpS, "Women Living the Legacy of Vatican II: Gender Policy of the Catholic Church of India," in *Women as Equal Disciples: Unfinished Task of the Church*, ed., Virginia Saldanha, Varghese Thecknath SG, Julie George, SSpS, Published by New Delhi: Media House, 2016, 22-23.

Sexual Harassment

Following the gang rape of an Anganwadi (grassroot) worker in Rajasthan whose job was to prevent child marriages, the Supreme Court of India developed the “Vishaka Guidelines” in 1997 to prevent the sexual abuse and harassment of women in the workplace. These laws were further refined after the horrific gang rape of a young woman in Delhi in 2012 when the government appointed the Justice Verma Commission to work with women to create more stringent laws to deal with violence on women. The Vishaka Guidelines was converted into the “Prevention of Sexual Harassment in the Workplace, (Prevention, Protection and Redressal) Act of 2013 (POSH Act of 2013),” following the recommendations of the Verma Commission. The Act covers organisations, departments, offices, branch units, etc., in the public and private sector, both in the organized and unorganized sectors. Hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation come under the Act. Penalties are prescribed for employers for non-compliance with the provisions of the Act which shall be punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of licence or registration to conduct business.

In keeping with the requirement of the POSH Act of 2013, the CBCI formulated “CBCI Guidelines to deal with Sexual Harassment at Workplace” in 2017.⁶

The Policy seeks to address the problem of sexual harassment in the workplace in the hope of creating a safe, and healthy workplace for all employees and those being served by Church institutions. The Church has to be in the forefront in executing this, as sexual harassment violates the sacredness of the human person and is against the ethos of the Scriptures,

said Bishop Jacob Mar Barnabas, OIC, Chairperson of the CBCI Council for Women, in the Foreword.

However it is pertinent to note that till date there are no known mechanisms set up as promised in both the documents promulgated by the CBCI for the protection of women from violence. The document has never been disseminated to the People of God for fear of being ‘misused.’

⁶CBCI Guidelines to Deal with Sexual Harassment at the Workplace, promulgated by the Catholic Bishops of India on 14th September 2017, CBCI Centre New Delhi. <https://www.cbci.in/Newletter/Newletter915152215109.pdf>.

The high profile case of the rape of a sister by her bishop, where the sister knocked on all doors in the Church, approached different bishops at the regional and national level to obtain justice, before, in desperation, finally approaching the State for justice, is proof that the documents of the Church are totally ineffective in actual practice. It also demonstrates that the Church pays lip service when it comes to violence against women.

A Theology and Culture that Encourages the Abuse

By divine institution, there are among the Christian faithful in the Church sacred ministers who in law are also called clerics (CIC, 207 §1). Men through the Sacrament of Holy Orders become priests (or bishops) and participate in Christ's priesthood 'in a very special way': They act *in persona Christi Capitis*, in the person of Christ, the Head of His Body, the Church. Ordination does not simply give a man permission to *perform the functions* of a priest; it imparts to him an indelible (permanent) spiritual character that *makes* him a priest.⁷ We believe that a priest mediates God to all the baptized faithful and wields power of divine authority. A priest is revered by all in the community and held in high esteem.

Can. 276 §1: "In leading their lives, clerics are bound in a special way to pursue holiness since, having been consecrated to God by a new title in the reception of orders, they are dispensers of the mysteries of God in the service of His people."

Based on this, people approach a priest in times of personal crisis as well as all kinds of personal problems. They approach a priest with full confidence in his ability to mediate the divine to them (CIC, 212 nos. 1&2). They believe he can do no wrong because of his religious position. They believe that his celibacy sets the boundaries for his interaction with them. So, commonly, the most vulnerable, especially women and persons of other genders, approach a priest for counselling. It is commonly known that vulnerable people are the ones who end up being sexually abused by a priest.

CIC, 277 §1: Clerics are obliged to observe perfect and perpetual continence for the sake of the kingdom of heaven and therefore are bound to celibacy which is a special gift of God by which sacred ministers can adhere more easily to Christ with an undivided heart and are able to dedicate themselves more freely to the service of God and humanity.

⁷ Richert Scott P., "Can a Woman Be a Priest - Reasons for the All-Male Priesthood," 7th August, 2018, <https://www.learnreligions.com/woman-as-priest-in-catholic-church-542111>.

§2. Clerics are to behave with due prudence towards persons whose company can endanger their obligation to observe continence or give rise to scandal among the faithful.

A violation of the boundary of celibacy demonstrates a breach of trust and people feel betrayed. But when a priest fails in his vow of celibacy, and this is common knowledge, his 'failing' is brushed aside with: "He may have some human failings, so we should pray for him and not gossip about his failings. We should not judge an errant priest, that judgement should be left to God." Even though the priests' actions are crimes under State Law, the Church downplays the crime and calls it a 'mistake,' or an 'indiscretion.'

Our cultural conditioning blames female survivors for abuse; she is the temptress and responsible for the abuse. Interpretation of Gen 3: 9-17 is also used to reinforce this idea. A survivor is made to feel she herself is to blame. Woman's learned subordination to patriarchal authority cripples her response to various situations of oppression especially in the area of sex and sexuality. She is thus doubly victimised.

Religious teaching on the position of a priest and woman's sexuality reinforce her feelings of guilt and consequent silence on sex abuse by priests. The victim is left confused and silent because she tries to reconcile her experience with her learnt image of a priest. She feels, it is her sin not his; she has crossed the boundaries. She often suffers alone. Though Canon 277 (2) clearly puts the onus on the cleric, tradition and culture continues to put the onus on women. Unfortunately this is being used to deny sexual abuse of women in the Church which is always termed as 'consensual sex.' Is consensual sex possible between persons of unequal power? I maintain firmly "NO."

In a multi-religious country like ours, the priest has a respectable standing in society and is the face of the Church. Speaking out against a priest spoils the name of the Church in society. Since Christians are a minority in India, we are careful to protect the good name of the Church. All these factors influence the silence around sexual abuse of women and even children.

In Church circles the vulnerability of women victims is still not fully appreciated and understood. Thankfully Pope Francis has acknowledged that nuns are victims of abuse by priest and bishops. But we want him to demonstrate the resoluteness to deal with this crime conclusively and implement the Zero tolerance that the Church talks about in documents and statements.

Culture of Silencing in Church

While attempting to speak out, a victim is told to consider its impact on her life; young women are told that speaking up would affect their marriage prospects (this is important in a culture that sees marriage as the goal of every woman's life) – they are offered compensation to keep quiet. This happened in a couple of cases that I was in touch with.

The power of the Church *vis-a-vis* the victim is enormous, so the victim is easily silenced. Thomas Doyle, OP points out that “Canon Law is pretty much what any individual bishop makes it out to be. There's a little clause in canon law, that says a bishop can ignore it when he has to “for the good of souls.”⁸

My personal experience in being an advocate for victims of sexual abuse and the case of the victim Sister of the Bishop currently living in Kerala has shown that the community believes the priest more easily than they would believe the victim. In this way silence is subtly enforced in the Church.

The Church has not been victim-centred. They are more worried about the priest-perpetrators and how to rehabilitate them and avoid scandal. They generally do not act on the complaint of a victim and try their best to keep the abuse from going public. The Crime of abuse is seen as a sin and dealt with under the seal of confession. The reputation of the Church is seen as more important than the harm done to the victims.

For women religious who have been abused the situation is precarious. They function under two hierarchies – the first is the hierarchy of their own congregation which is subject to the second hierarchy which is the Church leadership. Congregations of religious women do their best to please their bishops to maintain a good relationship so that they can function smoothly in the diocese. A sister who dared to speak up about the abuse she experienced from a young seminarian ultimately left her congregation in bitterness and frustration as she received little or no support from her congregational leadership. Doris Wagner⁹ who shared her shocking story in November 2018 in Rome also left religious life in 2011 because she received no response to complaints she had made to her superior when she was abused by priests and later molested in the

⁸Robert Blair Kaiser, *Whistle: Tom Doyle's Steadfast Witness for Victims of Clerical Sexual Abuse*, Thiensville, Wisconsin: Caritas Communications, 2015, 173.

⁹ Doris Wagner's story can be heard here <https://www.youtube.com/watch?v=zE-ApnCXL4E>

confessional by a third priest, one of whom worked in the Vatican. This is sad because these women gave up everything to work for the Church in religious life. They had dreams of spending their lives in service and being fulfilled in the true sense of their Christian vocation. When the Indian woman religious left, the case was closed and forgotten. The seminarian continued his studies and was even sent to Rome for higher studies. Doris' case was taken up after she spoke up in 2018.

The brave sister from the Missionaries of Jesus continues with courage to stand her ground for justice, supported by five sisters of her congregation even though they get no support from their congregation. They often feel that they are marginalised by their congregation and the Church because they dare to stand up for their sister's rights.

Conclusion

In both the Vatican's teaching authority and the Holy See's structure of governance, women do not have a voice in developing doctrine and they do not have any decision-making authority. While Pope Francis declared that religious sisters are also victims of abuse, no action has been taken to address this problem in the Church. So far this has been glossed over as consensual, ignoring the reality of coercion and manipulation arising from the power difference between the two.

The Holy See has consistently placed the preservation of the reputation of the church and the protection of the perpetrators above children's best interests, as observed by the Australian national commission of inquiry.¹⁰ The civil courts in the US, Ireland and Australia have been seen to do justice to victims of sex abuse rather than the Catholic Church.

The Church has diligently promulgated policies and documents to deal with various justice issues which give the People of God great hope, but the gap between intent and implementation remains wide and yet to be bridged.

¹⁰ Reported by Kiren Tapsel in the *Australian Eureka Street*, 19 Nov. 2018, "Archbishop Hart told the Victorian parliamentary inquiry, 'scandal' has a special meaning in the Church. It means the loss of faith when 'a person who is supposed to act in the place of Christ acts in the very opposite and this causes people a loss of faith.' Faith, in the Church's theology, is the key to the salvation of souls. The cover up of child sexual abuse was in accordance with *Secreta Continere*, and with a particular interpretation of the Church's supreme law. <https://www.eurekastreet.com.au/article/softening-the-pontifical-secret#>

We have many good priests and bishops who genuinely are interested in doing what is right, but the culture of clericalism and misogyny that is widely prevalent defeats all good intentions.

The Church claims to be “prophetic,” so it has to lead the way in addressing the issue of sexual abuse. The Church in India has yet to put in place the Redressal Committees that have been made mandatory by the POSH Act – 2013. We seem to have forgotten that while sexual abuse is a sin it is also a crime, and that while the Church is an ecclesial entity it is also a workplace and hence must follow the law of the land. If it does not, it will be a serious omission and a matter of grave concern.

If the Church has to be seen to be sincere about doing justice to the victims of abuse and violence to women and gender minorities, then it has to seriously look into:

- The Wholistic Empowerment of women and sexual minorities to enable victims to speak out. Deprived of leadership positions in the Church, women's psyche has developed the characteristics of subordination, passivity, servitude, dependency, unquestioning obedience and vulnerability, this has to be examined seriously and changed!
- Putting in place Mechanisms to prevent and deal with cases of abuse, involving lay professionals, especially women.
- Talking about healthy sex and critically about its abuse especially in the Church and family.
- Having safeguarding programs for children and young people.
- Creating Transparency within the processes of investigation.
- Bringing democratic structures into Church governance – thus disabling the power that allows the culture of abuse to thrive.

To represent divine authority, the Church leaders have first to be seen to follow in the footsteps of Jesus who had no place to lay his head, who had only one garment, who reached out to the least, the lost and those on the margins of Jewish society, who treated everyone who approached him with understanding and compassion and when they listened to him they departed with a sense of peace and joy spreading the good news to others. The institutional Church has much to do to become the Good News to survivors of sexual abuse and the world.