UNITED NATIONS RESEARCH INSTITUTE FOR SOCIAL DEVELOPMENT

Gender and Rights in International Perspective

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UNRISD Workshop on Gender Justice, Development and Rights:
Substantiating Rights in a Disabling Environment, in conjunction with the
Special Session of the General Assembly
Women 2000: Gender Equality, Development and Peace for the 21st Century

Saturday 3 June 2000
Henry Labouisse Hall, UNICEF House, New York

In 1948 the Universal Declaration of Human Rights started a legal revolution and founded an international human rights movement. In the years since 1945 the legal gains have been significant in the domain of human rights, and social movements claiming rights in the international and local arenas have grown in strength and effectiveness, perhaps none more so than those concerned with the fate of that half of the worlds population that is female.

Before the Second World War, international law was largely based on the rights of states. After 1945, the rights of individuals against the state also received international legal recognition. The Universal Declaration changed radically the value accorded to the human person. For the first time, individuals - regardless of race, creed, gender, age or any other status - were given both rights and remedies against injustice in society and in the family. Almost all modern states have ratified the main international human rights conventions and most have absorbed their rights and remedies into their constitutions.

The 1990s were an important landmark in the international human rights movement and saw many positive changes in women's rights as well as human rights more broadly. The collapse of authoritarian regimes in the Soviet Union and Eastern Europe, Latin America and many other parts of the world, gave issues of rights and democracy a major impulse, and revitalised debates over development policy, itself now more closely tied than ever before to considerations of rights.

This broader international climate and the return to civilian rule in many previously authoritarian states presented national and regional women's movements with a favourable opportunity context to press for political and legal reform. As newly elected governments affirmed their commitment to democracy and pledged themselves to strengthen representative institutions in meetings of regional bodies such as the OAS and the Commonwealth group of nations, women's movements pushed questions of women's representation onto the agenda. Approval was sought and often gained for a broad range of recommendations to tackle the deep gender inequalities which kept so many women in poverty, socially marginalized and politically powerless.

These developments on gender issues were to a considerable extent impelled by the growing presence of international and regional women's movements especially in the countries of the South. The cluster of conferences (UNCED in Rio de Janeiro in 1992, the World Conference on Human Rights in Vienna in 1993, the Population and Development Conference in Cairo in 1994, the World Summit for Social Development in Copenhagen in 1995, and the Fourth World Conference on Women in Beijing in 1995), all provided gender issues with a public profile and stimulated local and (in the case of Latin America), continental debate over policy.

Thus partly under the influence of a growing international and regional women's movement and partly as the result of an effort to comply with international pressure and present a modern face to the world, governments recognised women as a constituency which demanded greater representation within the political and policy process. Gender issues were increasingly absorbed into the discourses of politicians who promised reforms in their electoral campaigns and if elected were pressed to deliver them. If, for most of the century women had been excluded from power, now it seemed that power was suddenly interested in women.

We are now in the first year of the new millennium, and marking the mid point between the Fourth and Fifth international women's conference, five years from Beijing. We are here today to reflect on some of the gender implications of this changed international context. We will be looking at how far it has benefited women, what opportunities it has offered, what new problems it might have posed, as well as what old problems need to be recast and rethought. How far have contemporary debates over rights and democracy helped women's struggles for greater gender justice?

Our three panels confront some of the positive enabling features of the present international consensus as well as the negative, troubling, problematic and still unresolved questions which the new emphasis on rights and democracy has raised. We have divided the panels today into three

clusters of issues which examine the gender implications of - : 1.The emphasis on rights in development; 2. The spread of institutional democracy; 3. Universalism and Multiculturalism. I want to briefly signal some of the issues which will arise in each.

First Thematic Panel: Rights-based development

If the 1990s saw a growing emphasis on rights, notably political and civil rights in international arenas, it was also a decade which marked a shift in the policy and practice of many NGOs and CSOs which increasingly adopted the language of rights in their work (see for example, Oxfam, Save the Children, IPPF). Development agencies, both governmental and transnational followed suit. There has been an active engagement by development agencies in work which aims to elaborate conceptions of rights and to refine the meanings of social and cultural rights, and indigenous, children's and women's rights. The right to development itself has also come to the fore in international policy debates. These are concerns that were raised in the various international conferences of the 1990s, especially in the Beijing conference of 1995 which gave a high profile to the role of human rights in the proposal for action.

What issues does this emphasis on rights raise? The rights agenda has been criticised on many grounds and has many enemies. Rights are accused of being empty rhetoric, of diverting attention from more serious issues such as basic needs. Human rights have been blamed for providing the means to violate state sovereignty - an issue posed in the wake of greater human rights intervention by the West which has been seen as inconsistent (why Kosovo and not Rwanda?) and sometimes counterproductive. Human rights have also been accused by its critics of serving as an instrument of moral imperialism.

These are all important and complex issues which require careful and informed debate. But however much they complicate questions of rights and democracy, they do not invalidate the principles on which they rest. Nor do they erase the history of struggle in pursuit of them by those who have been denied them. Whatever its origins, however cynically supported at times, the language of rights and democracy arguably has an existence as a popular aspiration both beyond the West and beyond the formal juridical and international arenas with which it has now come to be associated. It has been owned both as a language and as an aspiration by a wide range of social movements, outside as well as within the West, and among these, women's movements have been particularly important actors.

This activism by women in pursuit of rights is not a recent but a historical phenomenon. Indeed, since the earliest stirrings of modern women's movements in the 18th and 19th centuries the issue of rights has been central. In a diverse range of countries in the South as well as the North women have fought for both recognition and equality, and have sought to use the instruments of state and law to achieve their goals.

Until relatively recently women have been excluded in all societies from political power, and inscribed within systems of law with inferior rights to men. Women's movements have challenged their political exclusion, and the terms of their social inclusion. They have demanded that the prevailing definitions of citizenship in their societies be refigured to incorporate them and to give them voice and presence in the arenas of power in their societies. The language of rights is a lever for pressing for demands against the state and for social justice. Rights are not favours, the subjects of rights are not clients. States are bound to respect rights, and in turn rights imply agency, an active subject who demands and who enjoys a certain set of entitlements or guarantees before the law. In this sense rights are potentially empowering and their denial or lack of substantive meaning can form the basis for collective action and individual redress.

Yet it is increasingly said that the early demands of women's movements for rights have already been realised or are in the process of so being. Women now have formal juridical equality in most

of the countries of the world, they can vote, they can exist as full legal personalities. But in many contexts where formal rights pertain, the conditions for the realisation of those rights are not given. In this latter more exigent sense we can question whether full and meaningful sex equality is achieved in any country in the world.

Our first panel on rights raises questions about the conditions under which rights can be fully and meaningfully realised. Rosalind Petchesky and Veronica Schild ask us to think about what we have called the 'disabling context' of economic policies which are not delivering on their promise of a better life for all. For some activists indeed, the economic policies pursued by their governments and supported by international agencies constitute a violation of some fundamental human rights in denying economic well being to their populations.

The New Economic model associated with Neo-Liberalism was inaugurated under conditions of harsh stabilisation and structural adjustment policies which left millions impoverished. Many countries of the Former Socialist Economies and many countries of the South have not made the hoped for recovery, and the social and human costs of the liberal fundamentalism that reigned during the 1980s have continued to be high in these countries. Millions today lack stable employment, income inequalities have soared, and crime and social anomie are reaching record levels. Meanwhile states have downsized, abdicating former responsibilities in the domains of economic and social policy, just at the moment when they are most needed to play a co-ordinating function between public and private provision. Welfare delivery under the new schemes has been patchy where not starkly inadequate. This is the other face of 'actually existing liberalism'.

It is not surprising that questions about the link between rights and broader social and economic policies have come to the fore in recent decades. Rosalind Petchesky looks at the response of women's movements to changes in health policy and provision, and looking at Chile Veronica Schild interrogates Neo-liberalism's market formula of rule which has driven the devolution of welfare responsibility to NGOs and other civil society agencies, such as the community and the family. New approaches to poverty alleviation involve the creation of a new economic and social subjectivity to secure greater self-reliance thereby taking some of the fiscal pressure off the state. Individuals are thus free to become 'masters of their own destiny' while coming under the regulatory discipline of the market. All this means much more reliance on women as the bearers of social capital and the performers of unpaid care work.

As old models of welfare provision are dismantled and new ones are being put into place, there is concern that political rights have been granted at the expense of social rights. The paper by V. K. Ramachandran reminds us that the exercise of rights depends upon broader social policies, ones which secure the conditions under which people are able to be full citizens and participants in their societies. Women have historically been deprived of agency either through the operations of laws that forbid them presence and voice or through the lack of enabling conditions: female education is among the most important of these. Women's disadvantage in this and other areas limits their capacity to make claims and entitlements, and, even if formal rights are won, they can, without substantive rights, appear meaningless to the millions who lack the capacity to attain them.

Second Thematic Panel: Democracy

Our second panel is concerned with issues of democracy. Rights of any kind depend upon prior political conditions. We might say that without political and civil rights there is no guarantee whatsoever that other rights, however much they are inscribed in laws and constitutions, may be made effective. The absence of powers to make governments accountable and responsible to their citizens is one of the greatest obstacles to rights based agendas; those rights and powers are normally associated with the system of rule known as democracy. As Amartya Sen has argued democracy means that rulers have to take account of their electorates if they are to remain in

power; by way of illustration he draws attention to the fact that there has never occurred a famine in a democratic state.

The 1990s saw considerable advances for women in terms of political representation albeit from a shamefully low base. From representing a global average of 6% in parliaments in the 1980s the figures more than doubled over the next decade. This was largely through two developments: the passage of quota laws and the spread of decentralisation which gave local government more powers and resources. Women entered local governments in large numbers in Latin America, parts of Africa, South East Asia, and in India the Panchayats brought a million women into office. sometimes making up more than half of representatives.

Yet many women's rights activists are sceptical about the capacity of states to alter their procedures, cultures, and masculinist conception of the polity in such a way that women's concerns can be accommodated. The evidence shows that the rules of the political game are against women's influence over policy and participation in government. Growing concentrations of institutional power and the resistance of many governments to implementing genuine democratic reform remain formidable obstacles in far too many countries.

Where they do exist, democratic forms of rule can allow women's movements to achieve a productive synergy with state agencies if conditions allow. Our two speakers in the second panel Afsaneh Najmabadi and Shireen Hassim, consider the contrasting cases of women's entry into political life - in Iran and South Africa. These cases confirm what is known from evidence elsewhere, that democracy is not just a question of the functioning of institutional forms of democracy but of the quality and health of democratic life more broadly. The growth of popular grass roots women's movements in the last decades has been a striking and novel feature of political life in many regions of the world. But how effective these movements are in advancing their claims on the state depends not only on the form of state or government concerned, but on the character of civil society and of the values and principles endorsed by social movements. In Iran women are a political presence, active as much within institutional spaces as within grass roots movements around issues of welfare, notably health. Women's rights advocates must operate within an Islamist discursive and political space, and have made some headway in challenging more conservative attitudes to women's rights. The reform movement in Iran, however, has not addressed issues of women's rights, preferring to leave them until they gain political power. Such promises are familiar enough from other political contexts, and, as Najmabadi argues, the failure to incorporate women squarely into democratic movements risks jeopardising the movement as a whole.

In Africa, South East Asia, and in Latin America, some gains for women have resulted by working in collaboration and creative tension with local and national governments, and with new or revitalised political parties. In such contexts women have been able to push through a broad range of reforming strategies encompassing health, education and women's rights. The paper by Shireen Hassim on South Africa shows that for all the political differences which divide them, women have been able to achieve some consensus and have formed alliances on specific gender issues. The role of political parties as vehicles of change, so often ignored in feminist debates which have emphasised social movements and civil society, is signalled here as an important issue for discussion.

More generally, from the mid-1980s onwards women's interests did acquire greater representation within many states at both local and national level, as well as within supranational bodies. The gains that were made were more often than not secured as a result of active regional and international strategising, and of the opportunities for lobbying and bargaining afforded by democratic processes (especially elections which were important moments for demand making and- alliance building). But if women made gains in representation, in rights and in policy terms the momentum and direction of these gains also depended to a large degree upon a favourable political climate, and, as noted earlier, on the nature of the state and government - contingencies

which remained critically important in determining the continued success of women's movement's claims on the state for resources and policy changes.

Such gains as have been made then are neither secure, nor will they necessarily prove incremental. In most cases they resulted from tireless lobbying and organising, sometimes by small numbers of dedicated activists. It is impossible to emphasise too strongly how important women's movements have been in challenging gender injustice. While gender issues may have become part of the 'common sense' of the age, and while governments may have been happy to concede to some formal changes in women's juridico-political status, women's representation in these states is still fragile and still characterised by an inadequate institutionalisation. In other cases, conservative forces have rolled back the gains that were made in the 1990s.

Of the many obstacles that stand in the way of women, along with other marginalized sectors, being able to realize citizenship's inclusionary promise, five problems persist: the lack of a political culture which could nourish and sustain the democratic and egalitarian spirit of feminist demands, inform citizens of their rights and encourage them to pursue them; the corresponding lack of attention to the need to democratise the institutions of state and party rendering them more internally democratic, 'family friendly', transparent, and accountable to their constituencies; the lack of a critical mass of women in positions of authority who could give support to bringing about these changes; a pervasive resistance, both bureaucratic and personal, to fully integrating women into the arenas of public power as 'subjects of public policy'; the tendency of governments to impose their own agenda on women's policy units; and the risk of such units losing touch with the movement as a whole. In other words without a broader consolidation of meaningful democracy in the broadest sense, campaigns for women's rights risk losing force and direction.

Third Thematic Panel: Multiculturalism and Universalism

The tension between universalism and multiculturalism viewed from a gender perspective is the theme of our last panel today with papers by Aida Hernandez and Aili Mari Tripp on indigenous claims in Mexico and women's struggles for rights in Uganda.

Feminists have long been critical of what has been called the 'false universalisms' which pervade much modern political thought and practice. In their origins universal principles did not mean rights for all citizens, and the history of the last two centuries has been one where those excluded from those rights have staked their claims for inclusion, implying recognition and equal treatment. Feminists have also criticised these 'false universalisms' for establishing norms and standards which are based on masculine privilege while serving to devalue what was associated with the feminine. A similar critique has been made by those who seek to defend 'other' or 'subaltern' cultures against a normative, universal and in origin Western set of laws and standards which serve to deny the validity of those judged wanting by those standards.

But even as it has been critical of false universalisms, feminism has been more on the side of universalism than against it. Feminist campaigners demanded consistency in the application of universalist claims. If women had been left out of citizenship they now demanded inclusion within its egalitarian promise. Women too should be treated as moral equals. The earliest demands for 'women's emancipation' were associated with humanist conceptions of the individual's right to dignity, freedom and rights, and to equal treatment in the law. Those who lived in a state of subjection, as slaves, oppressed classes, castes, or as wives, and who were deprived of such rights were denied basic humanity. Against this state of subjection, and counterposed to it, was the idea of the free, sovereign individual, encapsulated in citizenship, a status which combined freedom with equality, dignity and rights. Women's movements struggled for this individuation and autonomy from patriarchal servitude, from the oppression of their social norms or societies, or from religious authority.

More generally, the universalist principles of citizenship were developed in opposition to particularistic rights. The latter were invested in castes and estates, or in ethnic groups as in South Africa or colonial Latin America, and which were subject to the whims of rulers. Citizenship was also founded on secular principles and was opposed to, or sought modification of, religious definitions of rights and law. The twin principles of universalism and of individual rights served as a guarantee against the abuses of authority and as a way of ensuring equal treatment of all citizens before the law.

Such conceptions of citizenship have however come under attack in recent times from communitarian and multicultural positions as well as from indigenous peoples, migrant and religious communities who have resisted pressures to conform to a dominant culture which excludes and obliterates their own cultural or religious values. Universalism is here read not as an egalitarian principle but as an illegitimate hegemony. Arguments are consequently made to assert the validity of group rights and legal pluralism against universalist laws and norms.

Despite the force of such arguments and the validity of the claims for recognition, they raise serious issues of principle. The right to be different and to be respected as 'equals in difference' is in spirit a democratic and egalitarian claim. It is, that is, if the assertion of difference does not entail sacrificing the principle of equality. The argument here is not so much about cultural difference as about issues of principle and politics. Communities which assert distinctive cultural norms against what they see as an system of values in reality vary considerably in their politics and in their treatment of women. China for example is, in many respects anti-Western and anti-Liberal but supports women's equality as a matter of principle.

The tension between women's demands for moral equality and justice and multiculturalism is perhaps not as absolute as some have claimed. These two positions are only irreconcilable if we think of them as polarised, absolute and offering no common ground for discussion and dialogue. The debate over multiculturalism has tended to be fought out in terms which reify the politics and realities of societies rather than engaging with them in all their diversity. It has been claimed by some postmodernists and political forces hostile to the West that rights based demands are necessarily at variance with local cultures, or other 'national values', or more sweepingly, that rights are a Western concept alien to the cultures of much of the world. But are human rights 'a western construct of limited applicability'? Such characterisations are too starkly drawn and rest on unhelpful oppositions - the West as the place of rights/ the South as the place of resistance to rights; traditional/modern societies, authentic/false cultural forms. Yet culture is dynamic and ever changing: no culture can be seen in the modern period to be other than syncretic. Moreover, as Tripp argues, the implicit elevation of culture as beyond criticism is problematic: not everything that is deemed a part of a given culture is necessarily a positive value: violence against women and children can be justified as part of the 'culture'. The principles of equality and fairness if generalised in a given society do not annihilate its 'culture' and may even fortify and revitalise it. Even if ideas of human rights and democracy originated in the West, today the West has no exclusive monopoly over them. Many human rights claims emerge out of local social movements, some from indigenous understandings of rights and justice. Concepts of respect, dignity, justice and peace have all provided fruitful starting points from which to advance dialogue over rights.

There is therefore not only a basis within diverse cultures for such work, but it is also increasingly the case that human rights practice has become a global reality. Irrespective of cultural variations in the applied meaning, human rights have become the lingua franca of moral thought for marginalized groups all over the world, through which to make their demands of dominant groups. This does not imply that the cultural norm of human rights is understood or negotiated in the same way everywhere. Indeed, this recognition is one of the reasons that human rights ideas have developed and progressed internationally since the 1940s: such differences in understanding can and should enrich both practice and policy.

Conclusions

We live then in interesting and challenging times of opportunities presented by the political changes of recent years. Many citizens, in having a state of law restored to them, have once again acquired 'the right to have rights', itself the pre-condition for the attainment of other citizenship rights. Amidst these changes, women have made many positive gains. Yet the perplexing reality of liberal hegemony is one of increased rights and opportunities for participation in the formal political arena, but in a context of deepening structural reform and social inequality. The international shift from the social state to the contract state of neo-liberalism has produced a context in which there has occurred a significant diminution of social rights, the condition for the full realisation of political equality. Citizenship enshrines ideas of political freedom, impartiality and equality before the law, but as many liberal theorists have themselves acknowledged, these ideals are threatened in a system founded on great inequalities in wealth and income. The tension between market principles and the claims of citizenship can only be reduced by deliberate policy interventions to secure social equality, what T. H. Marshall referred to as the subordination of market price to social justice. If women's movements are to realise the full potential of the rights they have won and are winning, this fundamental insight may be a useful place to start.