

DEBATING GLOBAL WOMEN'S HUMAN RIGHTS

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The idea of women's human rights begins with Mary Wollstonecraft's book, *Vindication of the Rights of Women*, published in response to the dissemination of the natural rights of man theory.ⁱ Education of women and creation of their knowledge empowered them to look beyond the confines of home to learn about the outside world and express their legal and social freedom to participate in public life, at an international level.

Efforts made by the United Nations rests on realisation of human rights standards relating to women at three levels: formal affirmation that human rights and fundamental freedoms apply to women as they do to men; prohibition of discrimination based on sex, i.e., safeguards for equal treatment and equal opportunities for women; identification and elimination of obstacles to equal exercise of human rights and freedoms by women, which are gender specific and derive from child bearing and child rearing or woman's marital or family status. However, it was also realised that elimination of gender discrimination necessitates unequal rather than equal treatment: obstacles to equality cannot be removed unless they are recognised and because they hinder women's exercise of human rights, special measures for women are necessary as to enable them to overcome such obstacles.

The global commitment to equal human rights for women has progressed in the last few decades, which has necessitated an inclusion and focus on women's human rights in national and

international law. Human rights norms needed to be merged with the parallel process of advancement of women or improvement in their status and their development.

WOMEN'S RIGHTS ON THE GLOBAL AGENDA

International women's organisations engaged in lobbying after seeking support from women delegates and thus the phrase 'equal rights of men and women' was inserted into the United Nations Charter. When the United Nations Declaration of Human Rights was drafted, the word "everyone" was used in most articles but not all articles. The Commission on Human Rights failed to recognise women's aspirations adequately; women delegates and Nongovernmental organisations supporting them became politically powerful and established a Commission on the Status of women (CSW).ⁱⁱ The purpose of CSW was to promote women's rights in all fields of human endeavour and elevate the equal rights and human rights status of women, irrespective of nationality, race, language, or religion, in order to achieve equality with men and to eliminate all discrimination against women in statutory law, maxims or rules, or in interpretations of customary law.ⁱⁱⁱ

The 1975 International Women's Year Conference held in Mexico involved a huge number of delegates from all branches of new women's movement and had development as an important

agenda on order to attain equality but representatives argued that “national machineries” in the form of women’s commissions were required to be set up to bring together women together at local and national levels and address common concerns of sex discrimination and inequality, as well as women’s place in development process. The conference also adopted a World Plan of Action, which noted the promotion and protection of human rights for all and acknowledged the active role played by women in accelerating the material and spiritual progress of people. So, women’s role was seen as a revolutionary social force by this plan and active involvement of nongovernmental women’s organizations was sought for ten years, thus claiming 1975-1985 the UN Decade for Women. By 1979 the CSW, with a new wave of feminism under way, drafted and lobbied for the adoption of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW). This convention brought together ideas and debates on women’s rights and emphasized on the concept of equality was ratified by General Assembly resolution of 18 December, 1979, making a linkage between women’s rights and human rights.^{iv}

The Third World Women’s Conference (1985) was held in Nairobi, Kenya demonstrated that the new international women’s movement was extremely diverse and this conference called for constitutional and legal reform in accordance with the convention and for equality in social and political participation.

It took time for the actual evolution of human rights norms to emerge as a parallel process of ‘advancement of women’, improvement of the ‘status of women’ or ‘women in development’. During the 1970s awareness raising activities of the UN acted as a catalyst for introducing gender into international and national policy making by giving women visibility in all areas; political, economic, social cultural, environmental and humanitarian. So, gender has become an integral part of global policies in human rights and related areas of combating violence, refugee protection, housing, environment and development. In 1980s, human rights of women

were incorporated into global policies paving a way towards merging dissociated women’s human rights approaches. A series of global conferences in 1980s and early 1990s were convened under the United Nations auspices.

The Fourth World Conference on Women, commonly called the Beijing Conference was the largest international meeting held in 1995. It reflected the reaffirmation that human rights and fundamental freedoms are applicable to women the way they are to men, thus putting women’s human rights even for firmly on the world agenda. Critical areas of concern was the burden of poverty on women; unequal access to education and training; healthcare; violence against women, the problems of armed conflict; economic inequalities; inequalities of power and decision making; insufficient mechanisms to promote the advancement of women; lack of respect and protection of women’s human rights; stereotyping of women and inequality in communications especially the media and the environment. The shift of focus from women to a category of gender was to recognise the structure of society and all existing relations between men and women and this was an aspect that needed to be re examined. The term universal and the use of religion and culture to limit women’s human rights was the other area of scrutiny during the Beijing conference. Many countries were critical of the universal application of women’s human rights as they considered it a way of disrespecting religious and cultural practices which involved women and thought that western values are being imposed on certain family and local and communities.^v However, various other countries adopted ‘Beijing Platform for Action’ for an effective inclusion of a gender dimension within institutional planning and decision making. Issues of raising economic and political empowerment of women called for an active intervention by governments.

There was a need for redress of the inequalities caused by the genderless development policies that were further hampered by the invisibility of gender distinctions in the data used in conventional development research and planning.

Thus women's participation in the labour force was underreported, women's work ignored, women's ownership of land and access to agricultural loans unknown and wage differentials by sex impossible to document. Genderless categories such as peasants, the rural poor or the landless prevailed. It is after gathering the gender specific data, inequalities become visible and gender discrimination is documented.

There arose a need to adopt social inclusion of women in order to recognise formally problems of women as whole and specific categories of women to bring about a change in their position. The aim of social inclusion is to create 'a society for all, in every individual, each of the rights and responsibilities, has an active role to play. Women could gain from the concerns articulated in international development policy and practices that look at women's issues or design women projects.

Thus the international developments, especially the Beijing platform for an action brought about a commitment to effective inclusion of a gender dimension within institutional planning and decision making whereby governments of various countries were called to intervene and raise the issue of economic and political empowerment of women. Institutional measures could work in the interest of women's equality through strategic action in areas like alleviating poverty, ending inequalities in education, training, health care, economic structures and policies, in all forms of productive activities and access to resources, violence against women, effect of armed or other kinds of conflict on women, the position of women in power or decision making, promote their advancement in at all levels and by this protect their human rights.

DEVELOPMENT OF HUMAN RIGHTS OF WOMEN

Rights are a cultural phenomenon that develop and change over a period of time in response to social, economic, political and cultural influences.^{vi} Human

rights on the other hand, possess an element of universality and this is grounded in the struggle for those rights. These struggles are also different because they belong to different groups of people. Human rights of women are recognised and reiterated by the women's rights advocates as before the international community and treated as human rights mechanisms and programs set by international and national institutions.

There was an agreement on maintenance of separate UN bodies devoted to women that have played an important role in developing standards, also sought to engage all other programs of the UN in examining gender related aspects of their ongoing work. This solution was called 'gender mainstreaming' and refers to a process of assessing the implications for men and women of any planned action, including legislation, policies and or programs, in all areas and at all levels. This makes explicit the need to link gender with other issues, such as violence, health care or political participation, and also makes a point of stating that gender is not only about women – it is about women and men and the way each is affected.^{vii} Most effective strategies and approach for gender equality are women empowerment and gender mainstreaming and institutional capacity building to enable them to incorporate the gender equality perspective in their work. Concern for these issues is lost when the project materialises this is also in consonance with the suggestion of the WCD that a rights and risks approach instead of the usual cost benefit calculations must determine the quality and viability.

Gender mainstreaming seeks to empower women by removing obstacles that have been constructed by societies that operate to the disadvantage of women. When laws, policies and practices are examined from a gender perspective, then those areas where women are discriminated against can be identified and new policies to overcome such problems can be developed. Mainstreaming women's rights into other human rights programs and operational field activities promises that women's human rights will not be

marginalised in just few, ineffective and neglected programs vis a vis other core programs undertaken elsewhere. So, we need to understand that it is important yet difficult to make the human rights of women visible. Issues of employment, health care, education, and violence against women or other women's rights are pertinent. All these needed to become more perceptible, resulting in a process of initiating women into a public arena. This process however required to be an enduring one and reflect how human rights work had to be carried on. According to Felice D. Gaer, human rights of women should involve following three elements- building awareness, increasing participation and expanding coordination.^{viii}

Women's human rights were invisible earlier and came about after women activists from Non-Governmental Organisations (NGOs) mobilised their efforts. In the years preceding the Vienna conference and the Beijing platform of action undertaken, women's rights as human rights was further conceptualised, theorised and concretised internationally and locally.

Feminist activists have done practical and theoretical analysis of human rights and have drawn many feminist theoretical perspectives from the foundations of human rights. In CEDAW, activists lobbied for the governments recognised the need for all social, political, and economic institutions in society 'to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.'^{ix}

In all the human rights documents it is found that the focus has been on gender analysis or gender based planning or gender mainstreaming which no doubt looks at transformation towards gender equality but the need now is to stress on a women's rights programming as it has the power to change women's lives in reality. As long as gender based violence and violation of women's rights continue, it is difficult to claim real progress towards equality, development and empowerment of

women. Issues of violation of rights of women need to become a focal point of women everywhere. Violence against women was addressed by human rights bodies; the systematic use of coercive and forcible measures to ill treat, harass, or impede the capacities of women posed inherent obstacles to their enjoyment of human rights.^x The international and legal framework to address violence needed to explore means by which governmental and intergovernmental mechanism to combat such violation of rights of women could be looked at.^{xi} Thus gender integration of women's human rights meant breaking the silence, ensuring that no woman is abused and required the accountability of people engaged in such abuses.

CURRENT DEBATES ON WOMEN'S RIGHTS AS HUMAN RIGHTS

Women perform a unique biological and social role in society and so it is argued that their rights are worthy of special protection. This position of women is drawn from the equality and difference theory of feminism highlighted by several feminist theorists like Carol Gilligan and Nancy J. Hirschman. They believe that focussing on difference from a feminist perspective can help us understand the historical necessity of women's exclusion from rights and how this exclusion makes the application of liberal rights to women problematic. However, according to Hirschman, it points to a reconfiguration of rights, as well as of central rights categories such as freedom, equality, the individual, neutrality and universality that allows for a fuller and complex realisation of difference within a rights framework.^{xii} Similarly, Gilligan rejects universal, neutral and impartial rights and gives the 'care model' of ethics that views care as the basis of reconceptualising rights.^{xiii}

Keeping this approach in view to rights that demand attention to particularity and specificity of need, feminism tries to present a stronger respect for difference but at the same time does not wish to give up the rights that are required for the 'politically disadvantaged group' of women. The focus on inherent differences between men and women

seemed to have triggered a debate whether the idea of a special protection contradict the idea of human rights, which prescribes a set of universal norms applicable to all people equally. The answer to these questions lays in the fact that the idea of universal rights is consistent with the idea that certain groups of people (e.g. women, children and indigenous people) may be particularly vulnerable to abuses in specific situations, and therefore deserves a special protection.

Human rights of women have always referred to violation of rights of women and thus became a tool for political activism by grassroots women's organisations. The idea of women's human rights has been rallying point for women across the globe and has facilitated the creation of collaborative strategies for promoting and protecting the human rights of women. Until 1990s, discussions of human rights focused on torture and genocide and other extreme forms of abuse. The opening for new debates afforded by the end of the 90s rested on the strategies of making women's human rights more visible. The framework of human rights of women is useful in efforts to lobby for legislative and policy changes at local, national and international levels. Women demanded justice in conjunction with men and wished to create new political institutions dedicated to making human rights, a central element in the international political agenda.

Women look towards new social and economic relations and envisioned a new ethical order based on principles of justice. They need to combat threats to their health, assert their reproductive rights, struggle against all kinds of violence, end violence owing to religious and community practices, establish their right to work and rights against discrimination at work, focus on education of the girl child and their protection from trafficking, sexual abuse; and demand equal distribution of social necessities, acquire the rights to private property.

Women's health is a key component for advocates of women's human rights who are devoted to preservation of wellness and prevention

of illnesses and include the screening, diagnosis and management of conditions which are unique to women, are more serious in women and have manifestations, risk factors or interventions which are different in women.^{xiv} Health care workers in accordance with the human rights doctrines have the opportunity to point out the potential injury to women and can be responsible for creating awareness regarding human rights violations of women and their elimination by new laws and bring about changes in judicial and police systems in order to advance human rights of women. Here, I would like to bring to light the recent abortion debate as the most highly charged political issues, as the interest of pregnant women are pitted against the interests of unborn children. This debate revolves around its legality.

The argument regarding abortion rights proclaims that human rights must be reserved for humans if they are to have any meaning, because a foetus is not yet human, it does not have any rights that can be weighed against the rights of the mother. Until the time of viability, the foetus is an indistinguishable element of the woman's body, and women clearly should have the right to choose what happens to their bodies.^{xv} From a human rights perspective the foetus is fully human and possesses the right to life, but it is not viable and inseparable from the mother so does not have autonomous rights of human being. Thus, the reproductive rights of women are important and cannot be disrespected as they are connected to their protection of their right to have control over her body. It is analysed, when women lose control over their bodies they tend to lose social equality within the family, the ability to make economic choices, and ability to participate in political processes. This argument thus reinstates reproductive choices as individual choice of women, stressing clearly on their reproductive rights that have played role in struggle for women's rights and gender equality, which in turn is vital to human rights.

There have been feminist, non western political claims to human rights that have been questioned for their universality by cultural relativist

theory, which raises theoretical and historical objections. These claims view that ethics develop within a particular context, because social contexts are distinct from another. According to this notion, there cannot be a moral or ethical framework that applies to all contexts. Various societies have their cultural, religious and philosophical traditions. Owing to these practices, sex selection, female infanticide and female genital mutilation/ female circumcision are pertinent issues that have been taken up fervently by human rights activists. These customs which are rooted in the religious beliefs reflect cultural standards of femininity, superstitions, distinction of gender roles, and socialization of girls and perpetuated by members of certain societies. These societies' cultural and social leaders have resisted human rights processes as incompatible with their way of life. The issue of female circumcision raise questions over women's rights, children's rights, and the notion of free choice.^{xvi} Human rights activists have enough reasons to condemn this practice and impose a legal ban on it, as it is violence, torture and a clear violation of rights of women and thus cultural relativism cannot justify such an inhuman practice. In a similar manner, girls cannot be considered as burdens because they have a lower status and on this basis denied food, education, class, or occupation.

Gender violence emerged as a major focus for women's rights and highlights the state's failure to protect women from violence, which itself is a human rights violation. Violence against women is defined as "the act of violence that results in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion and arbitrary deprivation of liberty, whether occurring in public or private life."^{xvii} The rights of women to protection from violence are universal human rights. Though the development of an international approach to gender violence is complicated, the global declarations grow out of local movements and inspire other local movements and programs in different parts of the world. Women's vulnerability to violence can be related to the entrenched socio-

cultural practices involving marriage, work, and religious ideologies of masculinity and femininity.

Human rights compliance towards rights against gender violence would mean communication: exposing points of violation of human rights documents and using international public opinion to condemn violating states. The human rights system has many features that are law like, but it lacks an enforcement mechanism parallel to that of state law like state law systems, human rights operates through statutes produced through quasi – legislative processes of commission, meetings and deliberations with the assistance of experts under the auspices of UN organisations.^{xviii}

Women involved in environmental justice movements around the world took up issues about sustainable development and showed how globalization meant globalization of markets and not of human needs for water, clean environment or having access to public resources.

The Convention on the Elimination of All kinds of Discrimination (CEDAW)^{xix} demands emphasis on special rights of women, by promoting a substantive model of equality, which includes equality of opportunity for both men and women. According to the final text of the U.N.'s 1995 Conference on Women in Beijing and its *Platform for Action*, "in many countries, the differences between women's and men's achievements and activities are still not recognized as the consequences of socially constructed gender roles rather than immutable biological differences".^{xx} Recently, the ILO report on 'Equality at Work: the Continuing Challenge' stated that laws on equality and non-discrimination at work cover an increasingly broad set of grounds for discrimination and stipulate more comprehensive protection. In many countries, equality bodies have significantly contributed to a better implementation of laws and policies against discrimination at work; in others, they have faced serious constraints in fulfilling their mandate.^{xxi} Despite these measures, women still face discrimination with respect to equal pay or access to benefits.

Keeping in view this violation of women's rights as violation of human rights, it is seen that women at workplace have been identified as a category or a group which has faced discrimination and disadvantages since a long time. So, it is crucial to address the problems of working women in terms of whether the existing legal and legislative remedies are effective instruments to combat discrimination and harassment.

Lack of implementation of existing provisions of equal rights was first pointed out by feminist writer Catherine Mckinnon who also examined sexual harassment of women at workplace. Sexual harassment is all about expression of male power over women that sustain patriarchal relations.^{xxii} It reminds women of their vulnerability and subjugated status. In a society where violence against women, both subtle and direct, is borne out of the patriarchal values operating in society, force women's conformity to gendered roles. These patriarchal values and attitudes of both men and women pose the greatest challenge in resolution and prevention of sexual harassment. Several studies find that sexual harassment is still endemic, often hidden, and present in all kinds of organisations.^{xxiii}

The above views are manifested in the recent global reports. According to UN Women in its report on 'The World's Women 2005: Progress in Statistics', "Sexual harassment and intimidation at work, in educational institutions, in prisons and in other institutions are forms of violence that have existed for a long time and are beginning to be publicly or seriously addressed, however lack of statistics on these issues have limited its scope."^{xxiv} The new UN Report on 'Millennium Development Goals' states "gender inequality persists and women continue to face discrimination in access to education, work and economic assets, and participation in government. Violence against women continues to undermine efforts to reach all goals."^{xxv}

Jeri Freedman deals with contemporary issues of sexual harassment at the workplace and reveals that 46 percent of the current American workforce, and nearly half of the new jobs

created go to women. She examines that despite these numbers; however, women still face inequality in terms of pay and opportunity. In addition to unequal treatment on the job, women are vulnerable to sexual harassment ranging from jokes and snide remarks to unwanted sexual advances. She also look at the history of women and work, and the attitudes that society held about them, explains some of the pivotal legislation, and gives practical advice on how to deal with unequal treatment and sexual harassment in the workplace.^{xxvi} Mary L. Boland shows how to identify harassment and to understand its causes in the workplace in a comprehensive, practical guide, 'Sexual harassment at the workplace'. She discusses the effect of sexual harassment as it relates to the victim, other personnel and the company and gives an overview of the laws governing this topic and an explanation of these laws and the process for filing and pursuing complaints and the potential resolution of the lawsuit-pros and cons.^{xxvii}

Notions of equality of opportunity and non-discrimination hold importance in the liberal point of view and in international documents, yet there is a contradictory nature to the women's demand for equality and rights. On one hand, women seek equal and impartial treatment and on the other hand they press for special rights for protection so that they are able to perform their work to their fullest capacities. Despite the establishment of equality of women in employment in principle, it is far from being implemented. There is also a sense of disadvantage with regard to the kinds of jobs occupied by women as compared to men, and these disparities put them in a position of vulnerability and dependency. Thus we can see that women's rights at workplace are of important concern for women's human rights.

Feminist scholars provide us with an anti – discrimination paradigm which is crucial in examining the global debates on women's human rights and makes universality of human rights their utility for prospects of women's rights. This also reiterates that women's movements and rights are important despite the problems they face. There is a

global concern regarding the real experiences of women that continually assert the need for special attention to specific obstacles that block women's enjoyment of their human rights. The human rights framework makes women's struggles for rights and justice visible and establishes links with others engaged in similar struggles.

CONCLUSION

Women's human rights rests on making a rights claim and emphasise on the fact that their beings are entitled to have and enjoy rights. Feminists have used the slogan 'women's rights are human rights' to emphasize that they have certain indivisible rights related to marriage, property, reproductive choice, against all kinds of violence and violation of their rights. Women's claims for substantive rights can be possible through formal institutions' interaction with social norms and practices so that they are able to curb violence and abuse. Recognition of this pattern of rights violations led women to understand that this is a human rights issue and to assert their claim under the banner of women's human rights as human rights. The transformative theory of human rights developed consciousness of women and this discourse established a strategic choice for them enhancing the visibility and legitimacy of their cause. Thus, women use political legitimacy of human rights to press their claims for full range of rights and develop human rights theory and practice further to make it more inclusive of all people's rights violations.

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