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Women's Empowerment and Human Rights

Introduction

In my intervention today, I will focus on the interlink ages between women's empowerment and women's human rights and argue that these are inseparable and mutually reinforcing processes and the existing international human rights instruments provide women with a legitimate legal framework for claim making in their rights struggles. Diversification of women's voices in the rights struggle has challenged both mainstream human rights culture and the hegemonic representation of their cultural/religious community.

My personal perspective on the subject of women's rights is embedded in my academic work as well as in my experiences within the institutions of international gender equality regimes, particularly the post of the United Nations (UN) Special Rapporteur on violence against women, its causes and consequences (SRVAW) - which I held from 2003 to 2009.¹ I will, therefore, start with a global perspective on women's empowerment and their engagement with the international human rights framework, then pose some issues for thought and discussion concerning women in the Arab countries.

Women and the United Nations

The diversification of the global women's movement over the years has enriched our understanding of the complexities of gender inequality both in its universal as well as particular manifestations. Women's movement thrived theoretically and in practice as women's diverse experiences gained visibility, "trickling up" from the local to the global. Women organizing globally and the creation of the UN as a media for multilateral dialogue are two key elements that account for the evolving international gender equality and rights regime, which stimulated – at times modest, and at times impressive - national level pro-women change in all countries.² The UN provided women with an international platform to voice their demands and the women's movement expanded and transformed the UN instruments to become responsive of women's concerns. In the process, the essence of international relations has changed, which until recently was perceived as the site of "high politics" only.

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² For further discussion on women and the UN see for example: L. Reanda. 1981. "Human Rights and Women's Rights: The United Nations Approach." *Human Rights Quarterly*: 11-31; H. Pietila. 1999.

Given the reluctance of most national governments to consider gender issues in social and economic policy, the international arena attracted women from around the world as a viable environment where they could join forces in pursuing their goals for the establishment of gender sensitive instruments and mechanisms. This has not been a problem free and easy process. Nonetheless, the Organization gradually became moulded according to the rising demands from women, and gender sensitive documents made their way to the intergovernmental bodies for consideration.

Once negotiated and adopted by governments, these consensus documents formed the basis of State responsibility against which women's groups can lobby for change at the national level. In this regard, the gender equality agenda fundamentally altered the doctrine of State responsibility which, in conventional terms, was understood as negative responsibility, i.e. doing no harm. Focus on the violation of women's human rights imposed a positive responsibility on States to take measures to prevent not only harm inflicted by the agents of the State but also that of non-State actors.³ Consequently, issues concerning women moved from the privacy of the home and the sovereignty of the State to the international arena where the performance of governments with respect to their due diligence obligation to prevent, protect, prosecute and provide compensation for acts of violence against women is now reviewed and assessed.⁴

Empowerment of Women

The most comprehensive of the international gender equality policy framework is, no doubt, contained in the 1995 Beijing Platform for Action (PfA). The Mission Statement of this document defines the Platform as an agenda for women's empowerment and seeks to promote and protect the full enjoyment of all human rights and the fundamental freedoms of all women throughout their life cycle, thus highlighting the crucial link between women's empowerment and women's human rights.

The PfA identifies 12 critical areas where governments are called upon to take measures in order to remove the obstacles for women's empowerment. In this context, empowerment is perceived as both a means to achieving women's advancement and an end in itself as an indicator of advancement.

Engendering the Global Agenda: A Success Story of Women and the United Nations, INSTRAW Occasional Paper Series. No 1; D. Jain. 2005. Women, Development, and the United Nations. Bloomington: Indiana University Press; Y. Ertürk. 2005. "The UN agenda for women's rights and gender equality." In *Perceptions: Journal of International Affairs*. Vol X Number 2: 91-113.

3 See: Y. Ertürk. 2006. The Due Diligence Standard as a tool for the Elimination of Violence against Women. Report of the SRVAW to the Commission on Human Rights (E/CN.4/2006/61). Available at <http://www2.ohchr.org/english/issues/women/rapporteur/index.htm>; "In-depth Study on All Forms of Violence against Women: Report of the Secretary-General" 2006 (A/61/122/Add.1); A. Clapham. 2006. *Human Rights Obligations of Non-State Actors*. Oxford: Oxford University Press; and also Y. Ertürk. 2008. "The Due Diligence Standard: What Does It Entail for Women's Rights?" in Carin Benninger-Budel (Ed.). *Due Diligence and its Application to Protect Women from Violence*. Leiden: Martinus Nijhoff Publishers: 27-46.

4 State accountability with respect to their international commitments regarding women's rights is an international concern. States report to monitoring bodies on the measures they have taken to improve the status of women. With the establishment of the Human rights Council (HRC) in 2006, the Universal Periodic Review (UPR) mechanism was created as a unique process which involves a peer review of the human rights record, including women's rights of all 192 UN Member States every 4 years. See www.ohchr.org for an elaboration of the UPR system and reports on the review of individual countries. Also see: Y. Ertürk. 2008. Indicators on VAW and State Response. Report of the SRVAW to the HRC (A/HRC/7/6).

The concept of empowerment is defined and understood in diverse ways. The international women's movement initially used it within the "women in development" (WID) paradigm.⁵ In this context, empowerment was conceptualized as a means for achieving women's economic autonomy and for meeting strategic gender needs through a bottom up mobilization. However, more often than not, WID practitioners reduced the concept to a utilitarian level. They perceived women's empowerment as a means to enhance economic efficiency, primarily because women are known to demonstrate a positive market performance, particularly in areas such as repayment of loans, consumption patterns, among others.

The 1995 Human Development Report (HDR) made significant contributions to the debate by focusing on the critical role of gendered aspects of disparities in development work. The report emphasized three dimensions: capabilities, opportunities and empowerment. Empowerment is defined by the HDR as a well-being dimension where women's disadvantage is located in both political and economic institutions. It is argued that women's participation in the decision making processes of these institutions can have positive outcomes for their overall well-being. The HDR argues that growth is not necessary for overcoming gender inequality, however, the two indexes developed for measuring women's well being – Gender Development Index (GDI) and Gender Empowerment Measure (GEM) - both presuppose income and growth.⁶

My personal understanding is that, women who have been historically excluded from mainstream power in all societies are naturally self-empowered as they must develop strategies to cope with the challenges of everyday life and negotiate within a disempowering patriarchal system to survive and preserve their dignity. Even under conditions of disorder, such as conflicts and natural disasters, women have to manage some form of order to feed their children and sustain their families. However, in the final analysis, transcending unequal gendered structures requires a transformative understanding of empowerment. This requires, self-empowered women to organize and challenge rather than accommodate the conditions of their life. In other words, women's empowerment to cope versus empowerment to change requires different strategies. It is the latter that has inspired women's collective agency and constituted the basis of international gender equality documents such as the PfA.

Today, the literature on women's empowerment reveals that the concept is perceived as a more comprehensive process that involves the development of women's overall capabilities⁷ to enhance their ability –individually and collectively- to overcome or remove the disempowering economic, social, cultural, legal forces that limit their choices and to live a life not only free of violence but the right to reconstruct that life. Sunder ar-

⁵ See: C. Moser. 1993. *Gender Planning and Development*. London: Routledge.

⁶ For further discussion of the HDR approach, see: S. Seguino. 2009. "The Road to Gender Equality." In G. Berik, Y. Rodgers, and A. Zammit. *Social Justice and Gender Equality*. New York: Routledge: 44-70.

⁷ For a discussion of the human capabilities approach, see: M. Nussbaum. 2005. "Women's bodies: Violence, security, capabilities", in *Journal of Human Development*, Vol. 6, No. 2, July: 167-183.

gues that, “It is only when women ‘reclaim their own cultures, interpreting texts and traditions in self-empowering ways...that women may truly claim their rights’” (2003: 1449).⁸

Such an understanding essentially implies altering the existing gender order towards a more egalitarian system.

From impunity to accountability

Globalization and the ending of the cold war signaled the significant change towards a new world order where international relations, the nation-State and the relations between the State and the citizen are being fundamentally re-configured. These changes are dialectical, with both universalizing and diversifying tendencies. Their implications for the gender equality agenda have also been diverse and contradictory. This subject, although critical in itself, is not central to the current discussion.⁹ What is pertinent, however, is that particularly with global re-structuring and the post-cold war era, the human rights paradigm started capturing the aspirations of people everywhere. Formerly excluded groups, including immigrants, minorities, indigenous peoples and women, could now rely on an international system of rights beyond the nation-State in making their claims.

There is now a convergence around the values of human dignity, justice, non-discrimination, equality, justice and universality inherent in the Universal Declaration of Human Rights (UDHR) and human rights treaties. All member States of the UN are a party to at least one, if not more, of the human rights instruments; wars are fought in the name of human rights; neo-liberal economic policies are opposed on the basis of the ‘rights-based’ approach; international financial institutions and multinational corporations find it crucial for their public image and long term interests that they are perceived as respectful of human rights, including women’s rights.

This momentum enabled women, who themselves emerged as significant global actors in the post-cold war era, to re-interpret the human rights language in arguing that women’s rights are human rights. As women’s local resistances and movements for justice matured socially and politically so did their global presence and authority in challenging the historically rooted patriarchal values and institutions that normalized women’s subordination in all societies.

The engagement of the global women’s rights movement with international jurisprudence not only empowered them further and made them one of the most effective and

⁸ M. Sunder. 2003. “Piercing the Veil.” *The Yale Law Journal*. Vol. 112: 1399-1472.

⁹ There is a rich literature on the impact of globalization on women and their status in various countries. See: Y. Ertürk. 2009. *Political Economy of Women’s Rights*. Report of the SRVAW to the HRC (A/HRC/11/6); D. Elson. 2002. “Gender justice, human rights, and neo-liberal economic policies.” in M. Molyneux and S. Razavi (eds.). *Gender, Justice, Development and Rights*, New York: Oxford University Press: 78-114; S. Sassen. 1998. *Globalization and its Discontents*, NY: The New Press.

inclusive transnational movements but it has had far reaching impacts in opening new areas of theorizing and inquiry for feminist research; mobilizing women from around the world to rally for State accountability in matters concerning gender justice; stimulating national level legislative and institutional reform to prevent gendered discrimination and violence against women; changing the human rights language and practice to correct its male and Western bias; and confront dominant interpretations of their culture and religion. Perhaps the most concrete indicator in this regard is the near universal ratification of the Women's Bill of Rights - CEDAW- with 186 States Parties, Qatar being one of the most recent State to ratify the Convention.

While women's rough and difficult journey in standard setting started with the efforts of the founding mothers who were present at the creation of the UN (and the League of Nations before it), the main breakthrough in the human rights area came after years of persistent lobbying by women with the recognition of violence against women (VAW) as a human rights issue at the 1993 Vienna Human Rights Conference. This was followed by other gender inclusive standards in human rights protection, such as, the adoption of the Declaration on the Elimination of Violence against Women by the United Nations General Assembly the same year and the creation of the post of Special Rapporteur on Violence against Women in 1994. Patriarchal relations in private life as a result opened to public scrutiny for the first time.¹⁰

The 1990's also saw sexual violence and rape used as a deliberate war strategy in the wars in former Yugoslavia and Rwanda. As a result of public outcry and protests by women, rape which has historically been hidden and absent from conflict analysis and peace initiatives became integrated into the mandates of international tribunals that were created to prosecute the perpetrators of war crimes. Today, rape is an integral component the Rome Statute of the International Criminal Court (ICC) as war crime and crime against humanity.

The gender aware normative instruments and mechanisms adopted in the course of the past decade also recognize women's varied role in war, including their potential to contribute to peace. Among the most significant developments in this regard include the numerous Security Council Resolutions (SCR) on women, peace and security, starting with 1325 (2000).¹¹

These developments reveal a significant shift from impunity to accountability with respect to crimes against women¹² and a recognition of women as active agents of change.

¹⁰ Violence against women was not included in the provisions of the CEDAW, as most government delegations at the time considered the subject to be a private matter. In 1992 the Committee monitoring the Convention adopted General recommendation 19 on violence against women to correct for this shortcoming

¹¹ Others are: SCR 1820 adopted in 2008 and most recent resolutions 1888 and 1889 both adopted in 2009.

¹² C. Chinkin. 2004. "Gender-related crimes: A feminist perspective." in R. Thakur and P. Malcontent (eds). From Sovereign Impunity to International Accountability. Tokyo: UN University Press: 116-134.

Women keep demanding and the UN gender regime keeps expanding. Just last month, Mdm Michelle Bachelet of Chile was appointed Under-Secretary General of the UN to head the new institution that will unify all system wide initiatives for the advancement of women. Also noteworthy is the adoption on 1 October 2010 of the Resolution on Discrimination against Women in Law and Practice by the Human Rights Council. In accordance the resolution, a Working Group of 5 independent experts will be established to study and monitor discriminatory laws and practices globally.

These are just some of the milestone developments that have evolved as a result of long years of tireless efforts of women around the world and their effective engagement with the UN machinery. The short history of this engagement demonstrates that women's organized and persistent activism was the main force behind the establishment of a relatively comprehensive international regime for women's equality and rights that has firmly established State accountability as a norm with respect to gender issues. It would not be wrong to argue that the gender agenda of the UN (and regional bodies) is the only bottom up agenda, with the world's women as its true owners.

While we must celebrate the progress achieved we must also remember that, 15 years after the adoption of the PfA by over 190 States and more than half a century since the adoption of the Universal Declaration of Human Rights, the realities of the majority of the world's women today continue to remain in stark contrast to the commitments made by States and the international community at numerous forums and platforms. Gender gap in many development indicators persists in all countries and women continue to experience violence and other forms of human rights violations in times of war and in peace with impunity.

Women's rights in the Arab countries

How do women in Arab countries fair vis-à-vis universal human rights standards?

In addressing this question it must be recognized that the Arab world is not homogenous and neither are its women. While, a gender gap is observed in all spheres of life in the countries of the Arab region, State policies with respect to gender inequality varies considerably. This variation is often attributed to the differences in the process of State formation in the various countries.

Despite these variations, most analysts agree that command over women's status is a key factor in the maintenance of community and family cohesion across the region. Associated with this there is ample evidence of the existence of different forms of violence against women, however, the problem is often met with denial or justified with reference to varying interpretations of culture, tradition, and religion. To my knowledge no country in the region has yet adopted a specific and comprehensive law that criminalizes domestic violence. The CEDAW Optional Protocol has only been ratified

by Tunisia and Libya and States, with the exception of Yemen, have placed extensive reservations when ratifying the Convention.

The reactions to recent legal reforms in some of the countries in the region – whether concerning family relations or women’s public sphere participation – have often been emotionally charged, with the critics often claiming that Islam is under attack. Equality and human rights claims by civil actors are met with suspicion when it comes to women’s rights. Critics argue that international human rights norms, including CEDAW, are Western in origin and therefore not appropriate in non-Western contexts. Such debates are increasingly finding support from various women’s groups as well.

The anti-rights arguments are rooted in hegemonic interpretations of culture and conservative discourses. While they are meant to sustain the status quo, they are often presented in an anti-colonial and nationalist language, thus putting women in a dilemma of having to choose between their rights and their culture. Consequently, women may voluntarily compromise, if not totally sacrifice, their own rights in the name of “honor”, “common good”, the “nation”, etc. Such an environment complicates women’s activism and agency for change in the region.

Furthermore, the challenges arising from socio-political dynamics of the individual countries, issues confronting the region in general, such as; colonial history, the Palestinian issue, the situation in Iraq, rising Islamophobia and its twin evil of fundamentalist Islamic movements as well as the global economic disparities and financial crisis, pose additional burden on the rights struggles and democratization in general.

Under such circumstances; do Arab women have anything to gain in engaging further with the global women’s rights movement and the human rights system? What does the international human rights and gender equality agenda offer women in this region?

Answers to these questions would have to come from women of the region themselves and this will necessarily vary in accordance with the specific dynamics in each country and the nature and level of women’s empowerment, organizing and activism.

Change cannot be imposed on a given society by external sources, desire and demand for change must come from within. Meetings such as these can help facilitate exchange of experience in diverse contexts, share lessons learned and foster solidarity for the building of demand for change in the respective countries. It should also be recognized that, implementation of CEDAW and other human rights instruments do not imply uniformity. Even if such international norms are interpreted in a coercive and absolutist manner, there is no guarantee of attaining a uniform outcome in the different local and national contexts. The international equality and rights regime can be used by national level lobbying groups to legitimize their demands and goals within the dynamics of their own contexts. Ratification of CEDAW and other human rights treaties have

no consequential impact on women's lives unless women learn to use these as effective tools in their advocacy and negotiation at all levels of social relations.

While universal human rights framework remains abstract, legalistic and distant to the lives of average women in the region, it does provide a new global legalism which confers legitimacy to women's claims. Human rights violations are no longer merely a moral matter, but also reflect a legal breach. Irrespective of the growing suspicion concerning CEDAW and other international mechanisms, it is a reality that States in the region are part of the international community of States where they have made and are continuing to make commitments. Yet, they are falling short of their international commitments; this has to be accounted for.

International mechanisms can be used more effectively to negotiate change at home. There are many interesting strategies women have developed in this regard. Some women use international law as their main bargaining tool, as was the case during the amendment of the equality provision (Article 10) of the Turkish constitution which provided that men and women are equal before the law. Women's groups lobbied for years for the amendment of this article to conform to the principles of CEDAW (ratified by the Turkish Government in 1986). In 2004, Article 10 was amended to read: "Men and women have equal rights. The State is liable for ensuring this equality".¹³ With the constitutional amendment CEDAW has also been granted priority over national legislation.

In other contexts, women have chosen to negotiate from within their cultural and religious traditions to demand for justice. In this regard, there are many significant examples from the Arab region. I would like to refer to a relatively recent the global initiative - the Musawah movement (launched in Feb. 2009) - which brings together women from Muslim majority countries to re-interpret Muslim family law using a rights based approach. The starting point of the Musawah movement is to question why Muslim family laws and practices treat women as inferior to men while equality and justice are values intrinsic to Islam.¹⁴

Status quo has losers and winners; change would imply loss of privilege for some, gains for others and uncertainty for all. Particularly those with limited capabilities and access to resources change can be risky even if the status quo is abusive, therefore, they may not be enthusiastic about the promises of change. This is particularly the case in the area of women's rights. Due to relations of dependency, lack of access to information and lack of self confidence, some women may be reluctant to engage in uncertainty or even adopt the position of their oppressor. Such unwillingness on the part of some women to protest is all too often portrayed by hardliners as demonstrating

¹³ This article is still on the agenda of the women's movement, who are advocating for the article to be further revised to include the notion of "temporary special measures". A consensus has been achieved in this regard and such an amendment is expected to take place shortly.

¹⁴ For relative articles and activities see: www.musawah.org

Arab women's contentment with their situation.

Even among more liberal circles the women's rights movement is disapproved of with assertions that the problem in the Arab countries is not one of gender inequality but one of oppression of people in general. It is further argued that efforts to enhance women's public participation through quotas and other measures will merely result in cooptation of a few token women. While both arguments may be true, they are incomplete and inherently male biased. The former dismisses the multiple layers of oppression women experience compared to their male counterpart and the latter overlooks that fact that men who are participating in the oppressive system also run the risk of cooptation.

Change is dialectical and not linear; it will bring benefits as well as risks. This should not result in inaction. A brave and evidence based step in the right direction can stretch a long way. For instance, when King Faisal of Saudi Arabia introduced girls' schools in the 1960s there was a societal outcry. Faisal responded by indicating that no one is obliged to send their daughters to school. Within months, the request for girls' school grew throughout the country. Today Saudi women enjoy full access to schooling at elementary and secondary levels. In higher education, new fields of study are increasingly made available for girls. In 2009, law schools gave their first female graduates. Now the challenge for the Saudi society is to find ways of integrating these women with law degrees into the labour market, which is essentially sex segregated as are the other institutions.

Concluding comments

The emerging human rights culture, built on values that retain a universal appeal despite the implementation gap, is a cultural resource that has so far been underutilized by women's rights advocates globally. Despite differences in women's experience, the moral force inherent in the human rights paradigm applies to all women (and men for that matter).

Through empowering strategies – individually and collectively – women can use the international human rights system in innovative ways in their own struggles to resist and overcome disempowering forces in the family, the society, and the State. This will not only enhance women's rights but will contribute to the process of a broad-based democratization in a given society.