

Women's Rights as Human Rights: 25 Years On

Charlotte Bunch and Niamh Reilly

Introduction

“Women’s Rights as Human Rights: Toward a Re-Vision of Human Rights,” by Charlotte Bunch (1990) (hereinafter, “Women’s Rights as Human Rights”), is considered a classic text in the field of women’s human rights. A central aim of the article was to debunk the then pervasive perception that women’s rights and human rights were two totally separate fields. In “Women’s Rights as Human Rights,” Bunch sets out her arguments about the importance of connecting women’s rights to human rights in theory and in practice. The article illuminates the many impediments that militated against the recognition of women’s rights as human rights and the integration of women’s rights issues into core human rights work. In particular, Bunch names and criticizes the excuses that governments and human rights organizations had traditionally given for not acting on women’s rights, including that they are “not as important [as] ... larger issues that require more serious attention”; although significant, “women’s rights are not human rights per se”; women’s rights are a “cultural, private, or individual matter”; and, finally, to recognize “the abuse of women” would simply “overwhelm other human rights questions” (Bunch 1990, 488).

“Women’s Rights as Human Rights” was one of the first articles published in an influential human rights journal to argue that sex-based discrimination is unequivocally an urgent human rights issue because it “kills women daily ... [and] when combined with other forms of oppression ... constitutes a deadly denial of women’s right to life and liberty on a large scale” (Bunch 1990, 489). As such the article has played an important role in achieving recognition that violence against women violates human rights. Regarding actions that have been, or could be, taken to remedy the exclusion of gender-based violations from human rights agendas, the article identifies “four basic approaches to linking women’s rights to human rights,” namely, women’s rights as political and civil rights, women’s rights as socioeconomic rights, women’s rights and the law, and feminist transformation of human rights (Bunch 1990, 493–497).

This article revisits “Women’s Rights as Human Rights” to explore points of continuity and change in how gender and women’s human rights are addressed in international human rights thinking and practice 25 years after the UN World Conference on Human Rights 25 years after the 1993 UN World Conference on Human Rights in Vienna formally recognized that “the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights” (WCHR 1993, para 18). The article is organized around the responses given by Charlotte Bunch to a series of questions about the continued relevance, or otherwise, of the main ideas developed in “Women’s Rights as Human Rights.” For example, taking into account criticisms in recent years about the misuse of human rights, does the international human rights framework still have the potential to be a moral vision with global resonance compared to 1990? Further, what are the limits

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as well as the possibilities of transnational human rights activism as an approach to achieving feminist goals today? Bunch also considers whether the excuses typically given for not acting on women's rights a quarter of a century ago have changed and if the typology of approaches to women's human rights advocacy outlined in the 1990 article remains pertinent.

A few years after the publication of "Women's Rights as Human Rights," the international community finally recognized that "Gender-based violence [is] ... incompatible with the dignity and worth of the human person, and must be eliminated" (ibid.). Given this, Bunch reflects on whether or not gender-based violence is being addressed adequately as a human rights issue 25 years on. She further discusses if the underlying feminist analysis of the political nature of violence against women presented in "Women's Rights as Human Rights" – that is, as a form of domination that reflects patriarchal power relations – has been accepted in human rights circles.

Also addressed here are timely questions for women's human rights advocacy such as: do women's human rights encompass the rights of all woman-identified people, and has an intersectional approach to advancing women's rights been taken up as it needs to be? (With thanks to Jill Adamore for input on these topics.) Bunch also offers a feminist perspective on the wider challenges for human rights advocacy, for instance, transcending the traditional prioritization of civil and political rights over social and economic rights or responding to arguments about the rights of sovereign states to legislate on issues in line with national "values" where such "values" reject the equal rights of women and/or of sexual or other minorities.

The rest of the article is presented under three thematic headings, which address different forms and levels of challenges for women's human rights advocacy, and a conclusion. The thematic headings are engaging with human rights, integration of women's rights into human rights, and bringing a feminist perspective to wider human rights issues. There are a number of subsections in each section that map onto questions posed to Charlotte Bunch about her ideas presented in "Women's Rights as Human Rights." Each subsection begins with a statement of the context and the questions posed by Niamh Reilly (NR) followed by a response by Charlotte Bunch (CB).

Engaging with Human Rights

International Human Rights: Still a Moral and Ethical Vision with Global Resonance

NR: The "post-9/11" global environment is very different from the post-Cold War context in which the movement for women's human rights emerged some 25 years ago. Since then there has been tremendous growth in human rights standards and mechanisms and in the diffusion of global norms aimed at realizing women's human rights. Yet, this is also a time when the credibility of human rights has been strained in the face of increased militarization and security policies of dominant powers that threaten human rights, often while appealing to human rights values. In response to

sceptics who question fundamentally the human rights project, Charlotte Bunch argues that, on the contrary, international human rights remains a vitally important global moral and ethical framework in the twenty-first century.

CB: Human rights as a moral vision not only has the potential to provide a way forward, but also it is utilized as a rallying point and framework more than ever by activists today. For example, when women organized the first anti-Trump “Women’s March” at the time of his inauguration in the USA in 2017, they took “Women’s Rights are Human Rights” as their slogan, even though they did not have a prior history of being involved in the “women’s human rights movement.” When they were searching for a broad nonviolent vision for opposing Trump in particular and the right-wing agenda more generally, they turned to the concept of human rights (for discussion of the march, see Women’s March Organizers/Condé Nast 2018). Human rights then is still a visionary goal that conveys the aspiration of people for something that goes beyond just the dictates of power (for an extended positive appraisal of the impact and role of human rights today, see also Sikkink 2017). One of the aspirations of human rights is to put a limit on how state power and domination are exercised and to defend what basic rights people have just by virtue of being human. Human rights also puts limits on intolerant and populist expressions of democracy and the absolute power of the majority, while the majority may agree with something, that does not necessarily make it “right.” This is still not only a moral framework with global resonance, but an even more important ethical vision for today, when ruthless autocratic power and other authoritarian forces are at work in many settings around the globe (see, e.g., Mayer et al. 2014; El-Gousi 2016; Sunstein 2018).

The “buy-in” to accountability for human rights on the part of state authorities is, however, another matter (see generally Risse et al. 2013). Many governments do not accept human rights obligations now (see, e.g., Kinzelbach 2013) – even at the level that they did in the 1990s. That decade was a high point of international cooperation post-Cold War, with talk of a “peace dividend” as many thought less money and attention would be expended on war and militaries. As such, it was a period of opening up when human rights was gaining credence as a global vision and expanding in scope. The wars and cultural conflicts of the 2000s have vastly altered that atmosphere. Further, as activists have used the human rights framework more assertively in the past two decades to call for accountability on a larger number of issues, many governments give even less lip service to the rhetoric and resist taking on human rights obligations. Further, Some poorer states feel their capacities to meet many rights obligations are diminished in the global economy, and they use this as a convenient excuse for inaction.

Insofar as human rights calls for the accountability of state power as exercised by governments, its implementation relies on various mechanisms and tools for legal and social pressure – like UN conventions and treaty bodies, special rapporteurs, and regional or national machinery. As activists use those tools, human rights gains more resonance, but also governments may resist them more. Development of the potential of human rights is tied to making those tools more effective, as well as to how human rights evolve, especially in facing new challenges, such as increasing

violations by non-state actors in an era of privatization of many functions previously carried out by governments. The value of human rights as a nonviolent framework for social change depends also on how much it is seen as a powerful tool for social groups to advance their goals, as well as on whether it works as a way to protect minorities from abuse.

The importance of human rights as a way of resisting majoritarianism and protecting minority rights has increased in the past two decades as governments have grown more militaristic and reactionary nationalist movements have resurfaced in many parts of the world. Anti-discrimination – whether on the basis of race, ethnicity, religion, nationality, sex, or other status – is a core human rights principle, regardless of the majority’s point of view. Human rights thus provides a counterpoint to many contemporary forms of populism, which may claim to represent the majority but often are based on intolerance and the violation of the rights of others. Much debate today centers on which categories of identity – for example, indigenous peoples, sexual orientation, refugee, or migrant status – should be protected from discrimination and persecution by which groups (state and non-state) and in what contexts/countries (including what are the limits to national sovereignty).

The Possibilities and Limits of Transnational Human Rights Activism in Achieving Feminist Goals

NR: Some critics of human rights, including many who identify broadly speaking as “progressive,” view the paradigm only in terms of its misuses and as a veneer of neoliberalism and neo-imperialism. From this perspective, “women’s human rights” and the transnational activism it engenders are viewed as expressions of the dominance of “Western feminism” and Northern NGOs (see, e.g., Grewal 1999). In this subsection Bunch explains why transnational feminist activism is both difficult, because of the complex political dynamics that must be negotiated to advance human rights causes of all kinds, and “absolutely necessary,” given the forces aligned against them.

CB: Transnational activism is not only valuable today, but also it is absolutely necessary. In any area of rights activism, whether you are talking about women’s and sexual rights or labor or environmental rights, people are up against transnational powers – the powers of conservative religious institutions, of corporations, and of government blocs. Responses to this must also be transnational. But effective transnational activism is not possible if there is not also strong national-level activism. Transnational action is a dimension of achieving feminist goals, because of the globalization of the world; but it is not more or less important than local, national, and regional organizing – all of them are needed and interrelated. For example, when governments manipulate the North-South divide to justify women’s oppression, it must be countered through transnational work. Of course, North-South power dynamics of who has the most access to resources, where, and for what ends must be considered in making strategies. But the problems are more complex than just North-South as they also involve national, class and patriarchal elites and questions about who has the power in local settings as well. We must listen carefully to local voices – as they should drive the agenda – but there are

usually conflicting local women's (and men's) perspectives, too. Therefore one must decide which local/national voices to support and where to make common cause. (For discussion of universal human rights and local action, see Coomaraswamy 2002.)

It is complicated to figure out which local voices to work with when it comes to human rights issues. There are always some forces, even local women, who argue against advancing human rights in the name of culture whether in New Mexico, in Peru, in South Africa, or in New York City. I grew up in the South and Southwest of the USA, with fairly conservative local cultures that often defended race-based segregation as "our culture." This way of thinking can be seen again today in the USA with debates over retaining the Confederate flag and statues that represent Southern secessionist leaders. While the flags and statues do represent a part of US history and aspects of the culture today, that does not make them the symbols that society wants to honor now or exempt from change.

In many places around the world, there is a growing gap between people who have benefitted from the advances made in human rights of the past few decades around race, sex, and gender and those who have been marginalized economically and/or socially. Reactionary forces that do not support these changes are trying to hold back the rest of the women, such that there is intense pressure in many local communities to remain "traditional." Of course, feminists and human rights advocates are targets of backlash from reactionary conservative forces, but these forces are also trying to hold back local women (and men) from even considering feminist perspectives and changes in their lives.

Conceptualizing Approaches to Women's Human Rights Advocacy: Then and Now

NR: "Women's Rights as Human Rights" presents a typology of four basic approaches to women's human rights advocacy, namely, women's rights as political and civil rights, women's rights as socioeconomic rights, women's rights and the law, and feminist transformation of human rights (Bunch 1990, 493–497). In the following paragraphs, Charlotte Bunch reflects on the relevance of this typology today and suggests a revised, dual typology for describing and analyzing contemporary women's human rights projects.

CB: I do not use this four-part categorization much anymore, except in trying to get people to see what integrating gender into human rights looks like, by illustrating it in terms of civil/political rights, or socioeconomic rights, or in the law. (Now, it is more a typology of how the work on women's human rights emerged historically within existing divisions of so-called first- and second-generation rights and then evolved.) So it is still useful in teaching the history of the movement and the evolution of its thinking and practice.

I think about women's human rights work now in two main categories: one is the integration of gender into already accepted human rights issues, such as the right to be free of torture or the right to food or health. This builds on the first two of the

original four approaches but does not make a distinction between civil and political rights and economic and social rights. The second category of women's human rights advocacy builds on the old fourth transformative approach but relates it to the other three: that is, naming (and interpreting) rights issues that were not previously recognized and were brought onto the agenda by the women's movement. This work relies on a feminist critique of the public-private divide and primarily focuses on bodily integrity and sexual rights – including many of what are usually called “women's issues.”

What are the characteristics of a feminist perspective on human rights? In addition to including women in the picture, it is also about examining gender power relations. For example, if in discussing indigenous peoples' rights, somebody presents a viewpoint as “the position of indigenous leaders,” one has to ask about the gender power dynamics of the group. Are women included and really able to articulate their issues in this context, and if so, how? A feminist perspective also means asking if there are different roles and expectations for men and women that affect the exercise of their human rights. In a context of working on issues affecting women's human rights defenders, for example, I heard that a representative of one human rights organization had said, “We can't deal with families and children.” This group was putting women defenders at a disadvantage because, unlike their male counterparts, they are expected to take care of families and often do not have the freedom that male defenders have to leave the country and go into exile.

Failing to Take Women's Rights Seriously: The Excuses Revisited

NR: “Women's Rights as Human Rights” identifies four categories of excuse for not taking action on women's rights, which Charlotte Bunch observed were frequently expressed or implied by governments and human rights organizations. In this section, she reflects on continuity and change in the kinds of excuses that are made for not prioritizing women's rights issues, explicitly or implicitly.

CB: The excuse that is least relevant today, as compared to the 1990s, is the argument that women's rights are not really human rights per se. We have advanced in defining women's rights as human rights, but the battle to make the human rights of women seen to be just as important as other human rights is not yet won. Now, not many people will say that women's rights are only private or individual. But there are still arguments that the status of women and gender issues are cultural or local matters and, therefore, should not be seen as universal human rights. It is necessary to challenge this logic when it is used to keep any group in society subordinate to another (for related discussions, see Gill 2019, Gaffney-Rhys 2019, and Steiner 2019).

So, what has changed? Much of the separation between public and private that kept women out of human rights discourse has broken down. For example, violence against women is recognized now as real and pervasive (see, e.g., Bawa 2019, Beoku-Betts 2019, Dauer 2019, Ramji-Nogales and DerOhanessian 2019, Harpur and Douglas 2019, O'Connell 2019, Pisanó 2019, Vojdik 2019). But it is not necessarily seen as important enough to expend significant state resources on ending it. The

priority of most nations today is their state security and defense against “terrorism,” which often boils down to maintaining or reasserting their own power. That is another form of the old argument that women’s rights are not as important as other “more serious” issues. Anti-terrorism trumps everything, including most human rights issues in too many places today, which tends to push women and women’s rights back to the margins (Kassem 2013).

What may have changed the least is the fourth excuse – that the abuse of women is so pervasive it will “overwhelm” other human rights issues. No matter how much people talk about violence against women, it is still not a priority for resources from public or private sources. The argument of its “overwhelmingness” is subtly operative; violence against women is being “addressed,” but the talk is not followed up with serious action or resources. This may be changing with the “Me Too” movement, but it is still too early to tell if this will lead to systemic institutional change.

The old excuses have shifted somewhat but they have not gone away. Some are less important; some have taken on new dimensions. Moreover, the excuse of lack of resources is also a reflection of the pervasiveness of the neoliberal trend toward privatization and a minimalist view of the state today. Especially in poorer nations, this ideal of smaller government combined with structural adjustment policies has reduced the resources that states have for such work. Thus, lack of resources for women’s rights work is connected to the dismantling of the foundational human rights idea that states have responsibility for the development of society and people’s social welfare. (For related discussions, see Gooneskere 2019, Elson 2019.)

Integrating Women’s Rights into Human Rights

Violence against Women: A Persistent Form of Domination and Intimidation

In “Women’s Rights as Human Rights,” on the issue of violence against women, Charlotte Bunch said: “Victims are chosen because of their gender. The message is domination: stay in your place or be afraid” (Bunch 1990, 491). In the following comment, she considers how much this assessment holds true today, including in the context of the Internet and social media.

CB: Unfortunately, the message that women should stay in their place or fear violence continues to be relevant in many arenas. In 1990, when I made this point, I was thinking primarily of domestic violence or what is now called interpersonal violence. However, this message reaches beyond domestic violence into many other spaces where women speak out as well. For example, women’s human rights defenders, especially indigenous women protesting extractive industries, face intensifying violence, including murder, because they are viewed as people who should not be causing trouble; they are seen as stepping out of their place both as women and as indigenous people (AWID/WHRDIC 2017).

This message has also fueled Internet violence where the amount of harassment of women, bullying, and sexual violence is shocking. Women have exposed sexual

assaults on campuses in the USA by young men of this generation, who many thought would be more feminist and progressive but who still too often reflect a strong male sense of sexual entitlement to women's bodies. At the Commission on the Status of Women during Beijing Plus Five in 2000, a staff member of the Center for Women's Global Leadership who was Catholic was surrounded by robed men, "praying" over her soul; that was intimidation in the halls of the UN not too many years ago.

What is said and done to women in many places is a form of violence and intimidation to drive them out of the public space. Whatever the arena, clearly the message still is, "Stay in your place or be afraid." The problem is not the technology per se, but the underlying societal attitudes to women that emerge, and can be enhanced, through it.

The Adequacy of the International Human Rights Community's Response to Gender-Based Violence

NR: It is well-documented that one of the most striking achievements of the global campaign for women's human rights of the 1990s was to secure UN recognition that violence against women is a violation of human rights (Antrobus 2004; Bunch and Carrillo 2016; Joachim 2007; Keck and Sikkink 1998; Merry 2006). This prompted the development of an extensive and expanding body of law and policy responses, at global, regional, and national levels, aimed at stopping or remedying different forms of violence against women and gender-based violence. Here, Charlotte Bunch reflects on the adequacy of the response of the international human rights community to gender-based violence since its formal recognition as a human rights issue at the second World Conference on Human Rights in Vienna in 1993.

CB: As noted, gender-based violence issues are in the process of being integrated into a lot of human rights work internationally, and there is real progress on this. But it would be hard to call it adequate given how much impunity for violence against women (VAW) still prevails in the world. The fact that Amnesty International and Human Rights Watch and many other NGOs now regularly include aspects of VAW in their reports is an important step. Further, national human rights institutions, the Inter-American and European human rights bodies, the African Commission, and the UN Human Rights Council now regularly include VAW in their deliberations. The recognition that the Convention on the Elimination of All Forms of Discrimination against Women is a human rights convention has led to greater attention to VAW and to collaboration between the Committee on the Elimination of Discrimination against Women (CEDAW) and other human rights treaty bodies. But too often attention to VAW remains in under-resourced silos and is not fully incorporated into work on other human rights issues.

While awareness of VAW has increased enormously, the feminist analysis that has underpinned the women's movement and frames VAW as political – that is, as a reflection of differentials in power and resources between men and women and a tool of domination – has not been fully understood or accepted. Different forms of gender-based violence are seen as a critical part of the oppression of women, and

yet, there is still discomfort with expressing the political nature of such violence as systemic or naming it as a patriarchal system. The tendency is to sympathize with the victims of gender-based violence, as victims, but not to fully comprehend and address the structural reasons for that violence. (For an overview of violence against women and the UN in the past 20 years, see Ertürk 2016.)

For example, women's human rights defenders are often attacked and targeted not only for their human rights work but also for stepping outside their traditional roles as women and being visible as leaders in public arenas (see Lajoie 2019). Human rights defender groups have begun to take up such cases, but they are often more comfortable defending women who work on traditional human rights issues, for example, around torture or disappearances. Some express discomfort defending "uppity women" who are fighting for sexual and reproductive rights and autonomy. It is also sometimes hard to get traditional human rights defender groups to see the complexities of women defenders' lives, such as the need to address their responsibilities for children and families as well.

Women's Human Rights Advocacy and the Rights of Woman-Identified People

NR: In the last decade, LGBTQI movements have achieved new levels of recognition for gender identity issues in human rights and equality agendas around the world. In the academic domain, gender and queer theory, which challenges fundamentally the conventional female-male binary, has both enriched feminist theory and been a source of disagreement among some feminists who are concerned that women's rights and equality claims could be eclipsed. In this subsection, Charlotte Bunch reflects on evolving gender terminology and whether "women's human rights" includes the rights of all "woman-identified people."

CB: When considering questions about the relation between women's human rights and movements for the rights of LGBTQI people, including woman-identified people, it is important to remember that human rights encompass the rights of all people regardless of how they define their gender. Therefore, any defender of human rights should defend all such rights, including the rights of all transgender or other woman-identified people. The term "women's human rights defenders" has been used as an inclusive term that is meant to incorporate gender-related abuses, even when that abuse is not only of ciswomen (i.e., women whose gender identity corresponds with their sex/gender at birth). It is less important what it is called, but it is vital that woman-identified people who claim gender as an aspect of the abuse they suffer be defended.

Gender/queer theory has evolved in the last two decades in identifying new constituencies and important issues around sexuality, sexual orientation, and gender identity. Nevertheless, most women still experience oppression "as women" seen through a gender binary; therefore some feminists are concerned that we should not ignore this reality while exploring new terrain. We are currently in a transition and a learning stage about the various issues that intersex, transgender, and nonbinary identities raise in relation to feminism and women's rights, from which new

approaches and terms need to evolve that incorporate new identities but do not ignore how old structures and attitudes still oppress women.

In the 1990s, some argued for using the phrase “human rights of women” rather than “women’s human rights,” because “women’s human rights” sounds like women have a separate set of human rights based on being identified as women. In retrospect, that argument has merit and might clarify some of today’s debates. Women’s human rights in principle are not different from men’s human rights. Rather what was urgent, in 1990, was clarifying that human rights violations often take gender-specific forms, like rape in war and forced pregnancy, and that there are gender-specific ways that women’s lives are violated, for example, by domestic violence, which had been left out of human rights discourse.

When I said before that many violations are distinctly connected to being female (Bunch 1990, 486), I was making the point that some things happen because one is defined as a woman in a given society and that being female means concretely that there are expectations and restrictions regarding what you can and cannot do and what others can do to you; this is not the same as talking about being “female” or being a “woman” in the abstract or “essentialist” sense that is criticized in some recent feminist/gender theory. We are evolving, and it is not clear yet what will be the best language to use, especially globally as women’s realities differ nationally. For example, do we give up the specificity of naming “women” and “women’s” in the titles of our organizations, or do we make a longer list of all the different ways that women (and men) identify? Whichever way these questions are answered, we must strive to be inclusive of the varieties of ways that identities are shaped and how gender affects that, without minimizing or making invisible (again) the specific abuses that many women around the world still endure as biological females.

Bringing a Feminist Perspective to Wider Human Rights Issues

Beyond the Prioritization of Civil and Political Rights over Social and Economic Rights

NR: The traditional approach to human rights has tended to equate “human rights” with liberal “civil and political rights” and to normalize the idea that the attainment of social and economic rights is “unrealistic.” This standpoint typically fails to challenge the human rights impact of neoliberal policies of deregulation, privatization, and the shrinking state. Below, Charlotte Bunch considers the extent to which the prioritization of civil and political rights over social and economic rights in mainstream human rights has changed in the last 25 years and what this means for efforts to achieve women’s rights.

CB: At the level of the state and of some established mainstream human rights organizations, the defense of civil and political rights in the face of post-9/11 and current attacks on them is still paramount. But within human rights NGO organizing overall, this has changed quite a lot since the 1990s. There is greater acceptance that social and economic rights are vital to human rights and that they are indivisible from civil and political rights (for a review of developments in this area, see Gooneskere

2019). Those divisions are not used as much anymore, rhetorically at least. Many appointments of human rights special rapporteurs at the Human Rights Council since the mid-1990s relate to social and economic rights, for example, rapporteurs on water and on debt and on the right to health and to housing. Social and economic rights issues are on the agenda of the Human Rights Council and get support from the mainstream human rights world more than they did before – although they are still not “realized rights.”

Most women’s human rights advocates were always aware that the civil and political rights of women are deeply interconnected with their social and economic status (Bunch and Reilly 1994) and, thus, promote an indivisible approach to these rights. A recent example of this can be seen in the extensive human rights work within the UN and in the private sector on maternal mortality over the past two decades. This issue brings together the civil and political right to life with the socioeconomic right to healthcare and has been incorporated into the UN’s primary agenda toward 2030 – the Sustainable Development Goals (SDGs) (UNGA 2015, para 26 and goal 3.1). Reducing maternal mortality has advanced more quickly on the agenda than reproductive rights because it is more easily seen as a stark matter of life and death and not of women’s choices and control. It makes clear the links between governmental commitment (or the lack of it) and ensuring the human rights of women to life and to health, especially women who are less well-off and rely on public healthcare systems.

Bridging the gap between recognition of obligations in this area and providing the resources necessary to implement them, however, is a major challenge. In Peru, for example, the family of María Mestanza, an indigenous woman who died in 1996 as the result of forced sterilization, brought a complaint to the Inter-American Commission on Human Rights (*María Mamérita Mestanza Chávez v. Peru*). In 2003 the Commission found that the government had committed sterilization abuse and ordered Peru to pay reparations to the family. Peru acknowledged its international human rights obligations, and, in addition to paying the reparations, it agreed to implement reforms to strengthen protection of patients’ rights and to conduct a full investigation of the rights violated in the case (Langford et al. 2017, 408). This case raised public awareness of sterilization abuse, mostly affecting indigenous women, and prompted calls for justice. However, the state still failed to complete the thorough criminal investigation it promised or to pay reparations to the large numbers of women and their families affected. Further, no significant resources have been committed to improving public healthcare systems.

The issue of governmental responsibility for the right to health has also been a key debate in the USA over the last decade. President Barak Obama talked in his first campaign about the “right to health” (Wilson and Wiggins 2013), but once elected president, even though he worked hard for healthcare legislation, he stopped using the human rights language in arguing for it. Ultimately, Obamacare – the health insurance scheme that was finally adopted in the USA – was so complex and tied up with the existing US healthcare and insurance industries that the concept that it was about human rights and what governments should do to realize them often got lost. Congress was unable to even talk about “single-payer health insurance” – a form of

national insurance closer to the human rights concept – but rather had to keep framing legislation in neoliberal, capitalist-friendly forms. This reflects the continuing lack of recognition of socio-economic human rights in the USA domestically, especially beyond the rights guaranteed in the US Constitution, which is focused on political and civil rights. This situation is of course even worse under Trump who has not accepted any government responsibility for the right to health.

The world today needs a strong, global, modernized version of how to achieve social justice and human rights ideals. The human rights framework is an important element of that because it expresses people's instinctive feeling about what they need and want as part of being human. It is a global vision that is still useful to the idea that society and governments, in whatever forms that takes, have a basic responsibility for the socioeconomic and political infrastructure that provides for the needs and protects the lives of people.

Applying an Intersectional Women's Human Rights Lens

NR: The feminist concept of “intersectionality” aims to take account of the differences between women and the complex and contradictory forces that shape their identities and experience, in addition to sex and gender – from “race,” ethnicity, “disability,” and sexuality to socioeconomic status and geolocation (Brah and Phoenix 2004; Crenshaw 1991; Yuval-Davis 2006). In the following paragraphs, Charlotte Bunch discusses the significance of the concept in the field of women's human rights advocacy.

CB: An intersectional approach to women's rights has been accepted by most people working in the field, at least rhetorically. But I think many are still confused about what it means in practice. Anti-discrimination laws and human rights treaties tend to address one social factor at a time – race or sex or age, for example. This was at the core of Kimberle Crenshaw's original essay coining the term “intersectionality” by showing how black women workers in the USA could be left out of mainstream legal approaches to race and sex discrimination in the workplace because their experiences did not happen to all women or to all black people (Crenshaw 1989, 1991). Efforts are underway by the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) and other human rights treaty bodies to ensure no categories of women are excluded by addressing how gender and other factors intersect when they interpret whether governments are meeting their treaty obligations.

Intersectionality as an idea is being taken up, but at the level of implementation in policy terms, it is often quite difficult to achieve. When advocating for this at the 2001 World Conference against Racism in Durban and critically reviewing documents coming from the UN, activists had no difficulty articulating intersectionality as a theory of what should be taken into account (Bakan and Abu-Laban 2017). But when it comes to devising concrete policy and guidelines in an area like domestic violence, describing all the possible intersections and how they should be handled becomes more challenging. For example, there is no single answer about whether to require mandatory arrest in a situation of domestic violence. The

response to this question can be complicated by the power dynamics of race, class, or culture in some jurisdictions – where women could have good reasons not to trust the police because of experiences of discrimination against their community by the authorities. Yet, one cannot assume, necessarily, that because a victim is a woman of color, she does not want the police to be called, because sometimes she does. In order to ensure that authorities do not discriminate, policies need to be written in specific ways, but to be intersectional, they may need to take multiple factors into account, which requires a degree of flexibility and discretion – yet without resulting in discrimination.

Intersectionality is not just adding up boxes of different types of oppression and checking them off – sexuality, age, race, class, and so on. It requires understanding how these factors often shape each other and produce a gendered expression of racism or a classist version of sexism, for example. Policy makers and implementers need to be trained in the values and changes being sought, as well as in how to identify different factors at play. Seeking to combine basic principles with flexibility in understanding a situation is an ongoing challenge, but finding a way to implement an intersectional gendered approach is crucial to progress because most people live intersectional lives shaped by many factors.

Responding to the “Rights of Sovereign States”

NR: Arguments about the rights of sovereign states (i.e., to self-determination and noninterference by other states or external bodies) have always been integral to the narratives of governments that object to obligations perceived to be “imposed” by international law and organizations, including human rights. In recent years, strong rhetorical reassertions of the sovereignty of states have become more prominent, for example, in the discourse of new populist nationalist movements or in instances of unilateralism in international relations. The presumed “rights of states” often underpins the idea that states should be able to legislate on issues in line with “national mores” or cultural values, including “values” that entail rejection of the equality and rights of women and sexual minorities or other groups. In this subsection, Charlotte Bunch explains how she responds to this type of argument.

CB: I usually respond to issues of “national mores” or “cultural relativism” from my own experience of racial segregation in the South of the USA, which many justified as “cultural.” Labeling it cultural or national does not indicate anything about whether something is good or bad or a sound basis for denying human rights. Sovereignty is a legitimate, self-governing principle in relation to domination by other powers, but it should not be used to justify the abuse of human rights of individuals within a state. The question is: sovereignty according to whom and which voices are deciding for others?

Some people say that concepts of control over one’s body and sexual autonomy are individualistic or “Western” arguments and, therefore, not relevant in the Global South. But from my experience working with feminists globally, most women want and need us to defend the bodily rights of all women everywhere. It is important to see why a woman’s control of her body and bodily integrity around sexuality

embody key human rights concepts. In talking about torture, arbitrary detainment, and not being allowed to speak or assemble – these are all infringements on people’s bodies, which are recognized as involving serious harm and denials of control and expression of one’s being. At the intimate level, what you do with your body sexually (as long as no one else’s rights are violated) and whether you can be forced to become or remain pregnant are no less profound matters of bodily integrity. We have to frame clearly the violations of the body that these issues involve. For example, even when it is not outright rape, the lack of access to birth control, and/or to setting the terms of sexual activity, forces unwanted pregnancy on countless women. In situations where access to safe and legal termination of pregnancy is prohibited and prenatal care is absent or inadequate, the violations of women’s rights to life, bodily integrity, and health are compounded.

This focuses on the individual’s human right to bodily integrity and sexual autonomy, but there is also a larger socioeconomic picture for framing reproductive rights. Put simply, there cannot be economic justice for women without reproductive rights; the lack of reproductive control of their bodies often prevents women from enjoying economic opportunities and can keep them trapped in violent and/or dependency relationships.

Human rights is a powerful vision, because in any society – North, South, East, or West – there have to be some principles beyond which sovereignty and majoritarianism or populism cannot go. It is important to question these arguments within our own countries; for example, in the USA, claims of “exceptionalism” are used as an excuse to ignore international agreements. In engaging with arguments of sovereignty from another country, feminists should depend first of all on what feminists and/or human rights advocates within those cultures are saying. This links back to the importance of transnational movements, which make it possible to speak in support of others because we are connected – both in listening and in dialogue with each other.

Conclusion

The Gender Transformation of Mainstream Human Rights: An Unfinished Agenda

NR: In “Women’s Rights as Human Rights,” Charlotte Bunch argues for “transforming the human rights concept from a feminist perspective so that it will take greater account of women’s lives” and continues that “the human community need not abandon other issues but should incorporate gender perspectives into them and see how these expand the terms of their work” (Bunch 1990, 497). By way of conclusion, below, Bunch reflects on the extent to which the called-for transformation has been achieved and what remains to be done.

CB: We are in the midst of a significant transformation, but it is uneven and incomplete. For example, the complete separation of public and private spheres in human rights discourse has shifted based both on feminist critique and on the need to pay more attention to non-state actors as abusers of human rights. Further,

human rights groups are putting greater emphasis on women and issues like gender-based violence than they did 25 years ago. Amnesty International, for example, ran a big violence against women campaign – less than 20 years after the organization had told organizers of the global campaign for women’s human rights that domestic violence was “terrible, but not a human rights issue.” Many mainstream human rights groups address violence against women and do women-specific work; that is a big transformation.

More and more young women and men who go into human rights work take for granted that women’s rights are human rights. In gender and human rights classes that I teach, there are only a few men (which is a problem of what men think is important), but they are as surprised as the women that violence against women was not always on that agenda. On a rhetorical level, we have a transformation.

But it is not adequate because work on women’s human rights still suffers from a lack of resources and not being seen as an urgent priority. There is often a failure to “get it” at a deeper level, and those failures show up frequently. For example, the Ford Foundation, a major US funder of human rights work, still has meetings with human rights organizations where no women’s groups are at the table. So, the gender transformation has not gone far enough – the glass is still half empty. But looking at the last 25 years from a longer historical perspective, the glass is also half full. We have seen significant advances that will – if we survive the current existential threats to our globe – have a profound impact in making human rights a more inclusive, universal, and powerful paradigm and movement for change.

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