

Women's rights are human rights.

In this post-Cold War, global-village setup, this seems an unnecessary reiteration. But is it?

Until now, women in Kuwait still have to gain the right to vote. Women in Zimbabwe are entitled to only half the inheritance their brothers receive from their parents' estate. Women in Asia are transported across borders, sold and exchanged as commodities.

Female circumcision, the partial or total cutting away of the external female genitalia, often performed without anesthesia on girls between four and 12 years old, is still practiced in at least 28 countries stretching across northern Africa. This extremely painful and

dangerous procedure is supposed to be a rite that "safeguards" the girls for marriage.

And because women are seen as mere appendages of their husbands, it is presumed that the woman who marries a foreigner will take up residence in her husband's country. In case the couple decides to stay in the woman's country, their children may well end up "stateless" because in much of Asia, the Pacific and Africa, nationality is derived from the father.

Between Fact and Fiction:

The Wrongs Done to Women's Rights

Governments will reason that their compliance with universally accepted human rights norms necessarily applies only to that which happens in "public." What happens in the "private sphere" is beyond official scrutiny. Tradition, prejudice, and social, economic and political institutions, however, have combined to reduce women's importance to their reproductive roles—that is, to their roles as caretakers of the home and caregivers of the family. Women's contributions in other aspects of societal production have been largely unrecognized. Despite women's greater visibility and participation in the public sphere, they are still largely "invisible" in the human rights discourse.

IAN ABHAM FORUM '95
COURTESY OF MANJULA PADIN

Women's



Rights

CEDAW: From prohibition to elimination

The **All Forms of Discrimination Against Women (CEDAW)**, more commonly known as the **Women's Convention (Convention)**, sought to smash this divide. The Convention is the most comprehensive treaty so far to codify the human rights of women. Considered the highest accomplishment of the 1975-1985 UN Decade for Women, it was adopted in December 1979, and entered into force in 1981.

the 1995 Beijing conference in advancing women's rights and acceptance of the norms of the Convention is that in Asia and the Pacific, the number of States parties to the Convention increased to a significant 35 states right after the event.

The Convention covers a range of concerns including employment, education, voting rights, divorce, rape and violence, care and equality before the law. It is distinct in that aside from the legal and civil rights of women, it also tackles the dimension of human reproduction and the impact of culture on gender relations.

In June 2000, the UN undertakes a review of the implementation of the Beijing Platform in a special session to be called **Women 2000: Gender Equality, Development and Peace for the 21st Century (Review of the Platform for Action 2000)** (Review). The review is aimed at speeding the full implementation of the Platform. Forward Looking Strategies, the action plan formulated at the Third World Conference for Women held in Nairobi, Kenya, in 1985, as well as the Women's Convention.

The convention is a watershed in human rights advocacy in another sense. Article 2 says: "State Parties condemn discrimination against women in all its forms, [and] agree to pursue by all appropriate means and without delay a policy of eliminating discrimination...". The dominant principle of human rights from the state's duty to prohibit the violation of women's rights to a duty to undertake the removal of the institutions, customs and practices that perpetuate discrimination against women and their rights...

Following the UN Decade for Women (1975-1985) and the three world conferences on women within the period (in Mexico in 1975, Copenhagen in 1980 and Nairobi in 1985), a movement had emerged around women's rights to challenge limited notions of human rights. By the time the 1993 UN World Conference on Human Rights in Vienna was in planning stage, a rigorous women's movement had succeeded in placing women's rights on the agenda. The Vienna Declaration and Programme of Action states unequivocally: "The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights." (Sec. 1, par. 18)

Women's status and implementation Platform will be analysed from four cutting themes:

- ♦ globalisation and women's empowerment
- ♦ women, science and technology in the new information age
- ♦ women's leadership
- ♦ human security and social protection

An Action Plan for Women's Rights: The Beijing Platform of Action

Women continued to lobby for wider recognition of women's human rights at subsequent UN conferences. At the International Conference on Population and Development in Cairo in 1994, women's reproductive rights were explicitly recognised as human rights. The Fourth World Conference on Women in Beijing in 1995 treated the status of women's rights as one of 12 critical concerns. For that matter, the Beijing Declaration and Platform for Action (Platform) adopted by 185 countries is an action plan for the human rights of women.

The Platform also goes a step further in its elaboration of how culture and tradition contribute to subordinating women to the status of second-class citizens. It calls attention to the "harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society." (par. 118)

But just as women's groups were hazy about the Beijing conference and its course and content significant will be that the review is open-ended and not confined to official guidelines.

12 Critical Areas of Concern

- Women and poverty
- Education and training of women
- Women and health
- Violence against women
- Women and armed conflict
- Women and the economy
- Women in power and decision-making
- Institutional mechanisms for the advancement of women
- Human rights of women
- Women and the media
- Women and the environment
- The girl-child

And the Platform was most emphatic about the 1979 Convention on the Elimination of All Forms of Discrimination against Women (Convention): governments are to ratify or accede to the Convention by year 2000.¹ (par. 230-b) Compare this with its language on the other human rights instruments: "work actively towards ratification" or "consider ratification" or "take urgent measures to achieve universal ratification."

The Platform has become the yardstick for measuring compliance with the 1979 Women's Convention. Evidence of the impact of



A Gendered Human Rights Treaty: The Women's Convention

The Women's Convention (CEDAW) is the second most widely ratified human rights treaty with 165 State parties (as of 1999), next to the Convention on the Rights of the Child which only Somalia and the United States have not yet ratified. It is considered the central and most important tool in ensuring women's rights because it addresses the multi-layered character of gender discrimination.

The Convention lays out in legally binding form the core precepts in securing women's rights:

- ♦ formal recognition that all human rights and fundamental freedoms apply to women as they do to men
- ♦ prohibition of discrimination in the enjoyment of formally guaranteed rights and creation of equal opportunities for women to exercise all rights and freedoms
- ♦ identification and elimination of gender-specific obstacles to the equal enjoyment of rights and freedoms

Key Thrusts of the Women's Convention

Civil capacity and legal rights

- ♦ right to vote, hold public office and exercise public functions including represent their countries in international organisations
- ♦ right to citizenship, regardless of marital status (rejecting governments' common policy of assigning women's legal status, rights and privileges based on their husbands' nationality)
- ♦ equal rights and obligations regarding choice of spouse, parenthood, personal rights including freedom of movement (which is restricted in some African countries, for example, if the woman is not accompanied by the spouse), and property relations

Economic, social and economic rights

- ♦ non-discrimination in education, employment, and economic and social activities
- ♦ nullification of all instruments restricting women's "legal capacity" including their right to enter into contracts in their own name

- ♦ attention to particular struggles and contributions of rural women section in policy planning, especially with respect to women's access to land

Women's reproductive rights

- ♦ link between women's reproductive role and discrimination
- ♦ maternity as a social function, and maternity protection and child-care as society's responsibility
- ♦ women's access to social services, especially child-care facilities, so they can combine family responsibilities with work and participation in public life
- ♦ right to freely decide on the number and spacing of their children
- ♦ adequate information and means for women to make informed choices
- ♦ shared responsibility of parents in raising children

Cultural and traditional practices that perpetuate women's subordination

- ♦ state responsibility to eliminate traditions and practices prejudicial to women
- ♦ revision of textbooks, school programmes and teaching methods to eliminate gender stereotypes of men and women

The Beijing Platform of Action gives prominence to the Convention, repeatedly citing this throughout the text. The specific section on "Human rights of women" brooks

no delay in the universal ratification of the Convention, details the obligations of governments under it, and calls on all the actors—governments, NGOs, the other UN human rights treaty bodies—to harmonise their work with the Convention provisions.



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Countries Still to Ratify the Women's Convention

Afghanistan	Qatar
Bahrain	San Marino
Brunei Darussalam	Sao Tome and Principe
Iran	Saudi Arabia
Marshall Islands	Solomon Islands
Mauritania	Somalia
Micronesia	Sudan
Monaco	Swaziland
North Korea	Syria
Oman	United Arab Emirates
Palau	United States of America

source: UN Department of Public Information

Women's Convention gets most number of ratification but...

To date, CEDAW stands on record as the human rights convention that entered into force the fastest from adoption date with 165 countries signed on to it. However, Article 29 in the Convention gives States parties the right not to apply any portion of the treaty that they believe can not immediately or fully be undertaken just yet. This room was made for such reservations to enhance universal and immediate acceptance of governments' obligations under the treaty.

The subject of the most reservations were Article 2 on governments' commitment to eliminate discrimination against women, Article 16 on marriage and family laws, and Article 9, which deals with women's citizenship and nationality rights. The quantity and quality of reservations to the different provisions of the Convention belie many governments' preparedness to uphold women's rights and equality.

Imminent relief: the Optional Protocol

Since 1996, a Working Group open to all UN member states had been meeting during the annual CSW sessions to elaborate the Optional Protocol to the Women's Convention. In the Beijing Platform, it will be recalled, governments committed to themselves to supporting the swift elaboration of the Optional Protocol. In December 1999, 23 countries signed this Optional Protocol, indicating serious intent to ratify it. It enters into force on ratification of 10 States parties.

What is the Optional Protocol?

The Optional Protocol is a mechanism that offers victims of rights violations the possibility of real remedy in two ways: through a complaints procedure (Article 2) which allows individual women and women's groups to file a complaint of violation of her or their rights direct to the Committee and through an inquiry procedure (Article 8), which enables the Committee to initiate direct inquiries and seek information to verify complaints of systematic

violations of the Convention in a country that is a State party to the Convention and the Optional Protocol (Article 8). It also establishes a follow-up procedure wherein governments may be required by the Committee to submit a progress report on remedial efforts taken regarding complaints (Article 9).

The Catch: Opt-Out Clause

An issue that arose during the drafting process was a proposed "opt-out" clause that allows a country to subscribe to the Protocol but to refuse submission to the inquiry procedure. Governments may be leery of the inquiry procedure and forego ratification altogether, proponents of the controversial clause stressed. The final text provides for State parties to declare that they do not recognize the competence of the Committee to initiate and conduct investigations into reports of rights abuses.

The Saving Grace: No Reservation

Also contentious was the question of reservations. Because the Protocol is optional, a State party to the Convention may choose not to ratify it, and a provision for reservations was unnecessary and unwarranted, argued those against opening the Protocol to reservations. The final text forbids such reservations (Article 17).

Aligning Women's Rights with Other Rights

As early as 1979, during the drafting of the Convention itself, a complaints procedure had already been suggested. Some delegates

had argued that a complaints procedure was appropriate only for "serious international crimes" such as apartheid and racial discrimination, rather than discrimination against women. Twenty years later, the Convention has the force of giving women whose rights

have been violated a chance of redress. As with the optional protocols to other major UN human rights treaties, the Optional Protocol brings into line governments' application of the Convention with international human rights work, thereby

mainstreaming women's rights into the international human rights framework.

The Protocol therefore lends more sense to a government's ratification of a human rights treaty that is legally binding but does not make compliance compulsory, as UN watchers have to explain over and over again. An Optional Protocol could finally stop governments from violating or ignoring women's rights with impunity.

Significance of the Optional Protocol

"The significance of this new instrument for the protection and promotion of human rights of women cannot be overstated. The Convention has now joined the ranks of those instruments that offer individuals and groups... who are victims of human rights violations an international forum to seek redress of their grievances," said the joint statement of Angela E.V. King, Special Adviser on Gender Issues and Advancement of Women to the UN Secretary General, and Ms. Mary Robinson, the UN High Commissioner for Human Rights.

The basic core of States parties to the Optional Protocol to the Women's Convention has been identified. When it finally comes into force, its application in these countries will help build international jurisprudence on women's rights and in time expand the scope of enforcement of women's human rights at the international level.



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Space for NGOs

International Lobbying and Shadow Reports

The key problem in the formal reporting process adopted by the Committee monitoring compliance with the Women's Convention is that governments are rarely self-critical. In many cases, the reports are just mechanical representations of existing constitutional and legal provisions relating to, for example, employment, discrimination, etc. They seldom mention the areas where the government's application of the law, or its implementation, has fallen short to women's equality, demanding further action.

The Committee encourages governments to involve NGOs in the report preparation but this, of course, is ultimately at the sufferance of the government concerned. NGOs can submit their alternative or shadow reports, which often work to reveal the governments' violations of the major UN treaties. NGOs can also participate, either directly, with the Committee's sessions. They can field questions through the Committee members who decide on their own whether to give weight to the information NGOs provide.

The Committee advises NGOs to turn in their shadow reports at least a month before the scheduled sessions to give the members ample time to digest and verify the information provided. Equally important, the Committee has noted, that the shadow reports are complete and supported by the necessary data, especially in discussing violations by their governments.

Local Advocacy and Services

NGOs have also played major roles in changing national law and policy dealing with women's rights, or their governments' disposition toward gender equity as a whole. Women's groups' activities take off from several launching pads—from monitoring the women's rights situation, to inclusion in the national mechanisms for implementing the Beijing Platform of Action. The official delegation to UN conferences of Norway's Ministry of Children and Family Affairs includes two NGO representatives as a matter of policy, while in India, NGO representatives are on the federal and local welfare boards.

The Promise of Women's Rights

"If one looks at the Women's Convention and other international documents of human rights, every title begins with the word 'States parties' and proceeds to unfold the obligations of the State. As states are the foundation of the international order, this is inescapable. However, if the state is entrusted with the responsibility of ensuring women's rights, if it is always viewed as active and paternalistic in a benign manner, then this does pose serious questions. The nation-state in the third world does not carry this 'Scandinavian aura.' In addition, there is a major problem of implementation in . . . redistribution of poverty. . . Unless these human rights values take root in civil society, and unless civil institutions and non-governmental organisations take up the cause, then women's rights as rights will have no resonance."

Radhika Coomaraswamy
UN Special Rapporteur on Violence against Women

Women's groups have also lobbied with their legislature for specific legislative changes. With their superior knowledge of a country's legal and political system, NGOs have mounted campaigns for reforms that have captured local sentiment and support. In Thailand, for example, the Council for Gender Equality, the Prime Minister's advisory on women's affairs, has urged government to enact the Basic Law on Gender Equality. The recommendation was included in a report that was finalised based on 3,000 comments and proposals received mostly from women's NGOs. In India, NGOs are engaged in interactions with NGOs regularly while in Sri Lanka, NGOs have the resource base for drafting key documents such as the women's charter in 1993. In Malaysia, women's groups have conducted gender-sensitivity training of the police for greater better enforcement of a 1994 Domestic Violence Act.



Roughly half of the 185 countries that adopted the Beijing Platform of Action have their national machinery for women's advancement in place. In some countries, full members of such bodies, NGOs were consulted in the formulation of governments' national plans of action for women's advancement. However, few states allow NGO participation in implementation and evaluation phases. NGOs have also helped to escalate the level of their national machineries for implementation of the Beijing Platform of Action from desks of departmental or ministry-level agencies.

NGOs' role in advancing women's rights has special resonance in Asia-Pacific, a region familiar with social activism, noted team member Savithi Gonssekere of the University of Sri Lanka. Organisations such as the International Women's Action Watch-Asia Pacific have helped enhance the link between women's groups with the issues in women's rights, increasing international exposure to effective international strategies within the UN and human rights treaty bodies back to their own advocacy work. A recent Convention on Violence against Women was virtually placed on the SAARC agenda by NGOs, although several other NGOs are dissatisfied with the outcome. NGOs' assistance was also instrumental in finalising the document.

Another arena for NGO involvement is the Committee on Economic, Social and Cultural Rights, Optional Protocol to the International Crime Court created in Rome 1998 (see *Women's Rights*, Target 10, Page 8). NGOs have been

The Rights Debate: Beyond Borders



Colouring the human rights discourse is a debate on the preeminence of individual human rights over any other concern, be it a family's welfare or the state's development. Asia's demagogues like Singapore's Lee Kuan Yew and Malaysia's Mahathir Mohamad, for instance, have repeatedly invoked "Asian values" to support the suppression of individual human (political) rights in favour of national security or national development. Expectedly, the debate has spilled over to women's rights. Squarely at the centre of the campaign for women's equality is the polemics between advocates of the universal validity of women's rights and those who insist on internally determined applications of these rights based on a country's ethos, culture or traditions. A global, uniform standard for women's rights, it has been suggested, contravenes one's freedom of conscience, religion and belief. In political idiom, the attempt to apply a single standard of women's rights across the board is nothing less than a new form of Western colonisation and imperialism.

The push for women's rights has also been marked by a so-called North-South divide in the discourse on population and development—that is, for development to be attainable and sustainable, population growth has to be controlled. The tensions underlying this dialectic came into sharp focus during the 1994 International Conference on Population and Development in Cairo, and has festered rights advocacy as well as the global feminist movement ever since.

The conference and its resulting Plan of Action, according to some women activists in the South, succeeded only in "instrumentalising" population growth as the root of underdevelopment and maldevelopment. "Population explosion is destroying the planet," was the simplistic battlecry. Such a causation, in modern jargon, is "reductionist." It attributes poverty and resource scarcity in the South mainly to Third World women's fertility. As a feminist put it, the problem boils down to "our overfertile bodies."

By locking development to population regulation, the complex but very real problem of inequities between the North and the South are deftly swept aside. The injustice of a global economic system where declining terms of trade for the Third World have meant a net transfer of financial resources to the North is ignored. Glossed over too are the transnational dumping of toxic wastes and the export of dangerous technologies hazardous to the environment, as are the profligate consumption patterns of the affluent countries.

Should women's rights be bound by culture, tradition or religion?
Are individual rights only secondary to the greater good?

Pitting women's rights, on the one hand, vs. customs, tradition and religion per se, on the other, or subscribing to the conception that women's rights are westernised creations being foisted on the east is to fall prey to faulty logic. Segregating women's rights from familial or social good is a false dilemma. All over the world, despite the changing norms for women in society, women remain the foremost stewards, nourishers, community and household managers and play a key role in the development of families. As a core of standards that gives women their share of human dignity, and etches their place in community, women's rights are not mutually exclusive from family, tradition or national interest.

By their reservations to the Women's Convention, governments are saying that where traditional practices or ethics (such as the Shariah laws, other customary and religious laws), are at odds with internationally accepted norms of women's rights, tradition should take precedence. The rejection of the universality of women's rights can thus serve as the excuse for a systematic denial of women's rights—in the name of traditions shaped by historically unequal power relations. The universality of women's rights does not rule out diversity; rather, it is strengthened by diversity. The contribution of different cultures and practices enriches the world's understanding of women's rights. If the rights set out in the Convention are to become a reality, they must reflect the experiences of women the world over, as well as their need for human dignity and justice.

The pitfalls of thinking in dichotomies also apply to the population-development approach. Certainly, family planning programmes by themselves are no answer to women's health, reproductive problems. Women's health and reproductive choices are constructed by power relations within the family; and the availability of health services, health, family planning and contraception services, and women access to these. Also, women must have education and information that will enable them to make informed decisions in the control of their bodies.