

The Indivisibility of Women's Human Rights

BY SHELAGH DAY

Cet article est adapté de la présentation faite par l'auteure à la 42e session de la Commission sur le statut de la femme aux Nations-Unies à l'occasion de la révision de la section sur les droits humains de la Plateforme d'action de Beijing. La Commission a considéré les facteurs qui vont accélérer pour les femmes, le processus de jouissance de leurs droits.

In 1997 at a meeting in Finland, human rights experts noted that the advancement of women will depend on making the indivisibility of women's human rights a reality, not just an idea. They said this:

The indivisibility and interdependence of all human rights has been rightly affirmed time and again by the international community. ...It is unfortunate but undeniable however, that economic and social rights are still regarded and treated by States in a different way than civil and political...rights. Economic and social rights are largely marginalized.

There is no justification for such differential treatment: both civil and political and economic and social rights entail positive and negative obligations, obligations of conduct and of result, and obligations to respect, to protect, and to promote and fulfill. The dignity and worth of women ... is dependent upon the full implementation of these obligations by States and other relevant actors.¹

The Universal Declaration of Human Rights (UHDR), the root document from which subsequent international human rights treaties have grown, reflects an integrated conception of human rights. The UHDR declares that everyone has civil and political rights, such as the right to life, liberty, and security of the person, to freedom from slavery, to freedom from torture, and to freedom from arbitrary arrest, detention, or exile. It also declares the right of everyone to freedom of thought, conscience and religion and to freedom of expression, peaceful assembly and association with others. It sets out the democratic rights to take part in the conduct of public affairs, to vote, and to be elected in genuine periodic elections.

Additionally, the UHDR recognizes social and economic rights, notably the right of everyone to an adequate standard of living, to social security, to realization of the economic, social, and cultural rights indispensable to dignity, and to a social and international order in which

these rights can be fully implemented.

It is clear that in the lived experience of women, economic and social rights cannot be easily separated from civil and political rights. Women who are hungry or homeless will not be active participants in the political life of their societies. Also, poverty traps women in situations of violence, where their lives and security are threatened.

Unfortunately, as the international human rights treaties flowing from the UHDR were developed, civil and political rights became separated from economic, social and cultural rights and the two sets of rights were entrenched in separate Covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Civil and political rights, given priority in the human rights framework by western nations, have been treated as "hard" rights that can be enforced by courts, while economic, social, and cultural rights have been treated as "soft" rights, expressions of aspirations, rather than enforceable standards.

The question of how rights and their interaction are conceived is not just a theoretical one; it has real implications for women's lives. Governments are inclined to wash their hands of the project of women's equality once they have put in place facially neutral laws that address basic civil and political rights. This is so even when women's economic inequality is an indisputable fact with devastating consequences in countries around the world. That we see no marked improvement in women's economic equality over the last 30 years—in Canada or globally—reveals that governments generally have an impoverished vision of women's equality.²

Making women's economic inequality a priority

Accelerating women's enjoyment of their human rights in the new millennium requires governments, courts, international treaty bodies, and all other relevant actors, to deal with women's economic inequality as a priority.

Economic inequality is a central

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fact of women's lives in Canada and in every country in the world, and it is a central manifestation of discrimination against women. Women's economic inequality includes a range of conditions—from utter destitution to the overall inequality of women's share of wealth, property, income and resources. Women are 70 per cent of the world's poor, and they own one per cent of the world's wealth. In every country in the world, women are poorer than men, and their poverty and economic inequality affects every aspect of their lives—their basic survival and the survival of their children, their access to food and housing, their physical security, their sexual autonomy, their health, their access to education and literacy, their access to justice, their ability to participate in public life, their ability to influence and participate in decisions that affect them. Women's economic inequality is integrally connected to their sexual exploitation, and to their lack of political power. As long as women as a group do not have an equal share of the world's economic resources, they will not have an equal say in shaping the world's future. Because governments are the primary implementers of human rights, addressing women's economic inequality must be a priority issue for governments now.

Human rights are indivisible

The assertion that it is time to deal with women's economic inequality as a priority on the human rights agenda should not be controversial. Governments have asserted for 50 years that all human rights are indivisible, and the Platform for Action reasserts that indivisibility. Despite this, policy-makers still think in watertight compartments. They treat civil and political rights and economic and social rights as separate categories of rights, and economic and social rights as lesser in the hierarchy. They treat equality for women as a limited right, rather than as an encompassing right that can only be realized by addressing the full range of civil, political, economic, social, and cultural disadvantages that women experience. They treat international treaties, conventions, and platforms as separate from each other, not integrally connected and inter-reflecting agreements, which require a modern and intertwined reading. They treat fiscal and trade policies as separate, indeed in different worlds, from human rights commitments and obligations.

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But this compartmentalized thinking is no longer acceptable. It cannot serve women's equality needs and aspirations. Women cannot be equal until indivisibility is taken seriously. Women cannot be equal until addressing women's

poverty, and women's economic inequality, is an indivisible, inseparable and central part of the human rights agenda.

The Platform for Action is an excellent antidote to this compartmentalized thinking. It reflects the contemporary recognition that the analysis of discrimination against women must begin with women's actual conditions of disadvantage. The Platform is a contemporary tool for interpreting the human rights treaties in the new millennium, since their interpretation cannot be static and fixed if they are to be vibrant and effective human rights instruments.

What does it mean to take indivisibility seriously? It means giving an intertwined reading, not an artificially compartmentalized reading, to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Racial Discrimination and the Platform for Action.

If we do that, we come to these conclusions:

1) Equality for women is a big practical idea. It requires starting with women's real conditions, and then considering what will make a real difference in those conditions.

2) Equality for women requires eradicating women's poverty. It includes, as part of its meaning, the right to an adequate standard of living for women.

3) Equality for women requires more, however, than an economic minimum. It requires promoting women's economic independence, and eliminating the economic disparities between women and men as groups.

4) Equality for women requires addressing the economic disadvantages that are caused by racism, and other forms of discrimination that women experience.

5) Governments have positive obligations to create conditions of equality for women.

6) Those obligations do not permit governments to delay in taking the appropriate measures or to move backward.

7) Economic policies of governments that foster and perpetuate women's economic inequality violate women's human rights.

Economic inequality is gendered

In order not to perpetuate the status quo of women's economic inequality, it is essential to understand that economic inequality has a gendered character. It is not an accident that 70 per cent of the world's poor are women. Nor are women poor for the same reasons that men are poor. They are poor because of a number of interlocking factors:

- because of the social assignment to women of the unpaid role of caregiver and nurturer for children, men, and old people;

- because in the paid labour force women perform the

majority of work in the “caring” and “supporting” occupations and this “women’s work” is lower paid than “men’s work”;

- because of the lack of safe child care, and the lack of recognition for parenting responsibilities that constrain women’s participation in the labour force;

- because women are devalued workers and they are more likely than men to have jobs in the informal sector with no job security, union protection or benefits;

- because women incur economic penalties when they are unattached to men, or have children alone.

In general, women as a group are economically unequal because they bear a disproportionate share of the social costs of raising children, and they have been assigned the social role of caregiver. They are also poor because they are viewed as adjuncts to men, not independent human beings with full rights to inherit property, conduct business, make economic decisions, and be economically independent. Government fiscal policies and other laws reinforce the inferior value of women’s assigned roles.

There are also further complexities in the picture of women’s poverty. Some groups of women experience deeper and more persistent poverty because of the additional and intersecting burden of racism, or because they have disabilities, because they are Indigenous women, immigrant women, migrant women, refugee women, or lesbians, because they are single mothers, because they are older, because they live in rural areas. The poverty of these groups of women continues because of a lack of necessary protections on the one hand, and because of the discriminatory impact of existing laws and policies on the other.

Current macro-economic policies harm women

Despite the obvious fact of women’s economic inequality, governments around the world are pursuing an increasingly standardized economic agenda that is detrimental to women. We are in a period when governments, practically without exception, are fostering the globalization of the world’s economy, liberalizing markets, deregulating, cutting social programs, downsizing government, and privatizing public services.

Cuts to social services result in a loss of good jobs that women have had, and a downward trend in wages and protections for women performing the same work in privatized settings. Changes in social security and taxation systems, which re-emphasize household income as the basis for assessment and eligibility for benefits, increase women’s economic dependence on men. In short, women bear the brunt of cuts to collective state provision of services and social security.

Changes in the way work is organized find more women working in an increasingly casualized, part-time, and peripheral labour force, where wages are low, job security is non-existent and protections are few. Women, particularly in developing countries, are expected to provide

cheap, docile, and dispensable labour under contract to transnational corporations who can produce goods anywhere in the world. Often, women are working in conditions that are unsafe and damaging to their health.

New macro-economic policies rely on old assumptions: that women will be available as a low-paid, casualized labour force, and as unpaid workers. At their best, these policies perpetuate women’s economic inequality. At their worst, they deepen it.

Connecting economic policies and human rights

When governments implement policies that perpetuate, or exacerbate, women’s economic inequality, they violate the human rights commitments that they have made to equality for women. The separation of economic and trade policy from human rights commitments to women’s equality is not intellectually, morally, or legally credible. The protection and promotion of human rights is the first responsibility of governments.

Governments are obliged by human rights undertakings to protect and promote the equality of women, including their economic equality. Fiscal policy cannot be treated as though it is unrelated to the rights of women. Nor can governments contract out of their international human rights obligations to women by signing regional trade or investment agreements that weaken their capacity to protect and promote the human rights of women, including their right to economic equality. In effect, governments do not meet their human rights obligations when they implement policies that have negative economic results for women.

In order to fulfill their human rights obligations to women, governments must be prepared to review and change macro-economic policies that negatively affect them. They must also begin to design policies that, at the outset, have, as a central goal, the advancement of women’s economic equality.

Effective accountability mechanisms

Because macro-economic policy is now a key issue for women in every part of the world, and because the shape of those macro-economic policies so closely affects whether there will be any advancement towards equality for women, shaping new, inventive accountability mechanisms, and strengthening existing ones so that they can assist both governments and women to review and address the impact of these policies, is an urgent priority at both national and international levels.

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Two things are necessary to make human rights accountability mechanisms effective. They must be able to address the economic and social dimensions of women's inequality. They must also be vigorous interactive mechanisms in which women, and women's non-governmental organizations can actively participate.

Laws and courts are a key accountability mechanism. However, to do their job for women, constitutional and other equality guarantees must be capable of dealing with women's real material conditions, and courts and tribunals that apply them must be able to assist in the practical improvement of women's lives, bringing *de facto* equality to women.

Human rights accountability mechanisms, whatever form they take, are intended to play an important interactive role with governments. For women, who still have less political power, they provide an alternative route for capturing the attention of governments. They should be understood as an essential means for women to participate in decision-making that affects them.

The effectiveness of human rights accountability mechanisms depends on whether they are structured and administered in such a way as to ensure that the groups who are marginalized in the society can actively participate in them. Women want to be involved in the process of advancing human rights, and, only if women are heard, can human rights accountability mechanisms be vital, and transformative tools.

Here are practical steps that can be taken:

1) As part of their national plans for implementing the Platform for Action, governments should establish independent commissions on women's economic equality. These commissions should have a mandate to review national economic and trade policies in light of human rights treaty and Platform commitments, with the full participation of women and women's non-governmental organizations. They should have the personnel and financial resources to undertake necessary research.

2) Reviews should lead to the development of concrete criteria for assessing the impact of economic and trade policies on women, and to the development of new policies that will advance women's economic equality.

3) Governments should require trade and investment agreements to which they become parties to reflect their pre-existing human rights commitments.

4) Governments should specify in national Constitutions and anti-discrimination laws that equality guarantees are intended to address and remedy the economic, social, cultural, civil, legal and political disadvantages experienced by women.

5) Court challenges programs should be established to provide the financial support necessary to allow women to bring forward test cases and interventions that will advance their equality, and to bring into courts the voices and perspectives of women who are usually not heard from.

6) To support the full participation of women in decision-making, governments should support women's non-governmental organizations by offering them sustaining financial assistance and other resources.

7) Because of the important global impact of macro-economic policies, United Nations Charter-based and treaty-based bodies should:

- give priority attention to women's economic inequality as a human rights issue;

- as an urgent priority, develop ways to ensure that International Financial Institutions, the World Trade Organization, and other similar bodies are responsive to, and responsible to, international human rights commitments.

Shelagh Day is an author, speaker, and human rights expert. Most recently, she co-authored a study entitled, "Women and the Equality Deficit," about the impact on women of restructuring Canada's social programs.

¹*Promoting Women's Enjoyment of Their Economic and Social Rights, Expert Group Meeting, Abo-Turku, Finland, 1-4 Dec. 1997, EGM/WESR/ 1997/Report, para 36).*

²Monica Townson in her *Report Card on Women and Poverty*, (Ottawa: Canadian Centre for Policy Alternatives, 2000) concludes that women in Canada are no better off economically in 2000 than they were 30 years ago at the time of the Royal Commission on the Status of Women.

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