

Women's Human Rights on the World Stage

An Unfinished History

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C'est une courte histoire du développement des droits humains internationaux des femmes dans le système des Nations Unies depuis le début et comment leurs droits devraient être protégés pendant la Décennie des femmes des Nations Unies et jusqu'en 1990 quand les mouvements internationaux des femmes pour leurs droits ont pris de l'ampleur. L'auteure rêve d'un courant genré qui intégrerait les droits des femmes dans les activités des Nations Unies.

I am going to tell you a story that has been sidelined, as have been most of women's endeavors. It is an unfinished history of the international recognition of the human rights of women within the United Nations system. The road has not been straight or smooth. It has been like a road in my country, Costa Rica, winding up, down, and around the mountains. It has been marked by changes in thinking and policy on women's issues over many decades. The road to women's human rights has been obstructed by misogynists and fundamentalists from every region and creed. Progress has also been hindered by many who are committed to the liberation of all women, but who were, or are still, convinced that the human rights framework is not the way.

Human rights theory and practice can be summarized as a commitment to respect, cherish, and treat all life with the utmost care. If you believe in this then you can defend human rights, even if you do not know all the human rights laws, procedures, and mechanisms that have been established. Knowledge of the human rights documents, their articles, and clauses, is of course very useful, especially in making claims for justice and reparations in specific cases of human rights violations. But it will not help if you do not feel deep respect and care for all living beings,

especially if you do not really believe that we are all born equal in value and dignity. At a time when nationalistic and religious intolerance are on the rise and the powerful few are ruled by economic self-interest, a stance of respect for all life constitutes a very different and sacred starting place. It is precisely here that we trace the origins of the evolution of women's human rights. The power of the concept of *human rights*, and *human rights laws and procedures* more broadly, lies in the following important principles crafted in international processes during the founding of the League of Nations and the United Nations:

- Human Rights are universal. All human beings have rights inherent in their humanity.
- Human Rights must be guaranteed equally and without discrimination.
- Unlike other agreed societal development goals and aspirations, Human Rights are not discretionary. States have a *legal obligation* to respect, protect, and fulfill everyone's human rights without discrimination and *are accountable* to the international community for implementing these obligations.
- There are legal and political mechanisms for establishing accountability for failures to abide by Human Rights obligations.
- The protection and promotion of all Human Rights is a legitimate concern of the international community, with priority over claims to national sovereignty.

The establishment of the legal terminology of "human rights" itself relied on certain historical prerequisites. To begin with, *individuals had to gain legal rights vis à vis the State under international law*. This came about in

the nineteenth century, with the first international legal treaties that provided individuals with rights vis a vis the State with respect to slavery and war.

Once human rights—as those rights every individual is entitled to because they are born human—had been accepted and differentiated from legal entitlements recognized in states' laws, it became possible for women's movements and non-governmental organizations to lobby for treaties which concerned women explicitly, including, for instance, the 1904 and 1910 Conventions aimed at combating traf-

on the principles found in the French *Declaration on the Rights of Man and Citizen*. Another early proclamation of women's rights was made at Seneca Falls, New York, in 1848 in the *Declaration of Rights and Sentiments*.¹

The idea that women and men could have equal rights had to be accepted. This possibility was not even considered by intergovernmental organizations until feminists from all over the world lobbied for an equal rights treaty during the formation of the League of Nations in 1920. Following the First World War, a group of ten Latin American women,

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ficking in women. This development opened the way for the adoption of an international system to protect universal human rights, at a time when the horrors of the Second World War made the need obvious. The Charter of the United Nations was adopted in 1945, and the Universal Declaration of Human Rights in 1948.

History of Women's Human Rights at the UN

Prerequisites

Despite human rights applying to "all" in principle, their original conception fell short of providing protection from many specific kinds of violation that women face. Further prerequisites needed to be met, which feminist movements globally have worked tirelessly to establish:

Women had to be understood as capable of having legal rights. While Indigenous and Aboriginal women living in relatively egalitarian societies before colonization by Europeans did not need to think in terms of individual rights; women living in patriarchal societies have absolutely needed these rights. In Europe and the USA, rights were initially enshrined in law only for some men; no woman, no matter how rich or aristocratic, was considered capable of having legal rights. In fact, national laws in most patriarchal states explicitly denied women such rights for centuries.

Influenced by what they saw of women's lives in matriarchal Indigenous societies, and inspired by the struggle for the "Rights of Man" in Europe and the USA, diverse women joined the struggle in their own right. In England, Mary Wollstonecraft published *Vindication of the Rights of Women* in 1779 and in France, Olympe de Gouges wrote her *Declaration of the Rights of Woman* in 1791, based

drawing on their success in drafting and adopting women's rights instruments in Latin America,² led a formal request for an equal rights treaty for women to be placed on the agenda of the League's Assembly. This led to the creation in 1937 of the "Committee of Experts on the Legal Status of Women," authorized to conduct a "comprehensive and scientific inquiry into the legal status of women in various countries of the world" (League of Nations). This committee met only three times before the League's demise in 1946. Nevertheless, the status of women was established as a subject for international consideration, not just an issue for national governments, which was what most people thought at the time (Miller). This Expert Committee can also be regarded as the predecessor of the UN Commission on the Status of Women (see below).

Sex discrimination had to be recognized and named. Women from Latin America, UK, USA, Canada, Australia, and China served on government delegations participating in the founding conference of the UN held in San Francisco in 1945. At this conference a number of official delegates came together with advisors and women from global civil society to form a women's lobby. This lobby was critical in ensuring that the protection of human rights would be one of the purposes of the new world organization and that the establishment of a Commission on Human Rights would be specified in the UN Charter itself.

Women delegates from Latin America (where the Inter American Commission on Women had already been established), and two women delegates from China and the USA, supported by women lobbying their governments around the world, also demanded that the word "sex" be added to the other named prohibited discriminations in Article

1 of the Charter of the United Nations. Many delegates argued that having a general equality clause was enough without “naming sex.” But the women’s lobby insisted on this, as an important acknowledgement that discrimination based on sex was as egregious as racial, political, religious, and other forms of discrimination. Years later feminists from different regions of the world would rely on this explicit wording to ensure that women’s rights be specifically acknowledged and considered as human rights.

Women’s Units in the UN System

The Division for the Advancement of Women (DAW)

Grounded in the vision of equality of the United Nations Charter, the Division for the Advancement of Women (DAW) was established in 1946 as the first of many changing women’s units developed in the UN over the years. UNDAW provided important institutional support for many of the initiatives and events that we will read about later.³ A Human Rights Unit was created for this within DAW which did incredible work with minimal staffing.⁴

Commission on the Status of Women (CSW)

After winning the battle to name the prohibition of sex discrimination in the Charter of the UN, a key structural issue surfaced in relation to women’s rights which persists today at both the international and national level: should there be a separate institutional entity created specifically to oversee women’s rights and concerns; or should this be integrated into a single Commission on Human Rights? At the inaugural UN General Assembly meeting on February 13, 1946, on behalf of all eleven women who served on official delegations, Eleanor Roosevelt, a champion of human rights and leader of the women’s lobby, called simply for greater involvement of women in world affairs (United States). Minerva Bernardino of the Dominican Republic, speaking for the women of Latin America and supported by delegates from France, Netherlands, and New Zealand, went further, calling in addition for “a committee, under the Commission on Human Rights, to study and work for the status of women” (United States).

Three days later, on February 16, 1946, the UN Economic and Social Council (ECOSOC) did establish a Sub-Commission on the Status of Women, which was to be subordinate to the Commission on Human Rights (also created that day). After identifying the Sub-Commission’s first seven members—all of whom were women—the president of ECOSOC announced that the Commission on Human Rights would appoint three additional male members *ex officio* in order to “ensure that the Sub-Commission was not composed of women only” (UN E/SR.14).⁵

The Sub-Commission on the Status of Women first met

on April 29, 1946 in New York to draw up a program of work. Its recommendations to the ECOSOC included proposals for a United Nations women’s conference to discuss the mandate of the Sub-Commission; a worldwide survey of laws affecting women; polling efforts to sound out public opinion; a forum to hear the views of experts and women themselves; and the launching of a worldwide campaign to inform the public about women’s issues with the help of the United Nations Department of Public Information (UN E/PV.4).

These recommendations show that women delegates were, right from the UN’s inception, actively promoting civil society involvement with their work, rather than leaving it only to official governmental delegates. In fact, at both the League of Nations and during the creation of the U.N., the women’s lobby was composed of both governmental delegates and women from civil society organizations internationally, notably feminist and women’s movements.

Three months after its initial meeting, the Chair of the Sub-Commission, Danish delegate Ms. Begtrup, requested it be given the status of a full commission rather than remain under the wing of the Commission on Human Rights. Supporters of this move pointed out that recommendations from a full Commission would have more weight. And, because women’s concerns were sometimes distinct, they needed to be studied separately, with the understanding that women’s rights were not of lesser importance simply because they would be the subject matter of a different commission (Boutros-Ghali). Many supporters were aware that this risked the creation of a second-class women’s unit with fewer resources and staff and less institutional clout.⁶ However, they were also convinced, with reason, that women’s issues would end up buried in a queue with many other human rights issues if an independent commission for women were not established.

Delegates opposed to the creation of an independent commission feared it would undercut prevailing social values or “empower women in unexpected ways.” They also presciently worried that a women’s rights body might take a different approach to rights than mainstream, or “malestream” human rights bodies (Boutros-Ghali). Despite initial objections by the powerful U.S. delegation (UN E/RES/2/11), in the end ECOSOC granted full commission status to the new Commission on the Status of Women (CSW). The Commission began with 15 members elected by the states themselves. As the number of UN states increased CSW’s membership grew to 45 seats allocated through a formula designed to ensure balanced geographical representation.

One of the first things CSW did was participate in drafting the Universal Declaration of Human Rights and

related standardsetting. The Commission's best known achievement in this process was to convince drafters to change Article 1 of the Universal Declaration from "[a]ll men are born free and equal in dignity and rights" to "all human beings are born free and equal in dignity and rights" (UN E/RES/120 (VI)). The UN General Assembly adopted the *Universal Declaration of Human Rights* in Paris on 10 December 1948, reflecting women's foundational contribution. It was a defining moment for women, who now had this support to argue that all

the *International Bill of Human Rights*, comprised of the *Universal Declaration*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*. It also helped develop enforcement mechanisms, including the appointment of expert investigators and working groups to examine, respond to, and report on specific evidence of rights violations.

The CSW, on the other hand, worked to monitor overall social trends without identifying state responsibility and

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In the decades after the adoption of the *Universal Declaration*, CSW drafted, advised on, pressed for, and saw the adoption of legally binding treaties ensuring many specific women's rights. For example, in 1952, the General Assembly adopted the *Convention on the Political Rights of Women* which had been drafted by the Commission. And between 1957 and 1965 the CSW won UN General Assembly adoption of a series of conventions removing discrimination against women in marriage.

The first delegates to the CSW were women clearly committed to equality between men and women, who understood the importance of a human rights framework to achieving this broad social change. Taking a more expansive approach to human rights than the "malestream," they addressed deeply embedded discrimination in economic, social, and cultural matters such as education, employment, and health care from a legal perspective that focused on equality. However, by the early 1970s, the Commission began to focus on women's participation in economic and social development, rather than addressing specific rights violations. This "development approach" brought recommendations for massive policy changes that could affect millions. Sadly, it also displaced rather than enlarged the human rights framework to tackle specific violations which posed real obstacles to the implementation of development policies. This shift also disconnected CSW from the mainstream's important move beyond setting standards to establishing human rights instruments. During this period, for instance, the Commission on Human Rights pushed through

accountability. Individual communications (complaints/appeals/petitions) relating to alleged violations of women's human rights submitted to the Commission from around the world revealed emerging patterns of injustice and discrimination against women. These informed CSW's development of policy and strategies to promote gender equality. However, the Commission does not take decisions on the merit of communications submitted, or provide remedies or reparations of any kind. The lack of a strong human rights framework within the women's movement at that time meant that the CSW was not lobbied to overcome States' opposition to enforcement mechanisms comparable to those established by the Commission on Human Rights.

The UN Committee and Convention on the Elimination of All Forms of Discrimination

In 1965 with the support of women's rights activists from many parts of the world, the Declaration on the Elimination of All Forms of Discrimination Against Women was drafted by a committee selected from among CSW delegates. The General Assembly of the UN adopted the Declaration in 1967. This was the first human rights instrument to take as its starting point the historic inequality between men and women and to use a gender perspective (though the term was not used at its inception).

The Declaration consolidated many elements of the treaties CSW had shepherded through the UN system in previous years and was an important step towards securing the legal foundation of women's equality. However, its impact on the ground was limited because, unlike UN conventions, UN declarations are not legally binding,

and the level of response from governments was low. This weakness of the Declaration, as well as its strengths, inspired the campaign for the legally binding *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW or the Women's Convention), which was adopted in 1979.

CEDAW strengthened women's rights immensely by establishing a comprehensive approach that abandoned the earlier technique of "protecting" different women's rights in separate treaties which States could then choose to ratify or not, as they wished. The text of the Convention rests on three fundamental principles: equality between the sexes, non-discrimination against women, and state responsibility for achieving equality and eliminating discrimination in all its forms.

The Convention is unique in many ways, but among the most important features are:

1. *CEDAW expands State responsibility.* CEDAW is the first international instrument that expands State responsibility to acts committed by private persons, corporations, non-state and non-governmental organizations. This is very important because the violation of women's human rights is common in private life. And in a world where transnational corporations have more power than many States, CEDAW has served as a precedent for extending responsibility to powerful non-state entities for violations of people's human rights.

2. *CEDAW requires States to adopt concrete measures to eliminate discrimination against women.* Article 2 requires States to eliminate laws, policies, regulations, programs, administrative procedures, and institutional structures that directly or indirectly result in the unequal enjoyment by women of their civil, political, economic, social, and cultural rights.

3. *CEDAW permits temporary special measures, "affirmative action" or "corrective measures."* Article 4 provides that State Parties may take "temporary special measures" to accelerate the achievement of equality between the sexes without their being interpreted as discriminatory against men. Special measures are transient and must be eliminated the moment real equality has been achieved. However, until that time, they are essential.

4. *CEDAW recognizes the important role played by culture, tradition, religion, and customs in restricting the rights of women.* States should take appropriate measures to eliminate stereotypes and practices relating to the roles of men and women that promote relations of inferiority and superiority among the sexes. If the State does not do this, it is responsible for the discrimination that can occur against women as a result of these stereotypes, practices, customs, and conceptions.

5. *CEDAW defines discrimination very broadly:*

[T]he term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." (Article 1)

This is critical because it means that judges and other public officials cannot create their own definition of what is discrimination against women. It also establishes that discrimination can disguise itself in various ways and alerts us that a variety of discriminatory behaviors can present themselves even to women as "rights" or forms of "protection" against male violence or domination. CEDAW determines that acts which have the "effect" of violating the human rights of women are illegal even if their intent (purpose) was not to discriminate. Further it recognizes that discriminatory acts can occur at the level of a right's "recognition," "enjoyment," and "exercise."

6. *CEDAW embraces the concept of Substantive Equality.* CEDAW aims to achieve not only *de jure* but *de facto* equality, real and substantive equality. Not just equal treatment, but equal outcomes are the required standard. Thus the goal is social transformation—social change, not just legislative change, though this is also important.

7. *CEDAW strengthens the concept of indivisibility of human rights.* According to human rights discourse, all rights are indivisible and interdependent: the promotion and enjoyment of certain fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms. However in practice, more importance has been given to civil and political rights than economic, social, and cultural rights. In CEDAW, all rights appear with equal prominence to establish in a single instrument, the economic, social, cultural, civil, political, and collective rights of groups of women, suggesting a program of action entailing deep social change. The broad implications of the Convention are recognized in the Preamble where equality of the sexes is justified as a social necessity that is essential for development.

8. *CEDAW seeks to overcome not just gender inequality, but all forms of social inequality.* For that reason CEDAW requires that solutions to the problem of discrimination against women identify the causes and ensure that changes in social and economic structures should be promoted which would make possible the full equality of women and their free access to all types of development as active agents and beneficiaries, without discrimination of any kind. The State is obliged to take special measures to

guarantee all women, including the most disadvantaged, the enjoyment and exercise of their human rights.⁷

CEDAW provides an important international framework for the advancement of women's human rights. However, the Women's Convention is weakened by being the UN treaty with the most substantive "reservations" raised by States Parties. "Reservations" enable States to accept a treaty without applying certain of its provisions. The reservations of some States affect core concepts of "equality between the sexes" and "discrimination against

1968 the International Year for Human Rights. Member States were to devote the year to activities, ceremonies, and observances. The major event of 1968 was the International Conference on Human Rights held in Teheran in April and May. The topic of women's rights in the modern world was a key theme. Conference members expressed concern that despite existing international instruments "there continues to exist considerable discrimination against women in the political, legal, economic, social, and educational fields" (UN A/CONF. 32/41).

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women" that form the basis of CEDAW. Other reservations preserve the power of the State to continue to discriminate in certain spheres. Most often, these reservations relate to the family sphere where the rights of women are most commonly violated.

Second Wave: The Global Feminist Movement and Women's Human Rights

The United Nations Decade for Women 1975-1985

The "second wave" women's movement outside the UN made huge gains in women's rights possible there. *Feminists developed gender sensitive methodologies and theories to bring women's lives to the forefront.* In the 1970s and 1980s feminists revealed the power relations between the sexes and demonstrated the incredibly diverse forms of discrimination women of different regions, races, classes, nationalities, creeds, and cultures suffered. Further, *feminists revealed the androcentric bias in the theory and practice of international human rights and challenged the artificial distinction between the public and private spheres.* Many, if not most, of women's human rights violations happen in the private sphere, which had long been off limits for human rights law (Romany).

These critical developments occurred side-by-side with important efforts within the UN system to prepare, promote, and consolidate achievements of International Women's Year and the Decade for Women, and other crucial precursor meetings and agreements.

The World Conference on Human Rights in Teheran in 1968 was a crucial forerunner to the Decade for Women. Five years earlier, in 1963, the General Assembly had designating

By accepting that despite all the existing instruments, large scale discrimination against women persisted, delegates paved the way for a specific International Women's Year during which there would be a World Conference on Women. Seven years later, on 8 March 1975, the United Nations observed International Women's Day for the first time, and three months thereafter, convened the first global UN conference on women's issues.

The first World Conference on Women in Mexico City began on June 19, 1975. The emphasis of this conference was on equality, recognizing equal rights and responsibilities within the family and society, the equal right to work and to other economic activity, the right to decide freely as to matrimony, and the right to decide whether or not to have children. As was typical during this era, the Mexico City final document did not discuss how the various rights were to be implemented, violations to be addressed or corrective policies to be pursued. The Mexico City final document did, however, link inequality with underdevelopment. Equality was also associated with a number of political issues ranging from self-determination to the absence of conflict. Five months after the Mexico City Conference, the General Assembly proclaimed the period from 1976 to 1985 as the United Nations Decade for Women: Equality, Development, and Peace (UN A/RES/3520 (XXX)). The Decade's major conferences offered forums in which women's organizations had a voice in shaping the work of the UN.

The Copenhagen World Conference on Women at mid-decade in 1980 continued to emphasize equality as an overarching theme, but took the discussion further by explaining that "[e]quality is ... not only legal equality, ...

but also equality of rights, responsibilities and opportunities for the participation of women in development, both as beneficiaries and as active agents." Women's inequality was understood to be related to lack of access to resources and the absence of ability to participate in decision-making processes. The conference called on governments not only to review and remove discriminatory language from legislation, but also to inform women of their rights and how they could use those rights, otherwise known as "legal literacy." Importantly, although national governments in Copenhagen began to discuss the subject of violence against women, as those at Mexico City had not, this was not yet done within a human rights framework.

The Nairobi World Conference on Women in 1985 seemed in some ways to emphasize human rights language less than the earlier conferences. It dropped human rights assurances with regard to economic and social topics such as education, although it maintained references to the right to work, freedom of association, and the right to own or sell property. In other ways, the Nairobi conference made new departures. The conference's final document, the *Nairobi Forward Looking Strategies for the Advancement of Women*, was the first UN document to call for women "to exercise effectively their rights in matters pertaining to population concerns, including the basic right to control their own fertility which forms an important basis for the enjoyment of other rights."

Nairobi was also the first world conference at which violence against women was addressed in a human rights context. The *Nairobi Forward Looking Strategies* identified abuse of women as a special area of concern and called for measures to prevent violence against women, provide assistance to its victims, and create national machinery to address the issue of violence against women. But it did not go so far as to deal with the impunity of perpetrators or states' responsibility for failing to prosecute or take other measures to stop the violence.

The event at the Nairobi conference that most advanced the notion that women's rights are human rights was the Women, Law, and Development NGO Forum ("WLD Forum"), at which fifty-five papers were presented concerning the status of women in more than thirty countries. Hundreds participated, legal literacy was stressed, and governments were urged to guarantee the human rights of all women, especially in minority and Indigenous populations. This juridical approach was in sharp contrast to the "women in development" programs that predominated in the 1970s that had focused on advancing economic integration and finding new sources of income for women. Framing demands in "development" rather than "human rights" terms created no mechanisms of redress. This left women dependent

on the good will of international cooperation agencies or their governments.

The WLD Forum in Nairobi also spotlighted the success of Third World women in launching grassroots programs and establishing organizations aimed at improving the condition of women through education about their status and legal rights. Their goal was to use the laws to change discriminatory social, political, and economic structures. They were not basing this on mere theory. Many had mobilized to change unjust laws or to see that existing laws were applied fairly to women in their own countries and their experience had shown that this was possible.

Despite emphasis on the law at the WLD Forum, most women's advocates had not yet adopted a human rights approach. Only a few of the fifty-five speakers at the WLD Forum suggested the use of a violations oriented approach, such as that used by malestream human rights activists, an approach that focused on identifying responsibility for violations and seeking redress and reparations. International human rights norms had not yet been identified as relevant to struggles for recognition of women's rights at the national level. Few were yet suggesting that international human rights bodies or procedures could be utilized or appealed to as part of local efforts to achieve equality and broad social change. This came only in the next decade.

Women's Human Rights Movement: Putting Women's Rights on the Agenda

Following the Nairobi World Conference, the decision of many activists to frame women's rights as human rights, and to campaign for this recognition, led to a distinct Women's Human Rights Movement that coalesced within the broader women's movement. I would say that the inspiration for this development came largely from the insights of Latin American women, who had been critical to the human rights campaign since the 1930s and earlier. Many of us, struggling against dictatorship as part of broad-based movements for social justice, came to see the moral and political power of the international human rights movement and institutions. When we tried to use its language, instruments, and international forums on our own behalf, we found that abuses such as violence against women were excluded from local and international human rights advocacy. In fact, malestream Latin American human rights groups treated the abuses perpetrated against women as different, second-class concerns. Though the majority of the volunteers in these human rights organizations were women, the male leaders of these groups showed no interest in what happened to women, especially violence against women which they understood as a minor individual problem. As a result,

like-minded feminist activists in Latin America banded together, first in our own countries and then regionally to develop language for addressing women's rights as human rights, rights to which all women were entitled regardless of state laws and policies.

Of course, women from all regions contributed to this development. In Asia, an established women's movement preceded, and provided a model for mainstream human rights activists to follow. In Africa, many activists credit the legal literacy approach of the 1985 Nairobi Conference

both public and private acts, including those related to violence against women. By bringing violence against women within the ambit of CEDAW despite the lack of any explicit language on this topic in the actual text of the Convention, General Recommendation 19 became a milestone in the effort to advance the human rights of women and has been cited, relied upon, and utilized by numerous UN bodies addressing VAW. In 2017 the CEDAW committee updated General Reservation 19 with the accompanying GR35.

The strategic decision to emphasize gender-based violence also graphically illustrated that traditional human rights concepts and practices were gender-biased and excluded a large spectrum of abuses of women's human rights. Torture, killings, and various attacks against the physical integrity of the individual were top concerns of the human rights mainstream.

as making the link between women's rights and human rights. Activists everywhere learned from each other from international networking and therein strengthened the understanding and articulation of women's human rights.

CEDAW General Recommendations 19 and 35 on Violence Against Women

When, spurred by the growing interest in human rights among feminists, the CEDAW Committee undertook to address the issue of violence against women, they received important expert support from NGOs. In January 1992 the International League for Human Rights, in collaboration with International Women's Rights Action Watch, sponsored an international conference on violence against women that brought together women from all over the world who were dealing with VAW, showing definitively that the issue was not a First World issue but a universal problem.

One of the goals of this conference was to help the CEDAW Committee members draft a weightier General Recommendation on violence by providing them with detailed legal documentation. In fact, the legal background document for this conference served as the draft for what became the path-breaking *UN General Recommendation 19 on Violence Against Women*, adopted at the CEDAW Committee's January 1992 session. A key provision of General Recommendation 19 is that "gender-based violence which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms ... is discrimination within CEDAW's definition of discrimination and thus within the purview of the treaty." In addition, General Recommendation 19 restates that CEDAW covers

UN World Conference on Human Rights, Vienna 1993

The UN announcement that a world conference on human rights would be held in 1993 gave women's rights activists a global framework in which to spread awareness and mobilize large numbers of supporters to achieve affirmation of their conviction that women's rights are human rights. They rallied the vast energies and resources of the grassroots globally to focus on making an impact at that conference.

It was clear that violence against women, as a key issue in all regions, would be the focus of international organizing. The strategic decision to emphasize gender-based violence also graphically illustrated that traditional human rights concepts and practices were gender-biased and excluded a large spectrum of abuses of women's human rights. Torture, killings, and various attacks against the physical integrity of the individual were top concerns of the human rights mainstream. Showing that violence against women entails violations of bodily integrity—including torture and slavery—invalidated the gendered public-private distinction that had been a defining feature of human rights theory and practice up to that time.

All over the world women worked to build the case for women's human rights at the grassroots. The campaign known as the 16 Days of Activism Against Gender Violence was quickly launched to run annually from November 25, International Day Against Violence Against Women, to December 10, Human Rights Day. Still today, during this period women's groups all over the world continue to campaign, organize, and share local activities related to resisting violence against women.

To enable everyone to express their support of women's

human rights, the Women's Tribune Center, an NGO active at the UN, and dozens of other NGOs around the world, undertook a petition drive. Translated into twenty-three languages and circulated to and through dozens of women's networks, the petition called upon governments at the Vienna World Conference to address women's human rights in all conference proceedings and to recognize "gender violence ... as a violation of human rights which requires immediate action." By the time the drive was complete, more than half a million signatures were gathered and delivered (by hand and by mail in the days before email and social media).

In addition to a global preparatory conference ("pre-con"), the UN planned regional meetings to identify priorities in different parts of the world. To focus attention on human rights issues at all levels, from grassroots to global, in addition to the regional meetings, smaller meetings convened by NGOs and scholars were officially designated as "satellite meetings" for the World conference. As it turned out, this seemingly cumbersome process offered excellent opportunities to the women's movement, which had developed extensive regional and international networks during the three prior world conferences on women and already had a great deal of international experience.

When María Suárez, a feminist activist from Costa Rica, told women from a number of organizations about the benefits of organizing a satellite conference, we immediately set out to do it. Entitled "La Nuestra" (Spanish for "ours"), the first women's satellite conference was held in December 1992 in San Jose, Costa Rica, with fifty women's groups participating. The concluding document presented a nineteen-point program for consideration at the January 1993 official Latin American and Caribbean Regional meeting. It called on the regional conference to recognize women's rights as human rights; declare violence against women to be a violation of human rights; appoint a special rapporteur on gender violence; call for an optional protocol to CEDAW; and create other mechanisms to receive complaints and take action on violations of women's human rights. It also urged new measures on the rights and needs of disabled persons, Indigenous women, women of color, and all others who are discriminated against on ethnic or cultural grounds. Finally, it called for new instruments on trafficking and sexual exploitation.

This program was shared with women's NGOs from other regional groups. It largely set the tone and content for global pre-conference advocacy efforts which succeeded in changing and expanding the language on women in the draft proposal for the Vienna World Conference. The text on the human rights of women emerged from the final preparatory conference in Geneva "unbracketed," which meant that the text had been agreed and would

not be discussed or challenged in Vienna. The integration of women's rights as human rights was one of the few topics to emerge from the prepcon as agreed text. By the time the world human rights conference began in June 1993, the fight for inclusion, visibility, and integration of women's rights into all UN human rights programs had already been won.

Among the things that contributed to this success were that (1) women were thoroughly prepared and superbly organized; (2) women's leadership, geographical diversity, and experience at world conferences was unequaled by any other group of NGOs; (3) the conference was so dominated by the challenge to universality and the struggle over whether to recommend creation of the post of a UN High Commissioner for Human Rights, that the issue of the human rights of women appeared non-threatening; (4) delegates fighting for economic and social rights to be recognized as important as civil and political rights saw women's rights as one way to demonstrate the interdependence and interrelationship of all rights.

As it turned out, the final document adopted by the Vienna World Conference contained the "unbracketed" language approved at the April prepcon along with a number of other points for which women activists and delegates were able to win approval. The document called for states to address intolerance or violence based on religion or belief, including practices discriminating against women, and to eradicate any conflicts between women's rights and the harmful effects of tradition, culture, or religious extremism. These additions struck a positive note for gender integration, although they sometimes used less than ideal language.

The victories for women's human rights and their advocates at the Vienna World Conference were considerable. To begin with, violence against women was now on the human rights agenda as a form of abuse to be eliminated and was no longer classified as a common crime or private action. Moreover, violence against women in armed conflict was identified as a violation of both human rights and humanitarian law. Sexual harassment, sexual exploitation, and trafficking in women were all identified as violations of human rights.

Second, the Vienna World Conference strongly reaffirmed the universality of all rights, with women's rights being declared a part of those rights. The final document also contains some criticism of religious and cultural practices that restrict the human rights of women and in addition, recognizes women's right to health.

Third, human rights of women were to be mainstreamed in all UN human rights activities. Similarly, the Vienna final document calls for CEDAW to be strengthened through universal ratification, withdrawal of reservations, and the

creation of an optional protocol allowing for petitions from individuals.

Finally, the Vienna World Conference made the human rights of women visible. After Vienna, the abuses against women were no longer cloaked in silence or relegated to second-class status. Vienna not only helped bring the powerful language of the human rights discourse to bear on women's issues across the board, it also expanded the number of participants in that dialogue by bringing UN human rights bodies directly into the picture.

New Women's Rights Posts and Procedures at the United Nations

Following the World Conference on Human Rights, new posts and coordination procedures were established as means of implementing the mandates to integrate the human rights of women system-wide and mainstream a gender perspective. Important changes achieved in the post-Vienna period to fulfill the goals of the women's human rights movement included:

A *Special Rapporteur on Violence Against Women* was appointed and charged with investigating incidents of violence against women and reports directly to the Commission on Human Rights. In accordance with requests from women's groups, the Commission directed the rapporteur to address violence against women, its causes and consequences, thus allowing the rapporteur to undertake a broader study than might be possible through an individual case approach alone.

The Declaration on the Elimination of Violence Against Women was adopted by consensus of the General Assembly on December 20, 1993, after two years of drafting by an expert group organized by the DAW. As the first UN document exclusively addressing the issue of violence against women, one of the Declaration's most important achievements is its definition of violence, which includes physical and nonphysical abuse. The Declaration also denounces violence against women in the home and community and repudiates the idea that states are not accountable for violence perpetrated by private actors. Although not legally binding, the Declaration, as an expression of international political will, has facilitated the creation of international law for the protection of women from gender-based violence.⁸

CEDAW Optional Protocol. As noted earlier, the Commission on the Status of Women had not developed communications procedures for denouncing violations of women's human rights. The shift toward the concept of women's rights as human rights led feminists in the 1990s to begin demanding this in the CEDAW Convention. In a landmark decision for women, the General Assembly

adopted on October 6, 1999, a 21-article Optional Protocol to the CEDAW convention which came into force on December 22, 2000. By ratifying the Optional Protocol, a State recognizes the competence of the CEDAW Committee to receive and consider complaints directly from individuals or groups within its jurisdiction. The Protocol also enables the Committee to initiate inquiries into situations of grave or systematic violations of women's rights in States which are party to the Convention and the Protocol. Using this procedure, many individual women have obtained reparations for violations of their human rights and States have been compelled to change discriminatory laws and policies.

United Nations World Conferences

UN Conference on Population and Development in Cairo, 1994

At the UN Population Conference in Cairo, women's human rights advocates were present, prepared, and active in the drafting of language concerning gender equality, reproductive rights, and the relevance of international human rights to the UN's entire development platform. Many NGO representatives served on government delegations, and there was extensive dialogue between NGOs and official delegates, facilitated in part by a daily women's caucus.

As in Vienna, however, in Cairo it was not simply the presence of NGOs that made the difference; it was our extensive organizing, thinking, conceptualizing, consensus-building, and lobbying in advance of the conference that made women's rights activists such a powerful force. Women's human rights activists prevailed over powerful mainstream misogynist and racist "population control" frameworks that pushed invasive and controlling birth control campaigns on Third World women as "development" and "poverty reduction strategies." They also broadened the scope of feminist concern with population and reproductive health issues to recognize that many other issues—such as structural adjustment policies, environmental degradation, and poverty—had to be resolved for reproductive and sexual rights to be realized.

Delegates framed the final conference document in human rights terms, including fifteen principles that address equality and nondiscrimination as well as the right to health, to education, to development, and to seek asylum. The final Cairo document also restates the principle that couples and individuals have the right to decide freely about the number and spacing of their children. Unfortunately, women's ability to control our own fertility was not cited as a right, but rather as a "cornerstone" of population and development-related programs.

The Cairo document marks the first comprehensive assertion of human rights as relevant to population policies. It is also thought to be the first UN document to actually define reproductive rights—recognizing the basic right of all couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes the right to make decisions concerning reproduction free of discrimination, coercion, and

of women's rights, provides helpful clarification of others, and promotes actions and mechanisms needed to realize and protect women's rights. For instance, this document is considered an action plan for implementing CEDAW. All national governments are called to develop plans for implementing Platform commitments to be reviewed by CSW and other UN bodies. The human rights caucus at the Conference managed to ensure that commitments in every section of the document, except environment, were expressed in human rights terms.

Effective gender mainstreaming calls for a feminist transformation of the peace and development agendas. When these are understood as human rights, effective action moves from the optional realm of charity, into the mandatory realm of law, with identifiable rights, obligations, claim-holders, and duty holders.

violence. This terminology is hugely important in light of persistent threats to these rights globally in the name of politics, religion, and culture.

The World Summit for Social Development in Copenhagen, 1995

The World Summit for Social Development held in Copenhagen in March 1995 focused on poverty, unemployment, and social disintegration. Delegates also affirmed the importance of human rights guarantees by emphasizing a wide array of economic, social, and cultural rights, including the right to development. Although there were fewer human rights NGOs at Copenhagen than at earlier conferences, they made a big impact in framing social and economic “development” issues in human rights terms. Feminist groups, including DAWN (Development Alternatives for Women in a New Era), organized a tribunal entitled the “Copenhagen Hearing on Economic Justice and Women’s Human Rights.” Women from Cuba, Mexico, Philippines, Tanzania, and the USA testified about abuses of rights resulting from structural adjustment programs and welfare cuts. Speakers also called for accountability regarding trade policies and economic sanctions that are indifferent to human rights.

Fourth World Women’s Conference, Beijing 1995⁹

Forty thousand women attended this conference 10 years after the end of the decade for women. Women’s human rights were front and centre. The Conference recognized unambiguously that “women’s rights are human rights.” The final document known as the *Beijing Platform for Action* reaffirms and consolidates many important aspects

Several of the salient issues concerning women’s human rights that arose in the drafting of the *Beijing Platform for Action* include:

The Concept of “Gender.” Although the term “gender” had been used by the UN for over a decade, in 1995, a number of delegations, led by Benin, Guatemala, the Holy See, Honduras, and Malta, placed the word “gender” in brackets throughout the draft platform, indicating a lack of agreement on its use. Speaking for these delegates the Archbishop Oscar Rodríguez, President of the Latin American Episcopal Conference, claimed that use of the word came about as a result of feminists who wanted to promote “unnatural genders” and “destroy family and moral values.” After many meetings, the decision was made to keep “gender” in the Platform without an agreed definition.

“Equality” Not “Equity.” Resistance to “equal rights” wording was strong among many conservative delegates during the preparatory stages of the Beijing Conference. Some progressives also resisted the language of “equality,” which they mistakenly thought referred only to equality of treatment, rather than to substantive equality of outcome, as was the case. However, the dynamics of the conference brought great strength to those who sought to prevent the use of the ill-defined and *non-justiciable* term “equity” as a substitute for “equality.” Although the final formulations vary, most problematic references to “equity” which weakened states’ responsibility were eliminated from the text.

Broad Definition of Violence Against Women. The Beijing Platform recognizes violence against women as a violation of women’s human rights. The broad definition of violence adopted in the document includes physical, sexual, and psychological violence in the family; dowry-related

violence; marital rape; female genital mutilation; rape; sexual harassment; trafficking and forced prostitution; forced sterilization and forced abortion; female infanticide and prenatal sex selection; and violence against women in armed conflict (including murder, systematic rape, sexual slavery, and forced pregnancy). Wherever it occurs, violence against women must be prevented, outlawed, and punished. State reporting and monitoring of violations, investigation and prosecution of perpetrators, due diligence in preventing these acts, and accountability of those responsible are all required.

Sexual Orientation and Abortion. Sexual and reproductive health were the most controversial topics at Beijing, specifically sexual orientation and abortion. In fact, the controversy over the term “gender” arose partly because “sexual orientation” was referred to in the draft Platform for Action. Sexual orientation was mentioned in a list of barriers, including race, culture, and disability, that constitute sources of discrimination and violence against women. The draft Platform also suggested that governments consider legal safeguards to prevent discrimination on the grounds of sexual orientation. In the end, unfortunately, there is not reference to sexual orientation in the final document despite lengthy debate on the subject. Nevertheless, the *Beijing Platform for Action* made other substantial advances in addressing the topic of equality in sexual relations and extends human rights language to sexuality and sexual behavior, if still not completely.

Gender Mainstreaming. Despite recent progress since the creation of the UN, there was considerable concern among both NGOs and state delegations in Beijing that women’s issues would continue to be marginalized in the UN system if CSW alone were given the responsibility for these issues. In the end, delegates agreed to maintain the separate dedicated bodies that play a catalytic and expert role in relation to women, seeking at the same time to engage all other UN bodies. The Platform asks the Secretary-General to ensure that a gender perspective is “mainstreamed” in all UN activities and that barriers to the advancement of women within the secretariats of the UN and specialized agencies are removed.

Effective gender mainstreaming calls for a feminist transformation of the peace and development agendas. When these are understood as human rights, effective action moves from the optional realm of charity, into the mandatory realm of law, with identifiable rights, obligations, claim-holders, and duty holders.

Conclusion

Over twenty years after the *Beijing Platform for Action* was adopted, it remains the defining UN commitment

to women. We have made great strides in advancing women’s human rights. However, the forces resisting these transformative changes from the beginning have persisted and are increasing today. I am currently Chair of the UN Working Group on the Issue of Discrimination Against Women in Law and in Practice, established in 2010. It is clear to all five of the expert members from different regions that we are currently facing a strong backlash in the UN and around the world against women’s human rights.

In face of this challenge, feminists have chosen not to push for a fifth world women’s conference where gender rights and policy could be advanced, but might instead be rolled back. However, women everywhere are increasingly using a human rights approach and human rights instruments in local and national efforts to make change in every area of life, protecting their interests and expanding their rights in the process. Our struggle is as urgent and important as ever.

I sincerely hope that the long story I have told here has given you the information and inspiration to incorporate a women’s human rights framework into your own work and life, to better defend our rights, our planet, and our humanity against growing threats globally.

Alda Facio is a human rights activist, jurist and writer, teaching human rights in many parts of the world. In 2004 she co-founded the Women’s Human Rights Institute with Angela Miles and has been teaching courses ever since. As one of the founders of the Women’s Caucus for Gender Justice in the International Criminal Court in 1996, she was its first Director. In 2005 she was appointed to the UN Secretary General’s Task Force on Violence against Women. Currently she is one of five expert members of the UN mandated Working Group on Discriminatory Laws and Practices (WGDAW).

Endnotes

¹In Canada, October 18 commemorates the date in 1929 when the country’s highest court of appeal expanded the legal definition of “persons” to include women, giving them the right, in this case, to be appointed to Canada’s Senate. Becoming “persons” also meant that women could, and would, claim many other rights previously preserved for men, and continue to work to expand those rights, and the legal protections they engender.

²Latin American women had gained experience in lobbying for the first ever intergovernmental treaty of women’s rights as well as for the creation of the Inter-American Commission of Women (IACW), the first inter-governmental body to address issues related to the status of women. The IACW prepared, and its member governments adopted, the *Montevideo Convention on the Nationality of Married*

Women in 1933 which is the first treaty to grant women and men equal rights, even if only with respect to nationality.

³Among the many functions of UNDAW were support for implementation of the 1985 Nairobi Forward-Looking Strategies; the 1995 Beijing Platform for Action; the outcome of the 23rd special session of the General Assembly in 2000; relevant recommendations of other global conferences and their reviews; and relevant decisions taken by the General Assembly, ECOSOC and the CSW.

⁴DAW continued to operate until it was merged into UN WOMEN, founded in July 2010. UN Women builds on the important work of DAW and three other previously distinct parts of the UN system, which focused exclusively on gender equality and women's empowerment: International Research and Training Institute for the Advancement of Women (INSTRAW), Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI), and United Nations Development Fund for Women (UNIFEM).

⁵It is revealing to note that the Commission on Human Rights began with seven members, with chairperson Eleanor Roosevelt the only female. Yet no one insisted on increasing women's presence in that or any other UN body (Miller). Alarming, the question whether a committee composed of only women could do the job of ascertaining equality between men and women is still being asked today at the UN!

⁶In fact, the CSW's resources were extremely small, and the assistance provided was limited to a very small staff in a Section on the Status of Women within the Human Rights Division of the United Nations Department of Social Affairs. Nevertheless, the shortage of resources was compensated by the dedication, motivation, and enthusiasm of members of the Commission and the women's organizations that worked with them.

⁷For example, in its concluding comments to the third periodic report of Venezuela, the Committee urged the country to achieve equality for all women by strengthening programs to eliminate poverty, which severely affects a large majority of women in Venezuela.

⁸In the Inter-American Court of Human Rights system, such a legally binding instrument does now exist, known as the Inter-American Convention for the Prevention, Punishment, and Eradication of Violence Against Women. This instrument has been ratified by all State members of the Organization of American States, with the exception of the USA. The *Protocol to the African Charter of Human and People's Rights on the Rights of Women in Africa*, known as the *Maputo Protocol*, was adopted by the African Union in 2003 and became effective in 2005.

⁹For reports on and analysis of the Beijing Conference see CWS/ef 1996 Special Issue, "Post Beijing."

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