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# Gender Justice, Development and Rights: Substantiating Rights in a Disabling Environment

*Report of the UNRISD Workshop  
New York, 3 June 2000*

## Introduction

On Saturday, 3 June 2000, the United Nations Research Institute for Social Development (UNRISD) held a one-day public workshop in New York to coincide with the United Nations General Assembly Special Session for the Beijing +5 review. The event was part of a year-long research project that is assessing how far contemporary debates on and developments in the areas of rights and democracy have strengthened women's struggles for greater gender justice. A series of papers has been commissioned for this purpose, and some of them were presented and discussed at the workshop in New York.

At the workshop, eight members of the UNRISD research team presented their work. In all, about 200 people attended the event. Reflecting the diverse and rich academic and activist backgrounds of the participants was the high standard of discussion and debate that followed the presentations.

The workshop agenda and a list of contributions to the project can be found at the end of this report. Some of the papers will be published as UNRISD Programme Papers later this year. This UNRISD project is receiving the financial support of the Swedish International Development Co-operation Agency (Sida) and UNRISD core funds (provided by the governments of Denmark, Finland, Mexico, the Netherlands, Norway, Sweden and the United Kingdom).

## Gender Justice, Development and Rights

The Special Session for the Beijing + 5 review, **Women 2000: Gender Equality, Development and Peace for the 21st Century**, took place in a markedly different ideological environment from that of the 1995 World Conference on Women in Beijing. In the wake of recent financial crises, particularly in Asia, the neoliberal consensus is in considerable disarray. Faith in the ability of unregulated markets to provide the best possible environment for human development has been shaken. In response to obvious failures in the current development model, the international community has begun to move in various directions. As yet, however, there is little coherent orientation to this process.

At the same time, human rights are seen as an inseparable part of the quest for stable democratic rule, and a significant number of governments have made a commitment to observe them. These political changes, as well as new legal instruments, have provided opportunities for civil society organizations to press for the implementation of formally acquired rights. They have also led to a shift in the priorities and practices of many NGOs. One example of this shift has been the widespread adoption of rights-based strategies.



Yet despite the dynamism of the human rights movement, a gulf remains between the articulation of global principles and their application in many national settings. Much the same can be said of democratization; the faith in democracy as a framework for solving the world's social problems needs to be placed alongside the uneven trends in the actual evolution of democratization across different countries. The gap between global principles and on-the-ground outcomes is particularly striking in the case of women's rights. The title of the meeting summarizes the contradictory forces—both enabling and *disabling*—that the struggle for gender justice currently faces. In order to explore both the consequences of these ideological shifts for women's political mobilization, and the diverse factors affecting the promotion of democracy and human rights that embraces gender justice, the UNRISD workshop examined three related dimensions of “rights-based” development:

- the relationship between needs and rights;
- whether democracy has empowered women; and
- women's rights and multiculturalism.

### Needs, Rights and the Delivery of Welfare

Civil society organizations have played a decisive role in bringing rights into the international limelight. The organizations that focus on women have been particularly active in promoting the rights-based approach. As a result of the lobbying efforts of these groups, the strengthening of human rights has become a crosscutting focus of the United Nations.

But the shift in development priorities from needs (welfare) to rights (empowerment) evokes many questions. What factors lie behind the change in rhetoric? What does a “rights-based strategy” mean to its different proponents across the political spectrum? Why are “needs” and “rights” being set against each other when in fact they are intimately related? What are the enabling conditions for the universal realization of rights? To what extent and in what ways does the delivery of social welfare at the turn of the century reflect a rights-based approach?

### Rethinking social policy

In a significant number of countries the formulation of formal rights has not been matched by an improvement in the quality of life of the majority. Financial crises stalked the 1990s and the growing gap between rich and poor countries and peoples casts a shadow over the visions of the decade—as put forth, for example, in the context of United Nations summits on social development, women, population and the environment.

At the same time, there has been a global shift in the consensus over the role of the state in welfare provision. This has often entailed the downsizing of public services and the reallocation of service delivery to commercial interests, charitable groups, NGOs and families.

The presentation on Chile argued that this devolution of responsibility to civil society for managing welfare and development projects is double-edged. On one hand, it is associated with a renewed emphasis on participatory approaches that have the potential to give a voice to the marginalized and the poor in processes of development planning and decision making. Many women active in NGOs and grassroots organizations have applied these approaches, with positive results. On the other hand, a *disabling* macroeconomic environment makes the substantiation of rights very difficult. Even in societies where democratic institutions and social solidarity principles prevail, and where women's and other civil society organizations are strong, global economic constraints are making it very difficult to carry out the social justice agenda. *As the state devolves responsibility for welfare delivery to non-state actors, there is a danger of even further reliance on women to perform low-paid or unpaid care work as NGO workers and members of families and communities.* Implicit in the claims for more efficient social spending, through a partnership of state and civil society organizations, is the notion that communities and households can take up the slack where the state no longer makes investments. Ultimately this means that women, who have traditionally been responsible for the well-being not only of their family members but also of their communities, have to “pick up where the state leaves off”.

Despite their contribution to the survival of families in many poor urban neighbourhoods, NGO involvement in the delivery of urban services can accentuate the gender division of labour, leaving the NGO workforce overworked and underpaid in various voluntary, flexible and poorly paid jobs. At the same time, women also make up a significant proportion of those engaged in income-generating activities that are unregulated—whether as “reluctant entrepreneurs” or as workers in restructured industries heavily reliant on subcontracting.

The models of social service delivery that are currently in vogue reflect a distinctly residualist approach, focused as they are on targeting given resources to the needy—“the poorest of the poor”—who are assumed to be politically passive. But how legitimate is it to privilege

some (such as female heads of household) and not others in a context of generalized poverty and lack of opportunities? Is a two-tier system (with private services for those who can pay, and public services for the poorest) sustainable, both politically and financially? Women working in the *maquilas*, for example, fall through the cracks of Chile's targeted social programmes because they earn an income and are counted among the economically successful. These women and many others in similar jobs, it is assumed, are able to purchase welfare services for themselves and their dependents for a fee. But among the well-known adverse effects of this two-tier system, especially (but not exclusively) in developing countries, are the reduction of public sector programmes, on which working people and people in poverty depend; rising unemployment; the inability of the state to provide even minimal "safety nets" any longer, due to the shrinkage of public revenues; and increasing poverty and gaps between rich and poor. Privatization itself directly contributes to poverty. As one of the speakers noted, in India, the increased cost of medical care is the second most common cause of rural indebtedness. *Surveys conducted by both transnational women's NGOs and United Nations agencies provide ample evidence that current patterns of privatization are not providing adequate health services for all who need them or assuring the realization of people's health and reproductive rights, much less the right to the highest available standard of health care for all.*

Implicit in this reconceptualization of the role of the state in welfare delivery is the rejection of a notion of rights as entitlements based on principles of universality—which, while always an imperfect achievement, did nevertheless guide social policy in the postwar years. Moreover, the residualist approach carries important long-term implications for citizenship. Although recipients may retain the right to vote and hold a national passport, in the broader sense of citizenship they often occupy a *de facto* secondary societal position, regarded by fellow citizens as non-contributing and even parasitic (receiving "gifts" from NGOs). So it seems appropriate to ask: Where are the rights of citizens and in what sense are women appearing as "right-bearers" in the emerging models of social service delivery?

Other concerns were raised about the degree and forms of accountability that civil society organizations might have in regard to the communities they serve. While the participatory approaches that many NGOs employ have the potential to give a voice to the marginalized and the poor, it cannot be *assumed* that programmes with a

participatory *design* are actually participatory *in practice*. How do communities come to identify and prioritize their demands? How do markets work under outsourcing and partial privatization in terms of providing social services that can meet people's needs? These are critically important questions, and ones for which there is a dearth of good, empirically-based answers.

What is needed beyond legal analysis is political analysis: How can rights be made operational? This in turn poses the question of *who has the responsibility of fulfilling rights—the state, the NGOs or the private sector?* Rights without remedies are insubstantial. If economic and social rights are legitimate, how can they be made operational? How can an appropriate space where legitimate claims are acknowledged and acted on be created? Who has the responsibility to protect and fulfil rights to health care? This question, which is one of the most contentious at the present juncture, was addressed by several speakers.

On the neoliberal agenda, the role of the state in poverty alleviation is limited to the provision of selected social services, such as *basic* health and education, and "safety nets" for the particularly vulnerable who cannot take part in regular labour markets. But this approach is criticized by those who see the necessity of a more substantive role for the state in designing and regulating social policy.

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***The state has a clear mandate from its citizens for the provisioning of social welfare—it needs to be pressured, monitored and reformed in order to fulfil that mandate, but not bypassed.***

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The presentation on female educational deprivation in India addressed the question of state responsibility, and that of how to make formal rights operational. It argued that even if the state recognizes a right in principle, it has a *responsibility* to adopt appropriate policies to ensure the *universal* realization of that right. Where the state has a clear mandate from its citizens in regard to human rights, it must recognize its responsibilities. Although people often have a strong sense that government structures should be accountable to them (demanding services from the government), it is not clear whether the same can be said about NGOs. On what basis can people make demands on an NGO and hold it accountable? While civil society organizations often play a useful role in monitoring progress and pressing the state to fulfil its mandate, they cannot *substitute* for the state.

In the area of health care provision, for example, there is a clear need for reform programmes that strengthen, rather than weaken, *public* health systems, not only through increased investments, but also through reorganization, retraining (e.g., in gender sensitivity) and more effective management. At the same time, corruption, insensitivity and inefficiency in public sector health services have been a constant complaint by not only international donor agencies but also by those who depend on the services most. Given this dubious record in many countries, as well as the prevalence of markets everywhere, it is inevitable that private (for-profit) companies and non-profit charitable, NGO and community-based groups will increasingly function side by side with public agencies to provide services. *But in such hybrid (governmental/non-governmental) systems, it is essential that the regulation and enforcement of universal standards of access and quality remain a state responsibility.*

More generally, as old models of welfare provision are dismantled and the coverage of new ones remains patchy and inadequate, workshop participants from different regions expressed concern that in all too many cases political rights have been granted at the expense of social rights. The extent to which even political rights can be exercised in the absence of adequate social provisions was a question that several speakers and participants raised.

### Needs versus rights? Transcending dichotomies

One of the panellists considered the charge that “rights” are being pursued at the expense of “needs”. A problem with the liberal interpretation of rights has been the tendency to consider some rights to be more important than others. Historically, especially in the Cold War era, rights were separated into different “generations”. This was a controversial metaphor because it suggested a hierarchy in the importance of various forms of rights. The positions taken in this debate were often along regional and philosophical divides, with Western liberal democracies favouring the “first generation” of civil and political rights (CP), while socialist states and some developing countries advocated “second generation” economic, social and cultural rights (ESC). Others, however, considered such separation to be problematic because in practice rights are intimately linked and thus indivisible. Reproductive rights, for example, require legal recognition and protection in the courts, freedom from repressive religious and traditional codes that constrain choice, and freedom from domestic violence and forced pregnancy, which are all CP issues. But at the same time, reproductive rights also require reliable

and affordable maternal and child health services, and access to safe contraception, counselling and follow-up care, not to mention adequate nutrition to avoid a wide range of risks, which are ESC issues.

In an acknowledgment of the limitations of the rights hierarchy, the Vienna World Conference on Human Rights, held in 1993 in the wake of the end of the Cold War, endorsed the principle of indivisibility among the different kinds of rights and their respective international conventions. The United Nations now officially advocates the *universality* and *indivisibility* of rights. This means that, officially, rights are to be applied equally to all persons and one type of right is not to be regarded as more important than another. For example, the right to clean water is no less important than the right to security of person.

While the Cold War separation of economic/social rights from political/civil rights has been surpassed by the conviction that rights are in fact indivisible, in discussions of women’s rights these old dichotomies have resurfaced with new vigour. In the global conferences of the 1990s some conservative forces (namely the conservative alliance built by the Vatican) presented themselves as defending the “needs” of Third World women, while systematically opposing women’s self-determination and the women’s rights agenda. *Women apparently have needs, but no need for rights.* This is an astonishing exemption of women from international human rights norms that are otherwise deemed universal. To see needs as necessary but not rights is to assume that they are unrelated. Yet this is a false separation: without rights to legal representation, how can women obtain justice in land claims, divorce settlements or other cases of dispute? And without literacy, how can they know what rights they have? If women are to enjoy the right to have the number of children they wish, they must also be able to depend on health services to meet their needs.

At the same time, some powerful Northern governments (especially the United States) who can always be counted on to champion reproductive and sexual health and gender equality more broadly as human rights, would never admit to what they would call “infrastructural problems”, including access to clean water, sanitation and health care, as being human rights. To admit that these are rights is to confront redistributive issues at the macro level and to call into question the neoliberal agenda that assumes basic needs can be met through market mechanisms.

But these two positions—that of the moral conservative forces and that of some Northern governments—are mere images of one another because they both play into the same dichotomy and they are both problematic from a feminist point of view. Women’s ability to act as full participants in their societies depends as much on economic and social resources as on their legal rights. An appreciation of the indivisibility of rights helps to reconcile the apparent opposition between needs and rights. Rights can then be usefully seen as the *codification of needs*, reformulating them as ethical and legal norms and thus implying a duty on the part of those in power to provide all the means necessary to make sure those needs are met. In other words, the language of rights enables individuals or social groups to make official claims in defence of their needs.

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*Rights and needs are intimately linked, as are economic/social rights and civil/political rights. Separating them makes no sense, especially when seen through a gender lens. It is necessary to go beyond the idea that rights and needs are opposed policy options, to recognize, and to force recognition on the larger community, that you cannot have for women one set of rights within the household and personal life and a different set of rights for something called the larger society. These two must absolutely come together. This is a fundamental project for the new century.*

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### Women in Contemporary Democratization

Rights of any kind depend on prior political conditions, and we might say that without political and civil rights there is no guarantee that other rights, even when they are inscribed in laws and constitutions, may be made effective. The absence of powers to make governments accountable and responsive to their citizens is one of the greatest obstacles to rights-based agendas, and those rights and powers are normally associated with democracy.

The second session of the workshop looked at democratization from a gender perspective—an angle that has been given little consideration in the mainstream literature and debates on democracy. While many of the problems afflicting democracies—such as the elitist character of political parties or the failure to guarantee civil rights or make a significant dent in poverty—affect all citizens, they are often experienced in gender-differentiated ways. Women’s exclusion from formal politics, in particular, raises a number of specific questions about how to reform

democratic institutions, since these institutions are not automatically gender equitable.

Democracy is about “people’s rule”, and in a democratic polity citizens are presumed to have equal rights, opportunities and voice in the governance of the public domain. *The most obvious point of entry here for a gender analysis is the striking underrepresentation of women in national assemblies and governments.* This is a serious flaw in the system of representative democracy, which is premised on the link between the right to vote and the right to stand for office. The fact that the gender composition of national assemblies and cabinets is so at odds with the gender composition of the population already signifies that something is seriously wrong.

The 1990s saw considerable advances for women in terms of political representation, albeit from a shamefully low base. From representing a global average of six percent in parliaments in the 1980s, the figures more than doubled over the next decade. In many countries women’s organizations and female members of political parties have vigorously lobbied to increase women’s representation, notably through quotas. This pursuit of numerical representation (“getting women in”) does, of course, beg many further questions. Are the “representatives” accountable to their constituents? Who are their constituents: political parties? women within political parties? all women? Are the representatives effective in promoting gender-equitable change?

The presentation on Iran raised some salient issues in regard to the role of women’s movements in periods of regime change. In contemporary societies women have become active in many domains of public life, including politics, both at the grassroots and within institutional politics. Women’s political mobilization, whether in “popular motherist” or feminist forms, has contributed to the demise of authoritarianism in many parts of the world. Yet it has not always been easy for women’s groups to have their concerns and priorities taken up by the movements that are promoting democracy in political life.

In Iran there appears to be an intriguing paradox today, but a paradox that offers possibilities of exciting changes while also posing dangers and hazards. The country is witnessing the growing presence of a very strong reform movement, about which a great deal has been written, and at the same time, although not as internationally reported, a very important and strong women’s movement that is not centrally organized. It



has many different faces and voices. The paradox is that given the strong movement for democracy and given this strong movement of women, women are hardly present in leadership positions in the democracy movement, and gender issues are curiously absent from its agenda. In other words, while a great deal of rethinking and realignment has been taking place on women's issues among women activists of diverse outlooks in the 1990s, gender seems to be all but non-existent as a category of thinking among the emerging group of (male) dissident intellectuals struggling for a more democratic polity. Contributing to this process has been, with few notable exceptions, the absence of women, in particular Islamist women, from these presumably more general democracy debates. The implicit and problematic understanding seems to be that democracy is a gender-neutral category, and that struggles for citizenship rights are "naturally inclusive of women".

The speaker also pointed out the pitfalls of searching for clear categories, pitting the good "civil society" against the bad "theocratic state". Reality is much more complex, making it difficult to draw such clear lines. There is tremendous fluidity and overlap—both at the level of personnel and at the level of issues. Some of the best civil libertarians can hold some very regressive views, especially when it comes to issues of gender justice and women's rights. Those who seem very conservative (on economic issues, for example) can hold progressive views on social issues and women's rights. The tendency to search for clarity that results in oversimplified classifications simply does not work in situations that are changing as rapidly as in contemporary Iran. While this definitional fluidity may be particularly accentuated in periods of regime change, it may also be relevant in more "normal" times and places.

Movements that are promoting greater democracy in political life must take account of women's needs and concerns in order to grow in strength and vitality. To endorse political and civil liberties, yet without explicitly addressing women's rights in the domestic/family arena *and* the social domain more broadly, creates a truncated, and ultimately unsustainable, democratic setup. Democracy is not just a question of how well the institutional arenas perform, but of the *quality* of democratic life more broadly. This depends crucially on the *character* of civil society itself, and the extent to which it embraces *democratic principles* and notions of *gender justice*.

That the nature and character of civil society are contingent was a theme that re-emerged in the presentation on South Africa. The African National Congress (ANC) as a political party has been far more progressive and proactive on gender issues than many organizations of civil society. Some of the gender equality concerns that the ANC has been promoting, for example, would not have been endorsed by many organizations of civil society, or by a popular referendum. Thanks to a generally favourable set of circumstances a number of gains have been made at the formal level, such as the provision for equality in the Constitution, the establishment of national machinery for women, and the creation of a statutory body, the Commission on Gender Equality. But these gains were won as a result of elite persuasion rather than by a mass movement of women (since such an electoral constituency of women is still not in place). These formal provisions can nevertheless facilitate the process of building such a constituency. The South African experience suggests that once formal provisions for gender equality are in place, such as the constitutional commitment to gender equality, they can become the touchstone for organizing. The kind of feminist politics that is often assumed must *precede* the setting up of formal provisions and institutions, can in fact come *after* the provisions have been put in place.

In South Africa, women have also achieved increased representation through activism in the ANC, the responsiveness of party leadership, and the support of an active women's movement. In 1994, when South Africa became a democratic state, the concern of the women's movement was to increase the number of women in parliament, even though within the ANC there was an appreciation that there had to be real representation of the interests of women and that those interests were divided. For strategic reasons, however, at this point in time the demand of the women's movement was for the increase in the number of women elected to parliament; the concern for qualitative representation was always there but was somewhat suspended in the first election. After some debate in the ANC, the decision was taken to have a 30 per cent quota for women on electoral lists, with some knock-on effects on other political parties.

Quotas, sometimes seen merely as tokenism, have in practice served to genuinely enhance more effective representation of women's interests in the policy process. The presentation on women and electoral politics in South Africa argued that while some women repre-

sentatives may have neither the ability nor the inclination to address gender inequalities, their cumulative strength does have an impact on deliberations in national assemblies. *Once women are elected, they tend to be called on by women's groups, NGOs and other civil society organizations to channel women's demands into the policy process.* The relatively high level of female representation in the South African parliament has had a significant effect on the profile of gender issues. In the first democratic parliament three far-reaching pieces of legislation were passed: the Termination of Pregnancy Act of 1996, which provides women with access to abortion under broader and more favourable conditions than previously; the Domestic Violence Act of 1998, which provides protection against abuse for people who are in domestic relationships of various kinds; and the Maintenance Act of 1998, which substantially improves the position of mothers dependent on maintenance from former partners.

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*Even when political parties nominate women to satisfy a quota, it produces a dynamic that is far more complicated than the game of numbers. The women "representatives" tend to be called on by women's organizations and NGOs to stand for women's interests.*

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In other countries where women have registered electoral gains, the initial concern with women's numerical representation has also matured into concerns about the *quality* of women's representation, and about representatives' accountability to women's interests. Increased representation, quotas and cross-party collaboration by women representatives in national parliaments in many regions of the world have secured important legislative gains for women, such as that concerning violence against women. However, little, if any, progress has been made with regard to making macroeconomic policies more responsive to women's needs and interests—here looms again the *disabling* macroeconomic environment.

In the first two years of democratic government in South Africa the notion of rights was extended through a range of legislative efforts aimed at facilitating people's access to various state resources. The macroeconomic framework introduced in 1996 committed the government to fiscal restraint and public-private partnership, and it was unclear how the effort to extend rights could be continued and deepened. While the social sector still claimed the largest part of the budget, the extent to

which those broad aims could actually be implemented was seriously in doubt. Moreover, many people felt that the macroeconomic framework had not been sufficiently discussed and negotiated; it was, in effect, placed outside the limits of debate.

Indeed, there is an increased risk that as macroeconomic decision making becomes more concentrated in ministries of finance and central banks, parliaments could lose their important capacity for policy oversight. This is particularly ominous for gender advocates, who are making inroads into national parliaments. Fortunately, in the South African case there is still a vibrant civil society and a commitment within the ANC to a deep sense of democracy—one that embraces a broad notion of social justice and not just a concern for representation

It would be a bitter irony if, as women were finally entering parliaments in significant numbers, parliaments started losing their important oversight role on macroeconomic decisions that hugely affect the lives of men and women, and the quality of democratic governance. Women bureaucrats in ministries of finance, for example, equipped with economic analytical skills and innovative tools for scrutinizing national budgets through a gender lens, may be able to contribute to what goes on in these insulated technocracies. But this is no substitute for a more open public debate that enables the parliament, women's groups and networks, along with other social groups, to scrutinize economic policies and decisions.

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*To see women's exclusion from economic policy making simply in terms of the skills that they lack (and need to be equipped with) misses the larger question of whether the emerging political arrangements enable the public as a whole to review and exert an influence over the actions and decisions taken by the executive.*

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In general, participants felt that women's accession to political power in recent decades had resulted from a particularly favourable set of circumstances, and the gains made may be more fragile than they appear. These gains can be reversed by a change in government or political leadership. The problems that limit women's ability to serve in parliaments—inadequate facilities, especially *crèches*, lack of training, long working hours and the masculine culture—persist, and make it very difficult to retain those women already serving there.

## Multiculturalism and Universalism

A related, and perhaps the most politically sensitive, issue surrounding rights-based strategies is whether and how such strategies might find a universal application, yet without denying cultural specificity. While the language of rights and citizenship has a broad appeal, and is politically acceptable and effective in some countries, others may respond to it with suspicion. The claim is sometimes made that universal rights and norms are a form of Western hegemony and are inappropriate for other cultural contexts. This raises particular problems for women. *Women have often served as signifiers of cultural difference and as guardians of traditional cultural practices. Where this infringes on their rights and contradicts their self-identity, tensions have arisen between those who define such cultural practices as necessary and those who are expected to comply.*

Liberal political theory is grounded in the twin principles of universal and individual rights—rights guaranteed by the rule of law. Such principles were determined in opposition to arbitrary and particularistic rights that were, for example, invested in castes and estates, or in ethnic groups, as in South Africa or colonial Latin America. The principles of universalism and of rights held by individuals served as a guarantee against certain abuses of authority and as a way of ensuring equal treatment before the law.

Recently, however, in the liberal tradition, there has been greater recognition of the need to accommodate group interests and group rights. Liberal individualism has been criticized by communitarians for its privileging of individual rights over social responsibilities. More recent critiques from the “new” communitarians seek to ground the exercise of law and political power in society and thus challenge ideas of universal rights. Such rights, it is argued, abstract struggles for equality and freedom from the particularities that surround them, making it difficult to respond to the challenges of multicultural environments. Instead of universal norms of justice, arguments are made for justice that is relative to the social meanings it has in a given community. Indeed, this view seems to accept only limited outside criticism of a society’s norms.

While there is considerable sympathy for the idea of greater tolerance of diversity in a broadly multicultural global—sometimes national—environment, there are also problems in the concept of multiculturalism as it is often used. In the first place, it raises many questions regarding the relationship between individual and group

rights, how they are to be distinguished and how clashes between them are to be reconciled. This problem is posed acutely in regard to women’s rights: What happens when cultural practices and group rights contradict the rights of women, or minorities, to live with dignity and without fear? Multicultural approaches to community and culture, as many have argued, have often failed to address the issue of difference and diversity *within* the community, nation or group within the nation, as in multicultural contexts.

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***While at its best multiculturalism can publicly highlight the fact that the political community is a complex cultural and ethnic aggregation of indigenous groups and immigrant settlers, it can also misrepresent cultural communities as internally homogeneous.***

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The presentation on Mexico noted that the 1992 constitutional amendment defining the Mexican nation as multicultural represented an important recognition of the rights of indigenous people’s to their cultural identity. This was followed by a series of changes in the penal code recommending the consideration of cultural norms and practices when judging crimes committed by individuals who belong to an indigenous ethnic group. This, however, raised a number of questions about the interpretation of indigenous cultural and customary law. The example was given of a particular case where a husband murdered his 12-year-old wife for “disobedience” and then justified the crime on the grounds that it was sanctioned by customary law. Indigenous women’s groups have contested the claim, while other indigenous movements have sought to redefine their rights more in accordance with international and national norms that treat women as equals. This illustrates a more general point: sometimes people—men in positions of power—who do not want to see any change (in response to women’s movements speaking the language of rights of various kinds) turn to “culture” as a useful way of resisting the pressure for change. What traditions, then, are essential to preserve the integrity and sovereignty of nations and cultures? Is there some way of reconciling such traditions with a quest for gender equality?

The presentation on Uganda noted that women’s movements had challenged cultural practices that were harmful to women, such as female genital mutilation. They had more success when, rather than openly confronting community authorities, they were able to enter into dialogue with them based on an understanding



of prevailing cultural norms and values. The evidence showed that culture was more adaptive than sometimes claimed, and that cultural identity did not *have* to depend on practices that harmed women.

Another difficulty with the conventional definition of multiculturalism is that the idea of culture is often reduced to religion. For instance, religious authorities become the spokesmen (and they usually are men) for an ethnic community, and questions of the rights of individuals within a particular tradition are left to them. There is also a tendency in this approach to “freeze” individuals into one of their identities. But people’s identities very often include a wide range of influences (ethnic, class, gender, professional, religious, etc.). The focus of identities often shifts depending on the contexts in which people find themselves. Different historical situations can enforce some individual and collective identities, and thus promote certain ethnic projects more than others.

In today’s increasingly globalized world, it is difficult if not impossible to find a hermetically sealed culture. The challenge at the core of debates about human rights and multiculturalism is how to acknowledge and respect “difference” without reifying it as perpetual, closed and unchanging. How does one negotiate the difference between cherished ideals of equality and cross-cultural differences?

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***Ideas travel. Human rights are owned by women’s movements across the world. The language of rights is a mode of expressing justice claims and presenting them to those in positions of power.***

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Conference participants expressed the view that the West has no monopoly on ideas of rights and justice. Whether arising from indigenous traditions or through a long historical process of transnational dissemination, ideas of rights have a wide moral appeal and they have served as the basis for collective and individual claims for justice across the world. *If there is to be a meaningful international consensus on rights, and especially on rights for women, this can only be achieved as part of a process of dialogue in which women’s voices are heard. This again reinforces the centrality of women’s political presence in such dialogues—the theme that was explored in session two of the workshop.*

In the context of immense inequalities of power between countries, it is not difficult to understand why caution is warranted against the outside imposition of “rights” on the weaker members of the world community. Indeed, the recent imposition of policy conditionalities by the multilateral financial institutions on many Southern indebted countries has made any discussion of human rights in multilateral settings extremely difficult. But at the same time, the history of internal contestation reinforces what should be the starting point for thinking about issues of multiculturalism and rights: *that cultures are not monolithic, are always in the process of interpretation and reinterpretation, and never immune to change.* But this does not mean that we should assume that criticism is only legitimate when there are internal critiques, and not otherwise allowed. Criticism will certainly be better informed when there are internal as well as external critics, and the resulting dialogue may well lead to a different understanding of values and rights. We should not, however, conclude that there is nothing to be said about abuses of women’s rights until these abuses have been challenged from inside.

## Agenda

### Saturday, 3 June 2000

- 10:00–10:45      **Opening Session**  
Welcome — *Shahra Razavi, UNRISD, Switzerland*  
Keynote Address — *Maxine Moynaux, University of London, United Kingdom*
- 10:45–12:45      **Session One: “Basic Needs” and “Social Rights”: the Changing Face of Social Service Provisioning**  
Chairperson — *Gita Sen, Indian Institute of Management/Development Alternatives with Women for a New Era (DAWN), India*
- Needs Versus Rights: Beyond Dualisms — *Rosalind Petchesky, The City University of New York, United States*
  - Engendering the New Social Citizenship in Chile: NGOs and Social Provisioning under Neo-liberalism — *Veronica Schild, University of Western Ontario, Canada*
  - Female Educational Deprivation and the Right to School Education in India — *V.K. Ramachandran, Indian Statistical Institute, India*
- HALF HOUR OF GENERAL DISCUSSION
- 12:45–14:00      LUNCH
- 14:00–15:30      **Session Two: Women in Contemporary Democratization**  
Chairperson — *Yakin Ertürk, United Nations Division for the Advancement of Women (DAW), New York*
- Gender of Democracy: Feminism and the Civil Society Movement in Contemporary Iran — *Afsaneh Najmabadi, Barnard College, United States*
  - Women and Electoral Politics in South Africa: 1994–1999 — *Shireen Hassim, University of the Witwatersrand, South Africa*
- HALF HOUR OF GENERAL DISCUSSION
- 15:30–15:45      BREAK
- 15:45–17:15      **Session Three: Multiculturalism and Universalism**  
Chairperson — *Catherine Hall Martinez, Center for Reproductive Law and Policy, United States*
- National Law and Indigenous Customary Law: Confronting Sexual and Domestic Violence in Chiapas, Mexico — *Aída Hernández Castillo, Centro de Investigaciones Superiores en Antropología Social (CIESAS), Mexico*
  - Conflicting Visions of Community and Citizenship: Women’s Rights and Cultural Diversity in Uganda — *Aili Mari Tripp, University of Wisconsin-Madison, United States*
- HALF HOUR OF GENERAL DISCUSSION
- 17:15–17:30      **Closing Remarks**

### Contributions to the project include:

- **Gender and Rights in International Perspective**, *Maxine Moynaux*
- **Women in Contemporary Democratization**,  
Geneva 2000 Occasional Paper 4, UNRISD, Geneva, February 2000, *Shahra Razavi*
- **Engendering the New Social Citizenship in Chile: NGOs and Social Provisioning under Neo-liberalism**, *Veronica Schild*
- **Female Educational Deprivation and the Right to School Education in India**,  
*V.K. Ramachandran*
- **Reproductive and Sexual Rights: Charting the Course of Transnational Women's NGOs**,  
Geneva 2000 Occasional Paper 8, UNRISD, Geneva, June 2000, *Rosalind P. Petchesky*
- **Gender of Democracy: Feminism and the Civil Society Movement in Contemporary Iran**,  
*Afsaneh Najmabadi and Parvin Paidar*
- **A Comparative Paper on the Politics of Women's Representation in Uganda and South Africa**,  
*Shireen Hassim and Anne Marie Goetz*
- **National Law and Indigenous Customary Law: Confronting Sexual and Domestic Violence in Chiapas, Mexico**, *Aída Hernández Castillo*
- **Conflicting Visions of Community and Citizenship: Women's Rights and Cultural Diversity in Uganda**, *Aili Mari Tripp*
- **"Rights" and "Capabilities": Convergence and Divergence**, *Martha Nussbaum*
- **Multiculturalism, Universalism and the Claims of Equality**, *Anne Phillips*
- **Truncated Democracy and the Women's Movement in Peru**, *Cecilia Blondet*
- **Re-imagining Women's Citizenship, Rights and Justice in Southeast Asia**, *Maila Stevens*

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**United Nations Research Institute  
for Social Development (UNRISD)**  
Palais des Nations  
1211 Geneva 10, Switzerland

**Phone: (41 22) 9173020**  
**Fax: (41 22) 9170650**  
**E-mail: [info@unrisd.org](mailto:info@unrisd.org)**  
**Web: <http://www.unrisd.org>**