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The main hope of harmony lies not in any imagined uniformity, but in the plurality of our identities, which cut across each other and work against sharp divisions into impenetrable civilizational camps. Political leaders who think and act in terms of sectioning off humanity into various 'worlds' stand to make the world more flammable — even when their intentions are very different. They also end up, in the case of civilizations defined by religion, lending authority to religious leaders seen as spokesmen for their 'worlds'. In the process, other voices are muffled and other concerns silenced.

The robbing of our plural identities not only reduces us; it impoverishes the world.

Amartya Sen, November 2002

Minerva

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Congruence of Civilizations

"I want people to understand the role that ideology and culture play in the world today, in terms of issues that we see only as political," says novelist Azar Nafisi (*Reading Lolita in Tehran*), who describes herself as a "citizen of the portable world", explaining the Dialogue Project that she directs at the Johns Hopkins School for Advanced International Studies. "In the same way that terrorist groups support one another, going beyond boundaries that are geographical, racial, national, or religious, I think that democratic-minded people should also go beyond those boundaries and genuinely support people who believe in those same values."

In the last issue of *Minerva*, where one of its namesakes was portrayed as mother of invention and goddess of wisdom, overseeing humanity's artistic and technical skills ranging from domestic life to clever & courageous but "prudent" warfare, former UN High Commissioner for Human Rights Mary Robinson spoke similarly of protecting ourselves with "the armory of common values".

Recognition of these values is essential for survival when extremists proclaim and even celebrate a "clash of civilizations". Instead, husbanding diverse cultural strengths that feed the common good requires relinquishing the use of culture as a divisive cudgel, but also requires acknowledging that not every cultural practice is sacrosanct just because it can be claimed to be "cultural".

This involves institutional fine tuning as well as brave attitude adjustments, and depends in large part on better education about stereotypes within one's own milieu as well as inter-cultural comity, and on training in all the skills of human interaction, including politics.

It also involves recognizing that there is a dismal age-old underside to our world's common values, in which women are forced to exemplify society in its ever-mutating dream of lost or thwarted edenic perfection — used and abused as symbols of pride and of perceived faults or threats; violated and forcibly cleansed (even by death) as though to exorcise or clarify contemporary confu-

Fear drives out reason.
Fear suppresses the politics
of discourse and opens the door
to the politics of destruction.
Justice Brandeis once wrote:
"Men feared witches
and burnt women".

Al Gore, 16 January 2006

sions; expected to ennoble and suspected of destroying, in a misattribution of feared power or suggestion of "inverted chivalry" (Claudia Roth Pierpont's phrase).

Ostensibly to protect women at the hearth, wars are fought in which, though "usually neither the initiators nor the wagers", as departing UN Deputy Secretary General Louise Fréchette observes, "they are specifically targeted, often as a way to humiliate the adversary and break the morale and resistance of whole societies". At the same time, notes UNIFEM head Noeleen Heyzer, "the terrible irony is that women and girls are not invisible to armed groups, who see them as essential, accessible — and often expendable — military assets. Yet having survived the devastating experiences of war as combatants, sexual captives, ... and slave or willing laborers, ... these women and girls often become invisible when [rehabilitation] planning begins."

And, while shapers of the security agenda are beginning to argue about the human role in creating (and perhaps eventually ameliorating) environmental perils, it is ironic that the ancient tendency to blame women for natural disasters survives. For example, various droughts in Africa have been attributed to wayward women with loose hair. In tsunami-devastated Aceh, a Sharia judge reportedly has ordered punishment of women for further endangering the coastline by not wearing headscarves, and a police "Control Team" enforces this and similar edicts with public humiliations of women, according to Fatimah Syam of Indonesian Women for Legal Justice (*The Times-UK*, 22 December 2005). This habit, familiar as witch-hunts — especially during periods of climate variation in Europe,

according to some historians! — is hardly likely to moderate the "disintegration of entire human societies" predicted by Michael Klare ("The Coming Resource Wars"; see also *Minerva* #21, October 2001) and others, as people try to cope with worsening environmental stresses.

In many parts of the world, meanwhile, women & girls are maimed or killed for the "honor" of the family or tribe. They are mutilated for an ideal of purity and to ensure the prerogatives of possessing them. Violence against them is construed as maintaining order, it being easier to blame their alleged disruptiveness for social ills rather than to grapple with the problems themselves. And for all of this, at every level of domesticity and polity, "culture" is the defense of specific harmful practices. And a broader culture of impunity prevails.

Minneke Schipper (in *Never Marry a Woman With Big Feet: Women in Proverbs From Around the World*, Yale University Press) has collected thousands of proverbs about women. Some of them are more than 4,000 years old, "but the sentiments, in many cases, are still part of the daily conversation in many societies", she reports. Many of the proverbs obviously "reflect considerable male anxiety", often recommending — with striking similarity all over the world and throughout centuries — beating women to cope with it. Some imply that secure sustenance requires beating women and walnut trees (Europe) and not sparing a bullock or a wife (Myanmar). A Spanish proverb, also found in Puerto Rico, advises: "To keep your wife on the rails, beat her, and if she goes off the rails, beat her." In India, "The nails of a cart and the head of a woman, they work only when they are hit hard." Although that suggests dim wit, even more ominously, an African proverb says, "Beat your wife regularly; even if you don't know why, she will."

At issue is the potential to step "out of place", whether as wife or not — perhaps as microcredit entrepreneur, town councilor, preacher, political theorist, environmental defender, artist — almost anywhere, at one time or another. On International Women's Day last month, people across Bangladesh rallied against the attacks with flesh-burning acid that maim hundreds of women each

year. In another century, American dissector of rectitude Nathaniel Hawthorne, said: "All women as authors are feeble and tiresome. I wish they were forbidden to write on pain of having their faces deeply scarified by an oyster shell".

One may chuckle, though ruefully, over this old jape and others like it, but the continuing cross-cultural fetish of female disfigurement (see *Minerva* #s 14, 18 & 20) is a baffling obstacle to human progress. Depravity in defense of purity seems to be a standard tyrannical impulse; empathy is an essential countervailing force.

Having lived in Iran during and after the revolution, leaving her university position there because of harsh restrictions placed on women, Azar Nafisi relates multi-cultural life experiences that reinforce her "belief in the mysterious connections that link individuals to each other despite their vast differences. No amount of political correctness can make us empathize with a child left orphaned in Darfur or a woman taken to a football stadium in Kabul and shot to death because she is improperly dressed. Only curiosity about the fate of others, the ability to put ourselves in their shoes, and the will to enter their world through the magic of imagination, creates this shock of recognition. Without this empathy there can be no genuine dialogue, and we as individuals and nations will remain isolated and alien, segregated and fragmented" (NPR, *This I Believe* essay, 18 July 2005).

"I very much resent it in the West," says Azar Nafisi (in a 2004 interview by Robert Birnbaum, identitytheory.com), "when people — maybe with all the good intentions or from a progressive point of view — keep telling me, 'It's their culture'. It's like saying, the culture of Massachusetts is burning witches. First of all, there are aspects of culture which are really reprehensible and we should [all] fight against. We shouldn't accept them. Second, women in Iran and in Saudi Arabia don't like to be stoned to death. It's not part of their culture. There are other things that are part of their culture that should be cherished and exchanged and it makes me very angry".

Writing in the *Los Angeles Times* (20 April 2004) about her proverb research, Minneke Schipper concludes: "We must strive for a world in which women no longer fear being belittled, degraded or beaten up, and in which men need not be apprehensive of a wife's [or daughter's or sister's] success in the public arena. Our best possible future as humans has been defined by a Tibetan proverb: 'A hundred male and a hundred female qualities make a perfect human being'." Or might at least make each society — and the whole world — better.

Distinctive gender qualities appreciated cooperatively, individual potentialities nurtured, the best cultural expressions shared, and active realization of certain common values — all inform and invigorate our hope for the future.

And that future depends on inter-communal respect that must be rooted in cultural self-respect, not cultural excuses for hostility and repression.

As Nigerian Nobel laureate Wole Soyinka affirms, "Culture is a matrix of infinite possibilities and choices. From within the same cultural matrix we can extract arguments and strategies for the degradation and ennoblement of our species, for its enslavement or liberation, for the suppression of its productive potential or its enchantment."

Nobel Peace Prize laureate Shirin Ebadi of Iran, in her contribution to the *Human Development Report 2004*, identifies the strengthening aspect of cultural diversity while emphasizing that agreed-upon human rights embody the fundamental values of human civilizations. She concludes:

"So cultural relativity should never be used as a pretext to violate human rights, since these rights embody the most fundamental values of human civilizations. The Universal Declaration of Human Rights is needed universally, applicable to both East and West. It is compatible with every faith & religion. Failing to respect our human rights only undermines our humanity.

"Let us not destroy this fundamental truth; if we do, the weak will have nowhere to turn."

And the vainglorious powerful will be buried with the rest of us in a global potter's field.

Children visiting the "Killing Fields" memorial on the outskirts of Phnom Penh, Cambodia

(UN Photo)



Passive Acceptance of Others' Peculiarities Not Enough!

Kofi Annan

UN Secretary-General Kofi Annan's message on the International Day of Tolerance, 16 November 2005

Diversity has forever characterized the human condition. Yet, mankind's acceptance of it has been painfully lacking. This intolerance of the "other" remains a source of great and everyday human suffering.

That is why fighting intolerance in all its forms has been fundamental to the work of the United Nations for 60 years. The need for tolerance is greater today than at any time in the United Nations' past. In a world of intense economic competition, shifting populations and shrinking distances, the pressures of living together with people of different cultures and different beliefs from one's own are very real. The resultant backlash is evident in the rise of xenophobia and extremism across the globe. It demands our strongest response.

Building a culture of tolerance is an important start. Such a culture must necessarily be based on increased legal protection and education. But individual initiative must also play a part. Tolerance cannot simply mean passive acceptance of other peoples' perceived peculiarities. It must involve an active effort by all of us to learn more about each other, to understand the wellsprings of each other's differences, to discover what is best in each other's beliefs and traditions. Only through such a process of discovery can we come to realize that what binds us as human beings is far stronger than what divides us

Voltaire (1694-1778), *Philosophical Dictionary*: "What is tolerance? It is the natural attribute of humanity. We are all formed in weakness and error; let us pardon reciprocally each other's folly."

But what about each other's depravity?

Mahatma Gandhi: "All humanity is one undivided and indivisible family, and each one of us is responsible for the misdeeds of all the others. I cannot detach myself from the wickedest soul."

Does this prod us to rehabilitative action on behalf of humanity or paralyze us?

If we hope to achieve peace in our young century, we must start respecting each other today — as individuals who each have the right to define our own identity, and belong to the faith or culture of our choice; as individuals who know that we can cherish what we are, without hating what we are not.

In the Outcome Document of the recent United Nations World Summit, all the world's Governments tell us: "We recognize that all cultures and civilizations contribute to the enrichment of humankind. We acknowledge the importance of respect for religious and cultural diversity throughout the world. In order to promote international peace and security, we commit ourselves to ... encouraging tolerance, respect, dialogue and cooperation among different cultures, civilizations and peoples."

On this International Day of Tolerance, let us pledge to translate those words into reality; to celebrate our diversity and learn from our differences; to make use of them in strengthening the bonds of our common humanity.

Ghassan Tuéni, 80, the former Ambassador of Lebanon to the UN during some of the worst years of the civil war, who recently returned to parliament after the assassination of his son last December, is Lebanon's "foremost journalist, a storied diplomat and a respected intellectual", comments Anthony Shadid (*Washington Post* Foreign Service, 4 March 2006).

An Unavoidable Clash of Civilizations?

Two Speech Selections

Ghassan Tuéni

From "After September 11"
Sant'Egidio, 22 September 2002

With implications beyond the local Lebanese situation, "the broader challenge," writes Shadid about the complexities of Mr Tuéni's call for reconciliation in a prolonged crisis of citizen identity and political reform, "is how to forge a country greater than its parts. In that, he asks the questions that began his political career and that dominated the life of his father ["an Arab nationalist at a time when that nationalism was a progressive ideology, dedicated to enlightenment values, opposing tyranny, the rights of women and minorities, and the revival of a dormant Arab culture emerging from centuries under the Ottoman Empire"]: Is there an identity — be it Arab, Lebanese or something new — that can transcend religious affiliations that tend toward the tribal? Is there a notion of citizenship that can ensure rights that only individual communities guarantee now? . . . 'I think the challenge precisely is integrating this country along national, patriotic lines and redefining religion. I think the real reform has to be within the religions. We have to teach secularism,' he said. 'Not secularism in that it's anti-religious. It's anti-transforming the religions into tribes. Because this is what we have now — a tribal war.'" In a speech at a Sant'Egidio encounter in Palermo on "Faiths and Cultures within Conflict and Dialogue", having lauded the cultural legacies of Jerusalem, Damascus, Beirut & Cairo and lamented damages to them by zealots, Mr Tuéni (a Greek Orthodox Christian) turned wistfully to "reminiscences of an Andalusian city like Cordoba, once Arab, where the statues of Averroes (Ibn-Rushud) and Maimonides, the two greatest philosophers of Islam and Judaism, still stand face to face in the main town square, undestroyed by the reign of Isabelle la Catholique". A few of his remarks on that — and another — occasion follow (with his permission).

. . . [T]o those . . . who are eager to forecast a clash of civilizations forced upon humanity by some historical determinism, I beg to say that there are broader horizons to look at rather than the current opposition between an Islam taken hostage by terrorism, and an America which claims to be the sole defender of a heritage to which Islamic civilization has contributed more centuries than the whole of American history. And, particularly if we remember that ideologies are a lesser concern to modern nations than economic interests. No grand designs for a better society are susceptible of being attained by strategies similar to those presently experimented, with less than relative success, in Afghanistan and central Asia. Their search for peace is breeding more wars than victories, and more misery than welfare.

If, indeed, this is a clash of civilizations, its only outcome will be the destruction of whatever civilization there is on either side. For no liberty will emerge, and certainly no foreseeable peace, as every so-called pacific settlement is leading to a new source of conflict. Witness the exacerbation of religious tensions in the Indian continent, and — who knows? — maybe before long in South-East Asia and China.

There and then, around the Pacific Ocean on the Western frontiers of the USA, will the clash of civilizations really acquire apocalyptic dimensions. Islam, then and there, will become a negligible factor, if at all. . . .

Ladies and Gentlemen, our time here is too short to sum up all the lessons of what happened on the 11th of September and since. A few observations are however worth noting from what is commonly said and so often repeated:

1. The era of civilizing the one world we are living in by colonial or imperial wars, is over.
2. Mondiality is possible, and will be universally accepted, if it respects diversity and multiplicity, not the reverse. A common search for governance respecting fundamental human rights cannot be conducted by violence, but only in the conviviality of peace, justice, and respect of otherness.
3. We have to de-globalize tensions and conflicts. Progress and culture are not produced by an obsessive search for global clashes of civilizations, but by the interaction of different civilizations coexisting within, and not projected outside, the national as well as the supra-national societies. . . .

Our message to you all, to our American friends in particular, is a call to revive the heritage of a Mediterranean world. . . . Long before America chose to assume the unchallengeable leadership of the liberal world, our successive cultures were inherited from each other, century after century, millennium after millennium, the ideals of liberty and humanity, which left an indelible mark on all arts, all literature, and all sciences. Their imperial civilizations stopped at no frontiers of language, race or religion.

The moral we should draw from their ecumenical, nay even cosmic approach is one: that the farther we look towards the future, the deeper we must draw from the past.

From "Engaging in Dialogue on US Foreign Policy"
Fares Center for Eastern Mediterranean Studies, Tufts University,
November 2004

... I want to suggest extrapolation of President Bush's first remarks after his re-election...: We are one country, with one Constitution and one future. May I propose that we should agree to say as well: "We are one World, with one [UN] Charter, and one War and Peace."

... In the present international environment, it is becoming increasingly clear that what was pictured as an American crave for a "unipolar world" is unrealistic. ... The days of Pax Romanae and universal empires are behind us forever, because the borders of the known world are not shrinking. It should not surprise us much if the exploding scientific revolutions carry the issues of globalization sooner than we imagine to cosmic borders in outer-space.

The more immediate danger stems from what is presently described as the "world insurgency of tomorrow": in this one world, the developed North needs to understand that if it does not reach out democratically to its neighbors in the South, they will literally and constantly reach out for it by terrorism, threatening even its internal peace, security and stability.

We do, indeed, understand that reality always takes its toll of intellectual innocence.

Naturally, the UN will never be a factory of miracles. None of us should naively expect of it what it cannot deliver. Yet, the UN could, and should become the ideal framework of cooperation between the two components of the one and same world. Not anymore the West versus some unexpected East, but the North and the South, bridging the gaps of the mythical clashes of civilizations.

More especially, the international organization should be a UN for those who need it most, not a UN of those who use it for precisely what it was created to eliminate: power politics at the service of impossible imperial dreams, be they of the West or of the East.

Now is the time to re-read what "the peoples of the World" declared in the founding Assembly of the UN, in 1945 at San Francisco. Can it not be, once more, America's destiny, as the single most important power, to re-unite the world in a new alliance for democracy, but democratically? Bearing in mind that there can be "no democracy without democrats".

Ladies and Gentlemen, coming from Beirut, and a graduate of the American University there, I would like to conclude with a quotation from the speech delivered by the President of AUB... . His address [i]n the Opening Ceremony this year, on October 4, ended by a "warning" against the danger of becoming "two Americas". He said, and I quote:

"When fear invades our realm, we, Americans, appear to forget that our national experience is bound up with the strength of our legal institutions and procedures. If fear leads to push those procedures and institutions aside, the terrorists have truly won. ... In one day in 1862, 22,000 Americans died in the struggle to define what it is to be American. The war went on for another two years with horrendous losses of life. ... It did not end until the notion that God had created some humans to be superior to others was expunged from our legal institutions and our legitimate values."

Yet, you will allow me to add this, as my conclusion: Only a democratic world, a world of democracies organized democratically, can eradicate not the terrorists, but the roots of terrorism and its growing culture.

We are intrigued to hear from Mr Tuéni that our name, *Minerva*, is "the same as a review published in Lebanon in the 1920s by Mrs Mary Yanni Atallah, a woman of letters and one of the first leaders of the Arab Feminist Movement". His father was "a regular contributor of political articles" to that *Minerva*.

People living under governments that are both weak and tyrannical, overtaken by "an impression of being dispossessed", cannot be expected to "avoid the deep uncertainty about the solidity of their religion that animates the pretension of putting it outside and beyond any discussion", says **Marcel Gauchet**, Director of Studies at the Ecole des hautes études en sciences sociales, Editor-in-Chief of *Le Débat* and author of *Le Désenchantement du monde: une histoire politique de la religion* (Galimard, 1985, reissued in 2005). In a *Le Monde* interview (11 March 2006, translation by Leslie Thatcher), when asked if freedom of speech therefore must be limited for religious reasons, he replied that it would be "hypocritical and useless" to do so. "To limit freedom of speech, to legitimate exceptions for religious motives, would be a bad answer to a good question. Western governments must first, by tangible acts, attest to their ability to take into account the situation of an Islamic world vis-à-vis which, we must admit, our attitude boils down to overall indifference, crossbred with punctual fears. Precisely because we are the civilization of self-criticism, we have to show that, if we are what we are, we are also disposed to put ourselves in others' place, ... ready to do justice to what is foreign to us. ... It's a question of political responsibility on the level of collective awareness."

Nevertheless, Islam can be intensely self-reflective, especially under current scrutiny of women. Several examples of this fruitful ferment among Muslim women have been offered in previous editions of *Minerva* — by Salima Ghezali of Algeria (1998) and Ayesha Imam of Nigeria (2003), among others; see related inquiries by Leila Ahmed of Harvard Divinity School or Amina Wadud, Virginia.

Critical Cosmopolitans: New Sovereignty / New Enlightenment

Madhavi Sunder

Many assert that, since “fundamentalism” can mean seeking to revitalize forms of faith less distorted by accumulated interpretations exploited to avoid reflexively rather than contend constructively with contemporary exigencies, the religious dimension of identity & inquiry must be taken seriously. At the same time, it can be argued that the rise of standard fundamentalisms means that lives are governed more by private sphere traditions (law professor Madhavi Sunder calls this “the New Sovereignty”) rather than by public sphere laws, and the dissonance can be deadly, so internal movements for cultural reformation (“the New Enlightenment”) are crucial, expanding scope for rational choice & reasoning within religious construals of identity. Professor Sunder says: “The Old Enlightenment took us from a world of Empire to an Age of Reason and equality in the public sphere. But it left the private spheres of culture and religion in the Dark Ages of imposition and unreason. The New Enlightenment goes the next mile, calling for enlightened approaches to cultural and religious identity, as well. Here we see the core values of Enlightenment — reason, democracy, freedom of expression, and the call to ‘think for oneself’ — extended to the private sphere.”

Madhavi Sunder, professor at the University of California-Davis Law School, is a graduate of Harvard College and Stanford Law School. She focuses on law & culture, intellectual property, and women’s international human rights. Her recent publications include “Enlightened Constitutionalism” (*Connecticut Law Review*, 2005), “Piercing the Veil” (*Yale Law Journal*, 2003), “Cultural Dissent” (*Stanford Law Review*, 2001), and “Intellectual Property and Identity Politics” (*Gender, Race and Justice*, 2000). She is editor of *Gender and Feminist Theory in Law and Society* (2005). This essay, reprinted by permission, was presented originally as “The New Enlightenment”, in the Women’s Learning Partnership 2003 conference, “Clash or Consensus? Gender & Human Security in a Globalized World”, co-sponsored by the Global Fund for Women. Other papers from the conference are accessible at <<http://learningpartnership.org/news/events/2003/clashorconsensus>>.

Let me begin with an assertion: human rights law has a problem with religion. September 11th crystallized this fact. The infamous Taliban regime in Afghanistan came to power in 1996, and immediately began stripping women of fundamental human rights to education, healthcare, work, and movement. But as we all know, it was not human rights law, but war, that brought an end to their horrific practices. To be sure, the reasons for this are varied, but the fact that these practices were justified in the name of religion had a whole lot to do with the world’s inaction.

We see the same problem elsewhere around the world today. Perhaps the most prominent example is the recently closed case of Amina Lawal in Nigeria. [In February 2004] a religious court freed Lawal, who had been living under threat of death by stoning since March 2002 for alleged adultery. Applying traditional Islamic law (which became the law, both civil and criminal, in a dozen Nigerian states after 1999), the court cited technical irregularities and the failure of the lower court to consider the “sleeping embryo” defense, which holds that an embryo may gestate in a mother’s womb for up to five years. (Under this theory, Lawal’s baby, born ten months after her divorce, could have been conceived in wedlock.)

We are relieved for the result. But the religious court’s analysis in the Lawal case offers cold comfort. The fact of the matter is that, as it currently stands, there is no legal theory — either under Nigerian national law or international human rights law — for overturning the pronouncements of a religious court.

Current scholars and commentators believe the problem is religion itself. Thomas Friedman wrote in the *New York Times* that Islam, in particular, is to blame because, unlike Christianity and Judaism, it has not engaged in any serious “internal struggle ... to re-examine its texts and articulate a path for how one can accept pluralism and modernity — and still be a passionate, devout Muslim”.

But I disagree. In fact, there is a vibrant culture of dissent in Muslim communities, but consistently it is formal human rights law that elides it. Because human rights law defines religion as a sovereign, extra-legal sphere in which inequality is not only accepted, but to be expected, it too often ignores the claims of women and other dissenters within religious communities, and perversely ends up more often siding with fundamentalists and traditionalists, instead.

The Convention on the Elimination of Discrimination Against Women, or CEDAW as it’s more commonly known, is an example. This important human rights convention on the rights of women has been nearly incapacitated by reservations to it by state parties claiming exceptions for religious, cultural, or customary laws. Although these claims are internally contested, international human rights law accepts the claims of — and in so doing gives more power to — traditionalist leaders over those of reformers.

In short, human rights law, not religion, is the problem.

But while Western human rights law is content to accept this construct, women on the front lines of the war against fundamentalism in Muslim communities are piercing the veil of religious sovereignty. A close study of women’s human rights activists working in Muslim communities demonstrates that despite formal law’s refusal to acknowledge claims of internal dissent, women are nonetheless claiming their rights to challenge

religious and cultural authorities. Rejecting the notion that religion is naturally without law, reformers in the Muslim world are boldly questioning discriminatory religious claims and seeking rights and accountability from religious leaders.

I call this the **New Enlightenment**. Today, individuals reject the binary “religion versus equality” approach of the old Enlightenment, which would have women choose either religion, but on leaders’ discriminatory terms, or equality in the public sphere without religion. The New Enlightenment, in contrast, offers a vision of human flourishing that requires freedom within faith, and rights within religion.

But laws such as the “freedom of religion” and the “right to culture” have become complicit in the backlash efforts of traditionalists to stymie these movements. Positing freedom in the public sphere as freedom itself, current law elides the claims of cultural and religious modernizers and, paradoxically, buttresses the power of fundamentalists or traditionalists within these communities, instead. This is the phenomenon that I call the **New Sovereignty**: the increasing use of law to preserve cultural stasis and hierarchy against challenges to cultural and religious authority emerging on the ground.

So, if the problem then is law, and not religion, as Friedman would suggest, how can we better recognize the New Enlightenment, and better yet, operationalize it in law?

The good news is that reformers ... are laying the blueprint for this important work.

To that end, I will quickly highlight two case studies that offer important strategies and normative theories for operationalizing the New Enlightenment.

My first case study is of the transnational human rights network, Women Living Under Muslim Laws. Women Living Under Muslim Laws, or WLUML, emerged in 1984 as a response to rising Islamic fundamentalism in Algeria. There, as elsewhere in the Muslim world, women’s autonomy was increasingly being threatened in the name of “Islamic” laws and customs that sought to preserve a distinctive way of life by regulating women. The problem, women reformers found, was that once the repressive laws were labeled as “Islamic” or religious, they could not be challenged.

WLUML confronted this problem by networking, or sharing information with and facilitating meetings among women from around the Muslim world, in order to expose Algerian women to alternative legal systems in Muslim communities that were far less repressive — indeed, they were progressive — on women’s issues. Sharing this information helped Algerian activists contest fundamentalist depictions of monolithic Muslim laws. The network also provided an important source of solidarity for activists. Through the network they could point to other, Muslim women — not just Westerners — who supported their claims for autonomy.

And so the WLUML network began. Significantly, unlike traditional Western feminist strategies, which take a purely secular approach to women’s rights in the public sphere alone, WLUML critiques the fundamentalist view of religion, but not religion itself.

WLUML does this in three main ways. First, it critiques the myth that there is any homogeneous Muslim law. WLUML’s research shows that practices such as female genital mutilation (FGM) are not essential to Islam but rather, vary with the time and location. While FGM has never even existed in some Muslim communities, in other communities the practice is more popular among Christians than Muslims. As one writer observes, seeing the variety of Muslim laws for themselves helps women “to distinguish between patriarchy and religion”. WLUML shares this information with other Muslim women through computers, faxes, the Internet, and print publications, as well as fostering actual face to face exchanges between Muslim women.

[continued]

The marginal snippets below are not complete arguments, of course, and are presented not in support of or in opposition to Madhavi Sunder’s view, but as additional provocations to thought on this subject, as it relates to world citizenship.

Sometimes people will say that the idea of ‘enlightenment’ is a western idea, overlooking the fact that Buddha means enlightened one and that the idea that you have to examine what your values are has been just as much valued in other cultures. That issue is present just as much in social dialogue about what freedoms are important as it is in individual reflection.

- **Amartya Sen**

Referring to the pivotal 1994 Cairo International Conference on Population & Development, as having crucially breached the allegedly self-evident conviction that man is fundamental and woman is instrumental, University of Louisville religion professor **Riffat Hassan** says (“Women in Islam: Body, Mind and Spirit”, *Minerva* #20, June 2001):

The challenge before women in general, and Muslim women in particular, is to shift from the reactive mind-set, in which it is necessary for women to assert autonomy over their bodies in the face of strong opposition from patriarchal structures and systems of thought and behavior — to a proactive mind-set, in which they can finally begin to speak of themselves as full and autonomous human beings who have not only a body but also a mind and a spirit. ... The critical issue that Muslim women were called to reflect upon was what kind of model(s) of self-actualization can be developed within the framework of normative Islam, which also takes into account the Qur’anic ideals as well as the realities of the contemporary Muslim world? ... I have seen the eyes of many Muslim women who have lived in hopelessness and helplessness light up when they realize what immense possibilities for development exist for them within the framework of their belief system.

As in many other religions, followers of Hinduism and Islam look to the past — to the early Vedic period or the era of Mohammad — to determine how life should be lived in the present, with the assistance of religious clerics. If followers of Islam and Hinduism seek to live in communities that reflect their religious principles, they must [become] aware that men and women were regarded as equal partners in society and religion when these religions first began, and only over time has the dynamic shifted as a result of sexist male interpretations of the sacred texts. Seeking a return to the religious past must include the recognition of gender equality in Hinduism and Islam and the application of this revived principle in Muslim and Hindu societies.

- Catherine E. Polisi,

“Universal rights and cultural relativism: Hinduism and Islam deconstructed”,
World Affairs, 22 June 2004

As I look backward through history I see the church everywhere stepping upon advancing civilization, hurling woman from the plane of ‘natural rights’ where the fact of her humanity had placed her, and through itself, and its control over the state, in the doctrine of ‘revealed rights’ everywhere teaching an inferiority of sex; a created subordination of woman to man; making her very existence a sin; holding her accountable to a diverse code of morals from man; declaring her very entrance into heaven made dependent on some man to come as mediator between her and the Savior it has preached, thus crushing her personal, intellectual and spiritual freedom.

During the ages, no rebellion has been of like importance with that of Woman against the tyranny of Church and State; none has had its far reaching effects. We note its beginning; its progress will overthrow every existing form of these institutions; its end will be a regenerated world.

- Matilda Joslyn Gage,

Woman, Church and State, 1893
(reprinted by Persephone Press, 1980)

Second, WLUMML challenges the conception of religion itself as natural and incontestable, by deconstructing religion and culture as, in part, human constructions that vary with time and place.

But WLUMML’s strategies do more than just challenge essentialist views of culture and religion. Going further, WLUMML advocates that women must have a right to define religion and culture themselves. It’s at this point that WLUMML’s innovative strategies start to look like something new. Unlike traditional human rights law, which is content to accept the binary choice between religion (on leaders’ terms) and rights (without religion), WLUMML posits that women must have rights within religion, and that this requires the right to define religious identity itself. The network writes, “The essential issue is who has the power to define what women’s identities should be. It is time to challenge – both politically as well as personally – those who define what the identity of women should be as Muslims.”

In short, WLUMML demands that women enjoy a right to challenge and to create normative community — that is, a right to make the world. This claim challenges not only the fundamentalists’ view of religion but law’s top-down view of religion, as well.

Claiming Our Rights

My second case study is of the groundbreaking human rights education training manual, titled *Claiming Our Rights*, written by Mahnaz Afkhami and Heleh Vaziri in 1996. *Claiming Our Rights* seeks to address reformers’ concern that, without a mechanism for reconciling human rights and being Muslim, women could only make rights arguments in secular terms, completely relinquishing the construction of cultural and religious identity to patriarchs and fundamentalists.

The Manual uses four pedagogical strategies, which I characterize as: translation, textualism, constructivism and reconstructivism. Translation: a chief concern of the authors of the manual was that abstract human rights articulated in international human rights instruments would not make sense to women at the grassroots level in Muslim communities unless they could be related to local and cultural texts. Thus, the manual collects quotes from the *Qu’ran* and traditional religious and cultural stories to help translate the law on the ground.

Part and parcel of this translation effort is what I call its Textualist endeavor. The Manual discusses the various women’s human rights articulated in international law by offering religious texts that support those rights, such as “the right to equality” and the “right to make autonomous decisions in marriage”. I call these supporting religious texts “good texts”. But the Manual goes further, also offering texts that contradict the rights articulated at international law — my so-called “bad texts”. Women are asked to confront these “bad texts”, and to consider who the texts advantage and disadvantage.

It is in this critical textualist approach that the Manual begins to look like something new in international human rights law. By encouraging women to question religious texts, the Manual challenges the traditional legal conception of religion as natural and incontestable, and highlights religion as, in part, constructed.

Arguing that religion is in part a human construction is a first step in enabling women to question and critique religious laws. But the Manual, like WLUMML, goes further than this.

It also empowers women to reconstruct religion. Through hypotheticals, role-playing, and storytelling, the Manual empowers women to negotiate, rather than avoid, the tensions between Muslim traditions and international human rights concepts. It is only when

women “reclaim their own cultures, interpreting texts and traditions in self-empowering ways . . . , [that] women may truly claim their rights”, the Manual states.

Practical exercises prepare women for the political activity of rejecting imposed norms and creating their own meanings. One exercise, for example, encourages women to discuss family planning with their husbands. Later, the Manual directly addresses women’s rights to challenge religious authorities. In an exercise entitled “Learning Your Faith”, the Manual seeks to “underscore the relationship between how and by whom Islam is taught, and what is learned, to suggest that women are capable of understanding Islam and may do so differently than men, and to explore women’s actual and potential role in teaching and interpreting Islam”. Women are asked whether “both women and men” are “capable of reading and understanding the *Qur’an*,” and “[i]f women interpreted the *Qur’an*, would they emphasize different issues than those that men have stressed?” The Manual asks even more explicitly, “If you were a religious expert in your community what aspects of Islam would you emphasize?”

Here we can hear the rumblings of the New Enlightenment. Unlike traditional conceptions of human rights, the Manual envisions — and fosters — a notion of democracy within religion, not just outside of it.

And herein lies an important contribution to retheorizing women’s international human rights, and freedom itself. Feminists in Muslim communities are boldly taking the critique of the public/private dichotomy beyond freedom from violence to freedom to create cultural and religious community. Under this view, while women should have a right to exit a cultural community and choose another one if they want to, they should also have a right to stay within their communities and reform them. Current law’s exclusive focus on exit — posing women’s options as either staying in a discriminatory community or leaving it — elides many women’s desire to maintain religious and cultural community, but also to claim their rights within them.

But contemporary scholarship has missed the full significance of these efforts. While campaigns for Muslim women’s rights are celebrated for their similarities to Western women’s rights movements, scholars have ignored what’s different in these claims.

Under a traditional “transition story” of law and development, the First World – Europe and the US – is the site of legal production — this is where the enlightenment ideals of modernity, justice, equality, liberty, autonomy, etc. are conceived. These ideals, then, are received by the developing world. The goal is to translate the Western concepts in ways that make them accessible.

Under the transition story, the continuing commitment of Muslim women activists to religion seems anachronistic, merely strategic, nostalgic, and self-defensive; only their commitment to “rights” resonates. The transition narrative presumes that, with the respect to human rights, we are at the end of history with nothing left to be added or learned. In short, Muslim women’s new claims have no new normative value.

But I suggest that Muslim women’s engagement with Western human rights law is one of confrontation rather than transition. Under this view, we see that far from merely transplanting or rejecting Western legal constructs, Third World actors are engaged in a much more complex process of editing, negotiating, rejecting, critiquing and, indeed, are **producing** new legal constructs.

- [They are involved in the] complex process of being critical cosmopolitans – open to globalizing laws and norms without necessarily accepting them, hook, line & sinker – for example, they are piercing the veil of religious sovereignty.
- And internally they are engaging in cultural dissent, as I have described.

The argument that human rights are basically a Judeo-Christian concept that has no basis in Asian culture is poppy-cock. The inherent dignity of the human being is respected in every culture, so to present it as an alien concept is a shameless attempt to avoid accountability.

- **Ravi Nair**, India

Values, traditions, customs, and habits naturally vary, as do languages and religions, but do they differ in the fundamental questions with which we are concerned? Whatever else may separate them, human beings belong to a single biological species, the simplest and most fundamental commonality before which the significance of human differences quickly fade. . . . The argument of cultural specificity cannot over-ride the reality that we all share the most basic attributes in common. We are all capable, in exactly the same ways, of feeling pain, hunger, and a hundred kinds of deprivation. . . . The great religious traditions . . . take for granted the principle of common humanity. Islam, Buddhism, Catholicism, Protestantism, Judaism, Hinduism, Taoism, and most of their variants share a recognition of the human condition. Their explanations of it and their solutions for it may differ, but not their concern. The idea of universal human rights shares the recognition of one common humanity, and provides a minimum solution to deal with its miseries.

- **Daniel S. Lev**,
Human Rights Watch/Asia, Jakarta 1993

The word for religion does not exist in many cultures, as it is so closely integrated into life itself. For many indigenous peoples spirits permeate matter — they animate it.

- **Julian Burger**, Coordinator of the Unit on Indigenous Peoples at the UN Office of the High Commissioner for Human Rights, *The Gaia Atlas of First Peoples: A Future for the Indigenous World*, 1990

But while Muslim women are producing new legal consciousness, there is static on the receiving end. Back at home, we are narcissistic producers. In short, the transition narrative of current law and development scholarship boils very complex processes of negotiation and legal production down to a simple binary. In the words of George W. Bush, "You're either with us or you're against us." But we ignore these women human rights activists at our peril. Indeed, the blueprint for pluralism and modernity within a context of religion and Islam that they are producing is relevant, not just in the context of women's rights, but for the future of democracy itself in places such as Iraq and Afghanistan.

Thus international human rights law must begin to think beyond the old Enlightenment to the new one. This requires piercing the veil that protects religious authoritarianism from the processes of justice. For international law to be truly modern, it must begin to confront its own traditions.

*There are no cultural specificities,
no religious injunctions,
that stand in the way of
universal human rights.*

- **Hina Jilani**,
Pakistani lawyer,
March 2000

COMPLEMENTARITY NOTES

While law itself may be "content", as Madhavi Sunder says, or at least formally unperturbed, when freedom of religion does not mesh well with other rights, many human rights activists do struggle with the problem, in planning & policy-making fora of their organizations and in their daily endeavors in their own localities & countries and when attempting to work in worldwide solidarity.

This difficulty influences burgeoning efforts around the world to devise systems of complementarity in realms of education, health, development assistance (see paper by Dr Maria Floro, *Minerva* #23), and peace negotiations, as well as in combinations of international & national courts along with traditional justice mechanisms and truth & reconciliation commissions.

Gender - Mixed systems can be enriching or repressive or merely muddled. In much of Africa, where interpretations of traditional edicts by tribal leaders — almost invariably men — usually overrule civil and criminal statutes, especially in rural areas, political leaders find it convenient to maintain dual legal systems, says Colleen Lowe-Morna, executive director of Gender Links, a women's rights group in Johannesburg, "because that allows you to sign up for all these progressive things but essentially do nothing on the ground." So "for the majority of women who live in rural areas, customary law basically consigns them to be minors all their lives ..." (quoted by Sharon LaFraniere, "Women's Rights Laws and African Custom Clash", *New York Times*, 30 December 2005).

And Radhika Coomaraswamy, a former UN special rapporteur on violence against women, laments that progress with written laws & standards is foiled because "the biggest problem in South Asia we find is that people are using culture and religion to deny women's rights", regardless of whether the reactionaries are Hindu, Muslim or Buddhist (Reuters, Islamabad, 5 May 2005).

"Even though the situation appears to be changing, we still have a long way to go, comments Faith Musoga, project officer at Gender Sensitive Initiatives, a Kenyan organization that promotes equality (quoted by Joyce Mulama, IPS, 8 March 2006). "Getting communities to accept that some cultures are retrogressive is very difficult."

While complaining about the gap between real life and declarations & laws, many women around the world acknowledge that legislation referring to international standards at least brings otherwise taboo topics — some of them life-threatening, such as female genital mutilation or HIV transmission through wife inheritance — into open discussion, so that local alternatives may be initiated and tested.

A few years ago, UNIFEM brought to temporary life an early form of virtual community of many women and some men, practitioners and theorists, who discussed — from a mind-boggling variety of perspectives — questions about violence against women (VAW), including its entanglement with most cultures.

As the discussion moderators reported, "some say changing cultural values is too hard, and it is more effective to change structures, such as laws, and hope they will drive changes in values." Examples of both strategies were offered, along with many opinions about ways to mix them successfully, since, as one list member noted, "what we call culture is not fixed, but captured for specific purposes".

Harvard sociology professor Orlando Patterson, arguing that in research about "the tragic disconnection of millions of black youths from the American mainstream" powerful cultural attributes are short-shrifted stubbornly, blames the failure on "three gross misconceptions about culture": first, the "utterly bogus" but "pervasive idea that cultural explanations inherently blame the victim"; second, the nonsensical assumption "that cultural explanations are wholly deterministic, leaving no room for human agency"; and, the prejudice "that cultural patterns cannot change". In his opinion and his perspective on American history, even deeply rooted "cultural patterns are often easier to change than the economic factors favored by policy analysts" — when they are faced. ("A Poverty of the Mind", *New York Times*, 26 March, 2006).

The question of who defines and directs attention to cultural factors in integrative processes still presents a major challenge, locally and globally. For example, the UNIFEM discussants in over 120 countries agreed that "outsiders' should support efforts by women who are confront-

ing discriminatory or violent practices within their society,” reported the moderators. “Yet difficult questions remain: What about situations where some women in a society (who may be coerced by social power structures) consider a practice to be legitimate and others [do not]? How do aid agencies and human rights organizations deal with this dilemma?” While nearly everyone recommended case by case calibrations, women from Mexico to Malaysia wrote to affirm that governments can — and under CEDAW, are obligated to — take action to eliminate all forms of discrimination against women, including those with cultural origins, and that women must risk forcing the issues into open community discussion “at whatever cost”, as an Ethiopian woman urged.

Adwoa Kwateng-Kluytse, with the Foundation for Women’s Health, Research and Development (FORWARD), concluded: “In respect of laws versus cultural values, we have found that it cannot be a case of one and not the other; the two have to go together.” Laws bring secrets “into the public arena” and make expectations clear. “However ... any law must be backed up with an education campaign [that] explains why the law is needed and ... positive for the people.”

(The UNIFEM Working Group discussions are archived at <www.edc.org/GLG/end-violence/hypermail/>. The segment on religion is featured in *Minerva* #26.)

Vexing matters of this sort are considered by **Kathambi Kinoti**, a feminist Kenyan lawyer and women’s rights activist working with the Association for Women’s Rights in Development (AWID). This essay, reprinted by permission, appeared on the AWID Resource Net Issue of 13 January 2006.

Indigenous Peoples - Mixed jurisdictions are also a concern of indigenous communities, attempting to enforce law in traditional ways while seeking protections or redress at other governmental levels.

Discussing this issue in “Bridging the Gap” (“law/reality”) in *Cultural Survival Quarterly* (24 March 2006), Mexican Rodolfo Stavenhagen, UN Special Rapporteur on the Human Rights & Fundamental Freedoms of Indigenous People, observes that throughout the world “some court decisions are still informed by the racist and discriminatory opinions handed down by earlier generations of judges, or derived from legal scholarship that described indigenous peoples as savages, primitives, or barbarians. Many courts ... reflect the open or subtle affirmation of the racial and ethnic superiority of the descendants of the European colonists; and they endorse the premise that the cultural assimilation of indigenous people is not only inevitable but desirable. In such countries, a pluralist constitution is not enough; the judiciaries have to be reformed.” And international human rights standards should be applied when any courts deal with indigenous peoples’ issues.

At the same time, notes Stavenhagen, internationally, path-breaking decisions are being handed down by courts such as the Inter-American Court on Human Rights and by various treaty-monitoring bodies, but without sufficient mechanisms

to enforce state compliance. “Even more serious in its effects on the rights of indigenous peoples is the increasing use by some states of anti-terrorist legislation to dismantle the legitimate social movements that demand indigenous peoples’ land rights, environmental rights, or development rights,” warns Stavenhagen.

Meanwhile, “when compared to the Americas, African practice on indigenous rights protection is unguided by law”, says Vincent O. Nmejielle (*Cultural Survival Quarterly* #30.1), discussing complexities of “culture within cultures”. He reports “growing interest in taking cases to the African Commission on Human and Peoples’ Rights” on behalf of people especially “vulnerable in the losing competition with the pop culture of the modern Westphalian state that Africa has strongly embraced. It becomes necessary to protect indigenous people who find themselves as nonparticipants in and nonbeneficiaries of modern African state life.”

Mainstream NGOs must be watched vigilantly in this regard, partly because — as pointed out by Anna Pinto (whose essay on rights of indigenous women in India appeared in *Minerva* #27) — they are part of a rather homogeneous international political structure, whereas “the indigenous peoples movement fundamentally questions the concept of the state as it exists today” (*Cultural Survival Quarterly* #28.3, 15 September 2004).

When Culture Overrides the Law: Does ‘Rights Talk’ Always Get Results?

Kathambi Kinoti

The gulf between the law and practice

Most women’s rights practitioners would agree that getting progressive laws passed to protect women’s rights is difficult, but the real battle is in getting them implemented. This is the reason why the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) for instance, has comprehensive reporting requirements from each state that is party to the treaty.

Around the world, particularly in the global South, there are numerous examples of negative cultural practices and restrictive interpretations of religious norms prevailing over the law:

- In South Africa, despite a recent ban on virginity testing, the practice continues unabated, with traditional leaders like King Goodwill Zwelithini openly expressing defiance.¹
- In Pakistan, there is the notorious case of Mukhtar Mai, the woman who was reportedly gang-raped on the orders of a jirga allegedly as a punishment for sexual offence her brother had committed.²
- In Guinea, since 1965, female genital mutilation has been a crime punishable by death, yet the overwhelming majority of young girls still undergo the practice.³

Traditional legal mechanisms still prevalent

Most of the countries where there is a gap between the law and practice were colonized by Northern powers who introduced a legal system that mirrored the system in their own countries and largely ignored the extensive bodies of traditional law of the colonized people. The new laws therefore did not take adequate account of the power wielded by culture and traditional modes of governance, a power that exists to date and continues to be overlooked. A 2002/3 UNIFEM study in Somalia showed that most people, even before the collapse of the Somali state in 1991, were far more likely to refer their disputes to the council of elders (known as 'guurti') than to the courts. During the war and the reconstruction of the country, the elders performed an indispensable role in maintaining social order. Sometimes, even if people would like to access the protection of the state, it is practically impossible. In some parts of Kenya such as the vast, underdeveloped Turkana District, government services are stretched so thin that people would have to walk for hundreds of kilometres to get to a police station. Traditional all-male councils of elders in these and many other communities around the world perform a vital quasi-legislative and judicial role, but at the same time perpetuate discrimination against women and violation of women's human rights. Customary law in most traditional societies is unwritten, obtained from the usually unreliable memory of the elders, and often applied on an ad-hoc basis.

The simple juxtaposition of a new legal system alongside the ancient system did not necessarily automatically win people over to the 'Western' way of thought. Also, it has been argued that one of the reasons for the gap between laws in the books and the practice on the ground may be the 'culture of rights.'⁴ Although human rights are unquestionably rooted in the inherent dignity of every individual, for some people the culture of rights is associated with a Western worldview because the articulation of the universal human rights at an international level has in the past been, and continues to be, driven by European and North American countries. So, in condemning aspects of 'Western' culture such as 'sexual permissiveness', proponents of traditional practices such as virginity testing and female genital mutilation point to the value of 'protecting women's honour'. They also stress their human right to practise their culture. Cultural relativism has also encouraged the continuation of cultural practices that violate human rights.

Rights talk versus culture talk

Mahmood Mamdani uses the following example to illustrate how different cultures may perceive the same violation: "Imagine that a man slaps a woman in rural KwaZulu-Natal, South Africa. At the same time another man slaps a woman in a popular neighbourhood in Khartoum [Sudan], and yet a third does the same in a classroom at the Sorbonne in Paris. All three women protest: the woman in Paris that her rights have been violated, the woman in Khartoum that her dignity has been violated, and the woman in KwaZulu-Natal that custom has been violated. Every victim protests. But the language of protest is different in each case."⁵

According to Mamdani, the language of protest bears a relationship to the language of power, and therefore to understand why protest employs the language of rights in Paris, dignity in Khartoum, and custom in KwaZulu-Natal we must remember that power claims to uphold rights in Paris, dignity in Khartoum and custom in KwaZulu-Natal. If his premise is correct, then the power structures in traditional communities such as those

in KwaZulu-Natal will uphold custom over right, while the Islamic structures in Khartoum will uphold dignity over custom, and the secular structures in Paris will uphold right over custom or dignity. The question for women's rights advocates then becomes: How do we appropriately appeal to the overriding values of the different power structures in order to protect women's rights?

In Europe it is recognized that some practices that are said to be based on religious beliefs have a negative effect on women, both women native to Europe and immigrants. Often the line between culture and religion is blurred. The Committee on Equal Opportunities for Men and Women of the Council of Europe recently passed a resolution calling for European states to protect their resident women in Europe against rights violations done in the name of religion.⁶ It proposes specific policy and legislative measures, such as refusing to accept cultural and religious relativism, and enforcing policies against honour killings and female genital mutilation. While this may work in Europe, other ways to engage the real power structures in the global South will have to be explored. In Turkana, Kenya, one women's NGO, the Turkana Women Conference Centre has been training women, to perform paralegal duties in their local communities. Taking into account the pervasiveness of traditional dispute resolution structures, they have explored ways to gain credibility in their communities by working within the system instead of confronting it head-on. They report that they now sit in on local councils, convened by administrative chiefs, and their input is sought on resolving disputes involving women. However, they are not an integral part of the system, and act more as advisors. This approach does not challenge the contravention of women's equal right to representation, but it does bring gains for women's rights. It raises the question whether human rights are an end in themselves, a means to the end of social justice, or both.

It is clear that the current human rights framework is not adequately curbing traditional practices that are harmful to women. Yet compromising women's rights is not an option. Women's rights

advocates must explore alternative ways of achieving the end of protection of the human rights and dignity of women.

1. See La Franiere, Sharon. "Tradition binds African women, despite laws", *New York Times*, Sunday, January 1, 2006. <http://www.whrnet.org/>

2. http://news.bbc.co.uk/2/hi/south_asia/4223436.stm

3. *Ibid* note 1.

4. Nhlapo, Thandabantu. "The African customary law of marriage and the rights conundrum", *Beyond Rights Talk and Culture Talk*, Cape Town: David Philip Publishers, 2000.

5. Mamdani, Mahmood, ed. "Beyond Rights Talk", *op.cit.* p. 1.

6. Report of the Committee on Equal Opportunities for Women and Men, September 16, 2005. Doc 10670, Council of Europe. <http://assembly.coe.int/Documents/WorkingDocs/doc05/EDOC10670.htm>

NOTES for COSMOPOLITAN EDUCATION: Amartya Sen

Extremists attached to various religions exert in common serious threats to women's agency — in which Nobel laureate economist Amartya Sen is inclined to invest many of his hopes, while laboring outside the clash-promoting camps. In support of that agency, Sen stresses the capacity of basic education to "transform positively this miserable world in which we live, since illiteracy and innumeracy are forms of insecurity in themselves", and because "education can make voices heard across barriers of nationalities & communities".

Speaking at a June 2004 conference hosted by Mount Holyoke and Smith Colleges on "Women's Education Worldwide: the Unfinished Agenda", Amartya Sen discussed education in relation to the ancient "distinction between the two aspects of human life, which we can, at the risk of some simplification, respectively call the 'well-being aspect' and the 'agency aspect' — a distinction that he has explored in several works, including *Unequality Reexamined* (Harvard & Oxford University Presses, 1992) and *Development as Freedom* (Knopf & Oxford, 1999).

"A person's agency aspect," he said, "refers to the pursuit and realization of goals and objectives she has reason to value and advance, whether or not they are [directly] connected with her own well-being", although there are always "extensive interconnections between the agency aspect and the well-being aspect".

He used that distinction to evaluate the recent evolution of worldwide women's movements, becoming increasingly powerful in many parts of the world, in the course of which "the objectives have

gradually broadened from th[e] 'welfare' focus towards incorporating and emphasizing the active role of women in doing new things, assessing overall priorities, scrutinizing traditional values, formulating practical policies, and carrying out ... programmes of action. ... Women, in this broadened perspective, are not passive recipients of welfare-enhancing help brought about by the society, but are active promoters and facilitators of social transformations that can alter the lives and well-being of men and children as well as women. This broad understanding has a momentous reach" — for example, in "generating an enlightened understanding of the place of gender-based identities along with other ways of seeing oneself", and in countering the "narrowing of horizons, especially of children, that illiberal and intolerant education can produce".

Deploring the "crude" sectarian classifications underlying "the very deceptive perspective of the so-called 'clash of civilizations'", Professor Sen asserts that "[i]t is important to appreciate that what is most immediately divisive in this kind of theorizing is not the idea — an oddly silly idea — of the inevitability of a clash, but the equally shallow (and, as it happens, prior) insistence on seeing human beings in terms of one dimension only, regarding them just as members of one civilization or another (defined mostly in terms of religion), ignoring their other affiliations and involvements." Denial of education in "non-sectarian and non-parochial curricula", ignoring cultural riches other than religion, is used to divide people in ways that make it easier to recruit them into "potentially belligerent camps".

One of the most obvious signs of this is that "the extremist sectarians who try to impose a narrowly religious identity on children (particularly through restricted

educational exposure) are often enough also indifferent — or actually hostile — to girls' education."

Also, "the broad reach of the agency role of educated women can include curricular scrutiny and reasoned assessment of the linkage between the content of education and the identities that children are encouraged — explicitly and by implication — to cultivate", thereby contributing to the power of education to "advance fairness and justice in the world", as Mary Wollstonecraft pointed out more than two hundred years ago. Sen concludes: "Aside from the fact that women's education tends to receive opposition from the same enemies as does the pursuit of educational broadening, the objectives of women's agency can powerfully include the creation of more livable and more just societies through better educational opportunities, which are, among other things, proud of the richness of our multiple identities, including the identities based on gender and the importance that we attach to addressing gender-based inequalities." Women's education and women's rights "may save the world yet".

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Amartya Sen's latest book, *Capabilities, Freedom and Equality*, a collection of his works "from a gender perspective", has been edited by Bina Agarwal of Delhi University, Jane Humphries of Oxford University and Ingrid Robeyns of Amsterdam University.

The 2nd Women's Education Worldwide conference was held recently at Dubai Women's College in the United Arab Emirates, where "conversations centered on the interrelated challenges facing nations and cultures in tapping the world's greatest underutilized natural resource: women", reports Mount Holyoke College President Joanne Creighton.

# Substantive Citizenship: Feminist Politics in a Fundamentalist World

Gita Sen

Economist **Gita Sen** is Sir Ratan Tata Chair Professor & Chairperson of the Centre for Public Policy at the Indian Institute of Management in Bangalore, India. This was her keynote address at the 2002 Conference in Kochi, Kerala on “Governing for Equity: Gender, Citizenship and Governance”, organized by the Royal Tropical Institute (KIT, Koninklijk Instituut voor de Tropen, “specialized in international cooperation & intercultural communication”). The KIT-initiated Gender, Citizenship and Governance Program’s aim is “to make gender equity and gender equality a core concern in the debate on and practice of good governance globally”.

Women still have unfinished business in claiming their rights as full citizens, says Dr Sen. “Women are not present in trade or finance decisions. We’re struggling to stay in the Millennium Development Goals” (Irene Tinker Lecture, International Center for Research on Women, 2004).

While she deals with issues of inclusion, she also observes that “much current thinking on development appears to have returned to mid-20th century metaphors of underdevelopment as exclusion and marginalisation”, whether of “places (e.g. Bihar, Burkina Faso) or groups of people (e.g. ethnic minorities, women)”, but the rapid transformation of Bangalore “challenges such perceptions”. In a paper for the 2005 annual conference of the Development Studies Association (“Surviving in the Boom-Town: Bangalore as Metaphor”), she draws on that experience to argue that “the problem of creating effective public institutions, strengthening structures for democratic participation and governance, and coping with inequalities runs much deeper than inclusion versus marginalisation”.

For more of Professor Sen’s thinking about social contracts, see *Remaking Social Contracts: Beyond the Crisis in International Development*.

See also her 30-page UNRISD paper, “Neolib, Neocons and Gender Justice: Lessons from Global Negotiations”, for the *Policy Report on Gender and Development: 10 Years after Beijing*.

I begin with some trepidation as to what new or fresh insight I can give. I am going to talk about feminist politics in a fundamentalist world and I refer not just to religious but other kinds of fundamentalisms that have been tramping around globally, nationally and locally for the last two decades at least. Market fundamentalism, which is also a kind of fundamentalism, is also there.

## Feminism and citizenship

Feminist politics for over a century has primarily been about completing the grand social project of democracy and about completing the project of citizenship. ‘Citizenship’ here is defined not in its narrow sense as the ‘right to vote’, etc., but in the sense feminists have been defining and redefining it to mean entitlements, rights, responsibilities and agency. Citizenship implies a balance between all of these. This meaning of ‘citizenship’, of having agency as free subjects has meaning only if we give substantive content to it. Both the Indian Supreme Court and South African Constitution speak about equality of citizens in a substantive sense. The Indian Supreme Court has ruled that if one does not have substantive equality (i.e., the means and the mechanisms by which formal equality can be realised for citizens) then one does not have equality at all. This substantive equality has been central to feminist politics and is inherent in its understanding of citizenship.

The meaning of citizenship in feminist politics operates at four dimensions: (a) the political level; (b) the economic level (substantive economic equality is implied in respect to property, labour market and unpaid work); (c) the cultural level of norms and values and (d) the personal level of family, home and relationships. For citizenship to operate substantively, it must be present and visible at all four dimensions.

This idea of citizenship, of having to move in all these spheres, is relatively new in feminist politics. Personally I began thinking along these lines about a decade ago. The important thing about these four dimensions is that the absence of one dimension puts the other dimensions and their achievements ‘at risk’. It means that the project of feminist politics is significantly more complex than we would like to believe. An example is that one can have political citizenship, i.e., equal right to vote, but if one had not moved along dimensions of sexuality, then one could remain constrained in the achievements with respect to political citizenship.

The history of this century has been one of systematically moving forwards on certain dimensions and slipping back in the others. In post-colonial nations, the feminist political movement was inextricably linked with nationalist movements. In the economic dimension, only Cuba had explicitly recognised rights for women in the domestic sphere (Cuban Family Code of 1974). Therefore, in spite of all the formal socialist rhetoric about equality for women, the recognition of economics as it operates in the domestic sphere was relatively weak. So far as early Soviet politics was concerned, Alexandra Kollontai and others tried to infuse the debates on the so-called ‘woman question’ with the question of women’s personal autonomy, issues around sexuality and reproduction. However, these issues got totally marginalized in the evolution of Soviet politics. In the decades of the 1960s and 1970s, in both North and South, the sphere of personal autonomy in relation to sexuality and childbearing gained greater prominence than they had had in the post War years.

The gendered systems that we work against are those that deny women's citizenship at any or at all the dimension(s) discussed above. This, in a sense, provides the answer to the debates that had come up in feminist literature on the questions about universality: "is the subordination of women a universal phenomenon?" Even in societies where private property had not developed to its fullest extent, there is evidence of the existence of gender inequalities. Therefore, the 'universality' of gender inequality stems from that fact that any one of the dimensions of 'inequality' may exist.

## Context

'Context' for feminist politics is absolutely central and critical because what one achieves, and how one achieves it, depend upon the context. With respect to the feminist project of citizenship, the 'context' exists at all four dimensions discussed above. The context determines the challenges faced by and the opportunities available to feminist politics at that time to make change happen. Because the context is changing, the focus and the mechanisms of feminist politics also change. The substantive question for feminist politics today is whether the context of fundamentalism is becoming so overwhelming that it is constricting the realms of feminist politics into ever-narrower spheres. This is an important question to address: if one believes that the context is so difficult that one can barely survive, then the nature of the alliances, the nature of the trade-offs that one is willing to make may also change dramatically. To survive, political movements and organisations have to do a lot of things they would not do when they are not faced with the crisis of survival. Therefore, the fundamental question for feminist politics today is about whether fundamentalism in the forms we have today has, in fact, constricted the space for feminist politics, so that it is forced into alliances it would not otherwise have made, narrowing down demands in ways it would not have narrowed them? This is a key question that feminist politics has to answer today.

It is my argument that globalisation, which is closely linked to both 'market fundamentalism' and 'political fundamentalism' that

is arising globally and in many countries, does constrict and does move feminist politics towards particular kinds of alliances and coalitions, but it also provides opportunities. Because one always focuses on constrictions, I want to point towards some of the opportunities here.

## Social contracts

What has the process of globalisation done?

Globalisation had broken three of the major social contracts that have existed in the world for at least fifty years. The first social contract that has broken down is that between workers and employers, framed as this relationship was in the right to collective bargaining and rights through social democracy. These have been significantly broken because of the extreme mobility of capital and the consequent loss of bargaining power of labour unions in countries of both the North and the South. This has happened in the last 2 to 3 decades, and is continuing, and has affected even the country where it was most strongly developed, namely, Japan.

The second contract that has been broken is that of (a) the welfare state in the countries of the North where a set of entitlements and rights of citizens was matched by the responsibilities of the state and (b) the terms and understanding of the development project in countries of the South.

The third social contract that has been broken is the contract that brought together countries of the South and North in an understanding of living in a common world and, therefore, the mutual responsibility for the project of development. From the Marshall Plan which presaged the beginnings of development assistance to current day discussions of 'aid fatigue' and conditionality is a significant step.

While it does not require much acuity of vision to recognise the breaking of these social contracts, why might this breaking itself create windows of opportunity? The reason is that each of these contracts, overtly for the first two, and less overtly for the third, was a deeply gendered contract. The contract between employers and em-

ployees, for example was mainly between male workers' unions and public and private sector firms. The needs of women workers — even in nations where the social democratic contract was best developed — were not fully recognised. The welfare state of the North and the development programs of South were deeply gendered in terms of what they did not include, that is the responsibilities of the care economy, the rights of mothers, girls' education.

The re-negotiation of these contracts will have to happen since capitalism cannot function without adequate regulation. This re-negotiation, however, cannot happen without women, without recognition of women's political and economic rights as citizens. This is because of the growing feminisation of labour making women workers, numerically at least, a force to reckon with. Organizations and unions can no longer afford to re-negotiate the social contract without women. An example of how this is happening can be seen from a seemingly innocuous report in a financial daily in the last year. According to this report fifty thousand workers of the Culinary Workers Union in Las Vegas ('the strip') went on strike resulting in the paralysis of the 'strip'. What has to be noted is that the bulk of the workers employed in the house-keeping sections are not only women but immigrant women, and the demand was not only for better pay but better working conditions and respect. Similarly there is a complete re-thinking on the project of development — although less clear at this point. However, what has become clear is that, without gender analysis of budgets, without going through how money is allocated for different needs, what happens to the needs of women specifically in these contexts, the rewiring of these social contracts will not happen.

## Identity Politics

Those are the opportunities. However, the other more disturbing question about fundamentalism is the constriction in another sense. This constriction arises from the question whether politics is itself becoming a constricting struggle between fundamentalisms. The openness of public debate, freedom of movement and of expression, are all increasingly

getting narrower at global, national and sub-national levels. The challenge here for feminists is to how to deal with and address our relationship to identity politics that fractures as opposed to the politics of social construction. “Where do we stand vis-à-vis identity politics versus a politics of social construction?” This is a very difficult question, and one that feminists must address if the feminist movement is to progress in the future — because the politics of identity is showing itself up as a politics that is deeply sexual and deeply violent. Both of those put together mean that if feminists are to move beyond this realm, then feminist politics must be able to move towards a project of social construction that includes an ethos of inclusion, of equity and of equality. The clash of fundamentalisms is taking this ethos out of the political debate altogether.

#### Summing up of the implications:

1. Feminist politics must act along all four dimensions enumerated, not just one — crucial since there are significant gaps, even in the feminist movement, between those who work on and speak about economic rights and those who work on and speak about sexuality and reproduction. Unless the two come together, the movement is much weaker than it needs to be.
2. Secondly, governance has to be seen as a project of social construction that has to include the ethos of inclusion, equity and equality. Although feminist politics is the most inclusive and transformative of all politics, it has to answer some deep and serious questions in terms of the constriction of space brought about by fundamentalism.
3. Finally, what is the role for an autonomous women’s movement here, and how do we include ourselves in other movements dominated by progressive but ungendered men? The task is to build those absolutely necessary alliances — a task that is as difficult as mainstreaming gender in the World Bank!

In her welcoming speech at the KIT conference, **Aleyamma Vijayan**, director of the host organization SAKHI in Kerala, said:

*There is a crisis of governance as governments fail to deliver on economic and social security giving rise to sub-nationalisms, ethnic rivalries and religious fundamentalisms. As in every conflict situation women’s bodies become the sites of power struggles between contending forces.*

*In all of this rather gloomy scenario there is much hope to be derived from the rise of women’s movements and other movements of marginalized peoples. The reason that women must be given a voice in governance is because the history of women’s movements shows that [they are] vibrant [and] give space for the articulation of diverse interests which are the hallmarks of democracy. The inclusiveness of the women’s movements means that every issue is a gender issue, whether it be to eradicate poverty, live in security, promote human well-being and allow for multiple voices to be heard.*

**Jan Donner** president of the Royal Tropical Institute (KIT) in the Netherlands, spoke of the persisting “dynamics of inequality” and difficulties of how to “align our respect for cultural diversity... and the heritage of individual societies ... to the promotion of the universal values of human rights and good governance”, even though “on a global level humanity shares a number of common values and norms, which we all wish to see applied in every corner of our planet”. We “have to recognise that it is far easier to invent than to apply such lofty concepts” as “global governance”. It should not have to mean “a uniform global lifestyle”. But certain “values and rights have been accepted by the world community and by each individual country. Each of those countries has balanced and continues to balance its proper cultural and religious values against the formulation of universal declarations by the world community.

These universal values incorporate the concept of governance, the system by which a society shall be directed and controlled. The governance structure should address issues such as the distribution of rights and responsibilities amongst the different participants and stakeholders of that society. Or, in other words, governance as defined by the Commission on Global Governance in 1995 is the sum of the many ways that individuals and institutions, public and private, manage their common affairs.”

As a lawyer, Donner said he has to accept that individual governments and even the multilateral structures “being introduced into our global village” will not “in the short term succeed in [establishing] the global values of good governance and equity”, as the “community of national governments, while subscribing to these concepts, ... is not capable for the time being to make human rights universally enforceable”. So “civil society needs to lend a hand ... . We are seeing and possibly are part of global social movements to support the implementation of values, rights and responsibilities through other means than pure law enforcement.”

*It is also my belief that women have to come forward in the negotiations of peace. We have a different message to give. We have our own discourse, our own culture.*

- **Asma Jahangir**, Pakistan, accepting the Millennium Peace Prize, March 2001