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ALBERTINA DE OLIVEIRA COSTA

Guest Editor

WOMEN: MOVEMENTS, SUCCESSSES AND OBSTACLES

In recent decades there have been drastic changes in the social status of women. From the second half of the twentieth century women have emerged as one of the greatest collective forces of the contemporary world. The large scale entry of women into the work force of the industrial world revolutionised traditional social ties. A considerable increase in women's levels of education, the availability of more effective contraceptives and the decline in fertility rates led to the appearance of movements for greater autonomy and rights. Some of these have been very successful and have achieved changes to the legal system which have allowed women to rid themselves of elegal restrictions that had relegated them to a place of civil minority.

However, despite the demands which have been met and the numerous victories and successful movements, there are still enormous discrepancies between the rights of men and women.

Legal advances since the creation of the The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1979, have proved to be more formal than effective. In addition, physical coercion, central to the unequal structure of relationships between the sexes is a lingering, constant threat. A greater presence of women in the public arena comes with alarming rates of gender violence. Moreover, in spite of sexual and reproductive rights being recognised as human rights at the turn of the century, the conservative attack on gender ideology has been gaining growing support and has been undermining achievements.

Another paradox is the fact that although the visible presence of women in society has increased considerably, this has not resulted in an increase in political participation nor in their occupation of positions in courts of law. Despite legal

incentives, the political participation of women on a global scale is still very low (22 per cent).

Achievements in the economic arena also leave a lot to be desired. Whilst women have demonstrated their incredible capacity for organisation, argumentation and negotiation, as well as their powers of persuasion, the process of rearticulating the world economic system has hindered the introduction of the new generation of social rights which was pledged at the Vienna, Cairo and Beijing conferences.

The beneficial effect of incorporating women into the workplace, reducing inequality between men and women also appears to have reached its limit. There are still significant disparities in pay and in access to different types of occupation, as well as insurmountable barriers to promotion to the top of professional careers. Above all the unequal division of domestic work remains intact which leads to the overburdening of women. Precarious social apparatus and poor social policies relegate the practice of care to the family environment, where women are mainly responsible for housework and for caring for children, the sick and the elderly. Although women have entered the public arena of work, men continue to be absent in the invisible sphere of domestic work. As such, this unequal division of domestic work and of care is one of the obstacles to women entering and remaining in the workforce, as well as to the possibility of their active participation in political life.

Having in mind this scenario of unequal rights, in which inequalities deepen between regions and between the women of different regions, with the Global South being penalised, this edition is entirely devoted to women and their struggle in the search for equal rights. It is devoted to their successes and failures, a winding path, which sometimes gets closer and sometimes gets further from the achievement of gender equality. This is a changing and multi-faceted scenario which makes it difficult to evaluate achievements so far and what is still to unfold. As a whole, SUR 24, the first edition of the Journal to be written entirely by women, seeks to provide a wide vision, including diagnoses and discussion on ostensive

discrimination suffered by women, as well as giving a voice to silent discrimination.

The first section of articles are on inequality of an economic nature. **Chiara Capraro (Italy)** claims that the issue of taxes is central to the full implementation of human rights, with a high impact on gender justice. A more equal fiscal policy would particularly favour a correction in distortions in the market economy that falls back on unpaid work done by women in reducing the provision of public services. Whilst **Pilar Arcidiácono (Argentina)** looks at the theme of redistributive policies and examines the case of the Argentinian social programme “Universal Child Allowance”, focussing on a litigious initiative to revert the exclusion of imprisoned mothers - who have their children up to four years of age with them - as possible beneficiaries.

Unpaid work done by women is also the subject of a sub-group of articles that deals specifically with the question of care and how the unequal division of this occupation impacts the lives of women and impedes gender equality. According to **Laura Pautassi (Argentina)**, the care crisis which exploded in Latin America in the last decade was due, on the one hand, to demographic transition, and on the other to the depletion in family strategies which made women responsible for reproductive work, illustrating the absence of public policy and social apparatus in the care of young children, the sick and the elderly. Embedded in the principle of recognition of care as a human right, she proposes an agenda of social policies aimed at gender. **Herminia González Torralbo (Spain)** examines the crisis in care from the angle of international migration and shows how transformations in social well being policies, within the framework of capitalist globalisation, have made clear the decisive role of women who migrate alone, without their families, in the global care networks. In her comparative research between Brazil, France and Japan **Helena Hirata (Brazil/Japan)**, came to a similar conclusion. Her study shows how, in different societies, the many parties involved in care – the state, market, family and philanthropy – come together and act in an unequal, asymmetric way. She also shows how the central position of women in the many different modalities of international sexual division of labour, clearly show a racial and ethnic division of work.

The second section of articles is focussed on feminist movements fighting inequality in terms of the political participation of women.

Souad Eddouada (Morocco) analyses the challenges that the implementation of the Family code of 2004 represents in Morocco. This incorporates the demands of the feminist movement from a secular approach, disassociated from the principles of Islam, in terms of family relationships, such as marriage, divorce and inheritance and she suggests an alternative approach of gender equality, based on principles that precede the reform.

Nayereh Tohidi (Iran) provides an historic panorama of the feminist movement in Iran from 1905, revealing contradictions in the statute of women's rights in a country that combines a high level of education and low fertility rates, with reduced participation in the work force and in parliament, as well as the curtailment through customs based on the Islamic law of *sharia*. She stresses that, despite the obstacles, the women's movement is alive and active.

An evaluation of the implementation of quota laws that the majority of Latin American countries have sanctioned in order to guarantee wider participation of women shows that the effectiveness of the mechanism has varied due to its format and the way it is linked to the electoral system. Despite subtle advances, there are still a number of obstacles to women's political representation. **Lucía Martelotte (Argentina)** postulates shunning the claim for quotas in its current format, in favour of a demand for parity.

The contribution of black feminism is highlighted by **Djamila Ribeiro (Brazil)**, who stresses inequalities within the Brazilian feminist movement, which would find it difficult to recognise black women as political participants. She advocates the importance of thinking in terms of intersections between class, race and gender in building a new civilisational framework.

Based on experience at the 13th Forum of AWID, held last September in Salvador (Brazil) and on a campaign launched by the organisation on social networks, **Semanur Karaman (Turkey)** looks at the issue of transnational solidarity

between women. In the article the author emphasises that for solidarity to achieve its objective of perfecting feminism through a movement that brings together diverse movements, overcoming economic, gender, race and social class barriers, the women involved must be alert to the way in which their solidarity materialises and the context to which it is directed.

Two articles discuss reproductive rights. According to **Diya Uberoi (USA)** and **Beatriz Galli (Brazil)**, regulation of conscientious objection should take into account the rights of those providing medical services in exercising their moral and religious convictions and women's rights to health. The authors map conscientious objection regulation policies in Latin America and stress the importance of legally guaranteeing women's fundamental rights. **Sylvia Tamale (Uganda)** discusses the legal, religious and traditional obstacles in obtaining access to contraception and the insurmountable barrier met by the demand for legalisation of abortion in Uganda, despite ratification of the Maputo Protocol in 2010.

The next section brings together analyses with regards to different forms of gender violence. In recent decades, argues **Natalia Gherardi (Argentina)**, solid standardisation has been established in international law for the prevention, punishment and eradication of violence against women (CEDAW 1979, Belem do Para Convention 1994). Nevertheless, she claims, alarming levels of violence persist and there are numerous challenges in both the implementation of laws and in monitoring them.

In Egypt the increase in episodes and in the level of violence in cases of sexual assault during protests led to mobilisations aimed at condemnation and criminalisation. However, says **Mariam Kirolos (Egypt)**, if the protests of January 2011, in Tahir Square and the fall of Mubarak created optimistic expectations among human rights activists, which finally happened some years later, the law itself is a dead letter and has had practically no impact on public acceptance of assault.

In Brazil the Maria da Penha law is now ten years old. It was considered a milestone victory as it was the culmination of a

campaign at the forefront of the feminist movement and was put together by a consortium of feminist organisations. **Wania Pasinato (Brazil)** weighs up its implementation, challenges and obstacles and pays particular attention to analysis of controversial legislative bills which could potentially distort it.

Finally, **Mariana Joffily (Brazil)** tries to understand why sexual violence perpetrated during the military dictatorships of the Southern Cone were not exposed at the time of transition to democracy and concludes that a space for re-signifying this type of crime could only be constructed decades later, following a series of social and legal victories in gender equality.

In the knowledge that achieving rights for women only happens through the involvement and dedication of women themselves, this edition tells the stories of a number of individuals who dedicate their lives to fighting inequality and strengthening the feminist cause.

Three outstanding feminists, the Italian, Silvia Federici, the Brazilian, Sonia Correa and the Bolivian, Maria Galindo, the latter in partnership with the Revista DR, were interviewed for this edition.

CONVERSATIONS

Silvia Federici (Italy) harbinger of the current debate on the crisis in care, remembers different moments in her intellectual path and is optimistic about the practices of new generations of feminists. Federici, an untiring militant who was one of the first to raise debate on the importance of domestic work in the subordination of women, when at the beginning of the 1970s, together with Maria Rosa della Costa and Selma James, she launched the movement “Salaries for Domestic Work”, with the aim of drawing attention to this labour which is necessary to the functioning of capitalism.

Fulfilling the role of critical consciousness in this edition, **Sonia Correa (Brazil)**, in contraposition to the use of the category “woman” advocates the use of the category gender, which allows us to overcome the binary model of the sexes, detaching feminism from the female body. Correa, Coordinator at the

Observatório de Políticas de Sexualidade, warns of an increasingly serious conservative restoration on a global scale and takes a critical look at the role of emerging countries in the debate on sexual and reproductive rights.

For the militant anarcha-feminist **Maria Galindo (Bolivia)**, founder of the *Mujeres Creando* movement in Bolivia, the priority should be the construction of a social fabric that allows for the action of women as political participants, as well actions of “concrete politics” such as collective savings management cooperatives. Unlike Correa, she criticises the use of the category gender, which she considers to be part of the neo-liberal agenda to frame the cause of women.

PROFILES

This edition also has profiles of five young women who dedicate their lives to bringing improved living conditions to the lives of women in the southern hemisphere: the Kurdish militant, **Ayla Akat Ata**; Chinese journalist, **Yiping Cai**; Egyptian activist, **Yara Sallam**; South African lawyer, **Sibongile Ndashe**; and the South Korean historian, **Christine Ahn**.

INSTITUTIONAL OUTLOOK

Finally, with a view to contributing to fortifying the women’s cause, we have a conversation with the consultant **Ellen Sprenger (The Netherlands)** on international trends in the field of financing organisations that defend women’s rights, in which she gives some tips on how to raise funds and build solid relations with financiers.

ART

This edition is the first in the history of the Journal to have an illustration on the cover. The illustration is by the artist **Catarina Bessell (Brazil)** and is the image of a women’s strike organised in Poland last October, protesting the tightening of legislation on abortion in the country. The image is one in a series done especially for SUR 24 which also includes illustrations of images of women’s strikes in Argentina in the same month, in response to a particularly brutal episode of violence against a woman in that country.

ACKNOWLEDGEMENTS

MARIA A.C. BRANT

Executive Editor

OLIVER HUDSON

Managing Editor

First of all we would like to offer our special thanks to **Albertina de Oliveira Costa**, guest editor of this edition of SUR. A long-time friend and adviser of Sur Journal, Albertina was invited to contribute to this edition because of her well-known history as a feminist and as an academic dedicated to the subject of women, but her competence and dedication far surpassed our expectations. This edition would not have been possible without her.

We are also extremely grateful to the following people who helped on this edition: **Adriana Guimarães, Akemi Kamimura, Alana Moraes, Barney Whiteoak, Bruna Angotti, Carmen Hein de Campos, Celina Lagrutta, Courtney Crumpler, Daniel Lopes, Evandro Lisboa Freire, Fernando Campos Leza, Fernando Scire, Glenda Mezarobba, Hildete Pereira de Melo, Ione Koseki, Ivi Oliveira, Lena Lavinias, Jane do Carmo, Jaqueline Pitanguy, Josefina Cicconetti, Karen Lang, Kelly Komatsu Agopyan, Lia Zanotta Machado, Luis Felipe Miguel, Luiza Bodenmüller, Maité Llanos, Marcela Vieira, Maria Rosa Lombardi, Mariana Giorgetti Valente, Mariana Patrício, Murphy McMahon, Natália de Araújo Lima, Pedro Maia Soares, Renato Barreto, Sebastián Porrua Schiess, Sheila de Carvalho, Tatiana Roque, Vivian Calderoni e Yumi Garcia dos Santos.** We would particularly like to thank **Jessica Horn**, our guest editor for Africa.

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and Justice, University of Texas, Austin, for our continued partnership and to the **Revista DR**, for our new partnership.

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• • •

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ESSAYS



WOMEN'S RIGHTS AND FISCAL JUSTICE

Chiara Capraro

EXPANSION AND EXCLUSION IN THE UNIVERSAL CHILD ALLOWANCE PROGRAMME IN ARGENTINA

Pilar Arcidiácono

FROM THE "BOOM" IN CARE TO THE EXERCISE OF RIGHTS

Laura Pautassi

CARE IN TRANSNATIONAL MIGRATION

Herminia González Torralbo

CARE WORK

Helena Hirata

FEMINISM IN MOROCCO: BETWEEN THE LOCAL AND THE GLOBAL

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WOMEN'S RIGHTS AND FEMINIST MOVEMENTS IN IRAN

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25 YEARS OF QUOTA LAWS IN LATIN AMERICA

Lucía Martelotte

BLACK FEMINISM FOR A NEW CIVILIZATORY FRAMEWORK

Djamila Ribeiro

REFUSING REPRODUCTIVE HEALTH SERVICES ON GROUNDS OF CONSCIENCE IN LATIN AMERICA

Diya Uberoi & Beatriz Galli

CONTROLLING WOMEN'S FERTILITY IN UGANDA

Sylvia Tamale

VIOLENCE AGAINST WOMEN IN LATIN AMERICA

Natalia Gherardi

"THE DAUGHTERS OF EGYPT ARE A RED LINE"

Mariam Kirollos

THE MARIA DA PENHA LAW: 10 YEARS ON

Wania Pasinato

SEXUAL VIOLENCE IN THE MILITARY DICTATORSHIPS OF LATIN AMERICA: WHO WANTS TO KNOW?

Mariana Joffily

WOMEN'S RIGHTS AND FISCAL JUSTICE

Chiara Capraro

- *Why tax policy must be dealt with* •
by the feminist movement

ABSTRACT

This article makes the case for tax policy to be considered from a human rights perspective. In a context of increasing economic inequality and austerity programmes cutting back on services and social protection measures, it is critical for human rights advocates to take up tax as an issue for the full realisation of human rights. In particular, given the gendered consequences of lack of funding to realise human rights, tax policy is of particular importance to women's rights advocates and feminists globally. Whether it is the impact of indirect taxes on women's income, how tax policy influences labour market participation for women or the consequences for women's rights of large scale corporate tax dodging, our advocacy would benefit from a deeper understanding of tax as human rights issue.

KEYWORDS

Tax justice | Women's rights | Development

1 • Tax and human rights are closer than you think

Over the past eight years tax has become a mainstream development issue. The perfect storm of austerity, scandals of corporate tax dodging in the North and South, rampant privatisation of essential services and an increased polarisation in matters of economic policy have all contributed to make tax emerge from the abyss of obscure technicality, which seems to be its natural habitat. The post 2015 process has also helped to rally part of civil society around tax. In fact, the complex, ambitious agenda of the Sustainable Development Goals (SDGs) and its universal nature call for a new approach towards financing sustainable development. And then there is reality: we live in a post aid world where tax revenue is dwarfing aid as a source of development finance. For example, in 2012, total tax revenue collected in Africa was ten times the volume of development assistance.¹

However, many human rights advocates are still wary of dipping their toes into the world of tax. But they should, because engaging with matters of tax offers a great opportunity to bring the question of how to realise human rights to the forefront as well as offering innovative ways to promote human rights accountability. In this article I explore particularly the links between tax, women's rights and gender justice. This is borne out of my experience as a feminist working in a large United Kingdom (U.K.) based international non-governmental organisation with the task of mainstreaming gender analysis into long established tax justice policy and advocacy work. In my work, gender mainstreaming went hand in hand with trying to forge and strengthen relationships between women's rights organisations and the global tax justice movement.² I strongly believe that we need to cross-fertilise our movements and work together to reverse the erosion of human rights caused by the current dominant economic policy.

International human rights instruments for the promotion of women's rights are well established. In ratifying the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), 189 countries have committed to use all appropriate measures to realise the human rights of women. However, progress on the realisation of women's rights has been "slow and uneven", as defined by the Executive Director of U.N. Women, Phumzile Mlambo-Ngcuka, while commenting on the results of the progress reviews undertaken for the 20th anniversary of the Beijing Declaration and Platform for Action, a global blueprint for the realisation of women's rights.³ While many progressive equality laws have been passed over the past 20 years, lack of financial resources committed for implementation has been one of the main causes of slow progress. U.N. Women's analysis of selected National Action Plans for gender equality has found financing gaps of up to 90%.⁴ Funds are necessary to realise all those things that are necessary to advance gender justice such as refuges for women fleeing domestic violence, maternal health care clinics, low carbon decentralised energy, vocational training etc.

This is where tax comes in. As countries graduate to middle-income status and levels of aid decrease, the question of how to raise adequate resources for the realisation of women's

rights is shifting from a donor/recipient one to a structural one, which calls into question the global financial system and those who rule it. Even after the adoption of Agenda 2030, which calls for improving essential services, social protection measures and infrastructure, amongst other things, countries in both the Global North and South are pursuing austerity policies. A recent International Labour Organization (ILO) review of government spending trends, based on data from the International Monetary Fund (IMF), highlights the negative consequences on human development of a range of policy measures adopted by the majority of governments in both the North and South, since 2011. In particular, excessive fiscal contraction is projected to continue until 2020 affecting 80 per cent of the world's population, with sub-Saharan Africa one of the most affected regions. If these policies are implemented the result will be an estimated loss of five per cent of global GDP and 12 million jobs. In particular, 93 developing countries are considering raising consumption-based taxes, such as value added tax (VAT), which can have a disproportionate impact on women living in poverty.⁵ It is concerning that governments are concentrating on such a regressive measure instead of pursuing progressive tax reform, at the national and international level, in a manner consistent with the commitments of the SDGs.

We cannot say such questions have always been at the forefront of the women's rights movement but it is time to make financing a mainstream feminist issue. And as we fight for the realisation of women's rights and gender equality we need to look very closely at tax.

While human rights do not necessarily present governments with a programme of macroeconomic policy, they are not silent as to what the outcomes of economic policy should be. Article 2.1⁶ of the International Covenant on Economic, Social and Cultural Rights (ICESCR) calls for states to mobilise maximum available resources for the progressive realisation of human rights. The former U.N. Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, collected evidence of how tax policy in many countries hinders the realisation of human rights. In her 2014 report on Fiscal Policy and Human Rights she highlights the need to “[i]nclude a commitment to align fiscal policy with human rights obligations as part of the post-2015 sustainable development framework, including by raising sufficient public revenue in equitable ways, allocating and spending revenue to realize human rights for all, and strengthening public oversight, transparency, participation in and accountability over fiscal policy, tackling tax evasion and illicit financial flows.”⁷

When we think about tax from a human rights perspective we think about its four functions, the so-called 4 Rs: resourcing, redistribution, representation and re-pricing. Each is a potentially powerful channel for tackling inequality. Resourcing through tax revenue provides for accessible and high-quality public services, redistributing ensures that income and wealth are shared more fairly, representation increases the voice and power of disadvantaged women and men in fiscal and political affairs, while also strengthening the accountability of those in power. Finally, it is possible to shape positive and negative incentives through re-pricing goods and services and correcting market distortions. Thanks to its functions, tax can be a powerful tool to realise substantive equality.

By and large, tax justice campaigners have focused on the impact of tax on income inequality, but there is a growing movement of researchers, advocates and activists mobilising to highlight the ways in which tax policy is gendered and can therefore promote or hinder the realisation of women's human rights and gender equality.

2 • Tax is a gendered issue and matters for women's rights

In most countries women are overrepresented among those on low incomes, and there is a solid body of research showing that the weakening of the fiscal state over the last 30 years has in turn unfairly disadvantaged lower income groups. Women are affected by tax in specific ways because of their employment patterns, including wages, their share of unpaid care work, consumption patterns and property and asset ownership.

Women perform two-thirds of unpaid care work globally. This includes caring for children, the sick and the elderly as well as domestic chores such as cooking, cleaning and fetching water and firewood. Due to the disproportionate share of unpaid care that they are responsible for, women tend to enter and exit the labour market at different times of their lives. When they work, they earn less than men - globally between 60 and 75 per cent of men's wages - and tend to be clustered in low-pay precarious work, such as paid care work. Social norms and legislation that favour men in owning and transmitting the ownership of property and assets often deprive women of a fair share of wealth. Those women at the bottom of the income scale may not pay taxes on their income but still pay indirect taxes such as VAT or sales tax, as well as being excluded by benefits afforded through the tax system. For example, women might not work enough during their lifetime to be able to access contributory based pension systems, which exposes them to poverty later in life. In countries where the tax system is particularly regressive, women living in poverty shoulder a disproportionate burden of tax. For example, in Brazil it is estimated that black women, one of the most deprived groups, end up shouldering the highest tax burden.⁸

Those countries that still have regimes with joint taxation for spouses or partners tend to disadvantage the lowest earners (in the case of heterosexual couples, usually the woman) and disincentivise women's paid work, while reinforcing stereotypes about a woman's income being secondary to that of the male breadwinner, and to her unpaid care work. Within the context of the widespread gap between women's and men's wages and their employment rates, income tax provisions can further discourage women from taking up paid work when tax allowances for dependants favour a stereotypical male breadwinner model. In Morocco, for example, the tax allowance for dependents is automatically assigned to men; working women have to legally prove they are head of the household before being able to file for the allowance. In addition, as these benefits rarely keep up with the cost of care services such as crèches, their effectiveness is limited and it is thus "cheaper" to outsource the care responsibilities to women and make them stay at home. It is important to understand how gender bias intersects with class and marital status. For example, in the U.K. evidence is

emerging of how single mothers are the group most affected by austerity policies as they see their tax credits slashed while at the same time services are being cut.⁹

The amount of tax revenue that is raised overall also affects women in gender-specific ways. Women tend to rely more on public services, which struggle after years of regressive budgetary cuts. Regressive taxation regimes with high rates of VAT or sales tax impact women's incomes particularly harshly, as they tend to be the ones buying food, clothes and other basic goods for the household. In the majority of countries an essential item for women such as sanitary products carry high rates of VAT. Meanwhile, wages are often taxed at a higher rate than wealth and the incomes of trans-national corporations and high-net worth individuals are allowed to escape overseas to secrecy jurisdictions, also known as tax havens. As white rich men are overwhelmingly more likely to accumulate wealth, own property, and be corporate CEOs and shareholders – it is women at the bottom of the economy that are paying for a broken system. Tax policy, as with all economic policy, operates within a world built on gender, race and class inequality. This and its potential to reverse inequalities are compelling reasons for human rights advocates to embrace tax as part of their struggle.

3 • Why feminists should care about corporate tax

2015 was a momentous year for feminists and women's rights advocates around the world. We worked hard to ensure that the SDGs had gender equality at their heart in order to set the world on the right track to accelerate progress towards gender equality. And accelerate progress we must – the national, regional and global reviews undertaken for the 20th anniversary of the Beijing Declaration and Platform for Action have shown that, despite increased legislation for equality in many countries around the world, progress has been slow and uneven.

In March 2016 member states and activists gathered in New York for the Commission on the Status of Women, the annual meeting tasked with advancing the realisation of the Beijing Platform for Action. The theme under discussion in 2016 was the implementation of the SDGs. One recurring question throughout the process, asked on countless panels, was “what can corporations do for gender equality?” The list is long, from ensuring equal pay for women employees to respecting rights at work and ensuring freedom of association to promoting women into leadership positions and tackling discrimination and gender based violence in the workplace. However, there is another thing that corporations can do to support women's rights and progress towards gender equality: paying a fairer share of tax in the countries in which they operate and stop lobbying for tax breaks.

Global tax rules have not kept pace with the nature of globalised trade, 80 per cent of which now takes place within transnational corporations.¹⁰ Transnational corporations are global conglomerates seeking to maximise profit through a coordinated strategy. However, for tax purposes they are treated as individual companies. This creates a series of loopholes that allow

different parts of a company to trade goods and services at artificially inflated prices and post profits to those jurisdictions, known as tax havens, which have the lowest or even a zero tax rate, to minimise their tax liability. So both outdated rules and the global network of secrecy jurisdictions facilitate tax dodging. Financial wealth held in tax havens from corporations as well as by wealthy individuals is estimated to be worth US\$ 170 billion in lost tax revenue each year.¹¹ In addition to the ability of minimising their tax bills, corporations have been enjoying a steady reduction in corporate tax rates: according to KPMG, the international accountancy firm, the average corporate income tax rates worldwide reduced from 38 per cent in 1993 to 24.9 per cent in 2010.¹² Corporates are only one of the taxpayers that developing countries need to collect more revenue from, but they are a critical one. According to the IMF, corporate income tax makes up 16 per cent of government revenue in developing countries compared to just over 8 per cent in high income countries.¹³

As already discussed, the immediate consequence of tax dodging for women's rights is a lack of resources to implement policies and programmes to prevent and combat violence against women, to ensure safe maternal health services and to reduce the drudgery of domestic work by providing piped water and electricity. Other consequences arise as governments are under pressure to increase tax revenue and do so by increasing indirect taxes such as VAT and sales taxes, which have a disproportionate impact on those on low incomes and especially on women who, due to their assigned gender roles, have to balance household budgets. Secondly, women's economic activities and rights at work are shaped by tax policy. Despite the current attention to women's economic empowerment, tax is rarely part of the picture. 80 per cent of women in South Asia and 74 per cent in Sub-Saharan Africa work in the informal economy, mostly without access to legal contracts and social protection. However, they still pay tax. Research carried out by Christian Aid in Ghana found that 96 per cent of women traders working in markets in Accra were paying tax of up to 37 per cent of their income and with no access to social protection.¹⁴ They were often harassed by tax collectors and never saw any improvement to their working conditions, such as improved facilities, like toilets, in the market.

While women running small businesses have no choice but to pay VAT and an array of other local taxes, transnational corporations enjoy generous tax breaks as governments compete to attract foreign direct investment. There is no clear evidence that tax incentives attract productive investment.¹⁵ In particular, tax incentives for the extractive sector do nothing to encourage investment and deprive governments of revenue in the face of often huge environmental and social costs. The IMF found that in 1980 no low-income country in sub-Saharan Africa had tax free zones but 50 per cent did so in 2005. Whereas 40 per cent of sub-Saharan African countries were offering tax holidays in 1980s, 80 per cent did so by 2005. Tax incentives are most often offered on an ad-hoc basis, without adequate cost benefit analysis. The special economic zones that are created for these companies often have poor labour conditions, bans on trade unions and environmental pollution. Tax incentives mask the contribution

that women workers make to the economy and effectively subsidise poor working conditions and low pay. In Cambodia, for example, the subsidies to garment factories and enterprises, including tax and duty incentives, amounted to US\$ 1.3 billion in 2013 – equivalent to over four times Cambodia's combined government and donor spending on healthcare in 2012. Cambodia's GDP almost doubled between 2007 and 2013, fuelled significantly by the country's multibillion-dollar garment industry. However, this impressive growth masks deep economic inequalities, especially for women. Some 90 per cent of Cambodia's garment workers are women. But while their labour has been a major contributor to the country's economic rise, with the garment industry accounting for a massive 80 per cent of export earnings, the gender wage gap in the country more than doubled between 2004 and 2009.¹⁶

Finally, there is also a more radical feminist reason for why corporation tax matters. Corporations are currently reaping the benefits of women's unpaid care work, which subsidises the productive economy and reproduces and maintains the workforce of today and tomorrow. Since this work is generally invisible in economic policy there is no assessment of the resources needed to support it or a thorough assessment of the impact of economic policies on women's burden of unpaid care. Despite its limitations, SDG target 5.4 on unpaid care offers us a renewed opportunity to make care visible and push for its recognition, reduction and redistribution through investment in infrastructure and universal public services.¹⁷

Women's rights movements should demand nothing short of a complete overhaul of global tax rules. Tax dodging also hurts richer countries. Consequently, efforts for reform have been started by the OECD, in particular looking at revenue loss from the digital economy. However, developing countries, in particular small low income countries, do not sit at the OECD's table and the issues they face are not part of its programme of work. A more democratic way of reforming global tax rules would be to bring decision making under U.N. auspices with a Global Tax Body adequately resourced, including with human rights and gender equality expertise. The call for a global tax body dominated negotiations for the third Financing for Development conference that took place in Addis Ababa in July 2015, creating a deep divide between northern and southern countries.¹⁸

4 • How to work together across movements for human rights accountability

At present, in the first year of the implementation of the SDGs, 93 developing countries are considering raising VAT and other consumption based taxes as well as other contractionary fiscal measures such as freezing wages in the public sector. The implementation of the SDGs, as well as other long-standing commitments to women's rights and gender equality will greatly depend on which economic policies countries adopt and coordinate on, including tax policy. It is critical for the women's rights community to

cross organise with those working on tax and economic justice and to hold governments to account at the U.N. Commission on the Status of Women and in other spaces where global economic policy is discussed, such as the Spring Meetings of the International Monetary Fund and the World Bank. We need to make financing a priority in women's rights spaces and make women's rights a priority in financing spaces.

Working with treaty bodies to expand human rights accountability, especially extraterritorial obligations, can open up new avenues for holding states and corporations accountable. This year a diverse coalition worked together to make a submission to the CEDAW committee in relation to its review of Switzerland. The submission¹⁹ produced by the Center for Economic and Social Rights in collaboration with the Global Justice Clinic at New York University School of Law, the Tax Justice Network (TJN) and Berne Declaration, breaks new ground by being the first to focus exclusively on the role of a tax haven in undermining human rights outside its borders. As a result of the initiative, CEDAW has called on Switzerland to account for the impact its policies may have in facilitating tax abuse abroad when it appears before the Committee in early November this year.

This is an important example that could be replicated not only through policy and advocacy work but in our organising in workplaces, schools and communities. There is an urgent need to demystify economic policy, including tax, and take it in our hands as we struggle for a different, better world.

NOTES

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EXPANSION AND EXCLUSION IN THE UNIVERSAL CHILD ALLOWANCE PROGRAMME IN ARGENTINA

Pilar Arcidiácono

- *Litigation on access for mothers deprived of liberty* •

ABSTRACT

The justiciability of social rights has caught the attention of judges, human rights activists and scholars. However, the area of litigation linked to non-contributory benefits – especially income transfers to families living in poverty or vulnerability – is very recent.

In Argentina, the creation of the Universal Child Allowance programme expanded these policies massively; even so, some sectors continue to be excluded. This article revisits the only collective lawsuit presented until today, which is on the access of women deprived of liberty who live with their children four years and younger. For this small group of people, the government agencies considered that their “needs were already covered” and therefore, they should not be given access to the allowance. In response, in 2014, the Prison Attorney’s Office filed a collective habeas corpus petition in criminal court requesting that the women be included in the programme, and in late 2015, the Federal Criminal Court of Appeals handed down a favourable ruling on the case. What reasons and assumptions are used to justify exclusion in the case of an allowance programme with massive coverage? How are these policies reshaped by the interventions of the different branches of government? These are some of the questions that will be explored in this article.

KEYWORDS

Universal Child Allowance | Expansion-exclusion | Litigation | Mothers deprived of liberty

1 • The emergence and expansion of the Universal Child Allowance

States and governments play a central role in distributional conflicts and the material and symbolic production and reproduction of social hierarchies. A detailed look at concrete cases allows us to identify the impacts of policies, which may vary from contributing to the reproduction of existing inequalities or reducing them, to even creating new distinctions and forms of exclusion.

The political response of governments in the region to the high levels of poverty, unemployment, and informality caused by the “structural adjustment” processes, which were at their peak in the 1990s, was to provide coverage for families at risk due to their lack of income. A special emphasis was placed on those that were not fully integrated into the labour market - a key issue in market societies because of its direct impact on consumption and access to social rights. Part of this coverage was provided via conditional income transfer programmes (CITP). Originally emerging as isolated initiatives, CITPs had already spread to more than 20 countries and reached 120 million people in the region by the beginning of the new century. They were also extended to other regions of the world experiencing high levels of poverty and unemployment. This instrument was consolidated as part of a stable repertoire of social policies whose short-term objective consists of transferring income to raise families above the line of poverty or misery. In the medium term, by imposing a set of education and health related conditions people have to meet to receive the cash benefits, the policies sought to guarantee the use of health care and educational services so that the children would accumulate human capital.¹

In the case of Argentina, access to welfare and social rights has historically been structured around the combination of several principles: universality (based on the principle of universal citizenship), contributory (connected to the role of formally employed workers), and other residual/focused aspects (linked to criteria on merit/vulnerability). From the mid-20th century on, the contribution principle gained predominance with the expansion of benefits on the basis of formal employment relations, which led to the incorporation of numerous families into social security. However, the structural changes that began to occur in the mid-1970s, especially those linked to the labour market, were deepened in the 1990s and intensified during the 2001-2002 crisis. As a result, the contribution principle lost its coverage capacity and its strength as an insurance principle. This is why the Nestor Kirchner administration (2003 and 2007) adopted a “work-centric approach” to state intervention in the area of social security, which involved creating measures for formally employed workers.² This scheme differed politically and in terms of discourse from the previous period of “structural adjustment” and the 2001-2002 crisis. Yet, even with the recovery of the labour market, informal labour was not able to overcome the 30-point barrier, which poses an urgent challenge for labour and social policies in Argentina.

Having gone through experiences somewhat similar to the CITPs in place in the region (Unemployed Heads of Household Plan in 2002; Families for Social Inclusion Plan in 2005), in 2009, President Cristina Fernández created the Universal Child Allowance for Social Protection (AUH, in its acronym in Spanish) via Decree N°. 1602. AUH represents a significant step in the adoption of social policies with a rights-based approach. This can be said not only because of the emphasis in discourse as such, but since it was presented as something new: AUH was included in the classic social security scheme (that is, the traditional family allowances for formal workers) as a non-contributory subsystem that falls under the purview of the National Social Security Administration (ANSES in its acronym in Spanish). It therefore represents an advance in relation to CITPs, as it contains provisions for adjusting the amounts of the allowances (first through the increases made by the executive branch and then by law, with the adoption of Law N°. 27.160 on 15 July 2015, which regulates both increases in the allowances and the income levels to be eligible for it). Finally, contrary to CITPs, funding is not tied to a credit assistance organisation, but rather comes from the resources of ANSES itself.

This measure reaches families with adults who are informal workers and whose declared income is lower than one minimum living and mobile wage, as well as the unemployed who do not receive unemployment insurance benefits.³ It also covers the children of people working in private homes and of temporary workers registered in the agriculture and livestock sector. In 2011, the Universal Pregnancy Allowance for Social Protection (AUE, in its acronym in Spanish) (Decree N° 446/11) was set up as part of the non-contributory subsystem created for AUH. To be eligible for the benefit, the age limit for children is 18. This condition does not apply for people living with disabilities, for whom there are no age requirements. At the end of 2015, AUH was providing coverage to 3,624,230 children and adolescents under 18.

According to official data from the National Survey on Social Protection and Security of the Ministry of Labour,⁴ with these changes to the family allowance system, Argentina has succeeded in providing coverage for 75 per cent of all children and minors under 18 years of age. Of the remaining 25 per cent, half are without coverage due to problems in the processing of their claims or for not possessing a national identity card, and the other half, due to regulatory restrictions on family allowances and AUH. Migrants are one group excluded by the regulations. In relation to nationality, AUH requirements are high compared to those of its predecessors, as it demands that the children and adults be Argentinean, naturalised or legal foreign residents for a period of no less than three years. This aspect was highlighted by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁵ It also reveals a disconnect between the programme and changes made to regulations on migrant rights in Argentina in recent years.

We understand that these regulation-based forms of exclusion, that have been discussed so far, are part of the policy's limits. We will now turn to examining other types of exclusion that culminated in the launching of lawsuits.

2 • Merit taken to the limit: litigation on the exclusion of mothers deprived of liberty

There is a group that undoubtedly has little importance in quantitative terms, but that deserves special attention, not only due to the situation of extreme vulnerability in which its members find themselves, but also because they were not excluded by the regulation that gave origin to the AUH, but rather by arbitrary decisions made after its creation: women living with their children 4 years and younger in prison. The issue of people deprived of liberty was highlighted by the Committee of Economic, Social and Cultural Rights, together with the exclusion of migrants.⁶

Though beyond the scope of this article, it is worth noting that people deprived of liberty in general experience a wide range of difficulties in gaining access to social security benefits (allowances, occupational hazard insurance, social work, old age, and other pensions),⁷ even though they work in the context of confinement. This matter was addressed recently by the courts.⁸

Concentrating again on traditional family allowances, even though ANSES has warned on several occasions that people deprived of liberty must receive the said transfers, this has yet to happen. Work in contexts of confinement is organised by the Agency for Technical Cooperation of the Federal Prison Service (ENCOPE), a decentralised entity of the Federal Prison Service. ENCOPE currently defends the position that the legislation in effect does not foresee the possibility of people deprived of liberty receiving family allowances and therefore, they are, in fact, currently excluded from the programme. This is true even in cases where final conviction is still pending and therefore, workers deprived of liberty have not lost custody of their children.⁹ Paradoxically, ANSES should be the one to have the final say on this issue, as it is the authority responsible for the administration of the allowances programme.

In the concrete case of the AUH, it is interesting to note that ANSES Resolution N°. 393/09 (article 17) explicitly establishes the possibility of legal guardians collecting the allowance in cases where individuals deprived of liberty do not have custody of their children (as they have been convicted). However, women deprived of liberty who are pregnant or - as the criminal system itself permits - opted to keep their children under four years of age with them, have not succeeded in accessing the allowance. The National Prison Attorney's Office requested clarification on this matter from ANSES' legal services department. In Ruling N°. 46.205, it responded by affirming that

the Prison Service provides the mother with everything she needs to provide assistance and care for her child (article 195 of Law No. 24.660) (...) On this basis, this Office [of Family and Unemployment Allowances], (...), concludes that the Universal Child Allowance should not be paid to the parents, guardians and trustees of those mentioned.

It is clear, then, that *ad hoc* criteria are being introduced by lower level norms (ANSES rulings) to justify the exclusion of mothers and children in particularly vulnerable situations. In these cases, not only do mothers have custody of their children, but they find themselves responsible for their children's care in the strongest sense of the term. Therefore, it is worth recalling that the law that regulates these allowances in Argentina entitles the mothers to the benefits.

In light of this decision, the National Prison Attorney's Office filed a collective *habeas corpus* petition at Federal Criminal and Correctional Court Number 1 of Lomas de Zamora on behalf of 31 women deprived of liberty being held at the Federal Detention Centre for Women - Unit 31 in Ezeiza.¹⁰ The group of researchers from the Social Rights and Public Policy Interdisciplinary Working Group (University of Buenos Aires, UBA) participated as *Amicus Curiae*¹¹ in the proceedings. On 29 May 2015, the court rejected the use of *habeas corpus*, as it understood that "there is nothing that constitutes an illegitimate aggravation of the form and conditions of detention of the plaintiffs to justify the petition." It merely urged the Prison Service to take note of the situation, without taking the matter further. On 11 August 2015, a majority vote in Chamber III of the Federal Appeal Court in La Plata confirmed the lower court judge's ruling.

However, on 4 December 2015, Chamber IV of the Federal Criminal Court of Appeals admitted the case. In a majority vote, Judges Gustavo Hornos and Mariano Borinsky argued in favour of the use of the collective *habeas corpus* as a valid procedural mechanism for presenting a petition on the problem being denounced. They also highlighted that women deprived of liberty are subjects of the right to social security and, as such, they have the right to the benefits established by Law N°. 24.714 (AUH or Family Allowances). They emphasised, in particular, the fact that when lawmakers wanted to exclude specific cases from the family allowance regime, they did so and therefore, when the law does not make any distinction, no distinction should be made. In regards to the specific case of detained mothers who work in prison, Judges Hornos and Borinsky pointed out that the women pay their due contributions just like any other formal worker, which means they are covered by the family allowance regime. In the appeal ruling, it was highlighted that "granting the subsidy requested will contribute directly to the improvement of the conditions of minors living in the prison unit, thereby clearly safeguarding and protecting their interests." Later, ANSES presented an extraordinary federal appeal, which was declared inadmissible by the same Chamber of the Federal Criminal Court of Appeals on 14 July 2016. In view of this ruling, ANSES brought a complaint before the National Supreme Court of Justice. While the Supreme Court's decision is still pending, this does not stop the ruling from being enforced. At the time of the writing of this article, several state agencies were working to get the allowances paid. It remains to be seen what the implications for the access of persons deprived of liberty to family allowances (contributory and non-contributory) will be.

3 • Final considerations

In terms of public policy, the amount of the claim (31 women) leads us to believe that budgetary issues (which are so frequent in relation to the justiciability of social rights) will

not be raised. In a context of the judicialisation of social issues, the very dynamic of the bureaucracy that is to resolve this claim administratively and judicially, which was taken to the highest criminal court, undoubtedly requires more state resources than recognising the right asserted by such a small population in quantitative terms.

The interpretation proposed here suggests that this type of exclusion (in addition to the historical discrimination of these groups) must be understood in the Argentine context marked by social policies in which the symbolic and institutional fortress of the classical social security system - organised on the basis of formal employment relations - still plays a predominant role. The institutional arrangement proposed by AUH allows these distinctions to continue to be made, as it maintains the separation between formal workers (to which one must add, in this universe of classifications, other distinctions such as criminal and migratory ones) *versus* the rest of workers.

In general, the state bureaucracy (which is beginning to call on the judiciary)¹² has more room to define and redefine access criteria (via regulations and otherwise) for non-contributory policies than in other areas.

The access criteria are undoubtedly permeated by moral aspects: for example, what needs are (or are not) covered in the case of mothers deprived of liberty. In fact, with the ANSES ruling, a classical discussion in the area of social policies on the “needs that are covered (or not)” that give access to a policy (or not) has resurfaced. This debate emerged during the investigation process when the judiciary (the Federal Court of Lomas de Zamora) requested a detailed list of the type of products consumed by the women involved in the case from the “canteens” selling goods. In other words, as the moral sociology of money suggests, money that is not earned through work is seen as “donated money,” which gives one the authority to morally judge, classify, and “assess” those who receive it.¹³

We would like to note here that the argument that made the exclusion of women deprived of liberty possible - since their “needs were covered in prison” - reveals the tensions between certain principles of AUH. The very design of AUH distances it from cash transfers that restrict spending to only certain products, through the use of cards or vouchers or plans that distribute food products. AUH puts the decision on what goods each family needs or on “saving” the funds in the hands of the families - and concretely the women.¹⁴

As with all public policy analyses, the search for coherence and linear rationalities has not been productive. AUH is yet another example of a policy in which concepts that coexist with varying levels of tension and gain predominance according to the aspect being emphasised, the phase being analysed or the actors participating in it are crystallised. On the one hand, there is the expansion of coverage (3.6 million recipients), registration as part of the non-contributory social security scheme, open access for new recipients and the increases in the amount (which has been established by law since 2015). On the other, there are people who still do not have access to the policy and whose access is beginning to be determined by the courts (such as persons deprived of liberty).

NOTES

1 • For more information, consult the CEPAL (Comisión Económica para América Latina y el Caribe) database on non-contributory social protection programmes in Latin America and the Caribbean. Available at: <http://dds.cepal.org/bdptc/programa/>.

2 • These included: measures to promote job creation (public and private), restore wage levels, raise family allowances, incentives to register employees, suspension of dismissal without just cause, modifications to bankruptcy laws and limits on what employers can and cannot do, among others.

3 • For more information on the Universal Allowance, see Laura Pautassi; Pilar Arcidiácono and Mora Straschnoy, *Asignación Universal por Hijo para Protección Social de la Argentina. Entre la satisfacción de necesidades y el reconocimiento de derechos* (Santiago de Chile: Naciones Unidas, CEPAL, 2013). (Serie Políticas Sociales, no. 184).

4 • Ministry of Labour, *Protección y Seguridad Social en la Argentina. Resultados de la Encuesta Nacional de Protección y Seguridad Social 2011*, 1st ed. (Ciudad Autónoma de Buenos Aires: Ministerio de Trabajo, Empleo y Seguridad Social, 2014).

5 • The Committee highlighted that: “While welcoming the introduction of a universal allowance for children from poor families through Decree No. 1602/2009, the Committee notes with concern that for migrant families to be eligible, both the parents and the child must have legally resided in the State party for at least three years, unless the child is an Argentine national, in which case the residence requirement still applies to the parents, who must prove the legality of their residence by presenting their DNI for foreigners.” United Nations, *Observaciones finales del Comité de Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares* (Argentina: CMW/C/ARG/CO/1, September 23, 2011), 6.

6 • In Observation 20 of the Committee of Economic, Social and Cultural Rights, the Committee expressed its concern with the situation in relation to the AUH

and not only migrants, but also persons deprived of liberty and marginalised and disadvantaged people in general: “The Committee is concerned that requirements to receive the universal allowance for children (Asignación Universal por Hijo), which is granted by law, in practice exclude certain groups such as migrants and their children from receiving this benefit. The Committee calls upon the State party to consider adopting all the necessary measures to ensure the unrestricted coverage of the universal allowance for children, in particular those from marginalized and disadvantaged groups, such as children of migrant workers in an irregular situation and children of persons deprived of their liberty.” United Nations, Economic and Social Council, *Observaciones finales del Comité de Derechos Económicos, Sociales y Culturales* (Argentina: E/C.12/ARG/CO/3, December 14, 2011), 6.

7 • For more information, see: Sebastián Tedeschi, “Los derechos sociales de las personas privadas de libertad y el sistema penitenciario,” in Mariano Gutiérrez, *Lápices o rejas* (Buenos Aires, Del Puerto: 2012).

8 • For a discussion of this issue from a regulatory and legal perspective, see: Elsa Porta, *El trabajo en contexto de encierro* (Buenos Aires: 2016), Ediar.

9 • For more details on the issue of family allowances in the context of confinement, see: Rodrigo Borda, *El régimen de asignaciones familiares y la situación de las personas privadas de su libertad. ¿La cárcel es un límite infranqueable para los derechos (sociales)?* in *Revista de Derecho Penal y Procesal Penal* N° 4, año 2014, (Buenos Aires, Abeledo Perrot: 2014).

10 • For a description of the case, see: National Prison Attorney’s Office. 2015 Annual Report. The human rights situation in federal prisons in Argentina (pp. 368 to 373) Available at: http://www.ppn.gov.ar/sites/default/files/Informe%20Anual%202015_0.pdf.

11 • *Amicus curiae* (friend of the court) refers to presentations made by third parties to the lawsuit, which voluntarily offer their opinion on some legal

element or other related aspect to contribute to the resolution of the case. The Center for Legal and Social Studies and Dr. Elsa Porta (former judge of the National Labour Court of Appeal).

12 • The most important precedents were those linked to cases of exclusion brought on by the sudden cancellation of the Unemployed Heads of Household Plan (in 2002). 195 individual appeals were filed at the Federal Chamber of Appeals on Social Security with the goal of obtaining access to the policy legally. Also, the exclusion of migrants from non-contributory pensions caught the attention of various courts, including the National Supreme Court of Justice, which ruled that the high prerequisites in the “Daniela Reyes Aguilera. c/ Estado Nacional” (CSJN, 04/09/2007) case were unconstitutional. Until today, litigation on the collective impacts of this case is underway.

13 • An analysis based on this perspective can be found in: Ariel Wilkis, *La sospechas del dinero. Moral y economía en la vida popular* (Buenos Aires: Paidós, 2013).

14 • There is a controversy over female entitlement/conditionalities, which goes beyond the scope of this article. Very briefly, one position argues that through these measures, the state reinforces the role of “women-caregiver” to the point where benefits are suspended if a woman does not fulfil this role. As such, women are included in social security as mothers, along the lines of what is called “social maternalism”. Another position proposes that this kind of measure can strengthen women’s political autonomy (some women establish a link with the state for the first time, even if it is via a secondary law), physical autonomy (for example, as they are removed from situations of violence, even though there is no empirical evidence on this in Argentina) and economic autonomy, as they manage money, and due to their involvement in intra-family decision-making. For more information, see: Corina Rodríguez Enríquez, “Programas de transferencias condicionadas de ingreso e igualdad de género ¿Por dónde anda América Latina?”, Serie Mujer y Desarrollo CEPAL, N° 109, (Santiago de Chile, 2011).



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FROM THE “BOOM” IN CARE TO THE EXERCISE OF RIGHTS

Laura Pautassi

- *The right to care and care is already recognised, but it must still*
- *be translated into transversal policies, with a gender sensitive approach*

ABSTRACT

This article analyses the “explosion” in care over the past decade, which did not necessarily lead to advances in the institutionalisation and implementation of concrete measures in this area. It then presents an overview of regional agreements and the process of defining and recognising care as a human right and identifying essential standards for its provision. The article ends with some points to consider when implementing public policies, which must be cross-cutting and based on a gender perspective.

KEYWORDS

Care | Rights approach | Public policies

1 • The "*care boom*" or how care exploded

In Latin America, there is a tradition of analysing social processes decade by decade, with each one representing a milestone. The last few decades of the 20th century, for instance, were named the "lost decades."¹ They are characterised by the systematic interruption of democratic governments by bloody military dictatorships that left a legacy of human rights violations, the downsizing of the former welfare institutions, and important changes to the "public sphere" - both social relations and state institutions. Despite the renewed hope generated by the democratic transitions, the shift towards structural adjustment policies of the 1990s did not lead to "an overflow" of better conditions and opportunities for development. On the contrary, the policies concentrated income, poverty, and inequality, and restricted rights by imposing clearly regressive regulatory and political reforms that violated the principle of the progressive realisation of human rights.

The situation at the end of the century contrasts, though, with the breath of fresh air ushered in by the new millennium. New, more progressive coalition governments and, in other countries, left-wing governments declared that the first decade of the 21st century would be the "rights decade." This affirmation, however, remained mainly at the rhetorical level, rather than being effectively implemented. As for the second decade - that is, the one we are currently in (2010-2020) - it may be called the "*care decade*."

While the issue of care began to gain greater visibility from 2005, this increase in visibility was not linked to denouncements of the unfair sexual division of labour in our societies. According to this division, women assume all of the care work based on the "naturalisation" of their capacity to care for others, which continues to be reinforced and takes on new aspects and manifestations that far from challenge this power structure.

The care boom was brought on by the breakdown of approach to family which maintained and concentrated the work load on women. This put an end to the fragile arrangements whereby women would sustain work on various fronts while men only assumed a few care responsibilities. What is more, the accelerated demographic transition process in the region exposed the lack of public policies and infrastructure needed to respond to multiple demands from the elderly, people living with disabilities or diseases requiring intensive care, and, of course, in relation to care for children and adolescents.

In other words, the impact of this fragile distribution of care work in society was attributed mainly to the lack of infrastructure or time for dealing with various situations that demand care. It was not linked to a condemnation of the sexual division of labour as an expression of gender relations in the world of labour, which has organised and consolidated women's subordination. Their subordination can be seen in their concentration in care responsibilities and their lower and unequal participation in the labour market.²

These concerns are raised throughout this article, which begins by analysing the explosion of care as an issue for debate and the target of demands, followed by an examination of the recognition of care as a right. It ends by identifying a series of specific elements that the “care decade” should take into account. Recommendations based on feminist studies and a rights-based approach will be presented and the responsibilities of public and private actors in the provision of care will be more precisely defined.

2 • Needs and rights

As I mentioned earlier, the care issue exploded in the region, bringing tensions to light, but leaving the burden of care responsibilities and the restrictions it places on the autonomy of each woman invisible. This explosion is linked to the impact that the limits of attempting to resolve this issue in a stratified way have over the daily lives of homes. Many families who use commodified care solutions – especially the figure of a paid domestic worker – are not able to sustain themselves in the medium term. Responses from private employers are also lacking. With a few exceptions, states are providing only partial solutions in the form of legislative proposals or, in some cases, more infrastructure, but with differences in terms of the recipients: normally, the measures target mainly children and adolescents, the elderly and people living with disabilities – in that order of priority – and very little is designed for people requiring long-term care.³

Various analysts state that Latin America is experiencing a “care crisis,” which “has emerged at a juncture when patterns of paid employment and unpaid domestic work are shifting, while at the same time the sexual division of labour in the household and gender-based segmentation in the labour market remain firmly entrenched.”⁴ Different schools of feminist thought associate the care issue to patriarchal domination, as patriarchy is in itself the institutionalisation of male domination in all spheres – both public and private – and the multiple forms it may take. Authors such as Walby⁵ argue that one must not only concentrate on the analytical dimension of the domestic sphere. Instead, paid employment, domestic production, sexuality, violence, cultural institutions, and public policy must be analysed simultaneously. All of these spheres are facing various dilemmas, in reference to the classic studies of Nancy Fraser,⁶ and in the case of Latin America, there will be specific elements related to different spheres to consider, including the community sector as a provider of care facilities.⁷ Other lines of analysis look at the institutional arrangements of the welfare systems in which care was considered primarily the responsibility of households (and of the women in them) and the state’s role was reserved to intervening on very specific aspects (for example, school education) or as a complement to the efforts of households in need of support (for instance, in the case of economically and socially vulnerable homes). These arrangements ended up shaping models that discourage women from entering the formal labour market and, consequently, encourage them to stay at home as the main person responsible for the provision of “care”.⁸

In sum, there is an abundance of theoretical and academic work and international commitments on this issue, such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Optional Protocol; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women: “Convention of Belem do Pará”; the Beijing Platform for Action (1995); and the International Convention on the Rights of the Child, which assigns the responsibility of caring for children to both parents, to name but a few. While important advances have been made in effectively implementing these obligations, the heterogeneity both among countries and also within each one of them is notorious and has limited the consolidation of the structural changes they demand.

Thus, the greatest impact of the international covenants and agreements can be seen in a process of legislation reform that involves the adoption of highly innovative and highly effective measures to combat discrimination and the promotion of public policies on gender equality. In all countries, mechanisms for the advancement of women (MAM) were created and reforms to many political and social institutions were being promoted - albeit in a heterogeneous way. However, they were met with political and cultural resistance to gender equality and came up against meagre budgets and fund allocations, limits on the advances in gender parity in decision-making processes, and statistical invisibility - all this together with counterfactual evidence on the persistence of violence against women.

With regards to putting care on the public agenda, the path has been similar. Here, we find it appearing on the regional gender equality agenda built during the Regional Conferences on Women in Latin America and the Caribbean, especially in the last three consensus adopted: the Quito Consensus (2007), the Brasilia Consensus (2010), and the Santo Domingo Consensus (2013).⁹ It was precisely in the framework of these agendas and consensus that care appeared – not as a need to be met by an external source, nor as a denunciation – but as a right.

3 • The arrival of rights

It is important to highlight that the inclusion of care in the regional agenda based on its recognition as a right creates an entirely new scenario for its enforceability. In the tenth session of the Regional Conference on Women in Latin America and the Caribbean held in the city of Quito in 2007, the issue of care was presented from a rights-based perspective,¹⁰ which means that everyone has the right to “provide care, receive care and take care of oneself (self-care).” This not only situates and empowers each rights holder differently, but also unlinks the exercise of the right from the condition or position one holds – for example, the ability to exercise a right does not depend on whether one is formally employed or not. Furthermore, the recognition of care as a right means standards and principles for state action in concrete situations must be adopted, such as: the obligation to guarantee a minimum level of rights; universality; prohibiting states from passing regressive policies and the consequent obligation

to implement only progressive measures; the duty to guarantee the participation of citizens; the principle of equality and non-discrimination; access to justice; and access to public information. These standards are integrated into a common matrix that can be used for defining policies and intervention strategies for both states and social actors, designing measures for monitoring and assessing public policies and for the pursuit of policies, and practices that promote equality. It can also supply indicators for verifying compliance with policies, which take on fundamental importance in the guaranteeing of the rights of all individuals who must provide care and take care of themselves, as well as those who need to be cared for.

One example worth mentioning is that not only should the state avoid hindering a mother's effort to breastfeed her child, but it should provide the conditions necessary for her to do so. When a woman works in the productive sector, she must be granted leave or be provided a physical space for breastfeeding, regardless of whether she is a public or private sector employee. Fathers must also be granted leave so they may assume their share of the responsibility in the care for and development of each child and adolescent. The positive obligation of the state, for its part, involves imposing certain obligations on third parties such as, in this case, making it mandatory for private employers to effectively provide infrastructure for care or grant leave as defined by law. Strictly speaking, it is a question of guaranteeing the right to care as a universal right of all individuals.

Following the main line of argument of this approach, which seeks to empower recipients of public policies as one of its main goals, the point of departure is to recognise recipients as rights holders – which generates obligations for the state – and not merely as “beneficiaries” of state policy. Furthermore, this approach does not establish a framework with additional guarantees to support women so they can provide care. On the contrary, it seeks to end the unfair sexual division of labour.

Along the same lines, the recognition of one's entitlement to rights seeks to challenge the passive relationship that exists between rights holders and the public administration, which uses discretion when guaranteeing these rights. With regards to care, it aims to break with the binary active-passive logic of the relationship between the care provider or giver and the recipient, which not only includes the interpersonal practice of providing care for others, but also demands a whole set of cross-cutting actions to be undertaken. For this approach, which demands that care be made visible and that the rights approach be used in order to confirm that it has been recognised, there is even an international instrument that explicitly recognises it: the Inter-American Convention on Protecting the Human Rights of Older Persons, approved in 2015. However, more action must be taken in order for it to be implemented.

What is striking about this is the imbalance in the obligations imposed on women during this entire process. They are asked to be “good caregivers,” efficient, work voluntarily, and show affection while providing care. When they do not this can in many cases and when taken to the extreme, become a source of violence against women in their relationships with their partners, families, and with institutions. In the latter,

for example, this includes the ill-treatment that, for example, a woman receives in the health sector when she takes her children to an appointment and is accused of negligence towards them. This often reaches extreme proportions, such as women being cut off from a conditional income transfer programme for failing to comply with the programme's controls. Ironically, this failure is often not the responsibility of the woman in question, but rather of the system itself, which is flooded with demands, or, in other cases, when women do not have access to adequate public transportation.¹¹ In other words, the recognition of the right to care does not necessarily mean it can be exercised.

4 • The full enjoyment of the right to care

To consider care as a universal right of all people, who have the possibility of demanding the right to receive care, provide care, and take care of themselves (self-care), promoting actions to increase the provision of reproductive services (educational, early childhood, health, cultural, social security) is not enough. While these services are undoubtedly fundamental, responsibilities, legally recognised leaves of absence, and family and social arrangements must be dealt with in a cross-cutting manner: through investment, but also recognition.

At the same time, we must avoid reproducing the gender gaps that exist in labour regulations – such as the fact that employers are obligated to provide directly or subsidise day care services once the company has hired a certain number of female employees. This is based on the assumption that these services must be guaranteed only for female workers and not male workers. This is only one example of the numerous gaps that are reproduced, including by legislative reform proposals that aim to be egalitarian.

The urgency to adopt actions based on a rights-based approach to care requires transforming the current logic of care so that we begin to consider each individual as an autonomous rights holder who can and must demand that his or her demands for care be met, regardless of whether he or she is in a situation of vulnerability or dependency or not. The duty to provide care that this right generates is not founded on one's needs, but rather on the fact of being a person. In other words, one should not argue that a person needs care because he or she is a child or is living with a certain disease, but rather because the state and the other holders of obligations - such as both parents in regards to their children, or employers - must offer it to them regardless of their situation simply because they are a person. This is the only way one's ability to exercise full autonomy will be restored, as the holder of the right to care can demand and choose the options related to care regardless of their family arrangements or employment status.

The first unavoidable step in any agenda for change is fundamentally to begin by questioning the sexual division of labour and, thus, seek the best way to redistribute the obligation to care, while recognising the rights of those who need to be cared for and those who, one way or another, have to provide it to them.

NOTES

1 • This was the term used to refer to the 1980s. “From the viewpoint of economic development, the first half of the 1980s has been lost,” stated the then-Executive Secretary of ECLAC, Norberto González (1986). He later called the whole decade the lost decade and then said the same for the 1990s, due to the characteristics of the neoliberal policies that were adopted.

2 • Laura Pautassi, *¡Cuánto Trabajo mujer! El género y las relaciones laborales* (Buenos Aires: Capital Intelectual, 2007).

3 • A recent study presents an overview of the various care initiatives in Latin America (María Nieves Rico and Claudia Robles, *Políticas de cuidado en América Latina. Forjando la igualdad*, (Santiago de Chile: CEPAL, 2016) (Serie Asuntos de Género, no. 154)). The study highlights the case of Uruguay where a national care system has been established and, similarly, one for children and adolescents in Costa Rica.

4 • Economic Commission for Latin America and the Caribbean (ECLAC), *Social Panorama of Latin America* (Santiago de Chile: ECLAC, 2009), 159, accessed on November 9, 2016: <http://www.cepal.org/en/publications/social-panorama-latin-america-2009>.

5 • Silvia Walby, *Theorizing Patriarchy* (Oxford: Blackwell, 1990), quoted and applied to the case of Latin America by Martínez Franzoni and Voorend (Juliana Martínez Franzoni and Koen Voorend “Desigualdades de género en los regímenes de bienestar latinoamericanos: mercado, política social y organización familiar de los cuidados,” in *Las fronteras del cuidado. Agenda, derechos e infraestructura*, coords. Laura Pautassi, and Carla Zibecchi (Buenos Aires: Editorial Biblos, 2013): 59-98).

6 • Nancy Fraser, “Social Justice in the Age of

Identify Politics: *Redistribution, Recognition, and Participation*,” in *Redistribution or Recognition? A Political-Philosophical Exchange*, Nancy Fraser and Axel Honneth (London: Verso, 2003): chapter 1.

7 • The texts included in the publication by Pautassi and Zibecchi (*Las fronteras*) give a regional overview.

8 • Among others, Lewis (Jane Lewis, *Women and Social Policies in Europe: Work, Family and the State* (Aldershot: Edward Elgar, 1993)); Razavi (Shahra Razavi, *The Political and Social Economy of Care in a Development Context: Conceptual Issues, Research Questions and Policy Options* (Geneva: UNRISD, 2007)) and on the case of Argentina, Rodríguez Enriquez and Pautassi (Corina Rodríguez Enriquez and Laura Pautassi, *La organización social del cuidado en niños y niñas. Elementos para la construcción de una agenda de cuidados en Argentina* (Buenos Aires: ADC-CIEPP-ELA, 2014)).

9 • The Regional Conference on Women in Latin America and the Caribbean is comprised of all Member States. The ECLAC’s Division for Gender Affairs acts as its technical secretariat. It has been meeting on a permanent basis for 40 years and is convened every three years, thus constituting a body for promoting political agreements on gender equality issues. As such, it is unique. In October 2016 the Twelfth Conference will be held in Montevideo, Uruguay, <http://conferenciamujer.cepal.org/>.

10 • The proposal was elaborated in: Laura Pautassi, *El cuidado como cuestión social desde el enfoque de derechos* (Santiago de Chile: CEPAL, 2007). (Serie Mujer y Desarrollo, no. 87).

11 • Diego Hernández and Cecilia Rossel, “Cuidado infantil, tiempo y espacio: el transporte y la frontera del acceso,” in *Las fronteras del cuidado. Agenda, derechos e infraestructura*, coords. Laura Pautassi, and Carla Zibecchi (Buenos Aires: Editorial Biblos, 2013).



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CARE IN TRANSNATIONAL MIGRATION

Herminia González Torralbo

- *A category of social and political analysis* •

ABSTRACT

This article seeks to explore the relationship between care and transnational migration by analysing the changes and challenges that the contexts of migration and the global labour market bring to women, as they are historically linked to care work. Care has emerged as a category for examining how inequalities are produced and reproduced, mainly from the perspective of gender relations as power relations that are inseparable and sustained fundamentally by family ties maintained across borders. The objective is to reveal the multiple forms of inequality at work in the management of care in the global care chain, as well as the role migrant women play in this context that is generating new rationale/forms of domination.

KEYWORDS

Care | Transnational migration | Gender | Inequality | Global market

1 • Point of departure:

Human social life is impossible without care

Human social life cannot exist without care. However, care as an intrinsic part of social life has emerged only recently as a problem for social scientists to investigate.¹ In the words of Nakano Glenn,² care work involves three types of intertwined activities. First, there is direct care for the person, which includes physical care (feeding, bathing, grooming), *emotional care* (listening, talking, offering reassurance) and *services* to help people meet their physical and emotional needs (e.g. buying food, go on outings). Secondly, there is the type of care work that refers to the maintenance of the physical surroundings in which people live (changing bed linens, washing clothes and cleaning floors). And the third is the work of fostering people's social relations and connections – a kind of care work that has been referred to as “kin work”.³ All of these activities, which have been culturally and historically assigned to women and naturalised as their tasks, are what makes life possible. The problem is that this naturalisation generates certain disadvantages for women: disadvantages brought to light by migration, as they are visible in care work carried out at a distance, or *transnational care*, also known as the *global care chains*.

Women's migration and the way it has been incorporated into the global labour market in particular has led to certain disruption in the family environment. The work to reproduce the work force and the socialisation and care of children have been disrupted by the physical absence of the woman who is defined mainly as the mother, spouse and/or companion, but primarily as the caregiver *par excellence*. As a result, the agreements and arrangements in the home that sustain the household have to be reproduced in a transnational context in which *global care chains* emerge.⁴ We know that migration today raises new challenges for the analysis of care, as it brings to light the place of women in the different welfare regimes.⁵ But the origin of concerns with care dates back to before migration, to earlier decades in which care work became one of the pillars of the feminist struggle.

2 • Care: going beyond its multiple definitions

While many definitions of care exist, it can be said that the concept of care has been gradually built on the basis of the observation of practices of everyday life. In general terms, care has been defined as the relationships and activities involved in caring for people in their daily lives and inter-generationally.⁶ However, this generalisation has led to multiple definitions of care, as well as certain inaccuracies in regards to it. What is more, a series of difficulties exist in not only defining care, but also establishing the specific limits between the terms “care work”, “domestic work” and “reproductive work”, which, for the most part, can be used almost interchangeably.⁷ While reproductive work

is seen as that which allows the labour market to exist, theorists on care propose care work as being opposed to the values of the market, as they feel that it is contradictory to apply labour market terminology to the sphere of intimate personal relations.⁸ However, in addition to revealing the importance of feelings and identities in relation to this type of work, theorists of care do not ignore the context of the social, political and economic relations in which care is situated.

Ever since care emerged as a category of analysis, its complexity has become more and more evident in the arrangements that allow the needs for care and well-being to be met, such as: paid and unpaid care work (with or without a contract, with or without papers); care provided in the home and outside of it; and care provided in a country or between several countries (transnational care), to mention only a few of these divisions. Many studies that were promoted originally by feminist schools of thought in the field of social sciences back in the 1970s in Anglo-Saxon and Scandinavian countries explain these practices. Even so, it is worth highlighting that comparative studies between countries are the ones that enriched the theoretical work in this area. One characteristic common to all of them, though, has been the quest for greater conceptual precision.

In view of the above – that is, in an attempt to go beyond the definitions of care⁹ – one can note that defining care requires talking about both opposing and complementary elements. As the Spanish feminist collective *Precarias a la Deriva* points out, this, in turn, illustrates that in reality, what one is talking about is the movement between pairs in which care acts as the transversal element, because: 1) it breaks with the dichotomy between notions of dependence and independence by stressing the idea that we all have to take care of ourselves in daily life and we depend on each other for different things and at different moments of our lives; 2) it combines the “material” with the “immaterial” in an inseparable way; 3) it cuts across various spheres of economic activity (uniting the commercial with the non-commercial); 4) it is not restricted to the home, nor to a concrete woman; instead, it has been historically organised around networks of women in and outside the home, paid or unpaid, nuclear or extended family, among others; 5) there are chains of women who cross borders; 6) it is a job where numerous tasks are mixed together all at the same time, which demands constant time and space management and a versatility of knowledge; and 7) it is a job in which it is extremely difficult to distinguish between time for one’s personal life and time for work.¹⁰

However, although the concept is becoming more precise over time, there is still no consensus on its definition. This generates debate between those who attempt to develop a theoretic approach capable of going beyond national borders and differences related to gender and family ties, and those who limit its scope by converting it into a descriptive category situated in a concrete national context, which leaves out all experiences with care at a distance – the so-called “transnational care”. In the end, contexts are important for understanding care,¹¹ and even more so in a scenario of mobility in which care emerges not only as an analytical category, but also a political one.

3 • Care in transnational migration: the emergence of the global care chains

As has been shown in recent decades, migration is a very important area of study in the field of social sciences, especially for modern research on inequalities. Questions raised by the distinctions made according to gender, kinship, social class, immigration status or age, among others, are a concern in research that concentrates on the analysis of power relations in migration. Closely linked to the interest in showing how inequalities are produced and reproduced, care emerged as a key practice for analysing inequalities. This is due primarily to the interest in gender relations as inseparable power relations that are fundamentally supported by transnational kinship or, in other words, family ties that go beyond the borders of the nation-state.

If we look back to only a few years ago, we observe that in the analyses on migration, questions related to gender focused on social change. In these studies, researchers asked themselves if gender relations tended to be more equal or, on the contrary, reproduced the relationships of inequality and subordination that existed in the place of origin in the place of destination. These inquiries concentrated on the changes or in the elements that remained the same, both here and there.

Later, research conducted mainly from a feminist perspective¹² began to give visibility to how in women's discourse on their migration, their responsibility as mothers – but also as sisters and daughters – is crucial for them, and for the other members of their families and family networks. These studies demonstrated how the circulation of goods, care and affection among related women sustained family life at the transnational level.¹³ Since then, family ties have been incorporated into research on transnational migration as an axis of social differentiation and as a result of this, families and networks of relatives are considered not only as units of analysis, but also axes of social inequality. The inclusion of family relations as relations of power and inequality leads families to dialogue with the social reproduction of transnational life, and the practices of giving and receiving care in transnational family relations (transnational maternity, paternity and marriage). Thus, the feminisation of migration, the use of new information and communication technology (ICT) and the loss of social class due to mobility, which are characteristic of modern migration, allowed issues related to social change and social reproduction to be united, while giving visibility to concerns with care, transnational families and transnational family ties.¹⁴ Since then, the analysis of “global care chains” – the term coined by feminist sociologist A. Hochschild¹⁵ – has been brought into the limelight by interest in understanding how transnational life is sustained.

The transformations of global capitalism in welfare societies¹⁶ have brought these global care chains, which transcend the borders of nation-states, to light because of the role migrant women have played in resolving the global crisis of care. Therefore, when we

talk about care in relation to mobility across borders, a large number of these studies concentrate on the management of family well-being.¹⁷ Therefore, in this context of changes at the global level, the feminist critique will once again be the one concerned with analysing how the practices of giving and receiving care, as principles of social organisation, reproduce inequality in order to understand the causes and impacts of migration.¹⁸ In these studies, feminism will assume the task of examining the specificity of care work by asking who does what, how, when and why so as to give visibility to these practices and the growing complexity of their moral, material and affective aspects in local contexts and now, transnational ones as well. Monitoring the chain's development – which depends not only the distribution of care within the family, but also the existence of public services, migration policies or the regulation of domestic work, among other factors – allows one to visualise how transnational care produces gender inequalities.

That said, if we explore the relationship between care and transnational migration further, we realise that care and global care chains appear in works that analyse the *transnational family*,¹⁹ or more specifically, the link with *transnational maternity*²⁰ – that is, the work of providing support and care that is assumed to exist in this long-distance relationship. Using Finch's²¹ classification of care, Baldassar²² identifies different types of support or care that appear in migration, which include practical, financial, personal, moral and/or emotional support or care. According to Baldassar,²³ family relations are built on the latter. This is reflected in efforts to “stay in touch” – that is, in the desire to not only keep communication channels open, but also preserve emotional ties. “Being in touch” involves “kin work”²⁴ or “emotional work”,²⁵ which is understood as a type of emotional care in Finch's terms.²⁶ Moreover, authors like Baldassar, Baldock and Wilding argue that moral and emotional support “help migrants deal with sadness, and fathers and mothers, with the profound feeling of loss caused by the distance that separates them from their children and grandchildren. It involves providing mutual support when a crisis occurs due to illness, death or family breakdown. From a distance, moral and emotional support is provided through letters, phone calls, e-mails and other forms of communication.”²⁷

4 • Point of arrival: analysing inequality in the social organisation of transnational care as a political mission

The *social organisation of care* is the way each society establishes a correlation between its specific care needs and how it responds to them. It is the way social stakeholders that may have a role to play in the provision of care (families, communities, the market and the state) come together to provide it and also, the leadership role that each one assumes.²⁸ The “social organisation of care” concept is a regional adaptation of the concept of “social care” proposed by Daly and Lewis that emerged in Latin America.²⁹ In the words of Arriagada,³⁰ it refers to the “interrelationships between economic and social policies on care. It is a way of distributing, understanding and managing the need for care work, which keeps the economic system functioning and sustains social policy.” Therefore, to

understand how care work is organised socially, one must know what care needs there are in a given context and how different actors respond to them. The stakeholders mentioned above – families, communities, the market and the state – make up the “care diamond”. This term not only emphasises the presence of these actors, but also refers to the relationships established between them: care provision does not happen in an isolated or stagnant manner. Instead, it is the result of a continuity of activities, work and responsibilities³¹ – a care diamond that is also reproduced and sustained transnationally.

In a broader framework, in regards to the relationship between migration and the social organisation of care, in the words of Gregorio,³² it is understood that

in the new global context, gender boundaries generated by the separation of the reproductive sphere – understood as the domestic one – from the productive sphere – understood as labour, which is the result of the ‘social contract’ – are becoming more complex and new forms of domination are appearing. We are witnessing the production of masculinised body-machines, which are required to produce surplus value in the framework of market relations; sexed bodies in their relationship with employment and unable to provide care and be cared for; and feminised, ethnicised and proletarianised bodies that move between the home and the market and that are necessary for the production of surplus value and as caregivers.³³

Based on this logic, migration brings this lack of precision to light and care work articulates it. Studies on the social organisation of care³⁴ have allowed us to assess and give visibility to the role of international migration flows and especially of the women in them due to the analytical, political and ideological weight of the “care” category.

This category is also a political one. The “crises of care”, which are a result of changes in the content and the protagonists of care work and the circumstances in which it is carried out, and the “commodification of affection”, which is a result of the combination of economic practices and emotional or sexual relationships in an intimate environment (domestic workers, nannies, nurses, sex workers, transnational marriages, etc.), challenge the type of analysis being done on care that is provided and received at a distance.

Therefore, we believe that in order to respond to this challenge and show that care produces and reproduces power differences, we must show the multiple inequalities that are intertwined in the management of transnational care while we take into account that these social relations are also influenced by a series of dichotomies. In fact, if we centre our attention on geographical aspects – that is, local or transnational care – we find the geographical distance/proximity binomial.³⁵ If we focus on spheres of action – that is, care provided in or outside the home – the public/private dichotomy emerges. If we take into account family ties – that is, the weight of blood relations in the management of care – the leading binomial refers to

biology versus choice in the construction of ties that are considered important, while family connections built voluntarily are set aside. If we look at moral issues – that is, if the best care is the one provided in an altruistic manner or out of self-interest – one observes the personal interest/altruism dichotomy. If we concentrate on physical aspects – that is, care provided in a situation of dependency – the dependency/autonomy pair emerges. And finally, if we consider time, we can observe the time for personal life/time at work dichotomy, which is related to the time we dedicate to providing paid or unpaid care, at the expense of time to spend on other aspects of our life.³⁶ Present in the management of care practices, these binomials place women on the side of the dichotomy that has less value and recognition and is often paid less.

In sum, based on this assignment of dichotomous positions, migrant women will attempt to respond to the obligations that derive from transnational social reproduction or transnational care. Their responses will be influenced not only by their gender and positions in the family (women-mothers-sisters-grandmothers-aunts or friend), but also by their social class, ethnic group, age or colonial relationship, in the assignment of these dichotomies. Showing how inequality is reproduced in the management of transnational care and in the global care chains is our mission.

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CARE WORK

Helena Hirata

- *A comparison of Brazil, France and Japan* •

ABSTRACT

Care work has been carried out for a long time by women, for free, inside the domestic space. Factors such as the development of care-related professions, the increasing number of women in the paid labour market, as well as migratory flows in the context of increasing globalisation have generated not only a new international division of labour but also redefined care work. In this article, the author presents some categories of the sexual and international division of labour through a comparative study between Brazil, France and Japan. In addition to the societal differences, different care actors such as the state, the market and the family, come together but act in an unequal and asymmetrical way. Care work continues to be carried out mostly by women in all three countries, and is likely to remain so, since it is a precarious, low-paid job, little recognised and under valued. Thus, the author stresses the importance of taking into account the inequalities of gender, class and race that are implicated in the context of the internationalisation of care work.

KEYWORDS

Inequality | Sexual division | Women migrants | Care work

Care work is a prime example of the inequalities intertwined with gender, class and race, as the majority of carers are women, poor, black and often migrants (internal and external). As this is “a set of material and psychological practices concerned with supplying concrete responses to others’ needs”,¹ care work was, for a long time, carried out by women, within the domestic space, in the so-called private sphere, unpaid, a labour of love, caring for the elderly, children, the sick and the physically and mentally disabled. The development of professions related to care, the commercialisation and externalisation of this work were the consequence, on the one hand, of the ageing population and, on the other, of the mass insertion of women in the job market in countries as diverse as Brazil, France and Japan. Commercialisation meant that free, invisible, feminine care work became visible and was finally considered to be a job (going hand in hand with: professional training; salary; promotion; career etc.) and could even be a job carried out by men, as in the case of Japan, where in long-stay institutions for the elderly, according to our field research,² around 30 to 35 per cent of care workers are men.

The diversity of the profiles of the care workers interviewed contrasts with the fact that in all three countries the profession is undervalued, poorly paid and receives little social recognition. This similarity in professional conditions, despite the disparity in profiles and in the stories of the workers, may be explained by the origin of care work, which has been traditionally carried out without remuneration within the domestic, family sphere by women. This hypothesis, formulated by gender and care theorists was sustained by our international, comparative research.³

In this article we present different, current modalities of the sexual and international division of care work, indicating the central position occupied by women. In the first part we refer to international migration in the context of growing globalisation, with a significant increase in the category of women who immigrate alone, without family, for paid domestic work and care work, principally to northern countries.

In the second part, we stress how the racial and ethnic division of work, with the discrimination this involves, is inseparable from sexual and international division and we illustrate this with specific cases found in France, Japan and Brazil. In the third part, we present the different societal configurations of the social organisation of care, based on the diamond care model,⁴ focussing specifically on cases from Brazil, France and Japan. The many agents involved in caring (state, markets, family, non-governmental organisations (NGO), non-profit organisations (NPO), associations, philanthropy, voluntary work etc.) come together and work in an unequal and asymmetric way in each societal context, but women are at the centre of the work in all the combinations. Finally, we will return to the more theoretical aspects of this article, in light of a discussion on dominant paradigms in the social sciences, brought into question through the perspective of care.

1 • A new sexual and international division of work and international migration

Joan Tronto, a North American political scientist who has considerable influence in research into care in France, bringing together perspectives from political science, economics and ethics, highlighted the fact that care workers are, often, proletarians, women and migrants. “It is not just gender, but also class and race that, in our culture, allow identification of who practises care and in what way”.⁵ My research into care work shows that its expansion is, today, closely linked to international migratory movements. It is now impossible to work on the subject of care without taking an interest in the growth of female international migration, which started in the years 2000. Migratory flows and the globalisation of care and reproductive work outline, in general terms, a new international division of service work (the “global chain of caring and assistance”).⁶

The international division of labour of migrants from the south, in northern cities, is a combination of the sexual division of labour, with women in the lower circuits of capital (less visible informal labour) and men in the upper circuits of capital (financial flows). “The dominant narrative on globalisation refers to the higher spheres of global capital and not the lower ones and to the hypermobility of capital, rather than capital that remains in one place.”⁷

The specific nature of care work is undeniable. It cannot be relocated in the same way as multinational industrial production. Care requires the migration of workers (carers and nannies from Asia, Africa, Latin America, the Caribbean and Eastern Europe) to the United States, Canada, Western Europe and Japan. More recently, south-south migration has been seen, for example nannies from the Philippines in Brazil.

Nevertheless we should also stress that there is movement of capital towards profitable areas where there are potential beneficiaries (dependent elderly people) who cannot move to a different location. International groups that manage care firms for dependent elderly people are creating subsidiaries in Europe and Latin America.

Integration of racial and ethnic division to the international division

A new international division of labour is envisioned if we integrate the racial/ethnic dimension. For example, an international and ethnic division of labour in making food pre-prepared in England researched by Miriam Glucksman.⁸ In the same way, a comparison between Brazil, France and Japan in the care sector shows us the interest and importance of integrating the racial and ethnic dimensions with the international division in order to understand the process of social distribution of care work. In France over 90 per cent of carers in Paris and in Ile de France are migrants. In Japan, despite economic cooperation agreements with Indonesia and the Philippines there are few migrant carers in establishments, as the Japanese authorities demand a high level of language skills. With regards to Brazil, the international migration movement in the care sector is still

incipient, but there is internal migration from the North and North-East to the regions of São Paulo and Rio, for example, of carers (like domestic workers in modern day China).

Migrants and racialised people

Our sample of home care workers in the Paris region was made up of 39 salaried workers in an association that mediates between families of elderly people and carers who are employed by the association.⁹ The professional and personal histories of the carers interviewed in France are strongly connected to migratory movements. In this group of 39 people, 36 were immigrants (34 female immigrants and two children of immigrants) and only three (7.6 per cent) were of French origin, an “auxiliary nurse”, a “nurse” and a “home carer”. Of the 39 only four were men (10 per cent).

The same phenomenon was observed in institutions. 32 care workers were interviewed in a long-stay institution for dependent elderly people (*établissement d'hébergement des personnes âgées dépendantes* - EHPAD). 28 of these were immigrants (23 immigrants plus five children of immigrants), four, (13 per cent) were of French origin and four were men (10 per cent).

The immigrant home carers in France were from a number of different countries: eleven from Algeria; one from Morocco, nine from Sub-Saharan Africa (Togo, Senegal, Mali and Cameroon); six from the Caribbean (Martinique and Guadelupe); one from Réunion;¹⁰ four from Haiti; one from Lebanon and one from Portugal.

The institutional carers (EHPAD) were also from diverse national origin. Eight from Maghreb (Algeria, Morocco and Tunisia, two children of immigrants); eight from Sub-Saharan Africa (Mali, Cameroon, Guinea, the Congo, Benin, Gabon and Nigeria, two children of immigrants from these countries); four from the Caribbean (Martinique and Guadelupe), one from Haiti; three from Madagascar; one from Réunion; one from Mauritius; one from Lebanon; one from Portugal; one from Belgium and one child of immigrants whose parents came from Germany.

In Brazil, I met no immigrant workers, in either institutions or working in homes, with the exception of one Bolivian woman whose situation and profile were not at all typical (one out of a total of 130 people interviewed in homes and institutions). However, internal migration is very high with only 14 per cent of our sample being made up of workers from the State of São Paulo, where they were working. One of the special characteristics in Brazil, therefore, is that care work in both homes and institutions for the elderly is carried out by Brazilians, although domestic work was done by African slaves and their descendants until the end of the 19th century. Despite the fact that between the end of the 19th century and the beginning of the 20th century Brazil experienced a significant flow of migration from Europe and Japan for agriculture and industrial labour, the paid domestic employment sector is supplied by salaried Brazilian nationals, often from the Northeast, but also from Minas Gerais, Parana and Santa Catarina. They are, therefore, internal migrants.

Inequality stemming from racial and ethnic differences is a point worth highlighting. Discrimination (racism) is the result of this large contingent of immigrants among care workers in France. Racist comments and behaviour were reported by many of the carers interviewed in the association. Inequality in job status also drives discrimination. We will relate here some cases found in care institutions in France and Japan.¹¹

2 • Inequality and discrimination

France: inequality and discrimination in a migratory context

Immigrants from countries in North Africa and Sub-Saharan Africa with medical or nursing degrees, which are not recognised in France, are routinely taken on by EHPAD as carers and auxiliary nurses, professions which do not usually require more than one year of training. The presence of highly qualified professionals, for example, on the night shift, when management and doctors are absent, is an unquestionable advantage for the institution. In our research we met six doctors, half of whom were employed as nurses and the other half as auxiliary nurses.

M., a night carer employed as an auxiliary nurse at an EHPAD, is 33 years old and came from Guinea in 2004. His medical training in his country of origin led him to do an internship at the National Institute of Health and Medical Research (INSERM, French acronym) and a Master's degree in public health in Paris, with a specialisation in tropical medicine. His monthly net salary is 1,500 Euros, sometimes slightly more when he does overtime. According to him, some of the elderly people refuse to be cared for by him because he is black, saying "Leave me alone". He got his job through the National Employment Agency (ANPE French acronym) and his plan is to return to his own country in the future to work in his profession as a doctor.

France: from racial inequality to racism

Racial discourse on the part of those receiving care was mentioned by many of the home carers. A male carer from overseas gave a particularly touching account, recounting several comments by elderly people in an EHPAD. He expressed suffering and upset with regards to racism shown by the elderly living in a French public institution who would say to him "What are you doing in my country? When are you leaving?" He also gave an account of the case of an elderly person who said to a black carer born in France "Go back to your own country." He also recounted the case of an elderly woman who sought out a white intern to give her advice "Don't do this work, leave it for the *others*." This same woman would hide a box of sweets, which she would only give to the white carers.

Japan: inequality and discrimination. Informal labour (*rinji* or *haken*)

The co-existence of regular and irregular workers (*haken*, *rinji* or part-time) in the same institution leads to discriminatory practices regarding the latter, principally in terms of

salary and benefits. We interviewed irregular workers in Japan who received a very low salary in comparison with their regular status counterparts, largely because they do not receive the “bonus”, unless very symbolically. This is a variable element of the salary, but is very important in Japanese businesses (in the establishments studied in this research it was the equivalent of four or five times the monthly salary, twice a year).

F., a 28-year old male carer, working in a Japanese establishment with dependent elderly people, has a university degree in economics, as well as six months training in care work, but as he is *rinji*, an irregular worker, without the same rights enjoyed by workers with permanent employment status, he receives a monthly salary of 120,000 yen, lower than the women’s salaries, which are traditionally lower than men’s salaries in Japanese businesses. He mentioned his conditions of employment, the lack of permanency, increased workload and problems in human relations at the heart of the establishment, in expressing his intention to look for another job.

Brazil: discrimination in terms of salary and racism

The vast majority of carers interviewed in both long-stay institutions for the elderly and carers working in homes, were either Afro-Brazilians or mixed race. They recalled episodes of racism, both in terms of verbal abuse and racist behaviour. In addition to these forms of racism there was discrimination in salary, through the non-recognition of their qualifications. The number of nurses and auxiliary nurses employed and remunerated as “carers” is very high in Brazil. These professionals’ qualifications are not recognised. Similar situations were seen in France and Japan. This is a management practice to reduce the cost of salaries. Long-stay institutions for the elderly attempt to recruit competent, well-trained employees for care work. As training for this work is very inconsistent in Brazil establishments prefer to take on auxiliary nurses or nursing technicians with secondary school education and who have been qualified for one or two years, to take care of the elderly, offering them a carer’s salary.

3 • Sexual, international and social division in the organisation of care: Brazil, France and Japan

The many aspects of society involved in care come together in a quite disparate and asymmetric way in each societal context: state (central and local structure), markets, family, non-governmental organisations (NGOs), non-profit organisations (NPOs), associations, philanthropy, voluntary and community work combine in different ways in order to ensure the social organisation of care.¹² The multiple configurations that some call *diamond care* (diamond care: state, markets, family, community [or voluntary, non-profit sector])¹³ can be seen in our comparison between Brazil, France and Japan.

France

In the case of France, public policies have a central role in the care of the elderly, with a

large number of devices. The personalised allocation of autonomy (*allocation personnalisée d'autonomie*, APA)¹⁴ reinforces the role of local power (regional councils). The associative sector and NGOs are equally very present in the provision of care to this category of people. They are structured so as to provide mediation between those receiving care and the different parties providing it. Volunteers/philanthropy have also been well-structured and active for at least twenty years. As for the market, the development of an informal sector market is being seen on the one hand and on the other the development of government-authorised structures in private businesses.

Family members who take care of elderly relatives can also benefit from the APA. According to recent research,¹⁵ 16 per cent of family members receive a small salary to care for elderly relatives in the home. This type of measure has no equivalent in Japan or Brazil. Family members provide unpaid care work in these two countries.

Japan

In the case of Japan, care of the elderly is attributed to family and particularly to the women in the families. As such informal, unpaid care has a central role in this country.

The public sector has been very active in recent years, principally since the “institutional recognition of care”¹⁶ with the promulgation of Long-Term Care Insurance (LTCI) in 2000.

As in France, the market assists those receiving care in the form of para-public or private businesses, authorised by the government to work in this sector.

There is considerable financial flow between the public sector and the market on the one hand and NGOs on the other. The LTCI is financed by an obligatory tax for everyone resident in Japan, who is 40 years old or over (including foreign residents). Should a resident require care he/she pays 10 per cent of costs and the local government pays the remaining 90 per cent. Finally, more recent programmes such as the Economic Partnership Agreement (APEJI), signed in 2007, are trying to introduce immigrant labour into the care sector. According to Ito,¹⁷ in 2004, “13.6 per cent of elderly people receive care in long-stay institutions for the elderly and 75 per cent are cared for by members of the family. Among family carers, 75 per cent are women, wives, daughters, sisters-in-law and daughters-in-law.”

Brazil

In the case of Brazil social networks (family networks, neighbours and wider social networks) are central in the provision of care. Family is still the predominant place of care and this is the responsibility of family members, mostly of the women, but also of domestic staff, employed either on a monthly or daily basis, to carry out domestic work, but who are also involved in caring for the elderly and the children of the family. The market is a provider of care, mostly in terms of offering the services of this domestic staff, but also through home care businesses and

agencies. The state, despite systematic efforts, mainly from the 1990s, still has no effective, well-financed programme for the care of the elderly. In the child care sector there is also still a great deal to be built up in terms of collective apparatus (crèches, nursery schools, collective structures), fundamental to women being able to work outside the home.

4 • In conclusion: some points for reflection

The first point for reflection is regarding the theory of care and the criticism that can be made based on this, of the dominant paradigms: the paradigm of a hierarchy in which reason and cognition are superior to emotion and affection; the paradigm of disciplinarity which establishes sociology as the prime discipline of analysis, relegating interdisciplinarity as questionable and less worthy.

Regarding the relationship between reason and feelings, the individual and the collective, social and moral, the fluidity between, on the one hand, affection, love, emotion and on the other, cognition, technique, material practices in care work, one of the paradigms of general sociology of hierarquisation and interiorisation of emotion and feelings in relation to reason and cognition, is questioned.¹⁸

Another point of reflection is regarding interdisciplinarity. The decidedly interdisciplinary focus of the theories of care (sociology, psychology, political science, philosophy etc.) examines one of the largest paradigms of general sociology, disciplinarity (distrust with regards to interdisciplinary and multi-disciplinary focuses). Gender sociologists, sitting on the outskirts of the discipline, on the margins, (Crenshaw's expression) have been making headway in developing resolutely inter and multi-disciplinary focuses.

The second point for reflection is regarding the issue of the central nature of the work of women. Analysis of care work confirms the idea of this central position of the work of women, in both institutions and in homes, in both unpaid roles and in paid work.

With regards to societal differences this work is carried out on the whole by women, in each of the three countries and will probably continue to be, given that it is precarious, low salaried, badly paid, unrecognised and undervalued work.

Given the need to carry out domestic and care work simultaneously, home care is the role of women in each of the three countries. In Europe, it is carried out by migrant women who often do not have residency papers; in Brazil, by either domestic staff employed on either a monthly or daily basis, without formal employment ties and in Japan the majority are also women, although in long-stay institutions for the elderly 35% of carers are men.

The social organisation of care attributes a central role to women and the family in the three countries studied.¹⁹

A third point for reflection is regarding racial and class inequality which, together with gender inequality, paint a picture of the carer of elderly people, in whichever country studied. In reflecting on race, class and gender relations as consubstantial power relations, the theory of intersectionality²⁰ may be a powerful analytical tool. The interdependency of race, gender and class relations as power relations and their non-hierarchisation are essential characteristics of an intersectional paradigm. Intersectionality may be considered an instrument of knowledge and at the same time an instrument of political action. The limits of a focus on gender that does not include belonging to a social class or race, is a critical starting point of a gender perspective that does not take into account underlying oppression of different social relations.

The final point for reflection is regarding ways of overcoming the current sexual division of labour in care work, stressing the role of public policies and feminist movements in this process of change. In contemporary societies the mobilisation of militant feminists for equal division of domestic labour and of care and social and family policies in some states, for greater equality between women and men, has pointed to possible ways of overcoming the current sexual division of labour. Clearly there will not be greater professional equality between men and women while the asymmetry in carrying out domestic work and care work still stands. This continues to be considered the exclusive responsibility of women. The importance of theoretical discussion on the degendering of care is undeniable,²¹ in order to think about a new sexual division of labour in care, in which both men and women are responsible for attending to dependent people. The care of dependent people – children, the elderly, the physically and mentally disabled, the sick etc. – should be the task of all human beings, with no distinction of sex, as everyone is vulnerable at some moment in their life.²²

Research on care can contribute so that this definition of vulnerability may be spread throughout society as a whole, questioning the current sexual segregation of care work.

NOTES

1 • Pascale Molinier, Sandra Laugier and Patricia Paperman, *Qu'est-ce que le care? Souci des autres, sensibilité, responsabilité* (Paris: Payot & Rivages, 2009): 17.

2 • The research "Theory and practice of care. Comparison between Brazil, France and Japan" was carried out in 2010 and 2011. Myrian Matsuo, Researcher at FUNDACENTRO – Ministry of Work, São Paulo participated in the Brazilian field research and Efthymia Makridou, doctorate student in sociology at the Laboratory CRESPPA-GTM – University of Paris 8 participated in the French field research (cf. Helena Hirata, Efthymia Makridou and Myrian Matsuo, *Le travail du care: comparaisons Brésil, France, Japon - Comunicação no Colloquio Internacional "Théories et pratiques du care: comparaisons internationales*, Université Paris Descartes, 13-14 June 2013).

3 • For the field research of the project "Theory and practice in care, a comparative approach: Brazil, France, Japan" we carried out a total of 330 interviews in 2010 and 2011:

- 235 in establishments (3 *Etablissements d'Hébergement pour les Personnes Agées Dépendantes in France*, 3 *Instituições de Longa Permanência para Idosos in Brazil* and 3 Tokubetsu Yogo Rojin Home in Japan): 10 per cent men in France, 3 per cent in Brazil, around 35 per cent in Japan.

- 95 home carers (*zaitaku homon kaigo, cuidadoras, aide à domicile pour personnes âgées*) in three countries (100 per cent women).

4 • Shahra Razavi, *The Political and Social Economy of Care in a Development Context. Conceptual Issues, Research Questions and Policy Options - Paper n° 3* (Geneva: UNRISD, Gender and Development Programme, June 2007).

5 • Joan Tronto, *Un monde vulnérable: pour une politique du care - Coll. Textes à l'Appui* (Paris: La Découverte, [1993] 2009): 156.

6 • Cf. Cristina Carrasco, "La sostenibilidad de la

vida humana : un asunto de mujeres ?," *Mientras Tanto*, n° 82 (Autumn/Winter, 2001); Saskia Sassen, "Global Cities and Survival Circuits," in *Global Woman. Nannies, Maids and sex workers in the new economy*, ed. Barbara Ehrenreich and Arlie Russell Hochschild (New York: Metropolitan Books, 2003): Introduction.

7 • Saskia Sassen, "Global Cities and Survival Circuits," in *Global Woman. Nannies, Maids and sex workers in the new economy*, ed. Barbara Ehrenreich and Arlie Russell Hochschild (New York: Metropolitan Books, 2003): 254-274.

8 • Miriam Glucksmann, "Les plats cuisinés et la nouvelle division internationale du travail," in *Le sexe de la mondialisation*, Jules Falquet et al. (Paris: Presses de Sciences Po, 2010): 85-98.

9 • A characteristic specific to France should be noted: 90 per cent of care work in Paris and the Paris region is carried out by immigrant workers and children of immigrants born in France. In other French regions, the number of immigrants is low and care workers are normally French employees.

10 • Although Martinique, Guadelupe and Réunion are part of France, as overseas departments and territories (*départements et territoires d'outre-mer, DOM*), and despite these workers having French nationality, as workers they are considered as immigrants and "racialised"/discriminated against because of skin colour, accent and for having come from a territory located outside so-called continental France.

11 • This is not to say that there is no racial discrimination in long-stay institutions for the elderly (ILPI) in Brazil. Routine racism is also common in this country, although we do not present a specific "case" here.

12 • Helena Hirata and Nadya Araujo Guimarães (orgs.), *Cuidado e cuidadoras: as várias faces do trabalho do care* (São Paulo: Atlas, 2002).

13 • Razavi, *The Political and Social Economy of*

Care in a Development Context, 20-3; Emiko Ochiai, *Changing care diamonds in Europe and Asia: Is Europe becoming Asia? - Conferência Inaugural, Center for French-Japanese Advanced Studies in Paris, EHESS*, 13 April 2015.

14 • The personalised allocation of autonomy, created in 2002 is the principal instrument of public policy, in France, with regards to people over 60 years old who are no longer autonomous. This condition is evaluated using a classification of levels of dependency ranging from 1 to 6. Those classified as level 5 or 6 are considered autonomous and not eligible for benefit. Allocation is conceded to anyone who is 60 years old or over, irrespective of their resources, but the sum of the allocation is means tested. This allocation is used to pay costs for an elderly person to stay at home or to pay part of the costs for him/her to reside in a long-stay institution of the dependent elderly. The allocation is conceded by the Departmental Council in France and a family member (son/daughter, sibling) who helps in the home can receive benefit. Marital partners are excluded from this benefit.

15 • Florence Weber, Loïc Trabut and Solène Billaud (dir.), *Le Salaire de la confiance. L'aide à domicile aujourd'hui* (Paris: Éditions rue d'Ulm, 2014).

16 • Ruri Ito, "Immigration et travail de care dans une société vieillissante: le cas du Japon," in *Le sexe de la mondialisation*, Jules Falquet et al. (Paris: Presses de Sciences Politiques, 2010): 139.

17 • Ito, "Immigration et travail de care dans une société vieillissante", 141.

18 • Patricia Paperman, *Care et sentiments* (Paris: PUF, Coll, 2013): 24-5.

19 • This situation is not exclusive to the three countries studied, as shown by research carried out in Belgium by Florence Degavre and Marthe Nyssens, "L'innovation sociale dans les services d'aide à domicile. Les apports d'une lecture polanyienne et féministe," *Revue Française de Socio-Economie*, 2 (2008): 79-98.

20 • Cf. dossier on gender and intersectionality presented by Nadya Araujo Guimarães e Helena Hirata, "Dossiê Trabalho e Gênero," *Tempo Social* 26, n° 1 (January/June 2014).

21 • Cf. Tronto, *Un monde vulnérable*, 156.

22 • Joan Tronto, *Un monde vulnérable: pour une politique du care - Coll. Textes à l'Appui* (Paris: La Découverte, [1993] 2009); Pascale Molinier, Sandra Laugier and Patricia Paperman, *Qu'est-ce que le care? Souci des autres, sensibilité, responsabilité* (Paris: Payot & Rivages, 2009).



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FEMINISM IN MOROCCO: BETWEEN THE LOCAL AND THE GLOBAL

Souad Eddouada

- *An assessment of the work of NGOs to defend women's rights in relation to the Family Code*

ABSTRACT

*In her 2005 book *Les Islamistes Marocains le défi au monarchie (Moroccan Islamists and the Challenges to the Monarchy)* (Paris: Éditions La Découverte, 2005), the Tunisian writer Malika Zeghal argues that the question of the Moroccan nation has been - for more than a century - formulated in relation to Islam. She argues however, that now a supplementary question has been added - that of the representation and the political participation of the individual citizen. This newly created space for citizenship has, at least in part, been initiated by Moroccan feminists' claims for women's rights and the secularisation of the Family Code, a collection of laws regularising family relationships including marriage, divorce, custody and inheritance. In this paper I will describe the notion of equal rights, which were codified by the 2004 amended Family Code and put forward by two of the leading women's non-governmental organisations (NGOs) in Morocco - L'union de l'action féminine and the Association démocratique des femmes du Maroc. I will note the challenges to the Code's implementation, especially in rural areas, and discuss an alternative ideology of gender justice, which predates the 2004 Family Code.*

KEYWORDS

Morocco | NGOs | Feminism | Family Code | CEDAW

1 • Feminism in Morocco

Since the emergence of the first women's NGOs during the late 1980's, the 1957 Family Code has been the focus of their activism. Militant feminism's *raison d'être* has been to struggle against sexism in the 1957 Family Code in which women are perceived to be reduced to a uniform and subordinate status. Under the 1957 Code, the traditional "model" of man and woman is embodied; marital relationships are fixed in a judicial framework, which Moroccan feminists qualify as "insensitive to social evolutions and the emergence of women's socio-economic agency."¹ (interview with Latifa Djebabdi) From this perspective, feminism in Morocco gained its legitimacy from the existence of the law.² However, this legitimacy has resulted in a feminist legal discourse that reduces the diversity of women's conditions. By arguing for the rights of Moroccan women, Moroccan feminists replicate the official discourse's reductionist view of a homogenised group of women, neglecting disparities among women from rural and urban areas as well as from different classes.

King Mohammed VI announced a draft Family Code at the opening of parliament in autumn 2003. This draft code, adopted by parliament in January 2004, was a major amendment of the 1957 Family Code, known in Arabic as *Mudowana* or *Code de statut personnel* in French. Although it equalised men's and women's status in Morocco it is important to note that it impacts women in different ways.³ Instead of the previous law's definition of the family in terms of "a union for procreation under the leadership of the husband", the 2004 defines the family in terms of a partnership between two equal citizens. The system of tutelage was removed and women can, according to the new law, sign their marriage contract without a need for a male tutor or representative. Women can also have access to judicial divorce. According to the previous law, only men could start divorce procedures.⁴

While describing types of feminisms in Morocco, Rahma Bourquia – the Moroccan sociologist and one of the three female members of the Royal Commission behind the 2004 Family Code – states that because militant feminism operates in sites where the struggle for power occurs, it is limited by the impact of a few feminist activists who subsequently gain power. According to Bourquia, although militant feminism represents a voice of protest, it is quickly pulled into the realm of power either because it denounces one power only to establish another, or because it is founded on the same conceptual categories of a socially "masculinised" discourse, where women and men are defined according to a set of binaries. By building on these binaries, political feminism claims for the woman what the man has, i.e. a new identity constructed on the patriarchal model.⁵ The paradox of this type of feminism is that it, too, is patriarchal. It claims for women a status within identification but not difference. The debate on sameness and difference obscures the fact that it maintains a male model as the reference. In both sameness and difference women are determined in relation to the male, who is assumed to be the standard and the norm. So equality would mean a correspondence to the standard, and difference would be the negation of this correspondence, both of which maintain the preexistence of a model. Bourquia points out however, that despite its limitations, this feminism has contributed

to the visibility of gender issues in the country.⁶ To illustrate this paradox, the following section discusses two examples of how the change to the Family Code – led by Moroccan feminist NGOs – does not necessarily translate into gender equality.

2 • Toward a revised Family Code

On 7 March 1992, *L'Union de l'Action Féminine* (UAF or Union of Women's Action) launched a one million-signature petition to revise the Family Code.⁷ The UAF's main objectives were

*to make women responsible in the same way men are once they achieve the age of majority; to codify the rights and obligations of spouses as equal [and] to give women the same right as men to their children.*⁸

Although arguing for equality, UAF's text equates individuality with masculinity while at the same time suggesting that sameness is the basis of equality. From this perspective, UAF argues that the dissolution of the notion of the man as head of the household is based not only on women's equal financial responsibility but also on her eventual exclusive responsibility for *nafaqua* (financial support of the family).⁹

Yet, despite its paradoxes, UAF's petition has succeeded in unraveling and removing the debate on women's rights from a closed circle of conservative theologians to public debates in the national and international media. In Morocco, the feminisation of politics and the politicisation of feminism reached its culmination in March 2000 when, for the first time in the history of contemporary the country, thousands marched in the streets of the country's two biggest cities to either support or protest against the elevation of women's status. The *denouement* of the crisis came with the king's intervention and the amendment of the Family Code in October 2003 and its subsequent parliamentary ratification in January 2004.

In 2000, the *Association Démocratique des Femmes du Maroc* (ADFM or the Association of Democratic Women of Morocco) undertook a fieldwork study in which male and female factory workers were interviewed about sexual harassment in the workplace. The study shows that the majority of the female factory workers based their definitions of sexual harassment on religious precepts.¹⁰ The study points out that, while talking about their experience of sexual harassment in the workplace, the women did not raise the issue of violence despite the fact that the Convention on the Elimination of Discrimination against Women (CEDAW) considers sexual harassment a type of violence against women. Furthermore, neither the men nor the women referred to the Moroccan penal code while talking about sexual harassment, even though article 483 of the Penal Code – *atteinte à la pudeur* (attack against public morality) – can be applied to an act of sexual harassment.¹¹ This shows the weak impact of these legal texts on a population's view of justice. The meaning of rights

for those interviewed does not emanate from identifiable rights, indicating the difficulty for an organisation to base its representation of women's rights merely on advocacy for international conventions and how women are represented in legal texts.

However, ADFM's development as an advocacy NGO was mainly determined by its position with regard to gender equality as it is determined by the "universal standards" to which the Moroccan legal system does not fully adhere. Such a position is reflected by the reports it presents that call attention to the non-conformity of the legal modifications of the Moroccan legal system with the U.N. ideal:

Despite the reforms in recent years for the elevation of women's legal status the evaluation of Moroccan legislation with regard to CEDAW concludes negatively. It is, in fact, no longer possible that Moroccan women's conditions remain unequal to the egalitarian U.N. ideal as well as to Moroccan women's expectations of gender equality.¹²

Equating women's expectations and the U.N. ideal of non-discrimination suggests the primacy of the U.N. principle and the non-existence of any local institution supporting egalitarianism. Moreover, the report endorses an essential contradiction of a misogynist Moroccan *shari'a* law (Muslim canonical texts based on the interpretation of the scripture as well as the Prophet's recorded sayings) named *loi interne* (internal law) and the egalitarian feminist international principle. The report's critique rests on the constitutional silence on the superiority of the international law and its consequent primacy over the *loi interne* (internal law) "which is considered to be a source of discrimination against women."¹³

By maintaining the dichotomy between *loi interne* and *loi externe*, ADFM's stand endorses the external neutral, apolitical, and singular meaning of equality. ADFM's discourse seems to maintain the dichotomisation of women's rights through confining the issue merely to non-conformity with the U.N. principle of gender equality. This disregards the centrality of theological discourse on women's rights issues within the context of a Muslim majority country, which will be discussed in the following section.

3 • Islam and feminism

The theological discourse, according to Abdullah Anaim, should be seriously considered and dealt with rather than simply rejected as misogynist or backward. Engaging critically with the theological discourse on women's human rights can be more adequately addressed through contesting the foundations of a monolithic view on gender in connection to Muslim canonical texts. Anaim further notes that by examining the historical and political contexts for the construction of *shari'a*, advocacy of women's human rights can play an important role in setting up the principles that promote

women's rights in the normative construction of law.¹⁴ However, Anaim concludes that the task of endorsing women's rights within the Muslim context is met with the difficult reconciliation between women's rights as a universal value and *shari'a*. The latter, according to Anaim, not only maintains conventional gender distinctions but also discriminates against women. Anaim, points out that challenging *shari'a* from a feminist perspective should be distinguished from challenging Islam in general since *shari'a* is a human interpretation of Islam shaped by specific historical and political impacts.¹⁵

Nevertheless, upholding the confusion between *fiqh* (jurisprudence) and *shari'a* that both have to be reconciled with universal egalitarian standards, only serves to either reproduce the same canon upon which essentialist, orthodox views are put forward, or confirms assumptions about an emancipatory universal standard as opposed to an interpretation of Muslim canonical texts as being oppressive. For this reason, challenging gender injustice from within *shari'a* should not be merely grounded on the existence of universal standards of gender equality. It can also result from a critical inquiry from within the canons, which define *shari'a* as essentially misogynist.

In her groundbreaking book *Le Harem Politique*,¹⁶ Fatima Mernissi undertakes a feminist inquiry into religious literature, particularly focusing on misogynist texts. Mernissi's point of departure is to unravel the religious scholars' exclusive access to the scripture. This explains the dominance of a uni-dimensional misogynist perspective in terms of the mediation between the scripture and its interpretation and its rewriting into legal norms. This, indeed, leaves the space free for the political manipulation of the texts. Mernissi notes that this manipulation has become a structural characteristic of maintaining power in Muslim societies.¹⁷

Mernissi's act is not a simple reading; it is an interrogation of the religious literature from a feminist perspective. She asks "[c]an we simply read a text where the political and the sacred join each other to the extent that they become indistinguishable?"¹⁸ Mernissi's act of reading is *un voyage dans le temps* (a journey in time)¹⁹ where the past is not analysed as a refuge or a myth, but read through the lens of present conditions. Reading the past from the present perspective is, for Mernissi, the only way out of the new imperialism's hegemony, which is furthering its reign through the global economy.

Given the ambiguity of the sacred texts on issues related to gender, the interference of an authoritative reading between the scripture and the legal text makes interpretation an area of dispute. Interpretation is an inevitable act in the transfer of meaning from the sources of Islamic law, namely the *Qur'an* and the *Hadith*, since statements related to women and the family are open to different readings. The question remains, what determines the right of interpretation? Whose interpretations prevail and why?

Reading the interpretation of the scripture in specific historical and political contexts reveals that the exclusive and authoritative reading of the text is only one among

many possible readings. Such a reading also reveals that the presence of a gender-discriminating perspective on the one hand and the oppression of a feminist outlook on the other, are not determined by an essentially misogynist Islam. Misogyny is rather a perspective from which interpretation is produced.

4 • Islam and the 2004 Family Code

As a legal text in which gender policy is founded on “religious evidence” labelled in terms of the “Muslim identity” of the state, the Moroccan Family Code inextricably links the legal status of women and men to the religious foundations of political power. The disparity between the 1957 and 2004 Family Code is a case in point; both texts are the principle source in which “Moroccan Muslim identity” is articulated. While the 1957 Code was created in order to put forward and maintain the anti-colonial post-independent newly established nation state, the 2004 Code is part of the national agenda for the promotion of a “Modern Moroccan and moderate Islam” that was officially set up in the aftermath of the 2003 Casablanca attacks.

While declaring the amendment of the Family Code at the opening of the parliament in autumn 2003, King Mohamed VI stated that:

*It is necessary to be mindful of the tolerant aim of Islam, which advocates human dignity, equality and harmonious relations, and also relies on the cohesiveness of the Malikite rite and on Ijtihad.*²⁰

Based on the egalitarian spirit of the *Qur'an* and *sunna*, the king used the royal prerogative of the Commander of the Believers to break with some of the male legal privileges such as male guardianship over women (*wilaya*) and repudiation and unilateral rights for divorce. This lay the ground for a shift in the state’s definition of the family. The 1957 Family Code defined the family as a union for procreation under the leadership of the husband with a determination of gender roles in terms of the authoritative purveyor husband and the obedient domestic worker wife. The 2004 Code, in contrast, defines the family in term of a partnership between two equal modern Muslim citizens. These amendments reflect the level of leverage of feminists on the evolution of the legal status of Moroccan women, but also the absence of feminists’ theological perspective in the reform.

Islam or Islamic identity as represented by some conservative religious scholarship is still set up in a contrasting dualism even with the feminists’ claims. Women’s individual rights are often dualistically opposed to the values of Muslim family based on complementarity of roles and sexual hierarchical difference. This construction of women’s rights as equivalent to abandoning local Muslim cultures and espousing a supposedly inherently-egalitarian Western culture is countered by the feminists who offered a universal and singular model for gender equality. For example, in 1994 ADFM, and the “95 collective for Equality”,

a Maghreb collective, elaborated a model for an egalitarian Family Code, which partly influenced the 2004 Family Code. It included the universality of women's rights, which does not abide by religious, gender or ethnic differences. Consequently, it suggested increasing the marriage age of women so as to be equal to that of men (18 years), the abolition of guardianship, unilateral rights of divorce and that *nafaqa* (alimony) become a duty for both men and women. For both ADFM and UAF, the dissolution of gender inequality from the legal system in general and the Family Code in particular is based on equality as sameness. Women's rights, in this case, means women's "access to what men already have access to" without challenging the system that produces inequality.²¹

Citing Joan Scott's critique of French feminism, Talal Asad argues that a secular egalitarian position might create paradoxical situations:

*Post-suffrage feminism was constructed in the space of a paradox: there was the declared sameness of women and men under the sign of citizenship (or the abstract individual), and there was the exclusionary masculinity of the individual subject. On the one side was the presumed equality that followed from the legally guaranteed possession of universal rights; on the other was the inequality that followed from the presumed natural facts of sexual difference.*²²

For Moroccan feminists the taken for granted equality is universal and presumably secular. This is illustrated by the Moroccan women's organisation statement assessing the achievements of the Beijing Conference:

*The fourth global conference in Beijing constituted a success towards women's legal equality since it confirmed these two principles, universality and equality. The achievement of the universality equality agenda will bring respect for Moroccan women as human beings and as citizens.*²³

This presumed universalist notion of equality keeps women's perspectives of justice, democracy and policy-making within predetermined and abstract universal standards of gender equality while reducing the complexity of gender to legal equality between the sexes. This constrains women's varying subject positions and complex ways of negotiating with differing levels of power relationships to a singular "woman" or a homogeneous group of women undergoing subordination. The notions of man and woman as having diverse meanings and diverse rights are very often obscured by a singular definition of the rights of Moroccan "women" as advocated by feminists. In this sense, in the name of gender equality, feminists are endorsing the same homogenising thesis that was at the origin of the codification of the 1957 Code. The post independent nationalisation policy and the advent of the first 1957 Family Code led to the abolition of *kad wa siaya*, a local *sharia*-based right for women, which valued women's labour in the field and at home, granting housewives

and rural women working in agriculture the right to half of the property accumulated during the marriage. This concept was traditionally advocated by rural theologians such as Ibn Ardoun in 16th century and which was strongly rejected by the urban theologians of Fez. This had been a *sharia*-based notion of gender justice developed by Moroccan *fiqh* (jurisprudence) in Berber villages, particularly in the Sous region.

5 • The 2004 Family Code in practice

This right is also denied to women by article 49 of the 2004 Family Code. Rather, the 2004 Code, which is largely inspired by the French prenuptial agreement that is based on the assumption of woman as a modern contract-making detached autonomous citizen with a salary in a formal economy, and which requires a formal prenuptial agreement to be entered into in order that the woman's right to the property accumulated during the marriage is protected. This understanding of a single meaning of equality premised on non-existent conditions such as individualism, autonomy, access to education, state institutions and the formal economy reduces the impact of the egalitarian intention of the 2004 Family Code.

A recent ethnographic study, undertaken by the sociology department at Ibn Tofail University in Kenitra, in the rural Gharb (western) region, shows that women filing divorce cases or seeking alimony rarely see a lawyer, either because they do not see the point of doing so, or because it is too expensive and is not worth the small alimony which does not go beyond US\$ 30 per month for each child. Article 49 of the 2004 Code provides an option for the couple to enter into a prenuptial agreement on the basis of a contractual property framework, separate to the marriage contract, with the agreement being subject to civil law. This is, however, not possible for most couples since most rural marriages are arranged between the husband and wife's families. Out of 400 marriages in the Gharb region not one couple signed a prenuptial agreement. Furthermore, the same research shows that women working in the informal economy have no way to take part in a prenuptial contract because of the lack of legal evidence of employment. The other significant information provided by this research is that none of the interviewed women knew about the 2004 Family Code.

6 • Conclusion

The importance of the achievement of feminist activism in Morocco should not be dismissed, nor should the positive symbolic and substantial change of the reform for middle class urban educated women. However, the limitations of the reforms for rural women raises the questions of how can we best create effective interventions on behalf of women's rights? And how can the debate on women's rights be more respectful of alternative notions and practices of gender justice embraced by different segments of the population rather than simply reflecting identity blocs such as Maliki Islam or secular universal feminism upon which the rules of legislation or policy making are currently based?

NOTES

- 1 • Author's interview with Latifa Djebabdi in 2003.
- 2 • Rahma Bourqia, *Femmes et fécondité* (Casablanca: Afrique Orient, 1996), 11.
- 3 • Women negotiate their life conditions according to their socioeconomic status. Concerning the question of divorce for instance, poor women usually have issues of alimony procedures (*Nafaqua*), while the rich ones pay for their divorce (*khul'*); education is also an other factor in addition to socioeconomic status determined by either class or residence, e.g. rural versus urban; 1994 national statistics reveal that 78.1 per cent of girls in urban areas were schooled compared to rural areas where the figure was 24.6 per cent.
- 4 • For more details, see an English translation of the Moroccan 2004 Family Code at <http://www.hrea.org/programs/gender-equality-and-womens-empowerment/moudawana/>.
- 5 • Bourqia, *Femmes*.
- 6 • Ibid., 13-14.
- 7 • The petition called for the codification of gender equality. As a part of the petition, an open letter by the L'Union de l'Action Féminine (UAF) developed its arguments and specified its claims including gender equality within the family, judicial divorce and women's right to start divorce procedures, the abolition of tutorship and polygamy. All these claims were said to be based on Maqussid sharia (the spirit of the Islamic canonical texts) and the international conventions including the CEDAW that Morocco had ratified.
- 8 • See UAF's petition for the 1993 Family Code reform.
- 9 • The 2004 amended Family Code places the family under the joint responsibility of the husband and the wife while the previous law codified men's leadership of the family.
- 10 • Association Démocratique des Femmes du Maroc (ADFM), *Le harcèlement sexuel au Maroc: Brisons le mur du silence, Étude sociologique et juridique*. (Casablanca: Le Fennec, 2000), 24-25. It is worth noting that he study also equates the use of religious references with low education and socioeconomic status noting that "[o]nly three women [out of how many?] with higher positions, gained through work experience and not through education, referred to religion in their definition of harassment."
- 11 • ADFM, *Le harcèlement*, 32-33. Author's own translation.
- 12 • Association Démocratique des Femmes du Maroc (ADFM), *Convention CEDAW rapport parallèle*, coordination Rabéa Naciri (Casablanca: ADFM, 2001), 54.
- 13 • Ibid., 116-117.
- 14 • Abdullahi An-Naim, "The Dichotomy Between Religious and Secular Discourse in Islamic Societies," in *Faith and Freedom, Women's rights in the Muslim World*, ed. Mahnaz Afkhami (London: Syracuse University Press, 1995), 57.
- 15 • An-Naim, "The Dichotomy", 59.
- 16 • After its 1987 publication, this book was condemned and censored and a death fatwa was pronounced against its author (Fatima Mernissi, *Le Harem politique: Le Prophète et les femmes* (Paris: Albin Michel, 1987).
- 17 • Mernissi, *Le Harem*, 16.
- 18 • Ibid., 81.
- 19 • Ibid., 24.
- 20 • Mohamed VI, in a speech to Parliament on October 10, 2003, excerpts in English available at <http://www.memri.org/report/en/print991.htm>, accessed November 30, 2016. *Malikite* is a school of Sunni Islam named after the 8th century Sunni Scholar Malik Iben Anas.
- 21 • Catherine Mackinnon, "Difference and Dominance: On Sex Discrimination," in *Feminism and Politics*, ed. Anne Philips (Oxford and New York: Oxford University Press, 1998), 295-313.
- 22 • Talal Asad, "French Secularism and the 'Islamic Veil Affair,'" *The Hedgehog Review* (Spring

& Summer 2006): 93-106, accessed November 30, 2011, <http://www.iasc-culture.org/THR/archives/AfterSecularization/8.12IASad.pdf>.

23 • Association Démocratique des Femmes du Maroc, Communication, April 1995, on file with the author.



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WOMEN'S RIGHTS AND FEMINIST MOVEMENTS IN IRAN¹

Nayereh Tohidi

- *An overview of how the Iranian women's movement has emerged in the face of unique contexts* •

ABSTRACT

*The status of women's rights in Iran can appear contradictory at first glance – despite both high levels of education and low birth rates, for example, participation of women in the work force or in parliament is amongst the lowest in the world. In this summary of her chapter in the book *Women's Movements in the Global Era – The Power of Local Feminisms* (Westview Press, 2016), Nayereh Tohidi offers a fascinating overview of women's rights and the feminist movement in Iran. The author highlights how the demands, strategies, tactics, effectiveness and achievements of the movement have varied in accordance with socioeconomic developments, state policies, political trends, and cultural contexts at national and international levels. Tohidi suggests that this history can be roughly divided into eight periods from the era of Constitutional Revolution and constitutionalism (1905–1925) until the modern day under President Rouhani. Finally, despite various challenges, the author notes that the women's movement in Iran continues to grow and reminds the reader of the key role that civil society plays in guaranteeing equal rights and gender justice in Iran and beyond.*

KEYWORDS

Iran | Women's rights | Feminism

Women's status and rights in contemporary Iran, and thereby the trajectory of Iranian women's activism and feminist movements, seem paradoxical and complicated.² For instance, how could women under a conservative Islamist clerical state, which has pursued sex segregation and many extreme forms of legal and practical discrimination against women, show impressive educational attainment, even surpassing men in higher education? But why have women's remarkable educational achievements not corresponded with their employment opportunities, economic and occupational mobility, or with their representation in political decision-making? Why have Iranian women's labour force participation rates and share of representation in the Parliament remained among the lowest in the world, even in comparison to other Middle Eastern countries?

Or how could Iran become exemplary in the world for its success in reducing fertility rates in a few decades by more than two-thirds, from 6.6 births per woman in the mid-1970s to about 1.8 births per woman in 2010, and to 2.1 even in rural areas?³ How could this have happened while the Islamic government dismantled Iran's national family planning soon after the 1979 revolution because it was viewed as a Western innovation? What factors changed the earlier pro-natalist policy of the conservative state to a widespread support for family planning and birth control? And why in more recent years, has the state (or at least the more powerful and more conservative faction of it) shifted again to natalism and yet is not really succeeding in its attempts to reverse the fertility to a much higher rate?

Many factors have shaped women's contradictory status in present Iran, including the patriarchal and patrimonial patterns in Iranian history and culture, be it secular or religious (Islamic), the state policy and state ideology, the influential ideological or intellectual trends such as nationalism, anti-imperialism, socialism, Islamism, and more recently liberalism and a human rights framework. External and international factors, especially Western imperial meddling too have influenced state policies and intellectual discourses pertaining to women's rights and gender issues. Another set of factors, of increased influence in more recent years, has to do with increased processes of globalisation and the international currency of the discourses of human/women's rights spreading through the United Nations (U.N.) and transnational feminist activism and new communication technology such as the satellite television, the Internet and social media. Increased globalisation has intensified a "glocal" dialectic, meaning the interplay of the local-national factors with the global-international factors. The glocal and transnational dynamism in Iranian society have become particularly intensified in the past four decades due to the impact of millions of forced or voluntary exiles and emigration, mostly settled in Western Europe and North America. This massive exodus of Iranians, mostly due to political reasons, has entailed a drastic brain drain for the country. Yet, it has also resulted in the formation of many diasporic communities of Iranians that include thousands of highly educated and accomplished professionals, many of them still devoted to the cause of human rights and democracy for Iran. This has offered Iran's civil rights and women's rights movements with a resourceful and

well-connected new potential. More specifically, the Iranian diasporic feminist activism has made up one of the significant components of transnational connections, cross pollination, and glocal process of socio-cultural changes in Iran of today.

1 • Historical, Socioeconomic, and Political Contexts

The history of Iranian women's quest for equal rights and their collective actions for sociopolitical empowerment dates back to the formation of the modern social movements for constitutionalism and democratic nation-state building in the late 19th and early 20th centuries. In Iran, as in other parts of the world, the women's movement and feminist discourse are by-products of modernity and industrial capitalism. At the same time the women's movement, especially feminism, has presented a challenge to and a critique of the androcentric and unjust aspects of modernity. Moreover, since modernity in Iran and in many other Middle Eastern countries has been associated with Western intrusion, colonialism or imperialism, it has resulted in mixed feelings among many women and men. That is, a fascination with progressive aspects of modernity and strong desire to become modern, yet at the same time, a resentment and resistance against Western domination.

Taking advantage of such anti-imperialistic resentments, the ruling patriarchal and despotic authorities in Iran have usually accused and blamed Iranian feminists and any quest for women's emancipation as an exogenous idea. This supposedly Western exported phenomenon is accused of promoting sexual license to penetrate the *dar ol-Islam* and the traditional family and thereby destroying the internal moral fabric of the entire society. Therefore, women activists aspiring for equal rights (who may or may not identify as feminist) have often found themselves in a defensive position. They have usually tried to assure their community of their moral virtue, loyalty, and patriotism. They have also tried to convince the ruling elites that not only egalitarian and powerful female images have authentic and indigenous roots in Iranian ancient pre-Islamic history, but also the quest for equal rights is not incompatible with progressive understandings of Islamic tradition.⁴

The women's movement in Iran, as in most other parts of the Middle East and North Africa (MENA), has been intertwined with nationalism and also anti-colonial or anti-imperialistic sentiments. Although Iran was never colonised, the strong influence of Russian and British Empires in Iran of the 19th and early 20th centuries had given an anti-imperialistic orientation to many of the Iranian pro-modernity and pro-democracy groups. The constitutional movement (1905-1911) that was building a modern nation-state in Iran had to fight despotism of the old monarchy and its imperial supporters at the same time. Anti-American sentiments were added to this after the CIA and British Intelligence Service supported the *coup* in 1953 against the secular and democratically elected Prime Minister Mohammad Mossadegh because of his agenda to nationalise the oil industry.

Within this context, women's rights advocates and feminists in Iran (as in Egypt and many other MENA countries), have often felt compelled to show their distance from the imperialist "outsiders," prove their loyalty and devotion to their nations, and then dare to fight the patriarchal "insiders" and demand women's rights. They have been carefully navigating between identity politics, a cultural pressure for "authenticity," and the quest for national independence on the one hand, and the aspiration for individual rights and universal values such as equality, human rights, freedom of choice, and democracy, on the other.

In their over a hundred-year history of collective activism, Iranian women have made remarkable achievements in the realms of education; scientific, literary, and artistic creativity; and to some extent in economic productivity and sociopolitical participation. However, they have not succeeded in gaining equal rights in many areas, particularly in the family (inheritance, marriage, divorce, and child custody). During the process of rapid modernisation under the Pahlavi dynasty (from the 1930s through the 1970s), many institutions in Iran, including the public education and judiciary systems, were modernised and went through secularisation. But the personal status and family law remained strictly on the basis of the old *sharia* (Islamic law).

Except for Tunisia, Turkey, and to some extent Morocco, and the Muslim-majority republics in the Caucasus and Central Asia of the Soviet and post-Soviet times (such as Azerbaijan and Uzbekistan), in most other Muslim-majority countries, egalitarian reforms in family law, whether by revising and reinterpreting *sharia* or by replacing it with secular law, have been painfully slow. This has been due to several complex reasons, the most important one being a patriarchal consensus (based on a tacit distribution of power) among the secular nationalist (usually military) elite and the religious Islamic elites, that is, the clerics (*ulema*). Laws governing women's roles in the public domain increasingly fall under the control of the secular modernising state elites, whereas laws governing women and children in the family (and domestic gender relationships and personal status areas) remain under the control of the clergy and religious authorities.

But with the rise of Islamism and after the establishment of the theocratic state of the Islamic Republic in Iran since 1979, many of the laws and policies in both the public and domestic domains have come under the direct control of the clerics, who have furthered the extent of gender discrimination in favor of men. A few significant progressive reforms made in family law in 1960s and 70s under the rubric of the Family Protection Law (during the second Pahlavi) were repealed in 1980s, and family law and the penal code regressed to the way they were in the 1930s and 40s.⁵ Due to women's objections, however, and also because no replacement legislation was passed, in practice the Family Protection Law remained the guide for answering questions not explicitly dealt within *sharia*, hence a later reversal of some of the initial regressions.⁶

In short, after the establishment of *sharia*-based rule of the Islamic Republic in Iran, women lost many rights in almost all spheres of life. According to the Islamic Republic's laws of

Hudud (punishments, such as stoning) and *Qisas* (retaliation, eye for an eye), which belong to pre-modern tribal societies, a woman is practically considered as subhuman. For instance, in case of murder, a woman's *Diyeh* (blood money or compensation rate) is worth half that of a man's. In cases of bodily harm, certain body organs of a male person (for example, his testicles) are worth more than the whole body of a female person.⁷ The women's movement in Iran, therefore, has remained predominantly rights oriented — making its main target the legal system that is full of discriminatory laws against any gender, ethnic, and religious groups other than the Shi'i male.⁸ The demand for changes in the law and the role of lawyers in almost all women's organisations have become more prominent than ever.

One of the main mottos of the women's movement has been “change for equality,” with an emphasis on legal reforms, civil and political rights, hence several campaigns against discriminatory laws, policies, and violent or oppressive traditional customs. Many feminists have argued that discriminatory laws and practices — such as child marriage, unequal inheritance, laws of retribution, stoning, a husband's right to prevent his wife from working outside the home, male-biased rights to divorce, child custody, polygamy, and *sighe* (temporary marriages, legally allowed for even long-term married men), and forced hijab — reinforce violence, insecurity, and humiliation against women of all walks of life, and therefore should constitute the movement's priorities.⁹ Some also reason that other social movements may and do address economic and working-class issues of women as well as men, but it is only the women's movement and feminists that focus on issues directly related to gender and sexuality.

This emphasis on legal reform, however, does not make Iranian feminist orientation limited to liberal feminism only. Although at this stage of economic and political development in Iran, liberalism can be very relevant, what may seem liberal in the western democratic context can be perceived as quite radical in a repressive and retrogressive religious state. As well-contextualised by one of the leading feminist activists in Iran, the classical western categorisation of Iranian feminists into liberal versus radical is false and misleading since it fails to account for the historical and specific situational conditions on the ground.¹⁰

The very notion of a “women's movement” in Iran is still a contested subject. The ruling conservative Islamists deny the existence of such a movement. They portray women's activism for equal rights as a “harmful feminist deviation instigated under the Western influence,”¹¹ or as a disguise for the Zionist and American agenda toward “regime change” through a “velvet revolution.” Thus, they react to it by smear campaigns, negative propaganda, arrest, and imprisonment.¹²

Many of the moderate Islamic reformers and secular progressive Muslim and non-Muslim intellectuals, however, express support for the demands of women and condemn the government's arrest and repression of women activists. A few of them, however, insist that in Iran there is no “women's movement” yet, rather, there are feminist activists.¹³ Basing their arguments on some classic definitions and old theories of social movements, they

point out that the current women activists lack a strong organisational structure capable of mobilising a vast number of the populace, generating serious conflicts with the state, and bringing about political changes. But, their arguments seem unrealistic in light of the more recent public protests, networks of campaigns, and many arrests and conflicts between the women activists and the state organs. An increasing number of sociologists (men and women), however, have begun writing about the recent rise in feminism and the women's movement in Iran with enthusiasm, characterising it as an "inspiring model" for other civil society movements¹⁴ or as a "definer of a true social movement".¹⁵

Another approach, an interesting conceptual alternative to classical theorisation of social movements, has been presented by sociologist Asef Bayat, who defines the current women's activism in Iran as "a women's non-movement." He argues that in an authoritarian and repressive context such as that of Iran, "collective activities of a large number of women organised under strong leadership, with effective networks of solidarity, procedures of membership, mechanisms of framing, and communication and publicity – the types of movements that are associated with images of marches, banners, organisations, lobbying, and the like," are not feasible. Instead, as Bayat cogently stresses, women's activism through their presence in the public domains and their daily resistance to the state's ideology of seclusion and policies of sex segregation and forced veiling remains significant. To be a woman activist in the Iran of today means to be able to defy, resist, negotiate, or even circumvent gender discrimination – not necessarily by resorting to extraordinary and overarching "movements" identified by deliberate collective protest and informed by mobilisation theory and strategy, but by being involved in daily practices of life, by working, engaging in sports, jogging, singing, or running for public offices. This involves deploying the power of *presence*, the assertion of collective will in spite of all odds, by refusing to exit, circumventing the constraints, and discovering new spaces of freedom to make oneself heard, seen, and felt. The effective power of these practices lies precisely in their ordinariness.¹⁶

Indeed, the "*power of presence*" and the "*ordinariness*" of women's resistance constitute important aspects of women's agency in Iran, probably more so than in democratic countries.¹⁷ However, Iranian women's activism in more recent years has actually evolved beyond "ordinariness". Some of the features of social movements mentioned by Bayat, especially those of the "new social movements" do exist in the recent trajectory of the collective women's activism in Iran such as framing, networking, campaigning, generating discourse or symbols (hence collective identity), lobbying, mobilising, and collective protests (though all in small scales). New social movements that emerged since the 1970s and 1980s in Europe, America, and other parts of the world around women's issues, feminism and sexuality, the environment, civil rights, and antiwar sentiment are categorically different from the movements in the past. Instead of having a formal organisational structure, new social movements, as the case of Iranian women's movement represents, are "segmentary" (have several, sometimes competing, organisations and groupings), "polycentric" (have multiple and sometimes competing leaders), and "reticulate" (are linked to each other through loose networks).¹⁸

2 • Stages of Feminist Formations and Women's Movements in Iran

The characteristics of feminist formation and the women's movement in modern Iran – its demands, strategies, tactics, effectiveness and achievements – have varied in accordance with differing socioeconomic developments, state policies, political trends, and cultural contexts at national and international levels. This history can be roughly divided into eight periods.¹⁹

First was the era of Constitutional Revolution and constitutionalism (1905–1925), during which the first generation of women activists emerged mostly through their involvement in the pro-constitutional and anti-imperialist activities. The first associations of women, usually semisecret, helped with women's literacy; demanded women's access to public education, hygiene, and vocational training; and criticised women's seclusion, polygamy, and domestic violence.

Second, the era of modern nation-state-building (1920s–1940s) associated with increasing literacy and women's entrance in universities, gradual expansion in women's associations and women's press, the controversial state-dictated compulsory unveiling of women (1935), and forced adoption of the Western dress code for men and women.²⁰

Third, the era of nationalisation (of the oil industry) (1940s–1950s) brought more women into the public and political activism within both nationalist and socialist ideological and organisational frameworks. Many reform projects and egalitarian ideas concerning women's roles and status were brought into the public discourse, yet neither the nationalist nor the socialist and Communist parties could succeed in bringing about legislative reforms concerning women's suffrage or changes in family law.

Fourth, the era of modernisation (1960s–1970s) saw a growth in the social visibility of modern working and professional women in the rapid process of urbanisation, and some positive and significant legal reforms concerning women's suffrage and family law. But, increased centralisation and the dictatorship of the Shah led to the erosion of women's autonomous associations resulting in state control and a top-down process of autocratic modernisation without democratisation, thus creation of a dual and polarised society.

Fifth, the era of Islamist Revolution and Islamisation (1979–1997) associated with massive socio-political mobilisation of men and women, but soon followed with many retrogressive and discriminatory laws and policies against women and religious and ethnic minorities, forced hijab, sex segregation, war and violence, political repression, massive emigration and exile of intellectuals and ordinary people, and overall socio-economic decline.

Sixth, the era of post-Islamist reform and pragmatism under President Khatami (1997–2005) associated with a relative socio-political openness, civil society discourse, and neo-liberalism (that had actually begun under presidency of Hashemi Rafsajani's "construction era," 1989–1997). But the growth of civil society organisations, the vibrant and relatively free press, including feminist press, and relative economic improvement did not last long.

Seventh, the neo-conservative and populist backlash under President Ahmadinejad (2005-2013); associated with resurgence of Islamist fanatic groups, over-emphasis on nuclear ambitions, belligerent and provocative foreign policy, intensified hostility between the IRI, Israel and the Western powers, thus an increased danger of military attacks and war, increasing international sanctions and isolation of Iran, increased repression of the media and civil society organisations, including women's groups, introduction of anti-women bills, increased corruption, economic mismanagement, inflation, and rising unemployment.

Eighth, the era of "moderation" under President Rouhani (2013+) has been associated with remarkable shift in foreign policy, success in resolution of the nuclear crisis thanks to diplomatic approach and negotiation with the world powers. But so far attempts toward some openness and improvement in human rights and women's status have been blocked by the ruling hard-liners who still have the upper hand over the moderate president.

3 • What Next: the "Era of Moderation"?

Under the second term of Ahmadinejad's growingly unpopular government led by a military-clerical alliance, people experienced increasing violation of human rights, especially of women's rights, more restriction on the media and civil society organisations, a brutal crackdown on the pro-democracy Green Movement in 2009-2011, and new waves of exodus of activists from Iran and further brain drains. Moreover, the rising inflation (41 per cent in 2012), budget deficit, unemployment, and overall economic hardship caused by the government's mismanagement and reckless spending on the one hand, and the expanding international sanctions, political isolation, and even a threat of military attack on the other, brought many in Iran to the verge of despair.

During this period, the main subjects of discussion among the Iranian women activists inside and outside Iran included the need for a critical assessment of the role of the women's movement within the Green Movement; the need for adjustment of tactics and framing of feminist activism under the rising repression, the declining economic conditions and increasing political crisis, militarisation and inter-national tension; and the need to redefine and re-adjust the women's movement's transnational relationships, especially between the activists inside and the diaspora feminists outside Iran as the composition of them had changed after the latest wave of exodus.²¹

Another subject of discussion and debate among the feminist activists was related to the 2013 presidential elections. Similar to the strategy pursued by many feminist activists in the past two decades, during the 11th presidential elections in summer of 2013 they formed a coalition of diverse groups and individual women to do "Brain-Storming about Women's Demands".²² This coalition represented three "forces for change" among women: Certain members within the ruling factions connected to the state who advocate women's rights; women activists within the civil society who work collectively within organised NGOs or

semi organised networks; and individual women who defy sexism and resist in daily life in support of change for equality.²³ They tried to highlight commonalities among the concerns of these three spectrums of forces and use the election time as an opportunity to publicise and press on women's demands without endorsing any particular candidate.²⁴ Among the presidential candidates, the only one that had sent some representatives to sit in the first seminar of this coalition and listen to their demands was Hassan Rouhani.

Protection of women from state and domestic violence, respect for civil and human rights that can provide security for establishing women NGOs – in order to do educational, cultural and journalistic work toward promotion of egalitarian values and elimination of discriminatory laws and policies – were among the main demands. They also wanted the presidential candidates to promise appointment of qualified and egalitarian ministers, including women ministers in their cabinet. The last meeting and statements issued by this coalition, was about the “Required Criteria for the State Ministries” that was signed and supported by over 600 individuals.²⁵ This stress on setting clear criteria for appointment of ministers was in part a reaction to the tactical move Ahmadinejad had made in 2009 by unexpectedly appointing two women ministers to his cabinet in order to appease women since they had made up his primary opponents during the Green Movement. Many activists however had dismissed his gesture as opportunistic, disingenuous, and at most too little too late.

Rouhani won the election with a small margin. So far, there has been very little success in improvement of the status of women/human rights, and domestic political situation. While right after Rouhani's election, a number of political prisoners were released, among them prominent women's rights defense lawyer, Nasrin Sotoudeh; many others (including journalists, lawyers, writers and teachers) are still in jail. One of the leading and most courageous among human/women's rights activists who has been imprisoned again, this time under Rouhani, is Narges Mohammadi whose letters from prison have been a significant source of inspiration.²⁶ Iran still continues to have one of the highest execution rates in the world.²⁷ President Rouhani's new Iranian “Citizen Rights Charter” met with mixed reviews and ended in nothing real so far. We have seen reactivation of some NGOs and women's press, such as Zanan Emrooz, but they have remained under constant threats and in a precarious situation. Rouhani's appointment of four women to the cabinet as deputies or spokesperson, and a few women mayors in underdeveloped provinces such as Baluchistan have been welcomed by women activists.

The most encouraging appointment has been that of Shahindokht Mowlaverdi, as woman vice president in “women and family affairs”. Her background as an active member of women's rights coalitions at civil society level, her courageous resistance against attacks and harsh critiques by the hardliners have made her a rather popular ally of Iran's feminist groups. However, it remains to be seen how much Mowlaverdi can really achieve in the face of the relentless attacks on every progressive and egalitarian project she has tried to pursue so far. In one of her statements, she pointed to the reality that women's status cannot change simply by a woman minister who is being blocked from doing anything effective and is actually “being crucified”.²⁸

4 • Conclusion

Going through a tumultuous trajectory, the women's movement in Iran is gradually growing into a seasoned and inspiring feminist model for those aspiring for equal rights and gender justice under repressive and authoritarian Islamist regimes. Iranian women's experiences; their resilience and courage; and their creative, flexible, and pragmatic strategies have significant practical and theoretical implications for local and global feminisms. Despite intense repression at the state and societal levels, personality frictions, ideological divergence, and differences in strategy and tactics, Iranian gender activists have often converged in practice to collaborate over their common goals. While the patriarchal system has tried to keep Iran internationally insulated, women are becoming increasingly more informed of the current trends within global feminisms and more transnationally engaged, especially with regard to the mechanisms, tools, and machineries created through the U.N. gender projects and conventions such as CEDAW.²⁹ Although due to the vetting power of the conservative Guardian Council, the attempts made by the reformist deputies in the sixth Majlis to ratify CEDAW did not succeed, most women activists, including some Islamic as well as secular ones, have been framing their demands within the CEDAW framework.

Nevertheless, due to increased repression and lack of access to the mainstream media in the country, the strong potential of the impact of the women's movement has not been actualised. Like most typical feminist women's movements, it is predominantly made up of the urban middle class in major cities. The movement has a long way to go to reach various classes and ethnic or religious minorities among the wider populace in small towns, provinces, and rural areas. Systemic political and structural barriers too, have blocked the effectiveness of the otherwise hard and courageous struggles of women for equality and gender justice.³⁰

In today's increasingly globalised world system, feminists and women activists in many countries have been using at least three groups of strategies to empower women and bring about egalitarian changes: women's policy machinery within state institutions, building an issue advocacy network outside of formal institutions, and developing grassroots women's movement practices that are aimed at cultural production, consciousness raising, and knowledge creation.³¹ The repressive, patriarchal, and authoritarian state in Iran has made it very difficult for Iranian feminists to utilise all these strategies effectively. Yet whenever such spaces become available due to changes and contradictions within the political system, women activists can and have utilised such small structural opportunities.

Islamism, as a totalitarian state ideology, has resulted in a prevalent aversion toward any ideological absolutism among intellectuals, feminists included. A pragmatic, social democratic or liberal democratic human rights framework has become the common denomination for collaboration and coalition building. Aside from some who still fight for an abstract utopian society based on certain ideologies, many tend to work for concrete changes toward improvement of the rights and living conditions of all citizens regardless of their gender, ethnicity, sexual orientation, and ideological stand.

Most women activists have adopted non-confrontational, non-ideological, non-sectarian, and reform-oriented strategies. Deploying the “power of presence”, they have entered into a strategic engagement not only with the civil society at large, but also with some members of the ruling elite. They engage the political reformers inside and outside the government, the intelligentsia, the media, the law and lawmakers in the parliament, the clerics, various social institutions, and ordinary people. This engagement takes various forms and tactics, constructive criticisms within as well as outside of the framework of the existing laws and Islamic sharia toward revision, reinterpretation, and reform as well as deconstruction and subversion. Their desire to stay away from both elitism and populism and also keep moving ahead pragmatically in the face of continuous repression by the hard-liners has proved a most challenging task. Nevertheless, the Iranian women’s rights movement has remained potentially vigorous and actually defiant. It has maintained its homegrown roots and independence both despite and because of all the national and international pulls and pushes.

Many have hoped that with the latest successful nuclear deal between Iran and five plus one world powers, Iran will enter into a new era of reconciliation with the West, the end of the cold war in U.S.-Iran relations, and will move toward a more rational and less repressive political system. But, it is hard to keep the hope alive given the extremist trends evident in the recent U.S. presidential election; the continuous power of hardliners in Iran; especially the rising power of religious extremists such as ISIL in the MENA region; the ongoing violent tragedy in Syria that has grown into a *loci* of a regional sectarian and hegemonic proxy wars, involving among others, Saudi Arabia, the most powerful bastion of patriarchy.

But we can be sure of one thing: without vibrant civil society organisations, especially effective grassroots women’s movements for equal rights and gender justice, Iran, or any other country in MENA, for that matter, cannot ever succeed in building a peaceful, secular and democratic political regime - a regime capable of pursuing democratic sustainable human development domestically while at the same time playing a constructive role in relation to the current sectarian proxy wars in the region.

NOTES

1 • This article is an edited version of a chapter from the book *Women's Movements in the Global Era – The Power of Local Feminisms* (Westview Press, 2016).

2 • I am grateful to Amrita Basu and Nikki Keddie for their very helpful comments on an earlier draft of this chapter. Part of this work was supported by the Keddie-Balzan Fellowship at UCLA awarded to me during 2005–2006.

3 • See Farzaneh Rudy, "Youth, Women's Rights and Political Change in Iran." PRB, 2009, accessed November, 17, 2016, <http://www.prb.org/Publications/Articles/2009/iranyouth.aspx>.

4 • See, for example, Mehrangiz Kar and Shahla Lahidji, *Shenakht-e hovviyat-e zan-e irani dar gostareh-ye pish-tarikh va tarikh* (Tehran: Roshangaran, 1372/1993); Nahid Tavassoli, "Nov-garayi dini va zan" [Modernist Religiosity and Woman], in *Chera khawb-e zan chap ast?*, Nahid Tavassoli (Tehran: Nashr Qatreh, 1382/2003); and Sedigheh Vasmaghi, *Women, Jurisprudence, Islam* (Translators: Ashena and Philip G. Kreyenbroek) (Germany: Otto Harrassowitz, 2014).

5 • Mehrangiz Kar, "Discrimination Against Women Under Iranian Law." Gozar (Freedom House), December 8, 2008.

6 • Ziba Mir-Hosseini, "Negotiating the Politics of Gender in Iran: An Ethnography of a Documentary," in *The new Iranian cinema*, ed. Richard Tapper (London: I. B. Tauris, 2002): 167, 187.

7 • Women Living Under Muslim Laws: "IRAN: Gender Discrimination at Its Worst," 2014. For a shorter review of this blatantly sexist body of law, see Nayereh Tohidi, "Gender and Islamic Fundamentalism: Feminist Politics in Iran," in *Third World Women and the Politics of Feminism*, ed. Chandra Mohanty, Ann Russo, and Lourdes Torres (Bloomington: Indiana University Press, 1991): Appendix 261-265; Shirin Ebadi, History

and Documentation of Human Rights in Iran, trans. Nazila Fathi (New York: Bibliotheca Persica Press, 2000).

8 • Noushin Ahmadi Khorasani, "Liberal Policies within Iranian Women's Movement." Feminist School, November 11, 2010/1389, accessed November 30, 2016, <https://goo.gl/QyuLPI>.

9 • Shirin Ebadi, *The Rights of the Child: A Study on Legal Aspects of Children's Rights in Iran* (Translated by M. Zaimaran) (Tehran: UNICEF, 1994); Mehrangiz Kar, *Mavane` Hoquqi Towse` siyasi dar Iran (Legal Obstacles against Political Development in Iran)* (Tehran: Qatreh Publications, 2002); Noushin Ahmadi Khorasani, "Liberal Policies within Iranian Women's Movement." Feminist School, November 11, 2010/1389, accessed November 30, 2016, <https://goo.gl/AhCTGF>; Rezvan Moghadam, "An Interview with Radio Zamaneh." Radio Zamaneh, 2013, accessed November 24, 2016, <https://www.radiozamaneh.com/189490> (In Persian); Saeed Kamali Dehghan, "Iranian Woman Wins Rights Award for Hijab Campaign." The Guardian, February 24, 2015, accessed November 30, 2016, <https://www.theguardian.com/world/2015/feb/24/iranian-woman-wins-rights-award-hijab-campaign>; Jelveh Javaheri, "Ejازه hamsar, rouy-e digar-e sekkeh esteqlal zanan" [Husband's Permission, The Other Side of the Coin of Women's Independence]." Khoshounat Bas, Azar 1394, Tehran, Iran, 2015, accessed November 24, 2016, <https://goo.gl/yOXzvf>; and Lara Secor, "War of Words: A Woman's Battle to End Stoning and Juvenile Execution in Iran." New Yorker, January 4, 2016, accessed November 30, 2016, <http://www.newyorker.com/magazine/2016/01/04/war-of-words-annals-of-activism-laura-secor>.

10 • See Noushin Ahmadi Khorasani, "Liberal Policies within Iranian Women's Movement."

Feminist School, November 11, 2010, accessed November 17, 2016, <https://goo.gl/zV7Frc>.

11 • Even the supreme leader, Ayatollah Khamenei, has on a few occasions warned “Muslim sisters” against the danger of feminism. See Nayereh Tohidi, “The International Connections of the Women’s Movement in Iran, 1979–2000,” in *Iran and the Surrounding World: Interaction in Culture and Cultural Politics*, ed. Nikki Keddie and Rudi Matthee (Seattle: University of Washington Press, 2002): 205–31.

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13 • A series of interviews with some prominent male and female scholars about the question of whether there is a women’s movement in Iran appeared in several issues of the magazine *Zanan*.

14 • See, for example, Kazem Alamdari, “Jonbesh yek-million emza, ulgouyi bara-ye jamèh madani dar Iran.” 10 Farvardin/March, 1387/2008, accessed November 24, 2016, <http://www.feministschool.com/spip.php?article210>.

15 • See Nahid Keshavarz, “Kampaign yek million emza be masabeh jonbesh-e ejte- mayi.” 15 Ordibehesht/April, 1387/2008, accessed November 24, 2016, <http://www.feministschool.com/spip.php?article550>; and Mehrdad Mashayekhi, “Iranian Women Placing the Social Movement in its Proper Place.” 17 Esfand/Feb. 1387/2009, accessed November 24, 2016, <http://www.feministschool.com/spip.php?article2235>.

16 • Asef Bayat, *February. Street Politics: Poor People’s Movements in Iran* (New York: Columbia University Press, 1997): 162.

17 • Such “dailyness” or “ordinariness” of women’s activism is not unique to Iran. A prominent American feminist has discussed the significance of the dailyness of women’s activism and feminist practice in the American context. See Bettina

Aptheker, *Tapestries of life: Women’s work, women’s consciousness, and the meaning of daily life* (Amherst: University of Massachusetts Press, 1989).

18 • See Luther Gerlach, “The Structure of Social Movements: Environmental Activism and its Opponents,” in *Waves of Protest: Social Movements Since the Sixties*, ed. Jo Freeman and Victoria Johnson (Lanham, MD: Rowman and Littlefield, 1999).

19 • This chronological division is somewhat similar to the one presented by Parvin Paidar in her seminal book *Women and the Political Process in Twentieth-Century Iran* (1995).

20 • Since Reza Shah’s forced unveiling policy, the veil became a politicized issue. His son (Mohammad Reza Shah), stopped enforcing mandatory unveiling, but that did not prevent the backlash of forced veiling under Khomeini and the Islamist state since 1979. Had Reza Shah respected women’s freedom of choice and used authority and the police to protect both the unveiled and veiled women from harassment and attacks instead of ordering his police to take off women’s head-covers by force, the issue of veil would have probably taken a different trajectory in Iran.

21 • Mahboubeh Abbasgholizadeh, “The Crisis of Agency in the Iranian Women’s Movement: A critique from inside.” 21st Annual Conference of the Iranian Women’s Studies Foundation, Paris, July, 2010, accessed November 17, 2016, <http://shabakeh.de/opinion/347/>; Nayereh Tohidi, “A Critical Assessment of Iranian Women’s Movement in the Context of the Green Movement for Democracy.” 21st Annual Conference of the Iranian Women’s Studies Foundation, Paris, July 2010, accessed November 17, 2016, https://www.facebook.com/note.php?note_id=10150315806087356.

22 • See a report, video, and pictures of the participants at: The Feminist School, accessed November 17, 2016, <http://www.feministschool.com/spip.php?article7316>.

23 • Ibid. Ahmadi Khorasani, Noushin. 2012/1391. *Bahar-e Jonbesh-e Zanan* [The Spring of Iranian Women's Movement]: www.noushinahmadi.wordpress.com.

24 • See: The Feminist School, November 17, 2016, <http://www.feministschool.com/spip.php?article7316>; Minoo Mortazi-Langaroudi, cited in a report by Feminist School, 22 Khordad 1392, 2013, accessed November 24, 2016, <http://www.feministschool.com/spip.php?article7316>.

25 • See: The Feminist School, November 17, 2016, <http://www.feministschool.com/spip.php?article7343>.

26 • See: "Narges Mohammadi Should Be Released Immediately and Given Medical Treatment," International Campaign for Human Rights, October 19, 2015, accessed November 17, 2016, <https://www.iranhumanrights.org/2015/10/narges-mohammadi-8/>.

27 • See: "UN Rapporteurs Urge Iran to Stop Executions," International Campaign for Human Rights, January 22, 2014, accessed November 17, 2016, <https://www.iranhumanrights.org/2014/01/un-executions/>.

28 • See: "Iran's Women's Affairs Chief Feels Powerless To Act," Women Living Under Muslim Laws, January 5, 2015, accessed November 17, 2016, <http://www.wluml.org/news/irans-womens-affairs-chief-feels-powerless-act>.

29 • Nayereh Tohidi, "Ta'amol mahali-jahani feminism dar jonbesh-e zanan-e Iran" [The Local-global Intersection of Feminism in the Women's Movement in Iran], The Feminist School, 2008, accessed November 24, 2016, <http://www.feministschool.com/spip.php?article1660>.

30 • For a discussion on the debate over CEDAW in the sixth Majlis, see Nayereh Tohidi, "Islamic Feminism: Perils and Promises," in *Middle Eastern Women on the Move* (Washington: Woodrow Wilson International Center for Scholars, 2003): 134-146, accessed November 17, 2016, https://www.academia.edu/359702/_ISLAMIC_FEMINISM_PERILS_AND_PROMISES.

31 • See Myra Max Ferree, "Globalization and Feminism: Opportunities and Obstacles for Activism in the Global Arena," in *Global Feminism*, ed. Myra Max Ferree and Aili Mari Tripp (New York: New York University Press, 2006).

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25 YEARS OF QUOTA LAWS IN LATIN AMERICA

Lucía Martelotte

- *As assessment of the political participation of women* •

ABSTRACT

In the last two decades, the majority of Latin American countries approved quota laws with the goal of reducing gender inequalities in the political arena and guaranteeing the effective fulfilment of women's political rights. The functioning and effectiveness of these mechanisms vary according to the design of the regulations and their linkages to the electoral system. In spite of advances, important challenges remain. In light of this, the debate on the political participation of women has evolved from quotas to parity. However, the discussion must not be approached from a purely numeric perspective or restricted to the public sphere; other dimensions of women's autonomy (physical and economic) must be taken into account. It is only once the conditions necessary for women to exercise their full autonomy are in place that achieving gender parity in democracy will be possible.

KEYWORDS

Political participation | Gender equality | Quota laws | Parity

Although it continues to be a highly unequal region in terms of both socio-economic conditions and gender, Latin America has made important advances in the political participation of women. In the past decade, Argentina, Brazil, Chile and Costa Rica elected women presidents. Women represent 27.2 per cent¹ of members of national legislatures (nearly 5 per cent above the world average) and occupy 26.1 per cent of national cabinet positions.

Gender quota laws have played a fundamental role in narrowing the gap in the political participation of women. They are affirmative action² tools centred on legislative bodies whose main objective is to resolve the problem of the underrepresentation of women in the political arena and guarantee that women are able to effectively exercise their political rights. While the suffragist movement that arose in the second half of the 19th century fought for women's right to vote, the quota laws focus on the possibility of women being elected - that is, of participating as candidates in electoral processes.

In 1991, Argentina was the first country in the world to adopt a law on gender quotas. Law no. 24.012,³ which established the obligation of incorporating at least 30 per cent of women in the party lists at the national level, became a milestone for the political representation of women in legislatures. From this moment on, affirmative action measures spread not only to the rest of the region, but around the world. In Latin America, 15 countries⁴ have passed quota laws and almost half of the countries in the world have now adopted this kind of measure.

However, the process of approving quota laws has not been simple; on the contrary, it has been accompanied by intense debate. Even though various arguments have been used to contest affirmative action, available evidence allows us to consider them more as myths than as true and valid arguments.⁵ Perhaps one of the most extensively used arguments is that women get into public office because they are women and not on merit. This affirmation contains two problems. For one, it ignores the fact that the logic underpinning representative systems is that of the representation of interests and not that of merit. Basing oneself primarily on merit would lead to limited democracies, in which only the elite would be able to act as representatives. What is more, this statement creates the false dilemma between gender equality and merit, as if advancing towards greater gender equality is done at the expense of the merit of the ones who represent us. Available data refute this hypothesis. In Latin America, enrolment rates in high school is higher for women, which has generated significant progress towards gender parity in post-secondary education.⁶ Studies show that women legislators have equal or higher education credentials than their male counterparts. In the case of Argentina, 79 per cent of women legislators in congress have an advanced degree, compared to 71 per cent of the men. Thus, contrary to what the detractors of the implementation of affirmative action measures say, the data clearly show that women are required to have better educational and academic credentials in order to obtain the same positions as men.

The second myth claims that affirmative action measures violate the principle of equality. Far from it, these measures provide a way of making the principle of equality enshrined in national regulatory frameworks and international human rights law effective.⁷ Those who oppose these measures do not recognise that offering equal treatment to people who find themselves in structurally different situations (in this case, women in relation to men) does not lead to equality. On the contrary, it reproduces existing inequalities. Therefore, these actions seek to remedy these injustices by providing special treatment to the ones at a disadvantage in order to move towards substantive equality, and not only formal equality.

Finally, another common argument is that there is never a good time to raise these issues and that affirmative action measures are not necessary because there is a “natural” tendency towards equality. According to a recent report by the World Economic Forum, the gender gap is far from disappearing: it would take nearly 120 years to eliminate the wage gap. Although women represent the majority of university students in over 100 countries, the widest gap continues to be in their political empowerment, as women only hold 28% of leadership positions.⁸

25 years of implementing quotas: where are we at?

After over two decades of implementing quota laws in the region, it is necessary to do an evaluation of these measures. What are the main advances that have been made through the implementation of this type of law? What obstacles remain today?

Being a woman does not necessarily mean a commitment to the gender equality agenda, nor that women legislators only promote projects linked to women’s rights. That said, different studies have demonstrated that quota laws have had a significant impact on the diversification of the legislative agenda,⁹ as previously forgotten or invisible issues such as violence against women, sexual and reproductive rights or gender identity have been incorporated into debate.

Furthermore, one of the most obvious results has been the increase in the number of women in legislative bodies. Between 1995 and 2016, the participation of women in the congresses of Latin American countries went from 12.7 per cent to 27.2 per cent.¹⁰ This regional average, however, conceals significant disparities. The presence of women in the legislatures of the countries with quota laws varies from 53.5 per cent in Bolivia to 9.94 per cent in Brazil. How does one explain these differences?¹¹

The first element to take into consideration is that there are three main kinds of quota laws: ones that reserve seats for women (they may be constitutional or legal); legal quotas for candidates (constitutional and/or legislative); and quotas applied within political parties.¹² One of the main differences is that while the first and second modality are obligatory, quotas for political parties are generally voluntary and therefore usually are less efficient.

Moreover, the different levels of participation achieved show that quotas alone are not enough to guarantee that there is a higher number of women in legislative bodies. To fully assess the effectiveness of these measures, it is fundamental to take into account institutional variables, such as the design of the laws and the characteristics of the electoral system into which these laws have been introduced.¹³ With regards to design, one must analyse if the laws are binding or not; if they contain position mandates - that is, if they establish what places women candidates will occupy, reserve prominent positions for them or guarantee eligibility; and if they include sanctions for non-compliance. In relation to the electoral system, the combination of proportional electoral systems (ones in which seats are distributed in proportion to the number of votes obtained) with large districts (constituencies in which there are various seats at stake) and closed and blocked electoral lists (in which electors vote for the list drawn up by the party and do not have the possibility of introducing changes to the list) represent the ideal scenario for guaranteeing the effectiveness of quota systems.

To understand the different degrees of success of quota systems, one must also take into account cultural variables, especially in relation to political parties, which are the main ones responsible for implementing them. Putting these measures into place has not been an easy nor a linear process. On the contrary, due to the parties' resistance and their minimalist and bureaucratic interpretation of quota regulations,¹⁴ what was conceived to be a floor has been turned into a ceiling for women's participation. One example of this can be seen in the results of the legislative elections in Argentina in 2015. Nearly 25 years after the quota law was adopted, a survey of the lists presented throughout the country showed that 10 per cent (25 out of 234 lists) failed to comply with the law's provisions. Far from being a problem restricted to a particular place or party, noncompliance was found in all parties of the political spectrum and a third of Argentine provinces.¹⁵

To address these problems, various strategies have been developed. Among them, it is worth highlighting the introduction of changes to the quota laws in order to prevent infractions and the intervention of the highest courts of justice, which are pronouncing themselves on how these regulations should be interpreted and applied.

Nonetheless, one of the persistent challenges that the quotas have not been able to overcome is to introduce changes in the processes of selecting candidates,¹⁶ especially to increase the number of party lists headed by women.

The path from quotas to parity

The remaining obstacles and barriers to an adequate application of quota laws have motivated various countries to move beyond quotas to parity. The logic behind the parity principle is different from that of the quotas. It is no longer a question of adopting a temporary measure that defines a minimum percentage of women in the lists. Instead, it implies that men and women participate equally (as equal partners) in the electoral process.

The “parity democracy” concept was coined at the international level in the Athens Declaration (1992) during the “European Summit of Women in Power”. In Latin America, since the Tenth Regional Conference on Women in Latin America and the Caribbean organised by the Economic Commission for Latin America and the Caribbean (ECLAC), known as the Quito Consensus (2007), parity has become one of the basic principles of the regional agenda. Ecuador (2008), Bolivia (2009), Costa Rica (2009) and Mexico (2014) have advanced towards parity and discussions are currently underway on initiatives to incorporate parity in Argentina, Colombia, Panama, Peru and Uruguay.

Why is it important to go from quotas to parity in the political sphere? Two arguments stand out here: the first is linked to distributive justice. While women represent more than 50 per cent of the population and electoral rolls, on average, they hold less than 30 per cent of the seats in elected representative bodies. Secondly, parity implies overcoming problems derived from the regulatory characteristics of the different quota laws, especially in relation to the determination of the minimum percentage of women and position mandate.¹⁷

Furthermore, parity is not a temporary measure, but rather a concept that can serve as a guiding principle for democracy. As such, its potential lies in its ability to ensure that the diversity of interests that exist in our societies is reflected in congresses and to contribute to the promotion of gender equality outside the political arena as well. Until now, the call for parity has been generally limited to the demand for electoral lists to be made up of 50 per cent of men and 50 per cent of women, whose names are to be alternated sequentially on the list to ensure equal representation of both sexes. Even so, real parity will only exist when women achieve full political, economic and physical autonomy.¹⁸

How are economic autonomy and physical autonomy related to achieving gender equality in decision-making processes? Economic autonomy refers to women’s ability to generate their own income and resources through access to paid work on equal terms with men. The incorporation of women in public life was not reciprocated by men taking on responsibility for domestic and care work, which continues to fall almost exclusively on women’s shoulders. This unfair distribution of care work acts as a barrier for women, not only in the labour market, but also in the political sphere.¹⁹

In relation to physical autonomy - that is, the capacity to make decisions about their own bodies and live a life free from violence - parity cannot be achieved unless the fight against political violence against women is intensified. Women’s growing participation in decision-making has been accompanied by acts of violence and political harassment. Therefore, it is fundamental to give visibility to and systematise acts of violence and political harassment of women and to promote the development of different tools to prevent, punish and eradicate violence against women in politics.

The data presented here clearly indicates that far from being an endpoint, the adoption of laws on parity in the legislative sphere constitutes the first step in advancing towards

the full enjoyment of the political rights of women and the achievement of parity democracies. Subsequently, this opens the way to a new path, which consists of, on the one hand, ensuring effective compliance with these laws through monitoring and evaluation exercises, and, on the other, the transformation of both the dominant patriarchal culture and structural conditions to enable women to fully exercise their autonomy in the public and private sphere.

NOTES

1 • “Women in National Parliaments,” Inter-Parliamentary Union (IPU), November 1, 2016, accessed November 26, 2016, <http://www.ipu.org/wmn-e/classif.htm>.

2 • These are measures or policies that seek to strengthen the opportunities and increase the access to resources of traditionally excluded groups or collectives by providing differential treatment to remedy structural inequalities. For an analysis of these measures, see: CDHDF (2007) Acciones afirmativas en materia de no discriminación.

3 • Access to the law’s full text and the decrees adopted to regulate it can be found here: “Ley 24012 Honorable Congreso de la Nación Argentina,” InfoLEG, December 3, 1991, accessed November 26, 2016, <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=411>.

4 • Argentina (1991), Mexico (1996), Paraguay (1996), Bolivia (1997), Brazil (1997), Costa Rica (1997), Ecuador (1997), Panama (1997), Peru (1997), Dominican Republic (1997), Venezuela (1998), Colombia (1999), Honduras (2000), Uruguay (2009) and Chile (2015).

5 • Part of an analysis of these myths was published in Lucía Martelotte, “Mitos de la paridad.” Página/12, September 11, 2016, accessed November 26, 2016, <http://www.pagina12.com.ar/diario/sociedad/3-309124-2016-09-11.html>.

6 • See “Situación Educativa de América Latina y el

Caribe: Hacia la Educación de Calidad para Todos al 2015,” Oficina Regional de Educación para América Latina y el Caribe (OREALC/UNESCO Santiago), 2013, accessed November 26, 2016, <http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Santiago/images/SITIED-espanol.pdf>; Ana García de Fanelli and Claudia Jacinto, “Equidad y Educación Superior en América Latina: el Papel de las Carreras Terciarias y Universitarias,” *Revista Iberoamericana de Educación Superior 2010* I, no. 1 (June-September, 2010): 58-75.

7 • At the national level, many of the constitutions in the region include affirmative action. In relation to the international regulatory framework, one can mention, among others: Article 4 (1) of the CEDAW (Convention on the Elimination of All Forms of Discrimination against Women), which makes references to temporary special measures aimed at accelerating *de facto* equality between men and women; and strategic objective G1 of the Beijing Platform for Action, and measures 190.a and 192.a, in particular.

8 • For further analysis on the various components of the gender gap, see “Informe Global de la Brecha de Género 2015,” World Economic Forum, November 19, 2015, accessed November 26, 2016, <https://www.weforum.org/es/agenda/2015/11/informe-global-de-la-brecha-de-genero-2015/>.

For a more in-depth analysis of the impact of

women legislators in the broadening of the political agenda, see Nélica Archenti and Niki Johnson, "Integração da perspectiva de género na agenda legislativa, com e sem quotas: estudo comparativo entre a Argentina e o Uruguai," *Sociologia, Problemas e Práticas* [online] no. 52 (2006): 133-53; Susan Franceschet and Jennifer Piscopo, "Gender Quotas and Women's Substantive Representation: Lessons from Argentina," *Politics and Gender* no. 4 (2008): 393-425; Jutta Borner, Mariana Caminotti, Jutta Marx and Ana Laura Rodríguez Gustá, *Ideas, Presencia y Jerarquías Políticas. Claroscuros de la Igualdad de Género en el Congreso Nacional de Argentina* (Buenos Aires: PNUD-Prometeo Libros, 2009).

10 • In "Las mujeres en el parlamento en 2015. Perspectiva anual," Inter-Parliamentary Union (IPU), 2016, accessed November 26, 2016, <http://www.ipu.org/pdf/publications/WIP2015-s.pdf>.

11 • As we will see in the paragraphs that follow, these differences are related to the design of quota laws and the characteristics of the electoral system. In relation to design, in Bolivia, the percentage for women is higher than in Brazil and position mandates have also been established, which are absent in the case of Brazil. With regards to the electoral system, while Bolivia uses closed and blocked lists, Brazil functions with open lists in which the electorate can indicate preferences.

12 • For more information on quotas and types of quotas, see The Quota Project, 2016, accessed November 26, 2016, <http://www.quotaproject.org>.

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BLACK FEMINISM FOR A NEW CIVILIZATORY FRAMEWORK

Djamila Ribeiro

- *A Brazilian perspective* •

ABSTRACT

This article discusses the importance of black feminism in the current political debate. It shows how the absence of an ethnic-racial perspective in the feminist movement has made black women and their struggles invisible, thus making it difficult for them to become political subjects. The author emphasises the theoretical-analytical contribution of black feminists, which highlights the combination of oppression - of race, class and other forms of discrimination - and its concrete functioning in the life of black women. For the author, a critical and intersectional outlook might point to new forms of understanding and political existence that breaks with the invisible reality of black women.

KEYWORDS

Black women | Feminisms | Race | Intersectionality

It is essential for the continuation of the feminist struggle that black women recognize the special advantage our marginalized perspective grants us and make use of it to criticize racist, classist domination and sexist hegemony, as well as refute and create a counter-hegemony. I'm suggesting that we have a central role to play in the realization of feminist theory and a contribution to offer which is unique and valuable.¹

This quote from bell hooks sums up the importance of black feminism to the political debate. Contemplation of how forms of oppression are compounded and interlaced, creating new forms of oppression, is fundamental in order to consider other possible means of existence. Furthermore, the theoretical and critical framework offered by black feminism serves as a tool for thinking not just about black women, a broad category in itself, but also about the model of society we desire.

Black women have historically considered the notion of women in a non-universal, non-critical manner, often pointing out the need to perceive other possibilities of womanhood. In 1851 Sojourner Truth, a former slave who became a public speaker, gave her famous speech, "Ain't I a Woman?", at the Ohio Women's Rights Convention:²

That man over there says that women need to be helped into carriages, and lifted over ditches, and to have the best place everywhere. Nobody ever helps me into carriages, or over mud-puddles, or gives me any best place! And ain't I a woman? Look at me! Look at my arm! I have ploughed and planted, and gathered into barns, and no man could head me! And ain't I a woman? I could work as much and eat as much as a man - when I could get it - and bear the lash as well! And ain't I a woman? I have borne thirteen children, and seen most all sold off to slavery, and when I cried out with my mother's grief, none but Jesus heard me! And ain't I a woman?

Truth immediately announces here that black women face a radically different situation than white women. While white women of that era were struggling for voting and labour rights, black women struggled to be seen as people. And this radical discrepancy made a world of difference.

Angela Davis is another thinker who, even prior to the concept of intersectionality taking hold, considered multiple structural oppressions to be inseparable. In *Women, Race and Class*,³ recently published in Brazil,⁴ Davis emphasises the importance of using other parameters for feminineness and denounces the racism that exists in the feminist movement, while also constructing an anti-capitalist, anti-racist and anti-sexist analysis.

Despite the intersectional analyses of several black feminists in previous years, the term was first coined in 1989, by Kimberlé Crenshaw, in her doctoral thesis.⁵

Intersectionality is a conceptualization of the problem that seeks to capture the structural and dynamic consequences of the interaction between two or more axes of subordination. It deals specifically with the manner in which racism, patriarchy and class oppression along with other discriminatory systems create basic inequalities that structure the relative positions of women, races, ethnicities, classes and others.⁶

To think about intersectionality is to perceive that there can be no primacy of one form of oppression over all others and that, being structural in nature, such structures must be broken up. It means thinking about race, class and gender not in an isolated manner, but as inseparable categories.

In Brazil black feminism began to gain strength in the 1980s. According to Núbia Moreira, “the relationship of black women to the feminist movement was established through the Third Latin American Feminist Encounter in Bertioga in 1985, from which the current collective expression of the organisation of black women emerged with the intent to increase their political visibility in the feminist sphere. From there arose the first Black Women’s Collectives, during which several State and National Encounters of Black Women occurred.”⁷ Important organisations such as Geledés, Fala Preta, Criola, along with other collectives and intellectual products, emerged. In this context Lélia Gonzáles became a significant figure to be discussed and studied. Besides placing black women at the centre of the debate, Lélia saw the hierarchy of knowledge as a product of the population’s racial classification, since the universally valued model is white. According to the author, racism constituted “the ‘science’ of Euro-Christian (white, patriarchal) superiority, to the extent to which it structured the Aryan model of explanation.”⁸

Within this framework, feminist theory also ended up incorporating this discourse and structuring that of white women as dominant. Thus counter-discourse and counter-narratives were not only important epistemologically, but also as an assertion of existence. The invisibility of black women in the feminist agenda causes none of their problems to be mentioned whatsoever. And no emancipatory solutions can come out of problems which are not even stated. This absence is also ideological. Many black feminists place the issue of breaking the silence as primary for the survival of black women. Angela Davis, Audre Lorde and Alice Walker, in their work, deal with the importance of speaking out. “Silence won’t protect you,” says Lorde.⁹ “No person is your friend who demands your silence,” says Walker. “Black unity was built on top of the silence of black women,” says Davis.¹⁰ The authors are talking about the need to not keep quiet about oppression in order to achieve a supposed unity among oppressed groups; that is, they alert us to the important idea that being oppressed cannot be used as an excuse to legitimise oppression.

The issue of silence can also be extended to an epistemological silence and political practice within the feminist movement. The silence in relation to the reality for black women denies them their place as political subjects. It is a silence that, for example, goes back over the last ten years, in which homicides of white women have decreased 10% while homicides

of black women have increased nearly 55%, according to the 2015 Map of Violence.¹¹ There is a lack of an ethnic-racial perspective towards policies to confront violence against women. The combination of forms of oppression puts black women in a place in which only intersectionality allows for true action that does not deny identities to the detriment of others.

Because they weren't white, nor men, black women occupy a very difficult position within the white supremacist society. We represent a doubly vulnerable species, a double otherness, since we're the antithesis of both whiteness and masculinity. In this sense, black women can only be the other, and never themselves. (...)

White women have an oscillating status, as both themselves and the "other" for white men, since they're white, but they're not men; black men exercise the function of opponents of white men, being possible competitors in the conquest of white women, since they are men, but not white; black women, however, are not even white, nor men, and exercise the function of the "other" of the other.¹²

In Kilomba's affirmation we see she disagrees with the Simone de Beauvoir's categorisation.¹³ For the French philosopher, there is no reciprocity: women are always seen in men's eyes in a position of subordination, as the absolute other. But Beauvoir's affirmation speaks to one aspect of being a woman – in this case, a white woman. Kilomba, in addition to making a more sophisticated analysis, includes black women in her comparison. To her, there is reciprocity between white men and white women, and between white women and black men, there is an oscillating status that can allow the white woman to position herself as a subject. But Kilomba rejects the rigidity of this status. White women can be seen as subjects in certain moments, like black men. Beauvoir says, "What defines in a singular way the situation of women is that being, like every human, an autonomous liberty, she discovers and chooses within a world in which men impose on her the condition of the Other. The intent is to turn her into an object, raise her to immanence, but her transcendence however will be perpetually transcended by another essential and sovereign consciousness." Kilomba, while showing that women face differing situations, withdraws from this universality in relation to men, showing that the reality of white men is not the same as black men, and thus we also must ask: which men are we talking about? Recognising the status of white women and black men as oscillatory allows us to see the specifics and eliminate the invisibility of black women's reality.

To Kolimba, being the antithesis of whiteness and masculinity makes it impossible for black women to be seen as subjects. To use Beauvoir's terms, black women would be, then, the absolute Other – both in the eyes of white men as well as black, while white women would confine black women to a sub-alternativeness much more difficult to overcome.

In a society whose legacy is patriarchal, classist and slavery-promoting, the theoretical and practical basis of black feminism becomes increasingly necessary to achieve a new civilizational framework.

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REFUSING REPRODUCTIVE HEALTH SERVICES ON GROUNDS OF CONSCIENCE IN LATIN AMERICA

Diya Uberoi & Beatriz Galli

- *Challenging policies and practises based on human rights standards*

ABSTRACT

The years have seen a rise in the use of conscientious objection (CO) as means to deny women their sexual reproductive health rights. While states have an obligation under international human rights law to protect the freedom of thought, conscience and religion of people, they also have obligations to protect the right to the highest attainable standard of health and other fundamental rights. Over the years, International and regional human rights bodies have indicated the need for CO to be limited so as to protect women's rights.

As a means to balance both rights of medical service providers to exercise their moral beliefs and to protect the right to health of women, countries around the world have also sought different ways to regulate the use of CO. Whereas in some countries, some developments have been made to regulate CO so as to protect fundamental rights of women, in others, few guidelines exist in order to ensure availability of services for women in case refusals are made. This article provides an overview of policies regulating CO in Latin America. It considers the regulation of CO under both international law and under various state laws within the region. It suggests that if women's reproductive rights are to become a reality, then there is a real need that states as well as international and regional human rights bodies continue to find ways to clarify frameworks around CO, so that grounds of conscience do not become an excuse to deny women realisation of their fundamental rights.

KEYWORDS

Abortion | Conscientious objection | Human rights | Sexual reproductive health

1 • Introduction

Conscientious Objection (CO) can be understood as the right of an individual to refuse to participate in an activity that he or she considers incompatible with his or her moral, religious, philosophical or ethical beliefs. While at the outset, the right of an individual to assert a moral objection to performing certain duties may not appear to be problematic, conscientious objections when made by medical providers to refuse certain lifesaving procedures can raise a number of concerns in the context of sexual reproductive health.

Studies suggest that use of CO has increasingly become a strategy through which medical providers have sought to excuse themselves from their duties to provide essential reproductive health services for women on moral grounds.¹ In a number of countries, CO is largely unregulated or regulated minimally, having devastating consequences on health and lives of women. In some countries, the right to CO is said to belong to not only individuals but to an institution itself.² The World Health Organization (WHO) has even recognised that, as a barrier to lawful abortion services, CO can impede women from reaching the services for which they are eligible, potentially contributing to unsafe abortion.³

While states have an obligation under international law to protect medical providers' rights to freedom of thought, conscience and religion, they still have obligations to protect the right to life and health of women. United Nations (U.N.) treaty monitoring bodies, through a number of recommendations and concluding observations, have held that as a means to protect the right to health, that CO must be regulated.⁴ This article suggests that there is a real need that states as well as human rights bodies impose clear limits and guidelines on use of CO so as to protect women's fundamental rights. As much as international law may provide for useful guidelines within this context, the example provided by some state courts may be further beneficial.

Part I considers arguments around CO and its status under international and regional human rights law. Part II then addresses the different ways in which states have sought to regulate CO to ensure that women's sexual and reproductive rights are fully protected. In particular, it considers the status of CO in Latin America. The example of Latin America is taken, as women's right to access to reproductive health services within the region has consistently come under attack as regulations around abortion and emergency contraception have been in a constant state of flux. Over the years, as countries within the region have sought to decriminalise abortion, there has been a backlash felt with doctors claiming protection of their right to CO, which is having devastating impacts on the life and health of women. Ultimately, the paper analyses some country-case studies from Latin American and concludes with suggestions for governments, to secure protection of fundamental rights of women.

2 • Sexual Reproductive Health Rights & Limits to CO under International Human Rights Law

CO brings to the forefront the need for governments to balance their obligations to protect the moral beliefs of individuals and the right of patients to receive adequate care. While the right to thought, conscience and religion is recognised under international human rights law, so is the right to the highest attainable standard of health.

Today, rights to sexual reproductive health are well established under international human rights law. And international law, through the pronouncement of treaty monitoring bodies has recognised the need to regulate CO to accommodate both medical providers' beliefs and women's rights to timely medical care. Regulations for example, are to ensure availability of willing providers and should clearly establish the types of services and circumstances in which CO can be invoked. They should further establish oversight mechanisms, provide penalties for health care professionals who do not comply with their duties⁵ and allow women to claim remedies where their rights are violated.⁶

The Committee on Economic and Social Rights, states human rights bodies have held that in order to protect the right to health and life of women, that rights to conscience can be limited.⁷ The U.N. Special Rapporteur on Health has even explained that the exercise of CO cannot be upheld to supersede the right to health, integrity and privacy of women.⁸ Laws which protect rights to conscience and which restrict access to abortion, and other reproductive services violate women's rights to privacy and reproductive decision-making. When CO is used to further deny such services, it undermines women's ability to control their reproductive autonomy and infringes upon their ability to have control over their bodies.

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has held that "it is discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women."⁹ Thus when CO is invoked, it recommends that, "measures be introduced to ensure that women are referred to alternative health providers."¹⁰ With respect to abortion, it specifically notes that policies allowing for CO without ensuring alternative means of accessing abortion services violate women's reproductive rights and recommends that steps be taken to guarantee referrals in such circumstances.¹¹ The Human Rights Committee, which monitors states compliance with the ICCPR, has recognised CO as a barrier to abortion. It recommends that states under their obligation to protect the right to life remove barriers to the procedure.¹²

U.N. bodies have further elaborated the conditions upon which CO can be limited. The Committee on Economic, Social and Cultural Rights (CESCR) and the Human Rights Committee have identified that in order to protect the right to the highest attainable standard of health, states can restrict CO as long as the restriction: 1) follows the law; 2) is compatible with other human rights; 3) has legitimate aims; and 4) is strictly necessary to promote general welfare.¹³ Thus one sees the need for exemptions

and limits of CO to be clearly stated, so that both rights to conscience and women's right to health are balanced. It is additionally important that limits are explicitly stated and that accountability mechanisms exist in order to ensure that CO does not become a means to deny women life saving care. In his interim report on the criminalisation of abortion in 2011, the U.N. Special Rapporteur on the Right to the Highest Attainable Standard of Health specifically recommended that states clearly define exemptions to CO¹⁴ and the CEDAW Committee has called on states to "take action to prevent and impose sanctions for violations of rights by private persons and organisations."¹⁵ When legislation clearly imposes limits on CO and calls for accountability means it clarifies any misunderstanding that can occur when a variety of rights may conflict.

3 • Regional developments on human rights standards to limit CO

Regional human rights bodies have also sought to establish limits around CO in health care settings. The European Court of Human Rights (ECtHR) for example, has addressed the need to restrict CO in matters of sexual reproductive health in a number of instances. It has held that pharmacists cannot refuse to sell contraceptives, as the right to exercise one's beliefs in public is not always guaranteed.¹⁶ Additionally it has found that CO can only be exercised by individuals and not by institutions.¹⁷ With respect to abortions it has held that states have a positive obligation to regulate the practice of CO.¹⁸ In the case of *RR v. Poland*, for example where a woman was denied access to a prenatal genetic examination because of a doctor's objection, the ECtHR held that effective implementation of abortion laws is a necessary means to ensure respect for one's private life.¹⁹

Reaffirming this decision one year later in the case of *PS v. Poland*, where a teenager became pregnant as a result of rape, the ECtHR held that legal frameworks around abortion must ensure effective access to the procedure.²⁰ Denial of life saving care in such circumstances amount to a violation of women's right to privacy, life and can even amount to torture. Taking into consideration the rights of women in light of the right to life of a fetus, the ECtHR in *Vo v. France* explained that any rights of the unborn are limited by the rights and interests of the mother.

A - Regulation of CO & the Inter-American System of Human Rights

Where some developments have been made with respect to CO and women's sexual reproductive health within the regional system in Europe, no such standards have been issued under the Inter-American system of Human Rights.²² The Inter-American Court of Human Rights for example, has yet to decide a case explicitly calling for a balance between rights to conscience and health. The Court however, tangentially addressed the issue in the case of *Artavia Murillo v. Costa Rica*. In this case, the Inter-American Court explicitly recognised reproductive rights, and sought to establish states obligations around the regulation of such rights. It specifically held that, "states are

responsible for regulating and overseeing the provision of reproductive health services in order to ensure effective protection of the rights to life and personal integrity.”²³ While the decision *per se* does not make specific reference to CO in health settings, it still marks a significant recognition by the Inter-American System to uphold the need for the protection of sexual reproductive health via an effective regulatory framework.

B - The Colombian Constitutional Court

A lack of precedence as established by the Inter-American Court however, has not thwarted developments by national courts in the region. National courts have ruled upon CO and sought to define its limits. The Constitutional Court of Colombia for example, has issued a number of decisions to clarify the limits of CO and define its normative components with respect to matters of health. In the landmark decisions of C-355 (2006), T-209 (2008), T-946 (2008) and T-388 (2009), the Court liberalised abortion and specifically made legal rulings as to the way health care institutions are to accommodate both medical providers right to conscience and the right to lawful medical care of women.²⁴ The Court for example established that: a.) CO can only be invoked by direct providers of abortions and not by medical assistants, nurses etc.;²⁵ b.) CO is an individual right and cannot apply to institutions; c.) CO claims must be provided in writing; d.) Physicians can be sued for failing to comply with standards around CO, and e.) “Because CO cannot be invoked with the effect of violating women’s fundamental rights to health care...[that] individual objecting physicians have a duty of immediate referral, and institutions must maintain information of non-objecting physicians to whom patients can promptly be referred.”²⁶ In a report entitled, *Access to Information on Reproductive Health from a Human Rights Perspective*, the Inter-American Commission of Human Rights even referred to the decisions by the Colombian Constitutional Court and legitimised the Court’s guidelines around CO as human rights standards for the region.²⁷ The decisions as such have been heralded by some scholars as providing a holistic approach to CO and serving an effective “blueprint” for countries to consider in the regulation of CO.²⁸

The position under international human rights law is clear. While states are to protect the rights to conscience and belief of medical providers, they can still limit the manifestation of one’s right to thought to protect fundamental rights of women. Following such trends, states have found different ways to regulate CO in the medical setting. To date, little research and evidence exists as to the practice of CO internationally. Nonetheless, particular emblematic cases in Latin America such as Colombia, Argentina, Brazil and Uruguay provide interesting analysis for a human rights based approach to regulating CO in the reproductive sphere.

4 • CO in Latin America

Conscientious objection has increasingly become a contentious issue in a number of countries in Latin America. Latin America is home to some of the most restrictive laws on abortion. While abortion is criminalised in Nicaragua, the Dominican Republic, Chile,

Honduras, and El Salvador, it is legal subject to conditions in other countries. As a means to protect both interests of providers and women's right to health, states throughout the region have taken significant steps to regulate CO in the medical sphere.

A number of countries specifically require through legislation that medical providers and institutions refer patients to non-objecting providers,²⁹ that CO claims be provided in writing³⁰ and that doctors explain why performing certain procedures run counter to their deepest beliefs.³¹ Despite such improvements, CO still poses impediments to women's rights.

Where countries have sought to impose restrictions on CO, few oversight mechanisms exist to hold objecting providers accountable. With lack of proper regulation and oversight mechanisms, medical providers have increasingly been able to invoke claims to conscience as a means to "abuse" the right. In light of such findings, there is a real need that states continue to tighten regulations around CO so as to ensure that women's rights are not compromised in light of the need to protect freedoms of thought, conscience and religion.

Argentina is a case in point. Despite the fact that abortion is legal subject to certain conditions and that CO is extensively regulated through law, medical providers consistently refuse to perform essential services for women.³² Since 2003, the National Congress has sought to regulate CO in the sphere of sexual reproductive health.³³ While the regulations stipulate in a number of ways that CO not be invoked in ways to deny women access to sexual reproductive health services,³⁴ the regulations are still limited as they fail to limit the right solely to individuals and fail to provide means to hold objecting providers responsible for their obligations.³⁵ Accordingly, both public and private institutions and medical professionals can deny access to services. A number of studies indicate that lack of legal accountability mechanisms have provided an impetus for medical providers in the country to deny women information and access to reproductive services on grounds of conscience.³⁶ In some instances, health professionals and pharmacists have even claimed CO as a way to refuse providing information on abortion or to refer women to other willing providers, even when obligated by the law.³⁷ Access to information is a vital component of the right to health and when CO is used to deny women information on the availability of essential reproductive services, it infringes on the right of individuals to information and privacy in health.³⁸ Nonetheless, a survey carried out by CEDES in 2001, showed that 50 per cent of the professionals surveyed considered that they must not perform vasectomies or tubal ligations or provide information on those services.³⁹ More than 30 per cent held the same beliefs regarding contraception.⁴⁰

In Brazil, where CO has been regulated since 2005, women have been denied access to abortion because doctors have refused to provide such services. Even though the Ministry of Health issued Decree 1,508/2005 in 2005⁴¹ as a means to limit CO and to protect sexual reproductive health of victims of rape, there have been incidents where doctors have blatantly

overlooked the Decree. The Decree as it stands specifically provides for the “presumption of truth in a woman’s word.”⁴² Nonetheless, there have been instances where women have been denied legal abortions because doctors were unwilling to believe their stories.⁴³ Research shows that physicians, who interrogate rape victims, often require extensive documentation with detailed facts; creating unnecessary barriers to legal abortion care.⁴⁴

In Colombia, where regulations have stipulated legal consequences for objecting providers, doctors have still sought to abuse their rights. After the Constitutional Court liberalised abortion in 2006 and developed its ground breaking guidelines for the regulation of CO; recent cases have shown that medical providers refuse to provide abortion services though obliged to do so.⁴⁵ In Decision T-388/09, where the Court looked to further clarify its guidelines on CO – by holding that public authorities, judges, and healthcare providers, whether public or private, could be subject to legal sanctions⁴⁶ if standards on CO are not complied with – steps were taken to challenge the holding. Immediately after the decision, “three citizens and the Inspector General of Colombia himself petitioned the Constitutional Court to reverse the Decision, arguing, among others, that the creation of rules on conscientious objection to abortion”⁴⁷ went beyond those of its Decision from 2006.

In Uruguay for example, abortion is legal until the 12th week of pregnancy.⁴⁸ As a means to ensure access to abortion and other reproductive health services, the government implemented Law 18.987 and Decree 375 (2012), which regulate the scope of the liberal abortion law and seek to clarify the limits of CO.⁴⁹ To this extent, the regulations require that institutions who are opposed to the practice of abortion, declare their objections to the National Health Junta.⁵⁰ Additionally, the regulations also try to address concerns where CO may amount to civil disobedience or be abused. Accordingly, the regulations stipulate that CO can be revoked at any time, and can be “implicitly revoked anytime a physician provides abortion services.”⁵¹ Given the broad reaching scope of the provisions, a number of doctors challenged the decree, arguing that it unduly restricted their right to freedom of thought. Accordingly, in August 2015, the highest administrative court annulled several of the provisions limiting the exercise of CO.⁵² In particular, the Court rendered null article 12, which prohibits physicians from forming any value judgment on a patient’s decision.⁵³ Given the effect of the decision, there is real concern that any further gains that may be made in the realm of sexual reproductive will also only be thwarted.

In Latin America, the varying extent to which CO has been used as a strategy to systematically deny women’s access to reproductive health services has created an environment where it has become more difficult for women to realise their fundamental rights. Given the concerns that the abusive use of CO poses on women’s health and rights, there is a real need for governments to strengthen legislation around CO and provide enforcement mechanisms so as to ensure accountability within the health system. When legal policies lack grounds for enforcement, their potential to be overlooked thereby violating women’s human rights increases, as they stand only as “principles” to be considered.

5 • Conclusion

Clearly the illegitimate use of CO poses immense concern for women's access to essential reproductive health services and constitutes not only a violation of the right to health, but right to information, non-discrimination and equality in health care, and privacy of women as established under international human rights law. In this respect, guidance as afforded by the Colombian Constitutional Court on CO and those recommendations made by treaty monitoring bodies provide effective means for states to consider in the implementation of their policies. Clearly if the sexual reproductive health of women is to become a reality, then steps must be taken to ensure that one's right to conscience cannot be abused so as to deny access to life saving treatment for women around the world.

NOTES

1 • Kathleen M. Morrell and Wendy Chavkin, "Conscientious objection to abortion and reproductive healthcare: A review of recent literature and implications for adolescents," *Current Opinion in Obstetrics and Gynecology*, 27, no. 5 (2015): 333–338.

2 • In Uruguay for example, after the decriminalisation of abortion, the concept of ideological objection by institutions was introduced through the law. See, Lionel Briozzo, "From Risk and Harm Reduction to Decriminalizing Abortion: the Uruguayan Model for Women's Rights," *International Journal of Gynecology and Obstetrics* 134 (2016): S3–S6.

3 • See, WHO. *Safe Abortion: Technical and Policy Guidance for Health Systems*, 2nd ed. (Geneva: WHO, 2012), 69; Christina Zampas, "Legal and Ethical Standards for Protecting Women's Human Rights and the Practice of Conscientious Objection in Reproductive Healthcare Settings," (2013) 3 *International Journal of Gynaecological Obstetrics* 123, suppl. 3 (2013): S63–S65.

4 • See, e.g., United Nations, Committee on the Elimination of Discrimination against Women (CEDAW), "Concluding Observations regarding Slovakia," A/63/38, 14 July 2008, para. 42–43; United Nations, Human Rights Committee (OHCHR),

"Concluding Observations regarding Poland," CCPR/C/POL/CO/6, 29 September 2010, para 12.

5 • *Tysiac v Poland*, Application no. 5410/03, Merits and Just Satisfaction, 2007, para 116–117.

6 • The right to an effective remedy is a fundamental right recognised in most international and regional human rights treaties. See, e.g., International Covenant on Civil and Political Rights, adopted 16 Dec. 1966, Art. 2, para 3, G.A. Res. 2200A XXI, UNGAOR, 21st Sess., Supp. no.16, U.N.Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force 23 March 1976).

7 • See, eg. United Nations, Committee on Economic, Social and Cultural Rights (CESCR), "Concluding Observations: Poland," U.N. Doc. E/C.12/POL/CO/5 (2009) para 28.

8 • United Nations, "Special Rapporteur on Health," *supra* note 29 para 8.

9 • United Nations, Committee on the Elimination of Discrimination against Women (CEDAW), "General Recommendation no. 24: Article 12 (women and health)," 20th Sess., 1999, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, Vol. II, p. 358, para 11, U.N. Doc. A/HRI/GEN/1/Rev.9 (2008).

10 • CEDAW, "General Recommendation no. 24".

- 11 • See, e.g., United Nations, Committee on the Elimination of Discrimination against Women (CEDAW), “Concluding Observations: Slovakia,” U.N. Doc. A/63/38 (2008) para 42–43.
- 12 • See, e.g., United Nations, Human Rights Committee (OHCHR), “Concluding Observations: Poland,” U.N. Doc. CCPR/C/POL/CO/6 (2010) para 12.
- 13 • United Nations, Human Rights Committee (OHCHR), “General Comment no. 22, The Right to Freedom of Thought, Conscience and Religion (Article 18),” UN Doc. CCPR/C/21/Rev.1/Add.4 (1993) para 8; United Nations, Committee on Economic, Social and Cultural Rights (CESCR), “General Comment no. 14, The Right to the Highest Attainable Standard of Health,” UN Doc. no. E/C.12/2000/4 (2000).
- 14 • United Nations, “Special Rapporteur,” para 65.
- 15 • CEDAW, “General Recommendation no. 24,” para 14–15.
- 16 • See, *Pichon and Sajous v. France* no. 49853/99, Merits and Just Satisfaction, 2 October 2001.
- 17 • *Pichon and Sajous v. France*.
- 18 • *R.R. v. Poland* no. 27617/04, Merits and Just Satisfaction, 26 May 2011, para 197.
- 19 • *R.R. v. Poland*, para 213–214.
- 20 • *P and S v. Poland* no. 57375/08, Merits and Just Satisfaction, 5 November 2012.
- 21 • *P and S v. Poland*.
- 22 • Standards however, have been developed with respect to CO in the military. See e.g. Case 12219, *Cristian Daniel Sahli Vera et al. v Chile*, Report no. 43/05 (2005); Case 14/04, *Alfredo Diaz Bustos v Bolivia*, Report no. 97/05 (2005).
- 23 • Case of *Artavia Murillo et al. v Costa Rica*, IACtHR Series C 257 (2012) para 148.
- 24 • Colombia, Corte Constitucional [C.C.] [Constitutional Court], *Sentencia C-355/06*, May 10, 2006; Colombia, Corte Constitucional [C.C.] [Constitutional Court], *Sentencia T-209/08*, February 28, 2008; Colombia, Corte Constitucional [C.C.] [Constitutional Court], *Sentencia T-388/09*, May 28, 2009, accessed November 30, 2016, <http://www.corteconstitucional.gov.co/relatoria/2009/t-388-09.htm>.
- 25 • This requirement was recently also upheld by the Supreme Court of the UK in the case of *Doogan & Woods*. In this case, two midwives working as Labor Ward Coordinators, wished to invoke the right of conscientious objection in accordance with section 4 of the Abortion Act 1967 which provides that ‘no person shall be under any duty [...] to participate in any treatment [...] to which he has a conscientious objection’. The Health Board objected to the midwives’ claim, stating that their activities were not proximate enough to the termination procedure to qualify under section 4. Whilst the appeal to the Inner Court had seen the midwives claims accepted, the Supreme Court restated the test of proximity that preceding case law had developed and accepted (*Doogan and Woods v Greater Glasgow and Clyde Health Board*, UKSC 68, 2014).
- 26 • Rebecca J. Cook, Mónica Arango Olaya and Bernard M. Dickens, “Health care responsibilities and conscientious objection,” *International Journal of Gynecology and Obstetrics* 104, no. 3 (2009): 250.
- 27 • OAS, Inter-American Commission on Human Rights (IACHR), *Access to Information on Reproductive Health from a Human Rights Perspective*, OEA/Ser.LV/II., doc. 61 (2011) para 63.
- 28 • Luisa Cabal, Monica Arango Olaya, and Valentina Montoya Robledo, “Striking a Balance: Conscientious Objection and Reproductive Health Care from the Colombia Perspective,” *Health & Human Rights* 16 (2014): 77.
- 29 • See, Argentina, Decree no. 1282/03, May 26, 2003, Boletín Oficial; Argentina, *Law no. 26130*, August 28, 2006, Boletín Oficial, August 29, 2006; Uruguay, *Decree no. 375*, November 22, 2012, Diario Oficial, November 29, 2012; México, *Ley de Salud del Distrito Federal [LSDF] [Health Law for the Federal District]*, Gaceta Oficial del Distrito Federal [G.O.D.F] September 17, 2009, Articles 58–59.
- 30 • See example, Uruguai, *Decree no. 375*.
- 31 • Colombia, Corte Constitucional [C.C.], [Constitutional Court], *Decision T-388/09*, Gaceta de la

- Corte Constitucional [G.C.C.], May 28, 2010, para 53.
- 32 • Abortion is legal in Argentina whenever a woman's life or health is at risk, or in cases of rape. See, Argentina, Corte Suprema de Justicia de la Nación [CSJN] [National Supreme Court of Justice], "F., A. L. s/ medida autosatisfactiva" F. 259. XLVI, March 13, 2012.
- 33 • Argentina, *Law no. 25673/03*, May 26, 2003, Boletín Oficial (National Program on Sexual Health and Responsible Reproduction); Argentina, *Decree no. 1282/03*, May 26, 2003, Boletín Oficial; Argentina, *Law no. 26130/06*, August 28, 2006, Boletín Oficial, August 29, 2006 (Surgical contraception); Argentina, Ministerio de Salud, *Guía Técnica para la Atención Integral de los Abortos no Punibles* (Buenos Aires, June 2010).
- 34 • For example, Decree no. 1282/03 provides that institutions must ensure execution of the National Program on Sexual Health and Responsible Reproduction. That in CO cases, institutions must refer patients to non-objecting practitioners and that in case of refusal that institutions provide termination of pregnancy through another provider at the institution within five days, or immediately if the situation is urgent (Argentina, *Decree no. 1282/03*).
- 35 • Luisa Cabal, Monica Arango Olaya, and Valentina Montoya Robledo, "Striking a Balance: Conscientious Objection and Reproductive Health Care from the Colombia Perspective," *Health & Human Rights* 16 (2014): 79.
- 36 • Marcelo Alegre, "Conscious Oppression: Conscientious Objection in the sphere of sexual and reproductive health," *Seminario en Latinoamérica de Teoría Constitucional y Política* (Asunción, Paraguay, 2009) 94. Paper 66.
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- 38 • Sandra Coliver, ed., *Article 19, The Right to Know: Human Rights and Access to Reproductive Health Information* (Philadelphia: University of Pennsylvania Press, 1995), 39, 61–72.
- 39 • Alegre, "Conscious Oppression," 94, citing to Silvina Ramos et al., *Los médicos frente a la anticoncepción y el aborto ¿Una transición ideológica?* (Buenos Aires, CEDES, 2001).
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- 46 • Colômbia, Sentencia T-388/09.
- 47 • O'Neill Institute & Women's Link Worldwide, *T-388/2009*, 10.
- 48 • Uruguay, *Law no. 18.987/2012*, 22 October 2012, D.O. October 30, 2012, no. 28585, Article 6.
- 49 • Uruguay, *Law no. 18.987/2012*; Uruguay, *Decree no. 375/2012*, 22 November 2012, D.O. November 29, 2012.
- 50 • Luisa Cabal, Monica Arango Olaya, and Valentina Montoya Robledo, "Striking a Balance: Conscientious Objection and Reproductive Health Care from the Colombia Perspective," *Health & Human Rights* 16 (2014) 80.
- 51 • *Ibid.*
- 52 • See, *Alonso, Justo and others v Poder Ejecutivo*, no 586 (11 August 2015); Lucia Berro Pizarossa, "Conscientious Objection or Conscious Oppression?: The Uphill Battle to Access Abortion Services in Uruguay," *Oxford Human Rights Hub*

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53 • *Alonso, Justo and others v Poder Ejecutivo*, no. 586; Pizzarossa, "Conscientious".



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CONTROLLING WOMEN'S FERTILITY IN UGANDA

Sylvia Tamale

- *Perspectives on religion, law and medicine* •

ABSTRACT

Beginning with an examination of the impact of the contraceptive pill, Sylvia Tamale asks the question: Why Control Women's Sexuality? The author addresses, by using the Ugandan context as an example, the reasons why capitalist-patriarchal societies have sought to regulate the ability of women to be autonomous in terms of their reproductive choices. The author then examines the attitudes of the Abrahamic religions (Christianity and Islam) on contraception and family planning. She notes that despite conservative religious attitudes persisting, there are occasional glimmers of hope. Finally, Tamale looks at the role of the Law - both at the international and national level - in translating the religious norms that these dominant religions have designed into mechanisms of social control.

KEYWORDS

Contraception | Uganda | Reproductive rights

1 • Introduction

Without a doubt, one of the most revolutionary inventions of the 20th century was the birth control (oral contraceptive) pill in the 1950s, which was made publically available in the 1960s. That pill changed the world in the late 20th century in the same way that the Internet has changed the early 21st. Not only did the invention change science and medicine, it also signaled new heights for the protection of womenfolk around the world. Gender relations were never going to be the same; it is no exaggeration to say that modern contraceptive mechanisms re-wrote democracy. This is because modern birth control devices put women in control of their futures and their bodies for the first time. The seemingly simple fact of women's ability to enjoy sex freely without the fear of unwanted pregnancy marked a watershed moment in women's liberation struggles worldwide. The birth of the oral contraceptive pill drew a bold line that separated sex for pleasure from procreative sex.

Ironically, it was a Catholic obstetrician (Dr. John Rock) who, together with the scientist Gregory Pincus and feminists Margaret Sanger¹ and Katharine McCormick, was responsible for this wonder pill that reinvented sex for women by allowing them to have control of their fertility and reproductive capacities.²

Prior to the invention of modern contraceptive devices Africans used less effective methods of fertility control, some even posing health risks. For example, they relied on breastfeeding (which suppresses fertility), *coitus interruptus* (the withdrawal method), anal sex, and used plants with contraceptive and abortifacient properties. These are a far cry from the various birth control methods available today. Apart from the pill, women's sexual autonomy can be realised through other injectable or implantable hormonal methods or intra uterine devices (IUDs) as well as physical barriers such as condoms and diaphragms.

It is impossible to discuss fertility control and not talk about abortion. Indeed, when women abort they are in essence exercising their sexual autonomy by controlling their fertility. Today, modern contraceptive methods include medical abortion (as opposed to surgical abortion) with the invention of abortion pills such as misoprostol. Medical studies have shown medically-induced abortion is markedly safer than child-birth; the risk of death associated with child-birth is approximately 14 times higher than it is with abortion.³

Taking off from an examination of the impact of the contraceptive pill, this paper begins with a question: *Why Control Women's Sexuality?* It then proceeds to examine the place of the Abrahamic religions (Christianity and Islam) in relation to the phenomenon of contraception. I then conclude by looking at the role of the Law in translating the religious norms that these dominant religions have designed into mechanisms of social control.

2 • Why Control Women's Sexuality?

Fertility control for women is an issue of sexual and reproductive health and rights (SRHRs). When the pill was first introduced in Uganda in 1957, it was only available to married women and the Family Planning Association of Uganda (FPAU) required the written consent of the husband before they could access it.⁴ This policy remained in place well into the 1980s when I was an undergraduate student at university. I remember visiting the FPAU clinic at the national referral Mulago Hospital and the nurse asking me for a letter from my husband permitting me to take the pill. I excused myself, sat under a tree and scribbled a letter with a fake name of a non-existent husband and received the contraceptive pills! Today, many Ugandan women take modern contraceptives for granted and routinely enjoy sex without the looming fear of getting pregnant. And yet the Uganda Demographic and Health Survey (UDHS) of 2011 revealed some dismal statistics regarding women's sexual and reproductive health and rights. Teenage pregnancy rates remain high at 24 per cent in 2011. Only 30 per cent of married women aged between 15 and 49 use some method of contraception, the most common being the injectables, which are easy to conceal from partners.⁵

As heads of the family, most Ugandan men feel that it is their exclusive duty to decide if, when and how often their partners should have children. This explains why the injectable contraceptives are popular for women to covertly control their fertility. Such subversive acts of agency demonstrate the extent to which women will go in the exercise of sexual autonomy. In addition, Uganda has a maternal mortality ration of 438 per 100,000 live births, 26 per cent of these deaths being caused by unsafe abortions.⁶ The Ministry of Health estimates that approximately 400,000 unsafe abortions take place in Uganda annually with over 1,500 women losing their lives.⁷ The majority of those that die from unsafe abortions are poor, young and rural-based.⁸ The UDHS survey also linked low levels of contraceptive use to domestic violence. But we must remember that there are hundreds of thousands of women even today who cannot access these liberating devices.⁹

When a woman can control her fertility; when she can choose whether or not to have children; when she can determine how often she can have children; when she can have sex and not fear that the outcome will be an unwanted pregnancy, she breaks the chains that permanently condemn her to the domestic arena. Some of you may wonder: what is wrong with the domestic arena? In Ugandan society, the domestic sphere is separated from the public arena where politics and the market reside. While the latter space is valued and its labour remunerated, the former is devalued and its work taken for granted.¹⁰ Indeed, many people will make statements such as "My mother does not work" simply because she is a stay-at-home mother. Domestic and child caring work done by the majority of women in their homes is neither valued nor rewarded with wages. The drudgery of domestic labour, defined in its repetitive, arduous and time-consuming characteristics bogs women down, leaving them with very little room to engage in the public arena. Most of us view the current gender roles as natural and God-given, completely missing the manner in which they are socially constructed. The fact is that men can equally care for children and when they do, the sky does not fall down!

There is considerable power reposed in the function of reproduction, which is the direct consequence of possessing a womb. Recognising this power, capitalist-patriarchal societies have worked hard to regulate and control it in many different ways. First, society links the direct function of women in the biological reproductive process to their gender roles. Hence society “naturalises” and “normalises” the role of nurturing and rearing children to women. Religion plays a crucial part in constructing the patriarchal logic that women were created to bear and rear children. Natural Law – which is based on the Divine and the belief that all written laws must follow universal principles of morality and religion – is extremely influential in shaping our thinking on issues of contraception. By so doing, religion and the law legitimate and institutionalise the control of women’s sexuality and reproductive capacities.

When the oral contraceptive pill was first invented it was so controversial that it was not marketed directly as a birth control device. This small pill defied all the principles of Natural Law, Religion, Patriarchy and capitalism.¹¹ Rock and Pincus knew that they would never get the requisite approval from the Food and Drug Administration (FDA) if they presented it as a birth control pill. Instead, they presented it as medicine for menstrual disorders or irregular menstrual cycles. The packaging then included a side warning: “The Pill is likely to prevent pregnancy.” American women flocked to pharmacies in droves to procure this liberating “magic” pill.¹²

The magical oral contraception allowed women to freely participate in the public sphere of politics and business. Now, they could advance their educational and professional careers without fear of unplanned pregnancies. The sky became the limit for women to realise their full potential without the burden of unwanted pregnancies and childcare responsibilities. As the primary labourers in the domestic arena, women constitute the cornerstone for the production and reproduction of society and its norms.

The need to control and regulate women’s sexuality and reproductive capacity is crucial in patriarchal-capitalist societies at two levels. First, as one of the central tenets of the institutionalisation of women’s exploitation, such control consolidates male domination through the control of resources and the establishment of men’s relative greater economic power over women. The patriarchal family engenders these economic relations whereby the man, as head of the family, exercises control over the lives of women and children who are virtually treated as his property.¹³ In Uganda, the principle of “man as head of the household” is institutionalised in the educational curriculum and cultural practice. In this way, heteronormativity forms one of the essential power bases for men in the domestic arena.¹⁴ Capitalism required a new form of patriarchy than that which existed in pre-colonial Africa – one that embraced a particular (monogamous, nuclearised, heterosexual) form of the family.¹⁵ Under such a structure it is essential that the property and wealth acquired by the man is passed on to his male offspring in order to sustain the system. Hence, it becomes important to control women’s sexuality in order to guarantee the paternity and legitimacy of children when bequeathing property. To this end, the monogamy of women is required without

necessarily disturbing men's polygynous sexuality. Such double standards are clearly reflected in family law: for example, applying the crime of adultery to women and not men. That same inconsistency is also seen in the offence of prostitution that penalises only the sellers (the majority being women) and not the buyers (read men) of sex.¹⁶

At another level, we have seen that capitalist-patriarchal societies are characterised by a separation of the "public" sphere from the "private" realm. The two spheres are highly gendered with the former representing men and the locus of socially valued activities such as politics and waged labour, while the latter is representative of the mainly unremunerated and undervalued domestic activities performed by women. This necessitated the domestication of women's bodies and their relegation to the "private" sphere, where they provide the necessities of productive and reproductive social life *gratuitously* (thus subsidising capital)¹⁷ and are economically dependent on their male partners.¹⁸

3 • Abrahamic Religions and Contraception

Prior to the introduction of the Abrahamic religions of Islam and Christianity in Uganda, African Traditional Religions (ATR) generally viewed abortion as an abomination. However, ATR was well aware of the benefits of child spacing to maternal and infant health. Africans employed various methods to prevent conception or enhance spacing, including herbal potions taken orally, for douching or used to plug the cervical mouth, prolonged breastfeeding, thigh and anal sex, *coitus interruptus*, condoms made from the bladder of a goat and polygyny.¹⁹

At the 1994 United Nations (U.N.) International Conference on Population and Development (ICPD) held in Cairo, issues of fertility control were firmly placed on the agenda. Some religious groupings, particularly Islam and Catholicism were vehemently opposed to any discussion of sexuality and contraception within the framework of human rights. The Saudi Arabian Ulama Council condemned the ICPD as a "ferocious assault on Islamic society",²⁰ while Pope John Paul II attacked the "contraceptive imperialism" implicit in the Cairo agenda.²¹

Sa'diyya Shaikh, a Muslim feminist scholar at the University of Cape Town brings to our attention the fact that the vociferous opposition to family planning in some Muslim communities "represents a fairly sharp contrast to the way in which Muslims have historically addressed the issue."²² She writes:

Even a cursory investigation into the Islamic intellectual legacy will demonstrate that eight out of nine classical legal schools permitted the practice of contraception and that the Islamic legal positions on abortion range from allowing various levels of permissibility of abortion under 120 days to prohibition.

Shaikh cites several Qu'ranic teachings that separate marital sex for procreation and sex for pleasure within marriage, which also recognises the spiritual dimension of sexuality. Her argument is that "this approach to sexuality is compatible with a more tolerant approach to contraception and family planning."²³ She contends that some of the key ethical and legal considerations in addressing abortion in Islam relate to understanding the nature of the foetus, the process of foetal development and the point at which the foetus is considered a human being. According to the Qu'ran and some hadiths, the sequential process of foetal development culminates in becoming a full human being when it is "ensouled", that is, the moment when the soul infuses the human embryo (i.e., approximately 120 days after conception).²⁴

The Catholic Church teaches that ensoulment happens at conception and therefore views abortion of an embryo or foetus as murder. It is also opposed to contraception methods save for the unreliable natural "rhythm" method of abstaining from sex during predicted ovulation days. In 1968 Pope John Paul VI issued his landmark Encyclical letter on *Humanae Vitae* (human life), reaffirming the total proscription of modern or artificial contraceptive methods by the Catholic Church. Therefore, John Paul II's response to the Cairo conference was in line with rules enunciated by his predecessors. The Church firmly believes in the Natural Law purpose of sex, which is procreation. Religion thus acts as an important counterweight to women's ability and right to control their fertility.

But these views are not cast in stone. Fast forward to 2015 where we see Pope Francis I shifting the focus from the "rules" to the principle behind the rules and suggesting a "common sense" approach to the rule and calling on the Church to be merciful and understanding. In 2013 and six months into his papacy, Pope Francis made some remarks that signaled a change in the Church's direction on abortion. He said that the Church had grown too "obsessed" with homosexuality, abortion and contraception.

*It is not necessary to talk about these issues all the time. The dogmatic and moral teachings of the church are not all equivalent. The church's pastoral ministry cannot be obsessed with the transmission of a disjointed multitude of doctrines to be imposed insistently... We have to find a new balance.*²⁵

Although Pope Francis fell short of repudiating the Encyclical *Humanae Vitae*, his words gave hope to thousands of women and left many feminists pleased that a new message seemed to be coming out of the Vatican on this vexed issue. In October 2015, Pope Francis told a Roman Catholic meeting on family issues that the faith was "not a museum to look at and save" but should be a source of inspiration and called on the synod to have the courage to change if that is what God wanted.²⁶ In November 2016 he shocked the world when the Vatican officially endorsed the absolution of abortion by Catholic priests worldwide.²⁷

The position of the Anglican Church on the issue of abortion is not as clear as that of the Catholic Church. Although it is also morally opposed to abortion, some

denominations of the Anglican Church are more liberal and permit abortion under certain restricted circumstances. Prior to 1930, the Anglican Church, like the Catholic Church, was totally opposed to artificial contraceptive methods. However, because of social pressures, the 1930 Lambeth conference flung the doors open to artificial contraception (e.g. the diaphragm or cervical cap) for married couples. It is thus clear that although religious institutions may appear on the face of it to be conservative, they also move with the times; it may be slow and long in changing, but “common sense” (to borrow from Pope Francis) often prevails.

4 • The Role of the Law

As we have seen, regulating and controlling women’s sexuality is essential for the survival of patriarchy and capitalism. It represents a vital and necessary way of instituting and maintaining the domesticity of Ugandan women. It works to delineate gender roles and to systematically disenfranchise women from accessing and controlling resources. Laws are used by patriarchal states as a mechanism of regulation and control. When I speak of “law” here, it includes written laws and customary laws (rooted in culture). But also relevant to Uganda’s legal regime are religious laws or natural laws, whose norms and principles are domesticated into written laws despite the Constitutional declaration that Uganda is a secular state.²⁸ Through the social control of women’s bodies and their sexuality, laws work to undermine their autonomy.

Therefore, written law, culture and religion are all instrumental in constructing Ugandan women’s sexuality and desire through the inscriptions they engrave on our bodies.²⁹ Through the reproductive and sexual control of our bodies, our subordination and continued exploitation is guaranteed.

Since women who are in control of their sexuality and reproductive capacities provide a stark antithesis to the dominance of patriarchy, it is no surprise that issues relating to contraception and abortion will be fought tooth and nail by the patriarchal state. Written and customary laws, augmented by religion, work in tandem to nationalise women’s wombs. The Ugandan Constitution and the Penal Code criminalise abortion with the only exception being therapeutic abortion (i.e. where continued pregnancy threatens the life of the woman).³⁰ When Uganda ratified the Protocol on the Rights of Women in Africa (Maputo Protocol) in 2010, it did so with a reservation to Article 14(2)(c), which allows for abortion in cases of sexual assault, rape and incest.³¹ The criminalisation of abortion represents a deliberate attempt by the state to force women into motherhood without any promise of help with the unwanted child. It signifies the forceful control and institutionalised violence against women’s bodies by the patriarchal state.

Given this policy context it was not surprising when in May 1999 the operations of the international sexual health non-governmental organisation, Marie Stopes, were temporarily

suspended by the Ugandan government “for allegedly administering abortions.”³² In addition, the adverse effects of the USAID “Global Gag Rule” on Ugandan women’s sexual autonomy cannot be underestimated. Introduced in 1984 by President Ronald Reagan’s Republican administration, the rule forbade all foreign non-governmental organisations (NGOs) receiving funds from the United States of America (U.S.) to advocate for abortion rights.³³ The NGO, Centre for Health, Human Rights and Development (CEHURD) has been at the forefront of advocating for women’s sexual autonomy. For example, in 2015 it received a favourable judgment in its strategic litigation case for women’s reproductive rights. In the case of *CEHURD & Ors v. Attorney-General*³⁴ the Supreme Court emphasised the justiciability of women’s maternal health issues as a constitutional right.

Imposing forced motherhood on women, and coercing them into bearing and rearing children, meshes perfectly with the gender roles that society has constructed for women, that is, childcare and homecare. It leaves little time and room for women to pursue goals outside the confines of domesticity. Thus the status quo of “private/domestic” women and “public/political” men is safely entrenched in Ugandan society.

The legal framework relating to abortion at the national level goes against the international and regional approaches, which emphasise a human rights approach to reproductive health. The International Conference on Population and Development Programme of Action (ICPD PoA) stated that,

*reproductive health...implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the rights of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law...*³⁵

While the ICPD PoA is a “soft law” instrument that is not legally binding, the Maputo Protocol is “hard law”. Thus, its legally-binding language in article 14(2)(c) is clear on the issue of abortion:

*States Parties shall take all appropriate measures to protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.*³⁶

Efforts by women’s rights activists to have the Ugandan government lift its reservation on Article 14(2)(c) have not been fruitful thus far.

5 • The Way Forward...

It is quite clear that some people who wield political and religious power have instrumentalised the law (in its broadest sense) in order to control women's sexual and reproductive capacities. The power that men wield in family gender relations ensures that they have the last say in determining when and how many children his partner should have. Even where National Family Planning Policies³⁷ allow for the distribution of contraceptives to all women, they are limited by issues such as the conservative attitudes that deny young unmarried women access, the prohibition under President George W. Bush's administration of the use of U.S. President's Emergency Plan for AIDS Relief (PEPFAR) funds for contraceptive commodities, and so forth. While the Obama administration lifted this prohibition, it is not clear whether such a status quo will be maintained under Donald Trump's Republican administration. Most religions, as interpreted by patriarchal leaders, prohibit the use of modern contraceptive methods. Restrictive laws augment religious teachings on abortion by criminalising and punishing it.

Yet, even in Uganda common sense and the realities on the ground are bending the arc of history towards justice for women. Civil society has played a critical part in this process. In April 2015, the Ministry of Health launched the Standards and Guidelines for the Reduction of Maternal Mortality and Morbidity Due to Unsafe Abortion in Uganda – a progressive document that addresses women's empowerment. Attempts are currently underway by the government to draft a Termination of Pregnancy Bill. Although there is a push-back on the bill from fundamentalist quarters,³⁸ these developments indicate that Uganda is facing in the right direction on the new journey towards realising our pledge under the Maputo Plan of Action and the newly launched U.N. Sustainable Development Goals.

In this respect, the government of Uganda should heed the counsel of President Barack Obama:

[T]he religiously motivated translate their concerns into universal, rather than religion-specific values. It requires that their proposals be subject to argument, and amenable to reason. I may be opposed to abortion for religious reasons, but if I seek to pass a law banning the practice, I cannot simply point to the teachings of my church or evoke God's will. I have to explain why abortion violates some principle that is accessible to people of all faiths, including those with no faith at all.³⁹

Tunisia opened the way to safe legal abortions in Africa way back in 1973. Cape Verde followed a decade later and South Africa in 1996. In these three African countries, unrestricted abortion is legalised in the first trimester of pregnancy. In the 20th century, several other African countries have legally allowed conditional abortion in cases of sexual assaults or to preserve health.⁴⁰ The time is overdue for the Ugandan government to

revisit the country's legal framework on the termination of pregnancy in order to fully operationalise Article 22(2) of the Constitution and to synchronise it with the CEHURD 2015 Policy Guidelines, which propose that the government of Uganda amend the Penal Code to streamline it with the Constitution by clearly stating the conditions under which safe, legal abortions can be accessed by women.⁴¹ Only then would the government be able to satisfy its obligations to respect, protect and fulfil its international obligation towards women's sexual and reproductive health and rights.

NOTES

1 • Margaret Sanger collaborated with the British feminist Marie Stopes, who established the first birth control clinic in Britain in 1921.

2 • Jonathan Eig, *The Birth of the Pill: How Four Crusaders Reinvented Sex and Launched a Revolution* (New York: W. W. Norton & Company, 2014).

3 • These U.S.-based researchers reported that pregnancy-associated mortality rate among women who delivered live neonates was 8.8 deaths per 100,000 live births. The mortality rate related to induced abortion was 0.6 deaths per 100,000 abortions; see Elizabeth Raymond and David Grimes, "The Comparative Safety of Legal Induced Abortion and Child Birth in the United States," *Obstetrics and Gynecology* 119, no. 2 (2012): 215-9.

4 • Josaphat Byamugisha, "Emergency Contraception Among Young People in Uganda: User and Provider Perspectives" (PhD thesis, Makerere University, Uganda, 2007).

5 • Uganda Bureau of Statistics, *Uganda Demographic and Health Survey* (Kampala: UBOS, 2011): 234.

6 • "Abortion in Uganda: Fact sheet," Guttmacher Institute, January 2013, accessed November 13, 2016, <http://www.guttmacher.org/pubs/FB-Abortion-in-Uganda.html>.

7 • Ministry of Health (MoH), *Reducing Morbidity and Mortality from Unsafe Abortion in Uganda: Standards and Guidelines* (April 2015).

8 • Charles Ngwena, "Taking Women's Rights Seriously: Using Human Rights to Require State Implementation of Domestic Abortion Laws in African Countries with Reference to Uganda," *Journal of African Law* 60, no. 1 (2016): 110-40.

9 • Byamugisha, "Emergency Contraception Among Young People in Uganda," 2007.

10 • Sylvia Tamale, "Gender Trauma in Africa: Enhancing Women's Links to Resources," *Journal of African Law* 48, no. 1 (2004): 50-61.

11 • Of course, with the exception of the millions made by the big pharma industry from the sales of different contraceptive devices.

12 • Eig, *The Birth of the Pill*, 2014.

13 • Friedrich Engels, *The Origin of the Family, Private Property and the State* (new ed.) (New York: Pathfinder Press, 1972).

14 • The concept of 'heteronormativity' refers to the ideology that views heterosexuality as the normal and only legitimate socio-sexual arrangement of society; see Rosemary Hennessy and Chrys Ingraham, *Materialist Feminism: A Reader in Class, Difference, and Women's Lives* (New York: Psychology Press, 1997).

15 • Eli Zaretsky, *Capitalism, the Family and Personal Life* (New York: Harper and Row, 1976).

16 • Sylvia Tamale, "Paradoxes of Sex Work and Sexuality in Modern-Day Uganda," in *African Sexualities: A Reader*, ed. Sylvia Tamale (Oxford:

Pambazuka Press, 2011).

17 • Also by keeping women in a subordinate position, capitalism can justify and profit from paying women who work outside the home lower wages and employing them under worse conditions than men.

18 • Linda Nicholson, *Gender and History: The Limits of Social Theory in the Age of the Family* (New York: Columbia University Press, 1986).

19 • Ronald Walfe, "Traditional Methods of Birth Control in Zaire." Pathfinders Occasional Paper, 1978, accessed October 6, 2016, http://pdf.usaid.gov/pdf_docs/PNAAQ236.pdf.

20 • Christine Gorman, "Clash of Wills in Cairo," *Time Magazine*, Sept. 12, 1994, accessed October 5, 2015, <http://content.time.com/time/magazine/article/0,9171,981409,00.html>.

21 • John Conley, "John Paul II on Demographic Ethics," in *Prophecy and Diplomacy: The Moral Doctrine of John Paul II*, ed. John Conley and Joseph Koterski (New York: Fordham University Press, 1999).

22 • Sa'diyya Shaikh, "Morality, Justice and Gender: Reading Muslim Tradition on Reproductive Choices," in *African Sexualities: A Reader*, ed. Sylvia Tamale (Oxford: Pambazuka Press, 1999): 340.

23 • Ibid: 347.

24 • Ibn Qattun al-Jawziyya, *Al-Tibyan fi aqsam al-Qur'an* (Cairo: Fadak Books, 1933).

25 • Laurie Goodstein, "Pope Says Church Is 'Obsessed' With Gays, Abortion and Birth Control." *New York Times*, September 19, 2013, accessed November 20, 2016, www.nytimes.com/2013/09/20/world/europe/pope-bluntly-faults-churchs-focus-on-gays-and-abortion.html?pagewanted=all&r=0.

26 • Philip Pulella, "Pope says Church Can't be 'Museum', Must be Open to Change." *Reuters*, October 5, 2015, accessed October 6, 2015, <http://news.yahoo.com/pope-says-church-not-museum-memories-091737202.html>.

27 • See Elizabethta Povoledo and Liam Stack, "Pope Francis Extends Priests' Ability to Forgive Abortion," *The New York Times*, November 21, 2016.

28 • See Article 7 of the 1995 Constitution.

29 • Sylvia Tamale, "'Keep Your Eyes Off My Thighs': A Feminist Analysis of Uganda's 'Miniskirt Law,'" *Feminist Africa* 21 (2016): 83-90.

30 • In that sense the Constitution is restrictive but not proscriptive. See Article 22(2) of the 1995 Constitution, sections 141-143 and 224 of the Penal Code Act. Article 22(2) provides, "No person has the right to terminate the life of an unborn child except as may be authorised by law." This Constitutional provision envisages a law to authorise abortion.

31 • Ben Twinomugisha, *Fundamentals of Health Law in Uganda* (Pretoria: Pretoria University Law Press, 2015).

32 • See "Uganda: Marie Stopes Closed," *New Vision*, May 6, 1999, accessed November 13, 2016, <http://allafrica.com/stories/199905060077.html>.

33 • Note that this rule, also known as the "Mexico City Policy", was suspended by the Democratic Party administrations of Bill Clinton and Barack Obama. It is yet to be seen whether President Donald Trump will follow his Republican predecessors and reinstate the rule; Patty Skuster, "Advocacy in Whispers: The Impact of the USAID Global Gag Rule Upon Free Speech and Free Association in the Context of Abortion Law Reform in Three East African Countries," *Michigan Journal of Gender and Law* 11 (2004): 97-126.

34 • Constitutional Appeal No. 1 of 2013 (Unreported).

35 • Paragraph 7.2 of the ICPD Cairo Programme for Action.

36 • Article 14(2)(c) of the Maputo Protocol.

37 • E.g., see the "National Policy Guidelines and Service Standards for Sexual and Reproductive Health and Rights," The Reproductive Health Division, Community Health Department, Ministry of Health, 2006, accessed November 20, 2016, <http://library.health.go.ug/publications/service-delivery-public-health/health-education/national-policy-guidelines-and-service>.

38 • The backlash narrative emanates from parliament, led by the newly appointed Minister of

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Health, Jane Acheng and the Inter-Religious Council of Uganda (IRCU). Ironically, even the Minister of Gender, Janat Mukwaya is opposed to the bill.

39 • Stephen Mansfield, *The Faith of Barack Obama* (Nashville: Thomas Nelson, 2008): 89-90.

40 • Examples include Zambia, Benin, Botswana, Burkina Faso, Ethiopia, Ghana, Guinea, Liberia, Lesotho, Mauritius, Namibia, Rwanda, Seychelles,

Swaziland, Togo, and Zimbabwe.

41 • "The Case for Clarifying the Law on Termination of Pregnancy in the Revision of the Penal Code," CEHURD, July 2015, accessed November 13, 2016, <http://www.cehurd.org/wp-content/uploads/downloads/2016/02/Clarifying-the-Law-on-Termination-of-Pregnancy-in-the-Revision-of-the-Penal-Code.pdf>.



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VIOLENCE AGAINST WOMEN IN LATIN AMERICA

Natalia Gherardi

- *A look at access to justice and the structural conditions that allow cases of femicide to multiply* •

ABSTRACT

In recent decades, international human rights law has provided the framework for the creation of a solid regulatory basis for the prevention, punishment and eradication of violence against women. Its full implementation requires coordination among the different initiatives promoted by states and the establishment of adequate monitoring and evaluation mechanisms. However, the challenges to its implementation reveal the shortcomings that exist in guaranteeing access to justice. In light of the persistence of extreme violence in the form of femicide, it is necessary to consider the scope of the state's duty to exercise due diligence. This includes the obligation to address other forms of violence that sustain the structural conditions of discrimination that allow the number of femicides to multiply.

KEYWORDS

Violence against women | Access to justice | Indicators of violence

In recent decades, international human rights law has provided the framework for the creation of a solid regulatory basis for the prevention, punishment and eradication of violence against women. The widespread ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – which, in its General Recommendation N° 19, clearly establishes that the right to live a life without violence is implicit and constitutes a basic, fundamental premise for the enjoyment of the rights enshrined in the convention – and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (known as the Convention of Belém do Pará) are just a few examples that illustrate the scope and the specificity of the obligations the international community has assumed on this issue.

The Latin American and Caribbean region is perhaps the one that has advanced the most in creating national regulatory frameworks to address violence against women.¹ There was an initial phase during which regulations on violence in the family or domestic violence were passed. Later, over the past decade, a dozen countries advanced toward adopting laws that provide full protection against several forms of violence in order to respond to violence occurring not only between the members of a family or within a family unit, but also in various settings in the community. Thus, countries such as Argentina, Bolivia, Colombia, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Peru and Venezuela passed second-generation laws that incorporate the definition of other types of violence, including: institutional, workplace, obstetric and media violence, violations of reproductive rights, sexual harassment, and property-related and symbolic violence.²

However, progress at the legislative level has not been accompanied by the creation of adequate sources of information that enable us to measure the size of the phenomena surrounding the different forms of violence, nor by the implementation of mechanisms to monitor and evaluate the effectiveness of state responses.³ A rapid review of the recommendations of the international organisations from the universal, regional and national human rights systems allows us to identify important demands for the state to improve information sources as a key prerequisite for designing effective public policies to address the different forms of violence.⁴ Studies point out the lack of information in the Latin American and Caribbean region, where data are concentrated on only one of the types of violence: the one occurring in the domestic sphere, between current or past partners.⁵ This led the Follow-up Mechanism for the Convention of Belém do Pará (MESECVI according to its Spanish abbreviation) to adopt a system of progress indicators for monitoring the Convention of Belém do Pará. These could serve as a guide and plan of action for the gradual construction of information sources by various states that are capable of effectively throwing light on the various types of violence and environments in which violence against women occurs.⁶

Several methodological tools for obtaining data on forms of violence against women do exist. For one, surveys allow one to measure the incidence and prevalence of violence against women and are generally carried out to gather information on domestic violence inflicted by current or former partners.⁷ Surveys offer valuable information on how physical, psychological and

sexual violence in couples affect women of different ages and socio-educational levels, but they do not register significant differences between diverse sectors, contrary to what evidence from the records of complaints appears to indicate (which are generally concentrated in women of reproductive age and middle class socio-educational sectors). In fact, administrative records allow one to document the concrete access of women in situations of violence to the services and resources available in a given jurisdiction: the police, helplines, health centres and agencies specialised in providing assistance to women. Institutions linked to the justice system, such as the public prosecutor's office, the public defendant's office and courts of justice, also produce information via the administrative records of their work. These data collection methods must complement one another, as together they constitute the only way to capture the dimension, characteristics and forms of violence.

Despite the broad definition of violence against women provided by the Convention of Belém do Pará, which is reflected in the domestic laws of the countries in the region, and perhaps due to the unspeakable brutality of the crimes, what has succeeded in massively mobilising Latin American societies in recent years has been the extreme violence against women. Femicide perpetrated against a variety of women – adolescents, youth and adult women, in urban and rural areas, with different occupations and different socio-economic conditions – has caught the attention of the people responsible for designing and implementing public policies. The registry on femicide being developed by nearly 20 countries in the region reveals the brutal side of this violence. The highest rates are found in countries in Central America (Honduras, El Salvador, Guatemala and the Dominican Republic).⁸ Due to the magnitude of this phenomena, states responded by approving criminal laws to specifically punish the violent death of women in situations of gender violence, which gave rise to the definition of specific criminal offences or different ways of increasing sentences for manslaughter.⁹

In light of the persistence of the most extreme forms of violence against women, despite advances in national and international legal frameworks, attention in recent years has turned towards the effectiveness of legal remedies and the fulfilment of promises on legislation. The work of the judiciary and the bodies responsible for the administration of justice became subject to public scrutiny, as did initiatives aimed at guaranteeing that women in situations of violence who manage to use the mechanisms for demanding protection for their rights have effective access to justice.¹⁰ Therefore, the effectiveness of state responses was brought into question and state violations of the duty to exercise due diligence, as determined by international human rights law, were identified.

Failure to fulfil the duty of due diligence in cases of violence against women represents a kind of discrimination towards women on the part of the state and a denial of their right to equal protection of the law. According to the standards defined by the regional and universal human rights systems, the state's efforts to meet its obligation to exercise due diligence should not be centred only on legal reforms, nor on the adoption of measures to facilitate women's access to justice and to services for victims.¹¹ The duty of

due diligence requires efforts to prevent violence by attacking the structural causes that give rise to it and taking measures that aim to modify social and cultural behavioural patterns and to shape state responses, including the actions of the judiciary and the police, among other state actors.¹² The states' obligation to take into account the multiple forms of violence against women and the different types of inter-sectional discrimination that affects their rights becomes even more important when adopting multi-faceted strategies to effectively prevent, address and eradicate all forms of violence.

This approach demands not only the creation of institutions with adequate human, technical and financial resources, organised under the leadership of a mechanism for the advancement of women with an adequate functional hierarchy, but also the adoption of efficient strategies for inter-institutional and inter-jurisdictional coordination.¹³ Furthermore, it requires that the different manifestations of violence be understood as a continuum, as this helps to explain the persistence of extreme violence that leads to femicide and is built on social and state tolerance of other more everyday forms of violence.

The structure of discrimination against women that produces femicide is sustained and fuelled by other veiled and naturalised forms of violence, the majority of which are beyond the reach of public policy: symbolic violence present in the media; sexual harassment in educational and work environments; obstetric violence naturalised in health care institutions; and violence and sexual harassment in public transportation and spaces. These forms of violence undermine women's ability to exercise their autonomy by restricting their freedoms. Even when covered by many national regulatory bodies and, undoubtedly, the broad definition in Article 2 of the Convention of Belém do Pará, these freedoms have still not been given due attention in public policies.

In various public and civil society spaces, these other forms of violence are beginning to gain visibility, as efforts are being made to trace the path that unites them to more extreme forms of violence, which prompt mobilised civil society to demand responses.¹⁴ Media observatories and networks of journalists committed to gender equality have denounced the reproduction of sexist violence by the media. Not only does the media repeat the news on violence, but it also constructs a discourse that sustains the idea that the submission of women is natural. In line with the Platform for Action of the 1995 Beijing Conference, ELA contributed to increasing the visibility of these phenomenon by performing an analysis of the news¹⁵ and produced guidelines for incorporating a human rights approach into journalistic work.¹⁶ Institutional violence, which is manifested in health care facilities, among other contexts, is also generally overlooked by public policies. One form of violence perpetuates others and they have particular impacts on different women, such as, for example, the case of young women who are persecuted and accused, even when they have a miscarriage, which is in clear violation of their human rights.¹⁷

In identifying promising practices related to the access of women victims of violence to justice by various international organisations, it is necessary to draw attention to the

importance of taking into consideration the different manifestations of violence and the environments in which it occurs in order to transcend extreme violence and the violence present in the relationships of couples.¹⁸ This will allow advances to be made in the development of broader strategies for the eradication of the structural conditions that sustain all forms of violence, such as invoking the possibility of resorting to other tools provided by civil, labour or administrative law and going beyond punitive measures. As Di Corleto argues, the “Convention of Belém do Pará urges states to prevent, investigate and punish gender violence, but it does not demand that all accusations of violence be given a prison term at the end of a trial.” The Convention itself refers to any other “legal procedure that is fair and effective for women” – standards that will have to be revisited according to the different manifestations of violence under consideration at the time.¹⁹

The promising practices identified in the field of law and in justice systems include treating violence against women as a form of gender discrimination linked to other forms of oppression and as a violation of women’s human rights. Daily forms of violence restrict women’s freedom and their access to civil, political, economic, social and cultural rights. These forms of discrimination undermine the autonomy of girls, adolescents and women over different areas of their life: violence in reproductive processes affects their physical autonomy; media and symbolic violence reproduced in public discourse limits their participation in social and political life; and finally, violence in social, educational and work environments has a negative impact on the development of women’s economic autonomy.

Several states in the region have begun to outline regulatory responses to and public policies on the various forms of discrimination and violence against women. It will be necessary to monitor the implementation of these legal reforms to assess how efficient they are; guarantee that women are not victimised again during the investigation process; and weigh the different impacts of the measures on women according to race, class, ethnic origin, religion, disabilities, culture, being indigenous or migrants, legal status, age and sexual orientation.

In regards to the mechanisms that must be at women’s disposal in order to guarantee the effective protection of their rights, the recently adopted General Recommendation N° 33 of the CEDAW considers the availability and accessibility of various resources that must promote a holistic approach to a problem that is defined as structural and founded on gender stereotypes that affect not only the institutional design and implementation of norms and plans of action, but also the process of the administration of justice. Thus, this recommendation establishes that it is the obligation of the state to guarantee the availability of adequate, effective remedies that are proportional to the rights violated and the gravity of the harm suffered; the inclusion of compensation be included; and remedies for civil damages and criminal sanctions, which must not be mutually exclusive.

It is clear that the states’ resources for dealing with violations of the right to a life without violence are not limited to approving laws that impose punishment or punitive measures. Given the different manifestations of violence and the variety of environments in which

they occur, states must make a variety of resources available, including different forms of redress, measures of satisfaction and measures that promote the transformation of the widespread discriminatory practices that give rise to the violations. The state's obligation is to guarantee that women both have access to procedures that do not restrict access to other legal processes in other areas of law (civil, labour, administrative) and also to guarantee the existence, availability and accessibility of quality support systems in order to prevent new violations of their rights from happening.

In the Latin American region, advances have been made in not only regulatory frameworks, but also the highly promising area of social awareness that condemns extreme violence against women. Based on a holistic understanding of the duty of due diligence of the states, it is necessary to address – with more information and more efficient public policy tools – the forms of daily violence that help to sustain the structural conditions underlying the discrimination against women that allow cases of femicide to multiply.

NOTES

1 • The Follow-up Mechanism to the Belém do Pará Convention (MESECVI), which regularly assesses states' compliance with the obligations of the Convention, reports on advances in legislation. See: "Segundo Informe Hemisférico sobre la Implementación de la Convención de Belém do Pará," Organización de los Estados Americanos (OEA) and Mecanismo de Seguimiento de la Convención de Belém do Pará (MESECVI), April 2012, accessed November 29, 2016, <http://www.oas.org/es/mesecvi/docs/MESECVI-SegundoInformeHemisferico-ES.pdf>.

2 • For an analysis of laws for full protection against violence, see: "Informe Anual 2013-2014. El Enfrentamiento de la Violencia contra las Mujeres en América Latina y el Caribe (LC/G.2626)," Comisión Económica para América Latina y el Caribe (CEPAL), 2014, accessed November 29, 2016, <https://goo.gl/hjf4eX>.

3 • For a review of available sources of information, see: Natalia Gherardi, "La Violencia Contra las Mujeres en la Región", in *Si no se Cuenta, no Cuenta:*

Información sobre la Violencia Contra las Mujeres, coord. Alméras y Carlderón Magaña (Santiago de Chile: Cuadernos de la CEPAL, 2012).

4 • This can be seen in the final recommendations of not only the CEDAW Committee but also other treaty bodies, such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, and in the evaluations conducted by MESECVI at the regional level.

5 • On this, see, for example: Frías Lorena and Victoria Hurtado, "Estudio de la Información sobre Violencia Contra la Mujer en América Latina y el Caribe," *Serie Mujer y desarrollo*, no. 99 (LC/L.3174-P/E) (Santiago de Chile: Comisión Económica para América Latina y el Caribe - CEPAL, 2009).

6 • See: Laura Pautassi and Natalia Gherardi, "Guía Práctica para el Sistema de Indicadores de Progreso para la Medición de la Implementación de la Convención de Belém do Pará." Comisión Interamericana de Mujeres (CIM) and Mecanismos de Seguimiento de la Convención de Belém do Pará (MESECVI) (OEA/Ser.L/II.6.15), 2015,

accessed November 29, 2016, http://www.oas.org/es/mesecvi/docs/Guia_Indicadores_BDP_ESP.pdf.

7 • A comparison of surveys conducted in the region can be found in: Organización Panamericana de la Salud (OPS), *Violencia Contra las Mujeres en América Latina y el Caribe: Análisis Comparativo de Datos Poblacionales de 12 países* (Washington, DC: OPS, 2014).

8 • These data are available at the Gender Equality Observatory for Latin America and the Caribbean of the ECLAC.

9 • A comparison of the laws on femicide/feminicide approved in the region can be found at: CEPAL, *Informe Anual 2013-2014*, 2014.

10 • This requires overcoming the material and subjective obstacles to gaining access to justice, which make it difficult for women to not only lay charges, but especially to give continuity to the proceedings. See: Birgin Haydée and Natalia Gherardi, coord., *La Garantía de Acceso a la Justicia: Aportes Empíricos y Conceptuales* (Fontamara, Mexico: Suprema Corte de Justicia de la Nación, 2011).

11 • See, for example, the recommendations in: "Segundo Informe Hemisférico sobre la Implementación de la Convención de Belém do Pará," Organización de los Estados Americanos (OEA) and Mecanismo de Seguimiento de la Convención de Belém do Pará (MESECVI), Apr. 2012, accessed November 29, 2016, <http://www.oas.org/es/mesecvi/docs/MESECVI-SegundoInformeHemisferico-ES.pdf>; and also: "Acceso a la Justicia para Mujeres Víctimas de Violencia Sexual en Mesoamérica (OEA/Ser.L/V/II)," Comisión Interamericana de Derechos Humanos (CIDH) and Organización de los Estados Americanos (OEA), 2011, accessed November 29, 2016, <http://www.cidh.oas.org/pdf%20files/MESOAMERICA%202011%20ESP%20FINAL.pdf>.

12 • See, for example, the decisions in: "Informe No. 80/11. Caso 12.626: Jessica Lenahan (González) y Otros, Estados Unidos," paragraphs 125-128, CIDH, 2011, accessed November 29, 2016, www.oas.org/es/cidh/decisiones/2011/USPU12626ES.doc; and *Ibid*, paragraphs 60-62,

2011, accessed November 29, 2016, <http://www.oas.org/es/mesecvi/docs/BdP-GuiaAplicacion-Web-ES.pdf>, among other summarised regional and international standards.

13 • See the recommendations and strategies outlined in: Natalia Gherardi, "La Violencia Contra las Mujeres en la Región", in *Si no se Cuenta, no Cuenta: Información sobre la Violencia Contra las Mujeres*, coord. Alméras and Carlderón Magaña (Santiago de Chile: Cuadernos de la CEPAL, 2012). pp. 157-171.

14 • For an overview on these other forms of violence and states' responses, see: Natalia Gherardi, "Otras Formas de Violencia Contra las Mujeres que Nombrar, Reconocer y Visibilizar." Series de la CEPAL, 2016, accessed November 29, 2016, <http://www.cepal.org/es/publicaciones/40754-otras-formas-violencia-mujeres-que-reconocer-nombrar-visibilizar>.

15 • The Observatorio de Las Mujeres en los Medios (Observatory on Women in the Media) published a regional report on monitoring in five countries in 2012. A later initiative by the Medios y Justicia en Clave Feminista (2012-2013) also provided an analysis of news stories on women's rights from a feminist perspective. The reports are available online on the Latin American Group for Gender and Justice (ELA) website: www.ela.org.ar.

16 • See: "Mejorar la Comunicación para Expandir los Derechos. Herramientas para Incorporar un Enfoque de Derechos en la Cobertura Periodística," Equipo Latinoamericano de Justicia y Género, 2013, accessed November 30, 2016, www.ela.org.ar.

17 • The "Belén case" is one of the most well known ones. In this case, a young woman was convicted of aggravated murder for having a miscarriage in a public hospital in the Argentine province of Tucumán (when she did not even know she was pregnant). The case was brought before international bodies, which led to the adoption of a specific recommendation by the Human Rights Committee in July 2016 ("CCPR/C/ARG/CO/5," United Nations, July 2016, accessed

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“THE DAUGHTERS OF EGYPT ARE A RED LINE”

Mariam Kirolos

- *The impact of sexual harassment •
on Egypt's legal culture*

ABSTRACT

The purpose of this paper is to identify the impact of the rampant sexual harassment phenomenon on Egypt's legal culture. Having been vaguely defined in Egyptian laws and largely condoned by the society and justice system, sexual harassment increased over the years in both occurrences and intensity of violence. As a result, legal initiatives and grassroots movements arose attempting to criminalise sexual harassment and end social acceptability of the issue. With the fall of Mubarak, the human rights movements optimistically continued the request for an anti-sexual harassment law, and with the continuing political turmoil, the battle was more arduous than expected. Three years after the uprising, sexual harassment was finally criminalised and efforts to change public attitudes toward it continue, but the will of the state to enforce the law, beyond statements and promises, is yet to be proven.

KEYWORDS

Sexual harassment | Women | Human rights | Legal culture | Egypt | Uprising

1 • Introduction

When I'm walking down the street alone, and to my right side there are boys standing by a kiosk and to the left there are [stray] dogs, I decide to walk on the side where the dogs are because it's safer, which makes this country rubbish.

The above words were posted by a young Egyptian woman on Twitter in March 2013.¹ Sexual harassment represents by and large the most frequent type of sexual violence encountered by women in Egypt; it restricts women's freedom, mobility, and "deters them from appearing alone in public spaces."² In April 2013, U.N. Women published a study that indicated that 99.3 per cent of the women surveyed suffered sexual harassment in Egypt and that 91.5 per cent experienced unwelcome physical contact.³ These figures come as no surprise considering that sexual harassment has had, for the most part, the status of a normative behaviour in society,⁴ and was only named explicitly as a crime in Egyptian law in 2014.

The uprising on 25 January 2011 that began in Tahrir Square and culminated in the fall of Hosni Mubarak brought hope to the women's rights movement. The years that followed witnessed an evolution of laws: in June 2014, interim-president Adly Mansour issued a landmark decree amending the Penal Code to directly define and criminalise sexual harassment for the first time in Egypt's legal history; a concrete result of nearly a decade of tremendous efforts from civil society organisations in Egypt.⁵ Referred to by human rights groups as an "epidemic,"⁶ the seriousness of sexual harassment gave birth to a resilient movement that succeeded in bringing about the unprecedented law, but has it affected the understanding of the place of law in society?

In his work on the law as a social phenomenon, David Schiff asks a series of questions: "what is the relevance of statements such as 'that's alright, it's legal' or 'that's illegal' or 'it's not really a crime' for attempted understanding of social settings and their organisation? How important is the law at this level of social reality?"⁷

By conceptualising sexual harassment as a human rights violation, this paper attempts to answer Schiff's questions by examining the impact of sexual harassment on Egypt's legal culture since 2005, with a particular analysis of the events that followed the 2011 uprising. Legal culture is a complex concept that reveals the role of law in the society. To make legal culture a more amenable concept for empirical research, Sally Engle Merry disaggregated the concept of legal culture from an anthropological perspective into the four dimensions that will be used to assess the main subject of this paper. The four areas are: legal consciousness, legal mobilisation, the practices of legal institutions, and public attitude and beliefs about the law.⁸ In practical terms, the four dimensions significantly overlap and influence one another.

2 • A Human Rights Violation: Defining Sexual Harassment in the Law and Egyptian Society

i - What is Sexual Harassment?

Sexual harassment is a relatively new concept in international law, and has received little attention in comparison with other forms of sexual violence.⁹ Egypt ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹⁰ in 1981, which overlooks, to a certain extent, sexual harassment outside the context of education or the workplace. In the regional context, Egypt remains one of three members (along with Tunisia and Botswana) of the African Union not to have ratified or signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, better known as the Maputo Protocol.¹¹ Legal scholar Christine Chinkin stresses that there is a need to advance the understanding of sexual harassment due to its violation of a range of human rights such as freedom from degrading treatment, freedom of expression and freedom of association.¹² "These linkages emphasise that sexual harassment is committed in many locations, not just in the workplace, and that international legal prohibitions must be sufficiently broad to address that fact," Chinkin adds.¹³

That being said, such international human rights instruments play a vital role in highlighting the serious commitment to recognising sexual harassment as a form of violence against women. Until a cohesive, wide-ranging definition is introduced, this paper will use the definition of HarassMap, a leading anti-sexual harassment organisation in Egypt:

*any form of unwelcome words and/or actions of a sexual nature that violate a person's body, privacy, or feelings and make that person feel uncomfortable, threatened, insecure, scared, disrespected, startled, insulted, intimidated, abused, offended, or objectified.*¹⁴

ii - The Social Process of Naming Crime: A Salient Warning of Impunity

Al-taharush al-ginsi (Arabic for sexual harassment) is a relatively new term introduced to the daily Egyptian lexicon. Until now, sexual harassment has predominantly been referred to as *mu'aksa*, often translated as "flirtation,"¹⁵ "teasing," or even "complimenting" in colloquial Egyptian Arabic.¹⁶ Nehad Abul Komsan, Director of the Egyptian Center for Women's Rights (ECWR), noted that when the centre began its work on sexual harassment in 2004, *taharush* (harassment) was often conflated with rape.¹⁷ This conceptual and lexical opaqueness of the meaning of the term reveals the multiple layers of denial that allowed a violative behaviour to be a normative one, wildly spread, particularly with the absence of a law to explicitly define it. This opaqueness is reflected in the legal processes, as MacKinnon explains in her work on sexual harassment, "it is not surprising either that women would not complain of an

experience for which there has been no name...lacking a term to express it, sexual harassment was literally unspeakable, which made a generalised, shared, and social definition of it inaccessible."¹⁸

Reporting sexual harassment in Egypt was and still is a battle (illustrated in Section II), especially given how obliquely and unsatisfactorily it was addressed prior to the new law. As a matter of fact, according to the 2013 U.N. Women study, 23.2 per cent of the women surveyed stated that they did not seek help from the police because the law did not penalise sexual harassment. Almost 20 per cent of those who reported cases were "scolded and mocked" and, in some cases, harassed by the police.¹⁹ Prior to the 2014 presidential decree defining sexual harassment, the existing provisions that could apply to cases of sexual harassment were Article 278 against "acts of public indecency" (*fi'l fadib*) and Article 268 against sexual assault (*hatk-'ird*).²⁰ Such articles overlook the mild and subtle acts of harassment including verbal harassment. As Mackinnon states, such marginalisation exists "largely because the non-physical male obscenity is intangible in legal terms and because the most violent acts take centre stage."²¹

Sexual harassment in Egypt is part of a bigger problem of social violence tolerated and accentuated by the lack of laws and lax security situation. According to the Egyptian scholar Mariz Tadros, the motives include "individual desires to enforce their dominion over women in the street, to have a 'good time' and 'entertain' themselves, and out of a perceived sense of sexual deprivation as a consequence of economic factors making marriage expensive and prohibitive."²² However, not all incidents of sexual harassment are driven by such motives. Egypt's recent history indicates that the government, which should protect human rights, has often been the perpetrator, whether by directly committing the crime, through the actions of the police and military, or by simply turning a blind eye.²³ Sexual harassment in Egypt first came into public attention on 25 May 2005, referred to by activists as "Black Wednesday."²⁴ Demonstrations were organised by opposition movements in Egypt in protest against Mubarak's constitutional amendments that paved the way for consolidating his authoritarian rule.²⁵ During the demonstrations, a group of female protesters and journalists were sexually harassed and assaulted by plain-clothed security officers and thugs hired by Egypt's former ruling party, the National Democratic Party (NDP).²⁶ The police reportedly stood around and shouted orders.²⁷

In 2006, after the exhaustion of all domestic remedies, the "Black Wednesday" case was submitted and found admissible before The African Commission on Human and People's Rights (ACHPR).²⁸ The four women applicants were represented by the Egyptian Initiative for Personal Rights (EIPR) and the international human rights group Interights.²⁹ In its 2013 ruling, eight years later, the Commission found that Egypt violated, *inter alia*, the applicants' rights to equality and non-discrimination, to dignity and protection from inhuman and degrading treatment, and to express and disseminate opinions within the law.³⁰ The Commission requested monetary compensation for the complainants, urged Egypt to investigate and prosecute perpetrators and for the government to ratify to the

Maputo Protocol.³¹ Though the case still remains ignored by the Egyptian government, the ruling was regarded as a victorious step towards accountability.

3 • In Pursuit of Socio-Legal Change: Legal Consciousness, Mobilisation and the Egyptian Revolution

i - Breaking the Silence: Egypt's First Sexual Harassment Conviction

Legal consciousness is a term developed to understand the way individuals shape their experiences in legal spheres, or in other words, “the way individuals experience and understand the law and its relevance to their lives.”³² With a culture that condones sexual harassment and a justice system that marginalises it, women’s legal battles with sexual violence in Egypt is predominantly met with apathy, if not more violence. In Egypt, the prevalent victim-blaming culture, including inside police stations, serves as a major barrier to justice. This obstacle, however, did not stop the then 27-year-old Noha Al-Ostaz from standing up for her rights in 2008.

On a Cairo traffic-choked day in June that year, a van driver reached out from his window, groped Al-Ostaz’s body, and laughed.³³ With the help of a friend and bystanders, Al-Ostaz dragged the 30-year-old Sherif Jebril to the nearest police station where the police initially refused to open an investigation.³⁴ “I just felt, I’m never going to let this happen again...the problem is that women aren’t taking advantage of the laws we have...unless we insist on our rights, and say no, and at least ask for help, or get him to the police station, things won’t change,” Al-Ostaz told *The New York Times*.³⁵

Al-Ostaz’s Case No.11551/2008 was referred to court, and was concluded in November 2008 with a three-year prison sentence with hard labour under Article 268 (assault) for groping Al-Ostaz’s breast.³⁶ The defendant was also ordered to pay 5,001 Egyptian Pounds in damages to Al-Ostaz.³⁷ According to women’s rights groups and activists, the landmark verdict marked the first conviction in a sexual harassment case in Egypt’s recorded legal history.^{38 39} Noha Al-Ostaz’s atypical consciousness of her legal rights broke the silence surrounding the grim reality of dealing with sexual harassment in Egypt. Moreover, she paved the way for other women to learn and insist on using their rights for legal remedy and redress.

ii - Towards an Anti-Sexual Harassment Law

A common approach to understanding legal mobilisation is to examine the tendency for groups and individuals to define their problems as legal and further demand a legal action to be taken.⁴⁰ Following Al-Ostaz’s case in 2008, an unprecedented joint legal initiative was introduced; 16 Egyptian NGOs and movements launched the “Taskforce Combating Sexual Violence” (henceforth referred to as “the Taskforce”) aiming to offer survivors

of all forms of sexual violence the legal and psychological support necessary.⁴¹ Joined by other groups in 2010, the Taskforce – eventually numbering 23 NGOs – released a bill that addressed all forms of sexual violence to challenge the existing restricted and misguided sexual violence provisions mentioned in Section 1.⁴²

The bill adopted “an integrated, rights-based approach to protect against all forms of sexual violence without discrimination...[and] proposed an accurate definition of the three main crimes: rape, sexual assault and sexual harassment.”⁴³ It was a tool to challenge the shortsighted and misguided provisions of sexual violence. On the 16 January 2011, without consulting civil society organisations, Egypt’s Cabinet (executive body) approved Penal Code amendments, which were highly criticised by the Taskforce, including referring to sexual harassment as “intimidation.”⁴⁴ But it was not long before the government was met with non-violent civil resistance in the form of nationwide protests and sit-ins; a revolution.

iii - Revolutionary Moments and Unmet Hopes

“Al-sha’ab yurid isqat al-nizam!” (The people demand the downfall of the regime)⁴⁵ is a chant that shook Tahrir Square during the first 18 days of the Egyptian uprising that led the resignation of three-decade ruler Hosni Mubarak on 11 February 2011.⁴⁶ Mubarak’s power was handed over to Egypt’s Supreme Council of Armed Forces (hereafter “SCAF”), a rule that continued the legacy of suppressing dissent. The language of human rights used during the Egyptian uprising played a big role in mobilising and empowering women to fight sexual harassment. Alternatively, in Upendra Baxi’s depiction, it gave “voices to human suffering” to interrogate “the barbarism of power.”⁴⁷ Mubarak was gone, but sexual harassment and the patriarchal systems embodied in the series of governments that followed remained a more resilient foe.

Christine Chinkin states that there is a “well-documented connection between militarism and the presence of military forces within a vicinity and sexual harassment.”⁴⁸ On 9 March 2011, army officers violently evacuated Tahrir Square of protesters and detained at least 17 women; seven of them were forced to undergo the so-called “virginity tests”.⁴⁹ Members of the SCAF had argued that these tests were aimed at protecting soldiers from allegations of rape.⁵⁰

Although the appalling “virginity tests” received a lot of media attention, the army’s assaults against women did not end there. In yet another brutal crackdown on the protests in Cairo, one infamous video from December 2011 shows army officers violently dragging a woman clad in a black *abbaya* (robe) as she was lying on the ground. They repeatedly kicked and clubbed her viciously, stripping her robe, revealing her upper body and her blue bra⁵¹ – a haunting image that will forever leave a stain on the history of Egypt under the SCAF’s rule. *“Banat masr khat ahmar!”* meaning “the daughters of Egypt are a red line,” meaning an off-limits target, was chanted by

a crowd of thousands of outraged women who marched through Cairo holding anti-army signs and brandishing the image of the “blue bra girl”.⁵² Such a social response illustrates the impact on both women’s legal consciousness and mobilisation, by which experiences of violence against women are redefined as violations.⁵³

iv - “The Circles of Hell:” Mob Sexual Harassment, Assaults and Rape in Protests

In the midst of the protests that took place in Tahrir Square following 2011, reports of violent mob sexual harassment and assaults against female protesters started to emerge. Because of the social stigma attached, survivors of sexual violence in Egypt are rarely willing to speak publicly about their experiences. In a rare case in February 2013, then 30-year-old Yasmine El-Baramawy appeared live on a renowned Egyptian television show to share her horrendous account as a survivor of gang rape in Tahrir Square – which turned out to be only one of several other attacks.⁵⁴ In protests against former president Mohammed Morsi’s constitutional amendments of November 2012, El-Baramawy was surrounded by tens of men, possibly as many as a hundred, who stripped and assaulted her for 90 minutes on the edges of the Square.⁵⁵ Displaying the ripped-with-blades remnants of her trousers from that day on public television, El-Baramawy recounted that she was put on the hood of a car that drove around. The perpetrators screamed that she had got a bomb strapped around her to thwart any help.⁵⁶ The systematic pattern of attacks was later referred to by activists as “the circles of hell”.⁵⁷ In March 2013, and with support of Egyptian civil society, El-Baramawy was joined with six other survivors of the Tahrir Square attacks by filing a joint legal complaint.⁵⁸ Until today, the case has not resulted in any indictments and remains under investigation.

Despite the dearth of precise data indicating a correlation between the uprising and the rise of sexual violence in Egypt, Egyptian women’s rights activists argue that the general spread of violence and reoccurring clashes has had an indisputable influence: “we cannot separate the increase in violence against women in the public sphere from the fact that more women are now more active in more public spaces than before.”⁵⁹ This form of violence gave birth to a number of grassroots intervention movements, including the volunteer-based group Operation Anti-Sexual Harassment & Assault (OpAntiSH). OpAntiSH’s main mission is to “save victims exposed to such incidents and also make the experience less severe by observing the Square and [physically] intervening in case of the formation of such mob assaults,”⁶⁰ or in other words, to carry out the state’s responsibility.

On 25 January 2013, in the celebrations that marked the second anniversary of the start of the Egyptian uprisings, the group documented 19 cases of mob sexual assaults against women and girls in Tahrir Square, some of the cases witnessed rape with sharp objects.⁶¹ Alas the official reaction was rather appalling. “The girl...has to protect herself before asking the police to protect her... [She] is 100 per cent responsible for her rape because she put herself in that position,” said General Adel Afifi, a member of the Shura Council’s

(the former upper house of parliament) Human Rights Committee. During and after the protests that called for the resignation of former president Morsi in the period between 28 June until 7 July 2013, OpAntiSH and Nazra for Feminist Studies documented 186 cases ranging from mob sexual harassment to rape.⁶² According to Vickie Langohr, the work of groups such as OpAntiSH "provided crucial momentum for the recent penal code amendments on sexual harassment, in part because of the coverage their work received in the media."⁶³ According to Lutz Oette and Ilias Bantekas, such grassroots movements acting on the ground articulate "forms of resistance that address injustices with a view to challenging elite agendas and institutionalised decision-making processes...an alternative human rights discourse that redefines civil society and democracy."⁶⁴

4 • The Evolution of Egypt's Sexual Harassment Law

i - Between Military Rule and the Muslim Brotherhood

Egypt's political turmoil witnessed an unremitting lack of will from the consecutive governments to protect, promote, and fulfill women's rights and access to justice. This is yet another legacy from Mubarak's 30-year dictatorship. Throughout the evolution of laws in Egypt relating to sexual violence, the state continuously leaned towards an increase in penalties and setting a minimum sentence as means of deterrence, also known by criminology experts as "deterrence through sentencing" hypothesis.⁶⁵ Similar to the amendments proposed before the uprising that were criticised by the Taskforce (see Section III), SCAF issued decree No.11 in April 2011, amending certain provisions in the Penal Code relating to crimes of sexual violence. In regards to sexual harassment, the decree introduced Article 269 *bis* stipulating that a "public act of indecency" or verbal abuse is punishable with a minimum of a three-month prison sentence⁶⁶ – still sexual harassment was not specifically addressed. A harsher sentence and a monetary fine ranging from 500 to 1,000 Egyptian Pounds was imposed if the crime would be repeated.⁶⁷ There are no indications that the decree has had any influence; in fact, according to experts, harsher sentences in general do not reduce crime.⁶⁸

Representing Egypt's Muslim Brotherhood (hereby MB), Morsi's regime attracted additional criticism, prompting decisions on a number of overdue demands. In March 2013, former Prime Minister Hisham Qandil ordered the government-affiliated National Council for Women (NCW) to draft a comprehensive law to combat sexual harassment and all forms of violence against women.⁶⁹ In May 2013, the interior ministry formed its first female-only unit to combat sexual violence in Egypt.⁷⁰ Paradoxically, the unit consisted of only 10 members to combat an epidemic in a population of more than 80 million.⁷¹ In June 2013, the NCW submitted the draft law to combat violence against women to Morsi's cabinet without consulting or addressing the concerns of women's rights groups and activists.⁷² However, with the removal of Morsi from power in early July 2013 and the dissolution of Parliament, the draft law went nowhere.

ii - A Step in the Right Direction: How Sexual Harassment Was Criminalised

In the 1970s, Islamic militants in Egypt won their first adherents by taking over Egyptian student politics on public university campuses. An appealing strategy for mobilising and gaining a foothold from female students was to offer them protection from sexual harassment “by providing them with private transportation and campaigning for sexual segregation in the packed classrooms.”⁷³ As the problem persisted in the decades that followed, Cairo University witnessed a major sexual case that remarkably put the issue firmly on Egypt’s interim government’s agenda. In March 2014, as a female student was walking across the faculty of law campus, she was surrounded by a large group of male students who sexually harassed her. Filmed by unconcerned bystanders, videos of the incident went viral on social media and satellite channels.⁷⁴ The incident received greater outrage from women’s rights groups when Gaber Nassar, the head of Cairo University, called it a one-off incident claiming that the student was not dressed “appropriately” and that she, as well as the harassers, might face punishment.⁷⁵

The following month, Ahmed El-Sergany, aide to Egypt’s justice minister, stated that the Cairo University incident had triggered a reconsideration of Egypt’s existing laws on sexual harassment, and confirmed that a bill had been submitted to the cabinet after having been revised by the justice ministry.⁷⁶ In June 2014, just a few days before handing power to president elect Abdelfatah Al-Sisi, former interim president Adly Mansour issued Decree No.50 amending Article 306 (a) *bis* of the Egyptian Penal Code. Article 306 (b) *bis* was added to combat crimes of sexual harassment, now punishable by a minimum six-month jail term and a 3,000 Egyptian pounds fine and defining it in the Penal Code for the first time in Egypt’s history.⁷⁷

Perhaps – and most likely – the decree was part of a wider political purpose to legitimate Al-Sisi’s rise to power.⁷⁸ Egypt’s Penal Code still excludes other forms sexual violence and violence against women such as anal rape, marital rape, and domestic violence.⁷⁹ Having said that, one has to acknowledge that this landmark law is a major step towards achieving safety for women and girls are sexually harassed on daily basis. It is, moreover, a small step in changing the culture of state negligence and deep-rooted social acceptance of this epidemic.

5 • Sexual Harassment’s Impact on State and Society

i - The Practices of Legal and Executive Institutions

The practices and norms by which legal institutions operate imply how practitioners within the law see the rules. In her study of street harassment, scholar Laura Beth Nielsen suggests that the main reason for reluctance in turning to anti-harassment laws is a lack of faith in the enforcement mechanisms.⁸⁰ It is difficult to measure the enforcement of the two-year-old Egyptian law in statistical or factual terms, due to the scarcity of obtainable data. However, analysing the role of public officials and critically analysing

official statements and judicial prosecutions can provide a lens through which one can explore the changing practices of legal institutions and the political will to combat sexual harassment in Egypt. In early June 2014, the celebrations of Al-Sisi's election inauguration in Tahrir Square witnessed at least nine incidents of mob sexual harassment and assault documented by human rights groups that then questioned the competence of the new law to tackle the issue.⁸¹ Al-Sisi's response to the incidents, though perceived as purely propaganda-motivated by human rights activists,⁸² was an unprecedented one.

After the rapid arrest of seven alleged assailants, Al-Sisi was photographed visiting a survivor of the attacks in hospital; he handed her flowers and – with immense media coverage – apologised to her.⁸³ "I apologise and promise you that as a state we will not accept that such incidents will take place in the future," Al-Sisi told the survivor whose face was blurred to avoid identification.⁸⁴ In addition to the speed with which the cases were handled, admitting the state's responsibility for the protection of its citizens, particularly women, is a breakthrough in the practices of legal institutions which shape how the law works. A few days later, the seven assailants were sentenced to life for crimes of sexual harassment, under the new law, and of attempted rape, attempted murder and torture.⁸⁵ In the words of the prominent Egyptian human rights activist and lawyer Gamal Eid, although the ruling is harsh, "[it] gives a strong message to all harassers that their actions are no longer tolerated or accepted."⁸⁶ It is noteworthy to mention that it was Al-Sisi – then a top general – who defended the "virginity tests" of March 2011 (see Section II),⁸⁷ a haunting case for human rights groups and activists. Al-Sisi's intention to score political points is in line with the Marxist criticism that rights can be utilised in the service of a political interest, or in Baxi's theory, an example of the "the politics of human rights" as opposed to "the politics for human rights."⁸⁸

Another exceptional transformation in legal practices is Egypt's national strategy to combat violence against women, announced in April 2015 – though only time will prove the extent of its implementation. As part of the strategy, the interior ministry increased the number of patrols for responding to cases of violence against women, in addition to hiring female physicians to attend to survivors of sexual violence.⁸⁹ Cautiously welcomed by human rights groups, organisations such as EIPR underline that the strategy denies "that police personnel are involved in the daily acts of sexual harassment...the ministry's efforts are merely formal procedures that do not seek to change the mindset of police officers and security personnel on women's rights."⁹⁰ Almost a year after the passing of the law, 26-year-old Amira experienced EIPR's concerns in filing a sexual harassment case at a police station: "Go home, girl, they told me...Surely your father wouldn't like to hear that his daughter is a whore."⁹¹ Scepticism from the human rights community about the state's contemporary enthusiasm for women's rights is thus understandable.

ii - Can the Law Affect the Public's Behaviour?

David Schiff argues that a new law's impact on social behaviour and the level of compliance cannot be easily measured.⁹² However, it is fair to say that the human rights movement in

Egypt has achieved one of its ostensible objectives – talking about sexual harassment is no longer taboo. Langohr argues that the circulation of videos and evidence documenting the crime “has forced the issue of sexual harassment into mainstream public discourse and made the phenomenon harder to deny.”⁹³ However, as already noted, even with the existence of a law, a dominant social attitude of acceptance towards sexual harassment remains a major barrier in changing attitudes towards the crime. Such concerns can be illustrated in the reaction of a female television presenter who giggled when her colleague reported sexual harassment incidents during Al-Sisi’s inauguration celebrations, adding that the people were simply “happy”.⁹⁴ The presenter was eventually suspended.⁹⁵

In an attempt to change the public attitudes towards sexual harassment, HarassMap, was launched in 2010 as a volunteer-based movement. It is Egypt’s first independent initiative working to counter the wide social acceptability of sexual harassment.⁹⁶ With the aim of encouraging women to speak up, the group receives anonymous SMS reports of sexual harassment that are then mapped.⁹⁷ After the enactment of the new law, HarassMap launched its *Al-Mutaharish Mugrem* (the harasser is a criminal) campaign. The campaign circulates videos and posters, which use the new law to motivate people to take action and intervene in support of the harassed, “so that together we can transform our society into one in which harassers cannot act with impunity.”⁹⁸ Similarly, a ministerial committee tasked to combat sexual harassment announced, *inter alia*, a competition “to choose the best TV series screened during Ramadan – a popular month for TV drama – that promotes women’s rights.”⁹⁹ These examples all attempt to convey the message of the law to the wider society, which, in due course, develops the legal culture.¹⁰⁰

6 • Conclusion

It is fair to say that the birth of a joint, feminist anti-sexual harassment movement that refuses to tolerate patriarchal attitudes and practices is one of the unequivocal gains of the 2011 Egyptian uprising. The efforts exerted by the human rights movement in combating sexual harassment has delivered, to a large extent, a positive impact on the country’s legal culture – particularly legal consciousness and mobilisation.¹⁰¹ This optimistic conclusion is derived from scrutinising the evolution of the discourse and laws on sexual harassment from both legal and sociological perspectives over the last decade. Egypt’s human rights movement broke the taboo that inhibited public discussions on sexual harassment. Survivors are now empowered to overtly share their testimonials and a certain level of political awareness can be seen in tackling women’s issues in the media and online social networks. Even though there still remains tension around the colloquial naming of sexual harassment as *al-taharush al-ginsi* (*sexual harassment*),¹⁰² the persistent use of the term has added *taharush* (*harassment*) to the list of sexual offences in the Egyptian Penal Code, reflecting the change in how society and lawmakers view the crime.

However, on a less positive note, the human rights movement in Egypt is sceptical of an instant concrete transformation, especially in this general state of human rights

regression. While the latest state measures might signal a willingness to combat violence against women the law is no more than ink on paper unless it is fully implemented in practice. The Egyptian authorities must uphold justice in ongoing cases such as the Black Wednesday case, the "virginity tests," and Yasmine El-Baramawy *et al.* The government must also ensure that its recently-launched national strategy comes to fruition, as well as to meet its obligations under international law treaties such as CEDAW.

On 25 January 2011, the Egyptian people stood poised against Mubarak's dictatorship with an opportunity to put an end to all forms of gender-based violence. When horrendous sexual violence incidents took place in the primary symbol of the revolution, Tahrir Square, the spirit of women and their fervent chants declaring their bodies an off-limits "red line" pushed a particular perception forward: freedom from sexual violence is a basic human right. And despite the bleakness of the current human rights situation in Egypt,¹⁰³ there is no better time to declare the achievements of Egypt's human rights movement in the fight against sexual harassment.

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THE MARIA DA PENHA LAW: 10 YEARS ON

Wânia Pasinato

- *What do we want to celebrate?* •

ABSTRACT

In the year of the tenth anniversary of law 11.340/2006 - the Maria da Penha law (MPL) - a mixture of happiness and hesitation characterises the celebrations. In this article, I present an analysis of the challenges and obstacles of the MPL's implementation in light of bill 07/2016, which is moving through the federal senate and has brought about a strong reaction from those involved in applying the MPL and in defending the rights of women. This recent event raised questions about how Brazil will implement the MPL in the coming years and in which social and political conditions this implementation will take place. In the debates around the issue, we see that the wave of change initiated by the MPL cannot be stopped. The threats to the MPL today show not only that traditional social structures resent this change which strengthens the conviction that there is still a long fight ahead, but also that the rights of women will not lose the statute they gained in the last decade.

KEYWORDS

Maria da Penha law | Bill 07/2016 | Domestic and family violence | Gender | Public policy

1 • Law 11.340/2006, the Maria da Penha Law

The Maria da Penha Law (MPL), which “creates mechanisms to reduce domestic and family violence against women,”¹ is a demand that women’s and feminist movements in Brazil have long defended. Responding to the grave problem of violence against women, elaboration of the law was made possible after the Inter-American Commission of Human Rights (IACHR) found Brazil responsible in the case of Maria da Penha Maia Fernandes (2002).² Formulated by a coalition of feminist NGOs, jurists and legislators working to defend women’s rights, and with the support of the then-recently-created President’s Policy Council on Women, the text of the legislation reflects a long fight for rights. It was recognised by the United Nations, which, in 2008, noted that the Maria da Penha law was “the culmination of a prolonged campaign carried out by women’s organisations along with national, regional and international organs, such as the Inter-American Commission on Human Rights.”³

In the national context, the MPL is recognised for being innovative and exemplary, especially referring to the measures that it introduces for a more comprehensive approach to combatting violence against women. Among the changes promoted by the legislation, it adopts the definition of violence against women used at the Belém do Pará Convention⁴ and classifies domestic violence as a human rights violation. Relationships of domination and hierarchy that result from widespread gender inequality are identified as the root cause of domestic violence. The law thus recognises that domestic and family violence is not a problem that affects just a few women and works against an understanding that it is a private problem related to personal history. The law affirms that domestic violence has the potential to affect all women during the course of their lives.

The definition of violence is expanded to include abuse and assault of a physical, sexual, psychological and moral nature, as well as harm to property. It also expands the concept of family ties, referring to people united by intimacy and affection, ties that can be present or past and also those that exist whether or not the involved parties live together (in cases of dating, for example). Another innovation in the law: the interpersonal relationships are not restricted in terms of sexual orientation.

The MPL represents a group of directives that hold aggressors responsible, that protect women and their family-members, that give access to rights and to justice and that carry out preventative actions, including work in the field of primary-school education. Considering these measures, the MPL serves both to channel public policies and also as an instrument of social transformation built on the theories and practices of the feminist movement that draws inspiration from the movements for legislative changes and public policies addressing rights for women in the international context.⁵

With so many changes, the legislation requires governments and courts to adapt and adopt the new practices and competencies corresponding to this approach and which consider the gender perspective. In other words, women recognised as subjects with

rights protected by laws that are applied in a way that is not only egalitarian but is also attentive to the specificities of each case. The measures hold perpetrators of violence responsible and also permit women to overcome difficult situations so that they can reconstruct or construct new relationships in a life without violence.

Over the past ten years, the implementation of the law has resulted in many advances: in the creation of specialised services, in education and training professionals for assistance, and in alerting society to the gravity of domestic and family violence as a problem to be addressed through specialised and directed public policies. Policies that work not only by punishing the violence, but also by preventing and reducing tolerance for new acts of violence.

However, the advances are modest when compared to the size of the task at hand. Segments of Brazilian society and the institutions responsible for applying the MPL and protecting the rights of women are resistant to the cultural and institutional changes required for the law to be applied in a complete and effective way. During its first ten years, the MPL was regularly attacked, and was even called unconstitutional by some who attempted to suspend the law, claiming that it went against the principals of equality among men and women. The more than 100 bills currently circulating in congress that present new proposals for combatting violence against women can also represent threats insofar as they turn away from the gender perspective and/or ignore the integrated approach guaranteed in the law.

In this context, in the year of the tenth anniversary of the Maria da Penha law, a mixture of happiness and hesitation characterises the celebrations. As usually happens on these days, reflection efforts focus on celebrating the victories and advances, on analysing the difficulties and on renewing agreements that seek a more effective implementation of the law in order to build a more equal society for men and women.⁶

In this article, I propose an evaluation based on a recent event that raised questions about how Brazil will implement the MPL in the coming years as well as in which social and political conditions this implementation will take place. I refer to the controversy around a bill moving through the national senate that has caused a strong reaction in the different sectors involved in applying the law and among those who fight for women's rights.

2 • BILL 07/2016

Bill 07/2016 aims to alter the MPL's third chapter, where the type of assistance that police should give to victims is defined. Chapter 3 reads, "victims of domestic violence have the right to specialised, uninterrupted police and expert assistance, given preferentially by women."⁷

In essence, the bill introduces three new articles to the MPL. The first two articles include directives regarding specialised police and expert assistance both in necessary adaptations to physical spaces as well as in the active and humanised approach to

gathering evidence that must take place to avoid further victimising women. The third article modifies the legislative text so that the police can immediately apply urgent protective measures as soon as any current or imminent risk to the physical or mental health of the victim or her dependents is identified.

Bill 07/2016 was introduced in May 2016 and, after receiving a favourable report from the Senate Commission on the Constitution, Justice and Citizenship and being sent for consideration in the senate. Many actors, including representatives from the police, the public ministry, the public defender's office, the judiciary and the feminist movements, spoke out with some defending and others criticising the bill.⁸

The bill won strong support in the senate from a caucus made up of the civil and military police,⁹ strengthened through a mobilisation led-by the civil police, specifically delegates that work in the Specialised Units for Assisting Women. The main argument of those defending PL 07/2106 is the need to guarantee better attention and immediate protection for women who are at risk. This same argument also underlies the opinion of the legislator that received PL 07/2006 in the senate.

The unified tone of this response quickly broke when other voices that, while aligned with the interests in promoting better attention and protection for the women, began to discuss the relevance of the shift in the proposal and its effects on the Maria da Penha law. Judicial representatives questioned the constitutionality of the proposal.¹⁰ In the midst of the debates, the bill was suspended and a public audience was called to hear the positions of legislators and of women who had been victims of violence. Confrontations at the hearing evidenced the need for more caution and discussion before advancing with the approval process.¹¹

In these debates, the feminist movement brought to the surface its concern that this type of change could weaken the integral foundations of the law. The movement also sought recognition of its legitimacy to be involved in the process of changing a law that is such a historic marker in the fight for women's rights in Brazil.

3•Bill07/2016,obstaclesandchallengesfortheimplementation of the MPL

There are many aspects of the 07/2016 bill and its impact on the Maria da Penha law that could be discussed in light of the advancements, obstacles and challenges of implementation. In this text, I focus on the arguments in favour of article 12-B, which proposes that the police should be allowed to apply urgent protective measures. The arguments presented in the discussion about this article go beyond shedding light on the difficulties that women undergo to gain protective measures and reveal important things about the entire criminal justice system and about the need for public policies that make the protective measures effective. With this, the focus shifted and reflection

was made possible about the conditions of applying the MPL and about the obstacles and challenges women face when seeking the rights assured by the MPL.

Article 12-B makes it possible for the protective measures to be applied immediately, at the moment of the registration of the crime by police officers, whenever a risk situation is identified. It is up to the police to provide immediate subpoena of the aggressor, as well as to call upon any other services for attending to the women. After the initial protection is guaranteed, the bureaucracy continues with the conclusion of the process that is then forwarded to the judiciary within 24 hours, where the rest of the guarantees of the MPL are guaranteed for the victim.

The proposal has an unquestionable motivation. Increase and guarantee protection for women who are in situations of domestic and family violence is the obligation of all public officials that act in the area of assistance to this population. If the motivation is unquestionable, the justification lacks reflection. The debates that followed the publication of the 07/2016 bill and in its defense placed the responsibility for the gaps in application of protective measures on the judiciary. The slow speed of analysis and deferment of requests and the long wait to call the women and the aggressors about the decisions were some of the points highlighted as inadequate given the urgency of the response required in a violent situation.

The justification reflects a known reality. The application of protective measures happens in adverse contexts, in specialised courts and units that are overrun with processes, that have inadequate bureaucratic processes and also a reduced number of technical and bureaucratic staff. There are also difficulties among judges whose understanding of the law is limited to the process, insensitive to the perspective of gender, which requires the understanding of the context of domestic and violence. There are more than a few accounts of judges that demanded that the requests for protective measures be carried out with witnesses and expert evidence, extending the deadlines for the production of necessary documents, relegating the word of the woman to the second plane, yet who in many instances is the only person who can attest to the violence that she suffered. This creates difficulties for women who need to access the protection, as well as promoting their re-victimisation.¹²

On the other hand, in the critiques of the current political activity, you find judges that justify the unviability of the analysis of the requests, alleging that they are not well founded and that they lack information that helps understand the measures called for, including its adequacy as it relates to the situation that the women live.¹³ They recognise the structural deficiencies in the courts and know that this is an important limiting factor for the work that they do.¹⁴

These problems identified in the field of public security and in the judicial powers do not occur in isolation. Together with the absence of specialised services in other sectors of the public policy, and the formation of specialised assistance networks, it is always possible to find someone commenting on how difficult it is to adequately apply the Maria da Penha law. Sometimes this questioning is projected on the law itself, which is described as ineffective and requiring changes. Just as is happening with the 07/2016 bill.

During the last ten years, many studies were done about the implementation of the MPL. Since 2009, the Maria da Penha Law Observatory - OBSERVE - has produced studies with the purpose of describing and analysing the conditions of implementation of the Maria da Penha Law.¹⁵ In 2012, a Mixed Parliamentary Inquiry Committee was constituted for this purpose,¹⁶ and other studies were carried out that demonstrate the reduced number of specialised services, the concentration in capital cities, the deficiencies in network articulation, the lack of physical structure, material and human resources, and the inability to follow the new attributions and functions introduced by the MPL. The research also shows the low level of training of the professionals for carrying out specialised assistance from a gender perspective and a lack of institutional policies that valorise specialised knowledge and stimulate professionals to implement this knowledge.

These studies show, primarily, the low adherence of the states and municipalities in the implementation of the national policy of confronting violence against women (2005). Created in the federal government by the Secretariat of Women's Policy, the national policy functioned as the backbone of the implementation of the Maria da Penha law and was reinforced by the National Pact of Confrontation of Violence Against Women (2007) and the Women's Program, Live Without Violence (2013).

The National Pact, with its premises about capillarity, intersectoriality and transversality of the gender perspective in the state approach, permitted the federal government to activate the responsibilities previewed in the Federative Republican Pact, reaffirmed in the 1988 constitution. In this way, since 2007, the Secretariat of Women's Policy implemented a new form of management for the systematic and coordinated transfer of financial, technical and material resources in order to guarantee minimal conditions for the implementation of the MPL.

In the pact, the state and municipal governments agreed to make investments to maintain the policies, services and programmes. Nevertheless, in practice, beyond formal agreements, few times this sustentation happened in a continued way. The institutions have not always appeared favorable to an internalisation of changes proposed by the MPL, and they have also not invested in the gender perspective so as to guarantee the continuity of changes that started as the fruit of the individual effort of some professionals. The result is the instability in the responses offered by the women, directly affecting their access to the measures provided in the MPL.

Considering this scenario, the 07/2016 bill loses even more force in its justification, as its purpose contributes to show the persistence of these deficiencies, but does not offer instruments to overcome the obstacles. In short, what this bill demonstrates is a lack of comprehension about the relevance of integrality in the implementation of the MPL and the articulation of the measures guaranteed in its text. Applying the MPL partially, or creating conditions that reinforce the inequality in the proposed measures just contributes to maintain violent situations.

This year, once again the celebrations around the MPL reflect on these advances and on the remaining obstacles, but, maybe now more than ever, these reflections were balanced by threats to the integrity and applicability of the legislative text. This is due on one hand to the conservatism that has been taking over some sectors of society and of institutions, especially in the legislature. On the other hand, it is related to the threats to the institutionality of the National Policy on Combating Violence Against Women, which was a consequence of the repositioning of the Council on Women as an organ subordinate to the Ministry of Justice and Citizenship.

There have been many reasons to celebrate in these ten years. The MPL sparked the understanding of domestic and family violence against women as a public problem, it provided significant changes in the way the society sees and thinks about domestic and family violence, specifically because it framed gender inequality as a violation of human rights. These shifts make possible the recognition of other forms of gender-based violence, that affect the lives of all women and girls in all of the stages of her life and experiences of race, ethnicity, sexual orientation, gender identity, religion, social classes, regional or national origin, among other social groups to which they belong.

This social movement took on its own forces and cannot go back now. Nevertheless, its effectiveness depends on the engagement and compromise of the state institutions and of society and it would be disingenuous to think that 10 years had been enough to break the traditional logic of the functioning of things. In this context, even though it seems pessimistic to put the obstacles and challenges at the forefront, these do not annul the advances made. Just the opposite, the threats indicate that the traditional structures resent these movements, changes and shifts, which strengthens the convictions that many more battles will be necessary and that women's rights will not lose the statute fought for during the last decade.

NOTES

1 • "Lei Nº 11.340, de 7 de agosto de 2006," Presidência da República - Casa Civil, 2006, accessed November 10, 2016, https://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Lei/L11340.htm.

2 • Valéria Pandjarijan, "Maria da Penha: una mujer, un caso, una ley," *Revista Informativa CLADEM*, nº 9, Año 6 (Noviembre, 2007): 38-51.

3 • The Maria da Penha law is cited alongside the Spanish Laws (2004) and the Mongolian Law on violence against women. Consult: "Quem responde às mulheres? Progresso das Mulheres do Mundo 2008/2009 - Género e Responsabilização," UNIFEM,

2008, p. 76, accessed November 10, 2016, http://www.unifem.org/progress/2008/media/POWW08_Report_Full_Text_pt.pdf.

4 • The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (also known as the Convention of Belém do Pará), June 9, 1994 (entered into force May 3, 1995), accessed November 10, 2016, <http://www.oas.org/juridico/english/treaties/a-61.html>.

5 • Wânia Pasinato, "Violência Contra as Mulheres e Legislação Especial, Ter ou Não Ter? Eis Uma Questão," *Revista Brasileira de Ciências Criminais*, no.

70 (jan.-fev. 2008).

6 • Wânia Pasinato et al., "Medidas Protetivas para as Mulheres em Situação de Violência," in *Pensando a Segurança Pública: Direitos Humanos, Grupos Vulneráveis e Segurança Pública* (vol. 6), org. Ana Carolina Cambeses Pareschi, Cíntia Liara Engel, Gustavo Camilo Baptista and Alex Jorge das Neves (Brasília: Ministério da Justiça/SENASP, 2016): 230-62; Wânia Pasinato, "Oito Anos de Lei Maria da Penha: Entre Avanços, Obstáculos e Desafios," *Revista de Estudos Feministas* 23, no. 2 (Aug. 2015): 533-45; Wânia Pasinato, "Avanços e Obstáculos na Implementação da Lei Maria da Penha," in *Lei Maria da Penha Comentada na Perspectiva Jurídico-Feminista*, org. Carmen Hein de Campos (Rio de Janeiro: Lumen Juris, 2011).

7 • "Projeto de Lei da Câmara nº 7, de 2016", accessed November 20, 2016, <https://www25.senado.leg.br/web/atividade/materias/-/materia/125364>.

8 • This article does not intend to question the personal positions of the professionals that spoke out for or against the change in legislation. One of the great fortresses of the MPL are the professionals that are engaged in its application and that devote themselves to finding more effective ways to respond to the women they assist day in and day out. However, this same daily work has been captured in research and diagnoses that show how individual efforts are often blocked and are calibrated by the institutional policies in the different sectors of public policy and in the criminal justice system. In this sense, the questions underlying this article do not address the professionals but rather the institutions.

9 • Also known as the "bullet caucus". Along with the "beef caucus" (made up of ruralists) and the "cattle caucus" (made up of evangelicals), these fronts express the conservative and fundamentalist character of the federal congress, often responsible for bills and proposals that threaten social and political rights in the country.

10 • The debate stalled specifically because of the technical notes emitted by the representative

organs of the judicial classes and the public manifestations by the feminist movements. The National Forum of Police Delegates, The Brazilian Magistrate's Association, the National Association of Members of the Attorney General's Office, the National Council of General Prosecutors of the Attorney General's Offices of the State and the Nation and of the National Collegiate of Public Defenders all emitted technical notes.

11 • Here the discussion is presented in a shortened form. On the site of the senate, it is possible to follow the documents step-by-step.

12 • CEPIA, *Violência Contra as Mulheres e Acesso à Justiça* (Rio de Janeiro: CEPIA, 2013); Pasinato et al., "Medidas Protetivas para as Mulheres em Situação de Violência," 2016.

13 • Débora Diniz e Sinará Gumieri, "Implementação das Medidas Protetivas da Lei Maria da Penha no Distrito Federal entre 2006-2012," in *Pensando a Segurança Pública: Direitos Humanos, Grupos Vulneráveis e Segurança Pública* (vol. 6), org. Ana Carolina Cambeses Pareschi, Cíntia Liara Engel, Gustavo Camilo Baptista e Alex Jorge das Neves (Brasília: Ministério da Justiça/SENASP, 2016): 205-31.

14 • CEPIA, *Violência Contra as Mulheres e Acesso à Justiça*, 2013.

15 • OBSERVE, *Condições para aplicação da Lei 11.340/2006 (Lei Maria da Penha) nas Delegacias Especializadas de Atendimento à Mulher (DEAMS) e nos Juizados de Violência Doméstica e Familiar nas Capitais e no Distrito Federal* (Salvador: Observe, 2010); OBSERVE, *Identificando Entraves na Articulação dos Serviços de Atendimento às Mulheres Vítimas de Violência Doméstica e Familiar em Cinco Capitais* (Salvador: Observe, 2011).

16 • Senado Federal, *Relatório Final da Comissão Parlamentar Mista de Inquérito Sobre a Violência Contra a Mulher* (DF: Brasília/Senado Federal, 2013): 1049.

17 • Ana Paula Antunes Martins, Daniel Cerqueira e Mariana Vieira Martins Matos, *Nota Técnica nº 13: A institucionalização das políticas públicas de enfrentamento à violência contra as mulheres no Brasil (versão preliminar)* (Brasília: IPEA, 2015): 37.

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SEXUAL VIOLENCE IN THE MILITARY DICTATORSHIPS OF LATIN AMERICA: WHO WANTS TO KNOW?¹

Mariana Joffily

- *Why reports of abuses committed against political prisoners in the region are only now being heard* •

ABSTRACT

Why was the sexual violence that was committed principally against women during the Latin American military dictatorships from the 1960s until the 1980s not a topic of debate immediately following the transition to democracy and has only in recent years become the subject of deeper reflection and closer attention? This article intends to organise elements of the response to this question, reflecting on the particular nature of sexual crime, how memories of political violence have taken shape over time and the transformation of the concept of gender violence within international and legal bodies in Latin American countries. It concludes that attention to this type of crime could only be given after a series of social and legal changes had been brought about in equality and gender and argues that, although there has been considerable progress, important advances still need to be made in bringing acts of violence, particularly against women, to light.

KEYWORDS

Sexual violence | Political repression | Military dictatorship | Memory | Transitional justice | Feminism

*I repeat, they have been raping me since the conception of state terrorism.*²

Brazil, election campaign 2016. A local council candidate for a left wing party, in the city of São Paulo, who had worked as a civil servant for 26 years, tells a columnist at the *Folha de São Paulo* newspaper that she had heard that she deserved to be raped and tortured. “I was told that Colonel (Carlos Brilhante) Ustra tortured people who deserved it, such as feminists.”³ This brutal comment, made naturally during the ordinary course of an election campaign, sums up the components of the discussion this article proposes to investigate: the connection between political torture and sexual crime; rape as a weapon in political combat in its wider sense (used against militants of social causes and gender equality); the idea of putting a woman “in her place” using sexual violence, and the continued existence of representations that reflect the most conservative aspects of the military dictatorships of Latin America from the 1960s until the 1980s, despite progress made by the feminist movement. These elements can be used in attempting to answer the question posed by the authors of the book ... *y Nadie Quería Saber* (... And no-one wanted to know): why did it take so long for the women who suffered during the military dictatorships to have their testimonials heard, in the public sphere?⁴ However, an inversion of terms is proposed. What has changed in recent years for these testimonials to be heard by society?

1 • Sexual violence: a category peculiar to political repression

In the sexual violence⁵ used during the military dictatorships there was an intersection between, on the one hand, the specific history of political repression against leftist militants who, within the context of the Cold War, proposed a revolutionary solution to the serious problems facing the countries of Latin America, and, on the other, persistent gender inequality. Because of the latter, sexual violence tended to be obscured, particularly in cases such as Guatemala, which experienced armed conflict from 1962 to 1996 and where gender violence combined with another enduring form of violence, racism against indigenous populations. “Racism played a fundamentally important role in the forms adopted for gender violence against Mayan women.”⁵

In Guatemala the extensive nature of sexual violence as a strategy of repression, as well as testimonies, made it possible to deduce that soldiers had received orders from superiors to violate women. In the Southern Cone, however, it took decades for the notion of the routine practice of sexual violence, principally against women, to be substantiated.

Ieda Akselrud de Seixas, imprisoned and tortured in a repressive centre in Rio de Janeiro, told the *Comissão Nacional da Verdade do Brasil* (The Brazilian National Commission of Truth):

I suffered sexual abuse in the bathroom. Everyone knows already. I can tell this story because there are lots of testimonies. But I look a long time to realise that that was sexual abuse, do you know why? I played

*that episode down because, after all it wasn't the 'parrot's perch', or electric shock or the cadeira de dragão. It's really crazy! It's really crazy!*⁷

This ex-prisoner's discourse demonstrates two important points. Firstly, that at the time, she evaluated the violence that she experienced as secondary, in comparison to other types of violence. Why did she consider it to be secondary? Because gender violence, like domestic violence, is commonplace. In their book . . . *y Nadie Quería Saber*, the authors express this trend using a phrase commonly used by Argentinian women who have been in clandestine detention centres: "...and they raped me too", as a kind of addendum to other violence suffered.⁸

The second point is understood in the repeated interjection "It's really crazy!" It is a plausible hypothesis to assume that the element that she had not grasped was not the sexual nature of the abuse, but that this form of violence constituted a separate category. This is one of the changes that should be noted, absent at that time and necessary so that this type of political violence could be heard by society – the recognition of the specific and separate nature of sexual violence as a crime.

While torture was invested with a political meaning which, in spite of everything, afforded the victim some dignity, the boundaries between public and private life were blurred in the case of sexual crime. It does not seem untoward to suppose that the rationale of many of the women affected was that under those circumstances, being men, the repressors "took advantage of the situation" to abuse them, even because as Olívia Rangel Joffily states

*In the concrete confrontation with the established body of power, leftist militants came up against deep-rooted dominant representations in inequalities between sexual categories. These were very often reproduced in the discourse and practice of male security officers.*⁹

It is certainly not possible to establish a hierarchy between different forms of violence, but it has to be recognised that this type of crime encroaches on the person's intimacy. Within the context of the social framework sexual abuse has usually been seen subjectively as a private issue and not as a part of state violence, which has isolated political prisoners affected by it, in their suffering.¹⁰ The surprise that Ieda Akselrud de Seixas reveals to us is that she did not realise at the time it was happening that what she was experiencing was of a political nature and not an individual one.

One of the big problems of sexual crime lies in the fact that suspicion also falls on the person affected. If survivors of extreme situations were burdened with guilt for not having met with the same destiny as their dead or disappeared comrades, those who suffered sexual violence found it difficult to remove themselves from a feeling of responsibility for the traumatic experience, which tended to isolate them in a private world of shame. The journalist Miriam Lewin who was held captive in one of the most infamous clandestine detention centres in Argentina, under constant threat of death, relates how social incomprehension about the condition of political prisoners made it difficult to politicise the abuse they had suffered:

The weight of this probable [social] condemnation affected us, the prisoners who had disappeared, and we remained silent for a long time. We could not even talk openly on the subject between ourselves, because we did not understand what had happened, neither afterwards, nor during captivity. We still do not understand what happened so we were not able to explain clearly. We did not understand that in this context there was no possibility of exercising sexual liberty, without conditioning or coercion. Even today we hear an inner and outer voice that tells us there was a choice, that there was a margin for resistance or consent in that situation; that there was an option, that we were not the defenseless prisoners of our captors in an environment of a system of terror, within a society in which power was held by men. And where, moreover, our compatriots, men and women, both in prison and outside, both in the country and in exile would certainly classify us as prostitutes and traitors if we talked.¹¹

When evoking the incomprehension and probably moral condemnation of her comrades, Lewin casts light on one particular aspect of sexual abuse. It is a type of violence that establishes shame on the part of the person who has been violated, as though the victim had some degree of participation and is in some way contaminated with the ignominy of the act.¹²

The diverse testimonials contained in *Nunca más* (Never Again), describing practices of sexual violation in front of comrades, parents and children, show moreover that the practice has a shaming and humiliating effect which encompasses the nuclear family, not to mention the terrible effects of an unwanted pregnancy. In Guatemala, “some consequences of sexual violence, recorded in testimonies to the CEH (Commission for Historic Clarification), were: rupture in marital ties; abandonment of women who had been raped, by the community; ‘social isolation and collective shame’, abortions, filicide.”¹³ For these reasons silence and brevity in referring to sexual violence was also due to efforts to protect family members from public knowledge of a dishonourable fact that affected everyone.

2 • Transition to democracy: the hierarchy of urgent matters

In addition to a society which was poorly equipped on the topic of sexual abuse, the democratic transitions, a time of tension and of social reorganisation, led survivors and ex-political prisoners to impose an agenda of denouncing the deaths and disappearances of their comrades. The focus of the first commissions on truth were, therefore, aimed at this group of victims. In Argentina, the famous Trial of the Juntas concentrated on proving the responsibility of the state and the systematic nature of the forced disappearance of thousands of citizens. It was only from 1995, with the *Juicios por la Verdad*, a response by sectors of civil society to the clemency laws of President Carlos Menem, that survivors started to speak up and relate their personal experiences.

In Peru women denounced what had happened to their comrades and children but not to themselves: “This silence, as can be imagined, was even worse in cases of sexual violence, when shame, the fear of stigma and feelings of guilt complicated the narrative.”¹⁴ This attitude originated in the gender position they occupied in Peruvian society and the shared concept of their social role: “Sexual abuse, humiliation and other abuses to which they were exposed in this research were not seen by these women as facts to be denounced, but as the consequence of something they should do, that is to say, as mothers and wives.”¹⁵ The adoption of an explicit strategy of incorporation of a gender viewpoint was needed in making it possible to talk about this type of violence, according to the report of the *Comisión de Verdad y Reconciliación* (Commission of Truth and Reconciliation): “[...] it was fundamental to recognise the effects that political violence had had on the Peruvian men and women, understanding the different way in which their human rights had been affected during the period [...]”¹⁶

This is not say that sexual violence had been totally silent. Well known reports such as “*Nunca más*” (Never again), produced by the official truth commissions in Argentina and Chile or by civil society organisations in Brazil and Uruguay, refer to sexual violence suffered during the dictatorships, without however, attributing it a separate dimension or space that its characteristic of repetition demanded. In addition, there was an obvious under-notification. In the Brazilian report, for example, which covered both fatal victims (dead and disappeared), as well as torture suffered in state installations, sexual violence represented 1 per cent of female denouncements.¹⁷ The report of the *Comisión Nacional Sobre Prisión Política y Tortura do Chile* (National Commission on Political Imprisonment and Torture in Chile), known as the *Informe Valech* (Valech Report), delivered in December 2004, showed signs of a change of course in the reflections it presents on sexual crime:

*Rape is a traumatic experience that principally affects a person's sexual life. It also has immediate physical and emotional consequences, through a possible pregnancy or even a sexually transmitted disease [...] Torture, in all cases, destroys confidence in other human beings, but in the case of sexual torture under these circumstances, the most intimate and closest emotional ties are affected, these being both sexuality itself as well as maternity.*¹⁸

However, the subject was not treated with an individual approach:

*The interviews carried out by the Commission did not ask specifically about sexual violence against former female prisoners. Situations that were recorded were mentioned spontaneously by those making statements. It should be noted that for many women it is difficult to speak about sexual violation and they often prefer not to do so.*¹⁹

Hillary Hiner believes the breakthrough made between the *Informe Rettig* (Rettig Report), produced by the *Comisión Nacional de Verdad y Reconciliación* in 1991, and the *Informe Valech*, delivered over a decade later, in terms of the incorporation

of “some gender analysis”, was due to three factors. Firstly, the *Comisión de Verdad y Reconciliación* was more conservative. Secondly, there was a great change between 1990 and 2003 in terms of international debate on gender violence – the international conference in Vienna in 1993, and in Beijing in 1995 and the Belem do Para Convention, aimed at giving a term to violence against women, contributed to increased awareness on the subject. And, finally, the incorporation of criticisms of the absences in the *Informe Rettig*, some formulated by feminist groups.²⁰

In the case of Brazil there was no legalisation of the political transition, as there was in Argentina, nor was an official commission, like the Valech in Chile set up, so that public space for hearing about dictatorial violence against women, until very recently was almost totally limited to *Brasil: nunca mais* (Brazil: Nevera again). Testimonies of sexual abuse were described in statements, such as those put together in the publication “Luta, substantivo feminino” (“Fight, A Feminine Noun”),²¹ however, sexual violence did not receive specific attention anywhere.

In the countries quoted, despite many women’s silence regarding sexual abuse suffered during the military dictatorships, because of the difficulty in talking about a subject that is shrouded in taboo, and in attributing a more general social meaning to the suffering of an individual, sexual violence was present in numerous statements. Therefore, rather than absent, it was made invisible through not having been socially identified as a subject which was worthy of particular interest in its specific contours. “...And no-one wanted to know” (...y *Nadie Quería Saber*), concluded the Argentinian authors.

3 • A new dimension for sexual crime

The last three decades have seen an important transformation in the social perception of sexual violence. In addition to the landmarks cited by Hiner, the re-definition of violence against women and in particular sexual crime in civil law – the fruit of years of struggle by the feminist movement, together with new thinking on the place of women in society, brought to public debate with the development of gender studies – has contributed to the creation of a social space for listening which is able to receive denunciations of abuse suffered during the military dictatorships with a new level of understanding.

In Brazil, in addition to the creation of women’s police stations to assist specifically in cases of violence in this segment, the Maria da Penha Law, a landmark in legislation on this subject states that family, society and public authorities are responsible for the physical and psychological integrity of women.²² In Argentina the specification of sexual crime, which until 1985 was a “crime against honesty”, came to be called “crime against sexual integrity” and more recently a “crime against sexual liberty”, which shows a clear change in the perception of the social role of women.²³ These conquests represent one of the principal areas of concern of the feminist movement, “that which is private and that which is public”, realigning gender violence as a social problem.

On the international arena, the 1990s were crucial in a new understanding of women's status and the nature of violence directed at them. The Vienna Declaration of 1993, was a landmark in emphasising women's rights as human rights and demanding those responsible be punished for crimes such as systematic violation of women in situations of conflict.²⁴ The Declaration on the Elimination of Violence against Women, by the United Nations in the same year, as well as the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women, in 1994, known as the Belem do Para Convention, not only helped to established new bases for understanding sexual violence, but also created international legislation for dealing with this subject.

Another factor that contributed to the transformation of social perception of sexual crime was the use of sexual violation as a mass weapon of war against dominated populations, in the genocides perpetrated against Muslim women in Bosnia-Herzegovina in 1992 and against the Tutsi in Ruanda, in 1994. Crime courts for ex-Yugoslavia in 1993 and for Ruanda in 1994, provided a legal response to this type of violence against women, labelling the violation as a crime against humanity, when committed in the context of armed conflict and directed at the civilian population. The Statute of the International Criminal Court, known as the Rome Statute, of 1998, also recognised another group of crimes involving violence against women as crimes against humanity – including sexual aggression, sexual slavery, prostitution, forced pregnancy and forced abortion – subject to judgment by the International Criminal Court.²⁵ Clearly, the decade of the 1990s was crucial in sexual violence ceasing to be treated as “collateral damage” and starting to be viewed as a distinct type, different from other forms of violence.²⁶

In Latin America, the dictatorship in Guatemala reached the scale of ethnic genocide, with the widespread use of sexual violence, combining the imposition of a political exclusion project within the framework of the Cold War and a neoliberal project, with secular violence against indigenous populations, in a single equation.

Individual and selective sexual violation were common practice in the contexts of prison and torture and were usually followed by the disappearance or death of the victim. This pattern of repression was seen in both indigenous women and ladinas (non-indigenous women), who were executed by different state-run entities: army, national police, legal police etc. And also by non-state agents, under state protection, such as death squads, paramilitary groups and militia.²⁷

The use of mass sexual violence and new international legislation against sexual crimes attracted attention to contexts in which incidents of sexual violence had until then been treated as isolated cases, in Brazil, Argentina, Chile, Uruguay and Peru. In these countries efforts were launched to prove the repetitive nature of sexual violence, practised as an instrument of power within repressive entities controlled by the state or by agents of the state, against political opponents, particularly against women.

In the same year that the Valech Report was published, the results of a piece of research carried out in Chile concluded that sexual torture had been practised in the whole country, in practically all police detention centres and by the majority of repressive agents.²⁸

It is hard to say whether the systematisation was the result of superior orders or because the context made sexual violence an easy opportunity, given that the political prisoners were isolated, physically and psychologically exhausted, vulnerable and exposed to the power of repressive agents, allied to a policy of the upper echelons of not punishing these practices. The specific conditions may have been the reason in most cases, but there were also situations in which agents were instructed by their superiors to have relations with the prisoners, as happened in ESMA, in Argentina:

In the navy concentration camps, the sexual subjugation of women was a symptom of “recuperation”. Ceasing to want intimacy only with your comrades, with whom you had an ideological affinity, similar values and commitment to political militancy and even armed struggle, to have “relations” or physical sexual contact with officers of the task force meant “recuperation” of western, Christian values.²⁹

Whether violation of women is used as a weapon of subjugation of the enemy or as an instrument of “conversion” of the opponent through the establishment of forced relations, sexual crime became a specific strategy of submission, as it humiliated the victim, provoking a highly subjective impact. Sexual crime, particularly when committed in the context of political struggle, encroaches on a person’s soul, seeking to affect the political opponent not in terms of their conviction, but in their intimate, moral centre. In Argentina, awareness about this specific element emerged in the 2000s, when legal proceedings against repressors could once again be opened, after the Full Stop Law and the Law of Due Obedience were judged to be unconstitutional. At the end of the decade, proceedings against repressors started to include gender violence as a separate crime which, in June 2010, led the Federal Oral Tribunal of Mar del Plata to condemn the sub-official, Gregorio Molina for repeated violations committed at the clandestine detention centre, La Cueva which operated at the Mar del Plata Air Base. This made him the first repressor condemned for sexual crimes classified as crime against humanity, in Argentina.

Advances made in the last three decades have opened up the opportunity to redefine the intimate, private and personal nature of the traumatic experience of sexual violence and to include it in the political, collective sphere – be it a military dictatorship, an ethnic war or a regime of racial oppression. These important social changes have made way for a different kind of acceptance, the possibility to rebuild a sense of what happened, politicising sexual abuse perpetrated within repressive entities and political prisons and empowering those who suffered from it, so they may contain what they experienced and denounce sexual violence in the courts and in truth commissions – which increasingly cover gender issues – and reflect on the effects in books and published interviews. More recently a new feminist wave is happening in Latin

America, some examples of which are discussion about assault and verbal approaches of a sexual nature in public, allowing for previously accepted male behaviour to be rejected by women, the Slut March and the campaign “Ni una menos” (Not one less), which denounces femicide.

4 • The road ahead...

The importance of specific judgment with regards to sexual violence cannot be stressed enough, this being a contributor to the removal of the stigma surrounding the women affected by sexual violence, whether in the context of political conflict, domestic violence or rape or in demonstrating to society the gravity of this type of crime. However, even in Argentina, which is at the forefront in the process of recognising sexual crime as an offence in its own right, there are still a number of obstacles to overcome, among them the resistance of legal practitioners. Talking about the resistance met by the voice of the women who have suffered sexual violence, the same situation experienced by victims of torture, the lawyer Ana Oberlin explains that “It is becoming increasingly clear that the difficulties are far more a question of ideological conception regarding which crimes and practices are particular to women, than of insurmountable technical (legal) issues.”³⁰

The transformation of international judicial milestones in the area of sexual violence, whilst crucial in a new understanding of crimes of this order, is far from sufficient for this subject to receive effective treatment in all the countries affected. Proof of this lies in the diversity in approaches to the issue of political gender violence in recent Latin American truth commissions, which alternate between implementing a gender-specific approach in all the working groups or individualising the issue by setting up gender-specific working groups.

The recent Brazilian National Truth Commission, for example, whose final report was delivered in 2014, created a working group called “Dictatorship and Gender”. This compiled statements denouncing sexual abuse and sexual crimes. It also held a themed hearing, in conjunction with the São Paulo State Commission of Truth, in March 2013. A chapter of the final report is dedicated to the issue of gender, focussing on statements and analyses regarding violence committed against women with particular discussion on “sexual violence as an instrument of power”, as well as “the prevalence of sexual violence” in the repression of women.³¹

Peru has made an innovative contribution by “always taking into account the difference in the way that violence was experienced and continued to be experienced by men and women.”³² Working from a wider vision of the issue of gender, they installed a member, in charge of introducing this bias in each work section, in the regional headquarters of the commission, in an effort to raise awareness among the Peruvian population that “sexual violence is not collateral damage, or something ‘normal’ during armed conflict, but constitutes a violation of human rights and, as such, should be among the cases to be sent to the Public Prosecutor’s Office.”³³

Violence continues to be a major problem in Latin American societies, above all in countries with high levels of social and economic inequality. This type of violence is long term, however, it is important to recognise that the military dictatorships were a significant chapter of history:

Guatemala is currently suffering a wave of femicides, which are not just criminal actions. There is a clear connotation of gender and considerable lack of protection of women's rights on the part of the state. Many bodies of women have appeared mutilated and showing signs of horrific torture, reminiscent of the militarised modus operandi of internal armed conflict.

The comment heard by the local council candidate in Brazil, in the opening paragraph of this article, shows that the concept of gender defended by authoritarian regimes has not been overcome and still inhabits the imagination of conservative sectors.

While recent social transformation has created the conditions for women to become empowered and to report sexual violence they experience and for these testimonials to be properly heard, with judicial consequences to aggressors, there are still sectors which remain detached from listening to the voice of society. For example, the case of women who bore the children of the repressors who violated them, or the men who suffered sexual violence, not in terms of electric shocks or wounds to sexual organs, selected because they are extremely sensitive, but in the sense of actual abuse.

Men who were sexually abused have often been mentioned in recent literature on sexual violence during the military dictatorships, however they still have no voice or social space in which to signify this experience which challenges the male honour which is part of the ideal of the political militant. The Uruguayan documentary “Diga a Mario que não volte”, made by filmmaker Mario Handler in 2007, provides a sensitive example of this. In this film one of the former political prisoners relates that on two separate occasions he was forced to perform oral sex on a repressor. His testimonial in the film is left drifting, like a bottle thrown in the sea. In order of urgency it is understandable the attention regarding sexual violence has been focussed on women who were far more affected and who continue to live in societies in which gender equality is a palpable phenomenon. However, we must continue to advance and to investigate other areas in which society is not listening. There is a need to listen more carefully and more sensitively to the silences that want to be heard.

NOTES

1 • This article develops the principal ideas presented at the round table “Arquivos e crimes sexuais”, produced by the Latin American Network of Transitional Justice, which took place at the

University of Brasilia (UnB) on 23 August 2016.

2 • Testimony by C.G. *apud* Claudia Bacci et al., ...*Y nadie quería saber. Relatos sobre violencia contra las mujeres en el terrorismo de Estado en Argentina*

(Buenos Aires: Memoria Abierta, 2012), 86.

3 • Mônica Bergamo, “Feministas merecem tortura”, *ouve candidata à Câmara Municipal em SP.* Folha de S.Paulo, 2 October 2016, accessed 2 October 2016, <http://www1.folha.uol.com.br/colunas/monicabergamo/2016/10/1818623-feministas-merecem-tortura-ouve-candidata-a-camara-municipal-em-sp.shtml>. Lieutenant Colonel

Ustra was head of the Deployment of Information Operations, in one of the principal centres of torture in São Paulo during the military dictatorship.

4 • Bacci et al., ...y *nadie quería saber*, 16.

5 • Sexual violence, for the purposes of this article, is understood to be verbal aggressions of obscene nature, rape, sexual abuse and practices related to the impregnation of women.

6 • Ana González, “Guatemala: violencia de género, genocidio y racismo,” in *Violencia de género en contextos de represión política y conflictos armados*, org. María Sonderéguer (Bernal: Universidad Nacional de Quilmes, 2012): 55.

7 • Comissão Nacional da Verdade, *Relatório final da Comissão Nacional da Verdade* (Brasília: Presidência da República, 2014): capítulo 10, 418-9.

8 • Bacci et al., ...y *nadie quería saber*, 21.

9 • Olívia Rangel Joffily, *A esperança equilibrista. Resistência feminina à ditadura militar no Brasil* (Florianópolis: Insular, 2016): 130.

10 • Note on the original Portuguese use of language: I use the feminine plural here as women were the preferred target of sexual violence. In order to not disregard that men were also the target of this type of crime, I include them in a generalised plural.

11 • Miriam Lewin and Olga Wornat, *Putas y guerrilleras* (Buenos Aires, Planeta, 2014): 21-2. Miriam Lewin referring to the condition of sexual slavery that women experienced in the Escola Mecânica Armada (ESMA), under military commanders.

12 • In Brazil, where, according to official data, a woman is raped every 11 minutes, research carried out by the Instituto de Pesquisa Econômica Aplicada in 2014 showed that 65.1 per cent of those interviewed believed that women who show their bodies

“deserve to be attacked”. In 2016, another piece of research, carried out by Datafolha at the request of the Brazilian Forum for Public Safety, stated that 37 per cent of those interviewed, 30 per cent of whom were women – agreed with the statement “A woman who wears provocative clothing cannot complain if she is raped”. Fernanda Mena, “One third of Brazilians blame women when they are raped,” *Folha de S.Paulo*, 21 September 2016.

13 • González, “Guatemala”, 59.

14 • Julissa Mantilla Falcón, “La violencia contra las mujeres y la Comisión de la Verdad y Reconciliación del Perú”, in *Violencia de género en contextos de represión política y conflictos armados*, org. María Sonderéguer (Bernal: Universidad Nacional de Quilmes, 2012): 65.

15 • *Ibid.*, 66.

16 • Comisión de Verdad y Reconciliación, *apud* Falcón, “La violencia contra las mujeres y la Comisión de la Verdad y Reconciliación del Perú”, 66.

17 • Mariana Joffily, “Memória, gênero e repressão política no Cone Sul,” *Tempo e Argumento* 2, no. 1 (jan./jun., 2010): 111-35.

18 • Comisión Nacional Sobre Prisión Política y Tortura, *Informe* (Santiago: Ministerio del Interior de Chile, 2004): 252.

19 • *Ibid.*

20 • Hillary Hiner, “Voces soterradas, violencias ignoradas. Discurso, violencia política y género en los Informes Rettig y Valech,” *Latin American Research Review* 44, no. 3 (2009): 65.

21 • This publication is part of the report *Direito à memória e à verdade*, produced by the Special Secretary for Human Rights in 2007. Tatiana Merlino and Igor Ojeda (orgs.), *Luta, substantivo feminino. Mulheres torturadas, desaparecidas e mortas na resistência à ditadura* (São Paulo: Editora Caros Amigos, 2010).

22 • Law no 11.340, de 7 August 2006.

23 • Lewin and Wornat, *Putas y guerrilleras*, 344.

24 • José Augusto Lindgren Alves, “Direitos humanos: o significado político da conferência de Viena,” *Lua Nova*, no. 32 (São Paulo, abr. 1994): 175.

25 • Falcón, "La violencia contra las mujeres y la Comisión de la Verdad y Reconciliación del Perú", 73-4. For a deeper investigation of legalities in this area see Florencia Corradi and Julia Nesrpias, "La dimensión sexual del genocidio. Pensando la violencia sexual a partir de la mega causa ESMA," *Tela de juicio* 1 (2015): 68-70.

26 • According to the United Nations representative on Sexual Violence in Conflict, Zainab Hawa Bangura: "Sexual violence in conflict needs to be treated as the war crime that it is; it can no longer be treated as an unfortunate collateral damage of war", *apud* "Background information on sexual violence used as a tool of war," United Nations, 29 March 2012, accessed October 3, 2016, <http://www.un.org/en/preventgenocide/rwanda/about/bgsexualviolence.shtml>.

27 • González, "Guatemala", 53-4.

28 • Joffily, "Memória, gênero e repressão política no Cone Sul", 123.

29 • Lewin and Wornat, *Putas y guerrilleras*, 339.

30 • Bacci et al., *...y nadie quería saber*, 23.

31 • Comissão Nacional da Verdade, *Relatório final da Comissão Nacional da Verdade* (Brasília: Presidência da República, 2014): cap. 10. It is worth mentioning that in a Master's course at the Postgraduate programme in history at the University of Santa Catarina, Paula Franco, found that of the 24 state commissions/committees on truth – a Brazilian phenomenon – of the five who delivered a final report, four incorporated a discussion on gender in some form (my thanks to Paula Franco for this information).

32 • Falcón, "La violencia contra las mujeres y la Comisión de la Verdad y Reconciliación del Perú", 67.

33 • *Ibid.*, 68.

34 • González, "Guatemala", 61.



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ART



WOMEN ON STRIKE

Illustrations
by Catarina Bessell



KRAKOW, POLAND | 3 October 2016

Catarina Bessell's illustration on a photo by Artur Widak (NurPhoto / Getty Images) that was taken during a march in Krakow, Poland on 3 October 2016, the day women went on strike to protest against restrictions on abortion legislation in Poland.



WROCLAW, POLAND | 3 October 2016

Catarina Bessell's illustration on a photo by irontrybex (Getty Images) that was taken during a march in Wrocław, Poland, on 3 October 2016, the day women went on strike to protest against restrictions on abortion legislation in Poland.



KRAKOW, POLAND | 3 October 2016

Catarina Bessell's illustration on a photo by Artur Widak (NurPhoto / Getty Images) that was taken during a march in Krakow, Poland on 3 October 2016, the day women went on strike to protest against restrictions on abortion legislation in Poland.



BUENOS AIRES, ARGENTINA | 19 October 2016

Catarina Bessell's illustration on a photo by Eitan Abramovich (AFP / Getty Images) that was taken during a women's strike in Buenos Aires, Argentina, on 19 October 2016, in protest of the rape and murder of a 16-year-old girl in Mar del Plata.



BUENOS AIRES, ARGENTINA | 19 October 2016

Catarina Bessell's illustration on a photo by Eitan Abramovich (AFP / Getty Images) that was taken during a women's strike in Buenos Aires, Argentina, 19 October 2016, in protest of the rape and murder of a 16-year-old girl in Mar del Plata.

INFOGRAPHICS



INFOGRAPHICS: INEQUALITY IN NUMBERS

Natália Araújo

Illustration • Catarina Bessell

Design • Daniel Lopes



ACCESS TO JUSTICE

Laws considered to be essential for women's legal security



Laws against domestic violence



There is no data for Palestine, Democratic People's Republic of Korea, Iran and Somalia.

Laws against sexual harassment



There is no data for Qatar, United Arab Emirates, Saudi Arabia, Iran, Libya, Myanmar, Eritrea, Democratic People's Republic of Korea, Swaziland, Ethiopia, Congo, Sudan, Somalia, Palestine, Monaco, Nauru, Palau, Tonga, Sao Tome and Principe and Grenada.

Right to legal abortion for economic or social reasons



There is no data for Hong Kong and Palestine.

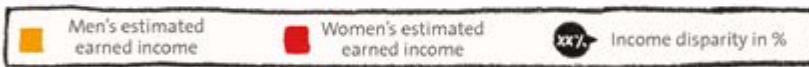
Source: Progress of the world women 2011-2012 - women's legal rights around the world
https://docs.google.com/spreadsheets/d/1Lcx2005uHZkkGtmgxDA-8TLczTjkkYzDbuCWxRovMlw/edit?hl=en_US#gjid=0



WAGE GAP

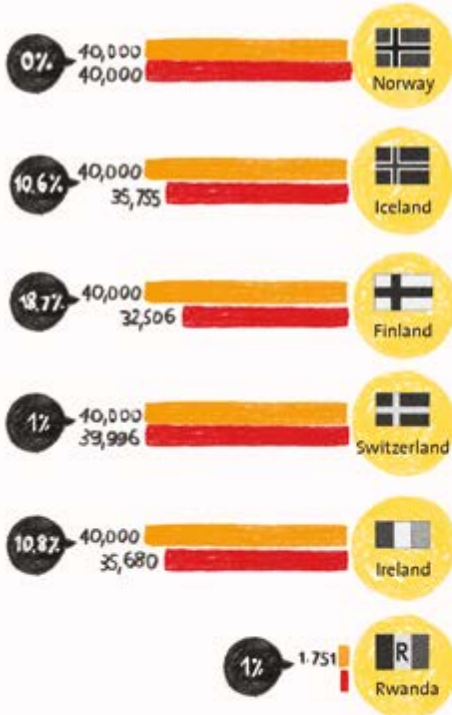
Inequality in the best and worst countries to be a woman*

Income in US dollars (2011), values of the annual averages



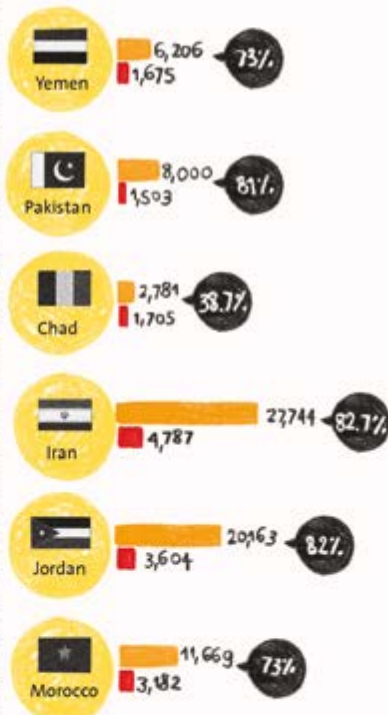
MOST equal countries

In terms of gender and their indices (research involving 145 countries)



LEAST equal countries

In terms of gender and their indices (research involving 145 countries)

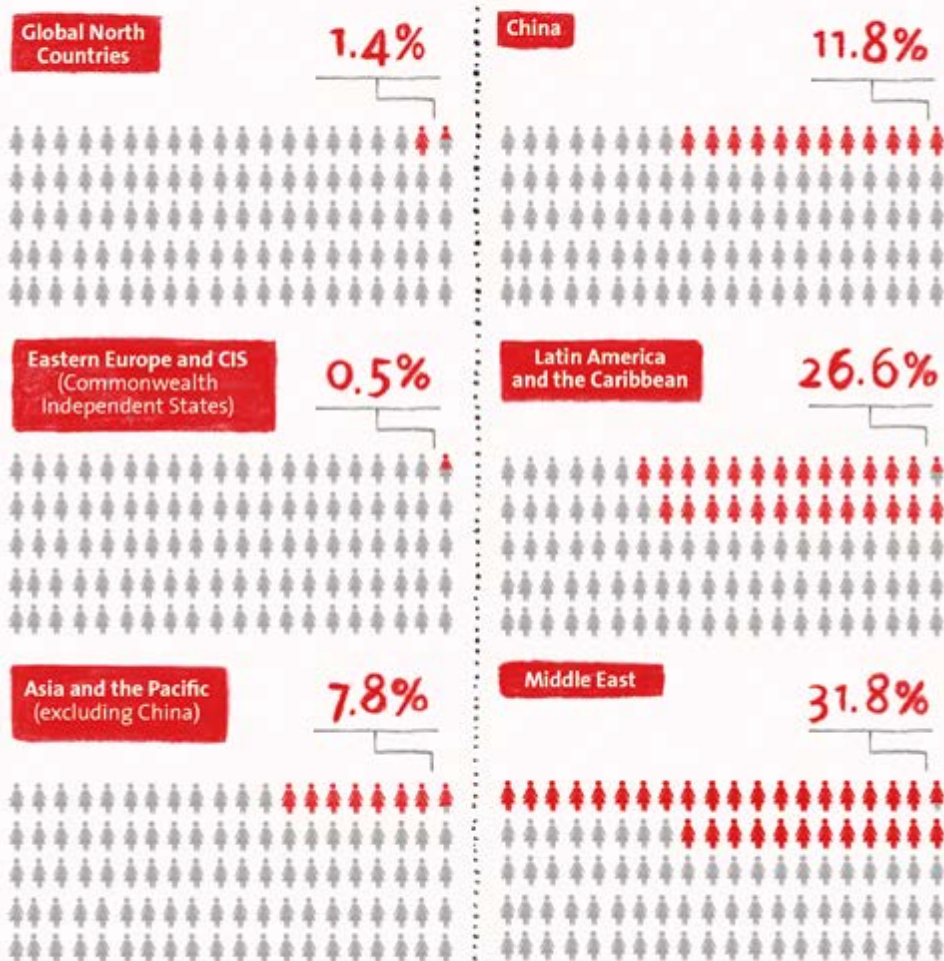


Source: World Economic Forum - report 2015
<http://reports.weforum.org/global-gender-gap-report-2015/economies/>
 *According to the World Economic Forum's 2015 rankings.



FEMALE PAID DOMESTIC WORK

Percentage of women working in domestic labour out of the total that are economically active

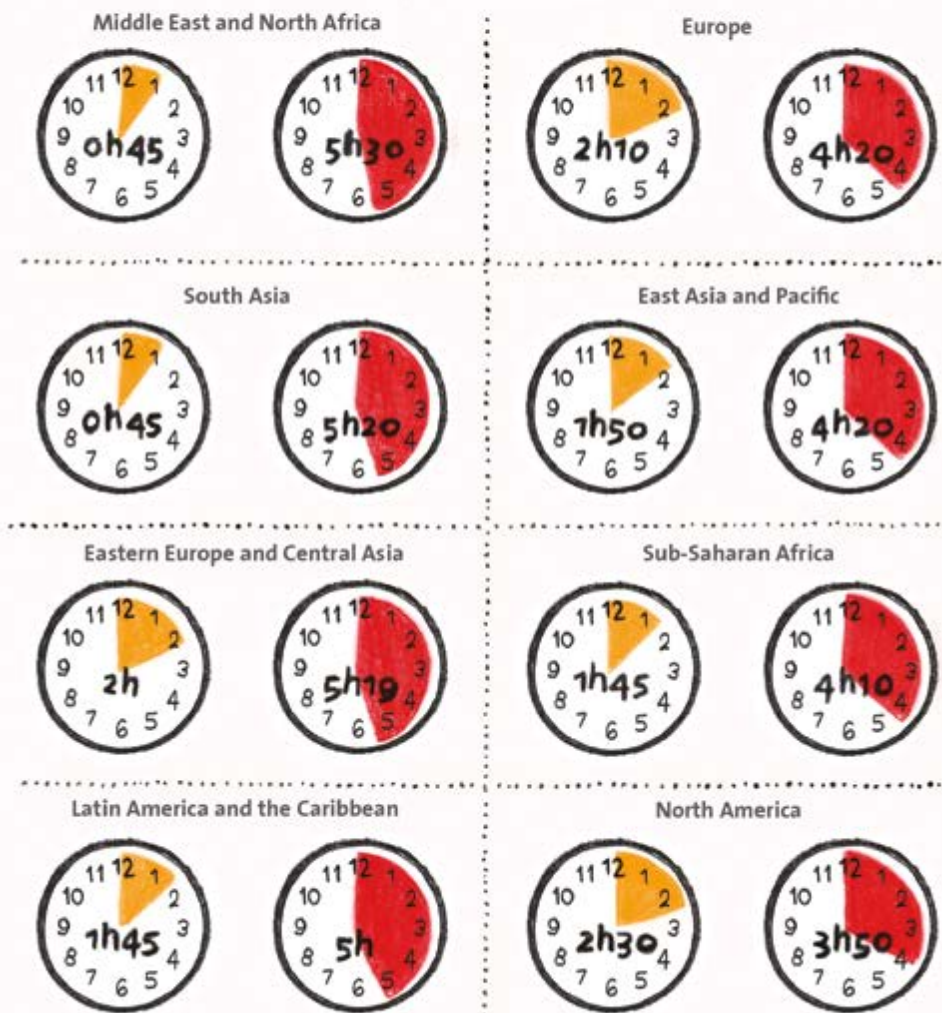


Source: International Labor Office Report - Domestic Workers Across the World: global and regional statistics and the extent of legal protection, page 20.
http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_173363.pdf



UNPAID CARE WORK

Amount of hours spent per day, by men and women, on unpaid care work, by region

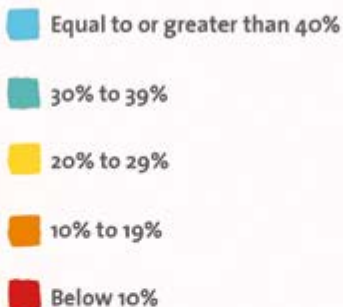
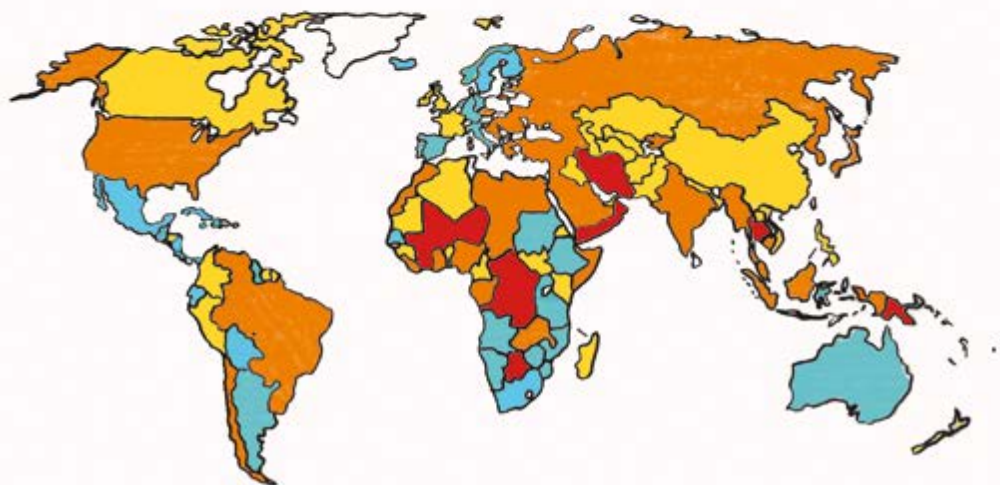


Source: Unpaid Care Work: The missing link in the analysis of gender gaps in labour outcomes, page 3
https://www.oecd.org/dev/development-gender/Unpaid_care_work.pdf



POLITICAL REPRESENTATION IN PARLIAMENT

% of female participation



Note: Haiti, Micronesia, Qatar, Tonga and Vanuatu have 0% of female participation in parliament

Source: Women in Parliament Union
<http://www.ipu.org/wmn-e/classif.htm>

**NATÁLIA ARAÚJO** – *Brazil*

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VOICES



CONSTRUCTING PLURAL SOLIDARITIES

Semanur Karaman

CONSTRUCTING PLURAL SOLIDARITIES

Semanur Karaman

- *Women, trans* and intersex
activisms and struggles*

ABSTRACT

Reflecting on two recent initiatives from the Association for Women's Rights in Development (AWID) – the #PracticeSolidarity campaign and the 13th International AWID Forum held in Brazil in September 2016 – Semanur Karaman considers the elements in creating plural solidarities for women, trans and intersex activists and struggles. Through drawing on her own experience and that of her fellow activists, she notes firstly the importance of viewing the issue through the lens of intersectionality. She goes on to describe how solidarities can be created and stresses the importance of tailor made approaches as well as the requirement for trust, openness and creativity. Semanur does not shy away from setting out the tensions that can be involved in this process - for example the sense of unfairness which can manifest or the fact that solidarity is not evenly distributed across the struggles and movements. Drawing on inspirational examples throughout, Semanur concludes by emphasising that solidarities must be wellbeing-centered and accessible to all women, trans* and intersex activists regardless of language, socio- economic factors or other obstacles.*

KEYWORDS

Solidarity | Trans* | Feminism | Intersex | Movement building

In June 2016, the young feminist activism programme at AWID launched a campaign named #PracticeSolidarity. The idea is to explore what solidarity means for young feminists across gender, racial, economic, social and ecological justice movements. Through a call for blogs and a tweetathon, young feminists have been generating immense feminist knowledge on different solidarities. They have been reflecting on their own experiences, while encouraging feminist and women's rights movements to reimagine and critically analyse solidarities, while expanding on why it is important and what it looks like.

What has transpired in the campaign blogs, tweets and conversations is that **practising solidarities requires being committed to the hard work of analysing the issue through an intersectional feminist lens** and recognising that solidarity is about more than just listening and learning but rather giving real space for historically excluded communities to speak for themselves.

During the campaign, Tatiana Sibrián from El Salvador, wrote: “We understand that the feminist movement cannot be driven by and for a homogeneous group of women, and that within feminism there is no such thing as homogeneity nor uniqueness. We owe this understanding to the women who split off from the original feminist movement, opening up possibilities for rethinking, understanding, and building a better feminism.” She emphasised the importance of respecting differences and cautioned us to avoid “flattening anything that might seem different, and to incorporate new paradigms into feminism which may enable us to make progress in the direction we would like to go.”

The 13th International AWID Forum, held last September in Salvador (Brazil), was another opportunity for our movements to practise and reflect upon solidarity. It brought together more than 1,800 activists, donors, members of organised civil society and social movements, as well as policy makers, with the aim of celebrating gains and collectively building strategies to confront new challenges through cross-movement solidarity. Although cross-movement solidarity encompasses a kaleidoscope of experiences, as diverse as the Forum participants themselves, it can be defined as practices that create the space for activists working in different contexts, geographies and on vastly different yet interconnected causes to come together, share experiences, learn from each other's strategies, map lessons learned and strategise on collective action. Here, we share some of the insights that came from this experience.

During the AWID Forum, “feelings” and “experiences” were used as instruments to open ourselves up in order to share insights and experiences, and reflect on our strategies and those used by others. Reflecting on this experience, Barbara Sostaita wrote about how **feelings are active components of building solidarity** in a collective pursuit of dismantling racist, heteronormative, capitalist patriarchy: “feelings mattered. Those deep, internal, ancestral parts of ourselves were celebrated as producers of knowledge and agents of change.” The validity of feelings as active agents of building transnational solidarity for activists and movements was echoed throughout the 13th AWID Forum.

It must be noted, however, that **not all feelings provoked by solidarity are uplifting**. Amal Elmohandes, an Egyptian feminist activist from Nazra for Feminist Studies expressed that, while “solidarity can transcend all forms of injustices”, the way the practice is experienced may highlight the unfairness of certain activists’ situations, especially in environments where they operate under substantial risks and obstacles, and therefore feel “cruel”. Amal was referring to a team of eleven feminist activists from Nazra who felt it was unfair and cruel that they were receiving all the love and appreciation for Mozn Hassan, executive director of the organisation, who could not attend to the AWID Forum as a result of a travel ban. Since 27 June 2016 Mozn has been banned from travelling outside Egypt within the context of Case 173, from 2011, known as the “NGO Foreign Funding Case”. This is due to her decades long activism combatting sexual violence in Egypt’s public space, advocating for gender justice and legal reform at the national level, and active regional solidarity within Middle East and North Africa.

In a similar note, even though solidarity can be protective in the face of risks, it is not necessarily healing. Being a feminist activist from Turkey, I was relocated last year thanks to transnational feminist solidarity in response to an intensified crackdown on dissidents in my home country. My relocation was a preventative tactic, rather than a reactive one, and did not wait for tragic events to unfold before action was required. I have been thankful ever since. However, knowing I had the privilege to relocate, while my friends and allies who are under more severe risks than I am are still operating inside the country, has left me grappling with guilt. The type of transnational feminist solidarity I have access to, which others do not, prompted me to agree with Amal, that the way solidarities are practised can prompt us to think that the practice itself “feels” cruel, especially when solidarity is not accessible and equitable to all who experience risks, threats, violations and restrictions. Which brings us to the issue of scarcity: solidarity is not only a tactic, but a resource that is not equally distributed in our struggles and movements. The amount and form of solidarity that individuals receive in relation to their activisms and the wider social movements they are a part of is very much linked to whether or not women, trans* and intersex activists can access audiences or whether their story is recognised and picked up by national, regional or international organisations. This is also quite dependent on whether or not activists have multiple language skills and resources required to establish channels of communication and support.

Another related insight concerns the plurality of scenarios lived by activists. Transnational solidarity for women, trans* and intersex human rights defenders should be as intersectional as the identities and struggles we embody in our existence. It should, therefore, **be tailor made, lest it leads to increased risk**. Between 2-13 May 2016, AWID held an online global discussion on imagining safety and wellbeing as deliberate tactics to sustain our movements. During the discussion women, trans* and intersex activists encouraged our global community to re-imagine our needs with a critical eye. Queer activist Athini from South Africa affirmed that solidarity requires “a culturally sensitive approach to issues dealing with grassroots activism, a sense of respect for who you are and what you bring to the process and an understanding of who you are as a woman, age, race or nationality and

the different kinds of countries you are expected to work in.” Chamkeli, a trans activist from Pakistan backed this statement by explaining that in Pakistan, solidarity that gives greater visibility to LGBTI activists is counterproductive, putting them at greater risk. Chamkeli says they prefer having local and international “friends” and media contacts who do not only engage in solidarity with LGBTI activists but also actively advocate with them against threats and risks. Chamkeli stresses the importance of “friend” instead of “ally”, or “colleague”, since, for her, **solidarity requires trust and a sense of familiarity between parties who engage in it.**

Furthermore, the diversity of contexts experienced by activists should also be reflected in the way we relate to each other, with respect for tradition and uniqueness, but also **openness for mutual social learning.** During a learning exchange between IM-Defensoras (a Meso-American WHRD network) and the Coalition of Women Human Rights Defenders in the Middle East and North Africa (WHRD MENA Coalition) in December 2015 on strategies and lessons learned in relation to regional responses risks, threats and violations that WHRDs experience in MENA and Meso America, some participants were curious to know why some women choose to cover their hair. A participant from the WHRD MENA Coalition responded that “it is perfectly ok to ask each other questions when we are interested in each other’s culture and want to genuinely know one another, as long as we are respectful. It is important, however, not to exoticize one another.” Consorcio Oaxaca, from the IM-Defensoras network, reaffirmed the importance of celebrating collective struggle, while ultimately respecting traditions and ways of working that are unique to certain histories and contexts when they encouraged us to celebrate murals painted by women, trans* and intersex activists in Oaxaca which commemorate their losses and celebrate achievements. On the value of the learning exchange, Consorcio Oaxaca, described how “these kinds of experiences make us stronger and broaden our outlook on the multiple ways of working. We are filled with the necessary energy to continue working on a new way of social coexistence.”

Such contexts make it clear that **solidarities can and should be creative in the face of injustice.** Mozn’s absence at the Forum inspired the participants to draft hundreds of messages in multiple languages on colorful post-it notes for her. Just because the Egyptian authorities banned Mozn Hassan from travelling, it did not mean she could not be a part of the learning, healing and sharing which took place at the Forum. She could not be there physically, but was very much present in our feelings, actions and thoughts. Mozn’s friends prepared a two-minute documentary through which Forum participants had the opportunity to learn more about the struggle that Mozn faces, and share hugs and tears. The words of a queer activist who watched the documentary still echo: “I don’t know her enough. But I am in solidarity. Because I know her struggle, it is the same one I fight for in Colombia.” The colorful post-its with messages of support boarded a plane from Salvador to Cairo, along with photos of a beautiful mural by IM-Defensoras, celebrating Mozn’s identity and activism, which in return enabled her to experience, in her own words, “solidarity and love.”

Solidarity is a resource that needs to centre on the wellbeing of women, trans* and intersex activists while providing strategies to reduce risks, threats, violations and restrictions. It should prompt us to question deep colonial and patriarchal leanings that are embedded within our identities through social learning. What the experiences and reflections described above make clear is that, for solidarities to be effective, we need to develop wellbeing-centered approaches while also making solidarities accessible to all women, trans* and intersex activists who are barred due to language, socio-economic factors or other obstacles. And while doing so, we need to understand solidarities are plural and need to be developed on a tailor made basis responding to our diverse identities and struggles. Trust built on feminist principles is vital to cross movement solidarities and prompting healing, learning and sharing



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CONVERSATIONS



**“OUR STRUGGLE WILL NOT SUCCEED
UNLESS WE REBUILD SOCIETY”**

Silvia Federici

**“THE CATEGORY WOMAN IS NO LONGER
OF USE FOR THE FEMINIST CAUSE”**

Sonia Correa

**“THE HOMOGENEITY
IN FEMINISM BORES US;
UNUSUAL ALLIANCES NEED TO BE FORMED”**

Maria Galindo

“OUR STRUGGLE WILL NOT SUCCEED UNLESS WE REBUILD SOCIETY”

• *Interview with Silvia Federici* •

By Alana Moraes e Maria A.C. Brant

Silvia Federici was born in 1942 in Parma, Italy. While she was too young to have direct memories of World War II, she says that the impacts of the war “profoundly shaped” her political views. “Very early in life, I realised I had been born into a dangerous world in which people did not trust the state and authorities and in which men and women lived the war in a very different way”, she said in an interview with Sur Journal during her stay in São Paulo last September. By the time Federici was in her teens, the war had been over for a while, but the fascist, patriarchal culture continued to survive. “Fascism did not end overnight. That was very clear”, she affirmed. She rebelled against the moral dictates at the time, which determined what girls could or could not do. She also absorbed the news on the civil rights movement in the United States of America (U.S.), the anti-colonial struggle in Algeria and the communist policies of Mao Tse-tung in China with great interest. “By the time I was 15, I considered myself a little revolutionary.”

Silvia recognises, though, that home was where she found one of the pillars of her political background: her mother, a typical housewife who often said that she did not know how women could take care of their families and work outside the home at the same time, but constantly complained about the lack of recognition for her work. “For years”, she explained, “what I wanted the most was not to be like my mother”.

At the age of 25, Federici received a bursary to finish her PhD in the U.S. Her arrival coincided with the beginning of the main feminist movements in the U.S. “I realised I had been a feminist all along. I did not need any convincing.”

"OUR STRUGGLE WILL NOT SUCCEED UNLESS WE REBUILD SOCIETY"

It was while participating in these movements that Silvia came into contact with the work of Mariarosa Dalla Costa and Selma James. These authors identified domestic work not only as a labour of love or personal service, but as reproductive work (as opposed to productive work): the work that enables the working class to reproduce and that makes it possible for workers to go back to work after being consumed in factories or offices.

"I had had that immediate experience of housework with my mother and knew that there was something not right about that work", Federici recalled. "I grew up in a communist town, so I had the communist jargon, the language of socialism. I would look at my mother and I knew that it was work that did not give any political power, that was socially undervalued. When I read these analyses, they made sense because they connected my childhood experience with my mother, with my notion of class struggle and anti-capitalism."

A few years later, Federici joined Dalla Costa and James in founding the International Feminist Collective, which launched the "Wages for Housework" movement. She set up offices for the movement in the U.S. and gave classes for many years at Hofstra University in New York, where she is a professor emeritus. She has never abandoned feminist activism and talks spiritedly about the new women's movements emerging recently, especially in Latin America.

Read below the main excerpts from the Sur Journal's conversation with Federici on the movement she helped create, feminism, her relations with young feminists and her version of utopia.

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Conectas Human Rights • How did Wages for Housework start and why did you pick that as an issue?

Silvia Federici • I got in touch with Mariarosa Della Costa and Selma James [when] I was in the United States of America (U.S.), in 1972, looking at materials from the Italian New Left. I also encountered "Women and the Subversion of the Community", an article by Mariarosa Della Costa [and Selma James] centred on the analysis of housework. It is a very revolutionary analysis that says housework is, in capitalist societies, the root of the exploitation of women, because it is very convenient for the capitalist class to make millions of women reproduce the workforce for nothing. Had capitalism not been able to impose this work on women and to make it seem a natural thing, and therefore keep them unpaid, it would have had to provide all these services. When I read this analysis, I was really inspired.

That summer, I went back to Italy to see my family. I went to visit Maria Rosa Della Costa in Padova, where there was a large meeting with a lot of other women. That gathering launched the International Feminist Collective, which was the collective that launched the campaign for Wages for Housework.

Wages for Housework was a very attractive idea because it was very logical. If the exploitation of women and women's economic dependence on men is built on this unpaid labour, the first thing we have to do is to refuse this unpaid labour. And how do we refuse it? A lot of feminists said, "Well, you go out and get a job outside the home" and indeed many women were already doing that. We said, "No, the first thing is to really fight about this work, then we can take a job outside the home."

For us, the path to women's liberation should not be working outside the home. The first step is to deal with this work because we are not working for ourselves, we are working for them. So we started saying that this work, housework, is so bad because it's not organised for our happiness. It is not organised for our well-being and the well-being of our families. It is really organised for the benefit of the labour market. It is not the production of human beings for happiness. It is production of human beings for exploitation. We have to work in conditions that we do not choose and that are very constraining, that limit our lives and that limit the lives of our children and the people we love. So, the first thing we need to do is to stop giving this labour to capital for free, because they have been growing fat at our expense, and it has made us dependent. That is why we decided to defend wages for housework.

It was very misunderstood. It was often interpreted that we were happy to stay at home, to work as we did before and just wanted to get some money at the end of the month – which, actually, for many women, would not have been bad at all. But this was not our vision. The vision was that this motto was a strategy that would enable us to put a whole lot of issues on the table, to make it clear to many women what this work was about, to show that this is an issue we had in common and to try to understand what this work had done to us. Then we would be able to start claiming rights. It didn't even have to be the wage. We began saying: "We work in our home. We're paying rent on our houses. The home is a workplace and we pay rent for it." Wages for Housework was really a way to transform our relationship with capital and our relationship with men and to say that we refused to relate to capital and to the state through men, via the mediation of men. And we refused the idea that as women, as houseworkers, we could not fight in our own name. We said that we could engage in an autonomous struggle of our own, beginning from our own exploitation. We refused to continue being the support workers or the support troops for the struggles that men were engaging in.

For us, that is what Wages for Housework meant. It was a strategy to change power relations. It was never meant to be an end point. It was meant to be an instrument to create a different relationship of power among women, by bringing women together, as well as doing away with the dependency between women and men, and also between women, capital and the state.

Conectas • This is still a very current issue. Even for women who work outside the home, and many do now, the housework is still in their hands. After working outside, you have to come back...

S. F. • And do all the work. Yeah! And then, that work is immense when you have someone that gets sick, when you have elder people to take care of or when you have young children. And that is the condition of most women. Younger women don't see it because they think, "Oh, I'm not going to get married". Well, I didn't get married, I didn't have children, but I still have parents, and they get sick. You still have friends who get sick. I find it very interesting that the first issue of housework that feminists began to look at was children. So it was all childcare, childcare, childcare. Now that our generation is older, a lot of women are in their 60s and their parents are getting older, there is a boom of the issue of elderly care.

Conectas • You said recently that feminism is not a matter of fighting for equality. Can you talk a little more about this?

S. F. • I think there is a general conception of equality now. It's like democracy: how can you be against democracy? How can you be against equality? These are the great liberal myths: equality, democracy, right? But, in reality, when the women's movement put equality on its banner, that was really problematic. First of all, ok, you want to be equal to men, but to which men? Do you want to be equal, for example, to the black men in Rio or in New York who are being killed by the police? Who have no power? Do you want to be equal to the working class man, who goes every morning to the factory and gets a little wage? So we [the International Feminist Collective] said, "No, we don't want to be equal to men because, first of all, we don't believe that men are liberated. We want to change our position. We want to refuse exploitation. We don't want to exchange one type of exploitation for another. We do not want to propagate the idea that the state of man is a good, ideal state because we recognise that men too are exploited."

Also, capitalism has constructed femininity and masculinity, and the way it has constructed masculinity has not been very positive. So, we don't want to be men. We realised that, actually, the road to liberation that was offered to us by the institutions was to become like men. When women fight for particular jobs or for equal pay for comparable work it is different: it's very specific, very concrete. Yes, we want equal pay for equal jobs. But the notion of equality in general, we felt is very mystified, for the reasons above and because the condition of women is not the condition of men. There is the whole issue of procreation, the relationship to children, to our own bodies. So, to say we fight for equality is to presume that men are liberated and that they are the model, and also, to declare that you are ready to forget a whole set of very specific women's issues. That's why we couldn't fight for equality.

Conectas • There is another debate among feminists in Brazil about prostitution. You have a very interesting reflection on this issue.

S. F. • It was the feminist movement that began the analysis of sexuality that has given the power to prostitutes to say, "I am a sex worker" and to come out of the shadows and to struggle and say, "my struggle is also a feminist struggle." It was the women's movement that started analysing sexuality as part of housework, as part of the services that women

are expected to give to men, as part of the marriage contract that women are obliged to give. Until the 1970s or 1980s, the crime of rape in the family did not exist in the United States, because it was understood that when you get married, the man acquires the right over your body and has the right to get sexual services from you at any time. It was understood – and the feminist movement has analysed it – that men always sell themselves, or try to sell themselves, in the wage labour market. We also sell ourselves in the marriage market. For many women, getting married is an economic solution, because the division of labour has been organised in such a way that it is much more difficult for women to get access to wage jobs. So, many women marry not because they want to, but as an economic solution for their lives. And you have sex because that is part of your job. We performed this deconstruction of sexuality, of the family, of the relationship between men and women, and we said that marriage is prostitution. In many cases, you can have a good relationship with your husband, but it doesn't matter. The reality is that the way the state has constructed marriage has forced women to rely on marriage for survival and therefore, to offer sex in exchange for subsistence. The state has put us into the situation of prostitution. This is an old theme - even in the 1900s we had anarchist feminists like Emma Goldman talking about it. So we have insisted that there is a continuity between the housewife who at night, after washing dishes and the floor, has to open her legs and have sex, whether she wants it or not, whether she's tired or not - and many women have been beaten up because they refuse sex – and the woman who sells sex on the street. One sells it to one man and another sells it to many men, but there is a continuity between the two. I think that this kind of analysis has given power to prostitutes.

There was a famous event in July 1975, when in Lyon, France, prostitutes occupied the Church of Saint Nizier because the city had passed legislation that forbid them to be in the streets. They had to go out of the city to places that had no light and many of them were murdered. Then, one day, after another prostitute was murdered, all the prostitutes occupied the church. That was a major spark. A lot of feminist women went there and that occupation lasted one month or more. It became a place of debate, a place of discussion about feminism, about prostitution. It was a very liberating moment. That occupation started the sex workers movement in Europe. Within a month, you had a big meeting of sex workers in Paris, prostitutes occupied the highways, there was a meeting in Holland. It gave them power. It was then that they started calling themselves sex workers. They called press conferences. They openly denounced the hypocrisy and the way women are divided between good women who are married - that many times don't like being married - and the bad women. And feminists too - we too had denounced this division. So this, for me, this is the position around sex work.

I am aware that there are some sex workers and some feminists who celebrate sex work as liberation. “We are the ones who don't give it away for free.” I think that every woman, in a way, has felt a bit of pride in that. But it is exploitation – which does not mean that it is much more degrading than many other jobs. I have little patience, to tell you the truth, with feminists who are very scandalised by the existence of prostitution because

they see prostitution as a particularly violent job and, above all, a job that is particularly degrading for women. To women who say that prostitution is so degrading, I say that if we have to decide that there are certain jobs that are so degrading that women should not do them, then let's start with women who work in jails, let's start with women who work in the police, let's start women who are in the army. Let's start from there and then we can discuss prostitution. It's very hypocritical to think there is something worse about selling your vagina in the street than working in the police and beating people up or working in the jail and being part of the system of oppression.

If we really want to say “no, these jobs, we, as women, refuse to take them”, if we want to be coherent, let's start from them. Let's not be moralistic and select prostitutes in particular and make prostitutes feel like their existence is a shame for other women. I think that that's very unjust.

Conectas • How is your relationship with the younger feminist movements and what do you think are the main challenges for them today?

S. F. • I have a very good relationship with younger women. I have been teaching women's studies for many years and I went through a period in which I was shaking my head because so many women - at least in the United States, or in my classes - were saying “I don't need feminism any longer. I am liberated. I can do this, I can do that.” Looking at these women, particularly women coming from the middle class, I could see that they had much more social power [than older generations]. The women's movement has opened up new spaces and many women have gained some autonomy from men - but not from capital. I think there is an important distinction: one thing is gaining autonomy from men and another is gaining autonomy. You can work three jobs, and, that way, you do not have to depend on a man, but that doesn't mean you are free or autonomous.

I think it is a very, very difficult moment now for younger women. Fundamentally, I think it is difficult because there is not a new strong women's movement yet. It is also more difficult for younger women now because neoliberal globalisation means for many women - and also for men - that work and the possibility of supporting yourself is more precarious. And, at the same time, you are given the idea that you have infinite possibilities, mobility - today, you are in New York and then, you go to...wherever. There is a lot of confusion about what is possible and what is not possible. Increased mobility has made it more difficult for younger people, younger women to commit themselves to something, to see clearly what is possible, what they want. So there is the illusion of many choices and the reality of an actual precarisation of existence.

And because of all the ideology that women should be emancipated and not depend on men, you are much more confused about what are the values that you should put at the centre of your life. Should you still give a lot of space to passion, love? What is love? Sexuality? Should you still think about having children? Right now, there are many younger women who can

no longer follow their mother's model, but, at the same time, they are not clear about the alternative. Because the alternative through wage work, or any kind of work that gives you an income, is very precarious. It's a moment of confusion. What matters in this life?

I think [my generation] had less social power, but we were luckier because for us the choices were clearer. We had our mother's model of what women should be. We knew we didn't like it and we had the model of what we wanted: to be able to decide on our own. We had some very clear demands: if I do not want to have children, I have the right to not have children; if I don't want to do housework, I should have the right to be able to support myself; I do not want to depend on a man. These were all very clear objectives. Because we were coming from a society that had such a defined, rigid model about women, in a way, it was easier for us to defend where we wanted to go.

On the other hand, the relationship of women to the state and capital is now much clearer. I think this is positive. There's less of a chance of one thinking "I'm battling against my husband, my children or just men." Now we can see more clearly that behind man, there is also the state; there is capitalism. Now we are in a situation where, for a lot of younger women, the idea of liberation through a job, through work, is totally in crisis. This is because of the continuing intensification of neoliberal policies - the cuts in jobs, precarisation of work, rising tuition fees. In fact, I've been surprised by how much interest there is now in *Wages for Housework*, in the discussion about care and care work.

This is one part of the story. At the same time, I see younger women are now beginning to reappropriate some of the themes, to realise that some of the issues that the old women's movement was fighting for are still open, that in fact we are not beyond the mountain. They are going back to them, but in a new way: with more consciousness of intersectionality, diversity, different types of women, the whole issue of trans* etc. I am looking forward to the growth of this new women's movement. Whenever I've been in Europe, and especially in Latin America, I've been amazed by the enthusiasm of younger women. I've been in Argentina, in Ecuador, in Mexico and I see that there is a whole new generation of younger women who are really very, very eager to read, comment and understand. Now, they're also eager to understand what we have done, where we came from, what kind of solutions we thought of and how us, the older women, conceive their situation.

Conectas • Do you think that the struggle of women is the same in the North and in the South?

S. F. • North and South are very limited concepts at this moment because there is a South in the North and a North in the South. When you look at a city like New York, it is full of immigrants, of black communities that are as poor as the ones here in São Paulo. In the United States there are 53 million people who don't have enough to eat. There is huge, intense poverty, and there is an incredible amount of police and military repression against these communities that is not much different to what you have in Rio or São Paulo. Perhaps in the United States, you don't have 60,000 people killed every year, but you have thousands

and thousands and thousands. Recently, we see almost every day a black youth killed in the United States and in many cases, execution style. There is a huge amount of poverty in Europe too, and it is growing. In addition, the expansion of capitalist relations has created, in Europe and the U.S., new populations without rights: refugees, immigrants, the undocumented. At the same time, you come to São Paulo and you go into neighbourhoods where you see a very clear middle class style. It is very important to not flatten whole countries, to think that one is poor and the other is wealthy.

The South does have a specific condition because it is in many countries of the South that you have the greatest depository of mineral wealth and of natural wealth – and, unfortunately, this is a curse. The areas we call the South in general have been the richest. It is no coincidence that they are also the object of war and the object of desire because that's where you find most of the timber, the oil, the diamonds, the carbon, the copper, the lithium etc. The South is the source of our computers. The destruction of the South happens so that we can have computers and labour.

And there is still a difference [between North and South] because, starting in the early 1980s, the IMF and the World Bank systematically implemented a process of recolonisation. This process has come into being through the structural adjustment programmes that have been applied globally and also with the change in private property laws, convincing governments to change the law to privatise land, destroy community relations, which means attacking indigenous peoples' land, allowing the companies to exploit them. Neoliberalism basically allows taking down all limits to the unlimited exploitation of the soil, the seas and the forest. All these treaties for free trade mean free exploitation of the world, free exploitation of labour without recognising any rights, any limits, opening up the earth, squeezing it, like they're doing with fracking, so you can take everything out of it without any concern for human life or the environment. Then, of course, there is the war on drugs. You cannot squeeze a population without using immense violence and some sort of justification, and the war on drugs and the war on terrorism have been the kind of material support to the violence needed to impose these very brutal austerity economic programmes and these dispossession programmes that are really at the service of the big corporations.

Conectas • We are living a very dramatic political situation in Brazil now. And elsewhere, right-wing and fascist movements are growing all over the world. We had a recent wave of struggle that was important: Occupy, 15-M and *Podemos* in Spain, Greece. But at the same time, the Left has no real project of society today. Can you talk more about this crisis of the anti-capitalist movement? What is your utopia? What would be the alternative to what we have, because it is very difficult to see one.

S. F. • First of all, I never had any hope in these so-called progressive governments. Going around and speaking with different women's groups I never met much enthusiasm. Years ago in Bolivia I spoke with *Mujeres Creando*, and they have been super critical of Morales from the beginning. They used to laugh about the fact that he goes around the world talking about Pacha Mama

and the *naturaleza* and then he wants to build the *carretera* that cuts into indigenous lands. I have also been reading a lot about the Workers Party in Brazil. They did the *Bolsa Familia*, but it did not change the structure. It's like a band-aid, and they gave 10 times more to finance, agribusiness etc. I never had any illusions about *Syriza* or *Podemos* either, none of them.

But it is no accident that you have these extremes because parties are in crisis and they have to attract people, and people are becoming more and more sick of parties.

I think what the last 20 years of these progressive governments have demonstrated is that you don't change the world by taking over the state. There is now a field of forces, which is shaped by the big corporations, by huge interests – military and economic – and you elect the so-called progressive parties and there is a field of bad energy in the state that they will work with. We have seen it over and over and over again.

In Bolivia, for example, in the early 2000s, you had practically a revolution because the entire population said they did not want their water privatised. They did not want their gas to be exploited. And they began to create spaces where people came together to discuss what they want and make demands: we want this and this and this and where you could begin to see shaping up a self-government. Then, Morales is elected and people think, "Oh, our interests are in government now". And then things start happening. There is an interesting study that shows how this movement was dismantled: Morales began to hire this one and this one, put them in government, give them a little budget etc. We have seen it over and over and over. And I understand a lot happened here too. There was MST. They had regained a lot of land. Under the PT, land occupations were finished - they had promised land reform, but there was no land reform.

Conclusion? Let's give up the idea of electing the right person and let's work on building forms of resistance and alternative forms of production from below. That is the road to creating a new world and not wasting time delegating to the state, even to the progressive state.

It is very important to abandon the illusion that the government is going to be the solution. Obviously, this does not mean that you separate yourself completely from the government. You have to continue to negotiate and fight with the government because the government today has the control of much of the wealth that exists in society and that people have produced. So the issue is how to recuperate those spaces and that wealth, because you cannot reconstruct our society, the world, unless we also recuperate land, buildings, unless we have a broader material basis. That is where the struggle is. It is not entering the government, but creating resistance.

It is a double process. You have to create enough resistance on the ground to be able to reappropriate things from the state and you have to begin to connect the struggles happening on the ground, the urban struggle, the struggle about the forest, the indigenous struggle, women, students etc. That is the utopia. That is the road.

There are many battlefields. There is education, health, war, but they are all connected. Each of us has to decide where we can give our best contribution, which movement, which struggle. But the challenge is to bring the struggles together. Not only protest.

I don't think you can have a successful struggle unless you reconstruct society. The struggle is to begin to construct new forms of being, new structures – even if they are small. For example, the *comedores populares* in the neighbourhood – a space where people come together to debate, once a month, or once a week– whatever is possible – to discuss what are the health needs of the community, what are the education needs, what problems our children are facing, which kind of workers can help us to push our struggle... Maybe we can get together with nurses in the hospital, maybe they can help us figure out how to struggle in the hospital to make it better and to get some services in the community. So, it is not just the state on one side and you struggling with your own power.

The main thing is how do you broaden your basis. How do you go out from your own struggle and begin to formulate, “Ok, what is it that we need? What is our objective now? What is most important?” Not because this is all, but because this is where we start. No matter how modest a start it is, but a start that begins to bring people together, to give us the confidence that in my problem, I am not completely alone. I think being alone is the worst. Being alone is a defeat. And, as they say, the real defeat is the struggle you didn't make.

Transforming communities of reproduction into communities of resistance: how to translate that into every day life is the challenge. There's not one rule. It depends on the neighbourhood, it depends on the possibilities. You don't start with a big slogan “the anti-capitalist revolution”, but it is important that you keep your mind on the long term too. In the reproduction of the politics, or the micro politics of production, you begin to ask: “What is the kind of society we want? How is what I am doing actually going to make things better not only for myself, but bring me more into contact with community and with people around me and give me more power tomorrow?” I think that is the vision - my vision.

Conectas • Do you know examples of groups of people who have been doing that?

S. F. • Oh, yeah. A lot of them. I think that Latin America is the place that has gone further into doing this - the women in Latin America: *Mujeres Creando*, their headquarters, La Virgen de los Deseos, and what they are doing in Bolivia. They started with a *guardería* (kindergarten). They figured out that daycare is not parking children while the mother goes to work, but it's about raising a new generation. What do we want the children to learn? How do we want them to relate to each other? To their sexuality? Soon, they realised that in order to deal with the children, they had to talk with the mothers. So they started having meetings with the mothers. Then, the fathers said, “Why not us?” So they started having meetings with the fathers. It began a whole discussion about childhood, about growing up. Now, they also have a restaurant, which is very cheap, a place for meetings, and the archives with the journals and they produce the beautiful *Mujeres publicas*. And then they decided it

was important to have a bathroom because a lot of women who used to work at home now work in the street, but they have no place to go. And then they do all this cultural stuff, they have all these slogans. They use satire and humour. They ridicule Evo [Morales]. They say: “*No somos originárias, somos originales*” (“We’re not native. We’re original.”)

And then in Argentina, in this favela, women have built their communities with their hands and with the help of the men. It is a huge area of 50,000 people. It began in the 1950s with migrants from Bolivia, from Paraguay and still has a lot of migrants. Collectively, they took over the land and began to build things. And everything is done through communal decision. They showed me the area where they are trying to build spaces where women can get health advice so they don’t always need to go to a doctor. Now they are building gardens so they can grow food. They are using the Theatre of the Oppressed to discuss political issues, which is very powerful. I thought this was really brilliant.

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*Interview conducted in September 2016 by Alana Moraes
and Maria A.C. Brant for Conectas Human Rights*



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“THE CATEGORY WOMAN IS NO LONGER OF USE FOR THE FEMINIST CAUSE”

• Interview with Sonia Correa •

By Laura Daudén and Maria A.C. Brant

“I have many issues with the category ‘woman.’ It was with this critical reservation that the Brazilian researcher Sonia Correa, founder of some of the most important organisations in the fight for sexual and reproductive rights in Brazil, such as SOS-Body, agreed to be interviewed for SUR 24.

For Correa, currently the director of Sexual Policy Watch (SPW), a project based at the Brazilian organisation ABIA (National AIDS Policy Watch), the theme of the publication should go beyond the model of two sexes, separating the feminine from the feminine body. “It is always important to go back to [Judith] Butler, to the first pages of Gender Trouble, where she discusses the idea of the ‘woman’ as a cultural, ideological and philosophical construction. It is a representational fiction,” she affirmed.

She proceeded to explain how the feminist movement has worked during at least the past 40 years to detach feminism from the exclusive experience of women. Citing Gayle Rubin, Judith Butler and Anne Sterling, fundamental references for understanding the debate, Correa discussed the “conservative restoration” around the world and its impact in concrete debates, such as the case of the referendum in Colombia, where the population, in a narrow majority, rejected the peace accord between the government and the FARC.

The fluidity with which she navigates through these themes comes from her vast experience as a researcher, as well as from her active participation and militancy in spaces like the commission of specialists that designed the Principals of Yogyakarta in 2006, which included directives for the

application of the international norms for human rights as they relate to sexual orientation and gender identity, or the Cairo Conference about Population and Development in 1995.

Correa's often pioneering contributions to international forums also overflow in her critical analyses of the role of emerging countries in the global debate on sexual and reproductive rights.

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Conectas Human Rights • The theme of the next edition of SUR is “women and human rights”. It will have a segment with profiles of women who work in this area and we would like to include you.

Sonia Correa • I am so uncomfortable talking about “women and human rights”, because my perspective on work in this field is not an essentialist perspective, it is not a perspective of identity politics. I have tried precisely to make moves in the field of feminism, in the field of human rights, to destabilise this rigid category and for many years I have not spoken as a woman. I have many issues with the category “woman”.

Conectas • There are a series of questions that are not considered in a magazine about “women and human rights”, like for example LGBT rights, which we think is a broader discussion that deserves a separate edition.

S. C. • The problem is separating. Because when you separate, you add fuel to the fire of identity politics: there is “woman” on one side and, on the other side, “gender”, which is wrongly used as a synonym for woman, used as a *proxy* for identities that escape the dominant norms. Given the state of the fight against “gender ideology” in Brazil and in many other countries, reiterating this separation is politically very problematic. A effective transnational articulation was put in place to systematically attack ideological fantasies. Created by the the north-American religious right in the 1990s and later elevated by the Vatican, it works to attack the concept of gender. I will speak more about this later.

A large anti-gender “block” begins to solidify in that moment, which articulates diverse religious forces and also some secular ones, as in the case of France, aiming to block and deconstruct, in an articulated and integrated way, all of the transformations that are taking place in the field of gender and sexuality. It is an agenda that attacks sexual education, trans rights, the idea of new family structures and gender identity. In this troubling context, we must remain critical of political attachments to the category woman that do not recognise its instability and contingency. Today, even more so than twenty years ago, it is crucial to speak about gender and sexuality as plastic, unstable constructions that are articulated together and also distinguished from one another.

Conectas • You mentioned that for many years you have not spoken using the term women's rights. Why not?

S. C. • Theoretically and politically, for many years I have not thought of the feminist perspective as a perspective attached to the body and to the experience of women or to a feminist essence. I would say that, possibly since the beginning of my training, for as long as I have been exposed to feminist thinking, this has always been a tension. I read Beauvoir very early: the idea that you are not born a woman, that a woman is a construction, more specifically a cultural, ideological and philosophical construction. I started to dialogue in the field of contemporary sexuality studies very early. In the early 1980s, when SOS Corpo¹ was just getting started, we translated the 1975 article by Gayle Rubin, “The Traffic in Women: Notes on the Political Economy of Sex.” This is one of the original, fundamental texts in the field we call contemporary sexuality theory. After that we translated the classic text “Gender: A Useful Category of Historical Analysis,” by Joan Scott.

Along with the anthropological texts by Rosaldo, Lamphere and Ortner, these are the first moments of feminist theory after the 1960s. They made cracks in the conceptions of the woman as a discrete subject with an ontology radically different from the masculine ontology – this construction is especially profound and rooted in what the historian Thomas Laqueur named the model of two sexes. In his studies about representations of biomedicine in the transition to modernity, Laqueur shows how this transition represented, a strong shift in the markers of difference between masculine and feminine in the western world. Until the 17th century, following the aristotelian conception, the feminine was represented as an imperfect masculine, the woman was a smaller “man” whose sexual organs had been internalised. A woman as *another* radically different than the masculine is a characteristically modern construction. With this comes the capital M man of the enlightenment – white, bourgeois, manly, warrior, coloniser – and his opposite, the woman, unstable, impregnated with sexual fluids, creature of the penumbras world of private life, where men go to recuperate their energies for the battles of the public sphere and wars. The other figures of this pantheon are the effeminate man, the pederast, the deviant and the prostitute, sometimes constructed as a nymphomaniac.

Contemporary theories about gender and sexuality, beginning with Beauvoir’s proposition that you are not born a woman, will gradually destabilise this framework. In 1975, Rubin begins her argument saying that Marxism is not sufficient to understand what happens with women – it can explain what happens to women in capitalism, but it does not explain the constitutive difference between masculine and feminine that is present in all cultures and societies and marked by inequality, violence and coercion. One of the Rubin’s examples is the bound feet of Chinese women, which cannot be explained by capitalism. From there, she enters into dialogue with [Claude] Lévi-Strauss and with psychoanalysis – [Sigmund] Freud, Anna Freud, Lamp de Groult and [Jacques] Lacan – looking for understanding of how culture domesticates subjects so that they fit in the molds of masculine and feminine.

I am speaking here about theories, about texts that were published 40 years ago. That is almost half of a century. It is intriguing and worrying that, after so many years have passed, we have not yet been able to incorporate these conceptual ruptures into feminist human rights work. They not only interrogate why women are or are not in politics, or how much women earn in

the job market, or the state of reproductive autonomy for women, or the control of sexuality, but also consider the socio-cultural genealogies of masculine and feminine. As I said before, all of these themes are very relevant, but the theoretical production of the past 40 years can help us understand that these inequalities and problems are symptoms of the ways the systems of sex and gender organise themselves and organise the logic of society.

On the first page of the book “Problems with Gender”, for example, [Judith] Butler says that one of the problems with feminism is that it attached its trajectory and political condition to the figure of the woman, which is a representational fiction. From there, she develops the idea that it is not just the dualistic conception that maintained the binary, that thought of sex as an essential material base upon which culture added layers that produce the masculine and the feminine in their inequality and conceptions. Butler shows that the very notion of sex – and she certainly does not do this alone, but does so thinking with [Michel] Foucault and other authors like Monique de Wittig and the psychoanalyst Joan Rivière – is a constructed idea. Sex is also a social convention, and sex as we understand it as a universal instinct, is fundamentally a 19th century, western construction, anchored in Darwinian conceptions of evolution and the sexual reproduction of species. It is always important to remember that other cultures have other conceptions of sexuality and gender. The theoretic courses that Butler, Foucault and other authors in this field take are complex. It is not possible to translate adequately in an interview. But I am still going to try to translate Butler in a few words, even if I run the risk of simplifying her theoretic contribution. According to Butler, sex and gender seem natural because they are reiterated repeatedly in discourses and institutional and cultural practices: naming, the insistence on anatomical differences, the laws, the separation of spaces and functions. Or, as Bourdieu wrote in his classic work, *Masculine Domination*, the traces in the ways of thinking, in words, in spaces, in objects and in ways of seeing and experiencing the body and corporeality. Butler uses the figure of the *drag queen*, of the travesti or the trans person as a philosophical figure that destabilises these natural constructions.

At another moment she – and maybe more specifically the biologist Anne Fausto Sterling, another fundamental author – reveals that sex is produced before a person even comes into the world. Culture attributes sex and gender to embryo before birth. This happened even before the development of visualisation technologies that make markers of sex and gender even more automatic and accentuated. The visualisation of anatomy immediately produces the mark of a profound sexual difference of a subject, even in cases where this person who will be born could, at some point in his or her life, perceive his or her desire, constitution, expression and way of being as radically different than the sexual difference that was attributed at birth.

It has long been insufficient to think of feminism as exclusively women’s or having a reference in the experience of women’s bodies. If what determined whether or not one could be a feminist were the possession of a natural vagina, it would not be called feminism, it would be called *vaginism*. This is a joke that I have made for a long time, but it is very relevant today because there is a battle going on in the field of sexual politics.

There are sectors of feminists that have a radically essentialist, fundamentalist position, that affirm that trans-women do not exist, that they are a mere product of capitalist patriarchy. A true woman needs to have a vagina and feminine sexual organs and if she doesn't, she cannot dress as a woman and cannot use the women's restroom.

For these reasons, some time ago I started to use the formulation gender and sexuality human rights.

Conectas • How do you think that feminism could incorporate this non-essentialist vision and at the same time work on specific questions, such as the representation of women in politics and income equality?

S. C. • Contemporary sex and gender theory permits us to think about the construction of the masculine and the feminine as issues that are modal in the formation of social and institutional structures. Critical theory destabilises this order, interrogating the meanings of the social and legal norms that sustain it and its impacts on inequality and on selective inclusion and exclusion.

The dominant culture throws trans people, and especially trans women, into a place of extreme rejection. This is what explains for example the fact that Brazil is the country that assassinates the highest number of trans people in the world today. Of course, this cannot be separated from Brazilian structural violence, which has massive proportions, but the characteristics of the assassinations of trans people, which are often barbaric and attention-grabbing, is an expression of the limits of human rights, of the way the sex-gender system works.

These limits should not be seen as related only to trans identity, but also as a lethal effect of the normative violence of the binary logic of the sex/gender system, which also anchors gender violence in the most classical sense of violence against women. This is why it is important not to think of these two grave expressions of normative violence as belonging to closed worlds. Assassinations of trans people and of women are part of the same *assemblage*, of the same discursive scaffolding, that appears in the norms, in the law, in the institutions, in the way that education produces people. And this should not be a surprise. 20 years ago, the forces that wanted to keep these antiquated structures intact made gender their principal aim of attack.

Looking at the question from the point of view of human rights involves conceptual and semantic challenges. To discuss gender and sexuality within human rights requires a questioning of the essentialism that still characterises the conceptions and language of human rights. In other words, it requires that we leave behind the equality-inequality of the sexes recorded in the Universal Declaration, which denotes the biologic binary: masculine/feminine, man/woman. It is a good idea to take the path indicated by the Principles of Yogyakarta, that do not only challenge this binary but also address violations that have their base in sexual orientation and gender identity, without ever mentioning “woman” or any of the other identity categories that fall into the conventional network

of the rights of minorities: gays, lesbians, trans, etc. It is necessary to look for ways to “say rights” that escape the thin covering of language propagated by the machines that produce discrete identities in gender and sexuality.

Conectas • How do you see the fight against what is known as gender ideology today?

S. C. • This is not just about today, this fight has a twenty-year history. First off, it is a transnational phenomenon. Today we see serious discussions, many with disastrous effects, such as the case of the Colombian referendum. Evidently, I think it is an exaggeration to attribute the result of the referendum in Colombia [about the peace accord with the FARC] to attacks on gender ideology, especially because 60% of the population abstained. In any case, there was a mobilisation specifically of evangelicals and the conservative Catholic Church against gender ideology just before the vote.

In July, the SPW asked Frank Hernandez, one of our partners in Colombia, to write about the sexual policy situation in Colombia and its relationship to the debate about peace and the end of the conflict. He wrote in July and, the following month, the forces against gender ideology were in the streets, filling the streets of Bogotá and other Colombian cities. He wrote a *post scriptum* interpreting what was happening and showing that it was not an accident and that what was happening had direct ties to the negotiations, because the people behind the mobilisations against gender ideology were the same people against the Havana accord. Just after that, we saw that the role of evangelical actors and the evangelical vote, principally, were key in determining the result of the referendum. There was a more “pedestrian,” but no less important, factor, which is the fact that the Secretary of Education, who is a lesbian, was transferred to the coordination team of the campaign for the referendum. These forces directly attacked her. Some political analysts consider this an error. But no matter your perspective, any analysis that can be made about the surprising result of the referendum in Colombia does not veer far from the attack made on “gender ideology”. This campaign has been in course in the Colombian context for the past fifteen years due to the strong presence of actors and thinkers of the constitutionalist catholic or catholic constitutionalist movement.]

Ives Gandra, Hélio Bicudo and Janaína Paschoal, people linked to this chain of intellectual production, have a very strong presence in Colombia, just as they have in Brazil. This is not a new construction and as I said before, it started in the preparation for Beijing. In Cairo, the term “gender” was recorded in a text negotiated by the Member States. Before this, it had been used in UN agency research, but it had not been used in an official text. Just after this, there was a direct attack on the term made in the preparations for Beijing, in March of 1995.

I have told this story many times, but it needs to be told and retold so that people can understand the course of the “war against gender”. In 1995, during the process of preparing for the Beijing Conference, Dale O’Leary, a leader of the North American religious right and representative of the National Research Association, created the thesis of “gender ideology”.

During the preparatory meeting in March of that year, these right wing religious groups distributed a pamphlet to the official delegates, especially to those from the countries of the Global South, that distorted the article by the feminist biologist Anne Fausto Sterling about the *continuum* of gender and intersexuality and affirmed that when using the term gender the feminists were defending the existence of five sexes.

The anthropologist Mara Viveros, who just wrote an article about the attack on the “gender ideology” for SPW, reminds us that the next step was an article published in 2001 in Costa Rica, by Jutta Burggraf, a theologian at the Spanish University of Navarra, which is administered by Opus Dei. Since then, the article “¿Qué quiere decir género?” (“What does gender mean?”) has been replicated throughout Latin America. In that same year, in a letter from the Vatican to the North American Bishops, Joseph Ratzinger affirmed that “the collaboration among men and women in the Church and in the world should be based on the premise of their difference.” In 2004, another letter about the collaboration of men and women was sent to all of the bishops on the planet. The Vatican directly attacks gender theory, without using the term:

This theory of the human person, destined to promote perspectives of women's equality through the liberation of biological determinism, has inspired, in truth, ideologies that, for example, put the family in its natural two-parent structure at risk, making homosexuality and heterosexuality virtually equal, in a new model of polymorphous sexuality.

Today this conservative, backwards intellectual production, whose objective is to contain the process of critical destabilisation adopted by the feminists and the LGBT movements, is now rooted in the countries. It is a battle, and here in Brazil we are almost losing, as is the case in Mexico, in Colombia, in Spain, in Poland, in Italy, in France, in Croatia, in Hungary. In any place where there was any destabilisation, even if it was small compared to gender and sexuality, you have a battle in course. And it is not an accident, it is a very well planned strategy that has many resources and a strong institutional infrastructure. Conservative Catholic thinkers perceived, in the 1990s, the potentially destabilising impact of these theories and fought back with all of their resources, mobilising and spreading this debate in the most persistent and continued form. This is the state of the gender wars in 2016.

Conectas • Last year we had a series of protests against new conservative initiatives in this realm, principally in the legislature. In this context, what do you think should be the strategies and priorities of the feminist movement, especially in Brazil?

S. C. • There are no easy responses to difficult questions and problems. I cannot respond to this question in a consistent way. I can chart challenges and tasks. In Brazil and around the world, our biggest challenge is to understand the broad, structural character of the questions of gender and sexuality, so that we can go beyond the logic of identity politics that has characterised the field. Women are on one side defending their rights, LGBTs on

the other, women who fight for abortion go to one side and those that work with violence oftentimes do not even mention the topic of abortion. There are the brutal tensions that I mentioned among groups of feminists and trans activists and these and other groups are against prostitution and because of that do not support the demands of sex workers...

In part, these divisions result from the fact that we were all more or less captured by the machines of identity production, one of which is the state. The logic of governmentality of state aparati is compartmentalisation. It is a *divide et impera* dynamic, characteristic of postcolonial states. In other words, governing the differences in population groups: white, indigenous, black, other foreigners. This is the deep postcolonial trait of our postcolonial state machines. But the market also drives a logic of differentiation. Above all, around the production of digital visibility and in the dynamic of an economy that is strongly rooted in consumerism.

We were truly captured. On our side, gender and sexual politics during the last years were fundamentally formed around an identity logic. While the adversaries adopted a common strategy based on a broad, structural vision of what they understand as the end of times: the destabilising of the natural order. The attack on “gender ideology” casts a net to contain many things at the same time: sexual education, transformation of family structures, abortion, sexual orientation, gender identity and even the premise of equality for men and women.

I think that to keep this regression at bay, we have to reconstitute the fabric of what I call a *politics of friendship*. Our field is full of conflicts, the majority of which are produced by an adherence to sexual essentialism or to the logic of the power machinery. I think that overcoming this identity crisis is absolutely fundamental. And I think that in the conditions we are experiencing in Brazil today, which I think will persist for a long time, there is no other way out if not through the construction of spaces and means of resistance.

The truth is, this is a global challenge, right? Especially after the Trump’s victory, the words I have most often read are fascism and resistance. Trump’s victory is not isolated or an exception, but it should be situated within the chain of regressive political events, which started with the collapse of the Arab Spring in 2013, followed by the election of BJP in India and of ultra conservative governments in Hungary and Poland, the parliamentary coup in Brazil, the election of a president in the Philippines that, just after coming into office, started an open campaign of extrajudicial executions, Brexit, the state of exception in Turkey, the failure of the referendum in Colombia and an eternalized Ortega dynasty in Nicaragua.

We live in extraordinarily dark times and this news needs to be spread to the four corners of the earth. We have to be prepared for the worst. Philip Alston, in a conference at the LSE in December, said that these are the most uncertain and difficult times he has experienced in his long career defending human rights.

Conectas • Could you give examples of groups and organisations that are resisting in interesting ways internationally, nationally or in alliances?

S. C. • I think that there are some examples of resisting everywhere. In the United Nations not so much, because there, unfortunately, human rights are characterised by the identity logic. A deconstruction has started, but it is still moving very slowly. Let us turn to the example of Latin America. Throughout the last period, we watched left-leaning governments in Brazil, Argentina and El Salvador adhere to the LGBT fight for basic rights, including to marriage equality, to the detriment to the fight for the right to have a safe abortion. The exceptions are Uruguay and Mexico City. In the other countries, “pinkwashing” *a la latina* prevailed: we are modern, we support the rights of LGBT people, but when it comes to abortion, we turn the reins over to the conservative sectors. This is the *divide et impera* logic of the states, but we do not see these ruptures being openly debated in the social movements. Everything indicates that the conservative wave will force us to reestablish connections and shared demands.

As I said before, there is a strong tendency in human rights policy to shift debates and demands toward an identity logic. In India, where there is a theoretical and political tradition that is critical of the Western identity-based laws and categories, there was an important rupture during discussions around Article 377 of the Penal Code, called the Sodomy Law. However, I recently heard that there has been a resurgence of fragmentation. Overall, the results of the American election show us that the distance between politics of recognition – gender, race, and ethnicity, and of redistribution in terms of class, precariousness, and economic insecurity – can be politically fatal. This reveals another huge challenge, which is to rebuild bridges or, in other words, amplify political networks in friendship.

Conectas • In an article published in SUR 20, you question the capacity of the emerging countries, of BRICS and IBAS, to promote a progressive agenda about sexual and reproductive rights. Do you still make that evaluation?

S. C. • Today the situation is more grim than it was three years ago. At that time, I already had many doubts about this fantasy that the emergence of the South would allow for the construction of a virtuous platform and allow us to go further in debates about gender and sexuality, overcoming the North-South traps in which they have been stuck for a long time. In the 1990s, we watched bargaining games stall the debates on gender and sexuality in the UN. More recently, this tangle became even more perverse, as human rights in the field of gender and sexuality were used as a justification of “imperialist” interventions, protecting the rights of women in Iraq and Afghanistan and suspending aid to protect LGBT rights, for example, and to close down some borders, as is the case of the test of homophobia that migrants from the south must pass if they want to live in Europe.

At the Brics Summit in Fortaleza, in 2014, when language about gender and reproductive rights was included in the final document, feminists could have felt some fear. But the game changed quickly just after the summit, with the strong movements for democratic contraction in Brazil and India, the authoritarian rejuvenation in China and a troubled political process in South Africa. The emergency became about China again, and also about

economic interests. Just after Dilma’s impeachment in August, before the meeting of the G20, the Chinese government published a full page article in the *Folha de São Paulo*. The first paragraph clarified that the relationship between China and Brazil is not a relationship between governments, but rather it is a long-term structural and strategic cooperation. In other words, it is defined by the capitalists interests of the *pais tropical* and of the Middle Kingdom. At least they started to play a clean game, doing away with illusions.

But none of this even matters after 9 November. Today, we are faced with the potentially nefarious effects of North American foreign policy under Trump, which is already coming into view with the harassment of China and which tends toward a volatile and risky relationship with Russia (Russia has been the contriver and China the top dog of the BRICS). Though we will have to wait until the beginning of 2017 to better trace this turbulent cartography, I have a strong suspicion that, just as the era of renewed human rights that started in 1989 seems to be coming to an end, the emergence of the South as we know it, may also have its days numbered.

NOTES

1 • Sonia was one of the founders of the Brazilian feminist non-governmental organization SOS Corpo - Feminist Institute for Democracy.



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“THE HOMOGENEITY IN FEMINISM BORES US; UNUSUAL ALLIANCES NEED TO BE FORMED”

• Interview with María Galindo •

By Alana Moraes, Mariana Patrício and Tatiana Roque (Revista DR)*

*María Galindo is a Bolivian anarcho-feminist activist, a psychologist, a radio presenter and a former TV host. She founded the Mujeres Creando (Women Creating) feminist movement in Bolivia, which unites women of different sexual identities, classes and conditions in the fight against machismo and homophobia. Her performance actions have landed her in prison several times. She is the author of: *Feminismo urgente: A Despatriacar! (Urgent Feminism: Dismantle patriarchy!)* 2014; *No se puede Descolonizar sin Despatriarcalizar (Decolonisation is impossible without dismantling patriarchy)*, 2013 and (with Sonia Sánchez) *Ninguna mujer nace para puta (No woman is born to be a prostitute)*, illustrated edition by Lavaca Editora, 2007.*

For Galindo, it is through the rigorous questioning of individualism, the collective work carried out daily and “very demanding forms of solidarity and connection” that a social fabric, which allows women to act politically and with depth, can be built. In this interview, María Galindo talks about the Mujeres Creando’s “concrete politics”, such as the collective management of a savings fund by women in the cooperatives that are part of the movement, heterogeneous feminism (built on “unusual alliances”) and the street. She also criticises queer theory (“a theory for the elite, by the elite”) and the use of the gender category (which she sees as part of the neoliberal agenda) to frame women’s struggles. She is hopeful about the emergence of new feminist movements, despite their fragmentation.

Revista DR • Can you tell us a little about the *Mujeres Creando* movement, its political actions and how it began?

Maria Galindo • *Mujeres Creando* is a feminist women's movement. We have an anarchist view of power and we are independent from political parties, churches, NGOs and all governments – from the left or the right. We have been fighting for years using different tools and in different ways, but basically, we defend the need to build a heterogeneous feminist movement. This homogeneity in Latin American feminism in general – of young, white, professional, middle class women – is one that bores us, bothers us and that we're not interested in. Thus, we are building a movement that fosters unusual alliances – that is, political alliances with women with whom it is forbidden to form alliances. We use a very interesting metaphor: we are native women, prostitutes and lesbians, united, rebellious and "*hermanadas*" (joined in sisterhood). And this is not just a metaphor: it's real: the youngest people in the movement must be around 18 or 19 years of age, and the oldest, around 70. We have lesbian and non-lesbian comrades and comrades who come from different social worlds: there are women intellectuals, professionals, as well as unemployed, self-taught women.

We argue that the most important political arena for feminism is the street and we work from the street. We made the street our main political forum and that is why we are having such strong repercussions in Bolivia. Ours is not a borrowed voice. It's not a borrowed space. It is not through the parliament or through the laws or through the media [that we speak]. No, it is through the street.

An interesting concept we created is that of "concrete politics". Several of us came from the left and we strongly questioned the fact that the different movements - ecologist, feminist, other left-wing movements - are very focused on discourse. Few have been able to turn discourse into a form of concrete action. We work with the concept of "concrete politics": we offer services to women without depoliticising these services. We offer services based on a feminist vision, but without becoming institutionalised: that is what concrete politics is.

Revista DR • For example?

M.G. • For example, we fight against bank usury. In Bolivia, women are massively affected by unemployment. Therefore, instead of looking for work, which they will never find, many unemployed women take out loans. And when they cannot pay back the loan, they get another loan to pay off the first one. This leads to a terrifying process of over-indebtedness, a very severe form of bank usury, because the banking institutions know what the situation of these women is and put a lot of pressure on them. So, we have generated other ways of negotiating with banks, in which we side with these women. This is a concrete example of concrete anti-neoliberal politics.

Revista DR • Is this how you manage to break the barriers between different types of women from different social classes? Because these barriers are real...How do you break them?

M.G. • They are real! We break the barriers through our struggles, through concrete struggle. For example, we are totally anti-institutional, but we have built a very large association of women sex workers who are setting up brothels as cooperatives. In these cases, the owner of the brothel is no longer the pimp, but rather the women themselves. Together, these women – sometimes three or four – set up small brothels. We then created an association of brothels and, since they wanted to remain clandestine, we lent them our legal name. These are some of the concrete things we do. There is also the issue of feminicide, which is very serious in Bolivia, and we build alliances through these struggles.

Revista DR • In Brazil, there are institutions that defend women's rights, but the feminist struggle itself and feminist groups have grown recently...

M.G. • I think that all over Latin America, feminism went through a strong process of “NGO-isation” in the 1980s or 1990s. NGOs replaced the movement and ended up strangling and making the feminist movement disappear. These NGOs became institutions that offered services, but via clientelist and vertical hierarchical relations, which were at the service of an international political agenda that was entirely neoliberal. Thus, feminists stopped being feminists and became employees of institutions, with an eight-hour workday and an office: you are on that side and I am on this side. That is when the feminist political agenda disappeared and a neoliberal gender agenda appeared in its place. This happened throughout Latin America.

Since the beginning, *Mujeres Creando* has been very clear on questioning all of this. We question how, based on the gender category, women's potential and needs have been used to save – or better said – to generate a social cushion for neoliberalism. Because obviously, as a result of neoliberalism, unemployment reaches very high levels, as that is where structural adjustment takes place. So, a human group was needed that was capable of sacrificing itself more than all of the workers combined in order to cushion the crisis, and this group was us women! We questioned all of this.

I am currently working on a new theory: the theory of “dispatriarchisation”, which I present in my book *Feminismo Urgente: A Despatriarcar!* (Urgent Feminism: Dismantle patriarchy!). Based on a highly critical perspective, this theory argues that the agenda on inclusion must not be allowed to rob the feminist discourse of its subversive content or rob our struggle of its horizon for the future. If it does so, why would we bother organising? To become clients of the state? One law here, another law there, public servants... In Latin America, we even had three women presidents, right? Cristina Kirchner, Dilma Rousseff and Michelle Bachelet. And a large mass of women followed them into the state administration and were swallowed up by the patriarchal nature of the state.

Revista DR • But this criticism could apply to all struggles of the so-called “minorities”...Could we not say the same for the black movement? In fact, this

is one of the criticisms often made of the quota system – that it only serves to incorporate people into the neoliberal system.

M.G. • I would say you can't. I am not entirely certain because, first of all, we women are not a minority. Even if we are categorised as a minority, we make up half of the human population. We are another version of human beings, aren't we? So, we are not a minority and quotas reduce us to our biological nature because they do not allow for a political imaginary that is different from the one that already exists. Instead, we belong to the one that exists due to the fact that biologically, we are female. This negates the political subject – women as political subjects – which I think is very serious. I would not say that there is a specific criticism for indigenous people, for black people, for gays; there is one common element, which is inclusion. You can be part of the system and the system wants you to be part of it, because when you are part of the system - if you are gay, if you are black or if you are a woman – you strengthen the system. You do not weaken it, as you are part of it, and will have a certain way of thinking. This is the criticism, the common denominator of all of this. I think, however, that important differences exist in the case of women. First, there is a quantitative difference: we are half of humanity; we are not a minority. Secondly, I believe in feminism as a political theory. In the plurality of feminisms, a very important political theory was generated, which other political subjects have not necessarily developed – a political theory with great potential, which was very useful for neutralising, annihilating, minimising and making the theory that identifies women merely based on their biological nature disappear. Why? Because feminism is a political imaginary that includes not only the public, but also the private. Neither black or indigenous people nor the gay world raised the issues of daily life as being political, the private sphere as being political. This is feminism's most subversive and most important potential. This has always been left out of the patriarchal imaginary. Therefore, neutralising feminism was an important weapon for neutralising all other discourses - of the black, indigenous, environmental movement...

Revista DR • Here in Brazil, in the most recently formed feminist movements, there is a major dispute among the different groups. We see little of NGO-feminism. Now, there are many feminist groups fighting over discourse. They also do a lot on the street, but in the form of political acts, and not continuous action. There is considerable fragmentation among the groups that adhere to radical feminism, queer theories, which are very strong here... From our point of view, this weakens the struggle because it creates a lot of division.

M.G. • What you are saying is interesting. It is true that the wave of NGOs took place during the 1980s and 1990s and it is now very weak. However, the neoliberal agenda on gender equality continues on in full force. As such, I think it is highly necessary to remember where all of these policies that force women into debt, on political quotas for women and women's "empowerment" come from. They are all neoliberal policies

because neoliberalism in Latin America is not in crisis. Neoliberalism is in full force. Therefore, I think that it is extremely necessary to continue talking about this, as we women act as the human buffer for neoliberalism in our societies through precarious work, through ways to guarantee subsistence, etc. etc. etc.

Revista DR • And reproductive and care work...

M.G. • And through migration, which is economic exile. Migration is an eviction. I always talk about women exiled by neoliberalism. Brazil takes in a lot of Bolivian exiles to do precarious work in textile workshops. This economic exile of women is also part of this cushion for neoliberalism. Neoliberalism can always reduce costs by lowering labour costs. This reduction of costs is achieved through the economic exile of women, who are willing to do it because they are the ones who have the least opportunities for work in their societies of origin. There is also the issue of care work that you mentioned. Precarious conditions in care work, which relies on women exiled by neoliberalism, is what allows white, middle class women professionals to believe they are emancipated because they leave part of the care work in the hands of cheap and overexploited labour – that is, a woman who belongs to another society: a Bolivian woman, an Ecuadorian woman, a Paraguayan woman... All of this is very important because it comes from international organisations' gender equality agenda, which has been taken on by NGOs.

Now, with regards to the queer movement, I personally respect many intellectuals such as Beatriz Preciado or Judith Butler. I respect them a lot as intellectuals. They make interesting contributions. But we are often baptised as queer and we are not queer; we are feminists with our own way of thinking. A lot of the queer wave arriving in Latin America is completely distorted. Why? First, it is an extremely complex political theory, which can only be translated, interpreted or absorbed by the academic world. The academic environments that translate or interpret this theory are spaces for the middle and upper middle classes. They are not spaces based on the street, on prostitution in the streets, or from the travestitism of the streets of prostitution. They are spaces for the elite. It is an extremely complex political theory, right from the way it deals with categories. I believe that in Latin America, the queer theory in general is a theory for the elite, based on the elite, which ends up losing its subversive content and, as a result, is linked to a series of practices that I do not find interesting. The transgender movement in Latin America, based on this movement that we can call "proletariat", is not a movement that starts with the notion of queer. It is a movement based on the discussion on sex work and on the body, which is something different.

As for the fragmentation and the fragility of small groups – I don't know – I have a lot of hope. When a small group of women organises themselves and do something concrete, it seems to me to be an interesting phenomena because it is a kind of second, third, fourth, tenth, etc. wave. It is the rebirth of young women who want to do

something on their own, who do not want to be leaders, do not want to bear the burden of becoming bourgeois like many feminisms that are now very heavy, very immobile, and who want to go out to do something, without a lot of baggage. This is a fabulous, positive principle. Now, if [the movement] is becoming fragmented, there is also the risk that it may be weakened and be reduced to a sort of enthusiasm that dies off quickly. But, in principle, I see this as being very positive.

Revista DR • How can we move between the possibility of a more critical feminism engaging in direct action outside of institutions and the state, and a feminism rooted more in daily life, daily relations, daily power relations? How can we combine very radical practices with more every day, low intensity practices based on the underground? This concept of underground you mention. Can we not think of doing something from within, through institutional gaps?

M.G. • In general, I don't like to pretend that we have a recipe, but that is exactly what we do. I personally believe that we need to build social fabric. What do I mean by social fabric? Often, when we say "movement", what are we talking about? We are talking about the sum of women – many or few – who meet up during their free time. It is very hard to find free time. While women who belong to the highest classes of society have some free time, the ones from the more popular classes have much less free time. So, how do you build a movement? I think it is necessary to build social fabric more than movements. What does that mean? Generate spaces to collectively construct daily life.

In principle, we create our daily life. Feminism is not for the weekend. It's not for every two weeks. It's not for March 8th, September 25th. On March 8th, we normally drink and dance and we don't do anything else. But we manage a popular cafeteria, we manage a radio, we manage some cooperatives, we manage our daily lives. If you are my comrade and you are sick, I will know about it. We manage a collective savings fund, which is a savings fund where we can lend ourselves money for health or for anything. Therefore, we are managing even what is within us and producing social fabric. But this is very hard work and it takes a long time. It's not easy or simple. It requires very demanding forms of solidarity and connection. And it entails questioning, for example, the individualism of each one of us. We are completely convinced that the discourse that says "I am going to resolve my housing, my health, my education, my work problems on my own" is a false discourse that neoliberalism drilled into our heads. "If you are good, if you are intelligent, if you are pretty, you will resolve [your problem] and if you don't resolve it, it's because you are ugly, dumb and incapable." In other words, we also have to fight against this notion that has been instilled in women because everything took a lot of work. It took a lot of effort to finish school. It took a lot of work to get a job. So, once you accomplish something, you defend it with all your might.

We are building a movement that builds social fabric, a movement that says, "you will not resolve anything alone. You won't resolve housing, work, education, health,

freedom, dignity, happiness.” We cannot resolve them alone. We either seek to deal with these issues collectively or we will not do anything in any depth.

Revista DR • But how do you manage to create the conditions necessary to have some availability? Because it is, in fact, very demanding and neoliberalism makes us have less and less time and availability for things that do not generate a “return”. Only for work!

M.G. • Well, we did things little by little, over many years, while we searched for leftovers. For example, I remember that when we began, I had come back from exile with the money I had earned and so, I managed to buy a house in the outskirts, which became the movement’s house. Over time, we built small cooperatives. We do everything in cooperatives. Everything we do is through cooperatives, from the film to the books, etc. Three comrades joined to form a cooperative and contributed something to the common savings fund. We try to make things less bureaucratic. We institutionalise nothing and each cooperative buys the things it needs little by little. For example, we have a cooperative that offers very good food, which would buy kitchen by kitchen. Now, we have one big kitchen, but we began from scratch, with one small oven used to make food for the markets and we gradually added more things.

Revista DR • And what about women who have children?

M.G. • There are a lot of women who have children! We question maternity as an obligation, but we totally respect the lives of each one. There are a lot of women who have children and there are also many women who work outside the home – journalists or lawyers, etc. In their free time, they join the movement, but the core of women in the movement are the women in the cooperatives. We always engage in political debate, constant political debate. You cannot belong to a movement if you do not take part in political debate! This is the mechanism for membership: participate in concrete political discussions. We have 25 years of work.

Revista DR • We don’t have money, so at times, we face the problem of not having money to do something... What is the issue of funding like for you?

M.G. • In some cases, we accept funding. In the areas that are not self-managed, such as our violence protection services (one in La Paz and another in Santa Cruz), our comrades receive a salary because they work long hours. What is more, it always has to be the same comrades who do the work to ensure proper follow-up. For this kind of work, we opt for using funds. What is important is that we have our own work methods.

Revista DR • Can you talk a bit more about the current political situation in Bolivia? You said there is a lot of mystification of the Evo Morales government. Are there conflicts between you and the government?

M.G. • The Bolivian government claims or uses a discourse claiming that it generated a social model that is not neoliberal. But that is simply a joke, a lie, because in Bolivia,

neoliberalism is still present and very strong – especially in relation to work, but to many other things as well. Education is a commodity; health is a commodity. The whole discourse on rights is completely neoliberal. The forms of representation have not changed at all. What there is in Bolivia is a hypocritical liberal democracy – hypocritical because the government says it is a participatory, plurinational democracy, but it's not. It is the liberal democracy that we have always known. Then, there is the issue of women. The situation is very complicated because we have before us a government that exerts a lot of control over society. It's a government that comes from the left, from social movements and knows that social movements and the social fabric are very important and very powerful forces. Therefore, one of its main objectives was to control, monitor, divide, weaken and be present in social movements, and to co-opt all social movements by using clientelist policies. The situation is not easy for us feminists. The government's discourse is extremely sexist, patriarchal. One very big social movement is on their side: the peasant women's movement. But this movement, which is called Bartolina Sisa, is also involved in very clientelist relationships. So, these comrades are like a kind of circle around the caudillo president's altar, but they are women. So, they represent the support of indigenous peasant women, support for Evo Morales. This has all been very difficult for us because we also had important alliances with Bartolina women, but these alliances were lost. Many of them abandoned their own movement and were strongly harassed. It is very difficult to find space for autonomous feminist discourse in Bolivia.

Now, we have a lot of power. Three weeks ago, I was summoned to court and I was almost sent to jail. I was accused of destroying national wealth because of the graffiti I did. It was very amusing because I was willing to go to prison, but they did not dare send me there because it would have given us even more power. So, we are resisting. We have a radio that gives us a lot of power; it is licensed and broadcasts not only online, but also nationally. We need to sell publicity to pay for the radio and no state enterprise hires us to do its publicity. We have a very efficient cafeteria and we have to use the cafeteria to sustain the house and the radio.

The idea is to stifle dissent. "If you are not with me, you are from the right". But this polarisation is totally wrong! We question the neoliberal bases of the Evo Morales government's programme. There is a lot of manipulation of the press to discredit [the opposition].

Revista DR • Yes, the same thing happens here. We are interested in your discourse on work and your argument that there are certain specificities of women's work in modern society that are of interest to neoliberalism. This is a vision that is difficult for the left to understand, isn't it? What is your dialogue with the more traditional left-wing movements like? In our experience, at least, these movements do not understand these issues as having to do with another way of thinking about labour. For them, labour is industrial, proletariat, wage labour. They don't understand these other categories.

M.G. • No, they don't understand them. But listen, I'm going to be very sincere: I am 52 years old and I think that people from my generation do not waste time dialoguing with this left because it is pointless (laughter)! They do not understand why they do not tolerate their privileges as men being brought into question. In Bolivia, paternal irresponsibility and not doing domestic work are sacred male institutions. For us, it is very tiring, but we dialogue with society through graffiti, through the radio, through street actions.

On the radio, for example, we present a list of irresponsible fathers. We read their first name, last name, the place where they work, one by one. It is a free list; women come and write a name on it. There are two lists: one is a list of violent men and the other is the list of irresponsible fathers. It is a lot of fun because the list appears five times a day on the programme schedule and we say, "Attention! Here comes the list of irresponsible fathers!" Then, [they] say: "And now, who do we have here?" It is very efficient. There are men, especially from the upper middle class, bankers, who say, "Please, I am paying [what I owe] and I don't want to be on this list anymore." If a woman says, "Delete, take him off the list", we take his name off the next day. We update the list once a month and do the "escrache". It makes people laugh and, at the same time, is efficient.

Revista DR • Male politicians don't want their names on the list, right? There must even be a few from the left...

M.G. • So, our relationship with the left... Look, there are dialogues that kill you; there are dialogues that mean nothing to you, that you waste a lot of time on. There are dialogues that tire you out. There are even dialogues that set you back some. Some argue that "No, dialogue is important, and so on," but we women can't keep on saying the same thing over and over for a hundred years... If we are going to repeat the same thing all the time, we'll go crazy. We will lose the desire to think of new things, new language, new sentences and this seems very despairing to me. Therefore, there are certain dialogues that demand that we women always repeat the same thing and these dialogues aren't worth it. These dialogues are not fruitful; they are a waste of energy and time.

Revista DR • Where does the strength to do all of this come from? To contest institutions, forms of subjectivity, individualism, ideals of success... This deconstruction is very thorough, isn't it? I was reading an article on your website that said that it is necessary to transform the pain of feminicide into a revolutionary force... And where does the joy to do this come from? Because it is hard to deal with violence against women, loneliness, the lack of work, money...

M.G. • Transform the pain of feminicide into a struggle for justice. The hardest thing of all is feminicide, because it involves death. Last year, they killed the daughter of one of our comrades and it was terrible. Nothing was as painful as that was. I want to respond very clearly to what you said. We are not exceptional. The strength comes from the fact that it is the only possibility we have in order to think, enjoy, create and

build something. I mean, we women do not realise that on our own, individually, we have absolutely no possibility – we only have the possibility of surviving. But if we join together, it changes everything. We can go beyond surviving and really enjoy life, do interesting things, think – but only if we build social fabric. So, it’s not an act of renunciation. It is not an act of Christian, messianic, missionary renunciation: “I give up my life for you.” No, it is not an act of redemption for anyone. It is the only option we have in a Latin American neoliberal society. It is likely that the conditions are just as harsh in Europe or somewhere else, but I am not interested in getting into this. In Latin America, our only option is to take radical decisions while we pool our strength, our intelligence, our energy, unite our history and our spaces. You have a kitchen, a refrigerator and a space, so we already have something to start with. You can go try to [make it] on your own and you will have to insert yourself into sexist, classist and racist structures. Even if you are not black, do you want to be part of a racist structure and play the role of a white person in it? No! If you do not want this, you can’t allow yourself to be part of this structure. I believe that we can build different micro-spaces. They are micro-spaces, but they are very important because they create possibilities.

Revista DR • Do you believe that we should move the debate on feminism to the centre of the discussion on power? How can we foster a debate on power from a feminist perspective – but no longer as an isolated, separate issue described using international organisations’ language on gender – and put it in the centre of politics?

M.G. • I’d say that we should abandon the gender category. The gender category is no longer useful to us because there is a lot of ideological confusion around it. This confusion is not by chance; it’s deliberate. So, first, we must completely abandon the gender category in the social debate. We must participate in the social debate as political subjects: women as political subjects.

Currently, women are at the centre of the debate because, as a political subject, you discuss work; as a political subject, you discuss the relationship and the separation between the public and private spheres. This debate has been going on for many years. There is a long tradition of this in feminism and it’s still very useful and fertile, because the patriarchal dichotomy, the schizophrenia between the public and the private continue to be one of the key elements of patriarchal power and capitalism itself. Capitalism is so strong because it has been inserted into our private lives, our subjectivity, our desires. That is why capitalism is so strong and, obviously, patriarchy too, as patriarchy and capitalism are practically one. So, it seems to me that this continues to be a key debate: everyday life, the relationship between public and private spheres, the management of pleasure, the management of time, the management of space, the management of desires. This has nothing to do with gender. We can say that we have been emancipated from gender for a long time now (laughter).

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** This interview was conducted in São Paulo by Alana Moraes, Mariana Patrício and Tatiana Roque from Revista DR (<http://revistadr.com.br/>), on 28 January 2016, with the support of PACA (Programa de Ações Culturais Autônomas, or Programme for Autonomous Cultural Action), which organised María Galindo's visit to São Paulo. This article is an edited version of the interview. The full interview can be found at: <http://revistadr.com.br/posts/maria-galindo>.*



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PROFILES



**“IN THE CONTEXT OF LIFE OR DEATH,
NON-VIOLENCE IS A PRIVILEGE”**

Ayla Akat Ata

**“THERE IS NO DEMOCRATIC DEVELOPMENT
WITHOUT THE PARTICIPATION OF WOMEN”**

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THE WAR IN KOREA: THE WOMEN”**

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“IN THE CONTEXT OF LIFE OR DEATH, NON-VIOLENCE IS A PRIVILEGE”

Ayla Akat Ata

- *The Kurdish activist who leads a radical project of feminist, anti-capitalist and anti-nationalist democracy*

By Laura Daudén

The conference room in a resort in the north-east of Brazil was packed, but what caught one's attention were the people missing. At the table that had been prepared for five, only two people were seated: activist, writer and PhD student at Cambridge Dilar Dirik and lawyer, activist and ex-parliamentarian Ayla Akat Ata.

Ayla was the only one from the group who had managed to leave Kurdistan – a territory divided up between Turkey, Syria, Iraq and Iran – to participate in the AWID Forum. Nobhar Mostafa, Meral Çiçek and Özlem Yasak did not have the same luck. The state of emergency in Iraq, the persecution of political opponents in Turkey and the constant attacks at the Syrian border by the Islamic State prevented them from travelling.

At Ayla's side, they would have talked about their struggle to implement a radical project based on democracy, ecology and women's liberation in one of the most

complex political and military contexts in the world. Speaking Turkish, between the smiles and applause, Ayla was not worried about hiding her discomfort. "I grew up in a state of emergency. I don't know how to live without a state of emergency. The harmony in this hotel is too much for me."

Ayla was born in Sur, in the heart of the Diyarbakir region in the north of Kurdistan (eastern Turkey). However, it is not the historical value of her hometown, with its hundreds of ancient buildings and structures that fills the lawyer's stories and memory. After more than one attempt at peace talks between the government of President Recep Erdogan and the Kurdish liberation movement, which began in 2013 and ended unsuccessfully in April 2015, Sur was the target of successive sieges and attacks by the Turkish army. The escalation of violence was brutal.

"For the first time in history, we saw the war come down from the mountains and into the cities. Now, Sur is full of soldiers. There are areas that were completely destroyed or burned by the state. Neighbourhoods were closed off for over nine months and the city remained under siege for weeks on end. And obviously, people were displaced. As with any war, this one affected primarily women and children", she explained.

Sur is not a random target for the Turkish government. In 2015, the city challenged Erdogan's despotic centralisation by proposing an autonomous local administration, similar to what other municipalities led by Kurdish political parties in this region have been adopting. Ayla affirms that the victims of the military offensive were not random either.

"We are an anti-nationalist and anti-militarist movement. We are against this kind of war and we can see that the Kurdish areas of self-government and self-administration were attacked. It wasn't random. It was an attack on a democratic system resisting an anti-democratic state. They went specifically to kill three women from our movement in Silopi. The army knew exactly where they were and knew that they were not armed fighters", Ayla explained. Ayla is one of the founders and spokespersons of the Free Women's Congress (KJA), a social organisation that brings together 501 delegates and conducts its work via 12 thematic committees focusing on a range of topics from diplomacy to ecology.

The political and administrative autonomy that explains the new wave of violence against the Kurds in Turkey is today, together with women's liberation, one of the most important pillars of the Kurdish resistance movement.

It has not always been like that. When the PKK (Kurdistan Workers' Party) was officially created in 1978, in line with other Marxist-Leninist national liberation movements, its main objective was to create a new independent nation-state that would free Kurdistan - and the various peoples, from Armenians to Yazidis, living in its territory - from the artificial borders imposed by the Treaty of Lausanne signed in 1923 between European superpowers and the Ottoman Empire.

The paradigm began to change in 2000 at the hands of the movement's leader, Abdullah Öcalan. On the prison island of İmralı, where he has been serving a life sentence in solitary confinement since 1999, Öcalan developed the concept of "democratic modernity". He also dissolved the PKK to make way for the KCK, the Union of Kurdish Communities, an umbrella organisation with a congressional format.

The idea behind the new Kurdish liberation project, as Dilar Dirik explained to the audience in the hotel's conference room, is "to isolate the idea of the self-determination of the state". "We are victims of states that have been imposed on us, but creating another state is not the solution.

In fact, we think that it's the problem. We must separate our idea of freedom from the state", the activist affirmed. "We are fighting against strong cooperation between the nation-state, capitalism and patriarchy and we will never be able to disconnect one from the other."

The project is already a reality in various Kurdish territories and reached its peak during the revolution in Kobane, in the Rojava region in eastern Kurdistan (north of Syria). In the 1960s, this zone was targeted by the "Arab belt" policy elaborated by the Ba'ath Party regime of current president Bashar al Assad. It consisted of establishing Arab colonies in the region to alter the demographics of the area.

"The idea was to make the Arabs hostile towards the Kurds and vice-versa. It was an attempt to pit one community against the other, with one of them playing the role of an agent of the state", Ayla explained.

In 2012, the Kurdish movement decided to take over the city administration and put Öcalan's principles into practice. A revolution was declared and a social contract was signed. "The people of the region of Rojava formed a democratic opposition to Assad. They wanted to have the possibility of governing themselves and they had



the capacity to do so. It is very difficult to build self-determination without aligning oneself to one of the sides. But somehow, in spite of their ethnic and religious differences, these peoples succeeded in proposing the idea of a democratic nation in opposition to the nation-state – which is one of the main components of the capitalist system”, the lawyer stated.

“During the revolution in Rojava, military organisations, as well as civil and political organisations, succeeded in uniting Arabs, Kurds, Turks, Assyrians and Armenians around the concept of a democratic nation and in opposition to the idea of ‘one state, one nation’.”

As Ayla explained in a private conversation on the eve of the conference, this self-organisation was fundamental during the event that put Kobane in the international spotlight in 2014. After four months of resistance and hundreds of deaths, the city defeated the Islamic State. The struggle was widely exploited and romanticised by Western media, which was surprised by the images of Kurdish women of all ages taking up arms to defend the city.

It was not the first time Kurdish men and women had faced religious fundamentalism. In August, shortly before the attack on Kobane, the Yazidi population of the Iraqi city Shingal (or Sinjar) was left to its fate by the local Kurdish government and was massacred by the Isis forces, strengthened at the time by the seizure of the city of Mosul. This all occurred under the deafening silence of the actors involved in the Syrian war. The vague estimates that exist on the attack talk about 5,000 to 10,000 deaths, in addition to the 7,000 women who were kidnapped and held prisoner as sexual slaves (thousands of whom are still in captivity).

As Ayla explained, far from succumbing to the victimisation or the romanticisation of their struggle, the Yazidi women were the protagonists in the process to rebuild the city. Also, in a historical step for the Kurdish feminist movement, they created the first autonomous women’s councils in Shingal.

The same process occurred in Kobane. “Islamist forces affirmed that the attack was halal, which is the word for permissible or legal. So, they would be allowed to do whatever they wanted with the land and Kurdish women. But the women from Kobane decided to resist. They did not surrender and set up self-defence units.”

For the lawyer, “there is an ideological reality behind this decision and it is not just a question of a physical force opposing an oppressive force. This is the result of decades of struggle, decades of work, and of Kurdish women’s desire and the sacrifices they have made to organise themselves.”

On the morning of the debate, the issue took centre stage once again. When questioned by one of the activists in the audience on the apparent contradiction between armed self-

defence and the principles of the feminist movement, Ayla answered without hesitation. “The Kurdish movement is anti-militarist, but in this context of life or death, saying you are non-violent is a privilege”, a response that was met with loud applause.

Despite the attention given to the Kurdish women’s strategies of self-defence, organisations and movements such as the Free Women’s Congress (KJA) to which Ayla belongs have proven that the Kurdish feminist struggle is central in all areas of life and builds new relations between local and central structures.

The KJA was officially founded in 2015, but it dates back to the resistance struggles of women such as Leyla Zana. Leyla was the first Kurdish woman to become a parliamentarian in Turkey - a victory that Ayla Akat and other women repeated years later. Leyla shocked the central government by giving part of her inaugural speech in the Kurdish language. “I will do my best to fight for fraternity between Turks and Kurds”, she affirmed. At that time, speaking Kurdish in public places was still illegal. Three years after the speech, Zana’s party was banned and she was arrested and sentenced to 15 years in prison.

Ayla upholds the path forged by Leyla. Representing the province of Batman, she was elected for two consecutive mandates, between 2007 and 2015. In parliament, she was a member of the Committee of Justice and Constitution and the Committee of Equal Opportunities for Men and Women. She also participated in the special committee on constitutional reform: of the 12 members, she was the youngest and the only woman. In 2013, when the peace process between Turks and Kurds began, she was one of the first women politicians to meet Abdullah Öcalan in prison.

One of the most successful - and innovative - political initiatives defended by Ayla and other Kurdish women politicians is the co-presidency system. The system establishes that all leadership positions - whether in the parties or the community councils - must be shared by one man and one woman.

“It may seem unbelievable that people in the 21st century are persecuted for demanding quotas for women, but this is what happened to us. Many of us face sentences for defending this system, which establishes that the presidency of any institution must always be shared by one man and one woman”, she explained. Despite resistance from men and the institutions, co-presidency is already a fact in Kurdish cities in Turkey. According to Ayla, after the 2014 municipal elections 105 cities in Kurdistan adopted the system.

Other changes have gradually been introduced to society thanks to the work of the feminist movement. For example, the “houses for women”, which offer shelter and care to Kurdish women facing harassment and sexual or domestic violence. Any case involving gender violence is judged by autonomous tribunals formed exclusively

by women. The educational system was also reformulated to include the history of women in the curriculum and there have been changes in the communications sector. For example, Jinha, the first all-female news agency in the Middle East, was created.

"Our idea of liberation is one that is truly reflected and expressed in society", Ayla affirmed. Even so, for her, all of the work already done is not enough and not even the all-so-elusive peace in the region alone could guarantee the radical democratic freedom that the Kurdish women are proposing.

"Yes, we want to live in equality and freedom with the people with whom we live. Yes, we do want a new definition of homeland and citizenship. We want the right to education in our mother tongue. We want a central government that gives more power to local bodies. We want a new definition for secularism by which all religions, all identities and all languages can be expressed and can survive in this context. If there were peace, perhaps some of these demands would be met. Many feminist and national liberation movements went through the experience of sending people back to their homes once the general idea of liberation had been reached. But we are not here to be sent back. The women's struggle is a much longer fight."

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On October 26 2016, a few weeks after this article was written, Ayla Akat was arrested by the Turkish police while participating in a protest in front of Diyarbakir city hall against the arrest the day before of Kurdish co-mayors Firat Anli and Gültan Kisanak. Former parliamentarian Gültan was the first woman to be elected mayor of the city and is also an important figure in the Kurdish feminist movement.

The three were held for four days and, after being tried by a local court, they were transferred to the Kışanak maximum security prison over 1,300 kilometres from Diyarbakir. Their lawyers were not notified.

The public prosecutor accused Gültan of "being a member of an armed terrorist group" and Firat of "attempting to separate a portion of land under state sovereignty". As for Ayla, she was charged with "running a terrorist organisation".

Since the arrests, the Women's Free Congress has led an international campaign to pressure the Turkish government to release the group.

As mentioned in the article, the region of Diyarbakir is the epicentre of President Recep Erdoğan's latest attack on Kurdish opponents. In October and November,

dozens of activists, authorities and journalists were detained and television and radio stations were invaded and closed down.



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“THERE IS NO DEMOCRATIC DEVELOPMENT WITHOUT THE PARTICIPATION OF WOMEN”

Yiping Cai

- *The Chinese historian who advocates that men and women should have access to the same resources and rights*

By Luiza Bodenmüller

Yiping Cai came into contact with what it means to be a woman in a patriarchal society even before she was born. Baptised by her grandfather, she was given a neutral name, which is used in China for both girls and boys while the family awaits the birth of the first child. She was born as Yiping. “Even though I was born a girl, they did not change my name. So, I think they simply accepted it”, the historian commented. While she affirms that she has never suffered gender discrimination, Yiping says that she was drawn to women’s rights issues during a series of meetings.

During university, she familiarised herself with social and economic issues and even though it was rare to hear about gender in discussions, Yiping chose to view the world from this perspective. “I also began to look at the role of women in history because we didn’t talk about women. A lot of the history we study is about men. So my question was: where are the women in history?”, she remembered. It was during this period of questioning that Yiping began to work as a journalist in a newspaper for women.

For Yiping, her contact with gender issues came from her contact with reality. These issues are “holistic” and directly related to other aspects, such as social, cultural and economic ones. Even though China’s constitution recognises gender equality, Yiping believes that this

equality is not enforced in a meaningful way. When a woman gets married, for example, she ceases to be part of her family of origin and becomes a member of her husband's family. Land titles are registered in the name of the leader of the family, which is the man. Therefore, when a couple gets divorced, the woman is left without the right to land: “Where will this woman go? Where will she get access to land from?”, Cai asks. Selective abortions that allow boys to be carried to term while girls are disposed of are also common. Today, there are more boys born in China than girls. Issues seen in other developing countries also exist in China, such as the wage gap between men and women in the labour market.

According to the historian, development in China, however, especially in the late 1980s and early 1990s, brought a series of issues related to women to the surface, which had a direct impact on the traditional patriarchal society upon which the country was built. “Many policymakers recognise women's contributions and the importance of engaging women in the development process”, she affirms. “But are we also recognising women's rights or are we only seeing them as a tool for development?”

The turning point in Yiping's career was in 1995, during the Fourth World Conference on Women, held in Beijing. “Thousands of women from all over the world were discussing a range of issues that I had never thought or even heard of before. This experience made me certain that I really was interested in the matter and that this is what I wanted to work on”, Yiping explained. In her ten-year career as a reporter, she had the opportunity to come into contact with Chinese women from a wide variety of social and cultural spectra: from the country's elite to farmers and from famous to socially vulnerable women. But it was one interview in particular that sealed Yiping's fate.



After suffering from years of domestic violence, one woman felt empowered enough to lay charges against her husband and put him in prison. But the process that led to the trial had not been an easy one. For years, she sought the help of various public authorities in vain. The trial - and the conviction - was only possible after two groups linked to the fight for women's rights intervened. “What she said at the time was what made me feel the need to do something for the rights of women. She said, ‘you know, when my husband would beat me, I felt that he wasn't treating me like a human being. But when I went to these agencies for help, I realised that the people who were supposed to offer me help weren't protecting me either. They also did not treat me like a human being’”, Cai recalls.

It was these experiences that led Yiping to join DAWN – Development Alternatives with Women for a New Era. DAWN is a network that brings together activists and feminists from the Global South with the goal of producing knowledge and investing in advocacy for the construction and consolidation of public policies that propose alternatives for the inclusion of women in society. For her, there is no democratic development without the participation and contribution of women and, more importantly, if women do not occupy space as rights holders. This is where she gained the understanding that the struggle to ensure that men and women have access to the same resources and rights – and take advantage of development in the country in the same way – is a valid fight that deserves more dedication.

In the case of China, Yiping highlights some points that she feels are essential for achieving gender equality. One basic idea is the enforcement of existing laws that guarantee women's rights. Yiping emphasises that the law that criminalises domestic violence was implemented only in March 2016 and creating new laws is just as important as guaranteeing compliance with the ones that already exist. Furthermore, she believes that increasing women's political participation at all levels – from the parliament to the village councils – is vital so that women start participating in decision-making processes and putting issues and proposals on the table from the perspective of women.

This Chinese activist also stresses the importance of the feminist movement recognising - and accepting - its own diversity. There is not only one agenda; there are multiple agendas and multiple struggles and one must reflect on the tools and strategies of each of these issues in various ways and in accordance with the plurality of contexts. Finally, Cai defends dialogue between the feminist movement and other social movements. “The only way for us to become stronger is through mutual support and by building alliances, because the opposition, the institutions we face are very strong and powerful. There is no way we can win the battle alone. We need allies, support from other social movements and activists”, she argues. In Yiping's case, neutrality is limited to her name, and not her struggle. Looking at the world from a gender perspective has become the main motto of her life and her work, which is now a source of inspiration and empowerment. There is no going back on this path and it is one that cannot be walked alone.



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“I WOULDN'T TRADE WHAT I'M DOING FOR SECURITY”

Yara Sallam

- *The Egyptian, who has been jailed for more than a year for her activism, would not give up fighting for women's rights in order to lead a quieter life*

By Luiza Bodenmüller

It was not the revolution in the Arab world that freed women from the home. For Yara Sallam, women began participating in public spaces before the historical moment that the West baptised as the “Arab Spring”. “The difference between women’s participation during the revolution and prior to it is that before, it was not covered by the press or social media”, the Egyptian rights defender explained. One of the positive aspects of the revolution was that it brought a series of discussions previously considered taboo to the public stage. Issues such as sexual violence, rape and conversations on sexuality and the relationship to the body began to be part of the repertoire of public debates.

This public space was also, to a certain extent, what allowed Yara to come into contact with issues linked to human rights and, later, the rights of women. At the age of 15, she began to volunteer for organisations that held activities to build awareness on the rights of children and adolescents. Her growing interest in this issue led her to law school. During her undergraduate studies, Yara got involved in a series of civil activities: “I participated in a module on the Arab League, a module on the U.N. and I also got involved in a project for volunteers that promoted annual trips to develop artistic activities with refugees in Lebanon. But, when it was my turn to go, we couldn’t travel because of the war there and so, we went to Jordan”, she explained.

While still at university, the then aspiring lawyer started to attend courses on human rights offered by the Cairo Institute for Human Rights Studies. That was when Yara identified some problems in the field of human rights work. "I thought that people who worked on human rights did not get paid well. So, I thought, 'ok, I'm going to work for a large firm and after, I will volunteer for one of these organisations'", she noted. But it did not take long for her to become drawn to the dynamic of the work and, as soon as she graduated, she worked as a research assistant for one of her professors who was studying how women went through the legal system when they asked for a divorce and the response of private international law to these cases.

In 2007, Yara began to work on issues related to freedom of religion and belief. "For a year and a half, or almost two years, I documented and monitored the status of freedom of religion and belief in Egypt. Back then, no one had documented this properly, except the United States Embassy and Freedom House [a Washington-based think tank]", she explained. Yara dedicated her work to registering cases and legal decisions related to this issue and also violent incidents in places of worship. Between 2009 and 2011, the Egyptian lawyer concluded her LLM degree in international human rights law and worked in The Gambia, then she came back home in March 2011.

In Egypt, Yara helped create a programme for women human rights defenders – a concept that had received little attention until then. For her, being a feminist in a Muslim country is no different than in other countries. "Perhaps in Mexico, women feel free to wear what they want, but they also suffer from violence and they suffer from patriarchy in different ways. Here, I can't wear the dresses I'd like to wear, but I suffer in a different way too. Patriarchy takes on different forms", she stated.

Yara's involvement in the struggle for human rights ended up landing her in prison in 2014, when she was arrested during a protest for the liberation of political prisoners. A series of charges were brought against her and her colleagues, ranging from a simple infraction for participating in a protest to robbery and attacking public and private property. "When you go to a protest, you end up being accused of some very strange things", the lawyer stated. At the court of first instance, Yara and her colleagues were sentenced to three years in prison, three years of monitoring and to a fine. A higher level court reviewed the conviction: it eliminated the fine and lowered the sentence to two years in prison and two years of monitoring. After 15 months, however, a presidential pardon for 100 prisoners was granted, including for the case for which Yara was in prison, and she was released.

Her time in prison taught Yara many things. "This experience made me more aware of the different layers of oppression that exist", she said as she reflected on this. Living with other prisoners led her to deconstruct the stereotypes she was carrying. She realised that the majority of the crimes could have been avoided if the women would have had access to basic rights, such as the right to get a divorce and to choose the person they marry. "I know women who killed their husbands because



they were abusive, or because they had been forced to get married and wanted to escape with someone they loved”, she recalled.

For Yara, prisons fail to fulfil their fundamental role of rehabilitating human beings. Moreover, they end up reproducing the inequalities that exist outside of their walls. “I think they also end up isolating disadvantaged people. What I saw was that only a small number [of the prisoners] deserved to be in prison: people who actually robbed millions of dollars, corrupt people. But they put people in jail who are addicted to drugs or who are sex workers. This made me very aware of the different layers of oppression women are subjected to. It also made me more conscious of my own privileges”, she concluded.

The fifteen months of confinement served as fuel for Yara’s fight. Even in the midst of the government crackdown on people who get involved in issues of public interest and go beyond the limits of private space, she still finds ways to act. “They only want to scare us so we stop doing our work, and I don’t want to stop. I don’t want to give up my work. I wouldn’t trade what I’m doing for security”, the lawyer stressed. Yara looks to the engagement of new generations for hope.

“A lot of investment could be made in the new generations because they are very politicised”, she said in reference to youths who grew up during the revolution. For her, political training for women is one of the challenges feminism in Egypt faces. Another point to be explored is that of the production of knowledge and the documentation of experiences in Arabic so that women can have access to the discussions and reflect on the daily practice of feminism. She believes that these factors, combined with the search for new tools, will strengthen the fight for women’s rights in her country. That is one of the important outcomes, which made her return to her origins - both geographical and the origin of her struggle.



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“THE BODY IS THE PLACE WHERE ALL STRUGGLES ARE LOCATED”

Sibongile Ndashe

- *For the South African lawyer, the issue of sexuality carries with it the multiple facets of systems of oppression*

By Luiza Bodenmüller

Where does the struggle for women’s rights begin? Some say that it is necessary to take to the streets or wage a more active battle against social norms. For South African activist Sibongile Ndashe, these alternatives are not mutually exclusive, but the struggle begins with the appropriation of one’s own body. Sexual rights are central on the path to other rights. Both oppression and the freedoms won by struggle are manifested in the body. Gender identity, sexual orientation, civil rights: everything has to do with the body. But by the time Sibongile came to this conclusion, a lot had already happened.

Even though she has been a feminist for as long as she can remember, Sibongile identified a high school activity as a turning point in her life. A debate on “The changing role of women in society today” led her to start asking herself about the role of women, with school itself serving as the point of departure of this inquiry. “That was when I began to question what was accepted as normal in society, at school, in the family and everywhere by asking simple questions such as: Why is it that only girls learn to embroider? Why are boys always building things?”, she recalls.

This discovery allowed the young woman to develop a keener eye, which she began to focus more on the positions that women held in society. It was in the late 1980s when Sibongile realised that some women could take on leadership roles at a time when this still caused a certain amount of surprise. The examples of Margaret Thatcher – even though she disagreed with her policies – and Ntombi (queen regent of Swaziland who

assumed power after her husband’s death) showed Sibongile that women could be “as brutal, as efficient and as combative as any man” while in positions of power. “That was when it hit me that there was something wrong with the way our society was configured and with the way gender roles were enhanced”, she explains.

At the age of 16, Sibongile entered law school, where she became immersed in the universe of knowledge production on the fight for women’s rights. At the beginning of the course, she got involved in groups linked to the defence of human rights. It did not take her long to dedicate herself more intensely to women’s issues. “I knew I was a feminist, but I didn’t think that my life would be defined by my work with feminism”, she affirmed. Sibongile began to work for organisations that engaged in constitutional litigation to guarantee the rights of women.

The experience that Sibongile accumulated over the years enabled her to identify flaws in the way that women’s human rights are litigated, which ended up being the focus of her work. It was in this context that in 2014 she founded ISLA – Initiative for Strategic Litigation in Africa, a Pan-African network that seeks to train lawyers and activists to develop jurisprudence on sexual rights and the rights of women. “ISLA arose from the recognition that there was a lack of skills and there were no institutions that engaged in strategic litigation specifically on women’s rights. I noticed this when I was analysing jurisprudence and noted that the rights of women were not characterised as such [in legislation]”, she explained.

Since then, ISLA has begun to work in several African countries with the goal of identifying legal loopholes that limit women’s access to rights and attempting to remedy them through strategic litigation. Sibongile tells us that currently, for example, the organisation has led a process, working with other women’s rights organisations from across the continent to ask the African Court on Human and People’s Rights to clarify state obligation in the process of registration of marriages. In some countries, there is a requirement that for a marriage to be recognised, it must be registered. As a result, many women who go through a divorce or lose their partner through death are unable to guarantee their rights, such as keeping their home, because they do not have a marriage licence. “The law is not always right. Our work is to guarantee that the law is just, that it delivers justice”, the lawyer argues.

The experience of working on the African continent helped Sibongile understand that the feminist movement is not homogenous and that there are different issues and different ways of fighting for rights. She noted significant growth in women’s engagement in the movement, especially among young women. “Now that we have people in power and in the government saying such horrible things about women, about the rights of women, it is important to have a new narrative that talks about defying, being disruptive and transforming what has been put there and take back what belongs to us as women, as citizens”, she affirms. Sibongile also voices self-criticism of the feminist movement of her time, in her country

of birth, South Africa. According to her, 20 years ago, activists believed that after the post-apartheid parliament and a number of progressive laws, the system would work in favour of the feminist cause and that the government would be willing to implement the laws for which they had fought so hard, which is not what happened.

Sibongile argues that the fight for women's rights should be viewed from a broader perspective, which necessarily involves the defence of sexual rights. "The body is the place where all struggles are located", she summarises. For her, the issue of sexuality is key, as it bears the multiple facets of the systems of oppression that complement one another. The body is where the force of social norms and conventions, racism and the pressure on women to assume and perform certain roles are expressed. The lawyer argues that women who challenge such norms and roles are treated as wrongdoers, but, in truth, they are only seeking coherence when they defend rights and occupy spaces that are in tune with their own purpose in life.

Oddly, a considerable part of her inspiration and support at the beginning of her career came from a patriarchal figure: her own father, who passed away in 2012. "My father was not conventional. He was a rebel and he made me question and challenge things", she explains. "My father thought my feminism should be supported. So, when I would give an interview on the radio, he would call people and say, 'you should listen to what she has to say'", she adds. Even so, she affirms that he was "comfortable in his own gender role, as the patriarch of the home."

For Sibongile, the struggles on the feminist agenda are intersectoral and should not



be limited to fighting patriarchy. In her opinion, phenomena such as militarisation, racism and systems such as capitalism act in an oppressive way and perpetuate inequality. The perpetuation of these models contributes directly to the invisibility or marginalisation of women. Even so, Sibongile is optimistic and believes in using law as a tool for social change. Ever since she first recognised herself as a feminist, all of her work has been geared towards promoting the rights of women and fighting for a society in which their space is guaranteed. If the women's revolution begins with the understanding that the body is the beginning of all struggles, Sibongile gives herself as an offering and takes upon herself part of the responsibility of confronting and transforming the systems that oppress the women of the African continent.

"THE BODY IS THE PLACE WHERE ALL STRUGGLES ARE LOCATED"



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“I KNOW WHO IS GOING TO END THE WAR IN KOREA: THE WOMEN”

Christine Ahn

- *The South Korean activist who organises thousands of women from North and South Korea in acts of peace*

By Luiza Bodenmüller

It all began with a dream. During a bout of insomnia, Christine Ahn read a report on the flood of the Imjin River, which cuts across the Korean peninsula and runs from the north to the south. Fearing losses on plantations, the North Korean government decided to open the floodgates to drain excess water without warning its South Korean neighbours. As a result, torrents of water gushed into the lower part of the river, causing the death of many people, including a father and a son who were fishing there at the time. Touched by the story, this South Korean woman and youngest of ten siblings had a visionary dream. In it, Christine was waiting for help on the shores of the Imjin River. At sunrise, a source of diffused light began to run through the river and shine on everyone there, showing scenes of happiness and of families separated by the border being reunited. In the dream, Christine was only a spectator. Curious to find out where the light was coming from, she followed the river upstream. “That is when I came upon the source of the light, which was a circle of women. They were mixing something in a very big caldron and then they would scoop it up with a spoon and put it into small pots that turned into light as they floated down the river”, she recalled.

Christine awoke with a start and said her husband, “I know who is going to end the war in Korea: the women.” The answer she received was, “Okay, you’re nuts. Go back to sleep.” This was in 2009 and since then, Ahn has dedicated herself to understanding the context of women’s struggles in the two Koreas and how they can contribute to the peace building process. Looking back at the past, she discovered that since the division of the peninsula in

1948, the first meeting between North and South Korean women was held only in 1991, which was mediated by a Japanese parliamentarian. Feeling the urge to do something, the activist came across a news story in 2013 on the crossing of the Korean Demilitarised Zone (DMZ) by five New Zealanders. The zone is a narrow strip of land demarcated in 1953 that separates the two countries and is controlled by United States troops under the auspices of the United Nations (U.N.). "When I saw that, I knew that women could do the same thing to demand peace and an end to the war", Ahn explained.



That was when Christine began to mobilise to build support for the crossing. Promoted by her non-governmental organisation, *Women Cross DMZ*, the proposal won the support of prominent figures such as the American feminist Gloria Steinem, Liberian activist and 2011 Nobel Peace Prize laureate Leymah Gbowee and 1976 Nobel Peace Prize winner Mairead Maguire from Northern Ireland. Together, they saw the group grow and the idea take shape. In May 2015, 30 women from 15 nationalities travelled to Korea, where they joined thousands of others on both sides of the border to demand an end to the war and the establishment of lasting peace through a peace accord. The original idea was to cross the DMZ on a peaceful walk and unite women separated by limits that did not necessarily belong to them. The undertaking, however, was blocked at the last minute, even though it had the authorisation of both Korean governments. Claiming that it was due to "security reasons", the military forces that control the DMZ stopped the march and the women had to make the journey by bus. "They said it was dangerous, but we wanted to walk on the same road that the bus took", Christine explained.

The event drew the attention of the international press and the mobilising did not stop there. In 2016, another attempt was made to reunite women from North and South Korea, this time in Bali. They were unable to go ahead with the meeting because the South Korean government banned all interaction with North Korean civilians after dictator Kim Jong-un conducted nuclear weapons tests in September of that year. The unexpected incident did not slow the fight down. At the end of September, women from 38 countries signed a letter addressed to U.N. Secretary General, South Korean Ban Ki-moon, who had declared in 2007 that "Beyond a peaceful resolution of the nuclear issue with North Korea, we should aim to establish a peace mechanism through transition from armistice to a permanent peace treaty." The group saw Ban as a strategic target for action because even though he is leaving the highest position at the U.N., there is speculation that he will run for the presidency of his country with the Conservative Party.

But not all the feminist ideas that Christine puts into practice get press coverage. In fact, her biggest challenge is daily and in her home: raising her four-year-old daughter. The activist believes that the fight for equal rights between women and men begins at home and involves providing a more “neutral” education in relation to gender. She remembers overhearing a discussion between her daughter and a friend. It was a simple conversation between the two children: boys like trains and cars and girls want to be princesses. Christine took advantage of the situation to question them on the reasons for this. She explained that both could have the same interests and gave a practical example of how gender differences are expressed in daily life: “I turned to my daughter and said, ‘if you and your friend do the same work such as, for example, making the bed, he will receive ten dollars for it and you will earn only seven’”, she told us.

The South Korean activist rejects the common idea that “feminist women want to be like men”. For her, if this were true, there would be a process of “dehumanising” women. She developed this view through her contacts with South Korean feminists, who see the origins of the masculinised and patriarchal society as being directly related to the militarisation process. In South Korea, military service is mandatory for young men when they turn 18, under threat of imprisonment. According to Christine, “these youth are trained to be more violent, more aggressive, more combative. They are dehumanised.” She affirms that the direct impact of this is the high incidence of domestic violence in the country and the naturalisation of the idea that women must be submissive.

Even so, she believes that the present is an interesting time because even with a female president (Park Geun-hye took office in 2013), women have suffered from a “deterioration” in their rights, but they have reacted to this. Christine mentioned a recent protest by sex workers who took to the street dressed as shamans to demand more rights and affirms that the occupation of public spaces like this by women is something new. Another example was the rally against the installation of an anti-missile defence system in which the front line was composed of monks and nuns. Christine also commented on the launch of a film – a lesbian thriller – that talks about the struggle of young South Korean women against patriarchy and emphasised that, “10 years ago, it would have been impossible to launch a film like this one.”

Whether at home or on the street, Christine asserts that to strengthen the feminist movement, especially the South Korean one, a language that does not exclude anyone, is accessible and facilitates the participation of all woman must be adopted. The activist also criticises the “establishment of hierarchy” among feminists, which occurs when women who are at the top or become famous because of the struggle are valued more. She believes that this behaviour reproduces the dynamics of patriarchy in the society, when in truth, the movement must be more empathetic and look at women in a more egalitarian way.

The fact is that, from time to time, Christine sees initiatives that remind her of the dream that started all of this and this becomes fuel to continue fighting. Whether crossing the

DMZ with dozens of women or stimulating her daughter's interest in "topics for boys", Christine argues that the shift from a patriarchal society to a society in which women have more space and rights requires giving greater visibility to the discussion. This would generate a chain reaction that inspires other women to join the struggle. Protagonism, then, would stop being merely a dream, as Christine experienced, to become a reality.



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INSTITUTIONAL OUTLOOK



RETHINKING FUNDING FOR WOMEN'S RIGHTS

Ellen Sprenger

RETHINKING FUNDING FOR WOMEN'S RIGHTS

Ellen Sprenger

- *How to build greater financial resilience and strength in your organisation*

ABSTRACT

Drawing on her decades of experience working for leading civil society organisations (CSOs), as well as from her current role consulting internationally for the sector and assisting CSOs to become financially resilient, Ellen Sprenger discusses the key trends affecting women's rights organisations (WROs) in the Global South. In doing so she outlines how WROs can more effectively raise resources from diverse sources, how to respond to financial uncertainty and how they can more directly impact the strategies of donors. We also learn how Ellen came to focus on this increasingly crucial part of ensuring a sustainable, independent and impactful women's rights movement.

KEYWORDS

Financial resilience | fundraising | Women's movement

1 • What are the main trends in financing women's rights organisations in the Global South?

While there is growing attention for advancing women's rights and gender justice among funders globally, this does not always translate into funding for women's rights organisations (WROs). Because WROs are involved in some of the most cutting edge and transformative work, they tend to challenge the status quo, and it takes a special kind of funder to support this work. But there are several other dynamics at play.

Over the past 10 years, roughly 70 countries have instituted restrictive laws on civil society organisations (CSOs), and in one-third of those we're seeing more restrictions on receiving foreign funding. Activism is being criminalised in a growing number of countries. This puts increased pressure on human rights defenders and their security and safety needs. And in so-called middle-income countries, international funders have reduced levels of funding on the assumption that a growing economy will lead to more equality, including gender justice and women's rights, and that national-level resources will be sufficient to support this work. I think the AWID website is a great resource on the ever-changing funding landscape from the perspective of women's human rights.

Overall, WROs are operating in a funding environment in which foreign grants are increasingly hard to secure. Such high dependency on a relatively small group of sources represents a significant risk. In response, organisations are starting to diversify income and revenue generation away from grants. There are WROs building a local support base of individual donors in South Africa, Brazil, Mexico and India. And women's funds, such as Semillas in Mexico and Elás in Brazil, are real pioneers in this area. Crowdfunding is also becoming more widespread, as well as engagement strategies with corporations. For example, the newly created win-win coalition is all about building cross-sector engagement for the advancement of women's rights.

We are also seeing a growing emphasis on developing capital assets, such as organisational reserves, real estate, or land to create more financial stability and additional ways of generating income.

Another trend is the creation of so-called hybrid models where there's a blurring of lines between "doing good" and "making money". This is reflected in terms like "social enterprise" and "impact investing". While it is not always possible to monetise women's rights work, it is important to keep an open mind. Success in this environment requires big strategic thinking and a good dose of creativity and I believe it is possible to come up with models where "social" comes first while at the same time healthy income streams are generated. A growing number of WROs are establishing a corporate entity alongside their original non-profit entity in order to tap into commercial revenue streams.

While grants from a relatively small group of Global North based foundations and governments still represent the vast majority of combined revenues for WROs in the

Global South, this is starting to shift. If you want to build real financial strength, you have to look beyond grants.

2 • How can women's rights organisations influence donor policies or decisions?

Get creative! When India's federal government tightened rules governing access to foreign funding, the Manas Foundation saw an opportunity to initiate a public-private partnership that is making New Delhi safer for women. By partnering with the New Delhi municipal government and corporate partners, they were able to train over 200,000 New Delhi-based auto-rickshaw and taxi drivers in preventing sexual harassment and violence against women.

The New Delhi municipal government made the training a requirement for drivers wanting to maintain their licence, while corporate partners provided the necessary funding through their Corporate Social Responsibility programs. All stakeholders involved are learning from each other and conversations about expanding to other urban areas.

While resource mobilisation is not easy, and sometimes downright frustrating, it is not helpful to frame the relationship with funders as "us" versus "them". The reality is much more nuanced. Many WRO leaders sit on foundation boards or are consulted on strategy issues, and many working in funding agencies have roots in women's rights movements. Real transformation takes place when CSO leaders and funders come together around shared purpose and figure out how to best move money and power towards rights and justice.

A great example of an organisation that is influencing donor policies and decisions is the Association for Women's Rights in Development (AWID). By pointing out how little funding goes to WROs and movements, and by developing engagement strategies with allies inside funding institutions, they have, in my estimate, been able to leverage close to US\$ 250 million in funding for WROs over the last 10 years.

While strong, mutually advantageous and transformational relationships between CSOs and funders are not always possible, when they do materialise they strengthen the larger ecosystem of advancing rights and justice that can achieve powerful goals beyond the reach of a single entity.

3 • What led you to focus your work on financial resilience in women's rights organisations?

I have been part of social movements since my teenage years growing up in the Netherlands – but I was impatient, I always felt that we weren't making progress fast enough. After completing my Masters in Development Studies and spending seven years with Oxfam Novib, I was keen to know what social movements could borrow

from the corporate sector's emphasis on "getting things done". So I did my Masters in Business Administration. In a class with two women and 50 men, I was the only "non-profit" type. I felt like an undercover agent and loved it.

At the time, in the early 2000s, many WROs were trying to figure out "the money thing". Where was the money, and how could we access more of it? When I became the executive director of Mama Cash, an Amsterdam based feminist foundation promoting women's rights globally, I went through my own steep learning curve around resource mobilisation. I learned a lot from my American peers, whose way of relating to money and approach to fundraising was quite different to that of my peers in Europe. They helped me see money not as a means to an end but as an integral and creative part of realising rights and justice. My focus shifted from raising money to instead establishing relationships with donors and funders around shared purpose, passion and the exchange of ideas, connections and information.

I learned to see how valuable I was to them, as a source of information, inspiration and connections. This paradigm shift made fundraising much less scary and intimidating and a whole lot more interesting. And a whole lot more successful.

After leaving Mama Cash, I started Spring Strategies to support CSOs in realising ambitious goals. Our work on financial resilience soon became our fastest growing programme. Financial resilience is a big issue that keeps many CSO leaders up at night.

We use the term *resilience* to emphasise the importance of being proactive and dynamic in engaging with the funding landscape. Given that this landscape is constantly changing, and is in many places in a state of disruption, it is important to think and plan ahead. Think about governments that restrict CSOs from receiving foreign grants, or the way aid priorities have become increasingly tied to trade. We believe that those able to find inspiration in this disruption can turn challenging external contexts into real opportunities. And it is exciting to see how CSOs globally are responding to this challenge by creating new financing models.

4 • What can organisations do to better to attract resources?

First, it is important to rethink the relationship with funders. If we feel intimidated or unequal going into a meeting, we might not ask for what we really need, or we might not push back when a funder makes an unfavourable request. The end result is that organisations are left with project funding (rather than core funding) and struggle to stay true to their mission. In our financial resilience work at Spring Strategies, we delve deeply into how to develop more mutual and transformative engagements, with real room for exploration, sharing and co-creation. It's key to check in with yourself about how you frame the relationship with your funders.

Second, we need to do away with the “overhead myth”. Many funders believe that less overhead is better, as if organisations can tackle huge challenges like human rights violations and climate change without a strong and enabling organisational infrastructure that includes good salaries, excellent technology, persuasive communications, strong financial systems and office spaces that inspire. It’s important to educate funders and negotiate grants that make organisations stronger rather than weaker. At Spring Strategies we encourage people to use the term “Core Mission Support” instead of “Overhead” in order to emphasise that these costs are not an add on, but essential to the success and impact of the organisation.

Third, diversification of funding sources can help organisations weather disruption. While foreign grants will continue to play a big part in financing WROs globally, it is critical to look beyond these grants. Innovation is vital, especially where WROs are positioning themselves for investment capital or impact investment grants, or are building an individual support base.

Fourth, relationships are key. It’s important to really understand the funder and its priorities. Too many groups do not take the time to understand who they are communicating with, and are presenting the same standard proposal to different funders.

Try to approach the relationship-building process in stages. Start with a phone call or an appointment – put out a call to your network to make an introduction if you’re building a new relationship – and use the opportunity to explore what the funder is interested in. Explain in clear and compelling terms why you do the work you do. Invite questions. This process of getting to know one another allows both parties to learn new things that may impact and strengthen the work. And after this meeting, send a short summary of what you discussed and agreed, clarifying parameters before sitting down to write the proposal.

Finally, write funding proposals in a clear and compelling way; include a cover note with a short summary. This makes it easier for funders to understand your work, which in turn raises the chances of a favourable decision.

5 • What are your five top tips for women’s human rights organisations facing financial uncertainty?

1 • Make sure to have a very clear and relevant strategy as an organisation. It should capture why you do what you do and what you are aiming to achieve. Your strategic plan is essentially your proposal to funders; it captures everything you are looking to raise funds for. Having a clear strategic direction makes it a lot easier to raise mission-aligned funding, as opposed to funds for a wide range of projects and activities.

2 • Your website matters - a lot. Research shows that individuals looking to make a financial contribution nearly always check your website and base their final decision on what they

find. You can count on grant-makers checking your website for evidence of purpose and impact - all presented in a clear and compelling way.

3 • Talk to your colleagues and peers about resource mobilisation and share and collaborate wherever you can. Be generous with your information and expect others to do the same. In the end it is about building strong collaborations and movements, not just individual organisations.

4 • Some say “money follows a great idea”. I say money follows a great idea shared in a compelling way. Being inspiring and visible as a thought leader not only helps transform and strengthen the field and movement, it also makes you an attractive player in which to invest resources. So stand out and seek visibility.

5 • And finally, go to the AWID website and learn everything you can about the ever-changing funding landscape. We are very fortunate in the global women's movement to have a one-stop shop for just about everything you need to know about funding for women's human rights. And it is available in French, Spanish and English.



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