With Liberty & Justice For All:

Women's Human Rights in the United States

★ ★ ★

Mallika Dutt

CENTER FOR WOMEN'S GLOBAL LEADERSHIP

With Liberty & Justice For All:

Women's Human Rights in the United States

★ ★ ★

Mallika Dutt

CENTER FOR WOMEN'S GLOBAL LEADERSHIP

First printing: December 1994
© 1994. Mallika Dutt

Printed on recycled paper

Designed by Cadence Giersbach and Cynthia Madansky
Printed by Magic Circle, New York, NY

Contents

Preface -i-

Foreword -ii-

Introduction -1-

★ Part One ★
Understanding Human Rights -5-

Why a Human Rights Framework for Women in the United States? -5-
At the national level
At the global level

Why Human Rights? -8-
The concept of human rights
Human rights instruments and mechanisms
Mainstream emphasis on civil and political rights
Rights and their relation to community and culture

Placing Women on the Human Rights Agenda -16-

★ Part Two ★
Organizing With Human Rights -21-

Popular Education -21-

Local & National Campaigns for Women's Human Rights -23-
Economic and Social Rights
Violence Against Women
Health and Reproductive Rights

Global Campaign for Women's Human Rights -29-
Hearings and Tribunals
16 Days of Activism Against Gender Violence and UN Petition

UN Conventions and Mechanisms -32-

World Conferences -33-

Conclusion -35-

Preface

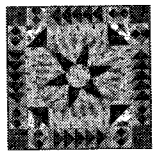
The Center for Women's Global Leadership is pleased to publish this booklet as the third in its series of working papers on Women and Human Rights. This series is intended to promote international discussion of critical conceptual and strategic questions regarding women's human rights and the development of a human rights agenda that incorporates women's perspectives and experiences.

This booklet, written by the Global Center's Associate Director, Mallika Dutt, introduces our U.S. women's human rights program initiated in 1994. Since its inception, the Center has included women from the U.S. in all its activities, and has considered global education on women's human rights within this country as one of its mandates. Nevertheless, we have not seen a significant movement toward the use of the human rights framework emerge among women here. We believe that a women's human rights movement in the U.S. is needed both to strengthen women's organizing around domestic issues by putting them in a global context and to address more forcefully how U.S. policies affect women's human rights elsewhere. We have therefore decided to develop a specific program in this country to help catalyze a domestic movement around women's human rights.

Mallika Dutt came to the Center as Associate Director in early 1994 with a particular interest in developing such a U.S. women's human rights movement. Her concept paper on the theoretical and strategic issues that such an effort involves served as the background document for the U.S. Strategic Planning Meeting held by the Global Center in April of 1994. Based on that meeting, she has further developed that paper into this booklet which examines the questions about and obstacles to using a human rights framework in the U.S. and suggests many concrete directions that such organizing can take. We hope that it will serve as a useful tool for those seeking to work toward a women's human rights movement in this country.

I particularly want to thank Mallika Dutt for writing this booklet and for pushing the Center to engage more in human rights work in the U.S. The preparation of this publication has been ably assisted by Sam Frost, Deevy Holcomb, Virginia Ahearn, Cadence Giersbach, and Cynthia Madansky. Finally, we want to thank Margaret Schink of the Shaler Adams Foundation for her continual support and belief in the importance of this work and Sister Fund, Rockefeller Family Fund and Jessie Smith Noyes Foundation which also support our U.S. women's human rights project.

Charlotte Bunch
Director



Foreward

This pamphlet provides a framework for discussing how human rights can be a useful political tool to advance the concerns and agendas of women in the United States. Human rights principles offer the potential for a global normative vision with an analysis that connects gender to race, class, religion, sexuality, culture etc. My aim is not to recommend a totalizing ideology that subsumes difference, but rather to suggest a framework of principles that will enable women to challenge the location of power. My hope is that we will develop a human rights language that is able to incorporate difference in a positive and empowering way while we forge an alternative global vision.

This paper was originally written in preparation for a three-day Strategic Planning Meeting convened by the Center for Women's Global Leadership in April 1994. This meeting brought together twenty women from around the country to explore the use of human rights in organizing for social change in the United States.[1] The meeting began a dialogue among women who organize around diverse issues such as reproductive health, lesbian and gay rights, economic justice, the impact of the religious right, violence against women, and labor rights.

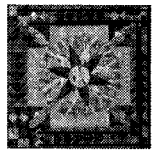
Some of the questions explored by Institute participants were: Is human rights a transformative vision or does it merely provide an additional tool for organizing? Would the framework of human rights help to build an alternative economic agenda? Is the goal to build a human rights movement or to have women organize in a different way? Is it possible to build a common agenda among women that goes beyond the issue of violence against women, and could the concept of human rights help to create this common agenda? The meeting generated some provocative discussions that highlighted many of the

1 The report from the Strategic Planning Meeting is available from the Global Center Participants included: Valorie Caffee, NJ YWCA; Rhonda Copelon, International Women's Human Rights Law Clinic-CUNY Law School; Liliana Cortes, MADRE; Dianne Forte, National Black Women's Health Project; Wenny Kusuma, La Casa de Las Madres, Cece Madupe Fadope, U.S. Women of Color Delegation to the International Conference on Population and Development; Elmira Nazombe, Church World Service; Suzanne Pharr, The Women's Project; Susan Roche, University of Vermont; Cecilia Rodriguez, The Funding Exchange; Rinku Sen, Center for Third World Organizing; Marsha Sfeir, Education Wife Assault; Vivian Stromberg, MADRE; Dorothy Q. Thomas, Human Rights Watch-Women's Rights Project; Urvashi Vaid; Ingrid Washinawatok, Indigenous Women's Network; Leah Wise, Southerners for Economic Justice and several staff members from the Center for Women's Global Leadership.

challenges to using a human rights framework in local organizing. While this paper cannot provide definitive answers to these questions, it is my hope that it will be a catalyst for discussions among women around the country that might prove useful in building a multi-issue movement for social change.

I wish to thank all the participants for their invaluable contribution to my understanding of both the value and the limitations of using human rights as an organizing framework in this country. My thanks also to Leni Marin who has been the source of so much support in this work. I also want to thank Charlotte Bunch, Susana Fried, Sam Frost, and Niamh Reilly for their help with this paper. I look forward to a collaboration with increasing numbers of women as we move toward the creation of a society based on respect for the fundamental human rights of all.

Mallika Dutt
Associate Director



Introduction

The world is undergoing significant transformations which provide both new opportunities and pose serious challenges to the creation of a just world order. The politics internal to most countries around the world occurs against the backdrop of some common global trends.[1] For example, with the break-up of the Soviet Union, the force of socialism as an alternative to capitalism has been seriously undermined. The free market system is now regarded as the only viable economic system. This trend towards the free market model of economics, combined with technological innovation and increasingly fluid capital, has resulted in the creation of an international global economy. Such emphasis on the "market" as the answer to all economic problems, in conjunction with unfettered capital mobility, has led to the growing power of transnational corporations and a corresponding decline in the role of the state. Recent international economic accords, such as the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT), have further consolidated the power of transnational corporations and eviscerated state sovereignty.[2]

For many Third World countries, sovereignty has long been circumscribed by the power of the North and by the role of such multilateral institutions as the World Bank and the International Monetary Fund (IMF). Third World debt and the corresponding balance of payments problems are addressed through the provision of an increasing number of larger loans that have more and more conditions attached. These conditions, known as structural adjustment programs (SAPS), have generally required the dismantling of social services, the removal of subsidies and reduction of government employment, and the promotion of export-oriented growth strategies. The consequences for a majority of people, and especially for women, have been devastating. In the United States, particularly during the Reagan and Bush years, similar structural adjustments have taken place, although it is important to note that the U.S. is not subject

1 For an excellent and lengthy discussion of some of these issues, see Kothari, Rajni. *Growing Amnesia: An Essay on Poverty and the Human Consciousness.* (New York: Viking Press, 1993).

2 Brecher, Jeremy. "After NAFTA: Global Village or Global Pillage." *The Nation.* December 6, 1993.

to the strictures imposed by the World Bank and the International Monetary Fund.[3]

Parallel to the trend toward the globalization of the economy has come an increase in religious fundamentalism as well as in the assertion of ethnic identity. Religious fundamentalism, whether it be Christian, Jewish, Hindu, or Muslim, has infused public debate on many issues through an organized and concerted focus on definitions of the family and the state. Religious fundamentalism places great emphasis on the role of culture and religion in society, and in particular on the role of the family.[4] Since women are held responsible for the well-being of the family and are often considered to be the site of the preservation of tradition and culture, the growing power of religious fundamentalism reinforces patriarchal notions of appropriate roles for women both within the home and without. Restrictive prescriptions about dress, public mobility, and sexuality have surfaced worldwide, accompanied by an increase in violence against women who break these rules. Gains that have been made in some countries in the areas of reproductive control, sexual choice, divorce, child support, and access to the work force are now often under attack. The rise in ethnic nationalism is a separate yet interlinked phenomena. In many cases, ethnic nationalism is the underlying motivation for the demand for statehood; it is also a common reason for bloody conflicts between majority and minority communities within geographic territories. Often, this too demands control over women's sexuality and reproduction in order to maintain the "borders" of ethnic identity.

These global trends have manifestations in the United States. The economic globalization process and the Reagan-Bush legacy have spurred a decrease in real wages, a rise in contingent or temporary work, the loss of jobs, and a continuing growth in homelessness and poverty. As the very basis of democracy, the electoral process in the U.S. faces a predicament as fewer and fewer citizens vote and people become increasingly cynical about representational politics. In terms of the increased influence of religious fundamentalism in the U.S., the religious right has used issues like abortion and lesbian and gay rights to capitalize on people's uncertainties about their livelihood and increase its power in policy-making and in setting social agendas. It has also fomented the currents of racism prevalent throughout the U.S., with the result that anti-immigrant sentiment is on the rise and people of color

3 Alternative Women in Development (Alt-WID). *Reaganomics and Women: Structural Adjustment U.S. Style, 1980-1992.* (Washington, DC: Center of Concern, 1992).

4 See Hardacre, Helen. "The Impact of Fundamentalisms on Women, the Family and Interpersonal Relations" in Marty, Martin E., and R. Scott Appleby, eds. *Fundamentalisms and Society.* (Chicago, IL: University of Chicago Press, 1993).

are being scapegoated for the country's problems. While the U.S. faces a complex number of internal crises as a result of domestic policies and changes in global politics, American foreign policy continues to be interventionist without the check that used to be imposed by the presence of the Soviet Union as a balancing world power.

The changing role of the state in the trend towards globalization of economics and politics poses new challenges to grassroots organizing. The state has generally been a primary focus of movements for social change where people have struggled to make it more accountable to marginalized or oppressed groups in society. The focus on the state has taken different forms. In some parts of the world, the authoritarian or the heavily bureaucratic structure of state power has been an obstacle to achieving justice and therefore, groups have attempted to dismantle or reform the state apparatus. In other countries, the struggle to achieve justice has tended to focus on transforming the electoral system so that it will be more representative of different groups. However, with the growing conservatism *vis à vis* the "welfare" state in Western countries and the globalization of the market system, it has become more difficult to hold the state accountable for its actions. The issue of accountability has therefore become increasingly complex since it is even more difficult to hold the "market" accountable for the effects it has on society.

At the same time that women all over the world grapple with these contemporary political processes, they continue to contend with pervasive, day-to-day violence. Women experience female foeticide; selective malnourishment; domestic violence; and rape and torture on a mass scale in times of peace and war, in refugee communities, at home, and in the workplace. In addition, the problems of unequal wages, unpaid labor, land ownership, and access to resources like water and firewood continue to pose serious obstacles to women's full participation in civil society.

Women have struggled against these difficulties at multiple levels, including the family, society, the state, and international systems. A deeper understanding of the roles that class, race, sexuality, culture, and geography play in defining women's experiences has developed through these struggles. Despite the very real differences that exist among women, vibrant communities of women combatting myriad forms of injustice can be found all over the world. In fact, women's movements have become a powerful voice for change globally.

The trends touched on above combine to create a state of flux across the globe that provides women's movements with important opportunities to participate in and define the new world order. This

potential can only be realized if women recognize the possibilities and move from a process of networking toward creating strategies that will have greater impact. A movement in this direction requires an understanding of the interconnectedness of women's oppression across identity and issue lines; it also requires a political analysis that connects local organizing to global trends and movements. Organizing in this manner can happen at many levels and in collaboration with diverse movements and actors. This paper examines human rights as a useful framework for women to consider in their work to challenge and define this new world order.

★ **Part One** ★

Understanding Human Rights

An understanding of human rights requires some insight into why it would be useful in local and global organizing. In addition, it is important to compare and contrast the legal and normative bases of the human rights paradigm in order to understand their constraints and potential for advancing women's concerns. This section lays out the importance of the human rights framework for U.S. women's movements; it also describes how women's political perspectives can transform it into an effective organizing tool. This section also argues for a more fundamental value-based understanding of human rights which could provide an underpinning for defining civil society.

Why A Human Rights Framework for Women in the United States?

The need to create a human rights movement for women in the U.S. is critical for two broad reasons. First, even though there is a tendency for Americans to assume that "human rights" is generally an overseas matter, a human rights framework could be used quite advantageously to further women's concerns in this country. Second, given the changing global structure and the role of the United States as a superpower, it is essential for U.S. women to participate in such a movement. This is critical not only because women in the U.S. are affected by global economics and politics, but also because our government's actions affect women all over the world.

At the national level

Women's concerns have always been marginalized or considered secondary to what are seen as the "more critical" issues that face society. The move to categorize women's rights as human rights forces public recognition that the resolution of women's issues is fundamental to the success of many current initiatives. For example, there is

increasing public concern about violence in society, and both media and the government place great emphasis on ending this violence. Women have faced domestic violence, rape, and sexual harassment at epidemic levels for decades, but this has not been seen as a major social problem. One way to encourage more public attention to such issues is to insist that violence against women is a human rights violation that therefore cannot simply be dismissed as a "private matter." This strategy was used successfully on a global level at the second UN World Conference on Human Rights held in Vienna, June 1993.

Using a human rights framework for analysis and organizing creates a basis for women to come together across different issues.[6] Women's position in society is the result of a confluence of factors, yet organizing tends to be single-issue oriented. Such "single-issue" political organizing in the U.S. has resulted in fragmented women's movements: domestic violence activists have little to do with advocates for homeless women, even though battered women comprise a large percentage of the homeless population. Child-care workers who work in day care centers do not often organize with domestic workers, even though the wages of both are kept low by forces in society that benefit from their lack of unity. There is also very little strategic interaction between welfare organizers and reproductive rights activists, even though women on welfare have been the targets of repressive reproductive policies. A human rights framework, which brings a holistic perspective to the needs and rights of each individual, enables women to bring together the wealth of knowledge of organizing around specific issues to create a shared agenda at local, national, and international levels without detracting from their specific area of organizing.

The human rights framework also enables women to work across differences of race, class, culture, ethnicity, religion, and sexual orientation, and to build on the strengths of identity-based organizing while moving beyond its limitations. The concept of human rights requires an articulation of basic fundamental rights to which all human beings are entitled. The creation of a human rights agenda that is meaningful for all women requires that we better understand the ways in which gender is mediated by race, class, and other factors. To ensure such a perspective, it is necessary to involve women from diverse constituencies in defining the agenda from the outset.

Using human rights as a framework allows groups to hold the United States government accountable for its acts of commission and omission with regard to the violations of the human rights of

6 For a discussion on the need for multi-issue organizing see Pharr, Suzanne. "Multi-Issue Politics." *Transformations*. Vol.9, No.1. (January/February 1994).

women. For example, a local strategy used by poultry workers to ensure better compliance with occupational safety laws by the factory owners would be strengthened by highlighting the government's human rights responsibility for fundamental workplace safety rights. Toward this end, groups should demand U.S. compliance with internationally recognized human rights. A litigation component that pointed out specific violations of international law could help such a strategy.

The movement towards human rights is not meant to be a "new" movement diverting people's energies and resources from the specific struggles in which they are engaged; rather, it is an effective means to connect people who are committed to various issues in an effort to strengthen activist work at the local, national and international levels.

At the global level

Discussing women's concerns within a human rights framework leads to an understanding that what happens in the U.S. is inextricably connected to global factors; actions taken by the U.S. affect the rest of the world, and global factors have considerable impact on events internal to the U.S. Therefore, issues within the U.S. need to be examined in the context of a dialogue with the rest of the world. The recognition that questions of women's rights in the U.S. are also questions of human rights internationally creates the basis for such a dialogue.

At present, popular domestic perception regards human rights violations as phenomena external to the U.S. in which the U.S. plays a key policing role. This perception makes human rights violations effectively invisible in the domestic arena, and also allows the U.S. to act with impunity in the rest of the world. Women the world over often bear the brunt of violations of human rights condoned or committed by U.S. players in such matters as arms sales, "rest and recreation" for soldiers, and exploited labor in free trade zones. As women in this country organize within a human rights framework, they need to demand that the U.S. incorporate respect for human rights in its policies and actions overseas and at home.

Women in many countries have begun to incorporate a human rights perspective into their domestic agendas, and they are meeting at the regional or global level to share strategies and to address the interconnectedness of women's oppression. For example, women in the Philippines, South Korea and Japan worked effectively to force an historic recognition of the human rights violations of "comfort women"

by the Japanese government during World War II.[7] Further, women in different ethnic communities within the United States are forging connections with women in their home countries in efforts to stop the exploitation of migrant women workers. Women in the U.S. could devise strategies to counter the global exploitation of women workers by transnational corporations in this country, as in other parts of the world, by developing a human rights agenda that demands international standards of accountability for corporate behavior.

Why Human Rights?

The Concept of Human Rights

Human rights arise from a fundamental notion of people's humanity. These rights are considered inherent and inalienable to the very essence of being human. Human rights include social, political, cultural, economic and civil rights and have often been defined through the struggles that people undertake to ensure the conditions for a just social and economic order. As Charlotte Bunch puts it, "The concept of human rights, like all vibrant visions, is not static or the property of one group; rather, its meaning expands as people reconceptualize their needs and hopes in relation to it."[8] The notion of human rights has political resonance as an international ethical vision and can be used to hold states and other actors accountable for actions or omissions that violate these rights. Philip Harvey captures the normative and strategic utility of using human rights when he notes:

> Few weapons are as powerful in the struggle for social justice as a popular human rights claim. The existence of such a claim can galvanize support for a progressive movement, demoralize the opposition, and alter the terms of public debate concerning the movement's goals. To counter a credible human rights claim it is not enough to argue that the policies needed to secure the right lack public support. A human right is an entitlement that even democratically elected majorities cannot infringe. This is what gives human rights claims their bite—even in democratically governed societies—and causes public discussion to transcend the normal boundaries of political debate.[9]

7 Sajor, Lourdes. "Women in Armed Conflict Situations." *Prepared for the Division for the Advancement of Women, DPCSD: Expert Group Meeting on Measures to Eradicate Violence Against Women,* New Jersey, October 1993. See also, Sterngold, James. "Japan Admits Army Forced Women Into War Brothels." *New York Times.* August 3, 1992. A2, and Pollack, Andrew. "Japan Plans Payment for Forcing Women Into Brothels During War." *New York Times.* August 31, 1994. A1.

8 Bunch, Charlotte. "Women's Rights as Human Rights: Toward a Re-vision of Human Rights." *Human Rights Quarterly.* Vol. 12, No. 4. (1990).

9 Harvey, Philip. "Unemployment as a Human Rights Issue." *Peace & Democracy News* (Winter 1992-93), p.41.

One question that often gets raised with respect to using a human rights framework is why we should use the language of "rights," especially given our experiences with its limitations in this country.[10] Rights language has been criticized because it places too much emphasis on the individual at the expense of the community. Further, a reliance upon a discourse of rights often means that disenfranchised groups become reliant on the state to grant them their rights. Also, the very legal definition of rights limits the kinds of demands that may possibly be placed on the state. These factors can lead popular movements to define their goals in relation to state-defined parameters. Another criticism that is often leveled at rights discourse is that it fosters the creation of rights which potentially conflict and which then have to be balanced against one another. This problem of competing claims finds an expression in the demands of the religious right in the U.S. for recognition of the rights of the foetus over those of the mother; it has also surfaced in the demands of father's rights activists for custody of children in situations of divorce which has created particular difficulties for battered women.

But, while these criticisms are valid, they do not undermine the important role that the assertion of rights has played in significant social movements in this country. The notion of rights is a critical tool for empowerment. As Patricia Williams points out, "the [black] experience of rights-assertion has been one of both solidarity and freedom, of empowerment of an *in*ternal and very personal sort; it has been the process of finding the self."[11] When one moves to define those rights as fundamental human rights, one is claiming the notion of a self in relation to others, a claim which, for historically disempowered groups of people, is an important step in declaring their humanity.

This notion of human rights as normative, as distinguished from legal, can provide a value-based challenge to the religious rights's rhetoric around morality. Human rights rest on respect for the human dignity of all and should inform the values on which we construct our families, communities and states. Ethics, values and morality are far too critical to our existence to be left to the religious right; we should reclaim this terrain and human rights can provide an underpinning for our definitions of ethics and morality.

This understanding of human rights places their articulation in a political and oppositional framework which allows women to redefine

10 For a more detailed discussion of the rights debate see Schneider, Elizabeth. "The Dialectic of Rights and Politics: Perspectives from the Women's Movement." *NYU Law Review.* No. 61. (1986), p.589; see also, Williams, Patricia. "Alchemical Notes: Reconstructed Ideals from Deconstructed Rights." *Harvard Civil Rights Civil Liberties Law Review.* No. 22. (1987), p.401.

11 Williams, p. 414.

and use human rights as a powerful mobilizing tool. In staking our claim to humanity, women move human rights discourse out of the limited legal paradigm of specialized international instruments and bureaucracies into the realm of subversive political action. But before elaborating on the use of human rights as a strategy to mobilize people and transform existing social, political and economic structures, I shall describe the mainstream universe of human rights which is primarily legal in nature.

Human rights instruments and mechanisms

In legal terms, human rights usually refer to a set of rights, ranging from civil to economic, that are described and explained in international and regional human rights instruments.[12] These instruments usually take the form of treaties which are signed and ratified by countries who are members of the United Nations or other regional bodies. These "member countries" are required periodically to submit reports on their compliance with the provisions specified in treaties to the appropriate monitoring offices of the United Nations or the regional equivalent.

The Magna Carta of this terrain is the *Universal Declaration of Human Rights*[13] (Universal Declaration), which was adopted by the UN General Assembly in 1948. The Universal Declaration includes the rights to life, liberty, and security of the person, equal pay for equal work, a standard of living adequate for health and well-being, education, freedom from slavery, and equal protection of the law. The rights described in this instrument inhere to all persons "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The importance of the Declaration lies in the fact that all member-states to the United Nations accept the normative universal principles of human rights that it enumerates, whether or not they have ratified specific human rights conventions. It therefore establishes a universal code of behavior against which actions of governments can be judged.

Two subsequent treaties, the *International Covenant on Civil and Political Rights*[14] (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights*[15] (Economic Covenant), codified the

12 For a brief discussion of human rights instruments and women, see International League for Human Rights. "Human Rights at the United Nations: Women's Rights are Human Rights." *In Brief.* No.24. (November 1989).

13 United Nations. *Universal Declaration of Human Rights.* RES217/A/III. 10 December 1948.

14 United Nations. *International Covenant on Civil and Political Rights.* RES2200/A/XXI. 16 December 1966.

15 United Nations. *International Covenant on Economic, Social and Cultural Rights.* RES2200/A/XXI. 16 December 1966.