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Women's Contribution to Human Rights and Human Development

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I wrote to my friends in UNDP who invited me to speak on gender justice, that the title of my paper could be changed, because I think Gender Justice is a term that I am not comfortable with. Most of us who are working in the field of women's rights would rather imagine that equality between the two sexes, which is the implication of the term Gender Justice, is not a sufficient condition for women or any other discriminated group such as dalits to rearrange the hierarchies of power. Therefore I would rather call my presentation 'Women's Contribution to Human Rights and Human Development' Or 'Women's Right To Development'. It is also my view that while the term 'gender' has played an important and useful role in the last decade or so and needs now to be used more selectively and the term 'women' needs to be brought back to centre stage. (*Jain, Devaki: "Gender Globalization and Governance", Paper presented for Society International Development at UNGASS, (Beijing + 5), New York, June 9, 2000*)

Changing the condition of women- the hardships they face whether through poverty or basic discrimination – requires monumental changes in the social perceptions of woman, across caste, class ethnicity and other differences. Studies are showing that owning assets, bringing in income, being educated, even having equality in the social indicators, like the closeness to one of the GDIs or GEMs, as in Kerala in India, has not reduced either violence against women or dowry rates- nor the basic disregard which makes an adult or adolescent male rape a girl child even if she is a relative or a neighbour.

Deeply embedded fault lines and dirt have to be dug out, deeply mined out of the ground of social and psychological consciousness of men and women, not only in India but worldwide. Gender equality, we are finding, is a necessary but not sufficient, condition of women's emancipation, not a sufficient condition for the removal of discrimination and oppression of the socially excluded sectors of society – women, dalits, handicapped (*Jain, Devaki: Population and Gender Equality and Equity, a paper presented at the Millennium Conference on Population, Feb, 2000*).

It may be stretching a point, but like overpowering apartheid- a white supremacy mind set, which derived its strength from deeply embedded attitudes that blacks were valueless, brainless, simple, feelingless, and can be used, abused (an understanding of racism which is stark and clear when you live in South Africa as I did, for a year)- without the normal moral restraint, so too what is needed in women's struggle is a focussed anti-apartheid type of struggle. Strategic, political, straightforward in its intent, a 'long march to freedom' headed by several Mandelas. Because a similar kind of mindset, of woman as a valueless person who can be ill treated because that is what they are, is a deeply embedded attitude, world wide, and to turn it around, or overpower it, as they have done in South Africa, requires building political and social mobilisation on one identity (not multiple identities) and that is as *women – like black*. (*Jain, Devaki: Valuing work- Time as a measure, EPW, October 26, 1996*)

There is a close resemblance between the perception of the white supremacy mind of the blacks and the perception of if I may say so, the male and male driven societies of the value of women. It might interest this audience to know that in a study that Amartya Sen made of two villages in West Bengal (Jain & Banerjee, Tyranny of the Household) he had found that it was the daughter rather than the son, who was providing support for parents in old age. Many daughters had forfeited marriage in order to be that particular support system. Satyajit Ray's 'Mahanagar' evokes this phenomenon.

When he presented this paper at a seminar that we organized through a society which we at ISST had founded, called 'Economists Interested in Women's Issues Group', and the others of us had presented other papers showing the acute discrimination between boys and girls, men and women across the board, as revealed by statistics, we – Amartya and I – were left with the question 'why' in spite of all this strong work, contribution, sacrifice, strength, provisioning by women, the women are still given low value. We left that as our unanswered question and it still baffles me as I see the increasing prevalence of violence against the female of the species, from the womb to the tomb (ICRW 2000). The attack on young girls, even if they are neighbours or relatives, by men and young boys in their neighbourhood with acid and rape, seems complete blindness, akin to the dark room into which the white supremacy apartheid perpetrators locked themselves till it was burst open.

How do we burst open such dark rooms in order to reduce and prevent assault on women? I can see no way except the building up of a movement, a social force by women around the identity of woman. However much the women's movement celebrates and emphasises its diversity across class, caste and other stratifications, it has to be this identity that will have to push back and over power the apartheid. Again as Amartya says, the rights language basically enables claims and claims in turn require broad based collective action by the claimants. Unfortunately we are not building the basis for such identity in the women's movement, we are self-conscious about differences, having inherited the understanding of the importance of stratification in our theories of knowledge. To add to this, we now have the concept of gender, which leads to balancing and to equity and not to problems of power or the process through which it is claimed.

It is astonishing that in the HDR 2000 which has so many boxes of interesting pieces from all over the world, both successes and failures, does not have examples of women's collective assertion or affirmation of rights. Nor does it have examples of specific changes in the laws on rape, on honour killings, on crimes during armed conflict and the various changes that have been made by women to illuminate human rights knowledge and transform some of the definitions.

At the International Convention on Prevention of Torture which took place in New Delhi a few years ago, in a sub group on women and torture, which I renamed 'The Torture of Women', a small nucleus of feminists was able to bring sufficient consciousness of the importance of specifying and focusing on inclusion of women's rights issues within the conventions on prevention of torture. Torture takes place in the home, within the family and therefore the shifting of torture from police stations and public spaces into the home brings the entitlement for women to claim human rights violations within the home. This is a revolutionary step.

At every point then, the women's rights issue, often not yet made visible within a human rights idea and practice, has to be highlighted and I would end by saying that even if we take just the one needle point of women's rights as the idea of the year and look at every step in the human rights agenda, plan of action, assessment, implementation, with just this one thread, it will not only be enabling for women, but for dalits, for minorities, for any of the groups that have been incarcerated by hierarchical, historically discriminating society and

societies. Of course, unfortunately this cannot happen unless women themselves rise and make this point and then have very strongly bonded collective actions and advocacies – claim agency.

Amartya Sen, who has provided all of us the space to understand and make the links between development, human rights and justice, has an interesting comment to make. He says.

“We need a vision of mankind not as patients whose interests have to be looked after, but as agents who can do effective things – both individually and jointly.”

“We also have to go beyond the role of human beings specifically as ‘consumers’ or as ‘people with needs’, and consider, more broadly, their general role as agents of change who can – given the opportunity – think, assess, evaluate, resolve, inspire, agitate, and through these means, reshape the world.”

“For example, people who are used to living in a persistent state of under nourishment, illiteracy and lack of basic health care may come to think of nourishment or school education or medical attention as a luxury, rather than as a ‘need’, so that even if we go by their own self-perception of needs, we may take an unjustly limited view of their deprivation. In contrast, the self-diagnosis of needs in a state of freedom to achieve their fulfillment has a much more plausible social status than a diagnosis that tends to be muffed and muted by the experience of tenacious deprivation. Downward adaptation of the conception of needs can happen in many different fields, varying from the unquestioning acceptance of authoritarian interference to fatalistic tolerance of foul air or polluted water. We have reason enough to question that contentment if it is generated by hopelessness and resignation, in the absence of the courage and freedom to consider alternatives. As William Cowper has put it, “Freedom has a thousand charms to show. That slaves, however contended, never know”. (Sen 2000)

Women today lead the many significant social and economic rights movements in India. The right to information is led by Aruna Roy, the right of the peoples of the Narmada Valley to development is led by Medha Patkar, the right to the seed is led by Vandana Shiva and the right of home based workers to law is led by a woman Ela Bhatt. Women in Panchyati Raj institutions are also rising up asking for the right to have their voices determine public policy at the village and at the panchayat levels. (Jain & Sujaya). A concerted effort is needed to recognise these broad based movements, recognising these various rivulets that are flowing across India as human rights movements and highlighting their outcomes and linking them to state machinery would be more meaningful or equally meaningful as the tendency to be preoccupied with the police and the judges, however relevant judges and police may be to human rights violation prevention in India.

I was witness to the Truth and Reconciliation Commission in South Africa during its last year and its closure. However controversial its report may have been, I think some of its aspects are worth reporting here, so that our own National Human Rights Commission may consider using that type of mechanism for what we wish to see done in India.

An interesting case from South Africa is the experience of the main psychologist in the Trauma Centre, who took up ‘Prime Evil’, (the nickname given to one of the most dangerous and vicious of the perpetrators), as her patient. Over the months even she was surprised to find a human being inside him, as she put it and his own transformation began. So much so towards the end of the term of the TRC, he not only appeared as a transformed witness or accused who not only was penitent but willing to help the TRC in pursuing justice by getting at the Truth. *Thus proving that even perpetrators can be healed, a necessary condition if we wish to abolish torture. (Ref Sibongele conversation with author).*

The Truth Commission, in a word, was ‘rewarding the speaking of truth with amnesty’, even if that truth contained in it perpetration of evil. Being close to its daily work I could not but

feel that if there was any one post Gandhi institution that exemplified Gandhi's belief in the value of speaking truth, it was the TRC in South Africa.

Today we have adopted the practice of public hearings, of having witnesses speak of their violations. True, this creates public awareness, but it has not developed an institutional mechanism by which the knowledge is converted into a process of exorcising the evil and at the same time, giving value to speaking the truth. I sometimes think that if we could have a Truth and Reconciliation Commission in Kashmir, or in Nagaland, or for that matter in other theatres of conflict, including areas where exploitation is taking place, such as violence against women, against dalits etc. Speaking the truth, cleanses the soul of its tendency to perpetrate evil, it is a catharsis. I would not know how this is to be done when it comes to the extraordinary pressures forced on women, as it would need to include the whole world of men on the other side, which would be an impossible task.

Another illustration arises from my experience as a member of the Eminent Persons Group of the Graca Machel Study Committee, appointed by the UN to study the impact on children of armed conflict. 1995-6. Children, for example in Mozambique, had their noses, fingers, ears cut off, if they would not (a) join the army and (b) betray the adults from their villages of origin. The child soldiers became terrorists or were converted into terrorists by various forms of physical torture. (UNICEF Report to the UN General Assembly, Graca Machel Study Group 1996). Amongst the many close-ups that we had of torture, the most moving was the torture of girl children. There was a case study reported by a group in Geneva of soldiers who had been appointed as security to ensure the safe passage of refugees during the Bosnia war, selectively picking up female children and passing them to the international flesh trade. Thus within torture, within racial discrimination, within every form of principle, there is a double pressure on the female of the species from the foetus till death.

Chapter I of the Human Development Report 2000, written by Amartya Sen, makes some very meaningful statements which link rights to development, showing how they mutually reinforce each other.

- § *In short, human development is essential for realizing human rights, and human rights are essential for full human development.*
- § *As in early times, advances in the 21st century will be won by human struggle against divisive values and against the opposition of entrenched economic and political interests.*
- § *An adequate conception of human development cannot ignore the importance of political liberties and democratic freedoms.*
- § *Human development helps to augment the reach of the human rights approach.*

I once gave a lecture in Holland at the invitation of the former Minister for Development Cooperation in Netherlands, Mr. Jan Pronk, which I called "Walking with Human Rights to Development", arguing that human rights was a means and development, the end. And further that one could not separate political and civil rights from economic and social rights, especially from the point of view of the poor. In some sense, political rights are a means to claim economic rights because without those rights, the disadvantaged and discriminated cannot have access to economic rights. (*Jain, Devaki: Walking with Human Rights to Development. Keynote speech given at the Annual Conference of Evert Vermeer Foundation, (EVF), Amsterdam, 1990*).

This kind of convergence is being signaled by Mary Robinson (HDR 2000) when she affirms the universalisation of human rights and the rejection of any qualification such as cultural

relativism, Asian values etc. Such an affirmation is crucial from the point of view of women's rights. It is women who are the most likely to be injured by any form of qualification to universalisation of human rights on the basis of region, tradition and cultural values. Almost invariably these have brought with them specific measures to control and subjugate women.

But if the hard core more visible women's movement would take interest in some of the strong struggles that are taking place across India but far away from the capital and from power, it would be so valuable both to the women's movement and to the smaller struggles, the far away struggles. For example, we know that in Uttarakhand it is women who have been at the front in struggle for an independent state. Thus it is fair that women then become the political group, including Chief Ministers and so on, which should lead the state. However, like the black shadow that leaps from behind, it is die hard male politicians who are lobbying for these positions at the Delhi Durbar. Can the women's movement of India, led by the National Commission on Women, led by the National Human Rights Commission, raise its voice and speak about the importance of giving to the Uttarakhand women the power to run Uttarakhand, for which they have such brilliant and clear ideas. This would be giving the struggle of women autonomy for their region and would be translated into women's political rights that would in turn go into shaping the economic rights of the people of Uttarakhand.

It is for these reasons that I decided to call this paper 'Strengthening Women's Rights'. This is the right string with to light the firecracker that can bring not only gender justice, but also humanity, to development in India.

Reference:

1. *Sen, Amartya & Sunil Sen Gupta* : Malnutrition of Rural Children and the Sex Bias, in Jain, Devaki : Tyranny Of The Household- Women In Poverty, Vikas Publishing House Pvt Ltd, 1985.
2. *Cook, J. Rebecca*: Human Rights Of Women- National And International Perspectives, University of Pennsylvania Press, Philadelphia, 1994.
3. *Copelon, Rhondo* : Understanding Domestic Violence As Torture, Human Rights Of Women- National and International Perspectives, University of Pennsylvania press, Philadelphia, 1994.
4. Human Development Report- 2000, UNDP, Oup.
5. Omvedt, Gail : Violence Against Women, Kali For Women, 1990.
6. Justice Hasan, K.M : Legal Aspects of Sexual Exploitation and Violence Against Women in Bangladesh, Paper presented at the Judicial Colloquium on the domestic application of International Human Rights Norms, organised by Interrights and NLSIU, December 1998.
7. Gomez, Shyamala & Maria Gomez : From Rights and Shame to Remedies and Change- Gender Violence in Sri-Lanka.
8. Report: Domestic Violence in India, A Summary Report of Three Studies, ICRW, September 1999.
9. Advocacy For Women's Reproductive Health And Rights- Developing A Grassroots Strategy In Poland: Taken from ICRW website, www.icrw.org
10. Applying Global Rights At The Local Level –Three Approaches To Ending Female Genital Cutting: Taken from ICRW website, www.icrw.org
11. *Jain, Devaki* : "Gender Globalization And Governance", Paper presented for International Development at UNGASS, (Beijing + 5), New York, June 9, 2000
12. *Jain, Devaki*: 'Women's Conference – Journeys', Paper presented in Congo Special Session, June 3rd, 2000.
13. *Jain, Devaki*: 'The Torture of Women: Some Dimensions', Paper presented at VII International Symposium on Torture, September 1999, New Delhi.
14. *Arcel, T.Libby* : 'Delibrate Sexual Torture of Women in War', Paper presented at VII International Symposium on Torture, September 1999, New Delhi.
15. *Dr. Sarangi, Sarita* : 'Women Prisoners and Torture: Some Dimensions', Paper presented at VII International Symposium on Torture, September 1999, New Delhi.
16. *Lubertino, Maria Jose*: 'Violence Against Women as a Case of Torture : Legal Tools and Massive Education Prevention Campaigns as a Challenge of Paritarian Citizenship. Paper presented at VII International Symposium on Torture, September 1999, New Delhi.

17. *Genefke, Inge*: The History of the Medical Work against Torture – An Anniversary That Cannot Be Celebrated? , Paper presented at VII International Symposium on Torture, September 1999, New Delhi.
18. *Lobo, Juan Gerardo Ugalde* : The Right To A Medico-Legal Autopsy : The Case Of The Inmates., Paper presented at VII International Symposium on Torture, September 1999, New Delhi.
19. *Deve, Anjali & Gopika Solanki* : Special Cell For Women And Children: A Research Study On Domestic Violence, A Paper presented at National Conference on Domestic Violence, Bangalore, Feb, 2000.
20. *Rao, Sandhya* : Domestic Violence – A Study Of Organisational Data, A Paper presented at National Conference on Domestic Violence, Bangalore, Feb, 2000.
21. *Elizabeth, V.S* : Patterns And Trends Of Domestic Violence In India- An Examination Of Court Records. A Paper presented at National Conference on Domestic Violence, Bangalore, Feb 2000.