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Transitional Perspectives on Women’s Rights

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Rakevich had argued that the proceedings in her case were not speedy and lacked essential elements of a fair and transparent procedure, namely the applicant and her representatives were denied access to the medical records and possibly other documentation serving as a basis of her involuntary hospitalisation, crucial witnesses were not heard and the review of the Russian courts was superficial in the extreme.

The Facts

On 26 September 1999, Ms Rakevich was involuntarily hospitalised in Yekaterinburg City Psychiatric Hospital in Russia. She had been brought to the hospital by an emergency ambulance team responding to a call from an acquaintance that Ms Rakevich ‘had remained awake throughout the night studying the Bible and weeping’. Ms Rakevich was diagnosed as having a grave mental disorder that manifested itself in her being a danger to herself. She had no history of mental illness.

Two days later she was diagnosed by the medical commission of the hospital as suffering from paranoid schizophrenia and was said to need compulsory treatment at the hospital.

After 39 days of confinement, the District Court confirmed that the detention had been necessary as the applicant had suffered from an acute attack of paranoid schizophrenia. In its findings, the court relied exclusively on assertions by the hospital that the applicant’s aggravated mental condition had put her physical integrity in danger. Despite requests, the applicant’s representatives did not have access to the report of the medical commission either before or after the hearing. On 24 December 1999, the Sverdlovsk Regional Court dismissed Ms Rakevich’s appeal against the decision of the District Court in Yekaterinburg, confirming the lawfulness of her detention. It also established, however, that the applicant’s compulsory care was no longer necessary as the applicant had ‘had a job, was a single mother of a schoolboy, and had already spent a considerable period of time in the hospital’. Ms Rakevich was released.

The full text of the judgment is available on the Court’s website at: www.ecb.coe.int

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Women’s Rights in the 21st Century

The INTERIGHTS Bulletin in the spring of 1995, immediately prior to the Fourth World Conference on Women in Beijing, was devoted to the issue of Women’s Human Rights. In that Bulletin it was argued that women’s human rights had ‘recently and for the first time, come to the fore of the international agenda’. The World Conference on Human Rights at Vienna in 1993 had affirmed the human rights of women and the girl-child to be ‘an inalienable, integral and indivisible part of universal human rights’ and the following year at Cairo women’s reproductive rights were guaranteed.

Some nine years later INTERIGHTS has returned to this theme. This suggests a need both to assess the further progress that has been made since the 1995 Bulletin and to consider the current problems and challenges in securing the empowerment of women through guarantee of their human rights.

International Treaties Protecting Women’s Rights

Over the past decade there has been an increase in the efforts to promote the implementation and enforcement of international human rights law as it is applied to women. This introduction briefly highlights some of the key initiatives.

The central place of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) – the United Nations’ landmark treaty in the struggle for women’s rights’ – has been affirmed and strengthened. The ECHR’s Optional Protocol Procedures has been amended and updated in January 2005, and the Committee on the Elimination of Discrimination against Women (CEDAW) – the United Nations’ treaty monitoring body – has expanded its activities, with a rise in the number of states ratifying CEDAW.

Women’s rights have been acknowledged in international law through the establishment of the Special Rapporteur on Violence Against Women and the jurisprudence of the regional human rights bodies. These have agreed on standards of sexual violence as violations of CEDAW and have adopted, for example at the 48th Session of the Sub-Commission on the Promotion and Protection of Human Rights, Resolution 1999/60 on Sexual Violence.

Norway’s...
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April 8, International Women’s Day is designated as the day on which the international community applauds the achievements of women. Although celebratory, this day also serves as a reminder of the many obstacles that bedevil women’s achievement of equality in a host of areas and it most countries of the globe. It is customary that events such as Women’s Day highlight the possibility of change for the new United Nations, and in 2002 the celebration of International Women’s Day at the UN was dedicated to the women of Afghanistan. Speeches during the proceedings, including one by the first lady of the United States, Mrs Laura Bush, both praised Afghan women, their courage and determination, and exhorted the rest of the world to support Afghan women in their struggle for rights. The day was a showcase for the possibilities of political transformation linking the struggle for women’s rights and equality in that country.

The last few decades have seen concerted efforts by women activists across the globe to bring women’s issues to the margins of political and legal discourse to a place where women’s concerns and priorities are at least formally recognised.

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The Global Consensus on Women’s Rights

Feminist legal scholars, particularly those focusing on international human rights law, have over the years proffered one approach to achieving a consistent and comprehensive approach to women’s rights. They have creatively carved out an international conversation that has challenged national, regional and global leaders to confront international and international policies, practices and laws that are contrary to substantive and

Today’s Challenges

Despite these advances women’s human rights are far from secure. The guarantee of women’s human rights goes well beyond adding a new institution, ensuring the inclusion of women in the composition of any political process or, extending the jurisdiction of an institution. It requires challenging the structural inequalities and power imbalances that make continued violations inevitable. As is only too evident from the continuing and widespread gross violations of women’s human rights, legal norms and new legal institutions do not of themselves denote change. They must be accompanied by the internalisation of a human rights culture within the particular contexts of diverse societies and the establishment of a mindset that rejects the denial of justice for the treatment meted out to women broadly. A woman’s human rights today are challenged by the forms of globalisation and extremism, including religious and nationalist extremism and by the unwillingness of some players to respect the neutrality of human rights law, especially in the context of what are perceived as national security issues. Committment to the human rights of women is irrelevant in the ‘war against terror’, as it is evident from alliances, for example between the US and such regimes as the Afghanistan Northern Alliance, Saudi Arabia, Pakistan and Kuwait. Gendered aspects of the war against terrorism are left unmarked, and the association of terrorism with women’s violations, either by those labelled as terrorists or as law enforcers, has not been explored. The sombreness conclusion must be that despite many important advances there is little cause for optimism concerning the development of women’s human rights, for just as women have to some extent become ‘insiders’ in human rights discourse, women’s rights has become an ‘outsider’ discourse, especially in national security decision-making. This present appraisal of the challenges and opportunities for women’s human rights is taking place in a moment of profound legal and political environment from that of the 1990s.

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disadvantage women. Not satisfied with mere theory, feminist scholars and activists, working closely with women's groups, have generated a synergy between local and global women's movements. Organizing and lobbying for women's rights has won international aid and facilitated the liberating possibilities of the innovative communications technology, women's voices in the political realm are no longer muted. Thus, over the last two decades, there has been an enduring effort to ensure women's equality. This effort has been significantly impeded by the notion that shifting cultural norms and practices, which have been the hallmark of culture for centuries, can be transcended by mere changes in the law. Despite this impor-
candid conversation about the role of cultural misperceptions stereotypes of women? How can we engage in a debate that appreciates the need to eradicate all forms of cultural discrimination against women, in a manner that is thoughtful, respectful and productive? How do we avoid the polarizing impulses that perpetuate blind allegiances to the role of "other" and the "self-derived or exists in the Muslim world, and they have largely articulated an indigenous vision of women’s equality which recognizes the role of community and culture in their lives. The secular pursuit of human rights, as defined in most Western-style democracies, has great difficulty taking a foothold in many Muslim countries. Indeed, Heshan Afzal, another Iranian feminist, argues that Islamic women defend themselves in a systemic that has suffocated women. They believe that in fact their faith offers them "more than Western-style feminism."  

This is a wonderful moment to engage in a fruitful dialogue about the implementation and enforcement of rights for women, both locally and globally. Women in some locations have made tremendous advancements and can proceed to build on those successes. But the task of changing the dismal reality of the condition of majority of women’s lives, is the greatest challenge. We need to continue to raise difficult, even uncomfortable, questions - and to seek answers collectively, respectfully and productively. n

Peploge E. Andrews is Professor of Law at City University of New York.

1 In the example, Mendick, W., (1981) A Part of My Own West Wind, 1981, W.W.Norton & Co.

The Protection of Women’s Rights in Africa

Fareda Banda

The 20th century was about the African struggle for political liberation from colonialism and racism, then the 21st century will be about the liberation of African womanhood from the shackles of sexism and gender-based discrimination. All three struggles are part of the same revolutionary efforts to take African peoples towards a collective and comprehensive liberation based on tolerance, dignity, freedom and respect for all children, women and men who live on the African continent.

July 2003 marked the apogee of the struggle for formal legal rights by African women, for that is when the African Union adopted the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 2003 (African Protocol on Women’s Rights). The instrument – a radical document – provided unprecedented rights for African women. However, although signed by 30 states, only three states have ratified it and it seems unlikely that it will gain, in the near future, the 15 ratifications needed to bring it into force. Will the same be true with respect to the African Protocol on Women’s Rights? What does this tell us about the commitments of African states and statesmen (for the heads of states on the continent are all men) to women’s rights? Why is that right and how can we do more to ensure that it is realised? What is the most that can be done?

This article charts the progress of women’s rights in Africa, examining constitutional provisions, sub-regional initiatives and the African human rights framework. Although the progress made, the paper explores some of the reasons for the non-implementation of rights on the continent.

It goes without saying that all African women suffered under colonialism. Public life was regulated by the imported colonial law, applied to privileged minority group. African women were particularly disadvantaged. Although having reproductive rights, their day to day labours were not valued and they were left out of the construction of the constitutional norms that governed their personal lives. Personal laws in "Anglophone" Africa and their fashioning of as-equality, the primary principle of the Constitution. These leaders and their supporters argued for the unification of the traditional institutions, their autonomy and authenticity. South African women appreciated the significance of the Constitution concerns but recognised the fluidity of traditional laws and customs that could accommodate the principle of equality.

Even though feminism in non-Western societies have largely rejected the spurious claims of cultural relativism so that women’s rights are equality and held hostage, there is not still a global consensus among women about the place of culture or religion in some women’s equality, or indeed what the equality looks like. As Valentine Moghadan points out, feminism movements exist in the Muslim world, and they have largely articulated an indigenous vision of women’s equality which recognizes the role of community and culture in their lives. The secular pursuit of human rights, as defined in most Western-style democracies, has great difficulty taking a foothold in many Muslim countries. Indeed, Heshan Afzal, another Iranian feminist, argues that Islamic women defend themselves in a systemic that has suffocated women. They believe that in fact their faith offers them "more than Western-style feminism."  

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