**MODULE: HUMAN RIGHTS AND GENDER EQUALITY CONCEPTS**

**Handout: Critiques of Human Rights**

**Western cultural values**

The critique is that the human rights framework was developed after World War 2 at a time when much of today’s free world was colonised by western states.

The values enshrined in the UDHR reflect cultural values that are consistent with western values. However, states from every part of the world have ratified the treaties and, to some extent, have agreed to or aspire to adhere to these values. Cultural rights and the right to self-determination are protected as human rights. Also, one has to look at whose interests are being served by preserving some cultural practices – who really benefits, and at what cost?

**Northern dominance**

The critique is that the vision of the utility and worth of the rights discourse often comes from the ‘rich north’ and can be seen as an imposition. This has been reinforced by some donors making aid conditional on a country’s human rights records. However, the system is open to all states and is truly international. Embracing human rights at a national level introduces the local context.

**Ignores existing inequalities in society**

The critique is that recourse to international standards may overlook existing unfair practices. This is maintained by a feminist critique which states that though rights are presented as universal, they reflect a masculine perspective. For example, civil and political rights to participate in public and political life exist for all, yet this does not take into account historical and cultural limitations placed on women to participate, nor the ever-present sexual violence that is a barrier to their participation. Indeed, invoking respect for cultural differences can be a way of denying women’s equality and freedom, typically in the realms of sexuality, marriage, inheritance and other property rights and reproduction. This is one reason why the gender perspective must be integrated into human rights-based development. This criticism focuses on a narrow interpretation of human rights: full implementation addresses the structural issues and stereotypes that perpetuate violations and inequalities.

**Lack of teeth**

Violations of human rights happen and the UN human rights system does not have punitive powers. The Special Rapporteurs and the experts can communicate their displeasure and some of the treaty bodies can issue rulings, which sometimes results in a state changing its policies, but it cannot prosecute violations or omissions. However, an alternative point of view is that it is wrong to expect too much from the human rights project. It is a work in progress and all rights violations cannot be averted all at once and immediately. The system of states’ reports and treaty body comments back to states does result in change and progress.

**Conflict with cultural norms that protect unfair or harmful practices ­**

Known as cultural relativism, this is critiques that defends activities or behaviour that is customary and culturally acceptable on the one hand, and violates human rights on the other. For example, traditions of early marriage or female genital mutilation may be claimed to define community identity but are clear violations of girls’ and women’s human rights. As noted above, the underlying rationale for the harmful practice has to be investigated in terms of power balance between the people affected. When women are subjects of harmful practice, one has to ask whether it is the subordination that is the reason for the preservation of the practice.

**Rights are legalistic, abstract and blaming**

The critique is that human rights advocates promote legal solutions that are remote from the rights-holders. Seeing rights only as legal entitlements narrows their application in life and makes them abstract. The impact of ‘bottom-up’ or ‘up-stream’ human rights-based practice is to put rights within reach of the rights-holder, to increase their agency and empower them to take action on realising their rights. Human rights-based development is one example of this.

**Human rights are political and are dangerous**

The critique concerns the political nature of human rights. Some human rights arguments confront the status quo which can be threatening to the people in power. Fighting for one’s rights might be exactly that – a fight, which may result in physical injury, arrest or worse. The number of people killed over civil rights in the southern states of the USA in the 60s and 70s is a case in point. While there are examples of successful and less successful confrontations on human rights issues, this is not the only way to achieve change. Collaboration and negotiation are also possible ways to tackle inequalities. Changing unfair systems by working with them and supporting changes is an approach adopted in many situations.

**Human rights are aimed at individuals**

Human rights are framed as belonging to each and every one of us, as individuals. Yet, we live as families, in communities, in groups. By focusing on rights as individuals, people are singled out and no longer have the safety in numbers, and some see the notion of individual rights as a threat to the concept of community. However, the individual enjoyment of rights – for example to education, to safe workplaces, and to be free from violence – makes communities stronger. Communities can also seek rights collectively, such as the case of pavement dwellers in India who sought housing solutions collectively rather than individually. The collective approach preserves the safety of the group and multiplies their voice. Pursuing rights individually makes people vulnerable and may expose them to unnecessary risks. Collective approaches are relevant.

**Human rights are complicated**

The legalistic nature, the complexity of the reporting systems, the lack of clarity in what is a right and an obligation all serve to make human rights complex, abstract and thus off-putting. Whilst this is true, it is still a human-made ideology and almost anyone can identify with the concepts. There is help available for addressing the complex aspects. Rights-based development attempts to make rights applicable and usable in the real world.