



BBC Today-Chatham House Lecture: Women's Human Rights in the 21st Century

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Thank you for inviting me to give this second BBC Today/Chatham House Lecture and to have asked me to follow in the footsteps of such a distinguished speaker as Condeleeza Rice.

And it's perhaps fitting, given the topic I have chosen today, that the first two people to have given this lecture share at least one attribute – and that is our gender.

For it is the issue of women's equality I want to address today – the progress towards this goal at home and abroad – and the gap that remains.

I want to counter those who suggest that with all the progress there has been that perhaps now is the time to subsume the fight for women's rights into the general battle of human rights for all.

I want to touch on the role of the law in removing the remaining barriers to gender equality but also to stress the importance of collecting accurate information to help us assess and then tackle the true scale of the problems that women and girls face across the world.

Above all, I want to talk about how the struggle for women's rights remains vitally important in the 21st century and to argue that this battle is universal and can't be restricted by claims of cultural or religious differences.

All of this is a subject of passionate interest to me both professionally and personally - as a lawyer specializing in the field of human rights, as a campaigner on the issue of women's equality and, last but not least, as a woman and mother.

I suppose the fact that the first two Today/Chatham House lecturers have been women underlines the progress we have seen towards equality over the last century.

It has been a century of steady progress, something which can be seen in my own legal profession – not one, I think it is fair to say, usually seen as in the advance guard of social change.

Women have come a long way in the law in a relatively short time.

It was, after all, as late as 1913 that the Court of Appeal ruled that women were not eligible to practice as solicitors because that right was given under statute to persons which, the judges claimed, referred only to men.

It was not until 1949 that the first woman was made a QC.

The year I was called to the Bar in 1976 was the first time that the number of women among new barristers topped 10%.

And it wasn't just the numbers that were against women thirty years ago. It was also the culture of the time.

In the 1973 edition of his classic text "*Learning the Law*", no less an authority than Glanville Williams QC warned how difficult it was for women to succeed at the Bar.

"Practice at the Bar," he declared, *"is a demanding task for a man; it is even more difficult for a women.....It is not easy for a young man to get up and face the court; many women find it harder still... A women's voice also does not carry as well as a man's."*

I am delighted to say that such views, if they do still exist, have been driven deep underground.

The legal profession takes very seriously the whole issue of equality.

The result is that this year for the first time, the number of women called to the Bar exceeded the number of men. It seems that their voices are carrying rather well after all.

Under a new system designed to ensure the Bar better reflects society as a whole, a record 33 women were appointed QCs this year.

Glanville Williams must be turning in his grave. These changes are, of course, important not just for women but for justice. The law, if it is to retain public confidence, cannot be the preserve of one segment or one gender in society; it must be for all.

It is, of course, the same story of progress across the professions and our society. Again I believe this has been a real force for good. It is not a coincidence that when women are allowed to participate fully in society we see their priorities and hopes reflected in the law and in public policy to improve life for all of society.

Take domestic violence. When I started as a barrister, domestic violence was still swept under the carpet. Now the police and the courts rightly treat it with more seriousness.

In this country and many others, there are laws in place to ensure equal treatment in pay and employment.

Thirty-five years ago there were more MPs called John than women. There are now over 120 women MPs.

Across the world as well, there has been progress.

A century ago fewer than six countries in the world allowed women to vote; now fewer than three prohibit it.¹ We have seen elected women leaders in Asia, and Africa and the Americas as well, of course, as in UK and Europe.

Even over the past decade, the gender gap in primary education has shrunk significantly.

¹ <http://www.ipu.org/wmn-e/suffrage.htm>. There are many countries in the world that do not have democratic elections and where suffrage rights are obviously limited.

Women are the drivers of global economic growth, filling two out of three new jobs.

In fact, in most countries – and certainly in the democratic world – the law actively protects equal rights for all people, regardless of gender.

So there has been a huge amount of progress. But to the question “*has it gone far enough*”, the answer must be a blunt no.

The reality is that there is no country in the world that has achieved true gender equality and there are too many where it remains a very distant goal – where women are subject to abject deprivation, daily discrimination, and attacks against their most basic human rights, for no other reason than that they are not men.

Let me give you a few examples from a long list of grim statistics.

70% of the world’s poor are female.

Two out of three children not in school are girls.

Women own just one per cent of the world’s titled land.

A woman in a Nairobi slum summed it up when asked what event she would change in her life if she could, she replied “*I would be born a man*”.

And before we in Britain start congratulating ourselves on having dealt with such appalling open prejudice in our own societies, we should remember these facts as well.

- Despite progress, the percentage of women in our Parliament still lags behind those elected in Iraq, Afghanistan and Rwanda, which have reserved quotas for women MPs.
- Despite the Equal Pay Act, women in full-time work still earn 17% less per hour – something marked yesterday as Women No Pay Day by the Fawcett Society This reflects the fact that the gender pay gap is so large that - compared to men - women would find their pay ending for the year yesterday. It’s like working two months a year for no pay.
- Despite more women than men now graduating and with better results, within three years they are earning 15% less than their male counterparts who left university at the same time.

- While women make up 80% of staff in secretarial and administrative roles in business, only three out of the CEOs in the largest European enterprises are female.²
- And this glass ceiling, of course, still exists in the law. It's two years, for instance, since a woman was appointed to the High Court bench during which time there have been 20 male appointees.

All these shortcomings show that while we have acted rightly to tackle formal discrimination, there are plenty of informal barriers to equality still to overcome.

There is, too, a common thread behind all of these statistics. It's an assumption which links the laws which allow rapists to go free if they promise marriage, the centuries old practice of the ostracism of widows, the abomination of infanticide and abortion solely on the grounds that the child is a girl, the universal problem of violence against women by their partners and the continuing struggle to achieve equal pay for equal work.

It is the idea – spoken or unspoken – that women are somehow not the equal of men, that their rights, views, interests don't carry the same weight as that of their male counterparts.

And this discrimination, prejudice and mistreatment is not an accidental or unfortunate by-product of gender. It is simply because of it.

This then is the answer to those who argue that it's time to subsume the fight for women's equality in the broader battle for human rights for all.

It's true, of course, that millions of men are denied their most basic human rights. These rights can be violated for any number of reasons – for example, their political views, race, ethnicity or religion. That is the case, too, for women.

But it is hard to think of many examples where men are discriminated against simply because of their gender. We have come a long way, thankfully, when the law allowed the enslavement of one

² http://europa.eu.int/comm/employment_social/emplweb/news/news_en.cfm?id=129

man by another. Even though many forms of slavery still exist, they do so outside the law. But there are many societies where the law treats a woman, in pretty well every respect, as a man's property.

This brings me to my second and perhaps more controversial point. There are, of course, many reasons for the continuing hardships suffered by women. But their position is not helped, in many places, by what can be considered the twin distortions of culture and religion or, perhaps, more accurately, the way culture can distort religion.

This interaction can often reinforce or perpetuate the view of women as powerless beings dependent on men for protection, worth and status. The assumption – sometimes expressly stated – is that this dependency and the protection men offer compensates for a women's lack of autonomy.

A few examples illustrate situations where the proclaimed adherence to a specific religion or system of belief or culture is intimately tied to women's continued discrimination and abuse.

In Egypt, the government has created two widely disparate systems for divorce, one for men and one for women. Egyptian men have a unilateral and unconditional right to divorce, supposedly based on adherence to Sharia (religious law). Egyptian women, on the other hand, must resort to Egypt's notoriously backlogged and inefficient courts to divorce their spouses, and many end up staying in abusive marriages for fear of losing their children or ending up on the streets. When asked, male judges explain that this is to protect women against their own rash judgments.

We see this same sense of female fickleness present in some orthodox Jewish communities. Only men can initiate a divorce process in these communities by granting his wife a "Get" (divorce contract). According to these interpretations of Jewish law, if a couple obtains a civil divorce, but the husband refuses to secure a Get, then the wife may not remarry and is considered "chained". If she does anyway under civil law, any children she has with her new husband are considered illegitimate.

There are currently more than 20,000 agunot or chained women in the world, including about 16,000 in Israel and 2,000 in the United States, according to American Jewish Congress figures.

In many countries in South Asia and Africa, widows are often treated like second-class citizens or bearers of "bad luck" to the community. Recent legal reforms in Nepal, for example, now mean widows no longer have to return property after remarriage or be 35 years old to get the property of their deceased husband.

But discrimination and social stigma remain strong, especially in rural areas. Widows may be prohibited from wearing bright colours, jewellery, or make-up, and forced to sleep on the floor. They cannot participate in public ceremonies, must not talk to men, and often depend entirely on the charity of their sons, if they have any. The underlying logic - which has no basis in religion - is that single women are dangerous to society and must be clearly identifiable and excluded.

We can be certain that the overwhelming majority of people in our country along with legal experts and campaigners would be appalled if they believed such mistreatment was taking place within their family or local community. But what is striking is that there remain those who try to justify or excuse such discrimination and denial of basic human rights elsewhere by reference to differing cultural or religious standards.

We simply can't go along with this view.

Human rights are universal. They can't be taken away, or watered down. They are a recognition of our essential dignity as human beings, belonging to each and every one of us, whatever our gender, age, background or geographical location.

And it is important to stress that the essential dignity of each individual is explicitly recognized by the great faiths. Indeed, I would go further and say the very concept of human rights has its roots in the world's great religions. Whatever their differences, they converge in their understanding of the irreducible worth of each human being. Buddhism, Christianity, Hinduism, Islam, Judaism and others, all share profound ideas on the dignity and special worth of each individual and are concerned with the duties and obligations of citizens to their fellow human beings, to nature and indeed to God and the whole of creation.

Indeed it could be argued that far from dividing us, the great faiths give us an opportunity to close the divides between cultures based on their shared insistence on the dignity of all God's people – and may be used as well as an instrument for women's empowerment.

All this explains how it was possible sixty years ago to agree a Universal Declaration of Human rights. Again, this is far from a package reluctantly foisted on the rest of the world by western democracies.

Prominent among the members of the Human Rights Commission, given the job of drafting the Declaration, were a Chinese Confucian scholar, a Lebanese philosopher and a Chilean social

democrat – all under the superb chairmanship of a woman, Eleanor Roosevelt. And aside from their individual contributions, the Declaration was strengthened by the involvement of all 58 founder nations of the UN, which then included 6 Asian countries, 3 countries with large Buddhist populations, 10 countries where Islamic culture was strong, and 20 Latin American countries.

Men and women from all these different countries, faiths and cultures came together and proclaimed the universality of the human spirit which enabled them to agree the basic and fundamental rights owed to each and every human being.

More than half a century on from the Universal Declaration, the main religious communities remain in agreement that rights are gifts from God and that human rights offer a common set of values that bind together different cultures toward a common goal of peace and respect.

Yes, there will be different interpretations of certain rights between different religions, just as there are different interpretations within each religion, but the universal agreement of such values brings together diverse cultures for the benefit of humankind – for men and women equally.

I would argue that, where religion is seen as an excuse to deny women human rights, it owes a great deal more to cultural pressures and the interpretation of the law by male clerics of whichever faith than the essential principles themselves.

As Mashmood A Baderin argues in *International Human Rights and Islamic Law*, it is not laid down in the Koran that women can be beaten by their husbands or that their evidence should be devalued as it is in some Islamic Courts – and it is important too for judges and political leaders to remind everyone that the philosophical purpose of Sharia is to protect and promote all human welfare. Far from demanding that women were denied fair treatment, the Koran was extraordinary for its time in the recognition it gave to the dignity of women and their rights to hold property.

Cultures are not fixed. They change and evolve over time. And education and campaigning can hasten that change.

What seems to be the norm now can soon appear an anachronism or a relic from a long gone age. And the more the world comes together, the more we keep taking out the message of the universality of human rights sensitively but also firmly, the more this change will accelerate as I believe is happening across the world.

And before we judge other societies too harshly for the law failing to protect women, we must remember that it wasn't until 1991 that our own courts ruled that a married man could be prosecuted for raping his wife.³ Until then the law had assumed that a women's consent to marriage meant an unconditional and unchanging consent to sex with her husband.

In his judgement, Lord Keith of Kinkel made the point that the law has to reflect and shape cultural change. He explained that the idea that a wife has surrendered her person to her husband was rooted firmly in the status of women and the position of a married woman in the 18th and 19th century. He reflected that:

"[a] live system of law will always have regard to changing circumstances to test the justification for any exception to the application of a general rule..... It cannot be affirmed nowadays,, that it is an incident of modern marriage that a wife consents to intercourse in all circumstances, including sexual intercourse obtained only by force".

This same conclusion was reached even later by the Mexican Supreme Court when it reversed an earlier decision which had held that marital rape was merely the undue exercise of marital privilege - and not a crime. It wasn't until December 2005 that the courts found that when husbands force their wives to have sex, this is as much a crime as if it had been committed by a stranger.⁴

So the law has an important role to play. But so do each of us as individuals in being ready to argue with those in our own country and beyond who deny the universality of human rights and continue to use culture and religion as an excuse for the continuation of prejudice.

Dame Rosalyn Higgins, the first female judge on the International Court of Justice, and currently its President, put it well in 1995 in her book *Problems and Process: International Law and How We Use It*. She said:

"It is sometimes suggested that there can be no fully universal concept of human rights, for it is necessary to take into account the diverse cultures and political systems of the world. In my view this is a point advanced mostly by states, and by liberal scholars anxious not to impose the Western view of things on others. It is rarely advanced by the oppressed, who

³ Regina v R [1992] 1 AC 599.

⁴ Supreme Court of the Nation, 10/94, reprinted in El Universal on November 4, 2005 [online] http://www.eluniversal.com.mx/nacion/vi_131641.html (retrieved January 12, 2006). Carlos Avillés, ³La violencia sexual en el matrimonio será delito² [Sexual violence in marriage is now a crime], El Universal [Mexico], November 4, 2005.

are only too anxious to benefit from perceived universal standards. The non-universal, relativist view of human rights is in fact a very state-centered view and loses sight of the fact that human rights are 'human' rights and not dependent on the fact that states, or groupings of states, may behave differently from each other so far as their politics, economic policy and culture are concerned. I believe, profoundly, in the universality of the human spirit.”

That brings me to my final thoughts. It is about perceptions, premises and promises. The key issues facing women today are not new. They relate both to the perception of women in the law, in political life, and in the many other areas of public life where men still dominate the upper echelons, and to the perceptions of women by the law, the political system, and the economy.

Very often the problem is a premise – held largely by men, but sometimes also by women themselves – that women are in some way ill equipped or at least less equipped than men to play a meaningful role in these areas. These views can be very hard to shift even in the face of changes in the law and overwhelming evidence to the contrary

For example, in recent years India has enacted laws to promote the participation of women in local government, which now reserve a third of all the full-time positions of head of village council and a third of places on many councils for women. A fascinating study by the Jamel Poverty Action Lab at the Massachusetts Institute of Technology found that in the reserved councils with women leaders, considerably more investment was made in priorities such as improving water supplies.

Depressingly, however, the research showed that even where women could clearly be seen to be outperforming their male counterparts, the perception of both men and women in the community is that they have done a worse job. The only good news was that the study found that, over time, the performance of women leaders did help tackle this prejudice.

But the overall conclusion reached by the study was that there remains a significant cultural barrier to recognizing women as competent policy makers, which explains why so few women are elected or reelected to unreserved seats at the local level.⁵

Tackling this prejudice needs education. And education needs information. Across the world we do not have the most basic information that would enable us to even start assessing the extent of discrimination against women. We need to do more to ensure that countries collect statistics about issues such as violence against women, divorce and equal pay so that policy makers both nationally

⁵ <http://econ-www.mit.edu/files/792> Esther Duflo and Raghavendra Chattopadhyay, “Women as Policy Makers: Evidence from a Randomized Policy Experiment in India” September 2004 *Wxonometrica* 72(5) pp1409-1443

and internationally can see what progress has been made and what more needs to be done. Yet there are many places where this basic information is not available. In May this year I helped launch a report by Plan International entitled "Because I am a Girl", which tried to bring together statistical information about the plight of girls worldwide. The report showed that Governments are failing girls on a massive scale. They are often less well nourished than their brothers, face daily violence and are less likely to go to school. Astonishingly this report was the first time anybody had systematically attempted to assemble the facts about the position of girls worldwide and the researchers found that in many countries in the world the crisis is hidden because figures are just not available.

The international community through the UN and other organisations needs to insist that all its members gather proper statistical information on gender discrimination as a first step in making the problem visible and therefore in beginning to address the problem.

In particular, we need closely to monitor the effects of the law, on both women and men. All too often, unsatisfactory data collection hides persisting inequality, even where national and international standards are largely good. No national government, for example, can expect adequately to address domestic violence unless it understands the prevalence and nature of the crime. No intergovernmental organization can expect to develop the necessary structures and responses to women's continued inequality unless it collects and collates sufficiently detailed information about the education, employment, work-patterns, health situation, and generally speaking life-experiences of women and girls.

As a most distressing example, the United Nations Security Council still does not have a systematic manner to gather information about sexual violence in conflict situations, and therefore often does not take the necessary action to help prevent and punish the unspeakable crimes we all know are taking place even as I speak in Darfur, Somalia, the Democratic Republic of Congo, and many other countries.

We need to ensure therefore that the development of the law is properly influenced by the particular challenges facing women as a group in society, so that it reflects and respects their needs and desires. In turn, the law will be respected and remain as an important - essential - pillar of our democratic societies.

That brings me to the promise of women's rights that I alluded to earlier. If we can overcome the perceptions of women as less than full participants in our public and economic spaces, and if we can dispel or undermine the premise that women are less able or less well equipped than men to

perform meaningful roles in business, politics, and other areas of public life, it is then that we can fulfil the promise of true equality for women.

I believe that the greater involvement of women – in business, in politics and in the professions – is one of the main drivers in improving life for all. In today's knowledge based global economy no country can afford to ignore the precious human capital of 50 per cent of its population.

This is not just about economics. The strength, determination, and humanity of women are major assets – possibly the most important asset – we have in tackling the crippling problems the world faces. Research has shown that women business leaders have a more collaborative style than their male counterparts, and that they tend to emphasise relationship-building. Indeed they are more likely to consult with others. Similarly, in politics women are more adept at overcoming seemingly insurmountable divides in places such as Northern Ireland and Bosnia, to work together for common goals such as peace.⁶ Women's skill at collaboration can only be an asset in building the partnerships between the industrialised and the developing worlds that are crucial to both development and international security.

I believe that the true promise of equality for women is not just a better society for the women that will benefit thereby. It is a promise of a better society for all. A society in which men, women and children alike will benefit from the unique contribution that women are able to make to the challenges that we face together.

This is not just a matter of convenience or even economics; it is a matter of fundamental principle - a matter of simple justice. Or to be unfashionably unapologetic about it: a matter of right and wrong. I believe our shared humanity prescribes equality, and that any limitation placed on this equality is a direct assault to our dignity.

It is about something as fundamental as a universal ethic that cuts across all cultures and religions. It is an imperative borne of our shared humanity. Simply put, it is the right thing to do.

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⁶ www.cynthiacockburn.org