CHAPTER 9

Universality of Human Rights: Its Challenges

As outlined in the preceding chapter, human rights in general and women’s human rights in particular have weaknesses both at the normative and implemental levels. If we accept the simple natural law theorists’ definition of human rights,

... [t]here are some basic or fundamental rights that we have simply because we are human beings. Because all persons everywhere share that which makes us human, the rights that belong to us naturally are also universal (Hayden, 2001:5; see Paine, 1994),

then we face two robust challenges to the definition and the universality of the human rights system: feminism and cultural relativism. Feminists have three main arguments. First, they argue that the human rights system overlooks the issues and experience common as well as specific to women and therefore, the claim of its universality is unfounded. Second, they say that human rights law is mainly concerned with the public sphere – the male domain. Third, some feminists argue that the priority given to civil and political rights over economic and social rights is misplaced. The thrust of the cultural relativists’ argument is that current human rights principles are the product of the Western liberal tradition and do not encompass notions of wrong and right specific to other cultures. Hence, its claim to universality is untenable. In fact, both ask one question: where does the system of human rights come from? For the feminists, it comes from the male perspective and excludes female experience. For the relativists, it comes from the Western liberal tradition and excludes other cultures’ concepts of rights and duties. Some feminists would go further and argue that human rights are for the ‘white propertied male’ of the West (Bunch, 1995).

The purpose of this chapter is to highlight the arguments of the feminists and cultural relativists with the aim of explaining that human rights norms are neither sacrosanct nor a monolithic whole. There can be different notions of human rights. Genuine voices and concerns from different regions
of the world must be accommodated, otherwise the universalism and universal application of human rights system would remain a farce. Of course, the target should be our common humanity. The best example to support this point is the existence of different regional human rights systems such as the European human rights system and the African and Inter-American human rights systems. The main arguments of feminists and relativists are analysed below.

9.1 FEMINISM AND UNIVERSALITY OF HUMAN RIGHTS

Feminists basically have three main arguments: current human rights are ‘male standards’; they exclude the private sphere where women live out their lives and some would argue that the present human rights system stresses civil and political rights whereas women need economic and social independence. Therefore, the prevalent international human rights system has got its priorities wrong.

9.1.1 THE MALE STANDARD

Despite the inclusion of the principle of equality between men and women and the prohibition of discrimination on the basis of sex in several human rights instruments, women’s human rights proponents do not accept the view that human rights are universal in their scope and application.

Human rights are not what they claim to be, feminists say. They are product of the dominant male half of the world, framed in their language, reflecting their needs and aspirations. Whereas the “rights of man” as originally conceived by the great liberal thinkers were not intended to include women, today’s “universal human rights” still overlook them as a matter of fact (Brems, 1997).

Among the feminists, the radical feminists maintain that: ‘all theories based on equality or difference makes the same mistake of using a “male yardstick”. They warn against valuing differences, which are a product of a patriarchal society, which needs to be dismantled (Mackinnon, 1987). Shelly Wright (1989-90) states that the term ‘human rights’ is a modern euphemism for the ‘rights of man’ which has meant, for most of history, ‘men’s rights’ in the literal, gender-specific, masculinist sense of the words. The problem of ‘men’s rights’ masquerading as human rights is not merely one of language, but is culturally and historically specific to the development of these rights in