

# On subalternity and representation: Female and post colonial subjects claiming universal human rights in 1948

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## Abstract

Recent research has questioned the dominant narrative of human rights as a Western project, by re-reading the drafting of the Universal Declaration on Human Rights (UDHR) in 1948, as rooted in conflicting cultural narratives, rather than stemming from a Western hegemonic consensus. Yet, such readings may consolidate static notions of particularity in which narratives on religion and culture are given greater importance than that of gender. Hence the need to look specifically at the unique non- Western and female subjects who represented their countries in the drafting process, such as Begum Shaista Ikramullah (Pakistan), Mehta Hansa (India) and Minerva Bernardino (Dominican Republic). This paper draws on Gayatri Spivak's work on subalternity by exploring the possibilities and constraints of female representation in relation to change. How did the concept of human rights change due to the participation of these United Nations women delegates? Additionally, how can subalternity be understood in relation to women's history in the aftermath of the social crisis that led to the drafting of the UDHR? The study emphasizes the participation of these women as having been crucial for the political articulation of human rights as an inclusive concept.

## Keywords

human rights, universal declaration, women's history, subalternity, Spivak

## Introduction

Recent research has questioned the dominant narrative of human rights as a Western project, by re-reading the drafting of the Universal Declaration on Human Rights (UDHR) in 1948, as rooted in conflicting cultural narratives, rather than stemming from a Western hegemonic consensus. Yet such readings may consolidate static notions of particularity in which narratives on religion and culture

are given greater importance than that of gender, hence the need to look specifically at the unique non-Western and female subjects who represented their countries in the drafting process. I have elsewhere (Adami, 2015) explored such counter narrative of non-Western female subjects in the drafting of the UDHR, namely the female representatives Begum Shaista Ikramullah (Pakistan), Mehta Hansa (India), and Minerva

Bernardino (Dominican Republic). “The concept of ‘counter narratives’ makes explicit the hegemony that silences some of the voices that counter conceptions of a universal subject. Reading the UDHR through narratives other than the Western narrative of the origin of human rights enriches human rights studies” (Adami, 2015, p. 15). This paper will focus on the contribution by the Indian representative Hansa Mehta. Drawing on Gayatri Spivak’s work on subalternity, this article explores the possibilities and constraints of female representation in relation to change. The article’s aim is to introduce neglected voices and open new venues for future research on human rights. How can subalternity be understood in relation to women’s history in the aftermath of the social crisis that led to the drafting of the UDHR? The study emphasizes the participation of non-Western women in the drafting process, with the main aim of displaying what has been overseen in earlier research that emphasizes only the male, Western delegates in the drafting process, since such a dominant narrative portrays only one of multiple and conflicting historical narratives.

## Gender and Human Rights

Is the notion of human rights a Western and male concept that originated in a milieu that was unaware of the social and political struggles that women, children, and minorities face? Human rights have been alleged to represent a universal subject and inherently exclude marginalized voices and notions of being that may counter the Western morals underlining the universality of human rights. Judith Butler (2001) calls for a reinterpretation of human rights based on local conceptions of what it means to be human

since such conceptualizations are defined under historical and cultural circumstances. Michael Ignatieff (2003) and Mutua Makau (2002) have raised similar arguments on the need to rearticulate human rights against presumed Eurocentrism. Makau (2002) argues that the human rights movement today is imperialistic and that it is problematic that its 1948 inception was spurred by the human rights atrocities during World War II, because human rights in Makau’s view originates from Western problems and cultural values. Ignatieff (2003) equally criticizes the idolatry of human rights for being used as political trump cards by Western societies in an international arena in order to “civilize” non-Western societies. Along these lines, Butler (2001) suggests “that an anti-imperialist or at least non-imperialist conception of international human rights must call into question what is meant by human, and learn from the various ways and means by which it is defined across cultural venues” (p. 22). The postmodern and culturally relativistic critique against a universal notion of human rights (as rooted in a specific historical context when the Universal Declaration of Human Rights was drafted in 1948) reifies the dominant historical narrative that connects human rights to Western culture and values.

Rather than arguing for a reinterpretation of human rights today through different and conflicting cultural and particular values, I aim to challenge the dominant historical narrative on the creation of human rights. In particular, I look at the notion of human rights as defined through the thirty articles of the UDHR, lifting silenced accounts from the drafting process.

Whereas Butler (2001) argues that ‘we would be making a mistake if we thought we understood already which rights, and which formulation of rights, are and are not universal, which meaning for “universality” we

should agree upon' (p. 22). I claim that the cultural translation of rights that Butler envisions was the very basis for the creation of a universal notion of human rights in 1948. As I have explored elsewhere (Adami, 2012, 2013, 2014), United Nations delegates from non-Western and Western societies met on an international arena and agreed to disagree on the values that underscore the moral justification of the universality of human rights. Human rights were referred to as practical principles, compatible with divergent cultural value systems. What was under critical consideration in the United Nations by the delegates in 1948 was the disrespect of human rights in national legislation around the world, in Western as well as non-Western countries. The wording in the declaration was not directed toward lawyers, government officials, or academics, but rather toward ordinary women and men, with the implicit aim that these people would learn and claim their rights legally.

In the Commission on Human Rights, that met in 1946 to discuss the first drafts of the declaration, delegates argued for the universality of human rights from conflicting ideological grounds, such as Communist, Liberal, Catholic, Islamic, Hindu, Christian, and Secular values. The declaration was stripped of any specific cultural reference to God or natural law in the final text, in order for delegates from conflicting cultural backgrounds to reach a common list of universal human rights, but on conflicting philosophical and ideological grounds.

In 1946, only 11 out of 56 member states to the United Nations who participated in the drafting of the UDHR were European (Moyn, 2014). Johannes Morsink (1999) and Paul Gordon Lauren (2011) have written historical works on the drafting process, and both have highlighted the contributions made by male United Nations delegates.

Morsink (1999) questions Lauren's (2011) focus on the French delegate René Cassin as the "father" of the document and wants to redirect the focus to the Canadian delegate John Humphrey, who collected the earlier international declarations on rights to draft a preliminary version of the declaration.

Notably both Morsink (1999) and Lauren (2011) focus on the influence of male, Western delegates to the United Nations Commission on Human Rights. In light of the fact that the Western delegates were not the majority nor even dominated the debates in the Commission on Human Rights, this historical focus can be seen as a choice of raising a certain male, Western narrative out of a multitude of competing historical narratives.

More recent research has questioned this dominant historical narrative by raising competing historical narratives on cultural and religious diversity amongst the United Nations delegates who were involved in the process of debating and amending the document in different instances in the United Nations in 1946-48 (Hoover, 2013; Liu, 2014; Adami, 2012). Still, the notion of human rights continues to be criticized—especially within feminist and postcolonial research on social justice—for its alleged euro-centrism and male-centrism (Dembour, 2006; Halme, 2008; Ackerly, 2008; Mutua, 2002; Mouffe, 2005). This critique has resulted in a discourse that speaks of "women's rights," "indigenous people's rights" and "collective rights," both to stress the fact that not "all human beings" have the same needs (and hence people should have equal opportunity), and thus different kinds of support to realize their potential, but also as a counter or supplementary discourse against the male-blindness of the universal subject of human rights. The negative side effect of this critique against the universality of human

rights (when seen as conflated with notions of maleness, whiteness, Westernness, and neoliberalism) is that it potentially erodes the political force of individual women today, be they Muslim or Hindu or Secular, who argue against patriarchal practices that hinder the rights and freedoms of women by basing their claims to equal rights on that very same universality of human rights (though not conflated with maleness, whiteness, Westernness, or neoliberalism).

When the UN conference at Beijing met a few years ago and we heard there a discourse on “women’s human rights,” the term struck many people as paradoxical. But think about what this term, coined by Charlotte Bunch, actually says. It says that the “human” is contingent, that it has in the past and continues in the present to define a variable and restricted population, which may or may not include women. (Butler, 2001, p. 23)

This feminist critique against the universality of human rights and its subject seems unsurprising considering the dominant narrative reified in earlier research on the history of human rights, which focuses chiefly on its roots in the American Bill of Rights and the French Declaration on the Rights of Man and of the Citizen (Hunt, 2007; Spivak, 2004), historical documents whose drafters neglected the very notion of women as citizens or rights bearers.

## Subalternity

The representation of women’s voices through my writing is put under critical examination through the work of Gayatri Spivak on the “impossibility” of female representation. I use Spivak’s work (1988, 2010, 2004) on subalternity to problematize the fact that women’s knowledge has been sub-

jugated in relation to human rights. Spivak (1988) deconstructs this historicization, where she describes the “complicity between subject and object of investigation” (Spivak, 1988, p. 28), between the historian and the subaltern. Spivak (2004) argues that international conferences on human rights use representatives of a collective subaltern more as a tokenization than actual voices who are able to speak for the subaltern. The problem with this theory is that it does not acknowledge that the female representative, although she may not share the social and economic disadvantage of the subaltern, may come from a similar background, and may have the possibility to talk of social and economic injustices that nonetheless bring something new to the international arena that concern the rights of the subaltern.<sup>1</sup> The female, non-Western delegates who participated in the drafting of the UDHR voted for the inclusion of rights for people under colonial rule (in the second part of article two in the declaration) and to include the article on equal rights within marriage and at its dissolution that the female delegate Eleanor Roosevelt held as unnecessary at the time.

I use Spivak’s (1988) thoughts on historical deconstruction in order to think along the lines of insurgency and change, and I bring into question those who have been seen as political actors for change and those who have been silenced through the generally dominant narrative of the drafting of the Universal Declaration of Human Rights. Even Spivak (2004) herself overlooks the involvement of non-Westerners in the drafting. Thinking along the lines of the constraints of female representation, these women were

<sup>1</sup> Spivak (1999) has in more recent work, *A critique of postcolonial reason: Toward a history of the vanishing present*, challenged her own field and earlier work.

highly educated—some of them in Western universities—hence, according to Spivak, they cannot be seen as representatives of the subaltern, who cannot speak. What Spivak forces us to acknowledge is the political dimension of writing history. Can we really, as European or privileged subjects, re-tell a narrative of social change in which we do not know all the desires behind its impetus?

## Women's Suffrage and the All Women Indian Conference

Mary Ann Glendon (2001) revisited the drafting process of the Universal Declaration of Human Rights, focusing mainly on Eleanor Roosevelt, the American female delegate. The previously mentioned critique against human rights as originating in Western culture and problems neglects the historical contexts of politics and struggles for social justice in which newly independent non-Western societies participated in the drafting of the UDHR, amongst them many women who had fought for the independence of those countries. Pakistan and India won their independence in 1947, and Hindu and Muslim women had been actively taking part in the disobedience movement against the British rule (Narain, 2008; Forbes, 1996). The All Indian Women Conference (AIWC) had lobbied for women's right to vote and to be eligible for government against the British and the nationalists in their respective countries. The All Indian Women Conference gathered women across religious and cultural groupings, representing a uniting and stabilizing force in India (Basu & Ray, 1990). As women had played a significant role in the movement toward independence in their struggle alongside the nationalists and non-violence movements, they had equally advanced their political

voice through organizing against the colonial occupation. But the struggle for women's rights that aimed at improving women's social and political positions through the Hindu and Muslim personal law was actively combated by Hindu and Muslim men. The All India Women Conference wanted to combat the obstacles to women's suffrage, such as child marriage and purdah, prevalent forms of inequality, as well as to gain rights of women to inherit and own property and to be educated:

Indian women leaders took the lead in calling for personal law reform, and in 1946 the AIWC formulated an Indian Women's Charter of Rights, calling for gender equality to be basis of citizenship rights in India. Demanding improvements in the status of women, the charter gave the highest priority to personal law reform. (Narain, 2008, p. 60)

The drafting of the UDHR coincided with the window of opportunity that women in many countries—both European and newly independent non-Western countries—faced in the post-war years, after having advanced their positions during World War I and II. Even though women in France had taken active part in the resistance movement against the Nazi occupation, they did not receive historical acknowledgement, but they did win their right to vote, which French women used for the first time April 29, 1945.

The Ligue Française pour le Droit des Femmes (League of Women's Rights) had given itself the job of monitoring the misogyny of the political world and quoted the Socialist newspaper *Le Populaire* which wrote in 1946: "elections today hardly seem to interest anyone, especially women who, mostly, don't know what it is all about." The League commented "Is *Le Popu* quite sure that men, 'mostly,' do know what it is about?" (Duchen, 1994, p. 37)



Though women had advanced their positions as political subjects in many countries around the world after both World Wars, they were continuously seen as lacking the necessary qualities to contribute in public politics by nationalists who had argued that it was women's duty to support the resistance movements (be it against British rule, as in India and Pakistan or Nazi occupation as in France) by demanding women's political agency in times of war.

As war is often a disruption of gender roles since men are away at war—for a time replaced by women both in labor and more financial and political decisions—relinquishing these modes of agency when peacetime implied a return to order was not always desired by women, and after World War II, the return to the *status quo* seemed almost impossible after the suffragette movement (Duchen, 1994, p. 11-12).

When the Universal Declaration of Human Rights was being drafted in the post-war years, women advanced their position in the diplomatic international arena—with increased female representation in the United Nations. Women delegates came from India, Pakistan, Venezuela, the Dominican Republic, Denmark, Sweden, the Netherlands, and New Zealand in the Third Committee of the Social and Economic Council, as well as in the General Assembly, in which the Universal Declaration of Human Rights was being debated. In all the instances in which the declaration was discussed, the Committee on the Status of Women had three representatives present to lobby for different issues regarding women's human rights.

## From the Archives

The Universal Declaration of Human Rights was discussed and debated in differ-

ent United Nations bodies before it was voted through the General Assembly December 10, 1948. The first draft of the declaration was made in the Drafting Committee in 1946, where Eleanor Roosevelt served as the only female delegate. All articles of the declaration and the wording in the preamble were then debated in the Commission on Human Rights, where Eleanor Roosevelt served as chair, with the Indian delegate Hansa Mehta as the other female representative. The Commission on Human Rights sent the declaration to the Third Committee of the Social and Economic Council, with twelve female delegates, before it was sent to the General Assembly. In all instances, the Committee on the Status of Women had three representatives to oversee the discussions.

Eleanor Roosevelt was initially against the creation of a Committee on the Status of Women. She argued that the Commission on Human Rights would deal with women's human rights, but the female delegate from Dominican Republic, Minerva Bernardino, insisted upon the need for such a committee, and she won the debate. Some of the female delegates were both representatives in the Committee on the Status of Women, as well as delegates to the Third Committee to the Social and Economic Council, such as Hansa Mehta (India), Way Sung New (China), Fryderyka Kalinowski (Poland), Angela Jurdak (Lebanon), Minerva Bernardino (Dominican Republic), Marie Helene Lefaucheux (France), and Bodil Begtrup (Denmark), Chairman of the Committee.

I focus here on the contributions of the female delegate Hansa Mehta in the Commission on Human Rights. In the Commission she was the only female delegate apart from Eleanor Roosevelt. She differed from Roosevelt on some crucial issues, disagreeing with the wording of "men" instead of

“everyone.” Hansa Mehta fought for India’s independence alongside Mahatma Gandhi in peaceful resistance demonstrations. She was from an Indian ethnic group called Gujarati, as was Gandhi. Hansa Mehta was the third woman from her ethnic group to obtain a college degree in India (her sister had been the second). Mehta got her bachelor’s degree in philosophy and then studied journalism in London. She proposed a Charter of Women’s Rights in India. In the Bombay Legislative Council, she was involved in the drafting of India’s first constitution. When the first draft of the declaration was presented to the Commission, Hansa Mehta wanted the discussion to first center on the definition of human rights, and she proposed that the discussion be focused on her draft resolution, which dealt with the right of equality (Commission on Human Rights, 1947c). When the Declaration of Human Rights was discussed in the Commission, Hansa Mehta said that she did not like the wording “all men” or “and should act towards one another like brothers”; she felt that it might be interpreted to exclude women, and that it was out of date (Commission on Human Rights, 1947c). Eleanor Roosevelt, acting chair, replied that the word “men” used in this sense was generally accepted to include all human beings (Commission on Human Rights, 1947c). The delegate from United Kingdom, Lord Dukeston, proposed that, in order to avoid further discussion on the subject, a note should be included at the beginning of both documents to the effect that the word “men,” as used therein, referred to all human beings. Hansa Mehta (India) said that she had no objection to the United Kingdom’s suggestion, but Article 1 was the only place in the Declaration where the expression “men” appeared. She wished to have this changed to “human beings” or “persons” (Commission on Human Rights,

1947c). This wording in Article 1 was voted on and Mehta’s suggestion was adopted at that stage of the process.

## Displaced Voices

Hansa Mehta wanted to define the terms of “discrimination” and “minority” and to ensure safeguards in the declaration against the assimilation of minorities. Remembering the case of Indians, Chinese, Japanese and other peoples scattered in the world, Hansa Mehta said:

An effort must be made to define in precise, legal and practical language, as to what a minority is, as to what discrimination is. Additional to this, a definition must be made forth with as to what specific safeguards must be incorporated in the proposed bill of human rights against the danger of assimilation of minorities where they exist. (Commission on Human Rights, 1947c)

She described the situation of millions of Indian people who had been displaced during the past hundred years of colonial rule and who faced discrimination and denials of rights and equality in their different locations due to questions of citizenship and nationality. She argued that these questions needed to be addressed in the Commission on Human Rights and discussed in reference to the principles of equal rights already mentioned in the United Nations Charter (Commission on Human Rights, 1947c). According to Hansa Mehta, the freedom of movement was not only the right of migration but also the freedom of movement within a state. She thought it crucial to safeguard people’s freedom of movement within states, as this freedom was restricted in many countries for certain groups of people by discriminatory laws and regulations (Commission on Human Rights, 1947b). There was a discussion

in the Commission on race, and Hansa Mehta noted that it was important to mention that race included the notion of color (Commission on Human Rights, 1947c).

Mehta raised her voice in the Commission on Human Rights, both against the apartheid in South Africa and against the United Kingdom's colonial manners of neglecting and disrespecting the United Nations' notion of human rights. In this way, she engaged a strong rhetoric against colonialism and imperialism, representing the newly independent India in 1948:

Mehta declared that the Government and people of India attached the greatest importance to the Human Rights Commission and considered that its work would profoundly influence the future of the United Nations. She recalled that the Government of South Africa had maintained the position during recent discussions that there had been no violation of human rights in South Africa since there existed no written definition of human rights as such within the framework of the United Nations. The Government of the United Kingdom had taken a similar attitude by suggesting that the dispute between India and South Africa might be referred to the International Court of Justice. Hansa Mehta considered it the justification of the Commission that pleas of this nature should not be allowed to be advanced within the forum of the United Nations in the future. (Commission on Human Rights, 1947a, p. 161)

Hansa Mehta exemplifies something I find absent from Spivak's account of the subaltern; namely, the fact that people's abilities and concerns are not determined by their social circumstances. In lacking an acknowledgement of this, Spivak's theory on change overlooks how some people actually break through barriers of race and privilege and become representatives of change for others, like these women have.

Spivak argues that the postcolonial intellectuals are a "paradigm of the intellectuals," as if these women who were coming from more or less privileged backgrounds—and were among the intellectuals of their time—existed only within a paradigm of intellectuals.

Mehta was critical of how the discussions and debates in the Commission used a legalistic and academic vocabulary that she did not want to see used in the final text of the Declaration. During one of the Commission's sessions, she "wondered whether the Commission should be satisfied with an academic discussion of a Bill of Rights or whether it wished to implement such a Bill" (Commission on Human Rights, 1947a, p. 161). She wanted the declaration to be a binding instrument on all member states or to be complemented with a convention, but not "in the nature of a vague resolution, including mystic and psychological principles" (Commission on Human Rights, 1947a, p. 161).

## Conclusion

Since the declaration was not drafted as a binding legal document, its educative aim was made explicit in the preamble of the text: that everyone should learn about his or her human rights. There was an implicit aim with this: for ordinary women and men to claim their human rights legally—in other words, to claim the rights that they may not have had in national legal systems—and to claim these in the newly established framework of human rights.

In my reading of Spivak on the subaltern, there seems to be a lack of acknowledgement of change. The theory on the subaltern is deterministic, essentialistic, and denies agency and the will. Although Spivak's problemati-



zation of historicizing by the privileged, white, Western subject brings out the complexity of the problem, there is no shift towards a solution. Deconstruction without affirmation. There is a departure from a Derridian notion of deconstruction that is always followed by the affirmative. As such, Spivak's theory does not account for notions of *being* as a constant process of *becoming*. Static notions of *being*, as the argument that some are "held from social mobility," suggests that people are determined (kept from development and processes of creative growth) by the social environment in which they are "trapped." Even within a cultural and social context, be it colonial, patriarchal or a territory under siege—one that clearly limits the opportunities of intellectual enrichment and restricts people's freedom through discriminatory social and legal structures—I nevertheless question the validity of the static notion that Spivak describes of the subject as *determined* by her environment. How can we understand the processes of *becoming* as being unique and relationally shaped? By subaltern, Spivak refers to "those removed from lines of social mobility" (Spivak, 2004, p. 531). The language that Spivak uses here, I argue, presupposes a passivity of the subaltern and suggests that the subaltern is not only conditioned and limited by her social environment but ultimately *removed*. There is an implicit reference to agency here—to the one/ones who remove the subaltern.

Spivak's deconstruction is vital for laying down the complexity of the making of the "other," a construction that European thinkers have been preoccupied with in establishing a sense of a European subject. Nonetheless, such a deconstruction leaves us with nothing affirmative in envisaging change on the part of the subaltern. What we are left with are the notions of collective consciousness that Spivak criticizes, but that in a sense

are reified through her deconstruction.

An overemphasis on the collective narrative of the "subaltern" that Spivak defines, as focused on those who are removed from the lines of mobility, neglects the uniqueness of each individual and her life story, which cannot be reduced to the collective narrative of the subaltern. These unique life stories carry with them the potential to change, of insurgence. Spivak herself has started education for the poorest children in rural areas in India, and her own noble actions speak of the affirmation I find absent from her theory of the subaltern, namely a notion of change and agency—that even if the stories have been missing in history, voice can be gained in the constant process of becoming and learning. The female delegate from the Dominican Republic, Minerva Bernardino, was orphaned as a child but managed to educate herself and succeed in creating a political career both nationally and internationally, ultimately becoming a strong lobbyist for women's rights. It was in part due to Minerva's lobbying that the United Nations Charter today includes the notion of non-discrimination based on sex. I find that stories like that of Minerva Bernadino question Spivak's notion of the subaltern who cannot appear without the thought of the elite. It additionally questions her collective notion of the subaltern in that since the will of the subaltern cannot appear, we can only see it through the crisis their resistance produces (Spivak, 2004, p. 12).

Spivak engages the question of whether the subaltern can speak, and with this she endeavors to criticize earlier European intellectuals who write the history of the colonial subject by appropriating the permission to narrate their story. Nevertheless, behind the collective announcements through the media of suffering and human rights violations in Southern countries are unique stories that

subsequently get dispersed into collective narratives.

Even though the theory on the subaltern is written concerning workers—not intellectual colonial subjects, like the women who took part in the drafting of the Universal Declaration on Human Rights—it is nonetheless crucial for understanding how parts of history become silenced in an attempt to define a dominant European subject. Hansa Mehta from India, Minerva Bernardino from Dominican Republic, and Shaista Ikramullah from Pakistan argued (contrary to the Western female delegate Eleanor Roosevelt) that women in their countries were not automatically included in the notion of “men” as Roosevelt held. The history of human rights needs to acknowledge these neglected voices in future research.

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