

Sixty-eighth session of the Commission on the Status of Women (CSW68)

‘Accelerating the achievement of gender equality and the empowerment of all women and girls by addressing poverty and strengthening institutions and financing with a gender perspective’

Expert Group Meeting

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The Beijing Settlement and the Infrastructure of Gender Equality and Women’s Empowerment

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1. Introduction: *The Beijing Settlement and the Infrastructure of Gender Equality and Women's Empowerment.*

For many years, the gap between the objectives that the international community has set for gender equality and women's empowerment and their achievement has been glaringly evident. By way of example, as the Millennium Development Goals reached their expiration date, the substantial reduction in maternal mortality that they called for was far from being achieved.¹ The persistence of gendered poverty, on which the forthcoming CSW will focus, can similarly be seen as epitomizing the combined failure of the international community and national governments to realize agreed objectives: while 'Women and Poverty' ranked first among the Beijing Platform for Action's twelve areas of concern, the Concept Note for this EGM demonstrates that it is far from having been successfully addressed.

This failure is not per se the result of an insufficient normative framework.² As the Concept Note makes clear, international human rights laws and policies, from the Covenants to the most recent agreed conclusions of CSWs, delineate a robust system of commitments that ought to lead states, acting individually and in concert through the organizations of the international community, to apply every effort to address gendered poverty – as well as to resolve the constellation of issues critical to promoting gender equality and women's empowerment. This normative framework is embedded within what can be termed the "Beijing Settlement," the general, albeit always contested, consensus rhetorically encapsulated in the slogan "women's rights are human rights, and human rights are women's rights."³ Like all political settlements, its genesis and evolution have been marked by disagreements. Nonetheless, for a quarter of a century, the Beijing Settlement largely succeeded in establishing the language and setting the parameters that could be deployed both to legitimate and measure states and the international community's efforts to promote gender equality and women's empowerment. At the same time, it consolidated and expanded processes of institution-building within international organizations, regional, national and local governments, NGOs, universities, think tanks, and foundations. Taken together, the normative framework and the complex institutional architecture by which it was implemented and upheld constituted the infrastructure for policies, advocacy positions and a variety of initiatives that were directed to the realization of "gender equality and women's empowerment."

As will be further explicated below, the Beijing Settlement entailed framing issues in relation to the basic concept of "gender;" defining goals and, to some extent, the means of their pursuit; elevating international organizations and civil society organizations to key roles in the realization of programmatic objectives; and promoting extensive institution-building designed to promote women's interests. It was also closely associated with the development of complex, multipolar, often transnational and international, communities of knowledge production and diffusion, advocacy, policy analysis, and policymaking. Such communities developed both alongside and within already existing institutions – from universities and think tanks to international organizations – and helped to catalyze further institutional development. Over the decades, gender and/or women's studies programs in universities and think tanks and bureaus charged with mainstreaming gender and/or women's issues and promoting women within governmental and private organizations burgeoned. Thus, the Beijing Settlement did not simply rest on a pact regarding ends and means among more-or-less aligned partners but also set the language within which objectives and

¹ The MDGs called for a 75% reduction in maternal mortality between 1990 and 2015; the result attained was a reduction of 44%. See, Maternal Health Task Force at the Harvard Chan School, at <https://www.mhtf.org/topics/the-sustainabledevelopment-goals-and-maternal-mortality/>).

² For an analysis of the factors that contribute to states' failures to realize their normative commitments, see Brinks, D. M., Levitsky, S., & Murillo, M. V. (2019). *Understanding Institutional Weakness*. Cambridge University Press.

³ Portions of this contribution are drawn from Ergas, Y., Take Back the Future: Global Feminisms and the Coming Crisis of the Beijing Settlement, 72-2 *Journal of International Affairs* (2019): 19-35.

programmatically could be discussed, and spurred the development of implementing, accountability and knowledge-producing institutions that could promote their realization.

But, in recent years, always-present dissenting voices have been amplified as the Beijing Settlement has become the object of systematic attacks by illiberal, neo-sovereigntist, and often ethno-nationalist movements and governments.⁴ Such movements and governments have sought to subvert its basic conceptual and institutional framework and to advance alternative understandings of gender relations and of the proper objectives of gender policies. The context in which the forthcoming CSW will seek to accelerate “the achievement of gender equality and the empowerment of women and girls by addressing poverty and strengthening institutions and financing with a gender perspective” – like others that have preceded it⁵ -- may well be characterized by significant contestations of the understandings of gender equality and women’s empowerment encapsulated in the Beijing Settlement and their desirability. The normative and institutional framework that has substantiated the efforts of more than three decades is at stake.

2. “Human Rights Are Women’s Rights and Women’s Rights Are Human Rights:” the Beijing Settlement’s normative framework and its implications.

Originally synthesized in the Beijing Declaration and the Platform for Action, the Beijing Settlement rested, *inter alia*, on the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), and the work of the three preceding world conferences on women. While it drew on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, all of which contain direct references to the equality of women and men, the Settlement also resonated with the General Assembly’s Declaration on Violence against Women (1993), the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (1993), and the International Conference on Population and Development Programme of Action (1994). It came to incorporate the resolutions comprising the Women, Peace and Security agenda; the mandates and reports of several special procedures such as the Special Rapporteur on Violence against Women; the findings of treaty bodies (in particular those of the Committee on the Elimination of All Forms of Discrimination against Women), and the conclusions of major reviews such as the Beijing +5. Moreover, it echoed throughout the Sustainable Development Goals, and in particular, SDG 5. Institutionally, the Beijing Settlement informs the mandate of UN Women and of the myriad units established within the organizations of the UN system – as well as throughout governments and private entities -- charged with mainstreaming gender and promoting gender equality.

The Settlement’s key elements were enunciated in the Beijing Declaration, which proclaimed that “women’s rights are human rights and human rights are women’s rights” and affirmed governments’ commitment to the “equal rights and inherent dignity of women and men” and to “the full implementation of the human rights of women and the girl child as an inalienable, integral and indivisible part of human rights.” And despite significant contestation, the Declaration, and even more so the Platform for Action,

⁴ There is a burgeoning literature on gender and illiberal movements. *Inter alia*, see, Ergas, n. 3, Graff, A., Kapur, R., Walters, S.D., Introduction: Gender and the Rise of the Global Right, *Signs*, 44-3 (2019), p. 541; M. Verloo, (ed.) (2018), *Varieties of Opposition to Gender Equality in Europe* (London: Taylor & Francis); Correa, S. Paternotte, D. and Kuhar, R. (2018) “The Globalisation of Anti-Gender Campaigns,” *International Politics and Society*, www.ipsjournal.eu/topics/humanrights/article/show/the-globalisation-of-anti-gender-campaigns-2761/. See also, Kriszán, A. and Roggeband, C. (2018), Towards a Conceptual Framework for Struggles over Democracy in Backsliding States: Gender Equality Policy in Central Eastern Europe, *Politics and Governance* 6-3, Kuhar, R. and Paternotte, D. (eds.) (2018), *Anti-Gender Campaigns in Europe* (Rowman and Littlefield International, Ltd.), (2022) *Gender and Illiberalism in Post-Communist Europe*, *Politics and Governance* 10-4; Andrea Peto, (2021) *Gender and Illiberalism*, *Routledge Handbook of Illiberalism*. For an analysis of the impact of the backlash on gender inequality, see, Anne Marie Goetz, The politics of preserving gender inequality: de-institutionalisation and re-privatisation. *Oxford Development Studies*, 48:1, 2-17, DOI: 10.1080/13600818.2019.1672144

⁵ For a brief discussion of the events that took place at the 2019 CSW, see Ergas, Y. n.3

invoked “gender” to explicate their goals. The Platform’s Mission Statement, for example, referenced “the common goal of gender equality,” while the Declaration advocated for gender-sensitive policies and programs. The rights of women were thus framed in relation to gender as a key dimension of social organization. In this, the Platform’s Mission Statement echoed previous agreements, such as the Vienna Declaration and Programme of Action that issued from the 1993 Conference on Human Rights.⁶

In general, in the Beijing Settlement, “gender” signified that the relations among the sexes (including as inflected by national, ethnic, class, and other factors of differentiation), and the unequal life chances associated with them, could not be viewed as physiologically innate or theologically mandated; rather, they were societally rooted and thus historically and contextually variable. In turn, this carried two implications. First, such relations are malleable, contestable, and, ultimately, endowed with political significance. And second, gender variability may manifest not only in the collective experience of women and men but also in individuals’ ways of defining and enacting their own identities, such that the rigid categorization of individuals in a binary sexual scheme may itself be called into question. Only the first of these implications was clearly discernible in the Beijing Platform for Action, for issues related to sexual orientation and gender identity received relatively scant attention at the Beijing conference.⁷ But subsequent initiatives of the international community, such as the appointment of an Independent Expert on sexual orientation and gender identity, can be seen as further articulating the Beijing Settlement’s use of the concept of gender. In 1995, however, “gender” stood for the proposition that societies must change for human rights to become women’s rights and vice-versa.

This entailed, first, that women’s empowerment and gender equality could not be attributed to the realization of only a few objectives. As a parsing of the Beijing Platform for Action shows, each strategic objective implied the others and each related to the panoply of human rights. Thus, detailing its strategic objectives under the rubric of “Women and Poverty,” the Beijing Platform for Action noted:

*51. Women’s poverty is directly related to the absence of economic opportunities and autonomy, lack of access to economic resources, including credit, land ownership and inheritance, lack of access to education and support services and their minimal participation in the decision-making process. Poverty can also force women into situations in which they are vulnerable to sexual exploitation.*⁸ (Emphasis added.)

Women’s poverty, therefore, was not the mere result of individual circumstances. To the contrary the “absence of economic opportunities” was related to the “absence of autonomy”, which in turn related to established norms and practices that could ultimately result in women’s vulnerability to sexual exploitation. The paragraph specifically referenced inheritance, education, support services, political participation, and decision-making capacity all of which called into question the hierarchical organization of patriarchal societies. Moreover, each of these issues echoed with provisions of human rights agreements, from the Covenants through the CEDAW and subsequent agreements. More fundamentally, they reflected the general obligation of states to ensure equality between women and men (as mandated, for example, by the International Covenant on Civil and Political Rights); an equality that was directly negated by women’s lack of “autonomy.” And, they were grounded in, and articulated, the fundamental prohibition of discrimination based on sex (explicated by the CEDAW committee to include gender). The assertion that “women’s rights are human rights,” then, was not a plea for an additive exercise in the cumulation of

⁶ See, Vienna Declaration and Programme of Action, at <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action#:~:text=In%20particular%2C%20the%20World%20Conference,in%20the%20administration%20of%20justice.>

⁷ See, Ergas, Y. (n.3)

⁸ UN Women (1995, reprinted 2014), *Beijing Declaration and Platform for Action, Beijing +5 Political Declaration and Outcome*, p.33. United Nations.
https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/PFA_E_Final_WEB.pdf

specific objectives; rather it conveyed a *holistic program of interlocking elements that, taken together, entailed a profound transformation of all known societies.*

In turn, this transformative agenda redounded on the commitment states and the international community assumed. The Beijing Settlement required an “all of government,” and an “all of society” effort that entailed a major contribution of all international, subnational, and regional organizations not only to pursue common objectives but also to alter their own leadership to incorporate women effectively. The Beijing Declaration noted:

“The success of the [Beijing] Platform for Action ... will require a strong commitment on the part of Governments, international organizations and institutions at all levels ... [and] adequate mobilization of resources as well as new and additional resources to the developing countries from all available funding mechanisms ... financial resources to strengthen the capacity of national, subregional and international institutions ... a commitment to the equal rights, equal responsibilities and equal opportunities and to the equal participation of women and men in all national, regional and international policy-making processes; and the establishment or strengthening of mechanisms at all levels for accountability to the world’s women.”⁹

And thus, the Beijing Settlement also contained elements of institutional (re)design. First, states could not be the sole protagonists of the transformative processes which were called forth. To the contrary, they were to strengthen the capacity of supra and sub national entities --- and thus to legitimate their roles as key actors in the realization of gender equality and women’s empowerment. At the same time, states were also called upon to establish specific mechanisms of accountability “to the world’s women,” the implication being that existing mechanisms were insufficient. The Settlement, therefore, invoked and legitimated processes of institution-building. Inter alia, these resulted in the establishment of UN Women and of the women’s rights machineries within and alongside governments and international organizations.

This expansion of authority beyond conventional state institutions resonated directly in the slogan, “women’s rights are human rights” and “human rights are women’s rights.” The reference to “human rights” called into question the exclusivity of state sovereignty over national arrangements ranging from the organization of labor markets to the structure of authority within the families, from access to education to the exercise of citizenship. If women’s rights were *human* rights, then they were not reducible to the rights of citizens, and jurisdiction to evaluate their realization could not simply be seen as a matter reserved to states’ accountability institutions. And, if human rights were *women’s* rights, then the rights of women derived from sources other than national constitutions. “Women’s rights are human rights and human rights are women’s rights” catapulted women’s rights out of the limited sphere of “matters that are essentially within the domestic jurisdiction of any state,” with which – per article 2(7) of the United Nations Charter - - the United Nations (and, extrapolating broadly, the international community) is prohibited from intervening.¹⁰ As a result, the prohibition against violations of such rights being addressed “under the present [i.e., UN] Charter,” was also mooted,¹¹

This is perhaps the most controversial aspect of the Beijing Settlement. As a matter of international law, states’ commitment to human rights is largely dependent on states’ consent, whether implicit (as may be the case in international customary law) or explicit (as is required by treaty law). Moreover, although

⁹ Beijing Declaration, article 36, UN Women (1995, reprinted 2014), *Beijing Declaration and Platform for Action, Beijing +5 Political Declaration and Outcome*, p.12. United Nations. https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/PFA_E_Final_WEB.pdf

¹⁰ “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter,” United Nations Charter, article 2(7).

¹¹ Id.

international law requires states to render their human rights obligations effective within their jurisdictions, states' decisions to translate human rights into national law must cohere with national constitutional arrangements and the role they attribute to international law. As a result, international institutions' ability to effect and adjudicate states' realizations of their commitments to women's rights is circumscribed. Nonetheless, as a matter of principle, the statement that "women's rights are human rights and human rights are women's rights," signified the legitimacy of international concern with national policies.

In sum, then, the Beijing Settlement:

- Defined a conceptual and normative framework that leveraged the language as well as the substantive elements of agreements defined before the Beijing Conference, and, in turn, informed subsequent agreements.
- Catalyzed processes institutional development that included implementing, accountability, and knowledge-generating and diffusing structures.
- Underscored the legitimacy of international engagement in the definition, realization, and monitoring of general and specific objectives.

3. "Gender," "traditional values" and the centrality of knowledge institutions.

For over a decade, however, and very clearly during the US Presidency of Donald Trump, opposition to the Beijing Settlement has gained strength. As has been extensively documented, rising illiberal movements and governments have galvanized support for their domestic agendas by evoking moral panics not only in relation to gender-related rights (both LGBTQIA+ and canonical women's rights) but also by invoking the term "gender ideology" to signify foreign, corrupting, influences seeking to subvert national cultures and traditional family structures.¹² Scholars have frequently argued that the term "gender ideology" has no inherent meaning: it is variously deployed in relation to a range of issues, from public expressions of same-sex affection to women's bodily autonomy -- and hence functions as an "empty signifier."¹³ But I would contend that "gender ideology" conveys a specific set of meanings, and that these directly undermine the conceptual premises of the Beijing Settlement. Pairing "gender" with "ideology" suggests that "gender" is not a category of knowledge production but rather of partisan mobilization: "gender" is a political slogan not a sociological (or psychological) concept. In this way, the understandings associated with gender encoded into the Beijing Settlement, in particular regarding the historical (and individual, as well as collective) variability and malleability of gendered identities and life-chances, are delegitimated as being nothing-but politics and hence the proper object of political, rather than scholarly, antagonism.

Further, "gender ideology" has often been mobilized to signify that the proponents of claims that are legitimated by reference to "gender" are importing a foreign concept.¹⁴ Indeed, in many (if not all) contexts, the concept of "gender" as developed, in particular, by feminist scholars associated with women's movements of the 1970s and 1980, is novel; it constitutes a new use of a term previously associated with studies of biology and/or linguistics.¹⁵ All languages innovate: old terms acquire new meanings and new terms come into common parlance. Sometimes, such innovations give rise to significant political

¹² See, e.g., Kuhar, R. and Paternotte, D.(eds.) (n.4). Note that the term "gender theory" has sometimes been invoked rather than "gender ideology". See, e.g., Paternotte, D. and Kuhar, R. "'Gender Ideology'" in *Movement: Introduction*, Kuhar R. and Paternotte, D. (eds). (n.4) pp. 1-22.

¹³ See, e.g., Mayer, S. and Sauer, B., "'Gender Ideology' in Austria: Coalitions around an empty signifier," Kuhar R. and Paternotte, D. (eds). (n.4) pp.23-40.

¹⁴ This issue was discussed at the webinar on 'The Politics of Language and the Issue of "Gender,"' December 13, 2018, hosted by the Women and Gender in Global Affairs network of the Institute for the Study of Human Rights at Columbia University. See <https://www.humanrightscolumbia.org/wgga/past-events>

¹⁵ Id.

contestations.¹⁶ “Gender” has come to be characterized by illiberal movements as undermining national, traditional cultures, and, especially, the proper understanding of the identities and relations of women and men.¹⁷ Illiberals stress national tradition, where the Beijing Settlement references human rights. And, as noted above, the anchorage in human rights contrasts directly with illiberals’ emphasis on state sovereignty, and insistence on limiting international jurisdiction over matters regarding social organization.¹⁸

Although it is significant per se, the contest over the use of the term “gender” also highlights what may be another characteristic of illiberal dissent with respect the Beijing Settlement¹⁹: their contrasting use of temporal frames. Whereas the invocation of “traditional values” – specifically, here, in relation to the identities and roles of women and men – legitimates policies and politics by reference to the past, the Beijing Settlement explicitly looks forward. The measures it prescribes are legitimated by the hope for a better future, not by the defense of past. The CEDAW’s Preamble, for instance, describes States as:

“Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women.”²⁰

And Article 5 requires states to identify and eliminate harmful customary practices. “States Parties,” it recites, “shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women....”²¹

As argued above, in contrast with illiberals’ insistence on traditional values the Beijing Settlement was, and remains, avowedly and inherently transformative. As a correlate, the institution building that the Beijing Settlement engendered has been directly called into question by illiberal governments, deploying a variety of tactics from defunding institutions to dismantling them.²² Academic institutions, and, more generally, centers of knowledge-production have been subjected to attack.²³

But knowledge production and diffusion are critical to the dual aim of promoting gender equality and women’s empowerment. Gender-related knowledge is essential to grounding policy and to assessing its effects: the Beijing Platform for Action repeatedly called for gender disaggregated data; the attainment of SDG 5 (and the other SDGs) depends on the availability and analysis of such data. As fundamentally, analysis is required to both frame and interpret data, to develop the concepts that can be used to elaborate

¹⁶ See, e.g., Nicole Chang with AFT, (2022, January 6) *All government workers in France will be prohibited from using English gaming jargon and must use their French equivalents*, <https://www.euronews.com/culture/2022/06/01/france-bans-english-gaming-words-centuries-old-fight-to-keep-the-language-pure#:~:text=Culture%20Culture%20news-,France%20bans%20expressions%20like%20'e%2Dsport%20and%20streamer,crackdown%20on%20English%20gaming%20jargon&text=All%20government%20workers%20in%20France,must%20use%20their%20French%20equivalents>.

¹⁷ See, e.g., Kuhar R. and Paternotte, D. (eds) (n.4).

¹⁸ By way of example, in 2019, China, vetoed a UN Security Council resolution related to the Women, Peace and Security agenda, to highlight “respect for national sovereignty, [and] that Governments bear primary responsibility for preventing sexual and gender-based violence.” United Nations Press Release (2019), *Security Council Adopts Resolution Calling upon Belligerents Worldwide to Adopt Concrete Commitments on Ending Sexual Violence in Conflict*, www.un.org/press/en/2019/sc13790.doc.htm.

¹⁹ Research is required to substantiate this hypothesis.

²⁰ Preamble, CEDAW

²¹ Article 5, CEDAW

²² For case studies that illustrate such attacks, see, Borbola Juhasz and Enriko Pap, (2018) *Backlash in Gender Equality and Women’s and Girls’ Rights*, European Parliament, Policy Department for Citizens’ Rights and Constitutional Affairs, [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604955/IPOL_STU\(2018\)604955_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604955/IPOL_STU(2018)604955_EN.pdf).

²³ See, Ergas, Y., Kochkorova, J., Peto, A., Trujillo, N. (2022), *Disputing ‘Gender’ in Academia: Illiberalism and the Politics of Knowledge*, Politics and Governance, <https://www.cogitatiopress.com/politicsandgovernance/article/view/5529>.

and implement policies, and to debate ideas. That requires that knowledge-producing institutions, like the institutions established to devise, implement, and evaluate policies, be allowed to exist and flourish.

Recommendation: support and strengthen specific institutions for the formulation development, implementation, and monitoring of gender-related rights, including institutions of knowledge production and diffusion.