

Women's Bodies: Violence, Security, Capabilities

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Abstract Violence against women is a global problem of great magnitude. After laying out some sample data on violence against women, I argue that this violence, and its ongoing threat, interferes with every major capability in a woman's life. Next, I argue that it is the capabilities approach we need, if we are to describe the damage done by such violence in the most perspicuous way and make the most helpful recommendations for dealing with it. But the capabilities approach will be helpful in this area only if it develops effective arguments against cultural relativism and in favor of a context-sensitive universalism, and only if it is willing to make some claims, albeit humble and revisable, about which capabilities are most deserving of state protection, as fundamental entitlements of all citizens. Finally, I sketch some possible implications of the capability approach for public policy in this area.

Key words: Women, Violence, Capabilities, Universalism, Relativism

Violence and the threat of violence

No woman in the world is secure against violence. Throughout the world, women's bodies are vulnerable to a range of violent assaults that include domestic violence, rape within marriage, rape by acquaintances or dates, rape by strangers, rape in wars and communal conflicts, honor killing, trafficking and forced prostitution, child sexual abuse, female infanticide, female genital mutilation, and sex-selective abortion. Other practices that are not as obviously violent also contribute to the atmosphere of threat in which all women live the entirety of their lives: sexual harassment, stalking, threats of violence, deprivation of bodily liberty, the under-nutrition of girls. The United Nations Declaration on the Elimination of Violence against Women (1994) defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether

occurring in public or private life". Consequently, many apparently non-violent practices count as forms of violence — and they should so count, because they have the same crippling effects on women's capabilities as actual bodily violence.

While it is true that some women are more vulnerable to violence than others — differences of nation, region, culture, class, and circumstance do make a difference — the fact is that no woman who is rational is ever utterly free of the fear of such violence, whether she has ever experienced violence herself or not. This fear, itself a form of psychological violence, takes its toll on women's lives. If our topic is 'human security', we should begin by admitting that no woman, from pre-birth to advanced old age, has it.

There is a norm in feminist scholarship that the speaker or writer should begin by making clear her own relation to the topic, so that any possible biases might be evident. To follow this norm: I am a privileged woman, and one might think that I am protected about as well as any woman is protected. I had prosperous and loving parents who protected me, nourished me, and educated me for self-sufficiency, so that I do not have to earn a living in a physically degrading or dangerous occupation. I am pretty strong and fit physically; although not trained in self-defense, I can ward off some types of attack, and I have done so. I have also been hooked up, at various times, with three men of robust physical strength who would certainly be capable of warding off potential attackers. I live in a building with a 24-hour security guard. I live in a country that, at least in recent years, treats rape as a serious crime, campaigns against trafficking, and at least tries to do something about sexual harassment. So I view myself as a kind of *a fortiori* argument: if violence happens to me, it happens or can happen in spades to women who lack such protections.

Nonetheless, like depressingly many women in my prosperous country, I have suffered quite a few forms of violence: one instance of date rape, one instance of violent and damaging sexual assault, and numerous instances of sexual harassment, one of which included an instance of attempted rape (see Nussbaum, 2003a). (Never did I file charges, since I knew, in those days, that the police would have laughed at me.) Those are the main things I have suffered, but the awareness of all that I have not suffered but might possibly suffer also takes its toll. One night in Finland, while working at World Institute for Development Economics Research (WIDER), I decided to go out walking in the woods at one a.m., because I had never been able to enjoy that freedom before, and, I reasoned, where but in Finland might it be possible to enjoy it? I had walked for only about 10 minutes in a lovely forest, when I concluded that the fear would not go away, and I would never be able to enjoy such a midnight stroll, not ever in my life. Many if not most women have worse tales to tell; what I want to stress is that even those who do not suffer from violence directly suffer from the threat of it, which greatly diminishes numerous valuable capabilities.

But now let me move to my theoretical claims. After laying out some sample data on violence against women, I will argue that this violence, and its ongoing threat, interferes with every major capability on my list. Next, I shall argue that it is the capabilities approach we need, if we are to describe the damage done by such violence in the most perspicuous way and make the most helpful recommendations for dealing with it. I shall argue, further, raising some perennial philosophical issues, that the capabilities approach will be helpful in this area only if it develops in certain specific ways, which I shall then attempt to describe. Finally, I will sketch some possible implementations of the capability approach in this area.

Violence against women: the data

One thing we know for sure about any data on violence against women is that they are inaccurate, since one of the most notorious effects of such violence is to produce a reluctance on the part of women to report such crimes, and in many cases even to perceive what has occurred as crime, rather than as woman's unpleasant fate. With that starting point held firmly in mind, we can mention a very small number of the data that have by now been gathered. The *Human Development Report 2000* finds that between 10% and 47% of women (in nine countries studied) report being physically assaulted by an intimate partner (United Nations Development Programme, 2000, p. 36). A total 500 000 women a year are trafficked out of Eastern and Central Europe; in Asia around 250 000 people, mostly women and children, are trafficked every year. Between 85 and 115 million girls and women have undergone some form of female genital mutilation, and approximately two million more young girls undergo it. In Pakistan alone, the Human Rights Commission reported more than 1000 honor killings of women in a single year. Data on rape in the *Human Development Report 2000* are obviously inadequate: most nations do not report any figures, and the figures that are reported are so low, and so capriciously varying, as to make them altogether unbelievable.¹

For somewhat more detailed and reliable social science data, we must turn to detailed regional and national studies, and here I focus on two cases, deliberately choosing nations in other respects very differently placed, the United States and India. As for the United States, according to the Bureau of Justice Statistics, intimate partner violence made up 20% of all non-fatal violent crime experienced by women in 2001. The National Violence Against Women Survey, cited on the Bureau of Justice Statistics website², reports that 52% of surveyed women said they were physically assaulted as a child by an adult caretaker and/or as an adult by any type of perpetrator. (The definition of physical assault is broad, ranging from slapping and hitting to use of a gun.) Eighteen percent of women surveyed said that they experienced completed or attempted rape at some time in their life. (The definition of rape includes forced vaginal, oral, and anal

intercourse.) Young women and girls are overwhelmingly the most vulnerable group: thus, of the women who reported being raped at some time in their lives, 22% were under 12 years old and 32% were 12–17 years old when they were first raped. Although men also experience partner violence, women experience significantly more: 25% of surveyed women, compared with 8% of surveyed men, said they were raped and/or physically assaulted by a current or former spouse, cohabiting partner, or date in their lifetime (Tjaden and Thoennes, 1998).

I know of no nationwide study of violence against women in India, but there are excellent regional studies, and let me focus on one that I particularly admire and trust, the study of domestic violence in Kerala by Bina Agarwal and Predeep Panda (2003). It does not cover all the types of violence, obviously, but it is very striking, especially given that Kerala, as is well known, performs very well in health and education, and in sex equality in these areas. Nonetheless, despite these favorable human development indicators, there is a high incidence of both physical and psychological violence. In the authors' long-term profile:

36 percent of women (41 percent rural and 27 percent urban) reported at least one incident of physical violence after marriage. And most experienced multiple forms: 61 percent of the 179 women who reported being hit, kicked, slapped, or beaten by husbands experienced all four forms, and 90 percent experienced at least three. Also most faced three or more incidents. Psychological abuse was even higher: 65 percent reported some form of such abuse and 68 percent reported three or more incidents ... Similarly, current violence was high: 29 percent of women were physically abused and 49 percent psychologically abused in the previous year. Of particular concern is violence during pregnancy: 36 percent reported being slapped, kicked, hit or beaten during pregnancy. (Agarwal and Panda, 2003, p. 9)

Moreover, as Jean Drèze and Amartya Sen have recently shown, violence against females in India begins before birth (Drèze and Sen, 2002, pp. 257–262). India is among the nations that have for some time had an unbalanced sex ratio, indicative of differential nutrition and health care of girls, as well as some outright infanticide. With the availability of techniques to determine the sex of the fetus, the imbalance has widened. In the 0–6 age group, between 1991 and 2001, the female–male ratio fell from 94.5/100 to 92.7/100. To look at the data another way: the biologically common ration of births is about 95 girls to 100 boys. In India the ratio is around 92 to 100 — although, as Jean Drèze and Amartya Sen point out, this is an average, and in reality the nation is divided into two regions, with very discrepant natality ratios. The north and west show a severe imbalance, the south and the east do not. (Note, then, that Kerala with all its problems is in the non-imbalanced group.)

The problem is not India's alone: China and South Korea have even more unfavorable birth ratios, and Singapore and Taiwan are similar to India (Drèze and Sen, 2002, pp. 257–262).

This, then, is how things currently are. Despite some progress, the situation is, on balance, a depressing one. Radhika Coomaraswamy, former Special Rapporteur on Violence Against Women to the United Nations Human Rights Commission, says plausibly that violence against women is “one of the greatest challenges facing the human rights community in the next few decades” (Coomaraswamy, 2002). Her successor, Yakin Ertürk, writes, one year later: “Despite the progress, in general States are failing in their international obligations to effectively prevent, investigate and prosecute violence against women” (2003). She calls the problem of sexual violence, in particular, the “final frontier for the women's movement”.

Violence and women's capabilities

Let us now consider the impact of these varied forms of violence, and the threat of them, on women's capabilities. Since I have defended a particular list of capabilities as the basis for an account of fundamental human entitlements or rights that should, I argue, be adopted in the constitutions of all nations (Nussbaum, 2000, pp. 78–80), let us look at what violence does to the items on the list. *Life* is easy enough: many women are murdered in the course of sexual violence. In wartime and communal conflict this happens in large numbers. It has been estimated, for example, that about one-half of the 2000 Muslims murdered in Gujarat, India, were women who were raped and tortured, then set on fire (Nussbaum, 2004a). Similar things have happened recently on a large scale in many nations, including Bosnia, Sierra Leone, Rwanda, and Columbia. Women also lose their lives through violence at the hands of spouses or partners: in the United States in 2000, 1247 women were killed by an intimate partner (Bureau of Justice Statistics, 1993–2001). The transmission of HIV during intercourse with a partner, often without full disclosure and consent, is another form of lethal violence, extremely widespread in Africa. Trafficking and forced prostitution frequently lead to death, often through HIV/AIDS. And of course, sex-selective abortion and infanticide, together with the undernutrition of girls, are major causes of female death around the world. Honor killings and killings in connection with dowry are also still in some places a depressing reality.

Moving from *life* to *health*, we can mention these same forms of violence, which have a tremendous impact on health even when they are not lethal. Rape, as is well known, takes a tremendous toll on the whole subsequent course of a woman's physical and emotional health — even when the woman herself is not blamed for the rape and receives all the support a good health-care system can give — as is usually not the case, of course. Far more common, even now, is the case where the woman either

conceals the rape or is made to feel a crushing burden of guilt and self-blame if she comes forward. Child sexual abuse mars the adult health of a woman, both physical and psychological, in ways that are only beginning to be adequately documented. To see the devastating impact of not fully informed or consensual marital intercourse on health, we need only consider the huge proportion of women among people living with HIV/AIDS. Domestic violence, depressingly common in every country, takes its own toll. The lives of young sex workers are short and miserable. Female genital mutilation is often ruinous to reproductive health (see World Health Organization, 2002).

The capability of *bodily integrity* is so directly involved here that there would seem little point in further detail. But in my version it is worth mentioning that bodily integrity includes “being able to move freely from place to place”, and that almost no woman really has this capability to the same extent that men have it, as my Finland story illustrates. Here the persistent threat of violence acts, as surely as the reality of violence, to diminish human capabilities. Bodily integrity also requires “having opportunities for sexual satisfaction and for choice in matters of reproduction”; here my view echoes the conclusion of the Cairo Social Summit of 1995, that “all human beings have the right to a safe and satisfying sex life”. Many of the forms of sexual violence annul this capability.

As for *senses, imagination, and thought*, we could spend volumes describing the ways in which sexual violence and the fear of it cripple imagination, thought, and the enjoyment of the senses, as well as hindering access to education, to the freedom of speech, and to artistic creation, all parts of this capability in my formulation. The threat of bodily violence is a way in which women have for centuries been silenced, prevented from using their thought and imagination to stake out a place in the world. Speaking critically of Carol Gilligan’s concept of the ‘different voice’ of women, Catharine MacKinnon once wrote “Take your foot off our necks, then you will hear in what tongue women speak” (1987, p. 45).

I have spoken of *emotions* from the start of this lecture, but there is more to be said. First, it is crucial to take the full measure of the fear that cripples female lives. “Not having one’s emotional development blighted by fear and anxiety”, I wrote on the list (Nussbaum, 2000, p. 79), and I was thinking of a song I heard a women’s collective sing in Andhra Pradesh, which began ‘In every house there is fear. Let’s do away with this fear. Let’s build a woman’s organization’. To that constructive recommendation I shall later turn. But I want to add to these remarks about fear the crucial importance of anger as a constructive force in women’s lives. Frequently, one of the worst damages violence does to women is to enlist them as its accomplices. Instead of anger and rebellion, women feel guilt and fatalism. One of the key roles of the women’s movement is often to engender constructive anger.

As for *practical reason*: a woman who is used violently, or who fears violence, will not be very good at “form[ing] a conception of the good and

engag[ing] in critical reflection about the planning of one's life" (Nussbaum, 2000, p. 79). Even to the extent that she does so, she will have to think about how to get protection. A shopkeeper who has to pay the mob for protection is not exactly free to run his business as he wants. Women in most of the world, most of the time, are like that shopkeeper: they have to pay the great organized syndicate of men for protection, meaning granting sexual favors, doing domestic and child-rearing labor, in order to have a strong male body there to keep them safe from marauders (and possibly not so safe from the man himself). Even when the police try hard to protect women, as often they do not, it is still quite reassuring to think that one is accompanied by someone who can beat up an assailant. But it would be more reassuring still, and more free, not to have to rely on this protection, which is sometimes given without a price, but not always.

The *affiliations* that women are able to form are obviously limited by the ubiquitous threat of violence. In the family, actual violence deforms marital love and/or the relationship of female children to their parents and their surrounding world. The threat of such violence skews affiliations in many ways, large and small. In the larger society, violence and the threat of violence affects many women's ability to participate actively in many forms of social and political relationship, to speak in public, to be recognized as dignified beings whose worth is equal to that of others. Sexual harassment, for example, has been recognized under US law as a crime of sex discrimination, involving unequal power relations. In other nations, for example India and Japan, the crime of sexual harassment has been understood as conceptually connected to the ideas of human dignity and equality. India has also understood rape as a violation of the fundamental right to a life with human dignity, citing both its own Constitution and the Universal Declaration of Human Rights (see *Chairman, Railway Board v. Mrs. Chandrima Das*, AIR 2000 S. Ct. 988).

Violence and the threat of violence, by affecting mobility and independence, obviously affect women's ability to have a meaningful *relationship to the world of nature*. The also, importantly, affects a woman's ability to enjoy leisure, laughter, and *play*. Although this capability, number nine on my list (Nussbaum, 2000, p. 79), might be thought frivolous, there is nothing sadder than to see the removal of laughter from the eyes of a girl or woman, through repeated sexual or physical abuse, or through persistent fear.

Finally, *control over environment* (Nussbaum, 2000, p. 80): violence and the threat of violence greatly influence a woman's ability to participate in politics, to seek employment and to enjoy a rewarding work life, and to control both land and movable property. In many nations of the world, women are not allowed by law to exercise these some of these functions without a male guardian, and this state of affairs is maintained by an ongoing threat of violence. Even where women enjoy legal equality, threats of violence from their relatives, sexual harassment, and actual violence often impede them from effective participation.

In short, there would seem to be no major area relevant to a woman's freedom to realize her human potential that is not affected by violence and the threat of violence.

I have focused on the capabilities of women who are victims of violence, or fear that they may be. But there is another aspect to the problem: the affect of lethal violence against women on the capabilities of males, especially low-status males, in societies where infanticide, sex-selective abortion, and other lethal techniques have created a significant sex imbalance. In their recent book, *Bare Branches: The Security Implications of Asia's Surplus Male Population*, Valerie Hudson and Andrew den Boer argue that such sex imbalances imperil domestic and international security by creating rootless low-status adult males, called 'bare branches' in China, who lack stable social bonds and can easily be recruited for the cause of violence. Although this issue is not my focus, it is one that is highly relevant to our overall theme of 'capabilities and security' (Hudson and den Boer, 2004).

Why capabilities?

One might grant all these facts and their importance without being persuaded that there is any need for a capability-based approach in order to analyze them and make recommendations for progress. So, why capabilities? If we compare the capability approach to previously dominant approaches to development, the answer seems obvious. Thinking of development as the increase in Gross National Product per capita not only does not reach these problems, it positively distracts attention from them (see Nussbaum, 2003b). Approaches that conceive of development's goal as the satisfaction of existing preferences do considerably better, since violence and the fear of violence inflict enormous pain and suffering. But they, too, fall short, for five reasons. First, because they aggregate the diverse elements of a person's good, they are unable to give *separate* salience to the issue of violence; nor can they draw sufficient attention to the way in which it affects many diverse and heterogeneous components of a woman's life. Second, because such approaches also aggregate across persons, they typically do not give enough salience to the special vulnerabilities certain groups and people face because of who they are; the problem of violence against women becomes simply a part of the whole calculus of satisfaction and dissatisfaction. Third, without importing some independent moral factors, preference-based approaches have no way of excluding from the social calculus the very considerable pleasure and profit men have always derived from using women in these ways. The pain suffered by men at the introduction of laws against marital rape, sexual harassment, and date rape is very intense, as debates in many nations show. A true Utilitarian will have to count it (see Nussbaum, 2000, ch. 2). (John Stuart Mill's [1869] failure even to mention this factor in *The Subjection of Women* is the clearest sign of his apostasy from Benthamite

Utilitarianism, although one rarely mentioned by interpreters.) Fourth, as John Stuart Mill and Amartya Sen have both pointed out, women often exhibit 'adaptive preferences', preferences that adjust to their second-class status (Mill, 1869; Sen, 1995; and many other publications). Thus, even if they experience some pain at physical violence, they may not experience the additional pain of thinking that their rights have been violated; and some kinds of violence, sexual harassment for example, may not feel like violence at all to someone who has been thoroughly taught that this is women's lot. Finally, an approach that takes the goal of development to be satisfaction shortchanges the element of *agency* that is so crucial in thinking about what violence takes away from women. What is wrong with rape is not just the pain and suffering it inflicts, it is the way in which it puts the whole capacity of practical reason and choice in disarray, requiring, as philosopher Susan Brison has memorably written in her book *Aftermath*, about her own rape and its consequence, the "remaking of a self" (Brison, 2002).

So much for preference-based approaches. But what of human rights approaches, which, obviously, have been in the forefront of attempts to describe and combat the problem of violence against women internationally? The capabilities approach as I have developed it is, in my view, one species of a human rights approach. Like other human rights approaches, it attaches intrinsic importance to the entitlements it specifies, and it considers them as plural and heterogeneous, non-commensurable, and all of central importance to basic justice. But the emphasis on seeing rights as capabilities has some consequences that are particularly helpful in this area, four in particular. First, the capabilities approach makes it clear that securing a right to someone requires making the person really capable of choosing that function. It thus invites inquiry into subtle impediments to women's functioning and to the interlocking effects of various areas of functioning on one another. The analysis presented in the previous section informs us that a nation that gives women a nominal right to free speech, or political participation, but does nothing about the problem of violence, has failed to secure women these political rights in the sense of capabilities. Some human rights approaches treat rights as atomistic, or do not invite such connected inquiry.

Second, a related point, the capabilities approach, by foregrounding the actual ability to do or to be, makes it clear that all human rights have an economic and material aspect. It thus calls into question the often-used distinction between 'first-generation' and 'second-generation' rights. Political freedoms are seen as closely connected to issues of material and bodily security, prominently including security against violence, and both of these are seen as closely connected to economic empowerment. (Recall the story of Vasanti, in Nussbaum [2000, Introduction and *passim*] who could leave a physically abusive marriage only because of a Self-Employed Women's Association (SEWA) loan; and it was only then that she was able to participate actively in politics.)

Third, some human rights approaches have reinforced the traditional distinction between private and public spheres, and this, I claim, is no accident. The discourse of human rights originated in Western societies that relied strongly on the private/public distinction; the sphere of rights was typically imagined as the public sphere, and the family was typically imagined as a private sphere to which the discourse of rights had no applicability. Indeed, this way of thinking of rights has been one of the major impediments to winning recognition for women's rights as human rights. The concept of capabilities has no such baggage to jettison, and the idea of being able to do or be something is obviously applicable inside the family, as well as outside of it. From the beginning, in Sen's fundamental work on gender and cooperative conflicts, the approach has been aimed at diagnosing and foregrounding inequalities that women suffer inside the family.

Finally, the capabilities approach does not rely on a distinction very traditional in the discourse of human rights, between state action and state inaction. As I have also observed (Nussbaum, 2003b), the notion of human rights developed in very close relation to the notion of 'negative liberty', or freedom from interfering state action. That is, the state that does nothing is taken to have secured human rights, and human rights are bulwarks only against an oppressive or interventionist state. Impediments supplied by the market, by local governments, or by private individuals are traditionally not seen as violative of human rights. The US Constitution provides a clear case: its all-important guarantees of freedom of speech, freedom of religion, and so on, are put in terms of what the Federal government may not do. Until after the Civil War, there was no barrier to the violation of those rights even by individual state governments, and indeed quite a few states had an established church. After the addition of the Fourteenth Amendment, the Bill of Rights was 'incorporated'; that is, understood to apply to the states as well. But incorporation was a long and gradual process, and it never reached discrimination by private actors. Sexual harassment, for example, is illegal only because of legislative action, and not as a constitutional matter.

The capabilities approach rejects utterly the misleading notion of 'negative liberty': people, especially women, are not free if they are left alone by a lazy state. It also rejects the associated distinction between action and inaction. The state that does nothing has made its choice, namely to do nothing: and of course the protection of even a minimal set of liberties, such as my most radically libertarian colleagues approve, does require affirmative state action, protecting property, a system of contract, and the rule of law itself. The capabilities approach insists that all fundamental entitlements require and deserve state action for their protection, and that all must be supported, or else basic justice, minimal justice, has not been done. The benchmark is not absence of intervention, it is actual capability: people must be put in a position in which they can really do or be the thing in question.

The problem of violence against women makes this issue especially vivid. For violence, as I have argued, is a major area of unfreedom for women, affecting all of their other major capabilities. And yet relatively little of this violence is inflicted directly by the state. Strong and interventionist state action is needed to establish that rape, including rape within marriage, is a serious crime; to get the police to treat domestic violence seriously; to give women remedies for sexual harassment; to stop trafficking and forced prostitution; to end the scourge of sex-selective abortion. And indeed, as Gujarat showed, state action is needed to stop the mass torture and rape of women: for Gujarat was a crime of state negligence, not (at least not directly) of state tyranny. The major improvements reported by the *Human Development Report 2000* and the Special Rapporteur in the area of violence against women are all in the direction of more state interference with private behavior: tougher laws against rape, laws against sexual harassment, more police intervention in the home, vigorous efforts against trafficking.

I do not mean to suggest that the particular type of human rights approach developed by the United Nations Development Programme and Sakiko Fukuda-Parr, and used in *Human Development Report 2000*, has the failings I mention (United Nations Development Programme, 2000). It clearly does not. But, given the international prominence of the American 'negative-liberty' approach and the private-public distinction that so often accompanies it, and given the historical linkage between the discourse of human rights and these baneful concepts, it is just as well to supplement (not replace) the language of human rights with the language of capabilities, spelling out these critical points explicitly and articulating a version of the state that is subtly different from the one contained in some eighteenth-century documents of great influence.

Refining the capabilities approach

Conceptually, then, the capabilities approach is well placed to diagnose, analyze, and address the problems of violence against women. That is of course no accident, since in both Sen's formulation and in my own the approach was developed with women's capabilities prominently in view and with women's equality a central goal. Now, however, I would like to argue that there are some further philosophical developments and refinements that the approach requires if it is to address these issues in a perspicuous and helpful way. I see three such developments.

The first of these is already under way in both Sen's work and my own, but it needs emphasis, and it no doubt will need further argument as time goes on. This is that the approach needs to come up with good responses to cultural relativism and traditionalism, which are currently used to resist women's demand for an end to violence against them, especially violence within the family. Yasmin Ertürk writes that "the greatest challenge to women's rights comes from the doctrine of cultural relativism" (2003).

Radhika Coomaraswamy, similarly, writes that the forms of violence that are linked to “notions of culture” are “tenacious and extremely difficult to eradicate” (2002). And she links to this observation the persuasive claim that “many of the cultural practices that are violent toward women are rooted in the control of female sexuality and the emotional lives of women. In some societies, women’s emotional and sexual expressions are seen as grave threats to the social fabric and a challenge to the social order ... It is only when women’s sexual autonomy is accepted and respected that many of the cultural practices that are violent toward women will be eradicated” (Coomaraswamy, 2002). For some years Sen and I have been arguing against cultural relativism and in favor of the view that capabilities have intrinsic importance (Nussbaum and Sen, 1993; Nussbaum and Glover, 1995; Sen, 1995). Nonetheless, we must continue to make such arguments and to search for the best ones.

What are the strongest such arguments? First, we should begin by criticizing the relativist notion of cultures as homogeneous monoliths, with a single set of norms. Cultures are scenes of debate and contestation. All contain a plurality of voices, and in all the voices of the powerful are most easily heard. Thus the appeal to culture, if it does not seek out the voices of those who are powerless, or afraid to speak, is just an appeal to existing power — and why should *that* have moral authority? If the appeal to culture does recognize plurality and contestation, then it gives us no answers, only questions (Nussbaum, 2000, ch. 1).

Second, we should go on to scrutinize the relativist’s argument. What is it? It must be either a descriptive or a normative thesis. If it is a descriptive thesis — that people *do* make moral decisions in accordance with local tradition — it is descriptively false. People fight tradition all the time, and women especially often. In any case, to the extent that people do defer to culture, this gives us no reason to criticize those who do not defer. Suppose, however, that the relativist’s claim is a normative thesis: people *ought* to make decisions in accordance with local traditions. Besides being incoherent in the way I have mentioned (since culture is plural and a scene of struggle), this normative claim simply prompts the question ‘Why?’ Why *should* women defer? No good reason has been given.

Suppose the relativist now says that we should defer to local traditions out of respect for difference and plurality. First, respect and relativism are very different, because real respect for difference requires unwavering and non-relativistic protection for the freedoms of speech, association, and conscience, and the material factors that undergird these. These norms are not validated by lots of the world’s traditions, so relativism does not entail them (Nussbaum, 2003b). Second, not all differences are worth preserving. We might judge that respect for difference requires the preservation of languages, or crafts — but domestic violence? Differences that inflict pain and harm should be eradicated (Nussbaum, 2000, ch. 1).

Now to my second large philosophical issue: I believe that the rejection of relativism, on which Sen and I agree, is naturally linked to an

issue on which he and I have differed; that is, the importance of endorsing unequivocally a definite list of capabilities as goals for international society (Nussbaum, 2003b). Like the international human rights movement, I am very definite about content, suggesting that a particular list of capabilities ought to be used to define a minimum level of social justice, and ought to be recognized and given something like constitutional protection in all nations. As I say, this is exactly the procedure of the international human rights movement, which wants to establish an agreed list of rights and then get them incorporated into domestic law through treaty ratification or the idea of customary international law. Now of course some human rights instruments, or my capabilities list, might be wrong in detail, and that is why I have continually insisted that the list is a proposal for further debate and argument, not a confident assertion. But it is quite another thing to say that one should not endorse any definite content and should leave it up to democratic debate in each nation to settle content. In the sense of implementation and concrete specification, of course, I do so: no nation is going to be invaded because its law of rape gives women inadequate protection against spousal violence (Nussbaum, 2003b). (Although I note that if we look at the number of women killed because they are women, we should really be thinking of the international definition of genocide, and wondering why the international community never thinks of systematic killings of females as genocide in these terms.) Sen's opposition to the cultural defense of practices harmful to women seems to me to be in considerable tension with his all-purpose endorsement of capability as freedom (Sen, 1999), his unwillingness to say that some freedoms are good and some bad, some important and some trivial.

When we think about violence against women, we see that democratic deliberation has done a bad job so far with this problem. To the extent that there is progress, it is because of the ceaseless harping of the international women's movement — in official documents, in statements, in the work of the Special Rapporteur, and so on — defending a very definite set of rights for women. I view my work on the capabilities list as allied to their efforts, and I am puzzled about why definiteness about content in the international arena should be thought to be a pernicious inhibition of democratic deliberation, rather than a radical challenge to the world's democracies to do their job better. Surely a vague appeal to freedom does no work in this area. For if women are to be secure from violence, many cherished freedoms will have to be abridged, and we will have to be prepared to say of the freedom to have non-consensual intercourse with one's wife, the freedom to harass women in the workplace, those are not the good freedoms, those are not the ones that enter into the basic set of entitlements in a just society. And if we want to defend coercive laws against sexual harassment, marital rape, and so on, we will have to say, on the other side: the freedoms we are protecting here are fundamental. They are entitlements of all citizens based on justice, and women so far do not have them.

The third and final point I would make about future development of the capabilities approach is that the approach must become less nation-centered than it has been up until now in most versions, and cultivate a rich account of the international public sphere and of what richer nations owe to poorer nations (Nussbaum, 2005). The international public sphere is a crucial part of solving these problems, and women's security issues clearly require cooperative international action. They also require economic redistribution, since, as I am about to argue, one of the best ways of working against violence is through forms of economic empowerment, which, in turn, require a robust economy. In general, promoting the central capabilities for all world citizens requires cooperative international thought and considerable redistribution. What is true in general is true in particular for women, whose access to employment is often inhibited by systemic problems in a nation, as well as by more easily remediable bad practices. (Women in Kerala get educated — but then, they often cannot find jobs, and many of them end up as sex workers in Delhi.)

Strategies for women's empowerment

How can we make progress against violence of all the kinds I have described? This is a vast topic, and yet I feel that it can be illuminated by the theoretical approach I have defended. In addition to the obvious strategies of legal reform and better law enforcement, the capabilities approach urges us to think about how we might mobilize one capability to help another. If the analysis of the second section shows that the bad things all hang together, it is also true that supporting one capability helps support others, and sometimes, in an area as culturally contested as this one, the indirect approach through a different capability may be the best. Good women's organizations typically do not march into a village saying 'We are here to change gender roles and stop men from beating their wives'. Even when violence is a big part of their agenda, they typically pursue more indirect strategies, giving women greater bargaining power and exit options through economic empowerment.

Agarwal's study shows that material empowerment matters. In particular, she shows that women who own land do much better on violence than women who do not. In fact, land ownership was by far the single most powerful variable in explaining differences in rates of subjection to violence. Some of these women are helped by land because it enables them to leave abusive marriages; some simply have a stronger bargaining position in their household because of ownership. In any case, Agarwal's conclusion that reform in property law is a key element in fighting the problem of violence is surely well argued, and, wherever unequal laws of ownership exist, that approach should be tried (Agarwal, 1994; Agarwal and Panda, 2003).

Similarly, credit has a good, although more contested, record in giving women help against violence. There may be cases in which having a loan makes a woman a target for abuse but, on the whole, credit, like land, gives a woman exit options and increased bargaining power. So too with employment outside the home, which gives a woman a greater perceived contribution to the welfare of the family, and also the option to leave an abusive marriage without going into a dangerous or degrading occupation. Education is of course a key to the solution of the problem in several ways, both as a source of consciousness raising and as a source of options (Nussbaum, 2004b). In Agarwal's Kerala study it was not a significant variable, but that is probably because of the universality of education in Kerala, and also because of the fact that education is not associated with ample employment opportunities. Many educated women from Kerala, leaving their marriages, end up as sex workers in Delhi.

Another capability that can be deployed effectively against violence is political participation. In many countries, laws concerning violence have been toughened through the work of the women's movement. In India, giving women one-third reservation in the *panchayats* has clearly changed the power structure at the local level, focusing new attention on issues of importance to women and children.

Finally, however, I would like to emphasize the supreme importance of two closely connected capabilities that are, in my view, architectonic; that is, they organize and suffuse all of the others — practical reason and affiliation. A good women's organization deploys these capabilities as keys to everything that it does, bringing women together in new relationship of equality and solidarity, and spurring reflection on their shared predicaments. To cite just one example, Adithi, a non-governmental organization in Bihar, India, typically asks women to draw several maps of their village situation: a geographical map, a historical map, and, most important, a power map. The women then reflect together about points of intervention they might choose to change the power structure. (The project is called 'Reflect'.) At the same time, they join with one another in new relationships. Often they have previously been isolated in the home. Now, in a group that emphasizes mutuality and equality, they sing songs expressive of their determination to take charge of their situation, think about it, and change it. It was in rural Bihar, in the Sitamarhi area, sitting on the ground with a group of extremely poor women, that I heard and joined in the song that I mentioned at the beginning: 'In every house there is fear; let's do away with that fear. Let's build a women's organization.' Another song is also pertinent: it is a rewritten version of a traditional song in which a woman bemoans the bad fate that characterizes a woman's life. The old version went: 'Woman, why are you crying?' and then the woman lists all the bad things that have happened to her. Now, the question becomes not a request for information, but a piece of political criticism: 'Woman, why are you crying? Your tears should become your thoughts.' Here we have practical reason and affiliation, working together. In every

part of India I have visited, women know how to sing ‘We Shall Overcome’ — in Bengali, in Telugu, in whatever their regional language.

I believe that these two capabilities are the deepest level on which the world community must approach the problem of violence against women, and that this commitment means promoting new forms of deliberation and affiliation. This insight might have been missed had we approached the problem as an isolated issue, rather than through the prism of an interlocking set of human capabilities. By showing us multiple relationships among a woman’s capabilities and multiple points of intervention, multiple strategies for empowerment through practical reason and affiliation, the capabilities approach makes a distinctive contribution to the resolution of one of the most terrible and tenacious problems of human life.

Notes

- 1 It thus seems highly unlikely that there are almost three times as many rapes in Canada as in the United States; that rape is four times more common in Estonia than in the United States; that Canada has 90 times more rapes per unit of population than Japan and 80 times as many as Italy; that Estonia has the highest rape ratio in the world by a factor of almost two to one over the runner-up, Canada; and so forth.
- 2 Bureau of Justice Statistics Survey, <http://www.ojp.usdoj.gov.bjs>

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