Essays on

Gender
— and —
Governance

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Martha Nussbaum
Amrita Basu
Yasmin Tambiah
Niraja Gopal Jayal

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Foreword

The present volume is an outcome of a partnership between the the UNDP India Country Office and the Bureau of Development Policy (BDP) of UNDP, New York. As part of an ongoing effort to add to the body of concepts and best practices of governance, BDP has been commissioning a series of global papers and country case studies on different aspects of governance. As a partner in this endeavour, the India Country Office took the lead in putting together a comprehensive global review of issues around the theme of gender and governance.

This is a theme that holds a unique relevance for India, where gender and decentralisation have been identified by the Government of India as the two focus areas for the UN Development Assistance Framework, which provides the basic underpinning for the work of the UN System in India. Again, the publication of these papers by the UNDP India Human Development Resource Centre (HDRC) reflects the recognition of the mutual interdependence of processes of gendered governance and human development.

The three discussion papers in this volume are the outcome of a one-year long collaborative exploration of the multiple factors that influence the process of engendering governance in complex societies, in particular the changing roles of various actors including women's movements, the state and civil society. Dr. Amrita Basu, Dr. Yasmin Tambiah and Dr. Niraja Gopal Jayal are all notable scholars and strong proponents of a gendered vision of governance. Professor Martha Nussbaum, who has written the introduction to this volume, is an active participant in the process of bringing a gender and human development perspective into global debates on governance. Working from different locations but engaging in an animated process of dialogue and discussion, the writers have each contributed thought-provoking papers that break new conceptual ground and add new dimensions to ongoing debates

on key issues of governance. The essays have been meticulously edited and prepared for publication by Elena Borsatti.

We have benefited greatly from the review and comments provided by Lina Hamadeh-Banerjee, Policy Advisor, BDP and support and encouragement from G.Shabbir Cheema, Director of the erstwhile Management Development and Governance Division (MDGD) of BDP. Kalyani Menon-Sen, Gender Advisor, UNDP India was responsible for creatively energising the process, and colleagues in the UNDP India Country Office participated in the consultations and commented on the drafts. Seeta Prabhu and her team at the HDRC guided the final stages of the process that has culminated in the publication of this volume.

UNDP India is committed to supporting the Government of India in revisioning governance from a gendered perspective and in facilitating and promoting women's participation in governance. This publication is a reflection of that commitment.

Contributors

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Amrita Basu is professor of Political Science and Women's and Gender Studies at Amherst College and director of the Five College Women's Studies Research Center. She is the author of 'Two Faces of Protest: Contrasting Modes of Women' Activism in India' and editor or co-editor of 'Appropriating Gender: Women's Activism And Politicized Religion In South Asia'; 'Community Conflicts and the State In India', 'The Challenge of Local Feminism: Women's Movements in Global Perspective', and 'Localizing Knowledge in a Globalizing World'.

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GENDER AND GOVERNANCE: AN INTRODUCTION

Martha Nussbaum

The relationship between gender and governance has too often been neglected in both theoretical and empirical work. Until very recently, most influential political thought has been built around a conceptual distinction between the "public" realm of politics, military affairs, and administration, and the "private" realm of family and domestic life. Women's role, in a wide range of traditions and in theoretical work influenced by them, has typically been associated with the "private" realm, and men's role with the "public" realm. The public/private distinction has been thoroughly criticized as being in many ways misleading and untenable. Nonetheless, it continues to influence both theoretical and empirical work, with the result that women's efforts to gain a voice in governance have often been ignored.

These papers aim to set the record straight. They advance a theoretical structure, both positive and normative, within which the question of gendered governance may usefully be pursued. They also analyze some current developments that indicate many ways in which women are actively participating in governance, in both government and the institutions of civil society, and the obstacles that remain.

I. Core Terms and Concepts

All the core terms used in these papers require comment, because each has been subject to multiple definitions. A focus on women's

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lives has contributed to new, and in some cases broader, understandings of these central notions.

Gender

The papers focus on the lives of women, but their topic is "gender and governance," not "women and governance." This usage reflects the recognition, by scholars and activists alike, that societies construct elaborate ideas, both descriptive and normative, of what women and men are and what their proper place and function in society is. There may or may not be significant innate differences between males and females (beyond the biological differences of chromosomal and genital sex that are used to define an individual as either male or female).

Most research on this topic has been marred by the failure to separate biology from cultural influences, which have been shown to begin very early in a child's life. Babies, for example, are held and played with differently according to the holders' beliefs about the sex of the child. It is very clear that there are dramatic cultural and societal differences, and that the life of a female individual is from birth shaped by social expectations and norms regarding femaleness. Expectations concerning what is right and proper for women to be, shape a system of constraints and prohibitions, often invisible on account of their habitual nature, but profoundly important in shaping women's own self-conception, aspirations, and functionings. This systematic shaping of women's lives cannot be well understood without understanding the corresponding shaping of male lives, the expectations about what men can do and be, the prerogatives and opportunities extended to males.

For this reason, the academic study of women, which used to take place in programs and departments of "Women's Studies," now increasingly takes place in programs and departments of "Gender Studies," dedicated to understanding the entire system through which societies construct gendered norms for their members. These papers reflect that development. As Basu says, a study of gendered governance is a study of men and masculinity as much as it is a study of women and femininity. Although the papers focus on women's lives, they do so with the understanding that these lives operate within a system of gendered understandings

and gendered power that must be understood as a whole if the lives of women, and their access to governance, are to be enhanced.

Development

These papers look at gender and governance in the context of the efforts of UNDP to promote development, and women's role in it. The concept of development used to be understood very narrowly - a nation was taken to be "developing" when it showed evidence of economic growth. But it was soon recognized that "development" is also, and primarily, a general normative concept, meaning that things are getting better. It was also recognized that economic growth is only one aspect of the improvement of people's lives, and is not always well correlated with improvements in other areas, such as health care and education.[2]

International agencies have therefore increasingly adopted the human development perspective associated with the work of Mahbub-ul-Haq and Amartya Sen, now familiar across the world through the global Human Development Reports brought out by UNDP, and the many national and regional Human Development Reports modelled on these. This perspective and its history are discussed in Jayal's paper.

The human development perspective identifies a number of distinct areas as central to development, including life expectancy, maternal health and safety, health care in general, educational opportunities, access to sanitation and safe drinking water and access to the political process. From the beginning, the approach identified gender inequality as a major concern, producing a Gender Development Index that adjusted each nation's ranking upward or downward based on its record of gender equality in the core areas of life expectancy, educational attainment, and income. The Gender Empowerment Measure gives a different perspective on women's progress by focusing on women's access to economic, professional and political opportunities.[3]

[2]See Jean Drèze and Amartya Sen, *India: Economic Development and Social Opportunity* (Delhi: Oxford, 1995), and Drèze and Sen, eds., *Indian Development: Selected Regional Perspectives* (Delhi: Oxford, 1997).
[3]See the detailed technical discussion of these measures in *Human Development Report 1995* (New York: Oxford University Press, 1995), 125-33.

Governance

The recognition that the lives of women are deeply and systematically conditioned by a host of social norms and expectations implies that a productive study of gender and governance must understand governance in a broader way than was customary in some earlier studies. As Jayal's paper documents, international agencies used to operate within a very narrow and economically focused definition of governance. Good governance was equated with "sound development management," and was defined as "the manner in which power is exercised in the management of a country's economic and social resources for development" (World Bank, quoted in Jayal, p. 2). The key aspects of governance so understood were public sector management, accountability, a legal framework, and information. Politics as such made no appearance in the account. Thus the many ways in which democratic citizens determine the shape of their societies were not taken into account.

Newer accounts of governance have followed a broader understanding of the goals of development. Governance is now understood to include the wide range of ways in which the political, social, and administrative structure of a society affects the access of its members to basic opportunities and capabilities. For example, the UNDP account of governance adopted in 2000 defines governance as "the exercise of political, economic and administrative authority to manage a country's affairs. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences." This definition suggests that a study of governance must include not only economic management but also political participation very generally – and participation in both formal institutions of the state (including legislative, legal, and administrative institutions) and the informal groups, movements, and institutions of civil society.

A study of gender in governance must look at all these areas and their interactions. Thus, an account of women's governance in economic institutions that did not take account of their role in democratic politics at the national, regional, and local levels would be both incomplete and obtuse. To take another example, one that

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is prominent in these papers, women's groups and social movements have been very important in gaining access for women to formal political institutions. A study of women's role in political life that omitted these groups and movements would be obtuse. These papers unequivocally adopt the new understanding of governance, as focused on issues of politics, accountability, the relationship between politics and civil society, and decentralization.

At the same time, Jayal's paper emphasizes that more is involved in gendering the definition of governance than simply broadening its focus. All three authors point out that the institutions of civil society are not necessarily woman-friendly. They include groups supporting women's empowerment, and reactionary groups of many kinds, both religious and secular. Nor is the state necessarily less woman-friendly than civil society: all the papers assign a crucial role to the state in empowering women. Finally, the new, broader understanding of governance does not yet recognize the need to scrutinize the ways in which traditional understandings of women's "private" role in the family hinders their activities and aspirations. Thus, engendering the understanding of governance requires scrutinizing all of these institutions, the family included, and their interactions with a wide range of concerns pertinent to women's lives in view.

Public and Private

The participation of women in governance has long been hindered by the assumption that their proper sphere is the "private" sphere, and this same assumption has been an obstacle to good theoretical and practical work on the question of gender and governance. A critique of this distinction is a thread running through all of the papers, and Tambiah's paper addresses some aspects of this critique in detail. It will therefore be helpful to give here a brief overview of the reasons why scholars focusing on women's concerns have found the public/private distinction to be inadequate.

From the very origins of Western political theory, theorists have carved society into two domains: a "public" domain, the domain of political authority and contestation, and a "private" realm, associated with family and the home. These spheres are conceived as operating in very different ways. In the public sphere, each

person's actions must be constrained by the recognition that he is one among many citizens. Any attempt to gain unlimited or supreme power is typically taken to be both dangerous and inappropriate; political authority is commonly understood to rest on the accountablity of officials to all citizens and on some type of division of power and authority. Thus, as Aristotle articulates the idea, in the realm of the <u>polis</u>, men are "free and equal, ruling and being ruled by turns."[4]

The "private" realm of the household is understood in a very different way. Here the traditional idea is that the male head of the household both may and should exercise a type of kingly authority. Because he is surrounded not by equals, but by inferiors, his job is to control them. Aristotle makes a subtle distinction between the rule of a man over a wife, and his rule over slaves: the kingly husband is supposed to take his wife's views into account in some way. And yet both forms of royal rule are even more strongly distinguished from the rule practiced among citizens, which is not kingly rule at all. Similarly, John Locke's "state of nature", yet another formative source of modern Western conceptions of the private realm, is a realm in which one is not bound and may do as one likes. It is "a state of perfect freedom to order their actions, and dispose of their possessions and persons as they see fit, within the bounds of the Law of Nature."[5] Of course this means that those with power get to exercise it unconstrained, nor are they accountable to anyone for their acts. The private domain is thus defined as a domain in which the powerful hold sway unlimited by considerations of equality and reciprocity.

Modern liberal theory has typically associated the public/private divide with a further distinction: the distinction between a sphere regulated by law and a sphere in which law should not interfere. The public realm is a realm in which law and coercion

[4]*Aristotle, <u>Politics</u> I.1. See further discussion in Nussbaum, "Sex Equality, Liberty, and Privacy: A Comparative Approach to the Feminist Critique," in R. Sudarshan, E. Sridharan, and Z. Hasan, eds., <u>Promoting Equality through Law: Fifty Years of the Republic</u> (Delhi: Oxford, forthcoming).*
[5]*John Locke, <u>The Second Treatise on Government</u> (New York: Macmillan, Library of Liberal Arts, 1988), 4. See the good discussion in Judith DeCew, <u>In Pursuit of Privacy</u>, chapter 1. And also Carol Pateman, <u>The Disorder of Women: Democracy, Feminism, and Political Theory</u> (Stanford: Stanford University Press, 1989).*

operate: if A violates the rights of B, the law will intervene to protect B from A. That is part of what it is to live in a realm characterized by accountability and a division of power. In the "private" realm, by contrast, the law may not intervene to constrain the activity of its monarchical head.

These ideas have deep roots in the Western tradition of political philosophy, but one may find them in other traditions as well. Traditional Hindu law gives the household considerable autonomy. At the same time, one of the central prerogatives, and indeed duties, of the householder is strict control over the women of the house. Chapter 9 of the Laws of Manu states that women are by nature untruthful, lustful, and in need of constant supervision, and so the husband must arrange that this be done. In this way, the idea of the household as a protected sphere of male authority is established.

Such ideas have frequently been invoked in order to resist women's demands for change in the age of marriage and the prerogatives of the husband within marriage. For instance, in India, an especially pernicious development of the idea of male rule over the household came into existence during the time of British domination, with British connivance, resulting in the justificitation even extremely cruel conduct as simply within the husband's prerogative. Historian Tanika Sarkar has investigated the rhetoric surrounding the tragic death of Phulmonee, a girl of 10 or 11 who was raped by her husband, Hari Mati, a man of 35, and died of the resulting injuries.[6] Sarkar convincingly shows that in reaction to British domination of external political life, nationalists turned inward, boosting the idea of male autonomy in the home as the one cherished zone of self-rule, "the last pure space left to a conquered people". This autonomy was understood as being built around the submission, and indeed the much-praised and allegedly voluntary suffering, of women. Nationalists of this stripe resisted internal demands for reform of child marriage, painting them as subversions of their cherished (but really constructed) traditions.[7]

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[6]*Tanika Sarkar, "Rhetoric Against Age of Consent: Resisting Colonial Reason and Death of a Child-Wife," Economic and Political Weekly, September 4, 1993, 1869-78.*
[7]*Sarkar shows in detail that consent-based alternatives, even in ancient India, were summarily dismissed as aberrations. She notes that authority for child marriage comes only from Raghunandan, a late and local authority; and yet it is converted into a sine qua non of the Hindu family and Hindu religion.*

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The British were complicit in this development: they understood that leaving the subject a sphere of self-rule was to their advantage, and thus they actively assisted in the codification of personal law and the privatization of marriage and family. Appeals to the privacy of the home were then invoked to resist efforts to raise the age of consent to marriage. The concept of the family as a private domain was also used to oppose any attempt to prosecute men like Hari Mati - who was not guilty of rape under law, given that his wife was above the statutory limit of ten.[8]

This story provides a good starting point for thinking about what is wrong with the public-private distinction, both descriptively and normatively. Descriptively, the distinction founders because the family is not in fact a sphere untouched by laws and policies. It is in many ways an artifact of such laws.[9] Laws defining what marriage is, what its prerequisites are (a certain age? consent?), what powers and immunities it confers, how it affects property and political rights, and how one may leave it, all enter into the construction of what a marriage is. Laws regulating legitimacy and illegitimacy, inheritance, and immigration also shape what families are: indeed, they usually employ a controversial and political definition of family, in order to mark certain groupings of people as privileged, others (same-sex couples, for example, or groups of unmarried relatives living together) as

[8]*The British Judge who heard the case, when Mati was prosecuted for homicide, simply fell back on the law: "Neither judges nor Juries have any right to do for themselves what the law has not done." He then went on to say that probably the husband didn't realize that sleeping with a ten-year-old by force would cause damage. All the British authorities involved went out of their way to make no criticism of the allegedly traditional Hindu custom; indeed they opined that marital age was a question"with which no Government could meddle and no Government ought to meddle."*

[9] *This point was made already by John Stuart Mill in The Subjection of Women (1869). For contemporary discussion, see Martha Minow, "All in the Family and in All Families: Membership, Loving, and Owing," in D. Estlund and M. Nussbaum, eds., Sex, Preference, and Family: Essays on Law and Nature (New York: Oxford University Press, 1997), 249-76; M. Nussbaum, Women and Human Development: The Capabilities Approach (New York: Cambridge University Press and Delhi: Kali for Women, 2000), chapter 4; Nussbaum, "The Future of Feminist Liberalism," Proceedings and Addresses of the American Philosophical Association 74 (2000), 49-79; Frances Olsen, "The Family and the Market: A Study of Ideology and Legal Reform," Harvard Law Review 96 (1983), 1497-1577; Olsen, "The Myth of State Intervention in the Family," University of Michigan Journal of Law Reform 18 (1985), 835-64.*

not privileged.[10] The state also performs the rites (marriage, divorce) that enable people to enter into and depart from that privileged sphere. Thus, it makes little sense to treat the family as a unit that exists by nature. In modern societies, it is an eminently political creation, and in that sense thoroughly a part of the public realm.

Moreover, the policies that the public realm adopts with regard to family, marriage, divorce, child custody and related matters, strongly influence many other aspects of life in society. Women who are victims of domestic violence or marital rape are less likely to contribute to the economy as workers (a claim established in the United States by the hearings supporting the Violence Against Women Act). They are also less likely to participate in politics or public administration. As Jürgen Habermas has argued, even if we consider only the needs of the public sphere, we have strong reason to protect the human rights of women and girls within the family, for bodily integrity and good physical and mental health are crucial prerequisites of women's political participation.[11] So too is education - and the nature of the family is a crucial determinant of whether girls get the type of education that will facilitate later participation in politics. Thus one cannot study governance as if it were a matter pertaining only to the realm of laws, institutions, or even the informal groups of civil society. Family policy and the nature of the family are an important part of what renders women able, or unable, to function productively in the public realm.

Normatively, the distinction between public and private should be questioned because, as this argument has illustrated, it has typically been used to insulate bad behavior from scrutiny.[12]

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[10] Martha Minow, "All in the Family," shows that the U. S. used such definitions systematically to favor certain immigrant groups over others.

[11] Jürgen Habermas, "On the Internal Relation between the Rule of Law and Democracy," European Journal of Philosophy 3 (1995), 12-20.

[12] See also Catharine MacKinnon's classic critique in "Privacy v. Equality: Beyond Roe v. Wade," in MacKinnon, Feminism Unmodified (Cambridge, MA: Harvard University Press, 1997), 93-102; MacKinnon, Toward a Feminist Theory of the State (Cambridge, MA: Harvard University Press, 1999), 190-94; see also MacKinnon, "Reflections on Sex Equality Under Law," Yale Law Journal 100 (1991), 1281-1324. For a detailed study of the way the distinction worked in U. S. history to insulate domestic violence from scrutiny, see Reva B. Siegel, "'The Rule of Love': Wife Beating as Prerogative and Privacy," The Yale Law Journal 105 (1996), 2117-2207.

Indeed, given its conceptual poverty, one could well say that the only role the distinction has unequivocally served is to protect men's acts from scrutiny. Rape outside the home is a crime in every nation.[13] Rape within marriage, in many nations and states within nations, is either no crime at all or a much lesser crime. In marriage, consent to intercourse is presumed – even though marital consent itself may not have been adequately secured, even though a low marital age removes any meaningful consent and even though superior physical force frequently overrides refusal even among adults who have agreed to marry. Even when there is neither domestic violence nor child abuse, the treatment of girls within the family often hinders their development in life, both in basic matters of nutrition and health care and in more ineffable matters of self-respect and psychological flourishing.

A further normative difficulty inherent in the public-private distinction is that it reproduces female powerlessness in the realm of governance and political life. Men brought up on the idea that women belong in the home and are fitted to be homemakers and reproducers find it difficult to accept the presence of women in political life. They tend to look at them condescendingly, thinking of them as interlopers into a sphere for which their abilities and training do not fit them. Thus, they are likely to suggest that women lack the mental and educational qualifications for political participation, even when women's lacks in these areas are demonstrably no greater than those of men. Attached to the idea that the public sphere belongs to them, men also may react with jealous hostility to the presence of women, which seems as if it must reduce the number of jobs and opportunities available to men.

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[13] *Of course this is not to say that this crime is adequately prosecuted, that police exhibit sensitivity to the predicament of women who are raped, or that laws adequately reflects an understanding that a woman's provocative dress or behavior does not excuse rape. For some of the defects of current thinking about rape in a variety of countries, see Nussbaum, Sex and Social Justice (New York: Oxford University Press, 1999); S. Schulhofer, Unwanted Sex: The Culture of Intimidation and the Failure of Law (Cambridge, MA: Harvard University Press, 1998).*

Sometimes this resistance can take the form of extremely unpleasant harassment and intimidation.[14]

These same habits of mind also affect women's sense of what they can accomplish. Women who believe that the domestic sphere is all that they are fit for may not seek the education that would assist their progress in the public realm, even when it is available to them. On entering the public realm they may lack self-confidence and assertiveness, believing that they are in fact interlopers without the proper capacities for a public role.[15] These aspects of women's self-perception have sometimes been ascribed to women's "nature".[16] But there is reason to see them as socially constructed, and reproduced through the reproduction of a gendered socialization,[17] a prominent part of which is the distinction between the public and the private realms.

Finally, the distinction between public and private has done intellectual damage, preventing the serious empirical study of women's participation in governance and the serious theoretical consideration of the roles they are playing and may yet come to play. This theoretical gap might seem trivial next to the practical damage of which we have spoken. But bad theory contributes to

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[14]*Some landmark cases of sexual harassment that have won redress in the U. S. Courts involve women who have entered previously all-male workplaces. Men express their resentment and their fear of diminished opportunity through, frequently, conduct that is both crude and intimidating. See, for example, Carr v. General Motors, 32 F. 3d 1007 (7th Cir. 1994): the first woman to work in the tinsmith division in a General Motors plant in Indiana was subjected to a five-year campaign of harassment and intimidation that included the defacement of her workman's toolbox and overalls, obscene and threatening messages, men urinating on her from a catwalk and exposing themselves to her, etc.*

[15] *On such "adaptive preferences," see Amartya Sen, "Gender Inequality and Theories of Justice," in Women, Culture, and Development, ed. M. Nussbaum and J. Glover (Oxford: Clarendon Press, 1995); "Rights and Capabilities" in Sen, Resources, Values, and Development (Oxford: Blackwell, 1984); "Gender and Comparative Conflicts," in Persistent Inequalities, ed. Irene Tinker (New York: Oxford University Press, 1991); and Nussbaum, Women and Human Development, chapter 2.*

[16] *Thus, for example, a landmark American case, in 1871, upheld the constitutionality of a law that made it illegal for a woman to practice law, by stating that the "natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life." (Bradwell v. Illinois, 83 U. S. (16 Wall.) 130 (1873).*

[17] *Once again, this is a point already widely recognized by the time of J. S. Mill's The Subjection of Women, which was typical of progressive thinking of its period. "What is now called the nature of women," Mill writes, "is an eminently artificial thing – the result of forced repression in some directions, unnatural stimulation in others."*

bad practice by shielding abuses from scrutiny and discouraging even the naming of obstacles and inequalities. Good theory, in turn, can illuminate the directions practice has been taking and thus reinforce the struggle of those who have been attempting to promote beneficial change, and can map out directions for policy that are productive and precisely targeted rather than obtuse and neglectful.

This analysis should not be taken to suggest that the traditional family is always bad for women. Obviously enough, women have often derived strength from their family role, and, as Basu points out, they frequently find their family a supportive bulwark against a hostile or repressive state. Nonetheless, recognition that the family has been a site of many injustices against women and that public policy is continually at work shaping both the family and other groupings (movements, collectives) through which women pursue their objectives, should prompt both more adequate theorizing and more appropriate forms of public action.

Levels and Modes of Gendered Governance

The core of the papers lies in their extensive analysis of different ways in which women have been transforming the process of governance through their participation in both government (legislative politics, courts, administrative agencies, the military) and in institutions of civil society (movements, groups, NGOs). A factor in all these papers is the increasing pressure of the global market, an institution that is not "private" in the traditional sense of the public/private distinction, but that also stands outside government while both shaping and being shaped by government.

All three authors emphasize that women continue to encounter tremendous resistance in their efforts to gain more influence within the state. At the local level, as Tambiah points out, things sometimes go better than at the national level. All three papers take a keen interest in the affirmative action strategy that has reserved one-third of the seats in *panchayats*, or local councils, in India for women. But at the national level there is still enormous resistance to the full inclusion of women. When they are included, they are frequently assigned "soft" portfolios that reflect traditional understandings of what is suitable for women: health, education,

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and so on. Often these are also less prestigious and powerful appointments. Some nations have opened many important functions in the military to women, but the nations of South Asia still have not moved very far in that direction.

One possible response to this situation is to say that the women's movement properly ought to stand outside of the state, and its radical potential will be coopted if women try to take on establishment roles in government. The authors argue that while this is a genuine worry, the solution cannot be to decrease efforts to achieve more adequate representation of women in the state. Instead, as Jayal emphasizes, it is important to focus on engendering policy, not just the people who formulate policy. Woman-hostile policies should be criticized whether they are made by women or by men, and the presence of a number of women should not be accepted as a substitute for genuinely woman-friendly policies.

Finally, despite all the flaws, the authors agree that the state must continue to play a powerful role in providing equal opportunity for women, particularly at a time when the power of states appears to be weakening and the power of corporations and the global market to be increasing. The authors argue that it is important not to lose sight of the vital functions the state performs in protecting the fundamental rights of all its citizens.

All three authors consider the role of **affirmative action** in achieving a greater voice for women in government. They see numerous problems with both absolute quotas (reserved seats) and quotas in party lists. In particular, such reservations are often treated as upper limits, and become an excuse to stop efforts to achieve more complete integration of women as candidates into the electoral process. Candidates in reserved seats may also prove ineffective, as Basu documents - especially if they have had little prior political experience. But all the authors support with caution some use of quotas and reservations at the present time, when the representation of women is so woefully inadequate in the nations under discussion. The experiment of local *panchayat* reservations in India has had a number of good results, showing that women can learn political skills on the job and become effective supporters of women's interests.

All three authors also support the crucial importance of **education** for women in making political opportunities meaningful

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for them, and in giving them a voice once they attain a political position. Education plays many valuable roles in women's lives, from opening up employment opportunities to giving women more control over their reproductive choices. In the context of gender and governance, however, the point most to be emphasized is that illiterate women are less likely to seek a role in government, and less likely to have influence if they do attain one. One of the most hopeful signs in the Indian *panchayat* experience is that there seems to be increased support for the education of girls, which is likely to improve their chances of getting an opportunity to represent family and village interests in the *panchayat*.

Women's interests have been advanced in many nations of the world through the legal system, through changes in laws relating to rape, sexual harassment, and domestic violence; through more effective enforcement of existing laws; and through new attention to questions of equality and non-discrimination. Tambiah draws attention to the fact that the South Asian experience has not always been positive in this regard. Women do not have confidence in legal systems that throw up obstacles to progressive reforms, that typically involve long delays between charge and trial, and that do not incorporate woman-friendly approaches in legal education or in the process of law-making. This is one major area in which further progress needs to be made. Women need to be much more fully incorporated into the legal system as lawyers, judges and scholars, and the substantive content of laws need to be rethought with concerns of sex equality in view.

But government is only one part of governance, and Basu's paper draws attention to the many ways in which the institutions of **civil society** are crucial for the future of women's interests. As Jayal and Tambiah point out, we should not assume that civil society is necessarily more woman-friendly than the state. Many of its institutions are conservative and even reactionary. Nonetheless, Basu argues convincingly that movements and women's organizations of many types play a valuable role both in teaching women political skills and in pressing their demands. She emphasizes that the relationship between movements and the state can often be complementary for women, in that women who have prior experience in movements are often more effective actors when they do get into an official state position.

Towards a Normative Framework

These papers, like agencies and policy-makers all over the world, use normative concepts such as "development," "human development," "progress," and "improvement." The use of such normative notions is inevitable and deeply right in academic work aimed at pointing out productive directions for social intervention. But at this point a dilemma arises for theorists who wish to specify this normative dimension further in the context of our topic. On the one hand, to spell out a definite normative framework runs the risk of imposing something on the variety and multiplicity of women's striving. Women in the developing world lead enormously varied lives, and, more important, hold varied views about what progress is and what is worth striving for. Both feminist theory and feminist practice are highly plural, and it would be deeply mistaken, especially in a project committed to democracy and decentralization, to impose "from the top down" a normative understanding of development that rejects or marginalizes many of the understandings women actually hold.

On the other hand, to say nothing definite about the normative framework of this project is clearly inadequate. One cannot just use nice-sounding words like "development" without any precise understanding of how they are being understood, simply as place-holders for whatever ideas might come into the reader's mind. For these terms are controversial, and some understandings of them are, as already indicated, deeply subversive of women's equality. Thus the traditional understanding of development as economic growth obscured issues of sex equality, as well as issues of health and education. Again, any understanding of development and governance that takes the role of women to be that of reproducers, caregivers, and home-makers is, we have already said, inimical to women's well-being in a very general sense. An understanding of governance that is committed to values of democracy and accountability implies a definite stand on controversial normative matters. For instance, it reflects the view that all understandings of progress (for example, those that would equate progress with the placing of power in the hands of a single dominant group and the subordination of other groups) are not worthy of equal respect.

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It should be noted that even the statement that we ought to respect a wide range of ways in which women strive to improve their living conditions, is itself a controversial normative idea. We know all too well that many nations and groups do not support such ideas of pluralism and equal respect. Nor would normative understandings of development based entirely on economic growth sufficiently protect these valuable norms. Thus, not to face the normative question at all means withdrawing allegiance to the very values that the imagined critic of a definite normative framework rightly views as central, and to which UNDP and many other international agencies are rightly committed. This alternative does not seem particularly attractive, especially when one is trying to provide a framework for thinking about women's progress.

When we consider the influence that forces of economic globalization are having on the course of development discourse and planning, we have all the more reason to conclude that the normative question must be faced, difficult though it is. Large multinational corporations operate, as corporations do, on the basis of the profit motive. If they are to be led even to consider seriously other values in the developing nations in which they operate, those values must be spelled out explicitly and hammered home again and again. As the human development perspective insists, it is most important that governments, non-governmental actors, and (where possible) corporations be encouraged to understand that promoting development means promoting not just growth, but also education, health care, democracy, and the other values recognized by that perspective. However, that simply does not go without saying in a world increasingly dominated by the profit motive. Therefore, even if there might be societies in which a broad commitment to human development could be taken for granted and a normative framework would not need to be explicitly spelled out, no modern society is really like that at the present time. All societies today are under pressure from globalization, which tends to bring with it a narrow understanding of the norms to be promoted.

The best solution to this difficulty seems to be a normative framework that is definite enough to express a commitment to some central values connected to sex equality, but flexible enough to admit multiple understandings that different groups of women

may have of the goals toward which they are striving. In fact, the human development perspective supplies us with such a normative framework. The very idea of the goal of development as the promotion of human capabilities carries with it an idea of human freedom and self-determination. To strive toward capabilities is precisely to strive toward empowering people to choose a variety of functionings that they consider valuable, not to coerce them into a desired total mode of functioning.[18] A person who has a capability to be well-nourished but who prefers to fast for religious or other reasons can always choose fasting. But there is a very great difference between fasting and starving, a difference connected with the idea of human freedom. Thus, in looking at how women's capabilities compare to those of men along a series of parameters, the Human Development Reports attempt to compare spheres of freedom and opportunity.[19]

The idea of a capability is a complex one. To say that a woman is capable of participating in political life, for example, suggests an internal preparedness: the woman is educated enough, confident enough and healthy enough to enter into the political sphere. This internal capability is fostered through education, health care and supportive social relationships. But the idea of capability requires, as well, material and institutional empowerment: the laws and customs of the nation or region are such that the woman really can go out and participate, her efforts to participate will not be thwarted by unequal legal, or financial, or physical obstacles. Thus ascertaining whether women are really capable of participation in governance requires looking at more than the qualities of the women themselves (already an exercise that directs us to the social and political conditions that influence education and development). It requires looking at how laws, movements, groups, and social institutions influence the opportunities of women to take part in a wide range of governance-related activities.

What areas of human capability should, then, be the focus of a project focused on gender and governance? As the Gender

[18] *See Amartya Sen, Development as Freedom (New York: Knopf, 2000); Nussbaum, Women and Human Development, ch. 1.*
[19] *In practice, of course, it has been difficult to compare capabilities without looking to actual functioning, especially since the reports operate with data provided by governments; but the conceptual distinction remains important, and in some areas it is easy to see it.*

Empowerment Measure of the Human Development Reports suggests, importance should be attached to the holding of political office at the local and national levels, and to the holding of administrative, managerial, professional, and technical positions that are part of governance in a broader sense. But we have said that the capabilities perspective directs us to look at conditions that influence women's internal development and also at conditions of the material and social environment that influence their ability to turn their ideas into action. Thus, a number of other areas of human capability must be studied along with the focus on these central governance-related capabilities. Women's access to education, nutrition and health care (including maternal health and safety and including the elimination of sex bias in nutrition and health care) are central capabilities. Equally critical are their ability to seek employment outside the household; their ability to hold property in their own name and to secure credit and, finally, their freedom from violations of their bodily integrity by rape and assault, both inside and outside of the household. Of very great importance, as well, as the papers suggest, are women's opportunities to form affiliations with other women in groups and movements.

All these capabilities are, of course, important as ends in their own right. It is good for women to be healthy and free from violence even if these capabilities did not have any relation to their ability to participate in political life. Education is a good thing in itself and a source of many other human goods; its relationship to political action is only one aspect of its importance. These papers will consider such capabilities primarily in their relationship to governance and the capabilities centrally associated with governance. But the focus on their instrumental and supportive role should in no way be understood to deny their intrinsic human importance.

A capabilities approach is closely linked to a rights-based approach, and can be understood as one way of further specifying a rights-based approach. Thus Jayal's insistence that what we need is a rights-based framework is in no way in tension with the focus on capabilities in the Human Development Reports and this Introduction. Some rights-based approaches focus only on limiting state action, and not on providing affirmative support for a broad

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range of human functionings. Jayal's is not limited in this way, and does insist on the need for affirmative support. She agrees that we need to talk about capabilities when we say more precisely what rights are rights to: not just to resources, but to opportunities for important types of functioning. She argues correctly that an emphasis on rights is an important addition to a focus on capabilities, where gender equality is concerned, because rights approaches insist that each person has an urgent claim based upon justice in the area under discussion. Women's claims are often ignored, and sometimes ignored even by those who seek to promote human capabilities. Thus it seems important to combine the general capabilities analysis with the idea of rights, in order to give sufficient normative urgency to the struggle to secure them to women.