

INTRODUCTION

Feminism and International Development

I. DEVELOPMENT AND SEX EQUALITY

Women in much of the world lack support for fundamental functions of a human life. They are less well nourished than men, less healthy, more vulnerable to physical violence and sexual abuse. They are much less likely than men to be literate, and still less likely to have preprofessional or technical education. Should they attempt to enter the workplace, they face greater obstacles, including intimidation from family or spouse, sex discrimination in hiring, and sexual harassment in the workplace – all, frequently, without effective legal recourse. Similar obstacles often impede their effective participation in political life. In many nations women are not full equals under the law: they do not have the same property rights as men, the same rights to make a contract, the same rights of association, mobility, and religious liberty.¹ Burdened, often, with the “double day” of taxing employment and full responsibility for housework and child care, they lack opportunities for play and for the cultivation of their imaginative and cognitive faculties. All these factors take their toll on emotional well-being: women have fewer opportunities than men to live free from fear and to enjoy rewarding types of love – especially when, as often happens, they are married without choice in childhood and have no recourse from bad marriages. In all these ways, unequal social and political circumstances give women unequal human capabilities.

1 For examples of these inequalities, see Chapter 3, and my “Religion and Women’s Human Rights,” in Paul Weithman, ed., *Religion and Contemporary Liberalism* (Notre Dame: University of Notre Dame Press, 1997), 93–137, also in Nussbaum, *Sex and Social Justice* (New York: Oxford University Press, 1999).

One might sum all this up by saying that all too often women are not treated as ends in their own right, persons with a dignity that deserves respect from laws and institutions. Instead, they are treated as mere instruments of the ends of others – reproducers, caregivers, sexual outlets, agents of a family’s general prosperity. Sometimes this instrumental value is strongly positive; sometimes it may actually be negative. A girl child’s natal family frequently treats her as dispensable, seeing that she will leave anyhow and will not support parents in their old age. Along the way to her inevitable departure she will involve the family in the considerable expense of a dowry and wedding festivities. What use would it be, then, to care for her health and education in the same way that one would care for a boy’s? What wonder, that the birth of a girl is often an occasion for sorrow rather than for rejoicing? As the old Indian proverb puts it, “A daughter born / To husband or death / She’s already gone.”

Nor is the marital home likely to be a place of end-like respect for such a daughter, although here her instrumental value may become positive. Her in-laws are likely to see her as a mere adjunct of a beloved son, a means to (especially male) grandchildren, an addition to the number of household workers, perhaps as a device to extract money in dowry payments from her parents. Even when she is not abused, she is unlikely to be treated with warmth, nor is her education likely to be fostered. Should her husband prove kind, he can be a buffer between her and the demands of his parents. Should he prove unkind, the woman is likely to have no recourse from abuse in the marital family, and no good exit options. Her natal family will probably refuse to have her back, she probably has no employment-related skills, and the law is not very interested in her predicament. Should the husband die, her situation is likely to become still worse, given the stigma attached to widowhood in many parts of the world. A tool whose purpose is gone: that is what a widow is, and that’s rather like being dead.

These are not rare cases of unusual crime, but common realities. According to the *Human Development Report 1997* of the United Nations Development Programme, there is no country that treats its women as well as its men, according to a complex measure that includes life expectancy, wealth, and education.² Developing countries,

2 *Human Development Report 1997*, United Nations Development Programme (Oxford and New York: Oxford University Press, 1997), 39.

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however, present especially urgent problems. Gender inequality is strongly correlated with poverty.³ When poverty combines with gender inequality, the result is acute failure of central human capabilities. In the developing countries as a whole, there are 60% more women than men among illiterate adults; the female school enrollment rate even at the primary level is 13% lower than that of males; and female wages are only three-fourths of male wages. We do not yet have reliable statistics for rape, domestic violence, and sexual harassment, because in many countries little attention is paid to domestic violence and sexual harassment, rape within marriage is not counted as a crime, and even stranger-rape is so rarely punished that many women are deterred from reporting the crime.⁴

If we turn to the very basic area of health and nutrition, there is pervasive evidence of discrimination against females in many nations of the developing world. Researchers standardly claim that where equal nutrition and health care are present, women live, on average, slightly longer than men: thus, we would expect a sex ratio of something like 102.2 women to 100 men (the actual sex ratio of sub-Saharan Africa).⁵

- 3 The four countries ranking lowest in the gender-adjusted development index (GDI) (Sierra Leone, Niger, Burkina Faso, and Mali) also rank lowest in the Human Poverty Index (HPI), a complex measure (see 126–7) including low life expectancy, deprivation in education, malnutrition, and lack of access to safe water and health services; among the four developing countries ranking highest in the HPI, three (Costa Rica, Singapore, and Trinidad and Tobago) also rank among the highest in the GDI: see *1997 Report*, 39.
- 4 On India, see the special report on rape in *India Abroad*, July 10, 1998. According to recent statistics, one woman is raped every 54 minutes in India, and rape cases increased 32% between 1990 and 1997. Even if some of this increase is due to more reporting, it is unlikely that all is, because there are many deterrents to reporting. A woman's sexual history and social class is sure to be used against her in court, medical evidence is rarely taken promptly, police typically delay in processing complaints, and therefore convictions are extremely difficult to secure. Penile penetration is still a necessary element of rape in Indian law, and thus cases involving forced oral sex, for example, cannot be prosecuted as rape. Rape cases are also expensive to prosecute, and there is currently no free legal aid for rape victims. In a sample of 105 cases of rape that actually went to court (in a study conducted by Sakshi, a Delhi-based NGO) only 17 resulted in convictions.
- 5 Sub-Saharan Africa was chosen as the "baseline" because it might be thought inappropriate to compare developed to developing countries. Europe and North America have an even higher ratio of women to men: about 105/100. Sub-Saharan Africa's relatively high female/male ratio, compared to other parts of the developing world, is very likely explained by the central role women play in productive economic activity, which gives women a claim to food in time of scarcity. For a classic study of this issue, see Esther Boserup, *Women's Role in Economic Development* (New York: St. Martin's Press, 1970; second edition Aldershot: Gower Publishing, 1986). For a set of valuable re-

Many countries have a far lower sex ratio: India's, for example, is 92.7 women to 100 men, the lowest sex ratio since the census began early in this century. If we study such ratios and ask the question, "How many more women than are now present in Country C would be there if C had the same sex ratio as sub-Saharan Africa?" we get a figure that economist Amartya Sen has graphically called the number of "missing women." There are many millions of missing women in the world today.⁶ Using this rough index, the number of missing women in Southeast Asia is 2.4 million, in Latin America 4.4, in North Africa 2.4, in Iran 1.4, in China 44.0, in Bangladesh 3.7, in India 36.7, in Pakistan 5.2, in West Asia 4.3. If we now consider the ratio of the number of missing women to the number of actual women in a country, we get, for Pakistan 12.9%, India 9.5%, Bangladesh 8.7%, China 8.6%, Iran 8.5%, West Asia 7.8%, North Africa 3.9%, Latin America 2.2%, Southeast Asia 1.2%. In India, not only is the mortality differential especially sharp among children (girls dying in far greater numbers than boys), the higher mortality rate of women compared to men applies to all age groups until the late thirties.⁷

Women, in short, lack essential support for leading lives that are fully human. This lack of support is frequently caused by their being women. Thus, even when they live in a constitutional democracy such as India, where they are equals in theory, they are second-class citizens in reality.

II. THE CAPABILITIES APPROACH: AN OVERVIEW

I shall argue that international political and economic thought should be feminist, attentive (among other things) to the special problems women face because of sex in more or less every nation in the world, problems without an understanding of which general issues of poverty and development cannot be well confronted. An approach to interna-

sponses to Boserup's work, see *Persistent Inequalities*, ed. Irene Tinker (New York: Oxford University Press, 1990).

6 The statistics in this paragraph are taken from Jean Drèze and Amartya Sen, *Hunger and Public Action* (Oxford: Clarendon Press, 1989) and Drèze and Sen, *India: Economic Development and Social Opportunity* (Delhi: Oxford University Press, 1995), Chapter 7. Sen's estimated total number of missing women is one hundred million; the *India* chapter discusses alternative estimates.

7 See Drèze and Sen, *Hunger*, 52.

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tional development should be assessed for its ability to recognize these problems and to make recommendations for their solution. I shall propose and defend one such approach, one that seems to me to do better in this area than other prominent alternatives. The approach is philosophical, and I shall try to show why we need philosophical theorizing in order to approach these problems well.⁸ It is also based on a universalist account of central human functions, closely allied to a form of political liberalism; one of my primary tasks will be to defend this type of universalism as a valuable basis from which to approach the problems of women in the developing world.

The aim of the project as a whole is to provide the philosophical underpinning for an account of basic constitutional principles that should be respected and implemented by the governments of all nations, as a bare minimum of what respect for human dignity requires. (Issues of implementation are complex, and I shall give these separate discussion in section VII of this chapter.) I shall argue that the best approach to this idea of a basic social minimum is provided by an approach that focuses on *human capabilities*, that is, what people are actually able to do and to be – in a way informed by an intuitive idea of a life that is worthy of the dignity of the human being. I shall identify a list of *central human capabilities*, setting them in the context of a type of *political liberalism* that makes them specifically political goals and presents them in a manner free of any specific metaphysical grounding. In this way, I argue, the capabilities can be the object of an *overlapping consensus* among people who otherwise have very different comprehensive conceptions of the good.⁹ And I shall argue that the capabilities in question should be pursued for each and every person, treating each as an end and none as a mere tool of the ends of others: thus I adopt a *principle of each person's capability*, based on a *principle of each person as end*. Women have all too often been treated as the supporters of

8 On this see my “Public Philosophy and International Feminism,” *Ethics* 108 (1998), 770–804; “Why Practice Needs Ethical Theory: Particularism, Principle, and Bad Behavior,” forthcoming in *The Path of the Law in the Twentieth Century*, ed. S. Burton, Cambridge University Press; and “Still Worthy of Praise: A Response to Richard A. Posner, The Problematics of Moral and Legal Theory,” *Harvard Law Review* 111 (1998), 1776–95.

9 The terms “political liberalism,” “overlapping consensus,” and “comprehensive conception” are used as by John Rawls in *Political Liberalism* (expanded paperback edition, New York: Columbia University Press, 1996), hereinafter PL.

the ends of others, rather than as ends in their own right; thus this principle has particular critical force with regard to women's lives. Finally, my approach uses the idea of a *threshold level of each capability*, beneath which it is held that truly human functioning is not available to citizens; the social goal should be understood in terms of getting citizens above this capability threshold.

The capabilities approach has another related, and weaker, use. It specifies a space within which *comparisons of life quality* (how well people are doing) are most revealingly made among nations. Used in this way, it is a rival to other standard measures, such as GNP per capita and utility. This role for the conception is significant, since we are not likely to make progress toward a good conception of the social minimum if we do not first get the space of comparison right. And we may use the approach in this weaker way, to compare one nation to another, even when we are unwilling to go further and use the approach as the philosophical basis for fundamental constitutional principles establishing a social minimum or threshold. On the other hand, the comparative use of capabilities is ultimately not much use without a determinate normative conception that will tell us what to make of what we find in our comparative study. Most conceptions of quality of life measurement in development economics are implicitly harnessed to a normative theory of the proper social goal (wealth maximization, utility maximization, etc.), and this one is explicitly so harnessed. The primary task of my argument will be to move beyond the merely comparative use of capabilities to the construction of a normative political proposal that is a partial theory of justice. (The reasons for saying that it is not a complete theory of justice will be presented in section IV.)

The capabilities approach is fully universal: the capabilities in question are important for each and every citizen, in each and every nation, and each is to be treated as an end. Women in developing nations are important to the project in two ways: as people who suffer pervasively from acute capability failure, and also as people whose situation provides an interesting test of this and other approaches, showing us the problems they solve or fail to solve. Defects in standard GNP- and utility-based approaches can be well understood by keeping the problems of such women in view; but of course women's problems are urgent in their own right, and it may be hoped that a focus on them

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will help compensate for earlier neglect of sex equality in development economics and in the international human rights movement.

This project is somewhat unusual in feminist political philosophy because of its focus on developing countries. Such a focus, already common in feminist economic thought and feminist activism, is becoming more common in feminist philosophy, and rightly so. Feminist philosophy, I believe, should increasingly focus on the urgent needs and interests of women in the developing world, whose concrete material and social contexts must be well understood, in dialogue with them, before adequate recommendations for improvement can be made. This international focus will not require feminist political philosophy to turn away from its traditional themes, such as employment discrimination, domestic violence, sexual harassment, and the reform of rape law; these are all as central to women in developing countries as to Western women. But feminist philosophy will have to add new topics to its agenda if it is to approach the developing world in a productive way; among these topics are hunger and nutrition, literacy, land rights, the right to seek employment outside the home, child marriage, and child labor. (Some of these topics are also essential in framing a philosophical approach to the lives of poor women in wealthier nations.) In general, it seems right that problems of poor working women in both developing and developed nations should increasingly hold the center of the scene, and that problems peculiar to middle-class women should give way to these.

Feminist philosophy has frequently been skeptical of universal normative approaches. I shall argue that it is possible to describe a framework for such a feminist practice of philosophy that is strongly universalist, committed to cross-cultural norms of justice, equality, and rights, and at the same time sensitive to local particularity, and to the many ways in which circumstances shape not only options but also beliefs and preferences. I shall argue that a universalist feminism need not be insensitive to difference or imperialistic, and that a particular type of universalism, framed in terms of general human powers and their development, offers us in fact the best framework within which to locate our thoughts about difference.

In the first chapter, I map out and defend an approach to the foundation of basic political principles using the idea of human capability.

I argue that this approach yields a form of universalism that is sensitive to pluralism and cultural difference; in this way it enables us to answer the most powerful objections to cross-cultural universals. I also explain the relationship of my approach to various forms of liberalism and defend a form of political liberalism in connection with the capabilities idea. I then explain the relationship of this approach to the idea of fundamental human rights. And I offer an account of the relationship between political justification and political implementation.

But to display the attractive features of a conception is only one small part of the task of justification. In the second chapter, I take on one further part of that task by arguing that this approach is superior to approaches based on subjective welfarism, the idea that each person's perceived well-being should be the basis for social choice. Welfarist conceptions are ubiquitous and highly influential in economics and therefore in development; so it seems important, both philosophically and practically, to think clearly about the relationship between the capabilities view and welfarism. I shall argue that the problem of preference-deformation makes a welfarist approach unacceptable as the basis for a normative theory of political principles; we need a substantive account of central political goods, of the sort the capabilities approach gives us. Recognizing the phenomenon of adaptive preference-formation does not entail an unacceptable type of paternalism, if this recognition is combined with a version of political liberalism and a focus on capabilities (not actual functions) as political goals. But the welfarist approach, by showing respect for human desire, gets something right: and I shall try to say what that something is, contrasting my capabilities approach with Platonist accounts of the human good.

The third and fourth chapters investigate two specific problem areas that have particular salience for women's lives. There are several such areas that one might fruitfully pursue. Education and property would be obvious choices, as would rape, domestic violence, and sexual harassment.¹⁰ I have chosen religion and the family, both because of their

10 On education, see Drèze and Sen, *India*, Chapter 6; on land rights, see Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge: Cambridge University Press, 1994); on sexual harassment, see my "The Modesty of Mrs. Bajaj: India's Problematic Route to Sexual Harassment Law," in a volume on sexual harassment ed. Reva Siegel and Catharine MacKinnon, forthcoming from Yale University Press.

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complexity (in a way, they include all the others) and because they raise complicated problems of a distinctively philosophical kind. The chapter on religion analyzes conflicts between religion and sex equality, developing a strategy for dealing politically and legally with such conflicts. I argue that any good approach to this problem must balance recognition of religion's importance in the human search for meaning (including women's search) against a critical scrutiny of religion when it threatens valuable areas of human functioning. Here the tradition of U.S. constitutional law provides helpful insights, which can be suitably adapted to the problems of pluralistic democracies in the developing world; most of the materials for my solution are already present in the Indian Constitution. Chapter 4, finally, tackles the difficult question of family love and care, asking how, if at all, it is possible to retain the idea that women have value as givers of love and care while promoting political goals of full equality and family justice. Tackling this problem requires, first, giving an adequate philosophical account of love (or at least the general outlines of one), and then examining the social and political origins of that apparently "natural" entity, the family.

I focus throughout on the case of India, a nation in which women suffer great inequalities despite a promising constitutional tradition. Some writings about women and development pull in thinly described examples from many different cultures, without setting any of them in a deep or rich context. I feel that this is unwise; we cannot really see the meaning of an incident or a law without setting it in its context and history. By focusing on India, I can write on the basis of personal observation and familiarity, as well as study, and I am able to assess scholarly debates in a way that I could not had I tried to cover a wider area. The best way of thinking about the relationship between the political ideal presented here in connection with India and its wider application was suggested by Jawaharlal Nehru, in these famous words:

The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but as long as there are tears and suffering, so long our work will not be over . . . Those dreams are for India, but they are also for the world, for all the nations and people are too closely knit together today for any one of them to imagine that it can live apart. Peace has been said to be indivisible; so is freedom, so is prosper-

ity now, and so also is disaster in this One World that can no longer be split into isolated fragments.¹¹

Similarly, this ideal political proposal takes its orientation from the example of India, but pertains to all nations.

I am doubly an outsider vis-à-vis the places about which I write, that is, both a foreigner and a middle-class person. But most Indian scholarship about India is also the work of foreigners in at least some sense, that is, people who live middle-class lives that are not remotely like the lives about which they write. (So too is most American scholarship about poverty and welfare reform.) I believe that through curiosity and determination one can surmount these hurdles – especially if one listens to what people say. Maybe at times a foreigner can maintain, too, a helpful type of neutrality amid the cultural, religious, and political debates in which any scholar living in India is bound to be enmeshed. Certainly one is sometimes more warmly received as an unimplicated foreigner than as an upper-class person from the person's own culture. I would not find the warm and trusting reception I found in working-class homes in India, were I to walk one block from my office into the Woodlawn area (a poor African-American neighborhood) that borders the prosperous university community. In a situation of entrenched inequality, being a neighbor can be an epistemological problem.

This is a philosophical project, whose aim is to develop a particular type of normative philosophical theory. I am not an empirical social scientist, nor is this book intended as the record of sustained empirical research. But I do attempt to be responsive to empirical facts and to what I have seen. I believe that philosophical theorizing has practical political value, and that its place cannot be filled by other more empirical types of inquiry. Part of theory's practical value lies in its abstract and systematic character. Feminists who disparage abstraction in a global way are, I believe, very unwise to do so. Without abstraction of some sort, there could be no thought or speech; and the type of abstraction characteristic of the tradition of political philosophy has great value, so long as it is tethered in the right way to a sense of what is relevant in reality (something that has not always been the case).¹²

11 Speech delivered in the Constituent Assembly, New Delhi, August 14, 1947, on the eve of Independence.

12 See my "The Feminist Critique of Liberalism," a Lindley Lecture published in pamphlet form by the University of Kansas Press, and in Nussbaum, *Sex and Social Justice*.

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Some feminist philosophy, particularly the type influenced by postmodernist literary theory, has involved a type of abstraction that turns the mind away from reality, and that does not help us see or understand real women's lives better. A focus on real cases and on empirical facts can help us to identify the salient features that a political theory should not efface or ignore. So I have tried to write in a way that is responsive to reality and that helps the reader imagine the relevant reality, however theoretical my ultimate aims. I shall therefore begin my argument, in section IV, by presenting two accounts of particular lives that I have encountered, which should help us to see the salient problems and how they bear on one another. These lives will provide an illustrative focus for many of the concrete discussions in subsequent chapters.¹³ In section V I shall set these particular lives against the background of a more general factual account of some of the problems facing women in today's India.

III. THE CAPABILITIES APPROACH: SEN AND NUSSBAUM

Before we can begin the argument, however, the capabilities approach must be introduced from a different perspective. For, as will emerge more fully from the concrete discussions in Chapters 1 and 2, an approach based on functioning and capability was pioneered in development economics by Amartya Sen. My own version of the approach derives from a period of collaboration with Sen at the World Institute for Development Economics Research beginning in 1986, when we recognized that ideas I had been pursuing in the context of Aristotle scholarship had a striking resemblance to ideas that he had for some years been pursuing in economics. It might therefore be assumed that we agree on all the matters to be discussed here, and controversial proposals in the present argument might be attributed to Sen, who has enough

13 Different examples will be used in Chapter 3. Vasanti seems little interested in religion; although Jayamma prays regularly, religion has not played a major role in shaping her circumstances. Religious law has played a relatively small role in both lives. Both, moreover, are Hindu, and my aim is to investigate tensions among the religions, as they bear on sex equality. Finally, the religion issue requires a focus on law, and thus a selection of examples from among significant legal cases.

arguments on his hands already. It therefore seems important to try to describe what is and is not common to our respective approaches.

Sen's primary use of the notion of capability is to indicate a space within which comparisons of quality of life (or, as he sometimes says, standard of living) are most fruitfully made. Instead of asking about people's satisfactions, or how much in the way of resources they are able to command, we ask, instead, about what they are actually able to do or to be. Sen has also insisted that it is in the space of capabilities that questions about social equality and inequality are best raised.

I agree wholeheartedly with Sen's claims about the capability space, and with the arguments he has used to support them, many of which will be replicated here. But my goal in this book is to go beyond the merely comparative use of the capability space to articulate an account of how capabilities, together with the idea of a threshold level of capabilities, can provide a basis for central constitutional principles that citizens have a right to demand from their governments. The notion of a threshold is more important in my account than the notion of full capability equality: as I argue, we may reasonably defer questions about what we shall do when all citizens are above the threshold, given that this already imposes a taxing and nowhere-realized standard. Thus my proposal is intended to be compatible with several different accounts of distribution above the threshold; it is consequently a partial, rather than a complete, theory of just distribution. Sen nowhere uses the idea of a threshold. I do not think he has stated whether he would actually favor complete capability equality; to the extent that his proposal is open-ended on this point, he and I may be in substantial agreement.

Another area of strong agreement is in the important role we both give to the political liberties. Sen has explicitly endorsed the Rawlsian priority of liberty. My view holds that all the capabilities are equally fundamental, and does not announce a lexical ordering among them. But insofar as we both argue strenuously that economic needs should not be met by denying liberty, we are in complete agreement.

Finally, we are in agreement in stressing that the capabilities we strive for should be understood to be valuable for each and every person, and that it is the capability of each that we should consider, when we ask how nations are doing. Sen has never announced anything so explicit as my *principle of each person's capability*, but his criticism of

organic models of the family, for example, makes it perfectly clear that he supports this emphasis on treating each person as an end.

My approach, however, departs from Sen's in several significant ways. First of all, although Sen and I are in strong agreement about the poverty of cultural relativism and the need for universal norms in the development policy arena, he has never produced explicit arguments against relativism, apart from historical arguments about non-Western cultures that show the descriptive inadequacy of many anti-universalist approaches. It is reasonably clear that he agrees with the way in which I would answer what, in Chapter 1, I call the *argument from culture*, by stressing that cultures are scenes of debate and contestation. But it is less clear whether he would endorse the other replies to relativist arguments that I present in Chapter 1, although he is in sympathy with their general spirit.

Nor has Sen ever attempted to ground the capabilities approach in the Marxian/Aristotelian idea of truly human functioning that plays a central role in my argument. Although he occasionally alludes both to Marx and to Aristotle in articulating the approach, it is unclear to me whether those thinkers played a central role in shaping his conception; insofar as they did, it was probably in an indirect way, through their role in shaping a climate of debate on the left in India. Thus the arguments about which lives are worthy of the dignity of the human being, and about the waste and tragedy involved in the blighting of human powers – and, in addition, all discussions of philosophical justification – should be understood to have no assent from him, though that does not mean that he disagrees with them either.

Most importantly, Sen has never made a list of the central capabilities. He gives lots of examples, and the Human Development Reports organize things in ways that correspond to at least some of the items on my list. But the idea of actually making the list and describing its use in generating political principles is not his, and he should not be taken as endorsing either the project or its specific contents.

Other distinctions introduced in my account – for example, the definitions of the three types of capabilities (basic, internal, combined) – have no parallel in Sen, although in his treatment of examples he sometimes makes similar points. The idea that capability, not functioning, is the appropriate political goal is an idea he sometimes supports through examples, but he has never endorsed it as a general theoretical point.

My own treatment of this question is closely linked to my articulation of the list as a basis for a specifically political conception and a specifically political overlapping consensus. Sen has never yet discussed the contrast between comprehensive and political liberalism, and it is unclear which type of liberalism he would actually favor. On religion his position is complex. At times he inclines toward what, in Chapter 3, I identify as secular humanist feminism; but in writing about the Indian situation he has supported the type of secularism that now prevails, which gives the religions a large political role.

One set of distinctions prominently used by Sen is absent in my own version of the capabilities approach. This is the distinction between well-being and agency, which, together with the distinction between freedom and achievement, structures much of his recent writing about capabilities. I agree with Sen that the concepts introduced by these distinctions are important: but I believe that all the important distinctions can be captured as aspects of the capability/function distinction. When we think of health, for example, we should distinguish between the capability or opportunity to be healthy and actual healthy functioning: a society might make the first available and also give individuals the freedom not to choose the relevant functioning. But I am not sure that any extra clarity is added by using a well-being/agency distinction here: healthy functioning is itself a way of being active, not just a passive state of satisfaction. Although Sen would surely agree with this, I fear that the Utilitarian associations of the idea of “well-being” may cause some readers to suppose that he is imagining a way of enjoying well-being that does not involve active doing and being. I would therefore prefer to dissociate my own terminology more strongly from that of the Utilitarian tradition, and I do not think that any important philosophical issues are blurred by sticking to a simpler set of distinctions (along with the distinctions among levels of capability discussed above).

On the relationship between rights and capabilities we have a modest disagreement, connected to a larger one that does not touch the present project. Sen, who defends a complex non-Utilitarian form of consequentialism, has criticized the view that rights should be understood as supplying side-constraints. I defend a version of that view, putting the central capabilities in the place of rights: central capabilities may not be infringed upon to pursue other types of social advantage.

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In substance, however, our views are very close, because I also give an analysis of rights that differs from the one he uses in attacking the claim that rights supply side-constraints. (See Chapter 1, section VI.)

Finally, the narrative method I sometimes employ, with its implicit emphasis on the political importance of the imagination and the emotions, is not something about which Sen has ever written one way or another. My own views on that topic, which I have developed at length elsewhere, should certainly not be attributed to him. To that narrative material I now turn.

IV. TWO WOMEN TRYING TO FLOURISH

Ahmedabad, in Gujarat, is the textile mill city where Mahatma Gandhi organized labor in accordance with his principles of nonviolent resistance. Tourists visit it for its textile museum and its Gandhi ashram. But today it attracts attention, too, as the home of another resistance movement: the Self-Employed Women's Association (SEWA), with more than 50,000 members, which for over twenty years has been helping female workers in the informal sector to improve their living conditions through credit, education, and a labor union. (In India a very large proportion of the labor force works in what is called the "informal sector" – meaning cottage industries, agricultural labor, and various types of self-employment. Among working women, 94% are self-employed.)¹⁴ On one side of the polluted river that bisects the city is the shabby old building where SEWA was first established, now used as offices for staff. On the other side are the education offices and the SEWA bank, newly housed in a marble office building. All the customers and all the employees are women. Women like to say, "This bank is like our mother's place" – because, says SEWA's founder Ela Bhatt, a woman's mother takes her seriously, keeps her secrets, and helps her solve her problems.¹⁵

14 See Kalima Rose, *Where Women Are Leaders: The SEWA Movement in India* (Delhi: Vistaar, 1992), 17, and personal communication, Ela Bhatt, March 1997. SEWA prefers the term "self-employed" to the term "informal sector," on the ground that it gives dignity and positive status to people who might otherwise be regarded as marginal to economic activity. Rose notes that 55% of the work force in Ahmedabad and 50% in Calcutta and Bombay are self-employed.

15 Bhatt, interview, May 1988, reproduced in Rose, *Where Women Are Leaders*, 172–4.

Vasanti sits on the floor in the meeting room of the old office building.¹⁶ A tiny dark woman in her early thirties, she wears an attractive electric blue sari, and her long hair is wound neatly into a bun on the top of her head. Soft and round, she seems more comfortable sitting than walking. Her teeth are uneven and discolored, but otherwise she looks to be in reasonable health. My colleague Martha Chen tells me later she is a Rajput, that is, of good (Hindu) caste; I've never figured out how one would know that.¹⁷ She has come with her older (and lower-caste)¹⁸ friend Kokila, maker of clay pots and a janitor at the local conference hall, a tall fiery community organizer who helps the police identify cases of domestic violence. Vasanti speaks quietly, looking down often as she speaks, but there is animation in her eyes.

Vasanti's husband was a gambler and an alcoholic. He used the household money to get drunk, and when he ran out of that money he got a vasectomy in order to take the cash incentive payment offered by the local government. So Vasanti has no children to help her. Eventually, as her husband became physically abusive, she could live with him no longer and returned to her own family. Her father, who used to make Singer sewing machine parts, has died, but her brothers run an auto parts business in what used to be his shop. Using a machine that had once been her father's, and living in the shop itself, sleeping on the floor, at first she earned a small income making eyeholes for the hooks on sari tops. Her brothers got her a lawyer to take her husband to court for maintenance – quite an unusual step for someone in her economic class – but the case has dragged on for years with no conclusion in sight. Meanwhile, her brothers also gave her a loan to get the ma-

16 Throughout our conversation, Vasanti referred to herself, and was referred to, as *Vasantibehn*, following Gujarati custom.

17 *Indicia* would typically include name, style of speech, and, in a limited way, occupation. But, given changing economic opportunities, many of which do not map onto traditional caste occupations, norms of what it's proper to do for upper caste men have shifted considerably (as the occupations of Vasanti's father and brother illustrate). Women are more frequently restricted by caste norms of propriety. Thus Uma Narayan observes (in correspondence) that in her mother's generation upper-caste women did not engage in paid work – or if they did, driven by economic necessity, they tried to conceal it from their relatives. Today this is less an issue.

18 Kokila, a lower-caste Hindu, told us that she used to live in an “integrated” Hindu-Muslim area; she moved away to a purely Hindu area as religious tensions escalated in the city.

chine that rolls the edges of the sari; but she didn't like being dependent on them, since they are married and have children, and may not want to support her much longer. With the help of SEWA, therefore, she got a bank loan of her own to pay back the brothers, and by now she has paid back almost all of the SEWA loan. She now earns 500 rupees a month, a decent living.¹⁹ She has two savings accounts, and is eager to get more involved in the SEWA union. Usually, she says, women lack unity, and rich women take advantage of poor women. In SEWA, by contrast, she has found a sense of community. She clearly finds pleasure in the company of Kokila, a woman of very different social class and temperament.

By now, Vasanti is animated; she is looking us straight in the eye, and her voice is strong and clear.²⁰ Women in India have a lot of pain, she says. And I, I have had quite a lot of sorrow in my life. But from the pain, our strength is born. Now that we are doing better ourselves, we want to do some good for other women, to feel that we are good human beings.

Jayamma stands outside her hut in the ovenlike heat of a late March day in Trivandrum, in Kerala, at the southern tip of India.²¹ The first thing you notice about her is the straightness of her back, and the muscular strength of her movements. Her teeth are falling out, her eyesight seems clouded, and her hair is thin – but she could be a captain of the regiment, ordering her troops into battle. It doesn't surprise me that her history speaks of fierce quarrels with her children and her

19 The amount of maintenance allotted to destitute women under the Criminal Procedure Code (see Chapter 3) was Rs. 180 per month in 1986.

20 The first day of the typical SEWA education program for future union and bank leaders is occupied by getting each woman to look straight at the group leader and say her name. The process is videotaped, and women grow accustomed to looking at themselves. Eventually, though with considerable difficulty, they are all able to overcome norms of modesty and deference and to state their names publicly.

21 Unlike Vasanti, Jayamma has been examined previously in the development economics literature. See the chapter "Jayamma, the Brick Worker," in Leela Gulati, *Profiles in Female Poverty: A Study of Five Poor Working Women in Kerala* (Delhi: Hindustan Publishing Company, 1981), and Leela Gulati and Mitu Gulati, "Female Labour in the Unorganised Sector: The Brick Worker Revisited," *Economic and Political Weekly*, May 3, 1997, 968–71, also scheduled for publication in Martha Chen, ed., *Widows and Social Responsibility* (Delhi: Sage, forthcoming). I am very grateful to Leela Gulati for introducing me to Jayamma and her family and for translating.

neighbors. Her jaw juts out as she chews tobacco. An Ezhava – a lower but not “scheduled” (Hindu) caste²² – Jayamma loses out in two ways, lacking good social standing but ineligible for the affirmative action programs established by government for the lowest castes. She still lives in a squatters’ colony on some government land on the outskirts of Trivandrum. Although I am told that I am seeing the worst poverty in all Trivandrum, given Kerala’s generally high living standard the colony seems relatively prosperous compared to poor areas in Bombay and some rural areas. The huts in the settlement are clean and cool, solidly walled, some with mud, some with brick, decorated with photos and children’s artwork; some of them command a stunning view of a lake covered with water hyacinth. Many have toilets, provided by a local government program; both water and electricity reach the settlement reliably. Although the settlers were originally squatters, by now they have some property rights in the land. The bus stops right outside, on a well-maintained road; there is a hospital not far away; and there’s a cheerful primary school in the settlement itself. Older children all seem to be enrolled in school: clean and proud in their school uniforms, looking healthy and well nourished, they escort visitors around the settlement. (In many regions of India, there simply aren’t any schools, and basic utilities are unreliable.)

For approximately forty-five years, until her recent retirement, Jayamma went every day to the brick kiln and spent eight hours a day carrying bricks on her head, 500 to 700 bricks per day. (She never earned more than five rupees a day, and employment depended upon the weather.) Jayamma balanced a plank on her head, stacked twenty bricks at a time on the plank, and then walked rapidly, balancing the bricks by the strength of her neck, to the kiln, where she then had to unload the bricks without twisting her neck, handing them two by two to the man who loads the kiln. Men in the brick industry typically do this sort of heavy labor for a while, and then graduate to the skilled (but less arduous) tasks of brick molding and kiln loading, which they can continue into middle and advanced ages. Those jobs pay up to twice as much, though they are less dangerous and lighter. Women are

22 The two largest religious groups in Kerala are Hindus and Christians. Kerala (formerly the princely states of Travancore and Cochin) was once also the home of India’s largest Jewish community, but most of those Jews have since emigrated.

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never considered for these promotions and are never permitted to learn the skills involved. Like most small businesses in India, the brick kiln is defined as a cottage industry and thus its workers are not protected by any union. All workers are badly paid, but women suffer special disabilities. Nonetheless, they cling to the work because it offers regular employment, unlike construction and agriculture; kilns also typically employ children of workers, so Jayamma could take her children to work with her. She feels she has a bad deal, but she doesn't see any way of changing it.

Thus, in her middle sixties, no longer able to perform the physically taxing job of brick carrying, Jayamma has no employment to fall back on. Her husband never supported the family much anyway, and now he has died; in his old age she lost a lot of work time nursing him. She is unwilling to become a domestic servant, because in her community such work is considered shameful and degrading. Jayamma adds a political explanation: "As a servant, your alliance is with a class that is your enemy." A widow, she is unable to collect a widows' pension from the government: the village office told her that she was ineligible because she has able-bodied sons, although in fact her sons refuse to support her. Males in this region are unreliable contributors to the care and maintenance of aged relatives; only one of Jayamma's sons lives in the region at all. At the same time, during their childhood she invested more in her sons than in her daughters – so her daughters, who are more willing to help her, have very restricted skills and opportunities. There is one exception: one of her granddaughters actually has a nursing diploma, through affirmative action programs in education aimed at the lowest castes (her mother married a Pulaya man). But corruption in the hospital system means that she would have to pay Rs. 2,500 up-front money to have a chance at a nursing job. So this tall, proud, beautiful woman sits at home all day doing housework; she keeps the nursing diploma in a box, and shows it sadly to visitors.

Despite all these reversals (and others), Jayamma is tough, defiant, and healthy. She doesn't seem interested in talking, but she shows her visitors around, and makes sure that they are offered lime juice and water.

Vasanti and Jayamma have very different lives. One is on the poor edges of the lower middle class, and one is at the very bottom of the

economic ladder.²³ Vasanti has five times the income that Jayamma had at her employment peak. Jayamma could never hope to have a bank loan, since she has no security (her property rights in the land would need to be established in court, at some cost), and the very idea of two savings accounts is far beyond her. But in many ways their lives reveal similar patterns, patterns extremely common among women in India and in much of the developing world. Both have been raised in a nation in which women are formally the equals of men, with equal political rights and nominally equal social and employment opportunities. (Discrimination on the basis of sex is outlawed by the Indian Constitution itself.) And both suffer to some extent from general problems of poverty that are not caused exclusively by their being women. Both, however, have also suffered from deprivations that do arise from sex discrimination, and sex discrimination is such a pervasive factor in these women's experience of poverty that it would be wrong to say that any aspect of their poverty is fully understandable without taking it into account. Jayamma's entire life as a worker has been defined by the rigid stratification of the sexes in the brick industry, and by the fact that women in the lower classes rarely get opportunities for formal education and higher skill development. (Men don't always get these chances either, but if any child in the family does, it is almost certain to be a male, for several reasons: males in fact have greater economic opportunities; daughters' income typically belongs to their conjugal, not their natal, family; and in some regions and classes it is thought shameful to depend on one's daughters.)²⁴ Vasanti has been held up by different,

23 Not the social ladder: Jayamma was furious that her daughter married a Pulaya man, even though it meant government benefits for the family.

24 Notice that this asymmetry of expectation is built into law itself: the government of Kerala gives widows' pensions to women with able-bodied daughters, but not to those with able-bodied sons – even though in Kerala, where many communities are matrilineal and some of these are also matrilocal, it is more likely than in most of India that daughters will in fact remain close to their natal home. (Sardamoni, a leading historian of Kerala, tells me in conversation that she has concluded that customs of matriliney and matrilocal residence date back to the eleventh century. Among the communities that are not matrilocal, some are duolocal – the men do not reside with their wives – and others are “avunculocal,” that is, residing near the matrilineal kin of the husband; see Agarwal, *A Field of One's Own*, 141, 505.) Notice, too, that although these three reasons make unequal education of girls seem rational from the parents' point of view, the practice of unequal education persists even when these factors are less in evidence. Women in Kerala frequently support their mothers and males frequently don't; and yet Jayamma too took the traditional course, educating only her sons. The one case of

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more middle-class pressures: early marriage, the restriction of a married woman to a domestic role, her lack of formal education and of training for any useful occupation. Obviously a very intelligent and resourceful woman, she didn't have a chance to make her way into a really middle-class job, since she is illiterate.

Both live in a world in which women are profoundly dependent upon males, and in which males often take their responsibilities lightly. Jayamma's husband usually used up all his income (not large in any case) on tobacco, drink, and meals out for himself, leaving it to Jayamma not only to do all the housework after her backbreaking day, but also to provide the core financial support for children and house. This is a common Kerala pattern, which Jayamma's sons have imitated. Vasanti's husband exhibited a depressingly common pattern: alcoholism and domestic violence – problems pervasive enough (and combined often enough with one another) to have caused the state of Gujarat to pass alcohol prohibition, in response to pressures from women's groups. He didn't do much to support her, and he even deprived her of children who might have supported her by his clever stratagem of getting drunk on vasectomy money (revealing a dark face of a state program that was supposed to make things better for women). In order to leave him, she had to become the dependent of yet other men – though in this instance her brothers proved unusually helpful, both getting her a lawyer and giving her the loan that eventually enabled her to stand on her feet. Although she clearly has a good legal case for maintenance, the inefficiency of the somewhat Dickensian legal system has not served her well. Both women, finally, have been severely limited by their lack of education, a lack that is explained at least in part by their sex.

The problems faced by Jayamma and Vasanti are particular to the social situation of women in particular caste and regional circumstances in India. One cannot understand Jayamma's choices and constraints without understanding, at many different levels of specificity and generality, how she is socially placed: what it means to be an

equal female education in Leela Gulati's study in Trivandrum involved a family with two daughters and no sons – and, in addition, an unusually home-involved and hard-working husband. Their daughters were finishing high school at the time of the study (1981). More recently, government has taken a strong hand, promoting female primary education through a system of free school lunches; by now there is almost universal literacy among adolescents of both sexes.

Ezhava rather than a Pulaya, what it means that she lives in Kerala rather than some other state, what it means that she is in the city rather than a rural area, what it means that she is Hindu in Kerala rather than Christian,²⁵ why she prays every evening and why she thinks it matters, and, of course, what it means more generally that she was born in India rather than in Europe or the U.S. One cannot understand Vasanti without understanding the double bind of being both upper-caste – with lots of rules limiting what it's proper to do – and very poor, with few opportunities to do nice proper things that bring in a living.²⁶ One also cannot understand her story without knowing about family planning programs in Gujarat, the progress of the SEWA movement, the background Gandhian tradition of self-sufficiency on which the Gujarati women's movement draws, and many other highly particular things. No doubt all this particularity shapes the inner life of each woman, in ways that it is hard for an outsider to begin to understand.

On the other hand, in this highly concrete set of circumstances, in some ways so unlike the circumstances of poor working women in the U.S., are two recognizable and imaginable women, with problems not altogether and unrecognizably different from problems of many women (and many poor people generally) in many parts of the world. In Jayamma's tenacity and feistiness, Vasanti's desire to serve the community and to show that she is a good human being, the intense desire of both women for independence and economic self-sufficiency, Jayamma's complex pride in her family, Vasanti's affection for her female friends, the desire of both to have some money and property in their own names, in general in their search for competence and mastery and control over the conditions of their lives – we see efforts common to women in many parts of the world. The body that labors is in a sense the same body all over the world, and its needs for food and nutrition and health care are the same – so it is not too surprising that the female manual laborer in Trivandrum is in many ways comparable to a female manual laborer in Alabama or Chicago, that she doesn't seem to have

25 For example, the Christian churches in Kerala strongly oppose family planning, and this does have a serious effect on their poorest followers: see the difficult story of Sara the fish vendor, in Gulati, *Profiles*.

26 Thus the advantage of her actual employment is clearly that it can be carried on at home, without going out and dealing with men, and without being in a partly male workplace.

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an utterly alien consciousness or an identity unrecognizably strange, strange though the circumstances are in which her efforts and her consciousness take root. Similarly, the body that gets beaten is in a sense the same all over the world, concrete though the circumstances of domestic violence are in each society. Even what is most apparently strange in the circumstances of each is also, at another level, not so unfamiliar. We find it pretty odd that the brick kiln makes women do all the heavy jobs and then pays them less – but many forms of sex discrimination in employment exhibit similar forms of irrationality;²⁷ we find it odd that Jayamma seems to accept this as the way things are, and yet we know that women suffering from discrimination have not always been able to organize to fight against inequality. Again, the fact that Vasanti did not go to school again seems odd, but the more general idea that women are basically wives and mothers and that men are workers in the outside world is not in the least unfamiliar. The fact that she does not even seem to want to go to school is not so surprising either, or the sign of an alien consciousness, given that she does not see any signs of a better way of life that she could enjoy by becoming educated. (As we shall see, many women in the SEWA organization become literate quickly enough – when they see women serving as bank tellers and union organizers, and using literacy to better their lives.)

Indeed, the biggest obstacle for a Western feminist philosopher in thinking about these lives may be the specific details and dynamics of their poverty more than their foreignness: Western feminist philosophy has not typically focused on getting loans, learning to read, and buying a sewing machine, although such a focus is common in feminist politics and in other academic disciplines such as development economics and political science. The very idea that crucial choices would be made (as in Jayamma's household) about who gets to have milk in tea and who only sugar, is a fact that feminist philosophers may find more difficult to comprehend than the the big facts of location and political organi-

27 Strictly speaking, we would need to ask more questions before we could conclude that the arrangement is, in an economic sense, irrational: we would need, for example, to know a lot more about other employment opportunities available to men and women. Furthermore, it is possible that even if the arrangement is irrational, all things considered, it was rational at one time – for example, because of the need to compete for male laborers against other trades – and has been maintained because of habit and male power.

zation and religion. (Most American philosophers probably are not aware – I certainly was not – that the amount of sugar that goes into tea costs less than the amount of milk that goes into tea – I would not begin to count pennies to the extent that is common in poor households the world over.)²⁸ This feminist philosophical project therefore needs to begin by orienting the reader in a general way to the situation of women (especially poor women) in India.

V. INDIA: SEX EQUALITY IN THEORY, NOT IN REALITY

The situation of women in India is an extraordinarily difficult topic to introduce, since there is probably no nation in the world with greater internal diversity and plurality. In what follows I shall be describing some of those differences (of caste, religion, regional background, wealth and class, and still others). But there are some very basic facts that should be borne in mind in what follows.

India celebrated the fiftieth anniversary of its independence from Britain on August 15, 1997. It is the world's largest democracy, with a population of 846.3 million. It is a constitutional parliamentary democracy, with a written account of Fundamental Rights that includes the abolition of untouchability and an elaborate set of equality and nondiscrimination provisions. Its legal system is in some respects similar to (and modeled on) that of the U.S., combining a basically common-law tradition with the constraints of a written constitution. Its Supreme Court, like ours, is the ultimate interpreter of the Fundamental Rights, and frequently uses U.S. constitutional jurisprudence (and legal writings) as sources of precedent. (For example, most of the privacy jurisprudence that is by now so controversial in the U.S. has been incorporated into Indian constitutional law, through a very similar understanding of substantive due process.)

India's Constitution is a very woman-friendly document. The right of nondiscrimination on the basis of sex is guaranteed in the list of justiciable Fundamental Rights, as is the right to the equal protection

28 In that sense, Western women are, in Indian terms, more like men: Gulati's research on poor women in Kerala has shown that these women are much more accurate when estimating the cost of a meal they have eaten than men are.

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of the laws – which, as in the U.S., has been interpreted to be incompatible with systematic gender-based hierarchy. Article 21, which states that no citizen shall be deprived of “life or liberty” without due process of law, has been interpreted as entailing the full range of privacy-right judgments involved in U.S. cases such as *Griswold v. Connecticut* and *Roe v. Wade*, and this privacy right has been used to call into question the Victorian law mandating “restitution of conjugal rights” when a wife has left the conjugal home.²⁹ Especially interesting is the fact that the framers explicitly state that nondiscrimination is compatible with systematic programs of affirmative action aimed at bettering the lot of deprived groups: thus the principle of affirmative action, for both gender and caste, is written into the Constitution itself. India has never understood equality in the bare formal way that has sometimes prevailed in American law: there has been a shared understanding that equality has material and institutional prerequisites, and that it is best understood to require the elimination of systematic hierarchies of all kinds. (Article 17 abolishes untouchability: “its practice in any form is forbidden.”)³⁰

India has a uniform code of criminal law, in most respects a relic of the Victorian colonial period. Some aspects of this Victorian code have recently been used by feminists to make progress on women’s issues. For example, a Victorian law regarding modesty has been used to win a (problematic) victory in a case of sexual harassment.³¹ But the code’s Victorian understanding of women (as either modest or depraved) is ultimately a barrier to full sex equality. Indian feminists have made some progress in the area of rape law, where consent under threat of violence now no longer counts as consent. In a creative and innovative reform that goes beyond U.S. accomplishments, rape in police custody has been sharply deterred by shifting the burden of proof in such cases to the defendant. But some of the most important accomplishments of American rape reform (for example, not allowing questioning about the woman’s prior sexual experience) remain to be achieved in India.

29 See my *Sex and Social Justice*, Introduction, for a discussion of this issue; a lower court declared the remedy of restitution unconstitutional, citing the right to privacy as well as equal protection; but the Supreme Court overruled the judgment, and the remedy (in the Hindu legal system) was retained.

30 For more discussion of constitutional issues, see Chapter 3.

31 See my “The Modesty of Mrs. Bajaj.”

There is one tremendous structural difference between India and the U.S. where their legal systems are concerned. India has no uniform code of civil law (even within each region). With the exception of commercial law, which was uniformly codified on a nationwide basis by the British and has remained so, civil law remains the province of the various religious systems of law, Hindu, Muslim, Parsi, and Christian.³² There are some individual secular laws of property, marriage, and divorce, but they do not form a system, and, for reasons to be discussed in Chapter 3, it is not so easy for individuals to avail themselves of them, once they are classified in one of the religious systems. Cases may be appealed from the religious systems to the secular courts, but the lines of authority are extremely unclear, and much difficulty thus ensues.

To turn from law to economics, India is on the whole an extremely poor nation, ranking number 138 out of the 175 nations of the world on the Human Development Index of the 1997 *Human Development Report*. As I have mentioned, this measure includes three components: longevity (measured by life expectancy at birth), knowledge (measured by adult literacy and mean years of schooling), and income (using the Atkinson formulation for the utility of income, which assumes diminishing returns as income rises).³³ The average life expectancy at birth is 61.3³⁴ (as opposed to nearly 80 in the U.S., Canada, Japan, and most of Europe), and infant mortality is high, at 74 per 1,000 live births (although this represents a great decline from 165 per 1,000 in 1960). Women do even worse than men in basic nutrition and health. The sex ratio has not even reached 1/1 at any time since measurements began in the early twentieth century. From a high of 97 women to 100 men in 1901, the ratio dropped steadily, reaching a low of around 93/100 in 1971; after a slight rise, it declined again even further, reaching 92.7/100 in 1991.³⁵ Experts in health and nutrition generally attribute this uneven ratio to differential nutrition of boys

32 See Chapter 3 for discussion of the development of these systems of personal law. Sikhs are defined as Hindus for legal purposes, although many resent this. Members of religions such as Judaism that have no separate legal system use the secular laws.

33 The aggregation involves a complex weighting process described in the 1991 report.

34 Data are from 1994.

35 For these and other statistics, see J. Drèze and A. Sen, *India: Economic Development and Social Opportunity*.

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and girls and to unequal health care, rather than primarily to active infanticide, but there is strong evidence of infanticide in some areas.³⁶ This hypothesis is confirmed by the presence of considerable regional differences. Kerala, for example, has more women than men; other regions, for example Uttar Pradesh, Bihar, and Rajasthan, do far worse. Bihar as a whole has a sex ratio of 90/100, and in one rural area where a reliable head count has been performed by a careful NGO, the astonishing figure of 75/100 was the result.³⁷ There is also increasing evidence of sex-selective abortion: a recent study by the Indian Association of Women's Studies estimates that 10,000 female fetuses are aborted every year.³⁸ Life chances in India generally are far from equal to those in the developed world, but women clearly face unequal obstacles.

In education, the male-female gap is even more striking: in 1991, adult literacy rates for women were as low as 39%, as against 64% for men. (In China, the figures are 68% for women and 87% for men.)³⁹ Such statistics are hard to interpret, since local governments tend to be boastful, and since it is hard to establish a clear measure of literacy: and yet what is unambiguously clear is that, despite the fact that education is a state responsibility, India has done extremely badly in basic education across the board, and even worse in basic education for women – far worse, clearly, than China, which began with comparable problems. Nor does this seem to be a necessary or unbreakable pattern, since some otherwise poor regions have done extremely well. Kerala, Jayamma's state, has an adult literacy rate of 90% and near-universal literacy among adolescent boys and girls. This remarkable record is the outcome of more than a hundred years of concerted public action,⁴⁰

36 Personal communication, Viji Srinivasan of Adithi, who tells me of the evidence of infanticide uncovered by members of her organization in Northern Bihar, where the sex ratio is as low as 75/100.

37 Personal communication, Viji Srinivasan of Adithi. The region was the Sitamarhi district near the Nepalese border, where Adithi has found widespread evidence of female infanticide.

38 *India Abroad*, July 10, 1998, p. 31.

39 These figures are from Drèze and Sen, *India*. The HDR for 1997 gives, as 1994 data, the figures 36.1 for females and 64.5 for males in India, and 70.9 (females) and 89.6 (males) in China.

40 V. K. Ramachandran, "Kerala's Development Achievements," in J. Drèze and A. Sen, *Indian Development: Selected Regional Perspectives* (Oxford and Delhi: Oxford University Press, 1996).

involving both the state and the general public, and building on a long (partly Jesuit-inspired) tradition of education that goes back to the eighteenth century. But Kerala is very unusual. Although all Indian states have laws making primary education compulsory, these laws have little relation to reality. Many regions utterly lack schools of any kind, just as they frequently lack reliable electricity, medical services, water, and decent roads; many local functionaries are corrupt, and so teachers in many regions accept pay but never even show up in the region where they are supposed to be teaching. In some rural areas, the female literacy rate is as low as 5%.⁴¹ The national government, though well-intentioned, has done little to fill these gaps, although some adult education programs have been established in some of the poorer states, and many nongovernmental organizations run both adult education programs and after-work programs for working girls.⁴² Recently a constitutional amendment has been introduced that would make the right to education a justiciable fundamental right.⁴³ It may be hoped that the passage of this amendment will goad government into acting more aggressively on its good intentions.

Child labor compounds the problem. Large numbers of poor families, especially rural families, depend on the work performed by their children. Children often begin working as early as age five or six, herding animals, and a large proportion are at work during the day by the age of twelve. Although this situation affects both male and female children, females suffer disproportionately, since their housework is frequently thought crucial to sustaining a household where the mother, like Jayamma, performs long days of manual labor. In general, if only one child in a family can be sent to school, it is far more likely that a poor family will choose a boy. Despite pressures against child labor from foreign entities such as the World Bank, from domestic political action, and from national and international agencies, the national government has been reluctant to intervene actively, because so many poor

41 Personal communication, Sarda Jain, Jaipur, Rajasthan.

42 See the detailed report in Archana Mehendale, "Compulsory Primary Education in India: The Legal Framework," *From the Lawyers Collective* 13 (April 1998), 4–12. I am grateful to Viji Srinivasan, Sarda Jain, and Ginny Srivastava for giving me valuable information about nongovernmental education programs in Bihar and Rajasthan.

43 Amendment 83, to be inserted in the Fundamental Rights section of the Constitution as Article 21a. See the full text of the amendment in *From the Lawyers Collective* 13 (April 1998), 10.

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families depend on it for their very survival. Many nongovernmental organizations have been reluctant to take an unequivocal stand against child labor under present conditions; they prefer to provide supplementary after-hours schooling for working children, to help working children acquire some small property and savings, and to teach them how to work for social change. One group I visited in rural Bihar, for example, provided basic education for girls who spend their days herding goats, helped the group save to buy their own goats, and showed them how women in other regions had been able to resist the dowry system that is such a large part of what constructs the unequal worth of female life. In the present situation, all this is much more helpful than getting the truant officer (if one existed) to force the girls to stop work and go to school.

Any approach to women's situation in India must begin from such facts, understanding that it is not simply a matter of waving a wand and saying even "universal compulsory primary education." Far less is it realistic at this point, in most regions, to hold out more advanced goals, such as secondary education for both boys and girls. Any attempt to improve women's quality of life faces harsh economic realities. Nonetheless, it is also striking how certain regions, above all Kerala, have been able to make great strides despite these realities. One impressively successful program has been the school lunch program, which makes sending children to school economically more advantageous to many families than using them as child labor.

Women face many other obstacles to fully equal citizenship. Child marriage, although illegal, is a very common reality, especially in some regions where it is traditional.⁴⁴ Laws against it are not enforced, and it pervasively shapes the trajectory of a girl's life. In Rajasthan, for example, girls I visited with the organization Vishaka were already married by the age of eight or nine; thus, although they had not yet moved into their husband's home, they saw that as their inevitable future, and this awareness of themselves as small wives shaped their

44 Child marriage is common in parts of Rajasthan, Madhya Pradesh, and Uttar Pradesh. For a good popular treatment of this issue, see John F. Burns, "Though Illegal, Child Marriage Is Popular in Part of India," *New York Times*, May 1998. Burns studied a group of child marriages in Rajasthan, focusing on a ceremony in which the bride was four and the groom twelve. Under law, eighteen is the minimum age for women and twenty-one for men.

attitudes toward education, dress, and especially play – they were unwilling to race around and enjoy childhood, in the manner of boy children. (The protective attitude of their families toward their purity exacerbates this situation: they are rarely permitted to play outside.)

Domestic violence is so pervasive that three states have adopted alcohol prohibition laws in response to women's lobbying; and yet, as Vasanti and Kokila's story shows, police do not aggressively investigate this crime, nor is rape within marriage even illegal.⁴⁵ Virtually no women's shelters exist anywhere in India. As I have mentioned, rape is badly dealt with under the current legal system, and the number of rapes appears to be on the rise. It is easy to find cases where acquittal was secured on the ground that the woman was of low caste, or "immodest," even when there is ample evidence of forcible rape in the particular instance.⁴⁶

Rape is also used as a weapon against women crusading for political change. In 1993 Bhanwari Devi, a member of Rajasthan state's Sathin movement for women's welfare, was campaigning against child marriage when she was gang-raped by men from a community that supports this practice. Because the men were influential community leaders, police refused to register the case until it was too late to perform the necessary medical examination; a lower court in Jaipur acquitted all the accused. Although Bhanwari appealed this judgment and the Rajasthan High Court agreed in 1996 to hear her appeal, arguments in the case have not yet been heard.

India has also seen an apparent increase in the sexual abuse of children: statistics suggest a 23.4 percent rise in the number of such cases between 1992 and 1995, but it is believed that most cases still go unreported, particularly when they occur within families.⁴⁷ Some notorious child-abuse cases involve boys, but estimates suggest that two girl children are raped every day.⁴⁸

45 See Sumeet Malik, "Marital Rape," *From the Lawyers Collective* 13 (January 1998), 13–15.

46 For a rundown of recent cases, see Hutokshi Rustomfram and Sanjoy Ghose, "Rape: When Victim Is Seen as Villain," *India Abroad*, July 10, 1998; also "Torment over Terror: The Vithura Rape Case," *From the Lawyers Collective* 13 (January 1998), 4–12.

47 See "Growing Child Abuse a Worrying Social Phenomenon," *India Abroad*, July 10, 1998, p. 32.

48 Statistics from the Indian Association of Women's Studies, meeting in Pune, July 1998.

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VI. SAMENESS AND DIFFERENCE

We should do as much as we can to master these and many other facts that construct the circumstances within which women like Vasanti and Jayamma attempt to flourish. These circumstances affect the inner lives of people, not just their external options: what they hope for, what they love, what they fear, as well as what they are able to do. Neither Vasanti nor Jayamma even thinks about getting a college degree – that would be totally alien to their sense of what is possible for them, and there would be no point in even entertaining the thought, however strong-willed, able, and determined they are. By contrast, Meeghan D., a cashier at the Hyde Park Co-op who sometimes rings up my groceries, is finishing her B.A. at Roosevelt College while working full time, and has already been accepted for graduate study in social science at Howard University. She doesn't know how easy it will be to get a job to support herself in Washington, but she says, "It doesn't matter. I'll make it somehow." This both is and is not similar to the determination and strength of both Vasanti and Jayamma. We should not underrate the extent to which such differences in options construct differences in thought; neither, however, should we overrate these differences, thinking of them as creating an Indian "essence" that is utterly incomprehensible to other imaginations. Certain basic aspirations to human flourishing are recognizable across differences of class and context, however crucial it remains to understand how context shapes both choice and aspiration.

There are obtuse ways of thinking across cultural boundaries. Some of these ways were characteristic of colonialism all over the world, which typically assumed that the ways of the colonial power were progressive and enlightened, the ways of the colonized people primitive. Such mistaken judgments can still be found today, even among feminists, who sometimes characterize developing cultures as uniformly reactionary and their own as progressive, neglecting the history of sexism in the West and of progressive traditions in the "East." Such blindness to complexity has made many sensitive thinkers skeptical about all forms of universalism; but of course universalism need not have these defects, and universal values may even be necessary for an adequate critique of colonialism itself.

Other forms of obtuse universalizing can be found in the current

global economy, where it is sometimes assumed that people are all simply rational agents in the global market, seeking to maximize utility whatever their traditions or context. It is because such approaches seem obtuse – neglecting tradition and context and their role in constructing desire and preference, neglecting the many different conceptions of the good that citizens of different nations have and their urgent need to be able to live in accordance with these conceptions – that many sensitive thinkers feel all universalizing approaches are bound to be obtuse, and mere accomplices of a baneful globalizing process. Such thinkers see before them the prospect of a world in which all interesting differences, all the rich texture of value, have been flattened out, and we all go to McDonald's together. But the fact that some universal approaches are obtuse does not indict them all. Pluralism and respect for difference are themselves universal values that are not everywhere observed; they require a normative articulation and defense, and that is one of the things I hope to provide in this project. More generally, in a time of rapid globalization, when non-moral interests are bringing us together across national boundaries, we have an especially urgent need to reflect about the moral norms that can also, and more appropriately, unite us, providing constraints on the utility-enhancing choices nations may make. If utility is inadequate as a source of basic political principles in a pluralistic nation – as I believe it clearly is – this hardly means that there are no cross-cultural sources of such basic principles, or that they cannot command a broad consensus among the nations. Seeking such norms is an urgent task; if we do not seek them, we will be governed, without the input of our own critical reflection, by interests and processes that very likely could not withstand the scrutiny of ethical argument.

Critical moral principles are especially urgent when we consider women's situation, as particularly vulnerable people in a time of rapid economic change. If we consider each person as worthy of regard, as an end and not just a means, we cannot in any simple way praise Gujarat's rapid economic growth, which has left many powerless people behind and caused many self-employed women to lose their livelihoods. (The traditional lace-making industry is under threat from factory-made lace, and there are many political controversies over how to resolve this problem.) Economic growth, furthermore, does not by

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itself improve the situation with regard to literacy and health care:⁴⁹ so there are issues affecting all citizens that are left in a state of relative neglect when growth becomes the sole target. On the other hand, we should also not demonize the pursuit of economic growth, which does play a role in the well-being of citizens. Kerala, with its union-inspired wage controls, has driven many employers out of the region and caused unnecessarily high unemployment; these failures are not necessary correlates of its positive achievements in health and education, and they have made people's lives worse.

In short, we need to ask what politics should be pursuing for each and every citizen, before we can think well about economic change. We need to ask what constraints there ought to be on economic growth, what the economy is supposed to be doing for people, and what all citizens are entitled to by virtue of being human. That citizens such as Vasanti and Jayamma should be able to live with a full menu of opportunities and liberties, and thus be able to have lives that are worthy of the dignity of human beings: this political goal should constrain all economic choices. Justice takes priority in social reflection; contrary to what some economists think, it is not simply what you mention "when you have nothing else to say."⁵⁰ Considerations of justice for women have been disproportionately silenced in many debates about international development; it is only fitting, then, that they should be a central focus of a project aimed at constructing basic political principles for all.

49 This is a central thesis of Drèze and Sen, *India*.

50 Law student, University of Chicago Law School, quoting an unnamed faculty member's instruction to students.