



Body, sexuality and reproduction in a changing context

Advocacy notes from DAWN

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1. Background

Maintaining gender and sexual and reproductive health and rights (SRHR) on the international and national agenda has always been a huge challenge, particularly given the current conditions in many parts of the world – for instance, the conservative position of some Member States, the harsh economic circumstances and decreasing priority for social issues, and shrinking space for civil society organisations.

DAWN's recent work on SRHR has included an assessment of the MDGs in relation to SRHR in Mexico, India and Nigeria (DAWN 2012), a review of key SRHR issues in terms of what's been achieved and what lies ahead (Sen et al 2015), and a set of regional advocacy tools across six regions for use in the ICPD+20 review process. DAWN's work has also focused on the need to surface and interlink sexual rights issues more prominently in its south-based social equality, political democracy and economic justice analytical frame. Considering the achievements and emerging challenges in the past 20 years, this paper aims to critically review and more deeply understand the current situation on SRHR and sexual rights debate and advocacy, particularly on the global level against a backdrop of rising systematic global crises, in order to identify possible ways to move an SRHR agenda forward in the context of the implementation of the SDGs and beyond.

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2. Trajectory of advocacy and debate on SRHR and sexual rights

2.1 Unfinished agenda of SRHR from ICPD to the SDGs

The paradigm shift from ‘population control’ to ‘reproductive health and rights’ was achieved at the International Conference on Population and Development in Cairo in 1994. Around the same time, the brand-new concepts of ‘sexual and reproductive health’ and ‘reproductive rights’ were also recognised in UN documents such as the Beijing Platform for Action adopted at 4th World Conference on Women held in 1995.¹

The members of DAWN were among the leading activists in Cairo and Beijing advocating intensively for the human rights of women and girls, especially their sexual and reproductive health and rights, to be articulated in the final outcome documents. Since then, DAWN has been actively engaging in the advocacy of SRHR on different platforms, including ICPD and Beijing Review Processes (+5, +10, +15, +20).

DAWN’s analysis and advocacy on SRHR situates not only around ICPD and Beijing, but in a range of linked processes to address the inter-linkages and multiple challenges that women from the global south are encountering -- from centrality of women’s human rights, bodily autonomy and integrity, to social and economic justice, sustainable development and a peaceful world. These multifaceted and multidimensional challenges have become more and more imperative in the years after Cairo, not only through the passionate strength of feminist activists and advocates, but also through the stubborn opposition against women’s human rights from conservative forces worldwide.

DAWN’s interlinkages analysis around SRHR in preparation to the post-2015 development agenda and the Cairo+20 review process illustrates how certain national poverty reduction strategies in the economic South have failed to challenge the root causes of gender inequality². Case studies of Mexico, India and Nigeria, in the publication

¹ Carmel Shalev, “Rights to Sexual and Reproductive Health - the ICPD and the Convention on the Elimination of All Forms of Discrimination Against Women”, This paper was presented at the International Conference on Reproductive Health, Mumbai (India), 15-19 March 1998, and the full article can be found here: <http://www.un.org/womenwatch/daw/csw/shalev.htm>.

A recent further analysis about this paradigm shift has been made, please refer to Adrienne Germain, Gita Sen, Claudia Garcia-Moreno and Mridula Sankar, “Advancing sexual and reproductive health and rights in low- and middle- income countries: Implications for the post-2015 global development agenda”, *Global Public Health*, 2015 Feb 7; 10(2): 137-148.

² Development Alternatives with Women for a New Era, *Breaking through the Development Silos*. 2012 <http://www.dawnet.org/feminist-resources/content/breaking-through-development-silos-srhr-e-book>

“Breaking through the Development Silos”, found that their strategies have perpetuated gendered division of labor and worsened the existing problems in SRHR. Through this global research, DAWN demonstrates the phenomenon of “siloization” or the fragmentation and isolation of important social and human rights issues from poverty agendas.

For Cairo+20, DAWN also produced six Regional Advocacy Tools (RATs) with feminists from Middle East and North Africa, South Asia, Southeast Asia, Pacific, Latin America and the Caribbean.³ The RATs identified the advances made in the past 20 years, the barriers in implementation of the ICPD Program of Action and regressions that occurred since 1994. Many challenges pointed out in RATs are extremely concerned with achieving the aims of sustainable development goals (SDGs) at the moment, including how the health systems and advocacy on SRHR were driven by the focus on the public and the donors’ priorities instead of the local needs, how the mode of public private partnerships (PPPs) led to the provision of fragmented services, and the lack of accountability of both governments and the private sectors in SRH services.

2.2 Contested agenda of sexual rights

The expansion of SRHR analyses and normative framework for women’s health and rights over more than 20 years is undeniable. However, the political consensus on ‘sexual rights’ has never been reached at an international level. Sonia Correa and Petchesky’s analysis on ‘sexual rights’ has had significant influence on developing concepts of ‘sexual rights’, particularly in the context of global women’s health and rights advocacy. Concerning with how to bridge the ‘individual-social’ divide, they offer a set of ethical principles for reproductive and sexual rights: bodily integrity, personhood, equality, and diversity.⁴ Although ‘sexual rights’ has been raised in Paragraph 96 of the Beijing Platform for Action (BPfA) in 1995, which stated “*The human rights of women include their right to decide freely and responsibly on all matters related to their sexuality, free of coercion,*

³ DAWN Regional Advocacy Tools on SRHR for Cairo@20. <http://dawnnet.org/publication/dawn-regional-advocacy-tools-on-srhr-for-cairo20/>

⁴ Sonia Correa and Rosalind Petchesky, "Reproductive and Sexual Rights: A Feminist Perspective," pp.107-123 in Gita Sen, Adrienne Germain, and Lincoln C. Chen (eds.) Population Policies Reconsidered: Health, Empowerment, and Rights (Boston: Harvard Center for Population and Development Studies; and New York: International Women's Health Coalition, 1994), pp.107-123.

discrimination and violence", the BPfA did not explicitly define sexual rights.⁵ In 2000, Alice Miller explored the distinction between reproductive rights and sexual rights by pointing out the emerging global discourse of sexual rights at that moment had the danger to disenfranchise individuals or groups of individuals engaged in non-procreative sex (heterosexual or not).⁶

In 2004, the UN Special Rapporteur on the Right to Health Paul Hunt issued a report that contained the most comprehensive examination of sexual rights ever found in a UN document. He made the observations after examined critically Cairo and Beijing conferences held a decade previously: "*the two conferences confirmed that (a) Numerous human rights have a direct bearing upon sexual and reproductive health; (b) There are "reproductive rights"; (c) There is a "right to attain the highest standard of sexual and reproductive health"; (d) Sexual health and reproductive health are intimately related, but distinct, dimensions of human well-being*". "The Special Rapporteur has no doubt that the correct understanding of fundamental human rights principles, as well as existing human rights norms, leads ineluctably to the recognition of sexual rights as human rights. Sexual rights include the right of all persons to express their sexual orientation, with due regard for the well-being and rights of others, without fear of persecution, denial of liberty or social interference."⁷ The Rapporteur also contended the rights to sexual and reproductive health were among the most sensitive and controversial in international human rights law, as well as being among the most important. Representatives of the United States, Pakistan, Egypt, and Saudi Arabia took issue with Mr. Hunt's focus on sexual orientation as it related to health, saying the topic appeared to fall beyond his mandate.⁸

In 2006, the World Health Organization (WHO) published a working definition of sexual rights to contribute to the ongoing discussion on sexual health. "Sexual rights embrace certain human rights that are already recognized in international and regional human

⁵ Beijing Declaration and Platform for Action, United Nations, 1995.

⁶ Alice M. Miller, "Sexual but Not Reproductive: Exploring the Junctions and Disjunctions of Sexual and Reproductive Rights," *Health and Human Rights* 4/2 (2000): pp. 68-10

⁷ Commission on Human Rights. "The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report of the Special Rapporteur, Paul Hunt" (E/CN.4/2004/49). Para 51 and 54. 2004. <https://undocs.org/E/CN.4/2004/49> .

⁸ Press release, Special Rapporteurs on Rights to Health, Education present findings to Commission. HR/CN/1067 30 March 2004. <https://www.un.org/press/en/2004/hrcn1067.doc.htm>

rights documents and other consensus documents and in national laws, centered on the right of all persons to fulfill and express their sexuality and enjoy sexual health, with due regard for the rights of others.⁹ The definition embraced a number of human rights already recognised in national laws, international human rights documents and other consensus statements, including

- The rights to life, liberty, autonomy and security of the person.
- The rights to equality and non-discrimination.
- The right to be free from torture or cruel, inhuman or degrading treatment or punishment.
- The right to privacy.
- The rights to the highest attainable standard of health (including sexual health) and social security.
- The right to marry and to found a family and enter into marriage with the free and full consent of the intending spouses, and to equality in and at the dissolution of marriage.
- The right to decide the number and spacing of one's children.
- The rights to information and education.
- The rights to freedom of opinion and expression.
- The right to an effective remedy for violations of their fundamental rights.

Other international agencies, such as the International Planned Parenthood Federation and World Association of Sexual Health gave similar definitions around the same time.¹⁰ In all cases, sexual rights are meant to comprise all rights related to sexuality, whether civil, political, economic or cultural, and include rights related to reproduction.¹¹

⁹ World Health Organization. Defining sexual health. updated 2010.

http://www.who.int/reproductivehealth/topics/sexual_health/sh_definitions/en/. 2006.

¹⁰ International Planned Parenthood Federation. Sexual rights: an IPPF declaration. London: IPPF, 2006. (<http://www.ippf.org/resource/Sexual-Rights-IPPF-declaration>).

World Association of Sexual Health. Declaration of sexual rights. 2014.

(<http://www.worldsexology.org/resources/declaration-of-sexual-rights>).

¹¹ Saida Ali et al. Advocating for sexual rights at the UN: the unfinished business of global development. *Reproductive Health Matters*, 2015: issue 46: pp. 32.

The definition of “sexual rights” proposed by the International Sexual and Reproductive Rights Caucus at the 50th session of UN Commission on Population and Development can be regarded as a summary of the discussions of the past more than 20 years:

*“Sexual rights embrace certain human rights related to sexuality, gender, reproduction, and sexual and reproductive health that are already recognized in national laws, international human rights documents and other consensus documents. They rest on the recognition that all individuals have the right, free of coercion, violence and discrimination of any kind: to the highest attainable standard of sexual health; to pursue a satisfying, safe, and pleasurable sexual life; to have control over and decide freely, and with due regard for the rights of others, on matters related to their sexuality, reproduction, sexual orientation, bodily integrity, choice of partner, and gender identity; and to the quality.”*¹²

These advances around the definition of sexual rights could not have been made without the increasing visibility- of advocacy on sexual rights at national and international levels, which gained the grounds on many issues at many platforms.

The issue of Sexual Orientation and Gender Identities and Expression (SOGIE) have been discussed widely at UN level since 1994. Three important resolutions have been adopted by Human Rights Council in 2011¹³, 2014¹⁴ and 2016¹⁵. Mandated through Human Rights Council resolution 32/2 in 2016, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity is appointed to assess the implementation of existing international human rights instruments with regard to ways to overcome violence and discrimination against persons on the basis of their sexual orientation or gender identity, and to identify and address the root causes

¹² This document was developed by the International Sexual and Reproductive Rights Caucus, which is an ad hoc group of researchers, representatives of non-governmental organisations, civil society organisations and community-based organisations from various countries actively engaging with the advocacy for SRHR during 50th session of UN Commission on Population and Development, 2017.

¹³ Human Rights Council. Resolution on human rights, sexual orientation and gender identity (A/HRC/RES/17/19). http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/17/19. 2011.

¹⁴ Human Rights Council. Resolution on human rights, sexual orientation and gender identity (A/HRC/RES/27/32). http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/27/32. 2014.

¹⁵ Human Rights Council. Resolution on protection against violence and discrimination based on sexual orientation and gender identity (A/HRC/RES/32/2). https://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC33/A.HRC.RES.32.2_AEV.docx 2016.

of violence and discrimination.¹⁶ It is the first dedicated mechanism in UN regarding the SOGI issues. Two Independent Experts have submitted four reports to Human Rights Council and to General Assembly in 2017 and 2018 and facilitated constructive dialogue with member states regarding the reports. Although the mandate of the Independent Expert focuses on protection of violence against and discrimination based on SOGI, it is no doubt the important outcome of decades of continuous collaborative advocacy at national and international level, such as development of Yogyakarta Principles¹⁷ and the latest significant decision by the Indian Supreme Court that struck down one of the world's oldest bans on consensual gay sex on 6 September 2018.¹⁸

Sexuality education as one of the important parts of sexual rights are addressed in many related platforms and documents in different contexts – on youth and adolescents¹⁹, education and HIV/AIDS prevention²⁰ and violence against women and girls. In 2015, the term 'comprehensive sexuality education' was agreed for the first time at global level in an HRC resolution, although consensus on this issue remains thwarted.²¹ The Resolution calls on the responsibility of States to guarantee women's full and equal access to comprehensive sexuality education for preventing domestic violence.

¹⁶ <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/Index.aspx>

¹⁷ The Yogyakarta Principles are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. They address the broad range of human rights standards and their application to issues of sexual orientation and gender identity. The Principles were developed and unanimously adopted by a distinguished group of human rights experts from diverse regions and backgrounds in 2006 at Yogyakarta, Indonesia. The YP plus 10 was adopted on 10 November 2017 to supplement the Yogyakarta Principles. It emerged from the intersection of the developments in international human rights law with the emerging understanding of violations suffered by persons on grounds of sexual orientation and gender identity and the recognition of the distinct and intersectional grounds of gender expression and sex characteristics. <http://yogyakartaprinciples.org/>

¹⁸ <https://www.nytimes.com/2018/09/06/world/asia/india-gay-sex-377.html>

¹⁹ 45th session of the UN Commission on Population and Development (CPD45) adopted a resolution on adolescents and youth in 2012 (resolution 2012/1). It calls upon Governments to provide youth people with evidence-based comprehensive education on human sexuality. http://www.un.org/en/development/desa/population/pdf/commission/2012/country/Agenda%20item%208/Decisions%20and%20resolution/Resolution%202012_1_Adolescents%20and%20Youth.pdf

²⁰ The International Technical Guidance on Sexuality Education was launched in 2009. It was developed by UNESCO together with UNAIDS, UNFPA, WHO and UNICEF, as well as with a number of independent experts and those working in countries across the world to strengthen sexuality education.

<http://unesdoc.unesco.org/images/0018/001832/183281e.pdf> The revised edition was launched in 2018.

<http://unesdoc.unesco.org/images/0026/002607/260770e.pdf>

²¹ Human Rights Council. Resolution on accelerating efforts to eliminate all forms of violence against women (A/HRC/29/L.16/Rev.1). http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/L.16/Rev.1

Likewise, child, early and forced marriage, another core element of sexual rights is usually discussed in the documents tackling women and girls' rights and violence against women and girls, at CSW, CPD and HRC. For example, in 2015 the HRC adopted a resolution on child, early and forced marriage that for the first time recognises that all girls have the right to have control over and decide freely on matters related to their sexuality.²²

In order to apply the human-rights-based approach to promote universal access to HIV prevention, treatment, care and support in the context of adult sex work, UNAIDS, with joint contributions from different UN agencies, experts and CSOs, launched a Guidance Note on HIV and sex work in 2009.²³ It interrogates the intersectionality between sexuality, human rights and work and emphasises that regardless of the legal status of sex work, a human rights-based approach must always be applied. However, the follow up open conversation at UN level around this topic has never happened because of the deep rift. 'Sex work' remains the most contentious issue not only among Member States, but also among CSOs and women's rights organisations about whether it should be regarded as 'rights' or as a form of 'violence and discrimination'. There is a concern among human rights advocates about the obvious connection between extreme anti-sex work position and anti-sex rights position.

Four articles in the latest publication 'SexPolitics: Trends & Tensions in 21st Century – Critical Issues' critically and comprehensively examine and reflect the evolving conceptualisation, application and also contestation of sexual rights since 1994 from perspective of the global landscape and in-depth case studies on abortion and sex work.²⁴ In their article, Sofia Gruskin, Alice Miller, Jane Cottingham and Eszter Kismodi critically peruse the political, the technical and the legal as key domains in which to identify and analyse not only advances, but also pitfalls of the conceptual development and applications of sexual rights in international arenas.²⁵ The article recognises there are many conundrums in advancing sexual rights, such as whether linkage between sexual

²² Human Rights Council. Resolution on strengthening efforts to prevent and eliminate child, early and forced marriage (A/HRC/29/L.15). http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/L.15

²³ http://www.unaids.org/sites/default/files/sub_landing/files/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf

²⁴ Sonia Correa and Richard Parker (ed.) SexPolitics: Trends & Tensions in the 21st Century – Critical Issues. 2018 <http://sxpolitics.org/trendsandtensions/uploads/volume1-2018-21092018.pdf>

²⁵ Sofia Gruskin, Alice Miller, Jane Cottingham and Eszter Kismodi, "Desert, Rainforest or Jungle: Navigating the Global Sexual Rights Landscape", in Sonia Correa and Richard Parker (ed.) SexPolitics: Trends & Tensions in the 21st Century – Critical Issues. 2018 page 8-36.

rights and reproductive rights should be made, how to deal with the issue of age consent, whether sexual rights should be legally binding and if so then how, among others.

3. Divergent agendas and multiple challenges for SRHR and sexual rights advocacy

The challenges and struggles around the paradigm of SRHR have emerged intensively in the process of ICPD+20 both at UN and regional level. These unprecedented challenges are not only caused by rising conservative opposition around the world, but also embedded within social movements and advocacy in terms of the diverse strategies and prioritisation of issues, as well as how to effectively and promptly respond to the rapid development of technologies.

3.1 Divergence and fragmentation of the SRHR paradigm – SRH and RR and SR?

The attempt to strike off reproductive rights from the SRHR agenda by conservative forces was one of the hardest fights in the Rio+20 negotiation process. The lack of supportive voices and champions on SRHR and gender equality from both the North and the South allies was a central reason for the loss of ‘reproductive rights’ in the final outcome, as these governments need to obtain gains on other non-SRHR issues by trading off ‘the controversial issues’ such as SRHR. The Rio+20 outcome document only mentioned sexual and reproductive health (SRH).²⁶ Prior to Rio+20, the CPD45 adopted a resolution on youth and adolescent in April 2012 that includes the definition of reproductive rights:

“recognizing that reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents and rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, the right to attain the highest standard of sexual and reproductive health, the right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents, and the right to have control over and decide freely and

²⁶ A/RES/66/288, The Future We Want, Resolution adopted by the General Assembly on 27 July 2012.

*responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence”.*²⁷

This is a big advance since the ICPD Program of Action (1994) and Beijing Platform for Action in 1995. However, just a few months later, the governments reverted from their positions in another negotiation.

We witness the complicated political dynamics playing out and results of gains and losses on the SRHR agenda in the process of the ICPD+20 review at regional and global levels. The Second Regional Conference on Population and Development in Latin America and the Caribbean, held in Montevideo in August 2013, made a groundbreaking progress in the region by adopting the Montevideo Consensus. This important document clearly states the links between the ICPD Program of Action, the sustainable development agenda and human rights. In addition, it provides a definition of ‘sexual rights’ in the following paragraph:

“Promote policies that enable persons to exercise their sexual rights, which embrace the right to a safe and full sex life, as well as the right to take free, informed, voluntary and responsible decisions on their sexuality, sexual orientation and gender identity, without coercion, discrimination or violence, and that guarantee the right to information and the means necessary for their sexual health and reproductive health.” (Montevideo Consensus, para. 34)²⁸

Moreover, it was the first time that sex workers were mentioned in an inter-governmental agreement outside the field of HIV/AIDS, and the first-time lesbian, bisexuals and transsexuals were mentioned in any inter-governmental agreement.²⁹

Unfortunately, this kind of achievement for sexual rights could not be accomplished in the other regional ICPD+20 reviews and the rifts over SRH, RR and SR were deepened. In the 6th Asia-Pacific Population Conference (APPC) organised by the Economic and Social Commission for Asia-Pacific (ESCAP) in Bangkok in September 2013, the term of

²⁷ CPD 45 Resolution 2012/1 on adolescents and youth. 2012.

²⁸ United Nations Economic Commission for Latin America and the Caribbean [UNECLAC]. Montevideo: United Nations Economic Commission for Latin America and the Caribbean, August 15 2013.

²⁹ For more analysis about this review, please refer to Françoise Girard, Taking ICPD Beyond 2015, Published online:

03 Jun 2014. https://www.tandfonline.com/doi/full/10.1080/17441692.2014.917381#.U7Lxq_ldWSo

SRHR could not be introduced into the final document because of strong opposition from Russia, Iran and few other countries. But it includes “sexual and reproductive health, services and rights” as one of the priority actions. It also expresses “grave concern at acts of violence and discrimination committed against individuals on the grounds of their sexual orientation and gender identify (ESCAP, para.8)”.³⁰ In OP7, it recognizes that:

*“sexual and reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents and rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, the right to attain the highest standard of sexual and reproductive health, the right to make decisions concerning reproduction free of discrimination, coercion and violence, and the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence”.*³¹

This definition of ‘sexual and reproductive rights’ is almost equivalent to the definition of ‘reproductive rights’ in CPD45 resolution, except with the added qualifier “as expressed in human rights documents”, because some governments would not like to see the “new rights” such as “sexual rights” “being created”, especially the rights of LGBTI groups. Despite of strong opposition against SOGI language, this document states explicitly that it is to work to reduce vulnerability and eliminate discrimination based on sexual orientation and gender identity, and other grounds.³² These efforts and achievements at the 6th APCC, however, were weakened by a handful of opposition who pushed for a vote at the end of conference.³³

³⁰ Economic and Social Commission for Asia-Pacific. Sixth Asian and Pacific Population Conference. *Asian and Pacific declaration on population and development*, 2013, doc. E/ESCAP/APCC (6)/WP.1/Rev.3 (ESCAP).

³¹ Ibid. OP7.

³² Ibid. OP15.

³³ The overwhelming majority of countries support the document (Australia, Bangladesh, Bhutan, Cambodia, China, Democratic People’s Republic of Korea, Fiji, France, India, Indonesia, Japan, Kiribati, Lao People’s Democratic Republic, Malaysia, Maldives, Marshall islands, Micronesia, Mongolia, Myanmar, Nauru, Nepal, Netherlands, New Zealand, Pakistan, Papua New Guinea, Philippines, Republic of Korea, Samoa, Solomon Islands, Sri Lanka, Thailand, Timor-Leste, Tonga, Tuvalu, United Kingdom of Great Britain and Northern Ireland, United States of America, Vanuatu, Viet Nam) with Azerbaijan, Iran and the Russian Federation explicitly voting against, and Afghanistan abstaining.

The divergence and fragmentation of SRHR and the simplification of sexual rights which subsumes it under the LGBT rights or rights related to SOGIE were further exposed in the African regional review on ICPD+20 in Addis Ababa. Interestingly, SRHR as a term has already been used in African regional documents, such as the Maputo Plan of Action and the Continental Policy Framework on Sexual and Reproductive Health and Rights,³⁴ which was reaffirmed in the Addis Abba Declaration on Population and Development in Africa beyond 2014. SRHR were also mentioned twice in this document (ECA, para.35; ECA, para. 79). However, the actions in the declaration still focus on the sexual and reproductive health services.³⁵ Although sexual and reproductive health and rights (SRHR), sexual and reproductive health (SRH), sexual and reproductive rights (SRR) have been accepted throughout the document, the language on ‘sexual rights’ and ‘SOGI’ became an obvious target as a ‘controversial issue’ which was opposed strongly by most delegations during the negotiation, even some civil society organisations were on their side.

This struggle continues in the global level ICPD+20 review. Finally, after the hard negotiation at CPD47, the Resolution 2014/1 Assessment of the status of implementation of the Program of Action of the International Conference on Population and Development was adopted. It states “sexual and reproductive health and reproductive rights are central to the realisation of social justice and to the achievement of global, regional and national commitments for sustainable development”.³⁶ Here, the SRHR agenda of ICPD was simplified and diverged into SRH and RR and “sexual rights” is completely out.

The implication of fragmenting SRH, RR and SR is twofold. The positive implication is that the sexual and reproductive health and reproductive rights are re-affirmed and clearly defined at the regional and global level, especially with a substantive package for sexual and reproductive health services. The negative implication is that “sexual rights” is further

³⁴ Continental Policy Framework on Sexual and Reproductive Health and Rights adopted by the 2nd Ordinary Session of the Conference of African Ministers of Health in Gaborone, Botswana, in October 2005 and endorsed by AU Heads of State in January 2006. The Maputo Plan of Action (Maputo PoA) for the Operationalisation of the Continental Policy Framework for Sexual and Reproductive Health and Rights is Africa’s policy framework for universal access to comprehensive sexual and reproductive health services. The Maputo Plan of Action is the concrete outcome of a special session of the African Union Conference of Ministers of Health, who met in Maputo, Mozambique in September 2006.

³⁵ Economic Commission for Africa. African Regional Conference on Population and Development. *Addis Ababa Declaration on Population and Development in Africa beyond 2014*, 2013, doc. ECA/ICPD/MIN/2013/4 (ECA);

³⁶ Commission on Population and Development, Report on the forty-seventh session (26 April 2013 and 7-11 April 2014) (E/2014/25-E/CN.9/2014/7), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/312/08/PDF/N1431208.pdf?OpenElement>

sidelined and excluded from the comprehensive SRHR agenda and diverged and distorted into the limited issues or identities around SOGIE or sex work or LGBTIQ groups, and not regarded as the universal human rights issue as it should be.

3.2 The challenge to build broader alliances within and across movements

SRHR is a very comprehensive agenda, which touches upon rights, health, sexuality and body. The division of SRH, RR, and SR does not change the core elements of this agenda. Furthermore, it requires consolidated and coordinated efforts and synergy across many frontlines and advocacy spaces on many different issues. This poses the significant challenges to build broader alliances within and across movements, given they have different constituencies and priorities. For example, many conversations about sexuality subsumed it under reproduction, while other conversations treated sexual rights as if they were only related to same-sex conduct, and in this mode never linked to reproduction.³⁷ It is understandable that women's rights groups and the feminist movement focus on a comprehensive SRHR agenda, predominately on sexual and reproductive health services and reproductive rights, especially gender-based violence, early and child marriage, comprehensive sexuality education and access to contraception and abortion rights; while other movements such as LGBTIQ and human rights groups focus on sexual rights, especially related to SOGIE. In this context, marriage equality is often regarded as an important index for the advancement of LGBTI rights, which is always equated to sexual rights. In the past few years we have seen huge campaigns on this issue across the world in both the global North and South in Taiwan, Germany, Australia and so on. However, the ideas expressed in many of these campaigns are quite exclusive of many other sexual rights, for instance sex behaviors without love.

The way that the UN addresses SRHR issues further strengthens this division. Based on the mapping of current UN agencies' mandates and programs, we can see that despite across-agency efforts, SRHR related issues are divided and carried out by different institution and programs -- UN Women on gender-based violence, UNDP on SOGIE issues, and UNFPA on sexual and reproductive health, UNESCO on sexuality education, UNAIDS on the issues related to HIV/AIDS prevention, such as sex work, SOGIE etc. UN Economic and Social Council (ECOSOC), namely Commission on Status of Women (CSW)

³⁷ Alice M. Miller, "Sexual but Not Reproductive: Exploring the Junctions and Disjunctions of Sexual and Reproductive Rights," *Health and Human Rights* 4/2 (2000): pp. 68-109.

and Commission on Population and Development (CPD) in New York and UN Human Right Council (HRC) in Geneva are the main advocacy venues for civil society groups to engage to advocate the SRHR agenda. So far, women's rights and feminist groups have been primarily engaged in CSW and CPD while ICPD and BPfA are reviewed periodically and many SRHR related issues are negotiated. In recent years, there has been strong SOGIE advocacy and well-organised opposition against it at CSW and CPD. Because of the disputes among member states about the SRHR agenda, especially on SOGIE and other issues, several CSW and CPD sessions in recent years failed to reach an agreement on an outcome document, for instance CSW56 in 2012, CPD48 in 2015 and CPD50 in 2017.

HRC has been a main platform for "sexual rights" advocacy, especially on SOGIE. HRC has adopted three resolutions on SOGIE in 2011(A/HRC/RES/17/19), 2014 (A/HRC/RES/27/32) and 2016 (A/HRC/RES/32/2). LGBTI groups have also gained impressive progress on SOGIE by using UN treaty bodies and the Universal Periodical Review.³⁸

Given limited resource and divergent SRHR agendas, civil society groups and advocates have to choose on which platform to engage and on what priority issues to focus. For example, the work of Sexual Rights Initiative (SRI) covers all ranges of SRHR issues, but it mainly works at HRC.³⁹ This situation could therefore dismantle coherent and orchestrated efforts and the possibility to build broader alliance on SRHR.

3.3 Rising of right-wing and conservative forces

The alliance against SRHR, women's rights and gender equality between conservative religious fundamentalisms, right-wing parties and populism movements has always been one of the biggest challenges. They have been gaining more political weight in the past two decades.

On the one hand, they manipulate the human rights language and take advantage of the same UN platform to push back women's rights, gender equality, SRHR and especially SOGIE issues. While some attacks on sexual rights continue to mobilise claims of

³⁸ Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates, https://arc-international.net/global-advocacy/universal-periodic-review/upr-guide_en/

³⁹ The Sexual Rights Initiative (SRI) is a coalition of national and regional organisations from all parts of the world with an office in Geneva that has been advocating for the advancement of human rights in relation to gender and sexuality at the UN Human Rights Council since 2006. <https://www.sexualrightsinitiative.com>

'tradition', 'morality', 'religion' or 'culture' to resist legal obligations rooted in international agreements and negotiations, the majority of opposition to sexual rights now combines these arguments with the language of rights. This means the attacks no longer reject human rights but rather use the language and principles of rights, including attention to treaty interpretation and universalism and counter some rights to protect other rights. For example, in the end of 2016, the African Group has raised two hostile resolutions in the General Assembly, trying to defer actions on the SOGIE mandate.⁴⁰ Furthermore, the US-based well-resourced right-wing groups exert their increasing influence targeting both diplomats based in USA and UN agencies in New York.

A series of transnational anti-gender campaigns have been organised across the world with the efforts of these forces.⁴¹ Correa, Paternotte and Kuhar describe demonstrations against same-sex marriage in Europe during 2012-2013 and the widely held protests for protecting 'traditional family values' in Latin America. Similar campaigns were also organised in Asia. Huge mobilisations are taking place in Taiwan, aiming to overturn the interpretation of the Constitution about same-sex marriage given by the Supreme Court in 2017 and to stop the gender diversity education on campus by claiming that this education is destroying traditional family values in Taiwan society.

These anti-gender campaigns were considered to be influenced by US Christian right-wing groups, since they have been successfully exporting their brand of conservatism to a number of sub-Saharan African countries and most countries in Asia, especially East Asia, during the past 20 years. They have been focusing on attacking feminism, abortion rights and SOGIE issues by invoking so-called traditional local values to oppose guarantees of human rights protecting to all persons.⁴² However, analyses by Correa, Paternotte and Kuhar indicate that other religious groups as well as secular voices, including from right-wing populists, form coalitions that vary considerably according to local contexts. More important, they pointed out that "populism has no side and cannot

⁴⁰ United Nations SOGI Mandate Safeguarded in Face of Hostility, <https://ilga.org/united-nations-sogi-mandate-safeguarded-in-face-of-hostility> (April 23, 2018).

⁴¹ Sonia Correa, David Paternotte, Roman Kuhar, The globalization of anti-gender campaigns, <http://www.ips-journal.eu/topics/human-rights/article/show/the-globalisation-of-anti-gender-campaigns-2761/>

⁴² More analysis can be referred: Francoise Girard, Implications of the Trump Administration for Sexual and Reproductive rights globally, Reproductive Health Matters, 2017. <http://dx.doi.org/10.1080/09688080.2017.1301028>.

be easily mapped on the left-right divide in the region”, and is an increasing trend for conservative parties.

Across the world, populist movements have put human rights on the back foot and they have drawn strength from public opposition to mass immigration, cultural liberalisation and the perceived surrender of national sovereignty to distant and unresponsive international bodies. “Citizenship” has become a weapon for the majority to limit the rights of migrants or minorities. Recent cases include populist governments in Hungary and Poland further intensifying efforts to strengthen the national identity in exclusionary ethnic and religious terms and target international entities working on immigration and human rights.⁴³ It is evident that the rising populism is embracing traditional values, religious fundamentalism and extremism to amplify their influence, and women’s rights, gender equality and SRHR issues have become a token for them to build their allies and to exchange of their interests. Therefore it is not surprising to see the ban on gender studies in university in Hungary⁴⁴ and ban on abortion in Poland.⁴⁵

3.4 The challenges brought by Assisted Reproductive Technologies

Developments in medical science and increase in the use of Assisted Reproductive Technologies (ART), which includes all procedures that involve handling of oocytes and sperm or embryos outside of the human body, have necessitated a shift in the way that reproductive rights have historically been defined.

According to the ICPD Program of Action, reproductive rights embrace the rights “on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health”, as well as the “right to make decisions concerning reproduction free from discrimination,

⁴³ William A. Galston, The rise of European populism and the collapse of the center-left, <https://www.brookings.edu/blog/order-from-chaos/2018/03/08/the-rise-of-european-populism-and-the-collapse-of-the-center-left/>

⁴⁴ Florin Zubascu, Hungary’s plan to ban gender studies sparks international backlash, 22 August 2018. <https://sciencebusiness.net/news/hungarys-plan-ban-gender-studies-sparks-international-backlash>

⁴⁵ Alex Cocotas, How Poland’s far-right government is pushing abortion underground, 30 November 2017. <https://www.theguardian.com/news/2017/nov/30/how-polands-far-right-government-is-pushing-abortion-underground>

coercion and violence”.⁴⁶ The spread of ART has changed the context of this definition over 20 years.

In 1996, 2 years later after ICPD, 20,597 infants were born from 64,036 ART procedures across the US, figures based on the first research on ART conducted by the Center for Disease Control (CDC). By 2014, the number of ART procedures performed in the US and the number of infants born as a result of these procedures nearly tripled.⁴⁷ The current three most common forms of ART are assisted insemination, in vitro fertilization and gestational carriers. They are becoming popular commercial options for individuals and couples, especially gay and lesbian couples.

The extent of our personal autonomy and how we express ourselves through reproduction and control over our reproductive capacity has been both enhanced and challenged. What was traditionally understood as incorporating a right to avoid reproduction, now potentially includes a right to reproduce noncoitally.⁴⁸ Furthermore, reproduction activities are becoming production activities for individuals and private sectors, who are making profits through the process transnationally. The issue of commercial surrogacy has emerged in recent years as a volatile site in the encounter between gender, technology and society and needs to be analysed along the lines of women’s reproductive health issues as well as within the larger context of rights and justice. In India, for example, given the extreme vulnerabilities of a vast majority of poor Indian women due to exclusion and marginalisation in job markets, patriarchal social and family structures, and low educational levels, the immediate financial gain through surrogacy assumes significant motivation.⁴⁹

How should ARTs be regulated in ways to respect and protect human rights and sexual and reproductive rights, and not violate them? How can we re-examine our body as a piece of property and a productive tool? We may need inspiration from the discourse on

⁴⁶ International Conference on Population and Development, Program of Action, Para 7.3. 1994.

⁴⁷ Surveillance Summaries, Assisted Reproductive Technology Surveillance — United States, 2014. <https://www.cdc.gov/mmwr/volumes/66/ss/ss6606a1.htm> (April 23,2018).

⁴⁸ Carmel van Niekerk, Assisted reproductive technologies and the right to reproduce under South African Law, http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812017000100023 (April 23,2018).

⁴⁹ Sarojini Nadimpally, Sneha Banerjee, and Deepa Venkatchalam, “Commercial Surrogacy: A Contested Terrain in the Realm of Rights and Justice”, ARROW thematic paper, 2016. https://arrow.org.my/wp-content/uploads/2016/12/Commercial-Surrogacy_Thematic-Paper.pdf

sex work. How to enrich the definition of reproductive rights with the updated and changing context in advocacy work is another challenge.

3.5 The threats as well as opportunities brought by ICTs and technologies

The dominant development narrative on the role of information communication technologies (ICTs) is that it is an efficient tool to empower women and other marginalised populations. In 2004, the UN General Assembly Resolution 58/146 recognised the need to bring ICTs to rural women as this technology is a quick way to bring women into leadership positions in their communities and help reduce inequality. A similar discourse on ICTs can be found in the discussion around trade. It is regarded as gender neutral, always hand in hand in the process of globalisation, with the shared goal of eliminating barriers to the free movement of goods, services and capital.⁵⁰ Although none of the SDGs is specifically about ICTs, there are seven ICTs-related indicators covered in six targets under Goal 4 quality education, Goal 5 gender equality, Goal 9 industry and Goal 17 innovation and infrastructure, and in implementation of all the goals. The development of ICTs further fuels the flame, opening super accessible opportunities such as social media and blogging for people's involvement in ongoing discussions about social and political issues. This vehicle, which is mainly driven by private sectors and in some specific cases by states, does not just provide a platform for communication but is also becoming one of the most influential and efficient way to produce knowledge, spread information and shape public opinions, especially among the young generations.

Technologies – data, the algorithms built upon data and networks (e.g., Internet) -- are creating unprecedented opportunities; but also present critical threats to human rights, women's rights, justice, dignity, and efforts to address inequalities in multiple arenas. These 'harm cases' include: governments collecting data for surveillance; companies using algorithms to target consumers for profit; political campaigns spreading misinformation and propaganda with incredible speed using the Internet. Technology governance – the ethics, norms, formalised rules and regulations, and technical standards – could be a double-edged sword for SRHR advocacy when more and more organisations are utilising social media as an advocacy tool. YouTube, as an example, is one of the most popular social medium and streams one billion hours of footage every

⁵⁰ Please refer to the final statement of the People's Summit "WTO Out! Building Sovereignty." <http://dawnnet.org/2018/01/final-statement-of-the-peoples-summit-wto-out-building-sovereignty/> (April 23,2018)

day. In August 2016, YouTube introduced a new system to notify users of violations of the ‘advertiser-friendly content’ rules, which requires the content should be “appropriate for all audiences”, and “have little to no inappropriate or mature content”.⁵¹ However, YouTube has the absolute power of censorship to determine what are inappropriate “controversial or sensitive subjects and events”. Later in 2017 and 2018, videos on LGBTI issues, human sexuality and gender identity, were filtered as inappropriate content for children. Moreover, YouTube has suspended accounts of several leading pro-choice organisations such as ‘Women on Web’, ‘Women on Waves’, ‘Colectivo de Salud Feminista’ and ‘Safe2choose’ by claiming these accounts are violating their guidelines by generating content that allegedly “encourages or promotes violent or dangerous acts that have an inherent risk of serious physical harm or death.”⁵² A similar case occurred in China in 2018. Chinese social media network Sina Weibo (microblog) has backtracked from a controversial gay content ban after a massive outcry.⁵³ There are not many women’s rights groups or other civil societies working on the intersection of ICTs, internet and women’s rights. So far, the priorities of their work are given to the accessibility, freedom of expression, privacy, and against online violence.⁵⁴ A recent issue paper from DAWN and ITfC suggest that digital technologies and framing a feminist development agenda in relation to the post-human context is an urgent task, since digitalisation combined with the financialisation of everything are major threats to understanding and challenging and alerting how the celebratory discourses around AI obscure the exploitation of women’s bodies by Big Tech⁵⁵. It aims to be an initial input to advance further dialogues within the feminist movement to promote new legal-institutional frameworks and data governance models to both counter data extractivism and women’s exploitation and envision alternative data-based development approaches that work for women from the South.

⁵¹ Advertiser-friendly content guidelines, <https://support.google.com/youtube/answer/6162278?hl=en> (April 23, 2018).

⁵² YouTube Censorship: safe2choose account is suspended for promoting safe abortion information and access. <https://safe2choose.org/youtube-censorship-safe2choose/> (April 23, 2018).

⁵³ Gwyneth Ho, “China’s Sina Weibo backtracks from gay content ban after outrage” BBC. <https://www.bbc.com/news/world-asia-china-43779650> (April 16, 2018).

⁵⁴ Such as Association for Progress Communication Women’s Networking Support Program (APC WSNP) <https://www.takebackthetech.net> and ICforChange <http://itforchange.net>

⁵⁵ DAWN and ITfC, By Anita Gurumurthy, Nandini Chami, and Cecilia Alemany Billorou, Gender Equality in the Digital Economy Emerging Issues, Issue Paper 1, August 2018

3.6 Infiltration of international capitals and influence of corporate power

The role of private sector and multi-stakeholder partnerships are given great importance in the context of achieving the SDGs, as stated in the SDG17 on means of implementation, specifically in targets 17.16 on multi-stakeholder partnerships and 17.17 on public, public-private and civil society partnerships. Private sectors are considered as partners to provide development financing and innovative technologies, to deliver public services, including health service and so on. In her article 'Corporate power: a looming threat to the fulfilment of women's human rights', Corina Rodríguez Enriquez analyses the threats posed by corporate power to the realisation of women's human rights, including the negative impact of the drive towards competitiveness, the impact of corporate lobbying and tax dodging, and misleading discourse on corporate social responsibility.⁵⁶

What does this mean for SRHR and sexual rights? In the past five years, 'LGBTI inclusion index at workplace' has become a hot topic among private sectors, NGOs and even UN agencies. For instance Human Rights Campaign from the US and Community Business from Hong Kong established a regional annual report on this issue.⁵⁷ Are these kind of initiatives pinkwashing, or corporate marketing, or an indication of the strong support for sexual rights?

Another concern is that the original objective of ensuring and fulfilling people's rights to basic SRH care may not be realised in the process of implementing PPPs. Taking South Asia as an example, the concentration of PPP services in these areas has resulted in the provision of fragmented services, such as contraceptive commodities without gynecological care, or delivery without counselling and information on post-partum care. Thus the limited range of services available provides poor returns to women and men in

⁵⁶ Corina Rodríguez Enriquez, Corporate power: a looming threat to the fulfilment of women's human rights. <http://dawnnet.org/publication/corporate-power-a-looming-threat-to-the-fulfilment-of-womens-human-rights/>

⁵⁷ Human Rights Campaign began to conduct Corporate Equality Index Reports since 2002, and more information about this series of reports can be found on their website: <https://www.hrc.org/resources/corporate-equality-index-archives>.

Community Business has conducted Hong Kong LGBT+ Inclusion Index since 2015, and more information can be referred on their website: <https://www.communitybusiness.org/programmes-campaigns/2019-hong-kong-lgbt-inclusion-index>.

terms of their actual SRH needs. Services such as abortion and sexuality education have suffered the most from vertical approaches.⁵⁸

4. Moving Forward

As mentioned above, in the past two decades there has been an unprecedented expansion in understanding and standard-setting related to sexual rights and sexual and reproductive rights at the global level. However, huge complexities and challenges emerged. Advocacy on sexual rights and advocacy on reproductive health and rights are facing similar challenges and systemic rising crises in most situations. We are standing at the crossroads to review the rights related to body, sexuality and reproduction in the changing context and challenging environment to explore the strategies and potential opportunities for further advocacy work:

Firstly, we need to look back at the past to look forward to the future. What inspired the women's rights advocates back as far as ICPD and Beijing conferences was to shift the dominant narrative and paradigm and set up norms and standards at the global level around issues related to women's bodies, sexuality, reproduction, their health and human rights. Let this inspiration continue to guide us to think what new narratives we need to develop, that recognises the full rights and well-being of every person and re-examine the current advocacy discourse on every aspect of SRHR and sexual rights – SRH services, abortion, SOGI, gender-based violence, gender equality and women's empowerment, sex work, etc. in various complex contexts. To do so, to follow up the implementation of the relevant goals and targets under the SDGs may be an actionable strategy. But we should be fully aware of the shortfalls and constraints embedded in the SDG policy framework itself and not limit our thinking and advocacy within the SDGs.

Secondly, there is clear connection among SRHR, SRH, RR and SR. However, how these divergent and confused terminologies are deployed and articulated by different actors for different purposes in different contexts is still ambiguous, which results in the doubt of whether or not there is a need for a global consensus on the definitions of these terms. Moreover, attention should also be given to how these definitions can address the new development of technologies such as Assisted Reproductive Technologies, the changing

⁵⁸ Sapna Desai, "Regional Advocacy Tool -- Sexual and Reproductive Health and Rights Advocacy in South Asia", 2015. http://dawnnet.org/wp-content/uploads/2016/04/RAT_SouthASIADAWNPaper_2015.pdf

meaning of reproduction in the future and the emerging new needs for reproductive health. Variation of these terms may open new grounds and opportunities for more focused, issue based advocacy. From the advocacy point of view, however, the dispersed and over-stretched efforts may also weaken outcomes at the global level. Therefore consolidated thinking and advocacy strategies around all above-mentioned aspects are crucial.

Thirdly, although the UN, as multilateral mechanism, is under threat of being weakened and manipulated by rising conservative forces, it is still the most significant venue for human rights advocates to engage, especially the Human Rights Council and treaty bodies, which have not been fully utilised by the feminist and women's rights groups for SRHR advocacies. The valuable experience from sexual rights advocacy at this space may be shared.

Fourthly, we must ground our analyses, critiques, advocacy and mobilisation deeply in reality and address real issues. In addition to the global level, we need to continue to fight in every space where decisions on SRHR are made to make sure voices of women and marginalised groups are heard and the reality of their life is counted. Recent victories and important mobilisations, no matter big or small, on abortion laws and SOGI in Ireland, India, China, Argentina⁵⁹ and Poland needed to be celebrated and commemorated because it once again manifests that movements and social mobilisation from the ground are the most powerful driving forces for transformative change. #MeToo Campaign, even if it has been there for many years, in 2017 it showed the potential influence of emerging movement mobilisation strategies through social media. This, of course, has to be balanced with counter-progressive use of social media and troll manipulation that are difficult to assess, but there is increased understanding of how they can manipulate and promote hate discourses and influence elections in combination with other uses of data extracted through the platform companies, as shown with the last US election and the Cambridge Analytica scandal.

In this fierce and tricky world, we need to build broader alliances across progressive social movements. Current SRHR advocacy overwhelmingly focuses on sexuality and

⁵⁹ It is not a victory in terms of changing the law (yet), but it has been a victory in terms of positioning the agenda and mobilising women from all generations and backgrounds. DAWN, "Making history in Argentina: the fight for legal abortion", <http://dawnnet.org/2018/06/making-history-in-argentina-the-fight-for-legal-abortion/> June 22 2018.

reproduction. It often overlooks the broader and profound linkages between body and sexuality, production and reproduction, nature and livelihood. Therefore it may miss the opportunity to challenge the corporate power that defines body — both women’s and men’s bodies and gender non-conforming bodies— as the labour and consumer that is to be extracted and instrumentalised for profit. As a result, it often leaves women and feminist groups or the LGBTQI community alone at the frontline of the battle, as sexuality and reproduction are perceived as purely ‘women’s issues’ and related to women’s bodies only, or imperfect, gender non-conforming bodies. It makes it difficult to build broader alliance across progressive social movements. We need to be bold and clear in explaining that changing the discriminatory system that perpetuates inequalities implies our collective recognition that patriarchy is also in the DNA of progressive social movements if we cannot defend together the decolonisation of women’s bodies.

It is time for SRHR and SR advocates work hand in hand with other social movements – feminists, LGBTQI community, labour rights activists, environmentalists, human rights defenders -- to reclaim our body as our own territory, our source of empowerment for wellbeing and sustainability of the planet and humankind, and to fulfill all human rights.