Agency, inequality and human rights

Nobel laureate Prof Amartya Sen was recently in Dhaka to pay tribute to the memory of his friend of almost fifty years, Salma Sobhan, the women's and human rights activist and founding executive director of Ain O Salish Kendra (ASK), who passed away on this day in 2003. Here we reproduce in full the text of Prof Sen's Salma Sobhan Memorial Lecture, presented at the National Museum in Dhaka on December 25 at a ceremony to mark the 20th anniversary of the founding of ASK and the launch of the ASK 20th anniversary commemorative report.

AMARTYA SEN

I feel very honoured and also very happy to be here, back in Dhaka, my ancestral town, and among friends whom I greatly admire and like. And, yet, it is also a very sad occasion for me: it is impossibly hard to get used to the idea that the dynamic and visionary friend, Salma Sobhan, who lit up our lives so profoundly, is not with us -- and will not be with us again. It is, however, also an occasion of very great pride for us, for having known so wonderful a human being, whose life and ideas still inspire us.

In an open letter addressed to Salma just after her death, her followers in the International Solidarity Network of Women Living Under Muslim Laws told her -- and us -- how she had influenced the thoughts, commitments and struggles of her friends and associates. I am taking the liberty of quoting from that immensely moving document:

"Our very vocabulary in WLUML is coloured by Salma-isms. This is not just because, as Zari says, Salma had the light touch of unobtrusive leadership. Nor is it just because, as Vahida says, Salma had the brilliance that allowed her to keep track of discussions even when seemingly dozing off -- then suddenly would bounce back with incisive inputs and contributions while others -- seemingly awake -- struggled with the issue at hand. In fact, the Salma-isms came from that incredible combination of a vast fount of knowledge, situation-perfect analogies and humour. Always that humour and mischievous smile."

I first saw that mischievous smile -- and Salma's gentle humour -- more than fifty years ago, in October 1955, when she had just arrived at Cambridge as an undergraduate. Rehman Sobhan and I were then working for -- in fact running -- the active South Asian students' society called the Majlis: I think Rehman was the president, and I was the general secretary. We were then busy recruiting fresh members from those arriving from the subcontinent. So Rehman and I went to see Salma, in her college, to persuade her to join the Majlis. Salma smiled as Rehman unleashed his well-rehearsed chain of arguments on why a newly arrived South Asian at Cambridge must join the Majlis immediately, or else her life would be culturally and politically ruined.

Salma listened and was clearly not entirely averse to signing up (and that, indeed, she did), but she was not persuaded by Rehman's hard sell: Rehman learned, I imagine, to be more influential later on. On that occasion though, more than fifty years ago, there was scepticism in Salma's eyes, but friendliness too, as if she stood far ahead and looked back at us with tolerance and with a smile of unconcealed amusement.

I was not aware then, of course, how momentous a meeting that would prove to be for Rehman Sobhan's own life, and for the lives of a great many other people in the subcontinent, and in the world, as Salma would go on to join Rehman in enterprises far larger, and far more momentous, than our tiny little Majlis on the banks of the tiny little Cam. The Meghna, if I may invoke the mighty river of Bengal, of her political vision and intellectual leadership would come with abandon in the decades to follow.

So what was this intellectual Meghna? What power made Salma Sobhan's ideas so profound and her influence so strong? To answer these questions, I must distinguish between the implicit force of Salma's life and example, and the explicit influence of her reasoning and active leadership. On the first -- Salma's life and example -- she exploded many myths that impoverish social perceptions and that continue, alas, today to make the contemporary world unnecessarily flammable. Chief among the myths is the much-touted belief that our lives must be determined by the singular identity of the community in which we are born -- an automatic priority of an inherited identity about which we have no choice whatsoever.

Salma Ikramullah, as I knew her first, had something to tell the champions of choiceless cultural destiny through the chosen life she went on to lead. She also had something to tell the political sectarians who try to persuade us that our religious identity must overpower every other affiliation, association or affection we may have. Her life is a refutation of that mindless celebration of unreasoning singular loyalty that has come recently from religious warriors -- Muslim, Hindu, Christian, Jewish, and others.

Her life had a message also for the confused cultural theorists who try to confine us into little closed boxes of extraordinarily gross identities of civilizational categories, and also for anthropological reductionists who insist that we are the creatures of singular identities that are not subject to reasoning and choice but which we "discover" -- that magic word of identity politics and of rigidly communitarian philosophy.

Salma was born into the top layer of Pakistani aristocracy and political elite. Liberal and broad-minded as her own family was, she still had to take a huge leap when she chose to identify with the cause of the freedom of Bangladesh. Reasoning and reflected choice were central to her life, not passive acceptance of societal "unfreedoms" that the politics of confusion imposes on less courageous and less clear-headed human beings. Also, as someone who was a devout Muslim (when she was staying with my mother for a few days in our home, Pratichi, in Santiniketan, my mother wrote to me in England to say how admirable and inspiring she found Salma's gentle religiosity), Salma also showed with great clarity that religious identity -- important as it can be on its own -- does not obliterate every other affiliation and attachment that we have, related to class, gender, culture, citizenship, political commitment, or personal friendship, nor eclipse our ability to be guided by reason, if we so choose.

This is an intellectual assertion of immensely powerful reach in the contemporary world -- a world that has been made so poisonous by the cultivation of unchosen singular identities of one kind or another. We are constantly pushed, today, by ferocious patrons of religious politics who call us constantly to battle. We are also pushed by the intellectual fog of civilizational categorizers who place us into sealed boxes of "the Muslim world," "the Hindu world," "the Judeo-Christian Western world," and so on, with high theory joining hands, if only implicitly, with very low politics.

And we are also diverted into totally counterproductive initiatives of Western national politics which cannot go beyond seeing us as being defined entirely by religion, with confounded political leaders interpreting people of diverse ancestries simply through religious classification. This is well exemplified by the alarming British official attempts at defining people in contemporary Britain by placing them exclusively in pre-determined fixed categories such as "British Muslims," "British Hindus," and such, in addition, of course, to old Brits (there is no difference in this classification between a Bangladeshi Muslim and a Sudanese or Saudi Arabian or Somali Muslim).

Salma's determination to lead an "examined life" (that great Socratic virtue), based on reflected choices, constituted an emphatic assertion of the power of humanity and reasoned action, rather than blind -- or imposed -- passivity. We have to follow Salma's lead in refusing to be drawn into the destructive fury of assigned -- and unreasoned -- identities in which "confused armies," to use Matthew Arnold's graphic phrase, "clash by night."

If Salma had a great deal to teach us against blind identity politics, gross cultural determinism and unnecessary social disaffection generated by intellectual confusion, she also had much to teach us about the nature and reach of societal inequality in general and gender inequality in particular. As an inspiring and immensely admired teacher in Dhaka University's Law Department, Salma also had fresh ideas to offer on the importance of human rights, including the rights of women, and she also had much to say on the ways and means of fighting against -- and overcoming -- social injustice.

On the important issue of gender inequality, Salma Sobhan brought about a remarkable enrichment of the gender perspective and feminist understanding of social inequalities in Bangladesh and also elsewhere. The *Ain O Salish Kendra* she founded here offered a much deeper analysis of the roots of deprivation of disadvantaged people, including afflicted women. The work of this remarkable institution still draws on the clarity and reach of Salma's discernment of social disparity in general and gender inequality in particular.

While fresh legislation is often needed to guarantee the rights of those who have very few recognised rights, even the existing legal opportunities that can help if used may not be effectively usable because of other handicaps, like penury or illiteracy, which can prevent downtrodden people from invoking and utilizing the protective force of even the existing law (if you cannot read what the law says, you are inescapably impaired from using that law).

Along with her friends and colleagues -- Hameeda Hossain and others -- Salma laid the foundations of a comprehensive approach to resisting human rights violations and defending the claims of the most disadvantaged members of the society. ASK -- *Ain O Salish Kendra* -- with its intellectual power and practical commitment, remains a lasting monument to Salma's vision and initiative.

In paying my own tribute to Salma's ideas and intellectual leadership, I shall devote the rest of this talk to some observations of my own, both on gender inequality and on human rights. They relate closely to Salma's vision. Central to these perspectives is the idea of human agency, including women's agency. My own understanding of this general idea has been much influenced by Salma's thoughts, and the force of her practical work.

I begin with the question of gender justice. Salma's leadership and initiatives can be seen as parts of a huge change that has occurred in feminist understanding and action in recent times across the world, in dealing with social deprivation in general and women's deprivation in particular. This involves a change from the initial concentration of women's movements exclusively on women's well-being to a newer and more activist focus on women's agency in the broadest sense.

The appreciation of women's agency involves, I think, an important evolution of the basic nature of women's movements across the world. Not long ago, the tasks faced by these movements were primarily aimed at working towards achieving better treatment for women -- a more square deal. The concentration was mainly on women's well-being, and it was, of course, a much needed corrective after centuries of neglect of women's interests in the understanding of the well-being of society.

The objectives have, however, gradually evolved and broadened from this "welfarist" focus to incorporate -- and emphasize -- the active role of women's agency. Rather than being seen as passive targets of welfare-enhancing help, women can be seen in this perspective as active agents of change: the dynamic promoters of social transformations that can alter the lives of both women and men.

It is easy to miss the significance of this change in perspective because of the overlap between the two approaches that concentrate respectively on well-being and agency. The active agency of women cannot, in any serious way, ignore the urgency of rectifying many inequalities that blight the well-being of women and subject them to unequal treatment; thus the agency role must be much concerned with women's well-being also. When *Ain O Salish Kendra*, or ASK as it is often called, tries to help women to realize and achieve what they should get through more powerful use of legal and political opportunities, it tries to bolster women's agency, and through that it can have far-reaching effects on women's own well-being as well.

Similarly, coming from the other end, any practical attempt at enhancing the well-being of women cannot but draw on the agency of women themselves in bringing about such changes. For example, Muhammad Yunus's rightly celebrated initiatives through the Grameen Bank movement, which have recently received the recognition they strongly deserve in the Nobel Prize for Peace, have been able to help women mainly through strengthening women's own agency through micro-credit.

The same can be said of the many different avenues, from education to employment, which have been part of the initiatives of BRAC, led by Fazle Hasan Abed, which are also internationally celebrated, and will continue to receive, rightly, much global acclaim. These, and other activist movements in Bangladesh, have been able to help women mainly though advancing women's own agency. Their effects can be seen not only in women's immediate well-being, but also in women's economic and social enterprise. There are also huge indirect effects of women's reasoned agency on fertility rates (Bangladesh had a faster fall in the fertility rate than almost any other country in the world), and on the survival of children, and even on the nature of political and social discourse in this remarkable country.

Thus, we have to recognize the dual regularities that (1) the well-being aspect and the agency aspect of women's lives and works inevitably have a substantial intersection, and (2) yet they cannot but be different at a foundational level, since the role of a person as an "agent" is fundamentally different from the role of the same person as a "patient." The fact that the agent may have to see herself as a patient as well does not alter the additional modalities and responsibilities that are inescapably associated with the agency of a person. There is a very important conceptual distinction here.

The agency issue relates, in fact, to the medieval distinction between an "agent" and a "patient," and I would argue that the view of women as agents of change -- not just as patients whose interests deserve support -- is critically important for the broadening of "women's agenda." A patient is a person whose well-being should interest others, and who needs the help of people in general. An agent, on the other hand, has an active role in pursuing whatever goals she has reasons to support and promote. These goals can be very broad, taking us well beyond the concern with the agent's own well-being.

The focusing on the agency role is central to recognizing people as responsible persons. Not only are we well or ill, but also we act -- or refuse to act -- on the basis of our reasoning. We, women and men, have to take responsibility for doing things, or not doing them. It makes a difference, and we have to take note of that difference. This elementary acknowledgment -- though simple enough in principle -- can be exacting in its implications, both to social analysis and to practical reason and action.

Of course, the most immediate argument for focusing on women's agency may be precisely the role that such an agency can play in removing the iniquities that depress the well-being of women. Empirical work in recent years has brought out very clearly how the relative respect and regard for women's well-being is strongly influenced by such variables as women's ability to earn an independent income, to find employment outside the home, to have ownership rights, and to have literacy and be educated participants in decisions within and outside the family. Indeed, even the survival disadvantage of women compared with men in developing countries seems to go down sharply -- and may even get eliminated -- as progress is made in these agency aspects.

The altered focus of women's movements is, thus, a crucial addition to previous concerns; it is not a rejection of those concerns. The old concentration on the well-being of women, or to be more exact, on the "ill-being" of women was not, of course, pointless. The relative deprivations in the well-being of women were -- and are -- certainly present in the world in which we live, and are clearly important for social justice, including justice for women. For example, there is plenty of evidence that identify the biologically "contrary" -- socially generated -- "excess mortality" of women in Asia and North Africa (with gigantic numbers of "missing women" -- "missing" in the sense of being dead as a result of gender bias in the distribution of health care and other necessities).

That problem is unquestionably important for the well-being -- indeed, even the survival -- of women, and cannot but figure prominently in exposing the treatment of women as "less than equal." There are also pervasive indications of culturally neglected needs of women across the world. There are excellent reasons for bringing these deprivations to light, and to keep the removal of these iniquities very firmly on the agenda: women are certainly the victims of various social iniquities.

But it is also the case that the limited role of women's active agency seriously afflicts the lives of all people -- men as well as women, children as well as adults. While there is every reason not to slacken the concern about women's well-being and ill-being, and to continue to pay attention to the sufferings and deprivations of women, there is also an urgent and basic necessity, particularly at this time, to take an agent-oriented approach to the women's agenda.

What began as an inquiry into women's passive misfortunes has gradually been transformed into an analysis of women's active capability to make the world a more liveable place. Salma Sobhan's own contributions can be seen in the perspective of this broad development -- a global change that is still gathering momentum across the world.

I turn now to the subject of human rights. In fact, there is quite of a lot of similarity between the agency perspective, that has been so important for the recent successes of women's movements, and the importance of taking an adequately broad approach to human rights (well beyond the limits of formal laws), which has been a subject of classic arguments, going back at least to the eighteenth century. I will also argue why and how a heterodox woman thinker, namely Mary Wollstonecraft (in many ways a very similar human being to Salma Sobhan), has been quite central to both, the theory of women's agency and the development of an adequately broad view of human rights in general.

Despite the tremendous appeal of the idea of human rights, it is seen by many legal and political theorists as intellectually frail and lacking in foundation and, perhaps, even in coherence and cogency. It is certainly true that frequent use of the language of "rights of all human beings," which can be seen in many practical arguments and pronouncements, has not been adequately matched by critical scrutiny of the basis and congruity of the underlying concepts.

This is partly because the invoking of human rights tends to come mostly from those who are more concerned with changing the world than with interpreting it, to use a distinction made famous by that pure theorist turned political leader, Karl Marx. In this contrast, there can be a stirring appeal, on one side, and deep conceptual scepticism, on the other. Underlying that scepticism is the question: what exactly are human rights, and why do we need them?

I have tried to present a particular approach to the discipline of human rights in two essays in recent years, and I shall take the liberty of drawing on the arguments developed there. In the interpretation pursued there, I would argue that human rights are best seen as articulations of a commitment in social ethics, comparable to -- but very different from -- accepting utilitarian reasoning. Like other ethical tenets, human rights can, of course, be disputed, but the claim is that they will survive open and informed scrutiny. Any universality that these claims have is dependent on the opportunity of unobstructed discussion.

Human rights are, thus, integrally related to public reasoning that would occur in a politically open -- as opposed to an authoritarian and regimented -- society. The relevance of human rights cannot, of course, be rejected by pointing to the fact that in societies in which free public discussion is not allowed the discourse of human rights can be easily stifled. The real test is the strength and richness of that discourse when public discussion is allowed, rather than being penalized by censorship and incarceration -- or worse.

This view contrasts with the more conventional view of seeing human rights in primarily legal terms, either as consequences of humane legislation, or as precursors of legal rights. Human rights may well be reflected in legislation, and may also inspire legislation, but this is a further fact, rather than a defining characteristic of human rights themselves.

The legal interpretations have appealed to many for very understandable reasons. The concept of legal rights is well established and the language of rights -- even human rights -- is influenced by legal terminology. The relation between human rights and legal rights is, in fact, a subject with some considerable history. The American Declaration of Independence in 1776 took it to be "self-evident" that everyone is "endowed by their Creator with certain inalienable rights," and thirteen years later, in 1789, the French declaration of "the rights of man" asserted that "men are born and remain free and equal in rights." These are clearly pre-legal claims -- to be reflected in law -- not originating in law.

It did not, however, take Jeremy Bentham long, in his "Anarchical Fallacies" written during 1791-2 (aimed specifically against the French "rights of man"), to propose the total dismissal of all such claims, precisely because they are not legally based. Bentham insisted that "natural rights is simple nonsense: natural and imprescriptible rights (an American phrase), rhetorical nonsense, nonsense upon stilts." He went on to explain:

"Right, the substantive right, is the child of law; from real laws come real rights; but from imaginary laws, from "law of nature" [can come only] "imaginary rights."

It is easy to see that Bentham's rejection of the idea of natural "rights of man" depends substantially on the rhetoric of privileged use of the term of "rights" -- seeing it in specifically legal terms. However, insofar as human rights are meant to be significant ethical claims (pointing to what we owe to each other and what claims we must take seriously), Bentham's diagnosis that these claims do not necessarily have legal or institutional force -- at least not yet -- is in fact correct but entirely irrelevant.

Indeed, even as Bentham was busy writing down his dismissal of the "rights of man" in 1791-92, the reach and range of ethical interpretations of rights were being powerfully explored by Thomas Paine's "Rights of Man," and by Mary Wollstonecraft's "A Vindication of the Rights of Woman: with Strictures on Political and Moral Subjects," both published at the same time, during 1791-92, though neither book seems to have interested Jeremy Bentham. They should, however, interest us.

Tom Paine was identifying what we would now call "human rights" to guide our public efforts, including efforts to give legal force to them through new legislation (Tom Paine's was the one of the earliest voices demanding anti-poverty legislation). In Tom Paine's understanding, these rights were not -- as with Bentham -- "children of law," but in fact "parents of law," providing grounds for legislation -- a point of view that would receive support, two centuries later, from the great Oxford philosopher of jurisprudence, Herbert Hart.

Indeed, in a classic essay "Are There Any Natural Rights?" (published in 1955), Herbert Hart has argued that people "speak of their moral rights mainly when advocating their incorporation in a legal system." This is certainly one way in which human rights have been invoked, and Hart's qualified defence of the idea, and usefulness of human rights in this context, has been justly influential. However, the more general point is that whether or not these serious claims are ideally legislated, there are also other ways of promoting them, and these ways are part and parcel of the understanding and realization of human rights.

Mary Wollstonecraft's work took note of this broader point as well. She discussed elaborately how women's legitimate entitlements could be promoted by a variety of processes, of which legislation was only one, and need not even be the principal one. We can see an immediate similarity here with Salma Sobhan's involvement with literacy and education for women as a means of the realization of their rights -- even legally established rights that may not otherwise be utilized. The effectiveness of the moral claims that constitute human rights -- their practical "vindication" (as Mary Wollstonecraft called it) in addition to their ethical acceptance -- would depend on a variety of social features, such as actual educational arrangements, public campaign for behavioural modification (for example modifying what we would now call sexist behaviour), and so on. They could radically transform the power and reach of women's agency.

In a sense Mary Wollstonecraft was pointing to ways that provide powerful bases for the work that many non-legislative organizations, including international associations, citizen's organizations and developmental NGOs try to do -- often with good effect. The United Nations, through the Universal Declaration of Human Rights made in 1948, paved the way for many constructive global activities. That declaration did not give the recognized human rights any legal status, and the effectiveness of that momentous recognition has come in other ways. The ways include fresh legislation which an agreed recognition can inspire (the UN declaration did, in fact, motivate a number of new "human rights laws" across the world), but also other efforts that are supported and bolstered by the recognition of some foundational claims as globally acknowledged human rights.

Also, global NGOs (such as OXFAM, Save the Children, Action Aid, Medicines Sans Frontiers, and others) have been involved for a long time in advancing human rights through actual programmes in providing food or medicine or shelter, or by helping to develop economic and social opportunities, and also through public discussion and advocacy, and through publicizing and criticizing violations. These are all fields of activity related to the commitments of *Ain O Salish Kendra*.

To pursue the conceptual distinction, I should also comment on the fact that some human rights that are worth recognizing are not, it can argued, good subjects for legislation at all, so that the legal approach to human rights may be even more limited than I have already argued. For example, recognizing and defending a wife's moral right to be consulted in family decisions, even in a traditionally sexist society, may well be extremely important and can plausibly be seen as a human right.

And yet the advocates of this human right who emphasize, correctly, its far-reaching ethical and political relevance would quite possibly agree that it is not sensible to make this human right into a "coercive legal rule" (perhaps with the result that a husband would be handcuffed and taken in custody if he were to fail to consult his wife!). The necessary social change would have to be brought about in other ways, including through women's education and economic and social roles, which tend to relate in one way or another to the strengthening of women's agency.

It is this broad focus on agency that, I think, Mary Wollstonecraft and Salma Sobhan shared. Each advanced the theory and practice of strengthening agency as a means of making human rights more powerful and more fulfilled. Of course, they worked in very different worlds. The *Ain O Salish Kendra*, founded by Salma Sobhan, is active in the specific context of Bangladesh and the developing countries of today, whereas Mary Wollstonecraft's efforts related to the debates and programmes at the time of the French Revolution in Europe and US independence in America. But there is a very firm conceptual as well as practical connection between the two approaches.

Since I am much impressed and influenced by both the approaches, and also admire both Mary Wollstonecraft's and Salma Sobhan's respective visions, I thought I should end tonight by pointing to the commonality of ideas that link these two very great women. There is a connection there, in the understanding of the relation between agency, human rights and the removal of inequality that needs to be remembered well and used even more extensively. I feel extremely fortunate to have had the opportunity to give the Salma Sobhan Memorial Lecture today, and I thank you all for listening.

Salma Sobhan at Cambridge University, where she and Amartya Sen first met in 1955.

Prof Amartya Sen was awarded the Nobel Prize in Economics in 1998.