



FEMINISTS 4 A PEOPLE'S VACCINE PODCAST EP4 Transcript



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Access to Vaccines and Medicines is a Human Right

With Kumi Samuel and Farida Shaheed

Vanita [00:00:04] Welcome to the Feminists for a People's Vaccine Podcast, a space for imaginations, discussion, and feminist analysis from the Global South. In this creative journey, we approach the tough questions brought to light by the pandemic. Join us to look at this once in a lifetime event as a passageway to imagine a fair and just world for all.

Kumi [00:00:41] I'm Kumi Samuel from Sri Lanka. I'm also on the Executive Committee of DAWN and I work in the thematic area of political restructuring and social transformation. It gives me immense pleasure today to welcome and introduce Farida Shaheed, who is a Pakistani feminist activist, and she is the executive director at Shirkat Gah. This is a women's resource center in Pakistan working on gender rights and social justice. She was the UN Special Rapporteur on cultural rights from 2009 to 2015. Farida has been associated with DAWN since the 1980s, and it is my privilege to welcome you, Farida, to this conversation. I would like to start with reference to your work as a UN special rapporteur on cultural rights by asking you to reflect a bit about why there is so little understanding that the access to vaccines is a human rights issue in particular and positioning the question of rights in relation to vaccine accessibility and particularly the question of the patent waiver and the opposition to it. In the

context of your work as a special rapporteur, could you discuss this in relation to the distinction you made, that intellectual property and human rights are quite different?

Farida [00:02:10] Thank you and thank you for having me here. Yes. So, one of the reasons I think that vaccines, health issues are not really seen as human rights is because of the divergence in discourses between development on the one hand and human rights, as if there were two separate things, when in fact there just two sides of the same coin. You can't have development without human rights and without human rights, there's no real development for all. So, one of the issues that are taken up is people's rights to science and to benefit from its applications. And this is something that I looked at in terms of: "this is a right because it's part of human creativity and human creativities are all part of cultural rights, because this is what brings together artistic or scientific, etc." And so, one of the problems I think that we have is, we keep talking about intellectual property rights, whereas we should talk about rules and regulations. We should not confuse the discourse with that of human rights. And I think when you use the term intellectual property rights, which is what we normally talk about, we then have people aligning into: "well, these are rights, so then how do we approach them?" And I think it's clear to me that there is absolutely no human right to patent protection. And I think we should be clear about that. And I think from a human rights perspective, regardless of what we're doing, it's absolutely incumbent on us to ensure that when it comes to a matter of human dignity and people's lives, that means also their security and safety in terms of health. When there's a conflict between patent rules and regulations and human rights, human rights must always prevail. So that, I think, is there. The exceptions in the TRIPS agreement are there, but they're hardly ever used, I think, for multiple reasons, one of which is sometimes it seems to me that countries don't have the capacity, knowledge to use those. But on the other hand- and I think this is much more important- it is that you have enormous pressure on countries not to use the exceptions, both in terms of the commercial interests, but also in terms of other states saying, you know, don't use it. Just to read, I mean, the WTO Doha Declaration and the TRIPS agreement regarding public health, very clearly reaffirms that the agreement and I'm now quoting- "can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health" and to promote- again in quotes- "access to medicines for all". We have to understand that intellectual property laws are rules and regulations that human beings have made to govern interaction around trade, commerce, business, et cetera. They're not human rights. And if you are going to take the human rights perspective, we must put intellectual property rules and regulations back where they belong, as just some of the laws which regulate our interaction. They cannot be dictating if the world will live or die or who in the world will live and die because the vaccines are not going to be shared, the patents are not going to be shared, you can't reproduce, you can't do retro-engineering to come up with

this. But I think we have exceptions, and we should push that, too. For HIV/AIDS, for instance, Brazil took the first step and Brazil said “we don’t care what the patent laws, etc. are. Our people need to be saved. So, we are going to get this vaccine”. It was followed by South Africa and then India, the Supreme Courts in South Africa and then in India. And I think we need the same kind of movement. We need our own countries. So, within our countries, we need to lobby and say, “put your foot down!”. This is a human rights and human rights have to take precedence over any kind of trade agreement. And as I said, at the end of the day, all we can do is to make as much noise. But if we, do it creatively enough, imaginatively enough in enough places with enough people, maybe we’ll see someone change what they’re doing and thinking.

Kumi [00:06:30] When you look at the question of state accountability, I think this is very important as well, in terms of how states hold capital of Big Pharma responsible and accountable to what they’re doing with the question of access to vaccines, the question of patent protections that they’re getting away with, the kind of profits they’re earning now in this crisis. And how do we get back that moral high ground, if you will, both as activists and as people who need to hold our states accountable to ensure vaccine availability and access to all. And I think this is particularly also in the context of vaccine nationalism that’s being practiced, vaccine exceptionalism that’s being practiced, the recognition of some vaccines against others. The fact that for many of us in the global South, in the lower- and middle-income countries, we do not have the access that the high income countries have to vaccines. And even with COVAX, what we are getting is potentially 20 percent of our needs. And I think all of this is also tied up in the question of patents, seeing that we can’t produce our own vaccines, we can’t get our vaccines recognized [by the WHO, FDA, etc.], if we do produce them, if we can produce them. All of this, I think are also important questions to deal with.

Farida [00:07:52] I agree with you completely. I think what strikes me is that all of this vaccine nationalism and the whole debate around whose vaccine is to be accepted or not, and where you can travel, with which vaccine, which we see, I mean, it’s like a global tug of war. You don’t like my vaccine; I’m not going to allow you to come to my country either. And I think this is really, very sadly, very shortsighted. And in the end, I think it’s self-defeating because while we’re talking about vaccines for travel and being able to work in places, et cetera, the virus doesn’t need a visa to go anywhere. The virus is going to travel wherever it is. And, you know, unfortunately for all of us, it’s a really clever virus because it’s mutating very quickly. It’s adapting. It’s finding new hosts. And I think that’s something that countries should all realize. Even those who are producing vaccines and who have the capacity- not just vaccines- but the whole plethora of things for diagnostics, for recovery, for the ventilators, for protection gear. All of this is part of the package. And if they don’t protect everybody, they really have to understand at the end of the day, what everyone is saying is that no one is safe until everyone is protected.

And I think that's a lesson which they're still not understanding. I really don't understand why. So, in terms of how we deal with this, you know, the U.N. has passed at least three resolutions last year reaffirming commitment to international cooperation, the need to be- to have this multilateral commitment and also that they must respect human rights, this response to the pandemic, and that there is no place for any form of discrimination, racism and xenophobia. And there's others who are calling for the same thing- that we need to understand that this is good for everyone. And the Global Health Committee of the International Law Association, for instance, has said that- again, I quote- "exclusive intellectual property rights must not act as a constraint on access, especially regarding COVID-19 in a circumstance of ongoing international emergency". So, I mean, I think there are people who are trying to raise their voice. I guess my question is, who's listening? So, the UN has been talking about this. You have the General Assembly passing resolutions. Everyone sits at the table and says, "OK, we all agree. We all need to do this together." But in fact, it doesn't happen on the ground. One of the issues that I found in working on this as a special rapporteur, but also generally I think it's true, is that the people who are in the Big Pharma and other international/multinational companies, they're driven by profit. So, their interest is just- "how much profit can we make?" As you said, they're making huge amounts of profit from this tragedy that the world is facing. But that's not their concern. But those people are never at the tables where human rights are discussed, and the human rights activists are very rarely ever where the trade agreements, and forums, and decisions are being made. And I think this is a problem. And I guess the last thing I want to say in terms of co-operation and moving forward is that we often think of this as the Global North and Global South. But I think we also have to think about South-to-South cooperation, because not all countries- some countries in the South do have capacity, they have the capability of producing vaccines if they're given permission, and others who can work the machines, et cetera, if they're allowed to. And for that, we've just had the discussion, and they should be allowed to do that. But there's many countries who just don't have the technology or the resources to do that. So, while we're talking North-South global co-operation, I think we also have to talk about how we can get South-South countries to come together and understand, as everyone, that what's good for me is also good for you. Or, what's good for you is good for me. So, we need to have that exchange going on at multiple levels with different transversal interactions going on.

Kumi [00:12:16] Just to move into something else I think that we're seeing happening and which I think when you were special rapporteur on cultural rights, it was something of a concern to you, is the question of conservative cultural practices across the board in many of our countries. And as much as we see the heightening of inequalities and discrimination with this pandemic, and with the response to the pandemic, you also see negative cultural practices that exacerbate the risk, for example, to women and girls. With education now being online,

for example, girls are dropping out because they don't have the facilities for online learning and this is forcing them into early marriage, which obviously, education is preventing. So how do you think- I mean, I feel a lot of these cultural imperatives are absolutely invisible in the response to the pandemic. So that's something- yeah, I think it's really challenged us, all the feminists, in terms of what we can do to recover from this huge crisis and this huge tragedy.

Farida [00:13:26] So, Kumi, let me start by saying, I mean, our experience has been whether it's been the earthquakes and the floods that we've experienced, whether it's been the Taliban taking over parts of our country- that whenever you have a disaster, you get the worst norms, standards, behaviors coming to the fore. Anything that makes people panic seems to bring out, sometimes, the worst in us. It also brings out the good in us because we've seen people help each other in very different circumstances. In fact, that's what gives us hope, right? So, when I see people who've got very little helping their neighbors, I mean, that is what makes us feel, "yes, there's still humanity; yes, we can do something". But so often it's the other way around. And we have seen here women at the bottom of the health workers- who are really your frontline workers- don't get the protective gear that they need or have not been given the vaccination that they need or are not supported. And I think we're going to have, as you said, probably quite a long-term impact of this, because it's women who- the retrenchment of women is much higher than the retrenchment of men, given where they're located, but also the low paid, the non-formal, etcetera. But what we found here also is that employers prefer to rehire men because maybe it's this concept that men are the real breadwinners. I don't know. But fewer women go back and then more women, as you said, have taken on multiple care [taking responsibilities], and COVID-19 is nowhere disappearing. So, we keep getting spikes in the old and the young and whoever is ill, women are looking after them. Teachers are a huge area of female employment, right? And so, we have teachers who are trying to teach online while making sure their children are also learning online. And I think that's an impossible thing- to be a situation to put yourself in. What do we do about this? How do we move forward and how do we ensure that there's a gendered perspective? You know everyone's talking about building back better, building something better. And I know, for instance, a lot of women mayors of cities all over the world have made this point that we don't want to go back to the world that we were, that was not a good place for women and other marginalized people. We need to think of development differently. We need to move forward. How do you ensure a perspective? All I can say, Kumi, is that we need to make as much noise as loudly and as in many spaces as possible. I don't know what else we can do. We are not the ones who are sitting and making the decision. But as citizens, as activists, we can gather data on what is happening on the ground so that we have evidence-based advocacy. We can highlight what are the negative impacts of women not being able to have an equal share in the benefits of whatever their

responses, what happens, and unfortunately hear of our experiences. And if we can show the economic negative impact, the decision makers tend to listen more than if we just talk about the social or the psychological. So, I think some research and trying to put it together, and I think we have to build as many linkages with our allies as we can. And so, it's with our allies, with other feminists, but also social movements. It's maybe also with people like the Lawyers Association, Global Lawyers Association I spoke about. They're not naturally people that we engage with all the time. And maybe there are other people out there who, on this issue, feel that's important. But we don't engage. So, let's find our allies. We need to see, who do we know who's sitting at a table where there's decisions being made so that we can leverage those contacts and yeah, I mean, none of this is new. The sad thing is, this is pretty much what we've been doing as a feminist movement from the beginning. But I don't know what else to say, except that perhaps we need to think of new strategies, your new tactics for getting the message across. Because all of this I've listed, I can see and we've done it 20, 30, 40 years, however long we've been struggling, we continue pretty much the same- catch public attention, mobilize more people, and maybe we need the younger people to come up with brilliant ideas- I'm a dinosaur, I don't do social media, but I know it's important in this world. So, I really think we need to have people who are thinking, you know, you have to make people stop and say, "Aha!" or "Wow!" or "Oh!" or react somehow to a message that you send. And I think one thing I'm learning is that our messages have to be humorous, they have to be upbeat -in addition to being serious- but they also have to be upbeat because people respond better to something where there's some sense of hope than to something which is, you know, we see it, people live through this and they're tired of living through oppressions on the day to day basis. So, yeah.

Kumi [00:18:44] I remember the Indian feminist Chandralekha, who I think you know as well, who used to always say "feminists, you do all this whining, and we need to have something much more positive coming out of your work, a much more creative strategy about how you respond". And I think this crisis has really shown us, I mean, with the alienation of work, like you said, the shift to make women responsible for all the burden and the fallout as they atomize, as work gets atomized. And I see a pushback in traditional ways, as well as see trade union movements coming out, I see farmers coming out, women farmers coming out asking for something different, asking for something better, and how we marry this with the engagement with younger feminists who possibly have completely different ways of looking at this. And I'm thinking we need to also look for creative solutions. I've been interacting with some state agencies who come back to us with the same old solutions, and in fact, these are not solutions. Like you said, we need to look at the political economy of the pandemic and what that is doing, and the gendered nature of that, and how would we respond to that? So Farida, there's something else, I suppose, as we look at what we're doing nationally, as we are contextualizing

the problems that this crisis has brought us at the local level, at the national level, maybe at the regional level, and finally also at the international level, we try to find solutions as feminists. So, my other question to add to this, is what young people can do at a national level to engage with states, what mechanisms they can use. I'm very conscious that in some of our countries you can't really do anything much. But in others, there are the national human rights entities, there are maybe pieces of legislation, you can maybe challenge your states, you can maybe challenge private entities. But what can young people do at a national level? Because I think that's the work that must be built upon to take your concerns to the global.

Farida [00:21:02] I would say, Kumi, just to start off with, since the youth is amongst the most reluctant to get vaccinated, I think the youth should work with youth to explain why it's important to get vaccinated, and especially the teenagers, young, 20s and 30s group who don't believe that they will be affected. But the Delta variant has shown us this. And as I said, the virus is a very smart little thing, and it keeps mutating. So, to understand also- not to lecture- but to understand that you may not get such a bad case, but you may pass it on. So, we have a responsibility as citizens, and I think we have to lobby with our own governments and whoever we can to make sure they are raising their voice for vaccinations for all and for the technology to be shared across. So those of us who are in countries where our country is part of those asking for exceptions and a suspension and a waiver of the patents, we should be supporting our countries. They're doing a good job. Those who are in countries where their governments are resisting that, I think they can raise their voice and make it heard that as the voice of tomorrow, as the people who are going to inherit this world, they insist that we have vaccination for all. They want to be safe. The only way they're going to be safe and have a future for themselves and their kids is if you make sure that everybody has access to this. So, lobby your government, absolutely. Find your allies within the national [level] because it's then that it transforms and translates into the regional as well, then eventually into the global. So, you have to pick where you want to work, and I think work on it.

Vanita [00:22:53] The Feminists for a People's Vaccine podcast is produced by DAWN, Development Alternatives with Women for a New Era, and TWN, the Third World Network. Today's episode was edited by Alice Furtado and engineered by Ernesto Sena. Thank you for joining us today. I'm Vanita Nayak Mukherjee, see you on the next episode!