

EMBRACING COMPLEXITY: HUMAN RIGHTS IN CRITICAL RACE FEMINIST PERSPECTIVE

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Is feminist human rights scholarship prepared to address the current crisis in international law and politics? Globalization, the reassertion of deep cultural divides, war, armed conflict, terrorism,¹ the HIV/AIDS pandemic,² the appalling economic status of women in the Global South,³ desperate flows of migrants willing to risk death for economic opportunity,⁴

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¹ The "War on Terrorism" continues to have global implications. Local armed conflicts and their aftermath in central and west Africa, Chechnya, Afghanistan, and elsewhere have had devastating consequences for the lives of the women, men, and children affected. For a discussion of the relationship of globalization to violent conflict, see Amy Chua, *World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability* (2003). The impact of these conflicts on women is significant, but can get lost in discussions of other implications. See, e.g., Chen Reis et al., *War-Related Sexual Violence in Sierra Leone: A Population-Based Assessment* (2002) (regarding conflict in Sierra Leone); Martina Vanderberg & Kelly Askin, *Chechnya: Another Battleground for the Perpetration of Gender Based Crimes*, 2 Hum. Rts. Rev. 140 (2001) (discussing violence against women in the Chechnya conflict).

² While war and armed conflict kills millions and disrupts economic and social life in many parts of the world, the HIV/AIDS pandemic also is killing millions of people, many of whom are women in the Global South. More than 2.4 million Africans died of the disease in the past year. UNAIDS, *HIV/AIDS IN Sub-Saharan Africa* (Sept. 2003), available at http://www.unaids.org/html/pub/Publications/Fact-Sheets03/FS_AIDS_in_Africa_2003_en.doc.htm. Women and young girls in Africa are particularly vulnerable to HIV/AIDS infection for biological, social, economic, and cultural reasons. World Health Organization, *Women and HIV/AIDS* (June 2000), available at <http://www.who.int/inf-fs/en/fact242.html> (noting that "55% of adult infections in sub-Saharan Africa are in women").

³ By "women in the Global South," I mean women from racial, ethnic, and religious minorities and immigrant women who live in highly developed countries in which economic and other resources are inequitably distributed as well as women from the economically and politically marginalized countries of the "Third World." See Hope Lewis, *Women (Under) Development: The Relevance of the Right to Development for Poor Women of Color in the United States*, 18 Law & Pol'y 281 (1996) (discussing the women in development movement, the right to development, and the ironic implications for poor women of color in the United States).

⁴ See, e.g., Alan Cowell, *13 Boat People Die Adrift Off Italy Isle; Grisly Find Spurs Call for Africa to Control Migrants*, Chi. Trib., Oct. 21, 2003, at 5 (describing the death of thirteen African migrants who had attempted the risky passage to Italy in a "small wooden boat").

violence against women who resist traditional (or modern) behavioral norms, and violence against women for simply being women—all seem to indicate increasing complexity in the challenges facing feminist legal scholarship. If international feminist approaches to human rights exist only as part of a static, hegemonic, and imperialist framework, they would indeed be unable to engage the contemporary needs and aspirations of women cross-culturally. In my view, however, the voices of “women of all colors” have enriched the objectives and norms of feminist human rights scholarship and have embraced complex challenges from the beginning. Nonetheless, the voices of women at the margins—women of color and Third World women among them—have too often been rejected out of hand, ignored, or otherwise made invisible.⁵

Critical Race Feminist and other multicultural approaches to legal scholarship attempt continually to recenter such voices and unearth their experiences and perspectives in the search for effective social justice strategies. As we collectively reflect on the successes and challenges facing feminist scholarship in this dangerous and critical time,⁶ the particularities of culture, race, nation, and other forms of identity must be fully recognized as important aspects of feminist human rights discourse. This brief essay

⁵ See, e.g., Global Critical Race Feminism: An International Reader (Adrien Katherine Wing ed., 2000) [hereinafter Global Critical Race Feminism] (collection of essays on international and comparative law from Critical Race Feminist perspectives); Penelope Andrews, Globalization, Human Rights and Critical Race Feminism: Voices From the Margins, 3 J. Gender Race & Just. 373 (2000); Hope Lewis, Global Intersections: Critical Race Feminist Human Rights and Inter/national Black Women, 50 Me. L. Rev. 309 (1998) [hereinafter Global Intersections]. The feminist human rights legal literature is vast and growing. For general overviews, see Human Rights of Women: National and International Perspectives (Rebecca Cook ed., 1994); Women and International Human Rights Law (Kelly D. Askin & Doreen M. Koenig eds., 1999).

⁶ At the time of writing, President Bush had declared the end of sustained armed combat in Iraq, and yet months later there were almost daily reports of violence in certain parts of that country. See, e.g., E.A. Torriero & Bill Glauber, Wounded Official Dies; 8 Soldiers Injured as 2 Bombs Hit Military Convoy, Chi. Trib., Sept. 26, 2003, at 3 (reporting the assassination of Aquila al-Hashimi, a former official of the Hussein government and one of three women on the United States-sponsored Iraqi Governing Council, and “suicide bombing” attacks against United States and Western targets in Baghdad); Daniel Williams & Pamela Constable, U.N. Will Cut Staff, Up Security in Baghdad; Bomb Attack Shatters Workers’ Sense of Safety, Wash. Post, Aug. 21, 2003, at A10 (reporting a “suicide bombing” of United Nations Headquarters in Baghdad that killed over twenty people, including Sergio Vieira de Mello, United Nations Special Representative to Iraq, and former United Nations High Commissioner for Human Rights).

News articles about Iraqi women largely focused on a reported rise in violent attacks on girls and women for not wearing veils in public. Susan Milligan, Iraqi Women Recoiling in Fear of Crime, Boston Globe, Aug. 19, 2003, at A1 (reporting on kidnappings, rapes, and murders of Iraqi girls and women). Of course, the general atmosphere of violence during and after the war, an unstable economy, and the lack of access to reliable sources of clean water and electricity undermined the civil, political, economic, social, and cultural rights of Iraqi women as well.

argues, therefore, that Critical Race Feminist and other multicultural approaches will make important, although ambivalent, contributions to the overall international human rights agenda.

The relevance of race, ethnicity, culture, and gender was recognized at the founding of the post-World War II universal human rights movement.⁷ Human rights standards prohibiting discrimination on the basis of race, sex, culture, and other identity categories appear in each of the documents comprising the International Bill of Rights.⁸ This early recognition of the significance of identity was due, in part, to the understanding that conflicts over racial, ethnic, religious, and cultural differences are often the source of armed conflict and human rights violations (or are deployed to mask other political or economic objectives). However, despite the inclusion of sex on the list of protected non-discrimination categories, few human rights scholars explicitly focused on the role of gender-specific abuses in the early stages of the human rights movement.⁹ Yet the control and oppression of women is often central to conflicts over racial, religious, and cultural differences as well.

Despite this historical context, it often has been difficult to surface the complex mix of other identity concerns in the construction of "gender" in feminist human rights scholarship. Like other political movements, the feminist human rights movement has struggled with the fear that

⁷ On the historical significance of race, ethnicity, and culture in the United Nations human rights movement, see, for example, Power and Prejudice: The Politics and Diplomacy of Racial Discrimination (Paul Gordon Lauren ed., 2d ed. 1996). On the influence of women and gender concerns at the founding of the United Nations human rights movement, see, for example, Mary Ann Glendon, A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights (2001). See also American Anthropological Association, Statement on Human Rights, 49 Am. Anthropologist No. 4, 539 (1947), reprinted in International Human Rights in Context: Law, Politics, Morals 372 (Henry Steiner & Philip Alston, eds. 2d ed., 2000) (critiquing plans for a universal approach to human rights, given the history of colonialism, slavery, and cultural imperialism affecting nonwestern peoples). But see Karen Engle, Culture and Human Rights: The Asian Values Debate in Context, 32 N.Y.U. J. Int'l L. & Pol. 291, 308-09 (2000) (noting that the American Anthropological Association has now taken a more affirmative stance in favor of international human rights standards); American Anthropological Association, Committee for Human Rights, Declaration on Anthropology and Human Rights, available at <http://www.aaanet.org/stmts/humanrts.htm> (June 1999) (statement supporting international human rights approaches).

⁸ See The Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., at 71, art. 2 (non-discrimination), art. 7 (equal protection), U.N. Doc. A/810 (1948); International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, 999 U.N.T.S. 175, at art. 2(2) (non-discrimination), art. 3 (equal rights of men and women) (entered into force Mar. 23, 1976); International Covenant on Economic, Social and Cultural Rights, opened for signature Dec. 16, 1966, 993 U.N.T.S. 3, at art. 2(2) (non-discrimination) (entered into force Jan. 3, 1976) [hereinafter ICESCR].

⁹ On the failure of traditional international law to address gender-specific issues, see, for example, Hilary Charlesworth et al., Feminist Approaches to International Law, 85 Am. J. Int'l L. 613 (1991).

recognizing internal differences will weaken or undermine the overall agenda—women’s equality and liberation from oppression. This resistance to complexity led to the well-known and highly criticized tendency toward “gender essentialism” in early feminist discourse—the construction of the perceived attributes of “white, middle-class, Western women” as the universal attributes of “women” in general. Alternatively, women from the Third World or other women of color were sometimes treated as the essentialized “Exotic Other” who await rescue from Third World cultural patriarchy by Western feminism.¹⁰

Nevertheless, the voices of women of color, women from the Third World, lesbians, women with disabilities, and poor women have continued to be asserted.¹¹ Feminist law journals have played a crucial, though not exclusive, role in this process.¹² These emergent voices include legal scholars who adopt a transnational Critical Race Feminist perspective on human rights issues and who believe that embracing complexity is necessary to achieve the liberation of women from all forms of subordination.¹³

This form of analysis has had a significant influence on feminist human rights scholarship. More recently, it has also played an important role in United Nations human rights instruments.¹⁴ At least four common

¹⁰ See generally Ratna Kapur, The Tragedy of Victimization Rhetoric: Resurrecting the “Native”: Subject to International/Post-Colonial Feminist Legal Politics, 15 Harv. Hum. Rts. J. 1 (2002) (discussing gender essentialism and the tendency to exoticize non-Western women). For discussions of the status of women in the context of non-Western cultural and religious norms, see Susan Moller Okin, Is Multiculturalism Bad for Women?, in Is Multiculturalism Bad for Women? 7 (Joshua Cohen et al. eds., 1999) (essay followed by response essays by leading feminist, human rights, and cultural studies scholars); Leti Volpp, Feminism Versus Multiculturalism, 101 Colum. L. Rev. 1181 (2001) (responding to Okin’s criticism of traditional cultural and religious practices as oppressive to women).

¹¹ See, e.g., Third World Women and the Politics of Feminism (Chandra T. Mohanty et al. eds., 1991) (containing Third World perspectives on the international feminist movement).

¹² See, e.g., Andrews, *supra* note 5 (discussing impact of globalization on women of color); Hope Lewis, Universal Mother: Transnational Migration and the Human Rights of Black Women in the Americas, 5 J. Gender Race & Just. 197 (2001) (discussing human rights of immigrant women and their families under globalization).

¹³ See generally Global Critical Race Feminism, *supra* note 5. See also Sherene Razack, Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms (1998) (application of Critical Race Feminist theory to Canadian context).

¹⁴ See, e.g., United Nations Committee on the Elimination of Racial Discrimination, General Recommendation XXV Gender Related Dimensions of Racial Discrimination, U.N. GAOR, 55th Sess., Supp. No. 18, at 152, Annex V (adopted during 56th Sess.), U.N. Doc. A/55/18 (2000) (recommendation of United Nations committee charged with the implementation of the International Convention on the Elimination of All Forms of Racism incorporating “intersectionality” theory in the analysis of racial discrimination); United Nations Office of the High Commissioner for Human Rights, Gender

themes in a feminist multicultural approach to human rights scholarship can be identified: (1) the recognition that complex individual and group identities can be both a source of discrimination and a source of sustenance; (2) the tension between universal and culturally relative approaches to the human rights of women; (3) a focus on the interdependence of economic, social, and cultural rights and civil and political rights; and (4) an interrogation of the role of non-state actors in the global oppression of women.

I. THE COMPLEX IDENTITY OF "WOMEN"

In her influential work on "intersectionality," Kimberlé Crenshaw theorizes that women who also identify as members of another social group can experience discrimination, violence, and other forms of oppression for reasons that intersect both identity categories.¹⁵ A black woman's actual experience of discrimination might be lost in a legal system that defines violations of rights by treating race and gender as entirely separate categories. She would be expected to claim her rights either as an African American or as a woman, but not as both at the same time. Lisa Crooms extends this analysis to the realm of international human rights law. She notes, for example, that the International Convention on the Elimination of All Forms of Racial Discrimination¹⁶ and the Convention on the Elimination of All Forms of Discrimination Against Women¹⁷ appear to treat women and racial groups as if they are entirely distinct.¹⁸ This theoretical separation thereby makes it more difficult for women of color to advocate for their rights using the traditional human rights framework. It makes some of the discrimination they experience invisible. This form of theoretical analysis is now referred to as "multidimensionality" theory so as to include sexual orientation, ethnicity, religion, nationality, disability status, and other forms of identity in the analysis. A legal framework that

Dimensions of Racial Discrimination, at <http://www.unhchr.ch/women/focus-racialdisc.html> (last visited Sept. 24, 2003).

¹⁵ See, e.g., Kimberlé W. Crenshaw, Background Paper for Expert Meeting on Gender and Racial Discrimination: Gender-Related Aspects of Racial Discrimination, Nov. 21-24, 2000, Zagreb, Croatia (EM/GRD/2000WP.1), available at http://www.wicej.addr.com/wcar_docs/crenshaw.html.

¹⁶ International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969).

¹⁷ Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW].

¹⁸ Lisa A. Crooms, Indivisible Rights and Intersectional Identities or, "What Do Women's Human Rights Have to Do with the Race Convention?", 40 How. L.J. 619 (1997).

fails to account for our complex and multilayered realities as women cannot be expected to achieve the full implementation of human rights.

Feminist multicultural scholarship focuses primarily on the complexity of the oppressions that may occur because of our complex identities as women. Some Critical Race Feminist human rights scholarship, however, also reasserts the sustaining power of some aspects of identity, including culture, for women.¹⁹ In so doing, these scholars attempt to redefine the negative pall that has been cast over the cultural and religious identity of women in the Third World and immigrant women in the West.²⁰

II. THE UNIVERSAL/CULTURAL DIVIDE

Women are often at the core of the battle over cultural pluralism or dominance. In many cultures, including United States culture, the roles, appearance, and bodies of women are seen as the repositories of cultural meaning and honor.²¹ The cultural domination of women may also mask or accompany political and economic motives, such as the maintenance of paid employment opportunities for men or political power and social control. In any case, gender norms and stereotyping are main sources of controversy across racial, ethnic, religious, and cultural boundaries.

¹⁹ See, e.g., L. Amede Obiora, Bridges and Barricades: Rethinking Polemics and Intransigence in the Campaign Against Female Circumcision, 47 Case W. Res. L. Rev. 275 (Winter 1997) (discussing the cultural context of female initiation rituals).

²⁰ Hope Lewis, "Culturing" Survival: Afro-Caribbean Migrant Culture and the Human Rights of Women under Globalization, 93 Am. Soc'y Int'l L. Proc. 374 (1999) (discussing the importance of culture in the survival strategies of Afro-Caribbean women).

²¹ See, e.g., Celina Romany, Women as "Aliens": A Feminist Critique of the Public/Private Distinction in International Human Rights Law, 6 Harv. Hum. Rts. J. 87 (1993) (discussing violence against women in Brazil in the context of attempts to defend "honor"). Attempts to limit women's social and economic autonomy often lead to violence. For a discussion of the pervasive and global nature of gender-based violence, see, for example, Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. ESCOR Hum. Rts. Comm., 56th Sess., Provisional Agenda Item 12(a), U.N. Doc. E/CN.4/2000/68 (2000) (discussing trafficking in women, women's migration, and violence against women generally). See also General Recommendation No. 19, Violence Against Women, U.N. CEDAW Comm., 11th Sess., U.N. Doc. A/47/38 (1992) (defining "discrimination against women" to include violence against women in its various forms). A number of Critical Race Feminist scholars have explored the issue of violence against women from an international or comparative perspective. See, e.g., Penelope E. Andrews, Violence Against Aboriginal Women in Australia: Possibilities for Redress Within the International Human Rights Framework, 60 Alb. L. Rev. 917 (1997); Berta Esperanza Hernandez-Truyol, Sex, Culture, and Rights: A Re/conceptualization of Violence for the Twenty-First Century, 60 Alb. L. Rev. 607 (1997); Rosemary Ofeibea Ofei-Aboagye, Domestic Violence in Ghana: An Initial Step, 4 Colum. J. Gender & L. 1 (1994); Adrien Katherine Wing, A Critical Race Feminist Conceptualization of Violence: South African and Palestinian Women, 60 Alb. L. Rev. 943 (1997).

The battle for the control of women has led to continuing tensions in the international human rights movement as well as in the global feminist movement. Is "culture" always an obstacle to "feminism" or to "human rights"?²² Critical Race Feminist and multicultural scholars have struggled to address this question.²³ These efforts range in their approach. Some argue that traditional cultural or religious norms must be redefined to be more consistent with universal human rights norms, given the tendency to distort culture to accomplish patriarchal aims.²⁴ Others are more accepting of cultural norms as currently expressed, but emphasize the autonomy of women within cultures as well as the internal dynamism of cultural and religious norms. They note that some women may embrace traditional cultural norms as a means of protection against the abuses of globalization and other forces.²⁵ For both sets of critics, the self-determination of the women most affected is crucial.

What, therefore, should be the role of feminist "outsiders" in the human rights movement? Is there any legitimate role for foreign critics of cultural or religious practices that are harmful to women? Isabelle Gunning has recommended a "world-travelling" approach that remains respectful of the self-determination of women who practice certain cultural traditions.²⁶

²² See, e.g., Volpp, *supra* note 10 (critiquing assertions that multiculturalism stands in opposition to feminism). But see Okin, *supra* note 10. The United Nations Human Rights Committee has expressed views on an individual communication with regard to the conflict between gender-based non-discrimination norms and cultural context. See Lovelace v. Canada, U.N. Doc. CCPR/C/OP/1, at 83 (Human Rights Comm. 1981), available at <http://www1.umn.edu/humanrts/undocs/newscans/24-1977.html> (contrasting the right of a female member of an indigenous group to non-discrimination on the basis of sex and the right to cultural participation).

²³ See, e.g., Celestine Nyamu, How Should Human Rights and Development Respond to Cultural Legitimization of Gender Hierarchy in Developing Countries?, 41 Harv. Int'l L.J. 381 (2000).

²⁴ On the reconceptualization of religious norms to be consistent with international human rights norms, see Abdullahi Ahmed An-Na'im, State Responsibility Under International Human Rights Law to Change Religious Customary Law, in Human Rights of Women 167, 175 (Rebecca Cook ed., 1994); Azizah Y. al-Hibri, Deconstructing Patriarchal Jurisprudence in Islamic Law: A Faithful Approach, 12 Am. U. J. Int'l L. & Pol'y 1 (1997). See also Donna J. Sullivan, Gender Equality and Religious Freedom: Toward a Framework for Conflict Resolution, 24 N.Y.U. J. Int'l L. & Pol'y 795 (1992).

²⁵ For a discussion of the impact of globalization on women, see Barbara Stark, Women and Globalization: The Failures and Postmodern Possibilities of International Law, 33 Vand. J. Transnat'l L. 503 (2000).

²⁶ Isabelle R. Gunning, Arrogant Perception, World-Travelling, and Multicultural Feminism: The Case of Female Genital Surgeries, 23 Colum. Hum. Rts. L. Rev. 189 (1992). See also Kay Boulware-Miller, Female Circumcision: Challenges to the Practice as a Human Rights Violation, 8 Harv. Women's L.J. 155 (1985).

This method also requires the outsider to criticize her own, often invisible, culture-based practices from the perspective of the "other."²⁷

I have argued elsewhere that engagement in self-critical dialogue across borders is necessary to any international approach to human rights.²⁸ It is not merely outsider status that makes Western feminist human rights criticism of non-Western cultural norms problematic. Rather, it is the willingness to deploy human rights criticism to the exotic other while holding ourselves blameless that undermines the global promotion and protection of human rights. Feminist human rights activists and scholars must similarly be willing to engage the full participation of marginalized groups in redefining and elaborating human rights standards.

III. THE SIGNIFICANCE OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Official United Nations dogma holds that human rights are "indivisible and interdependent and interrelated."²⁹ The reality is that economic, social, and cultural rights still take a back seat in terms of implementation. Millions of women experience denial of access to adequate food, housing, and health care.³⁰ Since women and children make up the majority of the poorest in most countries, the rehabilitation and protection of economic, social, and cultural rights is of critical importance to women in general and to women of color in particular.³¹ Critical Race Feminist human rights scholarship seeks to address this issue by centering the experiences and needs of poor women and women from other socially and culturally subordinated groups.

In calling for the implementation of the right to development, Third World leaders have argued that economic, social, and cultural rights are an

²⁷ Gunning, *supra* note 26.

²⁸ Hope Lewis, Between Irua and "Female Genital Mutilation": Feminist Human Rights Discourse and the Cultural Divide, 8 Harv. Hum. Rts. J. 1 (1995).

²⁹ Vienna Declaration and Programme of Action, World Conference on Human Rights, *adopted* June 25, 1993, pt. 1, at 20, U.N. Doc. A/CONF. 157/24 (1993), *available at* [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En).

³⁰ For an overview of international and comparative approaches to economic, social, and cultural rights, see, for example, Economic, Social & Cultural Rights: International and Comparative Perspectives (Jeanne Woods et al. eds., forthcoming 2004) (manuscript on file with authors).

³¹ See, e.g., Hope Lewis, Lionheart Gals Facing the Dragon: The Human Rights of Inter/National Black Women in the United States, 76 Or. L. Rev. 567 (1997) [hereinafter Lionheart Gals] (discussing the human rights of native-born and immigrant black women in the United States).

integral part of this process.³² Political economists have recognized the need for development strategies that fully integrate gender concerns, including the roles of women in agricultural production and family life.³³ Their ability to be full participants in any successful development strategy is bound up with the implementation of their social welfare and cultural rights. Feminist scholarship has critiqued the disproportionate impact of structural adjustment policies on the economic and social rights of women and their families.³⁴ Important decisions in domestic courts in other countries and statements by the United Nations Committee on Economic, Social, and Cultural Rights have begun to dispel doubts about the ability of domestic courts to adjudicate these rights.³⁵

A Critical Race Feminist perspective lends support to the insistence on the importance of economic, social, and cultural rights of women in achieving development goals. Multicultural perspectives also recognize that the full protection and implementation of economic and social rights of Third World peoples depend on more equitable international economic relations as well as on the policies of individual governments. A fundamental question remains as to whether feminist solidarity will survive the wide North-South disparities in the economic interests of women as well as differences in race, culture, and religion.³⁶

³² See, e.g., Karin Mickelson, Rhetoric and Rage: Third World Voices in International Legal Discourse, 16 Wis. Int'l L.J. 353, 374-87 (1998) (discussing the history and theory of the right to development).

³³ See generally Ester Boserup, Woman's Role in Economic Development (1970) (analyzing the failure of international development policy to account for the roles of women).

³⁴ See Nyamu, *supra* note 23, at 384.

³⁵ See, e.g., Olga Tellis v. Bombay Municipal Corporation, A.I.R. 1986 S.C. 180 (India, 1985) (adjudicating the right to life under the Indian Constitution as including rights against forced eviction of homeless persons); Soc. & Econ. Rights Action Ctr. and Ctr. for Econ. & Soc. Rights v. Nigeria, Communication 155/96 (African Commission on Human and Peoples' Rights, Oct. 27, 2001) (finding that Nigeria violated provisions of the African Charter on Human and Peoples' Rights with regard to its practices on oil extraction in Ogoniland reserves), available at <http://www1.umn.edu/humanrts/africa/comcases/155-96b.html>. See also General Comment No. 4, Committee on Economic, Social and Cultural Rights, Annex III, UN Doc. E/1992/23 (1991) (discussing implementation of the right to housing under the ICESCR).

³⁶ Vasuki Nesiah, Towards A Feminist Internationality: A Critique of U.S. Feminist Legal Scholarship, 16 Harv. Women's L.J. 189 (1993); Chantal Thomas, Critical Race Theory and Postcolonial Development Theory: Observations on Methodology, 45 Vill. L. Rev. 1195 (2000).

IV. GLOBALIZATION, NON-STATE ACTORS, AND THE “WAR ON TERRORISM”

Traditional approaches to international human rights law tend to treat the state as both the main violator and the primary protector of human rights. Critical Race Feminist scholars have re-examined this state-centered approach. While the influence of powerful states like the United States continue to be an important source of human rights concern for women, Critical Race Feminists highlight the role of non-state actors as well.

Transnational corporations exploit the low-wage status of women (often women of color) and, in doing so, create new avenues for sexual abuse and harassment. Many have more economic resources at their disposal than the entire budget available to some developing countries; they can exert influence that approximates that of a state in some circumstances. International financial institutions such as the World Bank and the International Monetary Fund impose “voluntary” structural adjustment policies on developing nations that result in endless cycles of unpaid foreign debt, the loss of social services, and policies that undermine the economic subsistence of women and their families.³⁷ International trade policies structured by the World Trade Organization impact access, not only to markets for goods, but also to fundamental rights such as food, clean water, and life-saving drugs.

Terrorism, anti-terrorism backlash, and internal armed conflict place women in physical danger and often lead to other violations of their rights related to racial, ethnic, religious, or immigration status. These forms of violence have forced many women and children into refugee or displaced person status at the same time that state policies impede their ability to seek asylum.³⁸

V. OLD QUESTIONS, NEW CHALLENGES

As we form new cross-cultural coalitions and as the voices of diverse groups of women enter the debate, new opportunities and challenges face the feminist human rights movement (and therefore feminist human rights scholarship). Global gatherings such as the Beijing World Conference on Women and the Durban World Conference Against Racism have stimulated an explosion of activism and literature that reflects the cross-cultural concerns of women.

³⁷ See, e.g., *Lionheart Gals*, *supra* note 31, at 571 (discussing the impact of structural adjustment policies on Afro-Caribbean women).

³⁸ See, e.g., Jacqueline Bhabha, *Internationalist Gatekeepers? The Tension Between Asylum Advocacy and Human Rights*, 15 Harv. Hum. Rts. J. 155, 157 (2002) (discussing status of asylum-seekers in Europe).

New spaces have been created within international bodies, non-governmental organizations, grassroots organizations, and feminist journals in which multicultural exchanges can flourish. Yet those exchanges reveal significant fissures in, and challenges for, feminism. While many of us remain committed to the universality of fundamental human rights, we still struggle with how best to promote the human rights of women cross-culturally.³⁹ Further, the widening gap between rich and poor countries makes it more difficult to identify multicultural strategies for women that can also cross the economic divide.

How should multicultural feminists position themselves with regard to the impact on women (and men) in other countries of our government's foreign policy on war, economic policy, reproductive rights, AIDS prevention and treatment? What are the implications of the increased migration of women and children across borders, whether "voluntarily" or through forced migration and trafficking? How should multicultural feminists respond to the assault on civil liberties invoked as necessary for the "War on Terrorism"?

These challenges do not necessarily mean the dissolution of early feminist aspirations for the freedom and equality of women; rather, they exist as part of a maturing, more inclusive, form of feminist theory and activism that is to be embraced, not feared.

³⁹ See *Global Intersections*, *supra* note 5.

CONFRONTING OBSTACLES

Tenure Politics, Rankings, and New Solutions