

Ternopil Academy of National Economy, Ukraine

Issues in Women's International Human Rights and International Violence Against Women

Spring 2002 - Ternopil

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International violence against women happens in different contexts and cultures world-wide, and second; that the international study of these problems reveals the complicity and systematic toleration of violence against women by governments all over the world. International collaboration on addressing violence against women is crucial in building effective, wide-ranging responses that can strengthen women's rights wherever they may live. From girls seeking educational opportunities from the recently overthrown Taliban, to female infants snuffed out pre-natally, to girls whose genitals are mutilated, to women forced into survival sex that kills them, women and girls are subject globally to an intolerable amount of debilitating violence. The goal of this course is to increase awareness of these issues, and to formulate collaborative thinking on solutions. How do we answer claims that acts that constitute violence against women have cultural significance and sanction in other societies? How is the international women's rights movement different from the global human rights movement? What role does international law play in securing rights for women across borders? Does the current construct of international law do enough for women's rights internationally? How can groups work better transitionally, transculturally, to eliminate violence against women? Representative issues of some of the most pressing and vivid examples of violence against women will be discussed. After reviewing the issues presented and choosing one, or one not listed here prepare a short report describing the issue and recommendations for addressing the problem.

How much of a role do politics and economics play in shaping women's opportunities and entrenching violence against women? How should we consider more generalized problems of political or economic disenfranchisement of women in the context of fighting violence against women?

Lecture 1

The Universality of the Human Rights of Women. How should we evaluate what constitutes "violence" against women as distinguished from norms accepted in the culture in which they occur? What if anything we should do to affect change in cultures not our own? The Taliban justified their violence against women on cultural/ religious grounds. Cultural relativism involves the problem of evaluating acts that constitute violence in one culture that may be accepted and practiced in another cultural and not regarded as violence. Movements to resist forms of cultural imperialism exist around the issue of international human rights. Is there a global consensus on human rights?

Arati Rao considers the application of cultural relativist standards on the international women's rights movement. She argues that cultural relativism is too often a political expedient, used by old guard leaders to perpetuate a status quo that condones oppression of women.

"Can we have an international discussion of human rights in a world of cultural difference? ... In United Nations debates, governmental declarations, newspaper editorials, and classrooms, the din of exhortation to greater sensitivity towards differences between cultural groups within countries (and to increased respect for societies elsewhere) has reached unprecedented levels.... And yet, even those who recognize the importance of cultural sensitivity feel that recognition challenged, and even trampled, by an intuitive sense of horror and outrage in the face of human suffering.

"The argument from 'culture' is employed to serve a variety of interests. In international politics, the old insensitive and self-congratulatory voices have risen to a bullying shout today, overriding all who do not subscribe to an unchanged formulation of the established liberalism based vision, with its emphasis on individualism and civil and political rights.... At the same time, extreme and wide-ranging human rights violations by both governments and extra-constitutional groups have continued to be defended, and even justified, on the grounds of cultural difference. At the 1993 Vienna conference, for instance, countries as culturally dissimilar as China, Syria, and Malaysia relied on notions of cultural integrity in their criticism of various aspects of human rights doctrine.... "Some [cultural relativist] defenses are long-lived and repeatedly deployed. For example, when Kenyatta [Kenyan leader] writes that 'it is unintelligent to discuss the emotional attitudes of either side of [female genital mutilation in Kenya], or to take violent sides in the question, without understanding the reasons why the educated, intelligent Gikuyu still cling to this custom'... he seems to be making no more than a call for a sensitive and fair hearing. But when he defends the practice on the grounds that it is 'important to note that the moral code of the tribe is bound up with this custom and that it symbolizes the unification of the whole tribal organization,' we are compelled to question the politics of such a claim, particularly when it is made by a male national leader on behalf of the social group most directly affected by the practice: women. Much-vaunted government reforms often are in reality little more than rhetorical flourishes, toothless legislation, and weak policy measures.

"Cultural sensitivity in the international area is important; it is equally important to retain our awareness of intracommunity gender oppression and, in so doing, fully articulate the painful coexistence of multiple oppressions. For too long, gender has been subsumed by the call to nationalist self-assertion; for too long, gender equality has been asked to take a position secondary to other struggles; for too long women have been required to choose between compartmentalized struggles for freedom. Feminist theory continues to unravel the inextricably connected oppressions of race, class, gender, sexuality, colonial experience, and the like, showing that (false) hierarchies of seemingly separable oppressions can only generate suspect and incomplete political strategies for attaining freedom and equality. That women often accept such misleading analyses of their predicament is insufficient reason to write off the possibility of uniting amidst their very real differences.

"[T]he notion of culture favored by international actors must be unmasked for what it is: a falsely rigid, a historical, selectively chosen set of self-justificatory texts and practices whose patent partiality raises the question of exactly whose interests are being served and who comes out on top. We need to problematize all of culture, not just the perceived 'bad' aspects. When we limit our inquiry to egregious violations, we limit our capacity to ameliorate human pain to just that instance of a 'bad cultural practice.' Without questioning the political uses of culture, without asking whose culture this is and who its primary beneficiaries are, without placing the very notion of culture in historical context and investigating the status of the interpreter, we cannot fully understand the ease with which women become instrumentalized in larger battles of political, economic, military and discursive competition in the international area.

As you consider the issues raised in this week's module, ask yourself whether you feel comfortable imposing your cultural values on members of another country or culture. As Rao cautions, ask yourself also who the cultural defenders are. Are there certain acts or traditions we can comfortably condemn despite cultural relativist blinders?

[The Politics of Gender and Culture in the International Human Rights Discourse, Arati Rao in Women's Rights, Human Rights: International Feminist Perspectives, Julie Peters and Andrea Wolper, Eds., 1995.]

A Reservation to the Women's Convention and Objections to that Reservation

- Reservation of Bangladesh to the Convention on the Elimination of All Forms of Discrimination against Women, and the Objections of Mexico, Sweden and Germany
- Human Rights Committee, General Comment 24 on Reservations
- Rebecca Cook, Reservations to the Convention on the Elimination of All Forms of Discrimination against Women, 648-660, 678-687

Fostering Compliance

- Rebecca Cook, Effectiveness of the Beijing Conference in Fostering Compliance with International Law Regarding Women in Michael G. Schechter ed., *UN-Sponsored World Conferences: Past, Present and Future*, United Nations University Press
- Radhika Coomaraswamy, To Bellow Like a Cow: Women, Ethnicity and the Discourse of Rights in *Human Rights of Women: National and International Perspectives* 39-57, Philadelphia: U of Penn Press, 1994
- Barbara Stark, Women and Globalization: The Failure and Postmodern Possibilities of International Law, *Vanderbilt J. of Trans'l Law* 33: 503- 571 (2000), 546-556

Lecture 2

International Human Rights

"In earlier times the relationship between international human rights law and women's issues was not a happy one. International law was, after all, state-centered and individualistic in content. Its thrust was basically toward male subjects with only passing reference to women's inequality. It was most important, however, that international law reinforced the division between the public world and private life. By insulating vital aspects of private life such as the family from scrutiny, it ensured that community and private life were not subject to international standards. International human rights law assumed a public sphere where the state and the international system could intervene and a private sphere where state intervention and international scrutiny were prohibited. It was assumed that privacy was a neutral realm of human experience, and that there was no power hierarchy within the private space of the family that affected state interests. As critics have argued, the absence of legal intervention to protect women in the community and in the home devalued women and kept intact the traditional male-dominated hierarchy of the family.

"A revolution has taken place in the last decade. Women's rights have been catapulted onto human rights agenda with a speed and determination that has rarely been matched in international law."

[Radhika Coomaraswamy, *Reinventing International Law: Women's Rights as Human Rights in the International Community*, Harvard Law School Human Rights Program, 1997.]

For optional reading, you may read the full article on the web at <http://www.law.harvard.edu/programs/HRP/Publications/radhika.html>

Lecture 3

International Law and Women's Rights

The last decade has seen women's human rights, especially the issue of violence against women, emerging as a very important issue on the international agenda. Radhika Coomaraswamy, the United Nations Special Rapporteur on Violence Against Women states:

"Traditional human rights scholars and activists claim that this breath of scope in the women's human rights movement will destroy human rights and its meaning in the world today. An angry human rights activist once told me, "Now human rights is the kitchen sink." Others such as myself argue that the women's question enriches [the] human rights [dialogue] and is an important part of the flexibility and adaptability of human rights paradigm to meet new challenges."

[Reinventing International Law: Women's Rights as Human Rights in the International Community, Radhika Coomaraswamy, Harvard Law School Human Rights Program, 1997. (For the full article, see <http://www.law.harvard.edu/programs/HRP/Publications/radhika.html>)]

For a long time, the structure of international human rights laws ignored the specific concerns of women. Women's issues were considered to be private matters better dealt with within the home or community. By drawing a line between the public and private sphere, and by acknowledging only one as worthy of international concern, international human rights marginalized women's issues and created a division that exists till today. Are women's rights the same as human rights? If they are different, does this deny women the freedom and equality guaranteed in Article 1 of the Universal Declaration of Human Rights?

"... [I]t is, for the most part, women who suffer from torture and ill-treatment within the home. In some states this intimate violence is not a criminal act; rather, it is perceived as an acceptable form of social control within the family. Rape within marriage is still not recognized as a criminal act across the globe. Dowry deaths, although punishable under the law, do not attract the serious attention of law enforcement agencies. Even in those states where intimate violence against women is criminalized, evidence abounds of widespread failure by law enforcement agencies to prosecute offenders, thereby demonstrating and shaping societal attitudes around the issue. In many states, shelters have had their funding cut back or withdrawn altogether, leaving vulnerable women no means of escaping their abusers. The overall picture is, at best neglect, and at worst complicity on the part of the state [End Page 370] and the international community for approaching intimate violence not as a political and a human rights issue, but as a private matter--a social or a cultural practice, sporadic and individualistic in nature.

[Realizing Human Rights for Women, Ursula A O'Hare, Human Rights Quarterly, 21.2 (1999)]

Many attribute this problem to the fact that, until recently, the only voices heard at the global level were the voices of men. The exclusion of women from the public world resulted in the development of laws reflecting only the concerns and experiences of men. How different is the situation today? Is it the case that women's voices, when heard in the international arena, are heard only at venues studying and debating women's issues and not within the "mainstream" human rights debate? Ursula A O'Hare in Realizing Human Rights for Women, believes so, arguing that women's issues are "ghettoized" within the United Nations system, as international bodies dealing with women's issues have "limited resources and weaker enforcement procedures than mainstream human rights bodies."

As you read about the human rights violations inflicted against women around the globe in this module, think about how different things would be if the boundaries and substance of international human rights were established by women instead.

For Legal Texts, [please click here for conventions and declarations on women's human rights: http://www.un.org/womenwatch/un/iinstrum.htm](http://www.un.org/womenwatch/un/iinstrum.htm)

Lectures 4- 16: Topics in Women's International Women's Rights and Assigned Readings

Lecture 4

Hilary Charlesworth, What are "Women's International Human Rights"? in *Human Rights of Women: National and International Perspectives* 58-84, Philadelphia: U of Penn Press, 1994

Rebecca Cook, Women's International Human Rights Law: *The Way Forward in Human Rights of Women: National and International Perspectives* 3-36, Philadelphia: U of Penn Press, 1994

Lecture 5

The Women's Convention

Convention on the Elimination of All Forms of Discrimination against Women

Arvonne Fraser, Becoming Human: The Origins and Development of Women's Human Rights, *Human Rights Quarterly* 21: 853-906 (1999), p. 885-904

The Principles of Interpretation in Rebecca Cook, Reservations to the Convention on the Elimination of All Forms of Discrimination against Women, *Virginia J. of Int'l Law* 30: 643- 716, 660-663 (1990)

Legal Recognition of the Human Rights Abuses of Women in Rebecca Cook, State Responsibility for Violations of Women's Rights, *Harvard Human Rights J.* 7: 125-175 (1994), p. 130-137

Hilary Charlesworth, Feminist Methods in International Law, *American J. of Int'l Law* 93: 379-394 (1999), p. 379-385

Lecture 6

Valerie Oosterveld – International Humanitarian Law: Overview –

Hilary Charlesworth, Feminist Methods in International Law, *American J. of Int'l Law* 93: 379-394 (1999), p. 385-394,

Kelly Askin, Women and International Humanitarian Law, *Women's Human Rights: A Reference Guide*, (Kelly Askin & Dorean Koenig eds.) 41-87, Transnational Publishers, New York, 1999

Rome Statute of the International Criminal Court, 17 July 1998, A/conf.183/9

Lecture 7

Valerie Oosterveld – International Humanitarian Law: Cases

Prosecutor v. Akayesu (International Criminal Tribunal for Rwanda), Judgment of September 2, 1998, Case No ICTR-96-4-T (excerpts)

Prosecutor v. Furundzija (International Criminal Tribunal for the Former Yugoslavia) Judgment of December 10, 1998. Case No. IT-95-17/1-T-10 (excerpts)

Lecture 8

The Scope of State Responsibility

Andrew Byrnes and Jane Connor's, Enforcing the Human Rights of Women: A Complaints Procedure for the Women's Convention? *Brooklyn J. of Int'l Law XXI*: 679-783 (1996), 707-32

Rebecca Cook, State Responsibility for Violations of Women's Rights, 147-152 (issues); 172-174 (limitations)

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

Lecture 9

Remedies

Dinah Shelton, *Remedies in International Human Rights Law*, Oxford, UK: Oxford University Press, 1999 Theories of Remedies: 38-56 Remedies in National Law: 57-80 Non-Monetary Remedies: 292-306

Rebecca Cook, State Responsibility for Violations of Women's Rights, 169-171

<http://www.genderandtrade.net/>

"*Women's Economic Agenda in the 21st Century*" is written by Maria Riley, Director of the Global Women's Project at the Center of Concern. The paper explores why the women's movement is shifting from advocacy that is solely targeting the UN towards an increased focus on international institutions such as the WB, the IMF and the WTO.

Some of the questions that are addressed include:

- How have women benefited from organizing at the UN over the last 25 years?
- What are the strengths and weaknesses of the UN as a political space for women's human rights advocacy?
- How is globalization addressed in the Outcomes Document of Beijing + 5 at the UN?
- Why are women expanding their advocacy to include international institutions such as the WB, IMF and WTO ?
- What critiques are women formulating around trade, investment, debt relief, poverty eradication, SAPs, overseas development assistance and national economic policy-making?

Violence against Women

- Kenneth Roth, *Domestic Violence as an International Human Rights Issue in Human Rights of Women: National and International Perspectives* 326-339, 1994, Philadelphia: U of Penn Press

- *The Communication Respecting the Violations of Human Rights of Haitian Women before the Inter-American Commission on Human Rights* p. 1-43.
- Aydin v. Turkey 25 E.H.R.R. 251 (1997), 251-257 (headnote), 251-257 & 294-303
- Case 10.970 (Meijia (Fernando and Raquel) v. Peru) (1996) IACHR, *Annual Report of the Inter-American Commission on Human Rights* 1995, 157-200; OEA/Ser.L/VIII.91, Doc. 7 rev., February 28, 1996, read only pp. 157-162, 182-193
- Vishaka v. State of Rajasthan (1997) 6 *Supreme Court Cases* 241 (India)
- *CEDAW General Recommendation 19*

Lois Chiang - International Trafficking in Women

- Human Rights Watch, *The Nature of the Abuse, in A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand* New York: *Human Rights Watch*, 1993, pp. 3-7
- Lois Chiang, *Trafficking in Women: An International Issue* in *Women's International Human Rights: A Reference Guide Vol. 1* (Kelly Askin & Dorean Koenig eds.) Ardsley, N.Y.: Transnational Press, 1999, 321-364, read only 338-344
- Ali Miller and Alison Stewart, *Report from the Roundtable on the Meaning of "Trafficking in Persons": A Human Rights Perspective*, *Women's Rights Law Reporter* 20: 11-19 (1998), read only section V. Towards a Definition of Trafficking: Deconstructing a Classic
- Janie Chuang, *Redirecting the Debate over Trafficking in Women: Definitions, Paradigms, and Concerns*, 11 *Harvard Human Rights J.* 65-107 (1998) 429

Women, and Health

[Keynote speech on "The Global Perspective: Outcomes of Beijing+5 Gender Equality, Development and Peace" by Angela E.V. King, Assistant Secretary-General Special Adviser on Gender Issues and Advancement of Women at Panel Discussion on "Progress for Women in the New Millennium: the Way Forward" \(UNITED NATIONS, New York, 4 December 2000\) <http://www.un.org/womenwatch/confer/>](http://www.un.org/womenwatch/confer/)

A recent Geneva session on the condition of women worldwide concluded, "The absence of a holistic approach to health and health care for women and girls based on women's right to the enjoyment of the highest attainable standard of physical and mental health throughout the life-cycle has constrained progress."

See Report of the Ad Hoc Committee of the Whole of the Twenty-Third Special Session of the General Assembly, *Women 2000: Gender Equality, Development and Peace for the Twenty-First Century*, U.N. GAOR, 23d Sess., 10, *U.N. Doc. A/S-23/10/Rev.1*

<http://www.un.org/womenwatch/daw/follow-up/as2310rev1.pdf> (2000) [hereinafter *Women 2000*].

The General Assembly, 56th session Introductory Statement by Ms. Angela E.V. King, Assistant Secretary-general, Special Adviser on Gender Issues and Advancement of Women - 17 October 2001

The Geneva conferees concluded that a significant obstacle to the realization of women's right to health has been the lack of a comprehensive approach to women's health that pays sufficient "attention to the role of social and economic determinants of health."

Id. <http://www.un.org/womenwatch/daw/csw/hivsummary.htm>

Audrey R. Chapman, *Conceptualizing the Right to Health: A Violations Approach*, 65 *Tenn. L. Rev.* 389, 407-08 (1998).

The economic "disempowerment" of women in African countries is not only tragic, it is also very ironic, considering that these women labor all day long to feed their families.

See Press Release GA/SHC/3367, United Nations, Improved Status of Women Necessary to Sustain Economic Growth, Third Committee Told, as Debate Continues on Women's Issues, <http://www.un.org> (Oct. 28, 1996) (using search terms "African women" and "economic empowerment"). For example, Miss Illo, representing Niger, notes that although African women in rural areas work an average of seventeen hours per day, there exists a "statistical invisibility which fail[s] to recognize the true value of women's work in these areas." *Id.*

Chapman, *supra*, at 407-08

See also Allyn L. Taylor, Women's Health at a Crossroad: Global Responses to HIV/AIDS, 4 *Health Matrix* 297, 314 (1994);

Paul Farmer Ed., *Women, Poverty and AIDS*, Common Courage Press

Lecture 10

Reem Bahdi - State Responsibility for Changes in Domestic Laws

Baker v. Canada (Minister of Citizenship and Immigration) [1999] 2 S.C.R. 817, pp1-4 (holding), paras 2-10, 63-77

Baker v. Canada (Minister of Citizenship and Immigration) , Factum of the Charter Committee on Poverty Issues, <http://www.web.net/ccpi/baker/factum.htrr>, 2000

Karen Knop, Here and There: International Law in Domestic Courts, *NYU J. of Int'l Law & Politics* 32: 501-535 (2000)

P. N. Bhagwati, Creating a Judicial Culture to Promote Enforcement of Women's Human Rights in Andrew Byrnes, Jane Connors & Lum Byk eds., *Advancing the Human Rights of Women: Using International Human Rights Standards in Domestic Litigation*, 20-26, London: Commonwealth Secretariat, 1997

Lecture 11

Reem Bahdi and Marylin Raisch - Researching International Women's Rights

Bora Laskin Law Library, University of Toronto, Women's Human Rights Resources: <http://www.law.utoronto.ca/Diana>

Marylin Raisch, *International Women's Human Rights and Humanitarian Law, Guide IV of Selective Source Guides to Research in International Law*, August, 2000

Lecture 12-13

Discrimination Against Women -- outline of paper topics due

Ch. 10-14 of Cook, *Women's International Human Rights Law: Human Rights Committee, General Comment 18 on Nondiscrimination*

Discrimination with Respect to Nationality

The Attorney General v. Unity Dow , review 14-15 of Cook, *Women's International Human Rights Law: The Way Forward*

Committee on Feminism and International Law, International Law Association, *Women's Equality and Nationality in International Law*, Final Report, 2000, London: International Law Association, 44pp, read only 4-44

Discrimination with Respect to Social Rights

Review 71-73 of Charlesworth, What are "Women's International Human Rights"?

Broeks v. the Netherlands, review 23-24 of Cook, *Women's International Human Rights Law: The Way Forward*

International Human Rights Law: Case Notes and Comments, Vanderbilt J. of *Trans'l Law* 23: 779-818 (1990), 786

Broeks v. the Netherlands, CCPR/C/29/D/172/1984

Intersections of Different Forms of Discrimination: Race, Ethnicity and Gender – Nov. 2, 2000, return outlines with comments

Yilmaz-Dogan v. The Netherlands, The Committee on the Elimination of Racial Discrimination, International Human Rights Law: Case Notes and Comments, Vanderbilt J. of *Trans'l Law* 23: 779-818 (1990), 789-790

23-24 of Cook, *Women's International Human Rights Law: Lisa A. Crooms, Indivisible Rights and Intersectional Identities* or, "What Do Women's Rights Have to Do with the Race Convention?" *Howard Law J.* 40: 619-640 (1997)

See also, Adrian Wing ed. *Global Critical Race Feminism: An International Reader* (on reserve)

Lectures 13-16

Discussions on Paper Topics

- [See appendix A for paper topics](#)
- [See appendix B for references to information on international violence against women](#) [~56k pdf.]*
- [See appendix C for selected Readings](#) [~44k pdf.]*