



2009

Feminist Legal Theory in the Context of International Conflict

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Recommended Citation

Phelps, Teresa Godwin (2009) "Feminist Legal Theory in the Context of International Conflict," *University of Baltimore Law Forum*: Vol. 39: No. 2, Article 4.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol39/iss2/4>

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ARTICLE

EMPOWERMENT OR ESTRANGEMENT?: LIBERAL FEMINISM'S VISIONS OF THE "PROGRESS" OF MUSLIM WOMEN

By: Cyra Akila Choudhury*

*[I]sn't it imperative and a little bit obvious that when we speak of Afghan women and their rights, we must listen carefully to what they themselves have to say about it? As the admirable struggles of women of color, particularly in the Global South, come to the knowledge of the West, we must remind ourselves of the validity of **their** views and hopes, over **our** perceptions of what they should say and do, how they should dress and whether or not their oppression stems from being able to have an orgasm.¹*

The last decade and a half has seen a burgeoning of transnational activism on behalf of women in the global South. With the continuing wars on terror and in Iraq, Muslim women's oppression and the role of Islam in that oppression remain in the limelight. Academically, it has become a subject of much interest and a recurrent theme in the discourse has been how to "help" Muslim women progress towards greater liberty and rights. The debate has included calls for "multiculturalism" and tolerance for Muslims in the West, for monetary aid, and also for diplomatic and sometimes armed intervention. Though the concern may be well-intentioned, there is an expectation that Muslims, particularly women, will eventually value the same rights and social orderings as those of their benefactors in the West. Yet when Muslim women consistently articulate a different

* Assistant Professor of Law, Florida International University. This article has benefited greatly from the rich conversations with and insights of Aya Gruber and Lama Abu-Odeh as well as the continuing support of Robin West. Special thanks are due to the organizers and participants of the "Can You Hear Us Now" conference at the University of Baltimore, held on March 7, 2008.

¹ Sonia Kolhatkar, "Saving" Afghan Women in ZNET, May 09, 2002, available at <http://www.rawa.org/znet.htm>. To extend this quote, I would also add "having an orgasm, wearing hijab or not being able to drive a car," which also seem to preoccupy Western feminists.

vision for themselves, it is a source of concern and puzzlement that can only be resolved through judgments about the “progress” of their consciousness, education, and/or experience relative to “Western” women. This article seeks to challenge those judgments. To do so, I examine the liberal theoretical underpinnings of these scholarly and activist projects to reveal how they advance a particular idea of human flourishing that seeks to ultimately “reform” or extinguish those life forms (including traditional Islam) that do not comport with it.

In the first section of the article, I examine how liberalism’s justification for colonialism has become sublimated in liberal (legal) feminism, which subconsciously continues traditional liberal political theory’s judgments about the “East.” I suggest that most liberal feminists also have a specific idea of women’s flourishing that prevents it from fully comprehending Muslim women who choose to adhere to Islam, which is, in their view, a hopelessly patriarchal and gender oppressive religion.² Liberal notions of flourishing require progress towards a liberal society. As such, “reform” is used to further this vision. I argue that liberal feminism also shares this “narrative

2 Some definitions are required at this stage: when I refer to liberal feminist theorists, I am referring primarily to second-wave feminists who share liberalism’s political agenda of individual autonomy, equal rights, and a commitment to liberal democracy as well as a particular view of human flourishing and progress that I discuss in the paper. To some extent, the definition is broad enough to capture elements of the third-wave but for the most part, I am speaking of the second-wave. Further, I am not constraining this definition to women located in the “West” but to all women who share this particular agenda. Second, “Muslim women” is a rather broad category and the use of it could be taken as a reduction or essentialism born of identity politics. However, I use the term more for simplicity than out of a belief that all Muslim women share some essential characteristic. In my discussion of Muslim women’s groups, I include secularist groups like Revolutionary Afghan Women’s Association (“RAWA”) as well as the religious pietist women because what I am trying to get at is a world view that exists outside of Liberalism. Even though secularism itself is a product of Liberal thought, Muslim women’s secularist groups live in contexts where secularism coexists and is shaped by culture and religion in ways that, to some extent, place them outside of Liberalism. Finally, when I refer to International Human Rights (IHR), I am referring to the universal norms that underlie IHR law and the pressure to reform local norms to reflect them. However, I do not mean to suggest that there is no overlap or that the human rights conventions do not reflect the aims of women in the third world. What I will suggest is that what is understood by inequality or discrimination, the rights that are struggled for are heavily mediated by local considerations including culture and religion, neither of which are essential or monolithic. I would suggest that because culture is not monolithic, claims that certain cultures clash with human rights because of some essential incompatibility ought to be examined very critically.

I should also make clear that I do not subscribe to the notion of a discreet East/West or North/South. It is clear that the West contains a large population that could be considered “Eastern” and that the global South is no longer “people over there” but often live side by side with their affluent “Northern” neighbors in urban ghettos and banlieues. As such my references to third-world women, women of the global South and women in the East should be read not geographically but politically and economically.

progress” that reduces non-liberal societies to “developing” and, consequently, global southern women to victims.

Yet, many women in the global South reject this characterization of their existence. In the second part of the article, I offer some examples of Muslim women’s visions of flourishing that show both overlap with liberal values and, more importantly, divergence. I propose that Muslim women’s adherence to religion must be accepted as legitimate expressions of flourishing even if we, as Western feminists, are skeptical about the freedom of their choice. I urge feminists who have continued to be extremely incredulous about Muslim women’s choices to live according to Islam, to re-evaluate and see these women as exerting power in their own lives.³

Unfortunately, such reconsideration is complicated by the fact that there are strategic benefits to ignoring Muslim women’s agency. Both women’s organizations in the Muslim world and Western organizations capitalize on women’s suffering, the former to gain support from resource-rich first world organizations and the latter to mobilize their constituents. Yet the costs of such strategic representations remained under-examined. In the third part of the article, I use the interaction of the Revolutionary Afghan Women’s Association (“RAWA”) and the Feminist Majority Foundation (“FMF”) to highlight how representations of powerlessness of Muslim women and the reinforcement of liberal expectations about Muslim women resulted in the estrangement between these two organizations.

Finally, the article considers some of the side-effects of liberal feminist transnational work: the alliances with the state as an apparatus to pressure the global South to progress and the alliance with international law and calls for intervention in the south on behalf of women. I argue that liberal second-wave feminists and human rights hawk feminists should carefully consider how seemingly benign armed intervention can be linked with and traced from the liberal “imperative to progress” and the therapeutic violence of colonial interventions. Given that liberal theory has justified colonial subordination through a discourse of progress, feminism ought to be

3 Indeed, we ought to be skeptical about the freedom of our own choices despite the fact that we “feel” free. Skepticism about Muslim women’s choices, particularly when they choose modes of being that seem to constrain freedom, prevents us from a relativist extreme that makes all choices of equal value. On the other hand, skepticism about our own choices and modes of being prevents us from mistaking our position as objective or somehow inherently superior. Resolving the dilemma between agency and victimization is no easy task, and this article does not explore it in depth. See Robin West, *Law’s Nobility*, 17 *YALE J.L. & FEMINISM* 385, 392 (2005).

wary of any liberal legal system that seeks to perpetuate that subordination. For most women in the South, liberation through interventions that have adverse impacts on their social arrangements and their families may not be worth the price.

I. LIBERAL CONTINUITIES: THE LIBERALISM OF FEMINIST THOUGHT AND THE NARRATIVE OF PROGRESS

The purpose of this section of the article is not simply to claim that imperial feminism is, in a tautology, colonial. Rather, it is to examine why liberal feminisms, even those that claim to be anti-imperial, might in reality be more imperial than they admit. I argue that historically liberalism has justified the subordination of those whose lives and values, social arrangements and institutions were utterly alien. Liberal feminism, which can claim at least a partial ancestry from theorists like Mill and Locke, therefore, are prone to the same critique as liberalism when it comes to alien women. The result is a theory that in some measure supports the “progress” of these other “developing” women towards values and arrangements that reflect liberal society.

First, it is worthwhile to consider liberalism’s relationship to empire. In his work, *Liberalism and Empire*, Uday Singh Mehta raises the question: What happened when a political thought, self-consciously universal in its scope, was confronted with the unfamiliarity of the life forms in the British Empire?⁴ A summary answer to this question, at the risk of oversimplifying a complex historical interaction and process, is that liberalism understood the unfamiliar as the underdeveloped or the infantile. Putting all the cultures on a single evolutionary trajectory, liberalism in its colonial period understood the colonized to be progressing towards civilization defined by Europe. One responsibility of the conscientious imperialist then was to advance that progress, although it seems unlikely that any of the colonized societies would ever progress enough to reach the point of civilization that would allow them self-rule.⁵ In any event, while the *telos* was a liberal society with the necessary social arrangements, the technique that was then used to achieve it was both social and legal reform. In India, during British rule, this led to the codification of the laws and to the import of British liberal legal norms and laws to replace the domestic systems that were in effect. British

4 See UDAY SINGH MEHTA, *LIBERALISM AND EMPIRE: A STUDY IN NINETEENTH-CENTURY BRITISH LIBERAL THOUGHT* 82-87, 90-94 (1999).

5 See *id.*

law was more efficient and more just in the eyes of the colonial administrators while native laws were hopelessly arbitrary and confusing. Certainly the view was that the imported laws were more progressive for many minorities and women despite the fact that these improvements were resisted by a large number of Indians.⁶ As Mehta notes:

History and progress are an unremitting preoccupation of nineteenth-century British Liberalism. Yet the political vision that governed that liberalism was, as it were, already firmly universal. Philosophically there is a dilemma here. Either the validity of that political vision could not be swayed by historical considerations or the liberal agenda was in some central way directed at the “reform” and modification of the various histories it encountered, so as to make them conform to the universalistic vision. Because if the particularities and trajectories of the histories and lives to which the empire exposed liberals did not somehow already align themselves with that vision, then either that vision had to be acknowledged as limited in its reach or those recalcitrant and deviant histories had to be realigned to comport with it. Liberals consistently opted for the latter—that is to say, “reform” was indeed central to the liberal agenda and mind-set. To that end they deployed a particular conception of what really constituted history along with a particular conception of what counted as progress.⁷

To what extent then is this also the account of liberal feminism with regard to women in the global South? Are the liberal women’s rights activists that seek to rearrange the “deviant histories” of Asian, African and Islamic peoples engaged in the same project as the liberal scholars who provided the philosophical justification for colonial empires? After all, is not the end to which liberal feminism aspires a society that resembles and has all the hallmarks of their own societies? Insofar as liberal feminists desire other women to have a society that affords women equal rights (that we now understand go beyond formal equality), that allow women equal opportunities, and representation in government, and that free them from gender violence. These are laudable goals that are imagined to be shared by women all over the world.⁸ But in order for that goal to be reached, progress must be made by reconfiguring not just the relationship between men and women and between women and the state but to reform culture or religion in a way that comports with liberal notions of history and progress. For most liberal feminists whose view of women’s lives in

6 See generally Cyra Akila Choudhury, *(Mis)Appropriated Liberty: Identity, Gender Justice, and Muslim Personal Law Reform in India*, 17 COLUM. J. GENDER & L. 1 (2008).

7 Mehta, *supra* note 4, at 77.

8 See, e.g., SUSAN MOLLER OKIN, IS MULTICULTURALISM BAD FOR WOMEN? (Joshua Cohen, Matthew Howard & Martha C. Nussbaum eds., 1999).

the global South as thoroughly interwoven with violence justified by culture, this is an unmitigated good. Judged from the Archimedean point of liberal feminism, how can change towards liberalism be anything but good when women are merely subjects of a patriarchal religion or culture and live in abject misery? The following quote illustrates the point:

It is by no means clear, then from a feminist point of view, that minority group rights are part of the solution. They may well exacerbate the problem. In the case of a more patriarchal minority culture in the context of a less patriarchal majority culture, no argument can be made on the basis of self-respect or freedom that the female members of the culture have a clear interest in its preservation. Indeed, *they might be much better off if the culture into which they were born were either to become extinct...or, preferably, to be encouraged to alter itself* so as to reinforce the equality of women—at least to the degree to which this value is upheld in the majority culture.⁹

Although the author's sentiment is expressed in the context of minority cultures in a liberal majority society, the assimilationist view and indeed the very explicit comfort with the alteration or extinction of another culture, that in her judgment does not measure up, is an example of the kind of imperative to progress Mehta interrogates. Here the yardstick that is used to judge the relative value of "other" cultures is both liberal and feminist.

Another example of liberal feminism's "imperative to progress" is the same author's response to the assertion that the veil does not have a singular significance for Muslim women: "[S]urely to be unable to go out and practice one's profession without being enshrouded from head to toe is not, on the whole, an empowering situation in which to live, *unless it is a temporary transition to greater freedom.*"¹⁰ In one sentence, she makes explicit liberalism's judgments and the progress it seeks. Living without the veil is greater freedom. A veiled woman is by the very fact that she wears a veil oppressed. In order to be free, the veiled woman must *progress* out of the veil. Such reductionism

9 *Id.* at 22-23 (emphasis added).

10 *Id.* at 124 (emphasis added). I am certain that the charge that my critique encourages "cultural relativism" will be leveled as a defense of Liberalism. I have two thoughts about this. First, that cultural relativism as a reason not to consider the internal views of those who differ presupposes that "our" view is fixed and correct. If all views are co-evolving and no culture is essential, then the charge of relativism seems to lose traction. Second, if we take cultures to be inessential and evolving as well as interacting with other cultures, then we can find internal critiques and dissents that are grounds for coalitions in an ever-shrinking world without the need to hegemonically export liberal norms under the guise of universal truth through the vehicle of international law because we consider them to be superior—even if and when we do consider them to be superior.

imagines veiled Muslim women as being nothing more than victims of their circumstances. For the author, it seems impossible that veiling could have a religious significance other than sexual control or that it could be “chosen.”

II. OUTSIDE LIBERAL PROGRESS: MUSLIM WOMEN'S DESIRES

In the post 9/11 United States, images of oppressed Muslim women are a commonplace. It would not be overstating it to say that Muslim women are considered some of the most oppressed women in the world by most Americans. Typically, references to the veil, female circumcision, honor killings, gang rape, and restrictions on movement all bear the hallmarks of a singular “Islamic culture.” Religion rather than liberating women, or helping them actualize themselves, is used to justify such subordination and compounds their oppression at the hands of Muslim men. In general, neither culture nor religion is seen as internally heterogeneous, contested and fluid.¹¹ Interestingly, this view of religion (and culture) as being largely unchanging is shared by both highly traditional Muslims who argue that no part of Islamic law is contingent on interpretation and location as well as traditional liberal feminists who construe religions as unchangingly patriarchal — both views essentialize some part of religion to make their arguments for or against it.¹²

In her article, *Piercing the Veil*, Madhavi Sunder argues the problem with this construction of religion is not with religion itself but with liberalism, which places religion in the private sphere and prefers to leave it alone rather than engaging it as have many Muslims.¹³ By not engaging in the internal debates about religion in liberal societies and ignoring the debates in non-liberal societies, liberals maintain the fiction that the interiority of religion is a fixed landscape. By not sufficiently accounting for the changes in religion that would become apparent through such engagement and by casting the debates as being about civil liberty issues such as freedom of religion or separation

11 See, e.g., Susan Moller Okin, *Feminism, Women's Human Rights and Cultural Difference*, in *DECENTERING THE CENTER: PHILOSOPHY FOR A MULTICULTURAL, POSTCOLONIAL, AND FEMINIST WORLD* 26 (Uma Narayan & Sandra Harding eds., 2000). In her article, Okin seems not to appreciate that the women in the third world who are the subjects of her concern are also participants in culture and religion not just victims of it. She notes that there are feminists who are working on oppression but they are rarely internal to the society when they are their work is only seen as resistance to, but never participation in, culture or religion. See *id.* at 40-41.

12 See, e.g., *supra* note 6.

13 Madhavi Sunder, *Piercing the Veil*, 112 *YALE L.J.* 1399, 1402-05 (2003).

issues, that is, the separation of religion from the public/state, the fiction that religion's place is in the private or indeed that it keeps to such a private sphere is similarly maintained. I agree with Sunder that limiting one's view in this manner prevents one from understanding the importance of religion in the everyday public life of those living in non-liberal societies.¹⁴

Liberalism cannot do the work of explaining why women value religion except through judgments about these women as being either ignorant or having a sense of false consciousness.¹⁵ Neither of these is appealing from the point of view of many Muslim women. After centuries of interaction with the "West" and the ongoing attempts to reform "developing" societies into liberal ones, the tenaciousness of religion must be quite a puzzle. I suggest that in order to fully understand why women value religion, one must set aside liberal judgments. Muslim women's priorities and their commitments to religion ought to be considered seriously and not simply as a pre-modern remnant that will eventually fall away or be relegated to a private sphere. This is important because the reality of women's lives in Islamic societies indicates that no such development is occurring and in fact a rise in religiosity, as Olivier Roy argues, is a result of modernity and not at all a vestige of pre-modernity.¹⁶

Roy's point is underscored by a survey of Muslim women done in 2005 by The Gallup Organization. The survey revealed that Muslim women did not view themselves as particularly oppressed, that they did not feel conditioned to accept second-class status evidenced by the belief that they ought to have an unfettered right to vote, to work outside the home and to serve in the highest levels of government.¹⁷ Yet, they also did not share typically liberal feminist concerns about gender arrangements; they did not see sex issues as a priority and placed violent extremism, economic and political corruption and lack of unity among Muslim nations over concerns about the hijab, which was never even mentioned by the respondents.¹⁸ When asked to identify the best aspect of their own societies, an overwhelming majority of women cited attachment to their spiritual and moral

14 *Id.* at 1402-04.

15 *See generally* Mehta, *supra* note 4.

16 *See* OLIVIER ROY, GLOBALIZED ISLAM: THE SEARCH FOR A NEW UMMAH 148-97 (2004).

17 Dalia Mogahed, *Perspectives of Women in the Muslim World*, GALLUP WORLD POLL SPECIAL REPORT: THE MUSLIM WORLD 1 (2006), available at http://media.gallup.com/WorldPoll/PDF/GALLUP+MUSLIM+STUDIES_Perspectives+of+Women_11.10.06_FINAL.pdf.

18 *Id.* at 3.

values.¹⁹ What is remarkable about this data is that women clearly articulate the desire for certain (liberal?) rights while valuing their own (non-liberal) religions and cultures.

Examples of this very “modern” hybrid sensibility can be found among even rural women. In an interview published in *Islamica* magazine, Mukhtar Mai, the now famous Pakistani survivor of a tribally-sanctioned gang rape, repeatedly asserts the value of her religion and its role in providing the strength to stand up for justice.²⁰ She challenges the view that Islam supported the violence done to her and discusses the way she was treated at the hands of the state. At the same time, she levels a class critique of her treatment at the hands of the state and it is clear that she considers herself to have the right to redress.²¹ Indeed, Islam is being contested but also lived in ways that are more fluid and controversial than we see in most representations or expectations.²² For instance, Muslim women in Egypt are divided in their support for secularism and their adherence to Islamic norms. The mosque movement in Egypt and the increasing number of women who are attempting to learn about Islam and live its norms faithfully are challenging and are challenged by domestic secular feminisms.²³ Yet Islamic women’s activism has taken root and is gaining ground, as Margot Badran claims:

It is important to note that Islamic feminism is the creation of women and men for whom religion is important in their daily lives and who are troubled by inequalities and injustices perpetrated in the name of religion. Islamic feminism continues to spread because it is relevant. It is engaged and enlightened. It is also controversial and unsettling.²⁴

¹⁹ *Id.* at 2.

²⁰ Fareeha Khan, *Interview with Mukhtaran Mai*, 15 ISLAMICA MAGAZINE (2006), available at <http://www.islamicamagazine.com/issue-15/interview-with-mukhtaran-mai.html>.

²¹ *See id.*

²² *See id.*

²³ *See* SABA MAHMOOD, POLITICS OF PIETY: THE ISLAMIC REVIVAL AND THE FEMINIST SUBJECT 2-6, 15-16 (2005).

²⁴ Margot Badran, *Islamic Feminism Revisited*, COUNTERCURRENTS.ORG, Feb. 10, 2006, <http://www.countercurrents.org/gen-badran100206.htm>. While I would be wary of collapsing all Muslim women’s activism under the rubric of “feminism,” which has historical and philosophical particularities that may not translate to certain Muslim women’s activism, this quote can be read broadly to apply to all women’s gender activism except perhaps those that simply reinforce the dominant patriarchal norms. *See also* Elizabeth Warnock Fernea, *Islamic Feminism Finds a Different Voice: The Muslim Women’s Movement is Discovering its Roots in Islam, Not in Imitating Western Feminists*, 77 FOREIGN SERVICE JOURNAL 24, 29-31 (2000) (arguing that by women giving Kornaic texts new interpretations, women are gaining greater gender justice). *But cf.* Val Moghadam, *Islamic Feminism and Its Discontents: Notes on a Debate*, MIDDLE EAST FORUM, available at http://www.iran-bulletin.org/women/Islamic_feminism_IB.html (last visited Mar. 5, 2008) (arguing what has been achieved

The fact that women continue to value religion and culture cannot be reductively explained as a product of ignorance or brainwashing.²⁵ These examples do not signify a simple story of oppression and resistance or blind adherence to religion, but a complex reality in which religion plays a much more multifaceted role, where it coexists with the demand for rights that overlap with liberalism but may not come from a liberal understanding of self or society. To acknowledge this alternative view is not to say that Muslim women do not live in systemic patriarchy, that Islam is not patriarchal, and that gender subordination sometimes reflected in “traditional” arrangements ought not to be challenged. Rather, it is to say that opinions about how it is challenged, by whom, and what priorities are established can legitimately differ among women and are mediated by local contexts. It is also to acknowledge that Islam is not fixed and can be interpreted in a number of ways and that religion must be engaged by feminists if they seriously seek to support the full liberation and flourishing of women in the Muslim world.²⁶

III. REPRESENTING MUSLIM WOMEN: REAPING ESTRANGEMENT FROM DISEMPOWERMENT

The co-presence of these seemingly conflicting commitments to religion and to rights may tempt scholars to reconcile them through liberal notions of progress towards modernity. Certainly, that has been the dominant interpretation. However, to do so misapprehends the project of women’s groups in Islamic societies, which do not follow such a linear temporal progression from religion to “liberty from religion.” Muslim women who want both the vote and the hijab do not see a conflict between the two or the desire for the latter as less “evolved.” However, this double consciousness is little understood by well-intentioned women’s groups in the West.

Partnerships that are based on such different visions of women’s flourishing, then may lead to estrangement and disempowerment for women’s organization in the Muslim societies. Yet, Muslim women’s groups have themselves sometimes strategically deployed constructions of victimization expected by liberals to garner much needed support. In other words, Muslim women’s organizations may

through the interpretation of Islamic texts is limited in content and consequence, because interpretation of the texts is ultimately left to the ruling religious elites, which may dismiss the feminist interpretations).

25 See MAHMOOD, *supra* note 23, at 1-2.

26 See Sunder, *supra* note 13, at 1433-34, 1456-57, 1463.

cater to the expectation of victimization externally while internally focusing on the strength of local women. This suggests that they do not see themselves as victims but as agents in shaping their realities. On the other hand, the exportation of a victim narrative can give rise to a one-dimensional view on the part of Western partner organizations that is then disseminated within Western societies. A case that illustrates the pitfalls of such coalitional work based on differing views of the “victim” would be the RAWA’s experience with the FMF. While both sides came together in good faith, their interaction highlights the difficulties that attend transnational projects.

RAWA has become very well known in the recent decade for its work to advance women’s rights and in bringing attention to the atrocities committed by the warring factions in Afghanistan. During the 1980s, RAWA’s main strategy to gain global support for its projects was disseminating visual representations of the oppression of Afghan women.²⁷ These images were exported to the world, printed in newspapers and shown on television, as part of a campaign to raise awareness and get monetary support. While it is clear that Afghan women were indeed living under brutal conditions, these representations standing alone deeply reinscribed the prevailing stereotype of powerlessness and victimization that the world had come to accept about most Muslim women. The strategy worked because it shocked most viewers and gave first world feminists a transnational cause with a palpable urgency to support.

While RAWA exported an account of oppression externally, its internal strategy was markedly different. They published a newsletter *Payam-e-Zan* that contained editorials and commentary and inspirational materials encouraging women to redress their own problems. RAWA built schools and hospitals and instituted social programs combating fundamentalism even as they were pushed to the borders of Pakistan during a decade of increasing violence within the state. Thus, on one hand, RAWA was attempting to help women in Afghanistan through reinforcing a self-perception of empowerment and self-help, a self-perception that RAWA shared as an organization. While on the other hand, the external picture that brought them support from the West was one of abject powerlessness and brutal oppression.²⁸

27 See Amy Farrell & Patrice McDermott, *Claiming Afghan Women: The Challenge of Human Rights Discourse for Transnational Feminism*, in JUST ADVOCACY? WOMEN’S HUMAN RIGHTS, TRANSNATIONAL FEMINISMS, AND THE POLITICS OF REPRESENTATION 33, 37-39 (Wendy S. Hesford & Wendy Kozol eds., 2005).

28 See *id.* at 39-40.

In 1997, RAWA partnered with the FMF in its *Campaign to End Gender Apartheid*. This was seen as a positive development by RAWA. Undoubtedly, it benefited FMF and the women's movement in the United States; some scholars have suggested that such a project reinvigorated the lagging support for feminist organizations by domestic women. Part of the reason for that decrease in domestic support is the achievement of substantial legal and social victories for feminists leading to greater access to education and the workplace and, therefore, greater economic freedom. There was no urgency to the other battles being fought in the United States, but helpless "sisters" in other countries were languishing in their cultural prisons. Where that prison became a torture chamber like in Afghanistan, domestic United States feminists quickly mobilized on their behalf, just as many citizens mobilize around disasters. Unfortunately, FMF's own representations of Afghan women soon put them at odds with RAWA. FMF used the same strategy of showing powerlessness and oppression to gain public support but without adequately recognizing or acknowledging the long and hard-fought struggle that RAWA had engaged in, which presented quite the opposite picture.²⁹

For instance, the shocking video clip of the burqa clad woman being executed that was filmed by RAWA in the late 1990s, but did not appear in Western media until after 9/11, was shown over and over again to underscore the helplessness of Afghan women. Sonia Kolhatkar, the vice president of the Afghan Women's Mission, underscores this point:

Far more interested in portraying Afghan women as mute creatures covered from head to toe, the Feminist Majority aggressively promotes itself and it's [sic] campaign by selling small squares of mesh cloth, similar to the mesh through which Afghan women can look outside when wearing the traditional Afghan burqa. The post card on which the swatch of mesh is sold says, "Wear a symbol of remembrance for Afghan women," as if they are already extinct. An alternative could have been "Celebrate the Resistance of Afghan Women" with a pin of a hand folded into a fist, to acknowledge the very real struggle that Afghan women wage every day, particularly the women of the Revolutionary Association of the Women of Afghanistan (RAWA), who are at the forefront of that struggle. Interestingly enough, 50% of all proceeds go toward helping Feminist Majority in promoting their campaign on "Gender Apartheid" in Afghanistan.

On almost every image of Afghan women in the Western mainstream and even alternative media, images of shapeless blue clad forms of Afghan

29 See ZILLAH EISENSTEIN, *AGAINST EMPIRE: FEMINISMS, RACISM, AND THE WEST* 167 (2004).

women covered with the burqa We all know and understand the reactions which the image of the burqa brings, particularly to Western women and feminists. That horror mixed with fear and ugly fascination like knowing the site of a bloody car wreck will make you want to retch but you do it anyway. Whose purpose does this serve? How “effective” would the Feminist Majority’s campaign be if they made it known that Afghan women were actively fighting back and simply needed money and moral support, not instructions?³⁰

In a letter to *Ms. Magazine*, RAWA challenged FMF’s representation of Afghan women and accused it of being a hegemonic, corporate feminist group that failed to acknowledge the twenty-five years of work done by RAWA in Afghanistan and also to account for its support of groups like the Northern Alliance that had actively oppressed women while in power.³¹

In substantial part, these images and this representation were co-opted for political use. Indeed, just as RAWA’s representations were easily put to work to mobilize women in the United States, FMF’s advocacy and rhetoric did similar double duty by providing the Bush administration a ready source of material to justify intervention in Afghanistan. RAWA’s accusation that FMF was a collaborator with the administration was not altogether unjust: one of FMF’s achievements in its campaign was its involvement in shaping U.S. foreign policy in Afghanistan and its acquiescence to the support for the Northern Alliance by the administration. Although, the support of a misogynistic political group and the involvement in foreign policy by a partner organization angered RAWA, it is clear that RAWA’s chief resentment was the cooptation of its work and its authority to represent Afghan women.³²

Both RAWA and FMF’s representational strategies had undesired and unintended consequences and resulted in their ultimate estrangement. This interaction evidences the dangers that arise when women’s organizations from the West and South enter into a partnership based on a very narrow understanding of women’s agency and women’s flourishing. Clearly, RAWA exported the images that were “expected” from a place like Afghanistan. To turn Kolhatkar’s question around: What would have happened had RAWA begun with a campaign that highlighted the agency of Afghan women and clearly stated that they only needed monetary support? By performing the roles that liberalism assigned them, RAWA perhaps inadvertently

30 *SEE* KOLHATKAR, *SUPRA* NOTE 1.

31 *See* Farrell & McDermott, *supra* note 27, at 43.

32 *See id.* at 42-43.

reinforced the narrative of progress. It is not surprising that FMF, being a liberal feminist organization, strategically used the dominant images of victimization of Afghan women as proof of the necessity to reform the society. It is likely that RAWA's images provided the very evidence needed by the telos of a society arranged according to liberal values and was the only way to secure the liberation of millions of otherwise oppressed women.

RAWA and FMF each spoke the language of women's human rights but it seems as though neither fully comprehended each other's aims. The bitter parting of ways that resulted did not lead FMF to abandon its work on behalf of Afghan women. Rather, in the 1990s and 2000s, women's groups including FMF began to work on a number of transnational projects expanding their international scope. One of the consequences of greater engagement in transnational work was the engagement with the state and with international law as partners in exporting progress.

IV. FEMINIST ALLIANCES WITH THE STATE AND INTERNATIONAL LAW: LIBERAL IMPERATIVE TO PROGRESS AND THERAPEUTIC (COLONIAL) VIOLENCE

The FMF's alliance with RAWA was well intentioned, though perhaps, ultimately it led to estrangement. Yet, the work that FMF engaged in on the foreign policy level with the Bush administration points to another set of troubling developments in Liberal Feminist practice — partnering with Western state powers to achieve liberal feminist ends internationally³³ and eroding the sovereignty of “rogue”

33 See Feminist.com, Talking Points for Your Call, <http://www.feminist.com/violence/campaign6.html> (last visited October 7, 2008) for an explanation of talking points that are given to volunteers urged to call their state representative in support of the International Violence Against Women Act. The taking points were developed by Amnesty International and disseminated by women's groups. *Id.*

TALKING POINTS FOR YOUR CALL

- The International Violence Against Women Act (I-VAWA) *would coordinate and improve U.S. government efforts to stop the global crisis of violence against women and girls, if it becomes law.*
- Violence against women destabilizes countries and impedes economic *progress* and stability.
- Violence against women is a tremendous human rights problem around the world. It includes rape, domestic violence, acid burning, dowry deaths, “honor killings,” human trafficking, female genital cutting and more. Experts estimate that up to one in three women will be beaten, coerced into sex, or otherwise abused in their lifetimes, with rates reaching 70 percent in some countries.

states.³⁴ It is the latter which I am concerned with in this section because it is most likely to be considered a welcomed change in the international order.

Until recently, the obligations of International Human Rights law and consequences of infractions devolved to governments. Individuals and social organizations petitioned to their governments for redress but had little standing in international institutions. Increasingly, human rights instruments have begun to bypass state-level actors to give standing to internal non-governmental actors and individuals.³⁵ The rationale for this development was the number of states in the global South that either failed to protect their own citizens from abuses or were actively engaged in abuse themselves. Such states could not be relied on to report or comply with international legal obligations. Thus, it was considered necessary to give voice to those who were otherwise kept silent by their own states. Although, this sort of standing has given expression to a number of constituencies that would otherwise be at the mercy of their state, the erosion of state sovereignty in favor of more internationalism comes with costs.

- *I-VAWA is designed to give victims of violence more assistance, hold perpetrators accountable, and support new efforts to change social norms that support or condone violence.*

- *The legislation would create a five-year strategy and funding to support the rule of law and prevent and respond to violence against women in 10-20 poor to middle income countries. It will expand the U.S. Government's ability to address gender-based violence issues with foreign governments as part of its diplomatic relations.*

- *I-VAWA integrates efforts to end violence against women and girls into existing, appropriate U.S. foreign assistance programs with a special emphasis on supporting the overseas women's groups that work each day to stop violence.*

- *I-VAWA enables the U.S. Government to develop a faster and more effective response to violence against women in armed conflicts and humanitarian emergencies.*

- *Passing I-AWA is essential if the U.S. is to take a more coordinated and effective stand against violence that harms so many women and girls worldwide and will help support economic progress and stability in 10-20 poor and middle income countries. *Id.* (emphasis added).*

The emphasis here is clearly to enable the U.S. to take action on a state level to improve the lives of women in "10-20 poor to middle income countries." *Id.* This raises the question of what the purported "beneficiaries" of the country feel about the U.S. government's actions and the linking of foreign assistance to progress.

³⁴ See, e.g., Aya Gruber, *The Feminist War on Crime*, 92 IOWA L. REV. 741 (2007) (describing the use of state police power to "crack down" on domestic violence perpetrators and the resulting adverse consequences born largely by the women who are their partners, including homelessness and financial immiseration).

³⁵ See, e.g., Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 54/4, art. 2, U.N. Doc. A/RES/54/4 (Oct. 15, 1999).

First, armed with the ability to access the international arena for themselves and using the language of human rights, second-wave feminists in both the West and the South have tried to get societies that they consider particularly oppressive towards women further along in the progress towards “freedom.”³⁶ In that effort, they have partnered with organizations in the global South. As has been argued above, what women’s groups believe to be progress in the first world and what it is considered to be in the third world may not be equivalent. Aside from the basic agreements that violence against women is a bad thing, that certain rights are required for human life and dignity to be preserved, it is unclear that all constituencies agree about what initially causes the conditions in which violence occurs in a society (Western feminists often cite “culture”) or what the society ought to look like at the end of “progress.”

If we continue to promote progress along the liberal trajectory, it is quite clear that we may be supporting the end/annihilation/extinction of certain ways of life that might enrich those who live them. For some, the end of Islam, the end of any culture that does not abide by the values of liberalism, is no great loss. These illiberal religions and cultures may be “reformed” or made extinct through “forced” progress if necessary. Yet, for many women who live communal lives, made meaningful by their culture and its values, this progress cuts against their own visions of progress.

Second, a commitment to international human rights has evolved into an emerging consensus that human rights violations are grounds for military intervention. Progress through humanitarian intervention has been supported by some liberal feminists who question why such intervention has not come sooner.³⁷ Indeed, humanitarian armed intervention is increasingly seen as a necessity and not a last measure for preventing violence towards women and children; however, the devastating therapeutic violence of intervention itself is obscured and decoupled from human rights activism on behalf of third-world women. While liberal feminists largely rejected the administration’s justifications for the Iraq war, they have been vociferous about intervention in Darfur. It is an odd contradiction that armed intervention that overthrows a despot in one country is decried for causing chaos and violence while similar actions are encouraged in another as a solution to chaos and violence. It might be argued that

36 See Feminist.com, *supra* note 32.

37 See, e.g., CATHARINE MACKINNON, ARE WOMEN HUMAN?: AND OTHER INTERNATIONAL DIALOGUES 38-43 (2006).

peacekeepers can hardly be equated with an invading army. This is true, but it should be noted that the U.S. military in Iraq is hardly fighting the conventional war of invasion and peacekeepers attempting to settle conflict may be drawn into warfare, as the conflict in the former Yugoslavia evidences.³⁸ Further, there is other violence that attend intervention. In recent reports, peacekeepers deployed to war-torn areas have come under scrutiny for sexual exploitation and abuse of women and children under their care.³⁹ This is not to say that intervention is always, necessarily wrong and that it should never be undertaken on behalf of those who stand to lose their lives. I can make no such categorical judgments. However, I do suggest that the costs of intervention borne by the people that are supposed to be helped by it require greater examination.

One part of that examination must include the complicity of Western states in a global system that exempt themselves from the consequences of violating international law; that support violence in the South; and prop up regimes that are illegitimate in the eyes of their subjects. Indeed, as Zillah Eisenstein observes, “[m]any Afghan women activists wonder why U.S. women, even progressive ones . . . are more interested in ‘why Afghan men treat women like dirt’ rather than why Western male-dominated governments foster ‘misogynist religious extremism at the expense of women’s rights.’”⁴⁰

First world states’ willingness to use force in any guise is a dangerous development for women from the global South who stand to lose their lives, their children, their brothers and sisters, their mothers and fathers, and their husbands and loved ones in wars and detention camps for what might be a fantasy vision of freedom. That first world women are willing to collaborate with the very “patriarchy” that they claim to be oppressed by, deploy its weapons, and while decrying the cooptation of women’s rights rhetoric ought to be regarded as an inconsistency that demands redress.

As Amy Farrell and Patrice McDermott argue:

Whenever Americans position themselves as saviors, their rhetorical devices can then be wielded by conservative forces to legitimate whatever kind of horrific policies they choose to enact, particularly when those

38 See Michael H. Hoffman, *Peace-Enforcement Actions and Humanitarian Law: Emerging Rules for “Interventional Armed Conflict,”* 837 INTERNATIONAL REVIEW OF THE RED CROSS 193 (2000), available at <http://www.icrc.org/web/eng/siteeng0.nsf/html/57JQCY>.

39 See *Peacekeepers Abusing Children*, BBC, May 27, 2008, <http://news.bbc.co.uk/2/hi/7420798.stm>; *Peacekeepers Sell Arms to Somalis*, BBC, May 23, 2008, <http://news.bbc.co.uk/2/hi/africa/7417435.stm>.

40 See EISENSTEIN, *supra* note 29, at 166.

policies are wielded against Arab and African countries which we “know” to be backward because we have been working to liberate them. These are powerful discursive quandaries that progressive feminist organizations in the United States face, even if their intentions are good, and even if they are run by Third World or Muslim women.⁴¹

Rather than continuing to mouth hollow pieties about “women’s rights as human rights,” it is imperative now more than ever for first world feminists to critically theorize the local and discover how their own agendas have been used to further what can only be considered imperial power dynamics in the international sphere. I suggest that liberal feminists think particularly carefully about the calls for use of international intervention to further women’s human rights, decoupled from local contexts and understood as liberal rights. Such uses of power as a means of progress resuscitate a colonial dynamic that is fraught with the peril of subjugation and violence towards the very people it seeks to liberate.

Instead, more support for local practices of human rights and liberation that are being engaged in by ordinary Muslim women and men in the global South in general might be a better way to improve lives, even if we disagree with their definitions of liberation and human flourishing. This would require us to accept these women as fully capable humans and their commitments to their religion and culture as valid expressions of “freedom.” Critical approaches that find agency in various locations and understand power to be exercised even by those who have traditionally been considered powerless gives us one avenue to do this kind of revising and expanding of our understanding of Muslim women.

The ultimate goal for such acceptance and contextualization is to prevent the narrative of progress from dictating a course of action that “pressures” illiberal societies towards liberal arrangements because that is what “we” want. Further, it calls us to take care that the “pressure” that is exerted on behalf of women’s rights does not include therapeutic violence. This is not to say that intervention will never be justified or required; it is to merely warn that intervention *in the service of Liberal progress* ought to be regarded as the first step in a resurgence of the tutelary relationship that characterized colonialism.

41 See Farrell & McDermott, *supra* note 27, at 51.

CONCLUSION: POSSIBLE FUTURE ALLIANCES

Liberal (legal) feminism as a theoretical enterprise suffers from a dubious past insofar as it encompasses and pursues progress along the lines of its liberal ancestors. Its future depends upon whether it will continue to support the same agenda along a predetermined trajectory that will lead all women to a singular end. This view admits only a singular progression in history in which the worlds of many underdeveloped dystopias have yet to arrive at the Promised Land. On the other hand, it can theorize a new vision that does not require such a judgment from the "outside." Indeed, whether it creates a space for such alternative visions of flourishing, Muslim women and many societies in the global South are living such alternatives. There is a co-presence of all these competing views of what it means to live a good life. If liberal feminists are to understand religious Muslim women's activism that seeks both liberal and illiberal rights, this co-presence has to be allowed to disrupt the meta-narrative of progress. In other words, the predicament for liberal feminism, which is by self-definition a theory and praxis of liberation, is whether to reconcile itself with its peculiarly anti-liberation genealogy which informs it currently (affirm liberal universalism) or radically reevaluate this ancestry to try and reformulate itself in a way that reflects a true liberation theory and praxis (takes a break from liberalism).⁴²

If liberal feminists were able to take such a break, at least from universalizing their values and goals, they might be rewarded with a greater comprehension of the motivations and values of Muslim women who insist on holding on to their religion and culture while demanding rights. As I have argued above, Muslims do indeed have similar desires but that these desires for a better life, for those who believe, include their commitment and adherence to religion and represent a very different view of human flourishing. Rather than reforming these alternative histories and visions, an approach that accepts this plurality would find a valuable and meaningful expression of human progress and liberation and impose or require no "reform," except those undertaken voluntarily.

While I think it unnecessary to abandon second-wave feminism's many contributions, including the understanding that women in every culture live in a gender unequal system, critical theorists can give us a more nuanced approach that reveals how even within that system,

42 See generally JANET HALLEY, *SPLIT DECISIONS: HOW AND WHY TO TAKE A BREAK FROM FEMINISM* (2006) (borrowing the idea and the term "taking a break").

women can maneuver and exert power and make choices. It can also give us the ability to recognize similar projects undertaken by women living in Muslim societies but not mistake these as projects that are the same as our own undertaken in our contexts. Moreover, it can make obvious the complex and contested nature of the global system particularly the role of economic disparity and increasingly environmental disparity and the way in which privileged women wield power — sometimes to the benefit and sometimes to the detriment of other women. Most importantly, it can underscore how the inequality in the global system cannot be ignored when engaging state power internationally or engaging international institutions for seemingly benevolent purposes. Such critical contributions are becoming increasingly important as women seek to do transnational work in alliances with organizations across the globe. Without taking into account both the differing values of women in these locations and the nature of the international system, alliances between first and third world women may never be made on grounds that seek what is best for women in their local context and with respect to alternative visions of human flourishing. They will continue to suffer from the hegemonic, imperialistic tendencies that are part of the history and philosophy of liberalism. It is a sign of hope, then, that some strains of feminists are interrogating these tendencies and reinventing a more equal gender liberation theory.