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MARKETS AND WOMEN'S INTERNATIONAL HUMAN RIGHTS

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The following two roundtable discussions are presented in their original transcript format, with minor editorial changes by the authors. We have elected to present the participants' remarks in this format in order to give the reader a sense of the original flow of the discussion, and the interaction between the speakers.

—*The Editorial Board of the Brooklyn Journal of International Law*

KATHLEEN PERATIS

Hello, I am Kathleen Peratis, I am going to be the moderator for the next section of the presentation. Let me begin with a confession. I am one of "those characters" from a Non-Governmental Organization (NGO). And actually, so are we all. I wanted to begin by asking if anybody knows how many women's rights activists it takes to screw in a lightbulb? I asked that question of several people to see what kinds of answers I might get. Based upon the morning's panels, you might think that the correct answer would be: "Don't worry about it girls, we will produce the light bulbs and we will take care of screwing them in." I say this because, so far, after several hours of discussion, not one word has been said in this symposium about women's human rights.

I think a better answer is that it takes all of us to screw in that light bulb—both women and men are victims of human rights abuses, and both women and men must work together to

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find solutions. Unfortunately, however, human rights activists have too often not taken into consideration that women, too, are humans.

We have a very interesting panel, full of expertise on various issues of globalization and women's rights. After I tell you who they are and a little bit about their background, I will give you a very general description of the issues we will address.

Joanna Kerr, who is on my left (geographically) is a senior researcher at the North-South Institute in Ottawa. The Institute analyzes economic social and political implications of global change and proposes policy alternatives to promote global development and justice. She is responsible for conducting policy research on gender equality. She has directed major projects on gender and economic reform in various parts of the world and has written and spoken on issues of gender equality and human rights for a number of years.

On her left is Liz Schneider, who I think does not need an introduction in this venue. She is a professor here at Brooklyn Law School, she has been a visiting professor at Harvard Law School. She has been a staff attorney at the Center for Constitutional Rights in New York, one of the few lawyers in this room who has tried cases. My son asked me this last night how many lawyers in this country have ever tried a case. My guess was about five percent, and Liz is one of them.

Liz has also taught, written and lectured in areas of civil rights, women's rights, various issues of women's civil rights and women's human rights, and she has done it all over the world. She is now co-authoring a law school casebook on domestic violence, writing a book on feminist legal advocacy and domestic violence, and she is on the board of a number of women's rights, human rights, and academic NGOs.

On her left is Martina Vandenberg who is a researcher now at Human Rights Watch, researching issues of women's human rights mainly in Europe and the former Soviet Union. She lived in Russia for nearly four years where she helped co-found a women's rape crisis center in Moscow. She also worked as the coordinator of the Women's Consortium, an organization that funded women's rights NGOs in Russia and Ukraine.

She is now a law student. So, she has sympathy with what many of you in the audience are going through. And Martina has had a lot of experience with researching and writing about the ways that violations of women's human rights actually

affect women.

On this panel, we will first address the goals of human rights law and the extent to which those goals have left women out, have failed to treat women as normative human beings. Joanna will cover these issues and some others. Martina will talk about how women have fared in particular in concrete contexts, and describe how globalization has actually affected women on the ground and often contributed to the violations of women's human rights. And Liz will provide a broader historical framework and talk about where we go from here, how we are doing, and how we can do better.

After the presentations, we would like to give each panelist an opportunity to comment on each other's presentations, and then throw it open for questions.

So, I would like now to introduce Joanna Kerr, who will start us off.

JOANNA KERR

Thanks very much for that introduction. I should first say that I am not a lawyer and tend to be more involved in the international development community. This, therefore, is a real privilege for me to be talking to lawyers and Americans, because as the introduction said, I do come from Canada where our economy is going through definitely a different thing than your own.

I think I should start by saying that as women's rights activists we have long recognized that there are very large obstacles to the achievement of women's human rights and gender equality, and these lie in laws and religions and social attitudes and, of course, institutions.

But now as we race towards the millennium, women's rights activists are recognizing that globalization—market and trade liberalization—is not only reinforcing the violation of women's human rights, it is actually reversing gains that we have already made.

We talked this morning a little bit about core human rights. While we heard "gender discrimination" thrown in there at one point, slavery and apartheid were two wrongs that we all recognize that had to be put right. I think that this panel will be quite able to prove how forced labor and sexual slavery of women has actually been enabled under a global economic system.

With regard to apartheid, it is in fact the United Nations that refers to gender discrimination as the most profound, systemic, and pervasive form of apartheid today, because it is so much a part of the natural order. In fact, there is no country in the world where women have the same rights as men. And there is, in fact, really no democratically elected government. If one believes that a democratic government is where your interests are represented by your government, if in today's world ninety percent of the seats are held by men, how are women's interests really represented? Meanwhile, seventy percent of the world's poor are women. So, there is a clear gender imbalance there.

I just want to talk very briefly about some of the ways in which globalization tends to reinforce women's human rights violations, for example in terms of employment. Employment has been transformed throughout the world as governments and businesses, in their efforts to produce cost effective and competitive exports for the global market, look for cheap and flexible labor force.

Who makes up that cheap and flexible labor? Well, that tends to be women. Why? Because women are preferred to their male counterparts because they are considered more productive, more submissive and less likely to form unions demanding better wages or working and health conditions.

A recent study of Bangladesh's garment sector conducted by the North-South Institute and Nari Uddng Kendra, a local women's organization, found that women in the garment industry are working between eleven and sixteen hours per day, seven days a week, while continuing to shoulder the lion's share of household chores and child rearing. Women are responsible for finding their own housing, a scarce and sometimes insecure commodity in Bangladesh. They often have no access to even basic utilities, toilet facilities and clean drinking water. They endure such workplace hazards as poor ventilation, cramped conditions and risk of fire. Last year many workers, in fact, were killed in a factory fire in Dhaka where the exit doors were locked. And travel to and from these factories is dangerous. Many women have been subjected to harassment, assault and even rape. Wages are poor, so low that workers frequently cannot afford to buy enough food for themselves and their families.

Now, I admit, women want jobs, jobs with dignity but first

and foremost a job. But the point here is that market share and competition rely on a steady flow of cheap labor. Profit margins may hinge on keeping women in lower positions earning low wages. Meanwhile, developing country governments are going to turn a blind eye to companies that disregard international and national labor standards, given the overriding imperative to attract foreign investment and create jobs.

This morning we also heard about globalization as a means towards economic growth to support the achievement of human rights. Feminist economists, however, have long challenged neoclassical economic growth models in terms of how they reinforce gender discrimination. Given the fact that the gender division of labor throughout the world dictates that women have the primary responsibility for child care and household maintenance, much of their work is recognized as unproductive. However, this essential work done by women makes a huge contribution to the national economy. Some feminist economists therefore argue that there is a fundamental inefficiency in the market given the huge "reproductive tax" that women must pay. Most women therefore do not play on a level playing field, especially when this tax inhibits equal access to education, to higher paying jobs, to property, to land, to business networks or to decision making.

I want to talk a little bit more about this economic growth model that some will argue will bring about human rights for all. The model includes structural adjustment policies and economic reforms that have been imposed upon African, Latin American, South Asian and even my own economy for ten to fifteen years, and are considered a prescription for economic growth. The World Bank and the IMF are the architects of these policies. They are imposed to bring about universal economic benefits so poorer nations have followed this call to get their economic houses in order, in order to achieve economic growth.

The measures that governments have had to apply include 'no pain, no gain' measures which include, for example, privatization of state controlled services, financial and trade liberalization, openness to direct foreign investment, tax reform and fiscal discipline.

One sobering outcome of these economic reform measures has been a radical shift in the role of the state. Where the state once assumed responsibility for providing public services

such as health, education, or transportation, the trend now is towards deregulation and privatization.

As governments discharge their responsibility to provide adequate health care, education, transportation, etc., the onus for meeting these needs falls on women. Why? Because society's primary caregivers are women. They have to ensure that the family is fed, educated, stays healthy, and so on. And it is this gender division of labor which remains the fundamental dividing line between men and women. A study conducted by the North-South Institute with the Ghanaian Centre for the Development of the People on economic reforms in Ghana provides an example. The introduction of user fees for health services in Ghana in the late 1980s proved to be such a disincentive that women, who are responsible for family health, stopped bringing their children to clinics, even for infections or serious illnesses such as malaria. Doctors reported that women themselves were presenting much more complex, chronic, and terminal ailments because they delayed seeking medical treatment.

And certainly in my own country, we can recognize that this growth model has its costs. Our health system is entirely under attack despite the fact that we have just brought in a balanced budget for the first year in many. Research is clear, from statistics in Canada—these are not statistics that are coming out by “undemocratic NGOs” but by the government itself—that there is a widening gap between the rich and poor.

So, I know I have to end there. I guess the point that we all have to say here is that there has to be a context put on any discussion about globalization and human rights. And certainly one major blind spot, the blind spot that His Excellency Judge Weeramantry referred to is the fact that gender is so rarely taken into consideration when discussing these questions.

To end, I think feminist Gita Sen from India put it best, as to why we need to use a gender perspective. It means:

. . . recognizing that women stand at the crossroads between production and reproduction, between economic activity and the care of human beings and therefore between economic growth and human development. They are workers in both spheres, those most responsible and therefore with most at stake. Those who suffer the most when the two spheres meet at cross purposes and those most sensitive to the need for

better integration of the two.¹

KATHLEEN PERATIS

As I think we all realized from the morning's presentation, global markets often depend upon exploitation of workers. And I say exploitation because intense competition seems to require production of goods as cheaply as possible, which means getting labor as cheaply as possible. Cheap labor often equals exploited workers. The weakest segments of the labor pool are the most likely targets of exploitation. Women are among the most vulnerable workers and therefore the most subject to exploitation. This is the system that Joanna has laid out for us. Martina will now give more concrete examples of how the vulnerability of women, combined with the ease with which humans may be moved across international borders, results in yet another consequence of globalization.

MARTINA VANDENBERG

Good afternoon. I would like to start by thanking Brooklyn Law School for inviting me to speak today and to say that I am particularly happy to be here, not just because I am a law student, but also because one of my colleagues, in fact, one of Human Rights Watch's stars, Max Marcus, is in the audience today. Max was one of our main researchers in Bosnia for a very long time.

I decided to develop my presentation in light of globalization and violation of women's human rights. The title of this paper is "Violations Without Borders."

The economic crisis which began in Thailand in 1997 quickly spread throughout Asia and around the globe in 1998. In some cases the impact on women's human rights was immediate and obvious. Take for example the rapes against Chinese women in Indonesia during the riots in May. These women—members of a Chinese community viewed as controlling the country's wealth—were targeted. Economic collapse spurred political collapse and ethnic Chinese women were targeted for attacks. Their personal identity documents were taken and the women themselves were terrorized and sexually

1. WOMEN'S EYES ON THE WORLD BANK-U.S., GENDER EQUITY AND THE WORLD BANK GROUP: A POST-BEIJING ASSESSMENT 5 (1997).

abused.

But I would argue today that some of the repercussions for women's human rights were more hidden. According to Ambassador Linda Tsao Yang, the U.S. Executive Director of the Asian Development Bank, the economic crisis has caused an increase in trafficking of women and girls in Asia. The increase in trafficking was also reported by Reuter's yesterday.

Prices for the purchase of young girls, particularly virgins, have dropped substantially in Bangkok. The supply, meanwhile, has increased as families decide that they can no longer afford to educate and keep their daughters at home.

So, I would like to argue this afternoon that globalization has very insidious repercussions for women and for women's human rights. I am not implying that I am against globalization, but I am opposed to the history of overlooking women's human rights. I would argue that this morning's panel was perhaps a case in point.

The Women's Rights Division of Human Rights Watch has undertaken research in the Russian Federation, Thailand, and Mexico—among other countries—to document these violations of women's human rights.

I would like to focus today on three case studies, very concrete case studies, that we uncovered in our research: employment discrimination on the basis of sex in the Russian Federation and in Mexico, and the trafficking of women and girls into Thailand.

For women in the Russian Federation, the transition to a so-called "market democracy" has been marred by resurgence in overt and state-tolerated discrimination against women in the labor market.

In 1995 over eighty percent of the officially unemployed in some regions of the Russian Federation were female. In the Russian Federation, women faced discrimination and sexual harassment in the workplace. These abuses were extremely pervasive.

Perhaps the most vivid example of this discrimination could be found in the classified ads in newspapers. The ads openly demanded that all female applicants be tall with long legs, blond hair, blue eyes, and included the phrase "*bez kompleksa*" which means without complexes. Without complexes roughly translates into "willing to sleep with the boss."

The state rarely, and I would argue almost never, enforces

criminal statutes against sexual harassment. One women's rights activist in Russia called the sexual harassment law the "rape in the workplace law." Rape by a boss entailed a lower penalty than regular rape.

The Minister of Labor told CNN and the Washington Post "Why should women work when men are unemployed? Women should go home and take care of children." In spite of this, he was promoted.

Rampant sexual discrimination, sexual harassment and rape in the workplace continue today to plague Russian women during this very, very painful transition to a market economy. The current economic crisis has only exacerbated this deplorable state of affairs. Women told Human Rights Watch that they were turned away from jobs for which they were qualified because they were women and because they had children. Advertisements not only overtly advertised for women willing to provide sexual services for bosses, but also advertised for men-only jobs and women-only jobs. It was no coincidence, of course, that the women-only jobs were generally in unregulated sectors and were the lowest paying and the lowest prestige jobs.

So, let me switch gears now and talk a little bit about Mexico. In Mexico, the *Maquiladoras*—the export processing factories along the U.S.-Mexico border—employ more than 500,000 people and account for twenty-nine billion dollars in export earnings for Mexico. More than half of those employees are women. The *Maquiladora* workers routinely suffer pregnancy discrimination. Non-pregnant status is a condition of employment and employers deny women work if they are pregnant. If a woman becomes pregnant during the course of her employment, she may be mistreated or forced to resign.

The *Maquiladora* employers discriminate against women who become pregnant and against those women who are sexually active, women of childbearing age, and women who use contraceptives. The companies use these policies to keep their costs down, avoiding maternity leave policies.

This discrimination is in violation of Mexican laws prohibiting discrimination and guaranteeing protection of women's reproductive health as well as in contravention of international norms and international law.

Women themselves fear challenging pregnancy-based sex discrimination because they are afraid of losing the jobs that

they so desperately need. They have all migrated to that region because they need the employment.

One doctor who was employed by one of the companies in this region told Human Rights Watch, "When I first started working at Matzo Shita," which is the name of one company in this sector, ". . . the director of personnel told me to make sure that I tested every single female applicant for pregnancy because pregnant women were too costly to the company. I was appalled but I did the pregnancy exams. At times I would be so angry at what was going on at the plant and so fed up with how they were treating and exploiting these very young girls that I would tell the supervisors that a woman was not pregnant when I knew that she was. I knew that what the factory was doing was illegal."

Human Rights Watch interviewed dozens of women who had been forced to undergo pregnancy exams and many more who were harassed or forced to resign when it was discovered that they were pregnant.

The Mexican government routinely tolerates pregnancy-based sex discrimination in private businesses. The violation is well known and well documented by local NGOs as well as Human Rights Watch.

The final case study I would like to take up this afternoon is that of trafficking. The U.S. government has estimated that between one and two million women and girls are trafficked internationally every year. In 1993, Human Rights Watch and my colleague Sidney Jones undertook research on the trafficking of Burmese women and girls into Thailand for forced prostitution. The trafficking is appalling both in its efficiency and its ruthlessness.

Agents acting on behalf of brothel owners recruit girls, especially virgins, in increasingly remote corners of Burma. Typically, family members will accompany the girl to the border where the family member then will receive between 10,000 baats and 20,000 baats. In 1993 that was between \$400 and \$800. This payment is considered a debt that the woman or the girl must pay off, not through dishwashing or working as a waitress or working as a domestic as she and her family were promised, but instead in forced prostitution. Women and girls forced into prostitution in Thailand face a wide range of human rights abuses including rape, illegal confinement, debt bondage, forced labor, physical abuse and in some cases mur-

der.

Working conditions are completely inhumane and appalling. Girls work between ten and eighteen hours each day, at least twenty five days each month. Instead of arresting the traffickers and prosecuting the traffickers as Thailand should be doing, police arrest the women victims and the girl victims themselves. They are treated as illegal immigrants or criminals or both.

Women interviewed in Thailand by Human Rights Watch told us that police were some of the brothels' best clients. The police themselves called raids on the brothels "rescues." That is certainly not the way that the women and girls involved viewed this.

In one case a young girl named Chit-Chit was brought by a police officer to the brothel. He raped her enroute. Women "rescued"—that is, arrested—by police officers and held in detention facilities in Thailand often say that they recognize the police officers as some of the brothels' best clients.

So, whether a woman is trafficked and forced into prostitution (for example, trafficked into Bangkok), or trafficked to work in El Monte, California, to work in the garment sector as a forced laborer, the human rights abuses are the same.

So, I would like to conclude with these three very concrete examples by saying that for women, globalization has meant human rights violations without borders. Women are trafficked around the world: Russian and Ukrainian women to Thailand, to Israel and to Western Europe. Burmese women and girls to Thailand, Nepalese women and girls to India, Nigerian women and girls to Italy and Austria. The list goes on and on.

Women's labor has become an international commodity. A modern day slave trade sends women around the world as laborers and forced prostitutes. The discrimination that women face in their own countries exacerbates their poverty, making women far more vulnerable to violence, sexual harassment in the workplace, trafficking and forced prostitution. And despite the best efforts of women's human rights activists and NGOs around the world, states and private parties continue to violate women's human rights with impunity.

Now, the conclusion here is not that globalization is necessarily a negative process. The conclusion is that globalization need not be detrimental to women's human rights, but that current practice does indeed violate women's rights.

So, I will leave Liz to bring up ideas for strategies and explore the implications of these abuses.

KATHLEEN PERATIS

The irony is that even though women are terribly abused, exploited, and discriminated against in the *Maquiladoras* and other factories and export processing zones around the world, still the lines of women applying for those jobs continues to be very long indeed. One irony of globalization is that even though the jobs look to us to be exploitative, they are often far better than any other work to which the workers have access.

One of the panelists this morning suggested that governments found that they had inadvertently subverted the social safety net. I question whether this is truly inadvertent. I think that what many of us would suggest is that subversion of the safety net is not so inadvertent, and, in fact, the safety net, as it was created fifty years ago, was constructed as part of a bargain that no longer exists.

In gross terms, the bargain struck was this: the restiveness of exploited workers presented a threat to political stability. In order to pacify workers and insure industrial peace, governments constructed an economic safety net. Today, the intense competition that has been brought in part by globalization has caused governments to claim they can no longer afford the safety net. Simultaneously, the pressure to provide a safety net has decreased. With the collapse of the Soviet Union, worker restiveness does not present the same threat it used to.

If globalization of business and industry has, in part, contributed to increased exploitation of the most vulnerable members of society, especially women, one of our responses should be a parallel globalization effort—the globalization of the human rights movement. That is what Liz will talk about in her presentation.

ELIZABETH M. SCHNEIDER

Thanks, Kathleen. The questions that we are addressing today, the relevance of international human rights documents to developing globalization, challenge us to rethink traditional approaches to the problems of both international human rights and development. I suggest that the situation that we are discussing this afternoon, the particular context of women's international human rights, provides a unique case study and spe-

cial opportunity to understand both the limitations of prior formulations and the need for new formulations.

I approach this problem as neither a specialist in international human rights or international development, but as someone who, like Kathleen, has been doing law reform work, litigation and activist work in the area of women's rights for a very long time. Thus, the way I think about this issue is from a broader and more historical perspective. The development of feminist approaches to international human rights and globalization are both relatively recent phenomena compared to the history of struggles around women's rights in this country and around the world. Important scholarly and activist perspectives such as those reflected in the views and experiences of our panelists as well as many others around the globe have enriched and internationalized feminist legal theory, discourse and law reform work on the ground.

Today I want to briefly consider what these new perspectives add to our understandings of women's rights, how they modify more conventional understandings of women's rights and pose important challenges and opportunities to feminist legal work. Women's rights provide an important case study, a very special lens in which to view the tension (whether viewed as synergy, synthesis or conflict as discussed this morning) and interrelationship between globalization and international human rights. I want to highlight some of the theoretical and practical consequences of this intersection as well as talk about some of the strategies to move forward.

First, as Joanna and Martina have suggested, the challenge that feminist work has made to the paradigms of both international human rights and economic development, has a great deal to do with issues of public and private.

Feminist advocates have historically raised important questions about the public/private divide and the supposed dichotomy between public/private. Our discussion this morning dramatizes the degree to which globalization presents a more complex picture of public and private. We no longer have simple state actors but multinational corporations and all sorts of international regulatory agencies which are part of the governmental picture. In this sense feminist legal work and legal theory has long anticipated and identified the problem of what I would call global privatization.

At the same time feminist development experts have chal-

lenged us to think in new ways about the way in which globalization impacts women. As Martina has highlighted, globalization impacts women not only on issues of sexualization and international trafficking around prostitution, but on issues of wage labor and groups of workers who are underpaid and ill-treated.

We have an enormous challenge about how to theorize, strategize, and grapple with these issues. I want to argue, along with Zillah Eisenstein, that we need to reclaim some concept of a public, of an enriched and more nuanced public in the face of increasing privatization.²

Several years ago I wrote an article entitled "The Violence of Privacy,"³ which emerged from a practicum on women's international human rights at Harvard Law School and has now been excerpted in international human rights source materials.⁴ In a sense what we are talking about today is the violence of privatization, particularly for women. We have a loss of safety nets of public responsibility. Multinational corporations say they are not responsible and point their fingers at states; states point their fingers back at multinational corporations.

I suggest, however, that the picture is not entirely bleak. These ambiguous and nuanced developments presented by the intersection of globalization and international human rights highlight a number of important issues.

The first is the issue of public and private. Feminist challenge to the simple dichotomy of the notion of private as home, the notion of public as civic and market place is underscored by the experiences of privatization and globalization more generally. As we discussed this morning, there is an extraordinary proliferation of all sorts of non-state groupings, sub-national groupings based on regional and ethnic identity, as well as international regulatory agencies. This requires us to understand much more about the indivisibility of public and private

2. See Zillah Eisenstein, *Stop Stomping on the Rest of Us: Retrieving Publicness From the Privatization of the Globe*, 4 *IND. J. GLOBAL LEGAL STUDIES* 59 (1996) (discussing need for a new concept of feminist "publicness" in international human rights and globalization work).

3. See Elizabeth M. Schneider, *The Violence of Privacy*, 23 *CONN. L. REV.* 973 (1991).

4. See HENRY J. STEINER AND PHILIP ALSTON, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT* (Clarendon Press, Oxford 1996).

and the necessary interrelationship between public and private. This is an important theoretical development that has consequences for international law, for feminist law reform and for legal theory.

Secondly, this work highlights the importance of economic and social rights. Over the last several years I have done legal work in South Africa; the struggle to have social and economic rights included in their Constitution has been eye-opening. The explicit incorporation of social and economic rights in the South African Constitution, not just civil and political rights, has been an important development. The particular situation of women's rights within the globalization/international human rights framework underscores the need for economic and social rights to be integrated into this broader perspective. You see this in the trafficking examples, you also see it in the mail order brides, *Maquiladora* and labor export zones situations. Economic and social rights guarantees are an important antidote to the problems of both globalization and international human rights.

Globalization also presents enormous opportunities. Internationalization has already had a considerable political and psychological impact. Whatever one may think about the "trendiness" of the term NGO, the concept of an organization that is a "non-governmental organization" across borders didn't exist twenty-five years ago. Internationalization across borders, across north and south, east and west did not exist. As Lou Henkin discussed this morning, globalization and internationalization provide an extraordinary opportunity for change.

The examples that Judge Weeramantry used at lunch concerning technology underscore this opportunity. In preparation for a workshop on domestic violence that I was doing in South Africa last summer, I asked one of my research assistants to see what she could find on a number of gender discrimination issues in South Africa. She came back with this extraordinary set of materials from an on-line organization, Women's Net, that is connected with women's organizations throughout the world. It had documents, programs for action, lists of organizations, and it provided extraordinary access to information. New possibilities of internationalism, dating back to the aspirations of 1919 and the founding of the United Nations, flow from the new technology and cannot be minimized.

From the standpoint of what universal human rights

means and what international human rights provides, there is also an enrichment of simple domestic understandings of rights. In South Africa I participated in a workshop assisting local activists to document international human rights violation. One of the things that we talked about was what difference it made to these activists who were already doing domestic work on violence against women and labor issues and problems to perceive these issues within a framework of international human rights.

The concept of universalization that Lou Henkin discussed this morning is important. There is power and organizing potential in experiencing oneself as linked to what Aihwa Ong has called a "strategic sisterhood of women activists around the globe."⁵

I will give you one example related to the story that Martina told us about the *Maquiladora*. In the United States, the problem of regulation of reproductive hazards in the workplace is not a new story. As I am sure many of you are aware, the pregnancy exclusion examples that Martina refers to from export zones in Mexico are not unique. We have had pregnancy exclusion and sterilization policies in workplaces in this country, promulgated by corporations. The American Cyanamid case from West Virginia is one in which I was involved many years ago and, despite *Johnson Controls*,⁶ there are many other workplaces with similar policies. So, what difference does it make to have these issues raised in a globalization context? I think it makes a difference because frankly some of the political pressure is off domestically in this country around those issues. In the U.S. we haven't had large protests or activist efforts concerning reproductive hazards in the workplace. If part of what happens as a result of understanding globalization is a renewed attention to these issues both domestically and around the world, so much the better.

Two other points. Transnational understanding of a new "publicness," of an internationalization that crosses borders, (what Martina was talking about when she said "violations without borders") is important. How does that play out in

5. See Aihwa Ong, *Strategic Sisterhood or Sisters in Solidarity? Questions of Communitarianism and Citizenship in Asia*, 4 IND. J. GLOBAL LEGAL STUD. 107 (1996).

6. *International Union, UAW v. Johnson Controls, Inc.*, 499 U.S. 187 (1991).

terms of strategies? I could not agree more with Judge Weeramantry about accountability and the importance of a sense of responsibility. It was significant to me that when we spoke this morning about sanctions, we talked about child labor, we talked about apartheid, but we did not mention issues of women's human rights. We spoke about why apartheid and sanctions in South Africa might have been different. We suggested that it was different because there was a broad international consensus.

So, I ask the question, how do we get to a point where the women's rights violations that we are discussing on this panel are part of that broad international consensus? I don't have simple answers. But the kind of sanctions that we've seen, beginning with shaming, the kinds of activist efforts that are happening around the world and around the country against multinational corporations such as Nike are significant. I am plugged into the college circuit now, since I have one child in college and another getting there, and I see that campus activism is focusing on these sweatshop issues.⁷ This gives me a sense of possibility of the activist openings presented by this intersection of international human rights and globalization.

I look forward to hearing your responses to these issues. Thank you.

AUDIENCE QUESTION

From the point of view of the role of international economic law institutions and the concerns you have raised, you may each have a different view on this. To what extent are you taking more of the radical critique that institutions are just fatally inadequate or more of the liberal point of view that they can be made to work with bottom-up activism and institutional reforms?

MS. KERR: Probably some of both.

MS. VANDENBERG: Probably some of both. It depends on the hour.

MS. KERR: Yes, and the institution. I guess that the majority of women's rights activists would recognize that a dual strategy of working within the system and from outside the

7. See, e.g., Steven Greenhouse, *Activism Surges at Campuses Nationwide, and Labor is at Issue*, N.Y. TIMES, Mar. 29, 1999, at A14.

system, in order to bring about any institutional change, is essential.

Sadly, in terms of how we are trying to transform international development agencies over the past twenty years, the effect has been purely to make women visible, for policy makers to differentiate between women and men.

In many cases that's just about as far as we have gotten. Actually it's a trap that we have fallen into in terms of the new language around gender equality versus women's equality, and that's why women's human rights is very strategic.

There has to be the recognition that there are so many male-biased assumptions within all of these structures, the rules, the budgets, the practices, the cultures of these institutions, that it is going to be a hundred years until we can actually transform them all.

When institutions refer to gender, often all they have done is recognize that men and women are different but do absolutely nothing to address human rights violations.

For me, working two spheres, both gender and development and human rights, women's human rights can be more strategic in terms of addressing gender-based discrimination.

MS. SCHNEIDER: I agree with the importance of working on both fronts. Yet given the extraordinary proliferation of groups and activists now working on women's issues around the globe, and the number of international meetings, it is amazing to me how little the mainstream discourse in both spheres has changed.

It is an astonishing example of how much resistance there is to the process that has been set in motion. It is still women who are concerned with women's human rights and with gender and development. All the rest of it, the globalization and development of the world, is left to men out there, untouched by issues of women's human rights. That's the deepest problem.

I think it is going to take a very long time before that changes. It is going to take a lot of important bridge-building and alliance efforts to reach a point where there is genuine integration.

MS. VANDENBERG: Very briefly, if I could just add, every year Human Rights Watch does a global report on human rights around the world, to coincide with human rights day and we just drafted a section on women's human rights and

the World Bank. My assessment at this stage is this—I would agree completely with Joanna that the rhetoric is becoming increasingly sophisticated but substantively there is very, very little change.

Human Rights Watch's strategy and our strategy at the Women's Rights Division is, of course to make recommendations. We make recommendations both to governments, to states, and also to international organizations.

I painted, I think a very, very dark picture today about the violations, but there is a lot of positive change that I also see going on. For example, specifically with the *Maquiladora* sector—local women's human rights organizations in Mexico have brought suit under the NAFTA Labor Side Agreement.

So, to the extent that women's human rights activists are able to actually access the system and use the system to protect women's rights, there is progress. The bottom line here is that we are not asking for much. We are asking for governments to enforce the laws that are already on the books and live up to the commitments that they have already made in human rights treaties that they signed and ratified themselves.

MS. PERATIS: I would like to also suggest that the problem is not only with international organizations that we have mentioned like the World Bank or the World Trade Organization, but within the human rights movement itself. We often have to struggle for a recognition of the importance of women's rights issues. It is not as if within all the NGOs, international and otherwise that work on human rights, that everything is terrific. In order to try again to stick to the schedule, we'll have to stop now, though we have barely scratched the surface of the issues. I would like to just share a story with you that captures our frustration.

It is a story of a rabbi in a little *shtetl* who is the wise person in the community. A woman comes to him and says, "Help me, my goat is sick." She depends for her livelihood upon her goat. The rabbi says, "Feed the goat milk." So, she does, and she comes back in a week and says, "Rabbi, my goat is still sick, if this goat dies, I am going to be economically destitute." He says, "Oats." So, for a week the woman feeds the goat oats. A week later she comes back and tells him again, "The goat is sicker." He says, "Wheat." Another week goes by and she comes back and says, "Rabbi, the goat is dead." The rabbi

says, "What a pity, I had so much more advice for you."
Thank you.