

Keynote Address

**WOMEN'S RIGHTS, GLOBALISATION AND THE NATION-STATE:
ARE HUMAN RIGHTS AND DEMOCRACY ENOUGH?**

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Keynote Address

WOMEN'S RIGHTS, GLOBALISATION AND THE NATION-STATE: ARE HUMAN RIGHTS AND DEMOCRACY ENOUGH?

Much feminist energy has been put, in the latter half and particularly the last quarter of the twentieth century, into obtaining formal recognition and protection of women's human rights, as well as the commitment of national and international resources to the economic empowerment of women. Feminist non-governmental organisations (NGOs) have consistently lobbied both national governments and the United Nations (UN) to obtain international treaties and other declarations on women's human rights, mechanisms for investigating and reporting on abuses and fora through which women can bring such abuses to the attention of the international community. These international documents and mechanisms have then in turn been used to place pressure on national governments to enact and enforce legislation to protect women's rights. Other NGOs have lobbied such organisations as the World Bank in order to obtain financial support for women's development projects with input from the women concerned. Feminists have also been instrumental in generalising the concept and practices of 'sustainable development'.

The rights, protections and economic support so obtained have widely been considered to provide some sort of buffer for women against the deleterious effects of globalisation, in particular through the pressure that feminists are able to bring to bear to influence decisions made by nation-states. For, notwithstanding the importance attached to lobbying in the international arena, feminists are aware that it is at the level of the political processes, legislature and judiciary of States that the greatest control is exercised over women's lives. The State appears, in fact, as simultaneously feminists' greatest enemy and greatest ally. It is an enemy in that, as a masculinist structure, it codifies and formalises male domination through its constitutional, legislative and judiciary systems. Moreover, the idea of 'national sovereignty' is mobilised to deflect international criticism of individual States' treatment of women. At the same time, however, the State provides, through those same constitutional, legislative and judiciary systems, some degree of leverage by which women may have access to the public arena and act to stop or attenuate the effects of certain male-supremacist practices, thus rendering women's lives safer and less difficult. Access to citizenship of nations conceptualised as sovereign and thus as autonomous to some degree is thus, from this perspective, emancipatory for women rather than oppressive.

The dual role of the State as at once enemy and ally is as true in the arena of globalisation as it is in the arena of human rights (and the two areas are linked in any case). Even though the State, or at

least most States in the world, is/are frequently represented as pawns on the global chessboard, relatively powerless to check the onslaught of marauding multinationals and the international trade agreements that support them, these international agreements are enabled by States, they do not just happen. Here, then, the State is clearly ‘enemy’. It also follows from this, however, that individual States, by not putting their name to such international agreements, or by insisting on modifications to them, can play a potentially important role as ‘protector’ against their worst effects.

The role of the State in either advancing or opposing the feminist cause is, however, more complex than a question of ‘either-or’. What is one to make, for example, of the way in which the idea of ‘democracy’ is deployed as guarantor of *both* human rights *and* the unfettered development of global capitalism? That is, what is one to make of the apparently paradoxical emergence of an increased insistence by many States on ‘human rights’ at a time when processes have been or are being put in place by those very same States that enable ‘human rights’ to be trampled with alacrity, and in all the name of ‘democracy’? The ‘third way’ policies of the Blair government in Great Britain are no doubt the most striking national example of this paradox, which is also reproduced at an international level. Those same groupings of nations that speak the loudest for protections of women’s human rights are also those that push the hardest for market liberalisation to dominate international economic and political agendas. Which has, unfortunately, given leverage to the so-called ‘G77’ nations (a nonwestern grouping set up in opposition to the powerful capitalist ‘G7’, the latter group comprising the US, France, Britain, Germany, Japan, Italy and Canada). The G77, in denouncing the hypocrisy of the west, can thus appear to take the ‘moral high ground’ in deploying ‘national sovereignty’ and a ‘third-worldist’ anti-globalisation stance to oppose many women’s rights as an artefact of ‘western imperialism’.

Finally, how is one to consider international organisations such as the UN, the World Bank and the World Trade Organisation (WTO)? While it seems plausible, both conceptually and legally, to consider *supranational* organisations such as the European Union (EU) as greater than the sum of their parts — in a similar way to that in which the nation-state of Australia is greater than the mere sum of its individual States — can one truly say the same for the UN, the WTO and so on? After all, they have no enforceable legal mandate to override decisions of member States. At the same time, the UN, the WTO and so on are perceived, rightly or wrongly, to have some existence, if not ‘above’, at least ‘beyond’ that of their member States. Hence the perception that UN treaties are somehow binding on member States, notwithstanding the fact that no member State fully applies any of them, and indeed cannot be forced to do so. Hence also the perception that the WTO is the spearhead of multinationals, beyond the control of nation-states, notwithstanding the fact that the

WTO was formally set up by a State ministerial meeting and its decisions continue to be made and enacted in that way.

Defining globalisation: the role of nation-states

The term 'globalisation' has been perceived by many to have multiple meanings.¹ Sheil, for example, notes that, etymologically speaking, the term contains the sense of a phenomenon that is both 'worldwide' and 'all-inclusive', and points out that 'globalisation' is both financial and cultural,² although it can be – and indeed, has been – strongly argued that the cultural stems from the financial.³ Pettman argues that globalisation 'means many things', although it appears for her, as for Wheelwright, to revolve in particular around the activities of transnational corporations.⁴ According to Evans and Newnham, however – as, to a certain extent, for Sheil – it is not simply that 'globalisation' has multiple meanings, but the very term is 'imprecise'.⁵

Some of these discussions of 'what globalisation is' are reminiscent of discussions of 'sexism' or 'patriarchy', in that on the one hand, they seem to refer to something that 'just happens', without any reference to an agent or agents that *make(s)* it happen,⁶ and on the other hand, authors seem to have some difficulty pinning down exactly *what* it is that 'just happens' in any case.⁷ Boltanski and Chiapello have referred to a certain 'neo-darwinist' approach to globalisation, 'as if "mutations" imposed themselves on us.... up to us to adapt or die'.⁸ But, as they point out, 'people do not only undergo history, they make it'.⁹ Just as male domination could not have 'just happened to women'

¹ I am aware of the 'globalisation from below' thesis, according to which 'globalisation' also has to do with international networking for resistance and change. I consider, however, that 'globalisation' used in this way is a misnomer; at the very least, it encourages confusion concerning what we are actually talking about when we discuss the term. Be that as it may, the understanding of the term that I am discussing here has to do with top-down economic globalisation, that is, globalisation as oppressor rather than liberator.

² Sheil Christopher 'Globalisation is....Globalisation: Introduction' in Christopher Sheil (ed) *Globalisation: Australian Impacts* UNSW Press Sydney 2001, 1 at 6-10.

³ e.g. Gill Stephen 'Globalizing Capital and Political Agency in the Twenty-first Century', in Georgi M. Derluigian & Scott L. Greer (eds) *Questioning Geopolitics: Political Projects in a Changing World-System*. Greenwood Press Westport, Connecticut 2000, 15.

⁴ Pettman Jan Jindy *Worlding Women: A feminist international politics* Allen & Unwin Sydney 1996 161 ff; Wheelwright E L 'Global corporate capitalism', in Phillip Anthony O'Hara (ed) *Encyclopedia of Political Economy* Routledge London and New York 1999, 403.

⁵ Evans Graham and Jeffrey Newnham *The Penguin Dictionary of International Relations* Penguin London 1998.

⁶ Cerny Philip G 'International Finance and the Erosion of State Policy Capacity', in Philip Gummet (ed) *Globalization and Public Policy* Edward Elgar Cheltenham, UK 1996, 83.

⁷ Evans & Newnham above note 4.

⁸ Boltanski Luc and Eve Chiapello *Le nouvel esprit du capitalisme* Gallimard Paris 1999 p 36. Unless otherwise specified, all translations from French-language sources are my own.

⁹ Boltanski and Chiapello above note 7 at 36.

without the active engagement of men who had a vested interest in its development and perpetuation, and could not continue without the consent and even active support of both men and women, globalisation has not ‘just happened’ – *could not* have happened – without the consent and indeed active support of not only corporations but also nation-states, and thus of the human beings who shape and represent them.

A number of commentators do offer straightforward and clear definitions of globalisation, and place the agency of transnational corporations (TNCs) and/or international financial markets at the centre of these definitions. Martin and Schumann have defined the basic thesis of globalisation, ‘just a little simplified’, as being ‘that the market is good and State intervention is bad’.¹⁰ Wichterich defines globalisation as ‘expansion of the neoliberal market economy to the remotest parts of individual countries and the most far-flung corners of the earth’ and adds that ‘the heart of globalisation is abstract: it is a finance market made up of shares, currencies and derivatives which every day, to the tune of \$3 billion, are speculatively moved around on dealers’ computer screens in e-mail time’.¹¹ For Boltanski and Chiapello, ‘globalisation’ is in fact synonymous with ‘the power of financial markets’ and Quiggin notes that the ‘rapid growth of international financial markets’ plays a central role in nearly all theories of globalisation.¹²

Many or even all of these commentators point firmly not only to the agency of TNCs, but also to that of the State. It is an agency that is not simply ‘passive’ or otherwise lacking in rigour, a sort of ‘active ignoring’ of the actions of TNCs. It is not even a question of ‘active deregulation’ by governments: the removal of controls, of government intervention in economic and social affairs with the aim of attaining the ‘globalisationist’ ideal of ‘small government’ (now a common catchcry in Australia as elsewhere in the western world). States are, in fact, actively *regulating* in favour of global capital, ‘through the production of new forms of legality’.¹³ Quiggin also unambiguously attributes responsibility for the growth of international financial markets to policy decisions by governments, in stating that ‘the “deregulation” package as a whole can be just as validly described as the “re-regulation” of the economy in the interests of global capital’.¹⁴ In fact, if anything, State

¹⁰ Martin Hans-Peter and Harald Schumann *The Global Trap: Globalization and the assault on prosperity and democracy* (translated by Patrick Camiller) Zed Books London 1997 p 8.

¹¹ Wichterich Christa *The Globalized Woman: Reports from a Future of Inequality* (translated by Patrick Camiller) Spinifex Press Melbourne and Zed Books London 2000 pp vii-viii.

¹² Boltanski and Chiapello above note 7 at 451; Quiggin John ‘The Fall and Rise of the Global Economy: Finance’ in Christopher Sheil (ed) *Globalisation: Australian Impacts* UNSW Press Sydney 2001 19 at 19.

¹³ Sassen Saskia *Globalization and its Discontents* The New Press New York 1998 p xxvii.

¹⁴ Quiggin above note 12 at 19.

control over society and the economy has significantly increased, but this increased regulation serves to ‘improve the free operation of business forces’ so that governments become ‘little more than backers of the private sector’.¹⁵

All this is unsurprising, given that the development of the modern nation-state was in fact concurrent with, and designed to assist, the rise of the capitalist class (the western bourgeoisie). One is thus led to ask what ideological purpose is served by disappearing the agency, not only of TNCs and financial markets but also of nation-states. Pettman notes that ‘an effect of globalisation as ideology is to naturalise the process, to impute magical qualities to “the market”..., to depoliticise and so distract from the myriad political and economic decisions and practices that propel it’.¹⁶ This ideology is generated and propagated not only by TNCs and governments, but also, and most dangerously perhaps, within universities and think tanks, the latter having become increasingly commonplace.¹⁷ Another of the ideological functions of the concept of ‘globalisation’ is to mask the extent to which it is not, in fact, an entirely ‘global’ phenomenon, or rather, its ‘globality’ is not a function of multilateral exchange between equal partners on a level playing field, but of an agenda ‘set by the North and the management IGOs [inter-government organisations] associated with that faction – the G7/G8 and the OECD’.¹⁸ In particular, the United States (US) has been widely recognised as the main political, institutional and ‘regulatory’ national force behind the ‘globalisation’ agenda.

Indeed, the shift of transnational capitalism (the start of which goes back well over a century) into what we now know as ‘globalisation’ has been enabled by the strategic positioning, first, of the US during and subsequent to World War II, second, of the major industrial democracies allied to the US, forming the ‘G7’, and third, their ‘partners’ Russia (which, since 1998, has become number 8 in the G8) and the European Union (EU). This group is acknowledged by both its supporters and its detractors as playing a crucial role in shaping world economy and politics. Indeed, the G7-friendly G8 Research Group at the University of Toronto describes the G7’s role in global governance in glowing terms as ‘shap[ing] the new international order in such areas as security, trade policy,

¹⁵ Waltz Richard ‘Globalization and Governance’ (1999) *PS Online: American Political Science Association’s journal of the profession* www.apsanet.org/PS/dec99/waltz.cfm; Wichterich above note 11 at 105.

¹⁶ Pettman Jan Jindy ‘Globalisation and the Gendered Politics of Citizenship’ in Nira Yuval-Davis and Prina Werbner (eds) *Women, Citizenship and Difference* Zed Books London 1999 207 at 209.

¹⁷ Lee Richard ‘Structures of Knowledge’ in Terence K. Hopkins and Immanuel Wallerstein (eds) *The Age of Transition: Trajectory of the World-System, 1945-2025* Zed Books London 1996 178; Wheelwright above note 3.

¹⁸ Evans & Newnham above note 4.

human rights, development assistance and macroeconomic co-ordination'.¹⁹ According to the Group's website, the G7 represents 'the one system of international institutions providing effective political direction for, and bringing real change in, our rapidly evolving world'. The G7 Summit supposedly 'also gives direction to the international community by setting priorities, defining new issues, and providing guidance to established international organizations. At times it arrives at decisions that address pressing problems or shape international order more generally.' It even has a 'warm and fuzzy' side, as it 'provides an important occasion for busy leaders to discuss major, often complex international issues, and to develop the personal relations that help them respond in effective collective fashion to sudden crises or shocks'. Not only is it evident, from consulting this site, that universities effectively do play a role in promoting the globalisation agenda, but also that the G7 is recognised within the discourse of globalisation as playing the key role in global governance.

This means, first, that the role of governments in legitimating globalisation – as both process and ideology – does not operate purely at a national level but also at an international level. Second, this 'international cooperation', at least as concerns driving the globalisation agenda, is largely concentrated within the hands of governments of the world's richest nations, which, in consolidating their power by collectivising it, are able to dictate the orientation of world affairs. In other words, the 'global' is, in fact, highly localised, at least as concerns its decision-making power. It is also localised on another level, as the G7 and the EU not only count exports as only 12% or less of their GDP, but mostly, with the exception of oil imports, trade with each other.²⁰

Compare this with the world's poorer nations, which are not only highly dependent on the richer nations to buy their (largely commodity-based) exports, but also compete both with each other as exporters *and with richer nations as producers*.²¹ What is worse, the pressure on many poorer nations to produce cash crops for export means that most poorer countries, unlike wealthy nations such as the US, are not self-sufficient for food.²² While world exports of goods and services almost tripled between the 1970s and 1997 in real terms, 82% of this expanding export trade and 68% of foreign direct investment is enjoyed by the top fifth of the world population in richest nations, while

¹⁹ All citations taken from <http://www.g7.utoronto.ca/g7/about/g7broc1.htm>, 13 January 2002.

²⁰ Waltz above note 15.

²¹ George Susan *A Fate Worse than Debt* (revised edition) Penguin London 1994

²² George Susan *How the Other Half Dies: the Real Reason for World Hunger* (revised edition) Penguin London 1991

the bottom fifth enjoys a little over 1%.²³ In 1998, the net worth of the world's 200 richest people was US\$1,042 billion: this is more than the combined income of 41% of the world's people.²⁴ Even in wealthier countries, income disparity between richer and poorer citizens has increased significantly over the past three decades, and income disparity between men and women has increased everywhere.²⁵ In fact, both Wallerstein and Evans have argued that the idea of 'economic development' as a realistic goal for all is simply impossible within a context of globalisation, as development for some will necessarily mean decline or underdevelopment elsewhere.²⁶ As Wallerstein puts it:

...the process of capital accumulation requires a hierarchical system in which surplus value is unequally distributed, both spatially and in class terms. Furthermore, the development of capitalist production over historical time has in fact led to, indeed required, an ever-increasing socioeconomic polarization of the world's population, doubled by a demographic polarization.²⁷

Rhoda Howard and Maria Mies, among others, have also pointed out that the capitalist 'development' agenda does not necessarily advance women's rights but can actively work against them, either by failing to address wider sociocultural inequalities or by pushing women into a capitalist model.²⁸

So, not only has the increased 'international' economic activity since the 1970s, leading to huge increases in GDP for wealthier nations, and more modest increases for a minority of poorer nations, most of these in Asia, not translated into 'development' in real terms for the world's poor (including those living in its richest countries), it has not been truly 'international' in terms of where the majority of trade and financial dealings are occurring. Nor is it particularly so as concerns the 'transnational' operations of so-called 'TNCs'. A study of the world's largest 100 corporations, for example, showed that their operations are significantly less 'global' than would appear to be

²³ United Nations Development Program *Human Development Report 1999* Oxford University Press New York 1999 pp 30-31.

²⁴ As above at 38.

²⁵ Wichterich above note 11.

²⁶ Evans Tony 'If democracy, then human rights?' (2001) 22(4) *Third World Quarterly* 623 at 633-4; Wallerstein Immanuel *After Liberalism* The New Press New York 1995.

²⁷ Wallerstein as above at 167.

²⁸ Howard Rhoda E 'Women's Rights and the Right to Development' in Julia Peters and Andrea Wolper (eds) *Women's Rights, Human Rights: International Feminist Perspectives* Routledge New York and London 1995

assumed: ‘on all the important counts – location of most assets, site of research and development, ownership, and management – the importance of a corporation’s home base is marked’.²⁹

Where such corporations do become more truly ‘transnational’, however, is in the ‘offshoring’ of their labour (which has the dual effect of creating pools of cheap labour in poorer countries while exacerbating the unemployment crisis and hence contributing to the developing underclass in richer countries). Indeed, apart from commodities, the other major ‘export’ of poorer countries – and one they are being increasingly encouraged to develop – is their labour force, in particular its female labour force: that employed in the ‘offshore’ factories and offices of TNCs, that working as maids, nannies, cleaners, prostitutes and so on in the informal sector in richer countries, that working in the tourism industry, notably in the development of sex tourism.³⁰ One could – and indeed should – also count the female labour force being ‘exported’ as wives.³¹ Labour ‘mobility’ has widely been recognised as a major effect of globalisation, but it has also been widely acknowledged that at the poorer end of this mobile labour force is a largely female population performing insecure work, frequently in the informal sector, and that the ‘freedom to move’ suggested by the term ‘mobility’ does not truly exist for most workers in poorer countries, or poorer workers in richer countries.³²

Western nations were in the past, to varying degrees and for varying periods, dependent on colonisation as the source of their wealth. It is, in fact, demonstrable that the process of ‘decolonisation’ was largely aided by the fact that many colonies had, in fact, ceased, or looked like ceasing, to be cost-effective for the west. Western nations have now found other means to use former colonies to consolidate their wealth. If one now looks at the world flow of ‘investment’, ‘subsidy’ or even ‘development funds’, that flow, far from going from magnanimous wealthy nations to the needy poor, is flowing freely in the other direction, in particular through debt servicing, the use of cheap labour by TNCs and manipulation of prices by TNCs in collusion with governments.³³

301; Mies Maria *Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour* (revised edition) Zed Books London & Spinifex Press Melbourne 1998.

²⁹ Cited by Waltz above note 15.

³⁰ Wichterich above note 11; Sassen above note 13; Enloe Cynthia *Bananas, Beaches and Bases: Making Feminist Sense of International Politics* University of California Press Berkeley 1990; Peterson V Spike and Laura Parisi ‘Are women human? It’s not an academic question’ in Tony Evans (ed) *Human rights fifty years on: A reappraisal* Manchester University Press Manchester & New York 1998 132.

³¹ Wichterich above note 11; Enloe as above.

³² Wichterich above note 11; Pettman above note 16.

³³ George above notes 21, 22; Chossudovsky Michel *The Globalisation of Poverty: Impacts of IMF and World Bank Reforms* Pluto Press Australia IPSR Books Cape Town Fernwood Publishing Halifax Nova Scotia Zed Books

‘Globalisation’ can thus be far more accurately defined than something along the lines of ‘a phenomenon whereby global capitalism has developed in strength and pervasiveness, largely as the result of the activities of TNCs’. Globalisation is this, certainly, but it is also:

- a skewed process whereby wealth is increasingly concentrated among a handful of wealthier nations, and the wealthier citizens of those nations, at the expense of the poor (the majority);
- a process based on the ideological claims of ‘free trade’ and ‘mobility’, but which in reality is a function of the ‘closed shop’ of individual or collective self-sufficiency of the most wealthy and powerful;
- a process in which States, far from being simply passive victims of globalisation, actively collude by adopting both enabling and restrictive legislation that facilitates the ‘transnational’ activities of TNCs and the governments that support them;
- both gendered and sexualised. It is gendered in that it impacts differentially on men and on women, and it is sexualised in that it *also* operates through the exploitation of women’s bodies.

This does not, however, neatly close off our discussion of globalisation and the role of the nation-state, as three (at least) unanswered questions remain:

- Do States collude equally with the process of globalisation?
- Does this collusion, even if equal, operate within the same power dynamic?
- How does this collusion impact on the idea of ‘national sovereignty’: are nation-states actively working to undermine their own sovereignty, and if so, why?

The above three questions are perhaps best addressed by examining the role of the World Trade Organisation (WTO). This organisation was formed at the conclusion of the 1986-94 Uruguay Round of negotiations held under the General Agreement on Tariffs and Trade (GATT), which the WTO superseded. The WTO States its brief, and its supposed beneficial effects, as follows:

London 1998; Toussaint Eric *La Bourse ou la vie: la finance contre les peuples* Syllepse Paris CADTM Brussels 1998.

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business... Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. The result is assurance. Consumers and producers know that they can enjoy secure supplies and greater choice of the finished products, components, raw materials and services that they use. Producers and exporters know that foreign markets will remain open to them.³⁴

At the time of this writing, the WTO had more than 140 members, accounting for over 97% of world trade, and over 30 other countries were negotiating membership. Its governing body is the Ministerial Conference, meeting every two years. The Ministerial Declaration emanating from the fourth Ministerial Conference, held in Doha, Qatar, 9-13 November 2001, reaffirmed the WTO's commitment to the 'multilateral trading system' it was founded to enable, based on trade 'liberalisation' and opposition to any form of protectionism. The Declaration maintained that international trade played a major role in 'the promotion of economic development and the alleviation of poverty' (article 2).³⁵ This is despite glaring evidence to the contrary, such as that supplied by the UNDP statistics cited above. Which, considered along with the demonstrated economic power of the G7 in general and the US in particular, begs the question of how representative the WTO really is, and how free the 'consensus' that supposedly characterises WTO decision-making (according to the WTO website).

These are not earth-shattering revelations. Such observations have been made about the WTO time and again. But they do raise the fundamental problem of nation-state 'collusion' with globalisation that is arguably against their own best interests as sovereign nations, as they lose the power to intervene in the economic and, consequently, social affairs of the countries that they ostensibly govern. This is even more the case with WTO treaties such as the General Agreement on Trade in Services, with its potentially disastrous consequences for public health and education systems. In other words, national governments are 'consenting' to a process that basically 'puts them out of business', that is, the business of governance. According to the *Wall Street Journal* on the World Trade Organisation, quoted by Susan George: 'the WTO represents another stake in the heart of the

³⁴ WTO website: www.wto.org, 3 February 2002

³⁵ www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm, 3 February 2002

idea that governments can direct economies'.³⁶ The director of the WTO is quoted as proclaiming that the WTO is 'writing the constitution of a single global economy'.³⁷

Tony Evans has commented that now international organisations such as the WTO, the EU, the World Bank, NATO and so on 'assume many of the tasks previously undertaken by the State', and refers to the role of the State as being reduced to that of 'administrator, to oversee and enforce regulations that emerge from decisions made at the global level'.³⁸ Which means that effectively, organisations such as the WTO are indeed more than the sum of their parts, becoming not *international* but *supranational*, the latter term meaning, as defined by the Macquarie dictionary, 'overriding national sovereignty; outside the authority of a single national government'.

National sovereignty, 'democracy' and 'human rights'

Nation-states, then, if not entirely sacrificing the idea of sovereignty, are at least accepting a clear modification of the content of that sovereignty. One area, however, where the idea of a strong 'sovereignty' remains as a constant is that of human rights. International human rights treaties are ostensibly binding on their signatories, but in practice, governments are quick to mobilise the idea of sovereignty to neglect or even openly flout their obligations under such treaties (as has been spectacularly demonstrated in Australia recently with regard to the 1951 Geneva Convention and 1967 Protocol relating to the status of refugees), and the UN has no particular mandate to enforce them. It has even been argued that the globalisation has had the effect of rendering less powerful States less able to 'deliver' on the question of human rights: an argument which certain governments or conservative pressure groups are quick to mobilise (see below).³⁹

The principle of national sovereignty is enshrined within the 1945 UN Charter, and the powers of the Security Council and other UN agencies to intervene within the domestic affairs of nations must not override this sovereignty. Evans has emphasised that this makes the UN's role in the field of human rights paradoxical, in that on the one hand, the UN has generated a body of international law and debate that has put human rights at the centre of global politics, but on the other hand, is based on the equality of sovereign nations and, as a general rule, non-interventionism in the affairs

³⁶ George Susan *The Lugano Report: On Preserving Capitalism in the Twenty-first Century* Pluto Press London 1999 p 21.

³⁷ George as above at 21.

³⁸ Evans above note 26 at 626.

³⁹ McGrew Anthony G 'Human rights in a global age: coming to terms with globalization' in Tony Evans (ed) *Human rights fifty years on: A reappraisal* Manchester University Press Manchester & New York 1998 188.

thereof. ‘In short’, he argues, ‘the UN remains responsive to the demands of States not to people and their demand for rights’.⁴⁰

In practical terms, this means not only that governments are able to impose reservations when signing treaties (as 67 nations, including Australia, have done with relation to the Convention on the Elimination of all forms of Discrimination Against Women [CEDAW]), but that they are also able to contravene their treaty obligations without great fear of reprisal, beyond a censure motion by a UN General Assembly, and perhaps some bad international press. UN military agencies such as the ‘blue beret’ peacekeeping forces are only able to enter a country with the agreement of its government: hence the UN was unable to enter East Timor in 1999 to monitor the independence referendum and subsequent elections until the Indonesian government formally invited it to do so. The bottom line, then, is that international human rights treaties do *not* override national sovereignty. This is not in itself necessarily a bad thing at this point in history, given that the idea of ‘global governance’ is tightly bound up with whatever US interests happen to be at the time.

At the same time, however, the idea of ‘national sovereignty’ enshrined in UN treaties and international law can be mobilised to obstruct attempts to criticise the behaviour of national governments concerning human rights. As seen above, there is even a taking of a ‘third-worldist’ high moral ground in relation to the G7/G8/EU grouping, in particular as concerns the affirmation of the ‘right to self-determination’ as articulated in the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (also 1966). The ‘right to self-determination’ and ‘cultural rights’ have become closely bound up with the notion ‘group rights’, whereby the ‘rights’ of the ethnic and/or national group are deemed to take precedence over those of individuals.⁴¹ There are now culturally-specific variants on the Universal Declaration of Human Rights, such as the Cairo Declaration of Human Rights in Islam and the Draft Universal Declaration on the Rights of Indigenous Peoples, both of which are highly problematic for women.⁴²

In historical terms – and, demonstrably, in ongoing political terms – the opposition of a ‘third world’ national sovereignty to the idea of ‘human rights’ as an avatar of western hegemony is both

⁴⁰ Evans above note 26 at 628-9.

⁴¹ See for example Howard Rhoda E *Human rights and the search for community* Westview Press Boulder 1995.

⁴² Peterson and Parisi above note 30 at 151; Winter Bronwyn ‘Women and Human Rights in Europe: Views from France’ in Linda Hancock and Carolyn O’Brien (eds) *Rewriting Rights in Europe* Ashgate Aldershot 2000 25 at 40; Mayer Ann Elizabeth ‘Cultural Particularism as a Bar to Women’s Rights: Reflections on the Middle

founded and unfounded. It is unfounded in that the opposition between ‘national sovereignty’ and ‘[western] human rights’ is historically inaccurate. The 1789 *Déclaration des droits de l’homme et du citoyen*, the ideological ancestor of the 1948 Universal Declaration of Human Rights, explicitly ties the idea of rights to those of citizenship and of nation. Notwithstanding the ‘universalist’ pretensions of declarations of human rights, these rights have from the outset been firmly encoded within the idea of national sovereignty and their development concurrent with that of the political formation known as the nation-state. The arguments of the G77 are, however, well-founded in that the development of the modern idea of ‘human rights’ was, historically and geographically, also concurrent with the development of modern western capitalism and the liberal ideology of individualism that supported and still supports it.

‘Democracy’, ‘human rights’ and the neoliberal agenda

This is not to say that there is something inherently ‘wrong’ with the liberal idea of an individual as some sort of universal undifferentiated entity that is vested with rights. On the contrary, to abandon this idea would be a grave mistake in that it would leave the way even further open for differentiation among the ‘rights’ of women (not to mention other groups of individuals). The imperfections of applications of an idea are not in themselves proof that the original idea is a bad one.

What *is* dangerous, however, is the capitalist idea of individualism, whereby universal equality and freedom are assumed to be a reality rather than an aspiration, and relationships of domination are conceptualised not as socioeconomic and political relationships but as the attributes of individuals. Hence, at the time of the creation of the First Republic in France, the ‘rights of man’ were assumed not to apply to any women or to men who did not own property or were not white, without those in power being particularly troubled by these blatant contradictions. Similarly, today, ‘human rights’ can be conceptualised without reference either to the havoc wreaked by global capitalism or to the agents of that destruction, and the UN, the World Bank – and even the WTO – can devote much verbiage to examining the ‘causes’ of poverty and how to ‘eradicate’ it, without the primary causal factors being seriously examined. This is what Immanuel Wallerstein refers to as the total self-contradiction of liberal ideology: ‘if all humans have equal rights, we cannot maintain the kind of inegalitarian system that the capitalist world-economy has always been and always will be’.⁴³ From

Eastern Experience’ in Julia Peters and Andrea Wolper (eds) *Women’s Rights, Human Rights: international feminist perspectives* Routledge New York & London 1995 176 at 177.

⁴³ Wallerstein above note 26 at 161.

this point of view, Susan George is perfectly accurate in identifying ‘human rights’ as a sop to the relatively powerless. She comments ironically that the UN is ‘useful mainly because it is the one international forum which gives the smaller, weaker members of the “international community” the illusion that they have something to say about running global affairs’.⁴⁴ I would develop this comment and say that the idea of ‘human rights’ is useful because it gives the less powerful and less privileged citizens of nations the illusion that they have some say in running national affairs, and some means of protection if not redress against the ills of globalisation.

Many western – and, increasingly, nonwestern – governments more or less identified with the ‘left’ (although it is debatable whether their politics are really ‘left-wing’ in any traditionally recognisable sense of the term) are now adopting a peculiar mix of ‘human rights’ and neoliberalism that is broadly known as ‘the third way’. In the UK, the country which, along with the Clinton regime in the US (and its thinktank the Democratic Leadership Council/ Progressive Policy Institute [DLC/PPI]),⁴⁵ pioneered the ‘third way’, the Blair Labour government has promoted itself as the champion of human rights, enacting new human rights legislation,⁴⁶ while at the same time actively pursuing an economic – and social – agenda that reinforces the global capitalist project and undermines its own professed human rights project. In a recent book, *The Global Third Way Debate*, edited by primary third way ideologue Anthony Giddens, Giddens describes the third way as a ‘response’ to the threefold change of ‘globalisation’, ‘the emergence of the knowledge economy’ and a rather nebulous element called ‘profound change in people’s everyday lives’. Giddens associates the last of these with the development of individualism, defined by him as having something to do with ‘breaking free from the hold of tradition and custom’ and people living their lives in a ‘more open, reflective way’. He cites women’s right to divorce and their massive participation in the labour force as key areas where ‘individualism has made itself felt’. Giddens thus appears to define individualism in a somewhat idiosyncratic way.⁴⁷

Along with Australian contributor Mark Latham (Federal MP, Australian Labor Party), Giddens outlines the components of the third way. These are:

- a market economy that is loosely regulated by minimal social protection policies and anti-monopoly legislation; a ‘small government’ thus plays a regulatory rather than strongly

⁴⁴ George above note 36 at 21.

⁴⁵ website: www.ndol.org/

⁴⁶ The text of the UK Human Rights Act can be found at www.archive.official-documents.co.uk/document/hoffice/rights/rights.htm

interventionist role, enabling the linkage of ‘economic efficiency’ and ‘social responsibility’: what Giddens describes as the establishment of an ‘effective framework of responsible capitalism’;⁴⁸

- ‘devolution’, which Latham describes as ‘push[ing] the powers of democracy and public provision closer to civil society’,⁴⁹ while at the same time the ‘power’ of so-called ‘special interest groups’ is kept under control;⁵⁰
- what Giddens describes as a ‘new social contract linking rights to responsibilities’; here Giddens targets welfare provision in particular with ominous (and unsubstantiated) references to ‘high levels of welfare fraud’ and to ‘welfare to work schemes’;⁵¹
- provision of ‘incentives’ for people to ‘save more, to study harder and to work more intelligently’,⁵² which, among other things, ‘necessitates the cultivating of flexible labour markets’;⁵³
- crime control;
- environmental responsibility, which, according to Giddens, is assisted in part by the development of information technology, which he maintains is ‘intrinsically non-polluting’ (given that the generation of electricity, essential for the running of such things as computers and industrial robots, generally involves polluting processes including but not limited to the use of nuclear energy, it is difficult to take Giddens’ Statement at face value).⁵⁴

While Giddens et al firmly maintain that the third way is a ‘centre-left’ or what Giddens calls ‘leftist’ platform and as such clearly distinguishable from a ‘rightist’ agenda, some of the above ‘third way’ positions also sit quite happily within the policy frameworks of right-wing parties. The Howard Government in Australia, for example, has openly embraced most of these concepts and developed legislation and policies around them. The difference between Giddens’ ‘leftist’ and

⁴⁷ Giddens Anthony ‘Introduction’ in Anthony Giddens (ed) *The Global Third Way Debate* Polity Cambridge 2001 1.

⁴⁸ Giddens as above at 13.

⁴⁹ Latham Mark ‘The Third Way: An Outline’ in Anthony Giddens (ed) *The Global Third Way Debate* Polity Cambridge 2001 25 at 26. Latham also has a Third Way website: www.thirdway-aust.com/.

⁵⁰ The New Progressive Declaration: A Political Philosophy for the Information Age. July 10, 1996. www.ndol.org/ndol_ci.cfm?contentid=839&kaid=128&subid=174, 24 February 2002.

⁵¹ Giddens above note 44 at 8.

⁵² Latham above note 46 at 26; this has also been referred to as ‘working smarter’ within the Australian context, that is, doing more work, ostensibly in the same amount of time.

⁵³ Giddens above note 44 at 10.

⁵⁴ Giddens above note 44 at 12.

‘rightist’ stances would thus appear to be more a question of degree than of fundamental politics, and indeed, many have asserted that the most fundamentally worrying aspect of third way politics is the dismantling of the left and the development of what is called by French left-wing analysts *la pensée unique* : a single way of thinking.⁵⁵

Among the many extremely disturbing implications of this development of third way politics and governance are the ways in which ‘human rights’, ‘democracy’ and ‘civil society’ (as embodied largely through the activity of NGOs) are mobilised, manipulated and ultimately weakened. This is gravely worrying for feminists, as it these areas that have served as primary vehicles through which we have fought, in both national and international contexts, for women’s voices to be heard, for our rights to be respected and for women to obtain a minimum degree of protection and empowerment within the context of globalisation. In fact, a growing body of scholarship – and not only feminist scholarship – suggests that human rights, democracy and ‘civil society’ carry as much the risk of entrapment as they do the promise of some degree of empowerment and emancipation.

Tony Evans, for example, has noted that ‘a commitment to democracy does not necessarily mean a commitment to equal rights’.⁵⁶ In fact, the forms of ‘democracy’ that are being actively pursued (and indeed, more or less imposed on less powerful nations) through the globalisation agenda take the form of what Gills et al call ‘Low Intensity Democracy’. ‘The paradox of Low Intensity Democracy’, they argue, ‘is that a civilianised conservative regime can pursue painful and even repressive social and economic policies with more impunity and with less popular resistance than can an openly authoritarian regime’.⁵⁷ Gills et al are referring to so-called ‘democratisation’ in the so-called ‘developing world’, but the model of such a form of democracy is undisputably the US, and the ‘third way’ is the ideological vehicle through which such ‘low-intensity democracy’ is put in place by ostensibly ‘progressive’ regimes. Evans points out that little more than lip-service is paid to the respect of human rights within such a context: worse, we have seen above that ‘human rights’ are mobilised within global liberal capitalist discourse in particular as a form of co-optation.

This is also the case for the concept of ‘civil society’. After decades of lobbying by feminist and other organisations for non-governmental organisations to have a significant voice in UN fora (and, to a certain extent, within World Bank ‘development’ programs), large NGO fora now take place concurrent with UN world conferences on such issues as women’s rights and racism, and at the time

⁵⁵ See for example ‘«Pensée unique» et pensées critiques’ (2000/1) 135 special issue of *L’Homme et la Société*.

⁵⁶ Evans above note 26 at 628.

⁵⁷ Cited by Evans above note 26 at 630.

of this writing, 2,091 NGOs have special consultative status with ECOSOC (the UN's Economic and Social Council): a possibility which has existed almost since the UN's creation but which NGOs have taken up massively over the last ten to fifteen years. Briefly, ECOSOC status means that representatives of such NGOs can participate as observers at UN meetings relevant to their constituency (for example, the annual meetings of the UN Commission for the Status of Women (CSW), held in New York in February-March each year). While this heightening of the NGO profile can appear as a positive development, it has a number of problematic aspects. First, the NGO presence allows the UN and other international organisations, as well as national governments, to pay lip-service to the ideas of consultation and some form of 'participatory' democracy, while allowing abuses of women's human rights to continue relatively unchecked. In fact, women are *worse* off now, in terms of poverty and the escalation of violence, than they were ten years ago.⁵⁸ Second, NGOs that have a voice in UN fora are not necessarily progressive, and can exert pressure, including harassment of feminists (such as that which occurred at the CSW's Preparatory Conference for Beijing Plus Five held in February-March 2000).

A third problem – and this is a particularly acute one within the context of globalisation – is that there is increased 'devolution' (to use Latham's term) to NGOs as the agents of 'civil society', entrusted with maintaining the social fabric and welfare bottom lines as governments abdicate this responsibility. Such 'devolution' is portrayed as 'healthy' for participatory democracy, but in returning us to the 'charity' model of social welfare it relies heavily on women's unpaid work and is, in essence, tantamount to a 'privatisation' of social welfare. As Wichterich argues:

The growing corruption of State regimes, together with their loss of significance as agencies of social equality and provision, have led to the hyping-up of NGOs in recent years as the great hope for developments towards social justice. The creativity and improvisation characteristic of women's groups has thus given rise to a myth about women's supposedly inexhaustible power of survival. As well as failing to appreciate that structurally adjusted women also have limited time and energy, this myth falsely romanticizes the feminization of responsibility.⁵⁹

It has also been pointed out that support to NGOs by such international financial organisations as the World Bank has provided these agencies with opportunities to support publicly the most

⁵⁸ UNDP above note 23.

⁵⁹ Wichterich above note 11 at 116.

disempowered (or appear to do so) while continuing to retain and promote agendas such as those of globalisation, which cause this disempowerment.⁶⁰

Feminist responses to globalisation

If ‘democracy’, ‘human rights’ and ‘civil society’ are, as I suggest above, being disingenuously mobilised to further the agenda of globalisation whilst appearing to provide a ‘buffer’ against it, then what can and should feminists do about it?

The question of ‘what feminists can do’ is always, of course, a difficult one, as we are always working within limited margins of opportunity. This may appear to be particularly the case at this point in time, when global capital has found such clever ways of reinventing itself, when even the ‘left’ would appear to have been so co-opted as to have all but disappeared (or, in the case of extreme-left mobilisations against globalisation, be somewhat lacking in comprehensive feminist analysis), and when feminist NGOs are increasingly drawn into the UN/World Bank ‘development’ and ‘civil society’ agendas.

It would, however, be unwise for feminists to disengage either with national governments or international insitutional fora. It is, after all, nation-states that enable globalisation; it is thus, at this point in time, arguably through nation-states that feminists are best able to lobby to place limits on the development of global capitalism. Similarly, it is nation-states that have carriage of the enactment of human rights treaties, through national legislative, judicial and policy frameworks; it is therefore to nation-states that feminists need to continue to look to ensure that women’s rights are respected. At the same time, both human rights treaties and world trade treaties, as well as their legal framework, are enacted at an international level (or, arguably, supranational level). It would thus be counterproductive for feminists to abandon international lobbying strategies within such fora as the UN, however imperfect and limited human rights treaties may be and however many contradictions working within such structures may present. There is even no doubt a case for feminists to continue to work within the framework of ‘development’, for at a very basic level, ensuring women’s safety and survival must necessarily continue to be a bottom line.

That said, if feminist energy is limited purely to working within these legal and institutional frameworks, the risk of co-optation is enormous – and has indeed, very largely occurred already with relation to much of the work of feminist NGOs. Which is why we also need to step outside

⁶⁰ Hudock, Ann C *NGOs and Civil Society: Democracy by Proxy?* Polity Cambridge 1999.

those frameworks and take a critical and vocal distance from them, for it is only then that we are able to maintain a far-reaching feminist analysis and vision and avoid co-optation. I am much encouraged in this by the existence of international feminist networks and of broad social groupings such as ATTAC and the World Social Forum, as both contain a strong feminist presence. Even here, however, I fear that we once again may be co-opted if we fall into step with the idea that 'human rights', 'democracy' and 'civil society' are somehow 'enough'. They are not, for none of these concepts, in either their 'weak' or 'strong' forms, contain an effective challenge to the global neoliberal and capitalist agenda.

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