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Women, Globalization, and Law School: The Forgotten Girls

A Change of World

Fashions are changing in the sphere.
Oceans are asking wave by wave
What new shapes will be worn next year;
And the mountains, stooped and grave,
Are wondering silently range by range
What if they prove too old for the change.

The little tailors busily sitting
Flashing their shears in rival haste
Won't spare time for a prior fitting—
In with the stitches, too late to baste.
They say the season for doubt has passed:
The changes coming are due to last.

—Adrienne Rich, *A CHANGE OF WORLD* (1952)

Everyone knows the story of the Lost Boys of Sudan, thousands of children who lost their families and villages to brutal civil war. They fled across East Africa to Kenya, where they survived in a desolate refugee camp. Their story spread and several thousand of the Lost Boys were resettled in the United States. While the Boys were lost — and then found — the Girls were forgotten. They lost their collective identity when they arrived at the camp and were quickly absorbed into foster families where they functioned as unpaid servants. But they became the subjects of a cover story in the magazine *Refugees*, a publication of the U.N. High Commissioner on Refugees.

The traditional forces which had long kept women invisible within the family hid the Girls, but the forces of globalization, including technology, human rights law, and growing feminist

WORKSHOP DRAFT:
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consciousness, eventually brought their story to public attention. The story of their story both demonstrates women's growing clout — in the family, in the marketplace, in politics, and in the law — in an increasingly global economy, and the increasingly visible inability of some women to benefit from it.

The voices of the Forgotten Girls, and other women throughout the world who are both struggling with and shaping globalization, are the 'emerging voices' that this paper highlights. Their voices are emerging throughout the law school curriculum — in human rights law, in international law, in family law, in clinical courses, and in courses on women and the law — as “women of all colors” in the law school challenge the subordination of women like themselves throughout the world. The first part of this paper provides an introduction to globalization from a feminist perspective. The second part maps out a law school seminar on the subject, beginning with the basic legal tools students will need, i.e., human rights law and feminist theory.

'Globalization' refers to the free flow of capital through the removal of trade barriers between states, as well as to the accompanying cultural exchanges and transformations. The relationship between the globalization of capital and markets on the one hand, and the globalization of culture on the other, is obviously complex. Women are an unendingly diverse group, moreover, and their interactions with globalization are complex and often contradictory. While a recent study by economists at the International Center for Research on Women concludes that “women have generally benefitted from improvements in the world economy,”¹ the experts in another Symposium describe “the overall negative effects of globalization on women.”² Everyone agrees, however, that globalization affects men and women differently, in part because of their very different roles in

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most cultures and because men, in general, have much higher incomes and much greater access to capital. For many women, globalization has been a mixed blessing, and for some it has been a disaster.

But for good or ill, globalization is sweeping growing numbers of women into the public sphere of politics and of the market. The emergence of women once confined to the private sphere of the home and the family into the public sphere constitutes a ‘change of world’ with far-reaching implications. Rich describes a radical global change in the deliberately inconsequential — and gendered — terms of ‘fashion’. In the poem, however, ‘fashion’ transforms mountains and oceans more venerable than patriarchy itself.

Historically inconsequential women, similarly, are shaping globalization — by creating new family forms and new patterns of labor, and by their resistance — even as globalization transforms their lives. This law school seminar on “Women and Globalization” analyzes this ‘change of world’ in three broad contexts: family, market work, and political life. It is not intended to be a comprehensive study. Rather, through careful analyses of discrete problems in each context, we examine some of the relevant institutions and laws operating at the national, supranational, and international levels to show how they interact in the lives of the world’s women. Equally important, we consider how these laws *fail* to interact, the lacunae in the law, and their impact on women. I am particularly interested in how human rights law can be used to legitimate and further women’s multiple, and sometimes conflicting, agendas and how feminist theories can be used to interrogate them and expose their complexity.

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By drawing on both the rhetoric of social change and the metaphor of geological time, Rich playfully juxtaposes hopeful energy, like that of human rights law, and ironic detachment, like that of postmodern feminist theory. Law students are first introduced to international human rights law, with its fundamental insistence on gender equality. As explained in the second class, however, they also need to regard human rights law with some skepticism, especially when it is conflated with ‘free market democracy. Students also need feminist theory. As Regina Gagnier explains, “The bottom line of feminism is that the oppression of women exists, and its normative project is to make the world better for women.”³ As explained in the third class, however, they also need to regard feminist theory with some skepticism, especially when it fails to recognize phrases like “make the world better for women” as problematic.

WOMEN AND GLOBALIZATION - AN OVERVIEW

The Free Flow of Capital and Free Trade

Globalization is the ‘constant revolutionizing of production’ and the ‘endless disturbance of all social conditions’. It is ‘everlasting uncertainty.’ Everything ‘fixed and frozen is swept away’ and ‘all that is solid melts into air’.⁴ As these quotes from *The Communist Manifesto* (written 150 years ago) indicate, globalization is nothing new. In the 1320s, England, then a developing country, defaulted on loans to the Italian city state of Genoa. For most of Western history, capital has flowed freely.⁵

The end of the Cold War and developments in finance and technology combined to qualitatively change the game during the past ten years. The failure of Soviet communism became the triumph of ‘free market democracy’ as formerly closed markets opened and capital poured in at a

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previously unimaginable rate: “In a typical day, \$1.5 trillion changes hands, an eight-fold increase since 1986, an almost incomprehensible sum, equivalent to total world trade for four months.”⁶ As a fund manager in Hong Kong observed, “It’s no longer the real economy driving the financial markets, but the financial markets driving the real economy.”⁷ In addition, the election of President Clinton in 1992 put a free market enthusiast in the White House. The world has never seen anything like the flow of capital during the eight years of his presidency. As then Deputy Treasury Secretary Lawrence H. Summers noted,

When history books are written 200 years from now about the last two decades of the twentieth century, I am convinced that the end of the Cold War will be the second story. The first story will be about the appearance of emerging markets — about the fact that developing countries where more than three billion people live have moved toward the market and seen rapid growth in incomes.⁸

Globalization has dramatically increased world income, but it has also increased the polarization between the haves and the have-nots. This is part of a longer term trend, beginning after World War II. As the United Nations Development Program (UNDP) summarizes:

During the past five decades, world income has increased sevenfold (in real GDP) and income per person more than tripled (in per capita GDP) but this gain has been spread very unequally — nationally and internationally — and the inequality is increasing. Between 1960 and 1991, the share of world income for the richest 20% of the global population rose from 70% to 85%. Over the same period, all but the richest quintile saw their share of world income fall — and the meager share to the poorest 20% declined from 2.3% to 1.4%.⁹

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Even while the tide was still rising, it was not taking all boats with it. Many of those in the leakiest, smallest boats, not surprisingly, were being swamped. GNP, moreover, is not a reliable indicator of human welfare. That is, even if boats are rising, their human cargo may be washed overboard. The risks are greater, furthermore, because globalization has increased both market volatility and market interdependence. In other words, markets are soaring to new highs and plunging to new lows, bouncing from one to the other faster (and less predictably) than ever before, and dragging others with them, with sometimes ruinous consequences.

As free trade has been extended to smaller countries with less regulatory infrastructure and experience with capital, this unprecedented capital flow has often wound up in incompetent and unsupervised hands. In 1996, for example, the Thai Minister of Justice accused his fellow cabinet members of taking \$90 million in bribes for bank licenses.¹⁰ In addition to widespread corruption and cronyism, wild investment schemes and a shaky economy contributed to the 1997 collapse of the Thai baht. But there were contributing factors outside of Thailand, and beyond Thai control. Financial institutions played a critical role through unrestrained speculation and hedge funds. The “G7,” the seven major industrialized states, remained oblivious to the looming disaster, despite Japan’s warning, and failed to address the emergency when it became impossible to ignore.

The collapse of the baht was quickly followed by the crash of the Indonesian economy, and repercussions spread even to economies that were doing everything right, like Brazil. From Southeast Asia to Eastern Europe to Latin America, hundreds of millions of people throughout the world were caught in what President Clinton characterized in his 1999 State of the Union Address as “the most serious financial crisis in half a century.” While some can weather what economists agree

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are the inevitable visitations of free markets, the costs are often high, and may well be prohibitive for the already marginalized.

Even the U.S. Treasury has toned down its free market rhetoric, and now warns of the dangers of unregulated capital flow. While the World Bank no longer imposes the kind of stringent Structural Adjustment Programs (SAPs) that dominated the 1980s, lenders still want assurances that their loans will be repaid and belt-tightening remains very much a part of the agenda.

Under NAFTA, for example, the Mexican “economy grew at a rate of 4.8% last year, adding 100,000 new manufacturing jobs.”¹¹ But “just since 1997, the number of people living in extreme poverty — defined as workers earning less than \$2.00 a day — has grown by four million, or twice the growth of the population.”¹² Despite the “prevailing view from Wall Street and Washington... of a country that got over a bad stretch a few years ago, and whose experience should serve as a lesson for other emerging markets in crisis.... Mexico’s lesson for other troubled economies is something very different: sometimes macro-economic health is achieved at the cost of mass hardship — and even then, timing may be just as important as policy.”¹³

The Free Flow of Culture - Two Metaphors

It is not just dollars that are flowing freely around the world, but Western culture-constitutionalism and Coca Cola, free market ideology and Bruce Willis. Every state has had a taste of relentless, technologically-enhanced consumerism, free market democracy promoted by advertising so creative, so irresistible, that no culture is impenetrable. It seeps in everywhere. Wealthy elites import Western luxuries in even the poorest states. States that try to close themselves off are quickly condemned for denying ‘free speech’ and ‘free expression,’ those basic civil rights and freedoms backed by the U.S., the UN and the full weight of the market.

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As Fredric Jameson explained over fifteen years ago, mass production of goods has been superceded by the mass production of image, from American soap operas to McDonald's, proliferating in endless iterations around the world. Cultures are open as never before to challenges and influences from outside. No walls can keep out satellites and cyberspace. Western culture is ubiquitous, but it is not always welcome. There is a growing backlash – or rather, a growing number of distinct, independent backlashes – against Western culture not only from Muslim fundamentalists but from those who question the American model of *laissez faire* capitalism, which “rescues Connecticut hedge funds but sacrifices Indonesian children.”¹⁴

The impact of globalization on culture is complex and the impact on women perhaps especially so. How does globalization undermine local culture? How does local culture subordinate women and, conversely, how does local culture meet women's needs? This section first draws on Thomas Friedman's neoliberal account of globalization, *The Lexus and the Olive Tree*.¹⁵ Because Friedman's model neglects women, however, we also draw on Arundhati Roy's more nuanced metaphor of the 'Intercontinental Hotel' to show how their experience can be included.

The Lexus and the Olive Tree

Friedman explains globalization by juxtaposing the Lexus, a new, fast, Western, expensive car – the emblem of a consumer culture driven by cheap gas – and the olive tree, symbol of ancient loyalties, rootedness, tradition and sustenance. His thesis is that globalization is inevitable because everyone wants a Lexus, or at least the more mundane comforts of Western affluence, such as electricity, running water, toilets and refrigerators. According to Friedman, the United States is the primary beneficiary of these new markets and should accordingly assume the responsibilities that accompany privilege. Some olive trees will have to be cut down to make roads, he recognizes, but perhaps some can be spared. Some people, he notes, will not be able to “keep up” with the pace set

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by a high-tech, knowledge-based consumer society. These “turtles,”¹⁶ as he patronizingly calls them, must be assured a safety net. The “Lexus and the olive tree” is a reductionist but compelling metaphor for a reductionist but compelling neoliberalism.

The Lexus/olive tree metaphor is particularly apt because so many developing countries lack roads. Even where there are roads, women are often prohibited from driving on them, either through law or custom. Even where there are no such prohibitions, few women in the world can afford gas. Only a token number, most of whom are in the United States, could afford (or would want) a Lexus. The Lexus is coded Western ‘male,’ while the olive tree is coded Third World ‘female.’

The Intercontinental Hotel

Feminist scholars and writers have drawn on the Intercontinental Hotel for a more inclusive metaphor for the impact of globalization on culture in general and, more specifically, on the women in those cultures. Saskia Sassen describes the emergence of a new international society, comprised of those who direct the money flows described above, and women’s role in that society. Although many of its activities are virtual, this society has an actual physical presence throughout the world, particularly in the cities which serve as financial capitals. If capital flows to a new region, representatives from this international society must follow to inspect the site and to meet the local players. This can produce additional investment in the region through tourism, including sex tourism.

As Sassen explains, these travelers require a veritable army of international support workers to make them comfortable. This army is directed and organized by multinational hotel chains, which economist Gracia Clark refers to collectively as the ‘Intercontinental Hotel.’¹⁷ Its ads are in every weekly American magazine. They promise the traveler all the Western amenities along with an

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authentic experience of the region between meetings.¹⁸ Women, usually from the developing world, serve a vital role:

By carefully replicating the culture and infrastructure of the Intercontinental Hotel worldwide, these support workers make it possible for the globe trotting executive to believe himself a culturally neutral technocrat. Would-be elite candidates cannot, in fact, decontextualize themselves, but must rely on the skill and invisibility of these unacknowledged others to accomplish it for them. Cleaners, personal secretaries, security guards, repairers and deliverers meticulously remove and absorb all traces of the actual physical and cultural location, which can mean solving quite different concrete problems depending on local circumstances.¹⁹

Novelist Arundhati Roy provides an unforgettable example in her Booker Prize-winning novel, *The God of Small Things*.²⁰ She describes the purchase of the ‘History House’ in Kerala, India by an international hotel chain. Built by a British colonial officer who had ‘gone native’ and, rumor had it, freely indulged his pedophilic appetites, the structure was called the History House by locals because of all that had happened there, from the molestation of local boys to the vicious murder of a communist ‘untouchable’ by the local police. “Local culture,” Roy shows us, is a complex and subjective construction, rich and ancient, overlaid with the postcolonial struggles of those still subject to a brutal caste system, various factions grasping for control of the Indian government and those who seek to control the local economy.

In the 1990s, however, all of this troublesome history is cauterized, replaced by a picturesque, sanitized version of the ‘Intercontinental Hotel.’ The loss of history matters as Roy shows because robbing a people of their history—especially a history of pain and oppression—deprives them of any possibility of coming to terms with it. As José Alvarez has pointed out, much

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of the law which facilitates globalization makes the question impossible.²¹ In the NAFTA agreement, for example, the chapter on investment does not distinguish between the sale of a cultural icon and that of any other commodity.²²

WOMEN IN THE GLOBAL ECONOMY

While women are obviously a diverse group, compared to men they are overwhelmingly disadvantaged economically. This is shown starkly and redundantly in UN data. The question here, however, is whether globalization improves women's situation or makes it worse. The answer, of course, depends on which women we are talking about and what is being measured.

This section addresses the question from two perspectives. First, it draws on the recent work of economists to provide a statistical overview and a closer look at trends (and counter-trends) regarding women's participation in the global economy. Even the most robust economic model, however, cannot convey the subjective experience of economically marginalized women. The second part of this section concludes, accordingly, with a series of brief descriptive narratives, previews of the chapters that follow.

As Noeleen Heyzer, Director of UNIFEM, observed at the Beijing Conference on Women in 1995:

It is not acceptable for women to constitute 70 percent of the world's 1.3 billion absolute poor. Nor is it acceptable for women to work two-thirds of the world's working hours, but earn only one-tenth of the world's income and own less than one-tenth of the world's property.²³

As Nobel prize-winning economist Amartya Sen has demonstrated, the data both overstate and understate women's economic subordination.²⁴ First, such statistics understate women's economic subordination because they omit the women presumably born who never appear in the statistics. Sen summarizes the research showing a substantial biological component favoring women.²⁵ If women are treated as well as men; that is, if they receive a proportionate amount of food, health care and other resources, there should be more women than men. Using the sub-Saharan African ratio (1.02)

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of females to males, Sen estimates the number of “missing women” at “more than 100 million.”²⁶ These are the abandoned infant girls in China, the brides who die in ‘kitchen fires’ in India, the baby girls in Africa who are not taken to the clinic to be treated for diarrhea as quickly as their brothers — the women and would-be women who have been unable to claim enough of the world’s resources to survive.²⁷

Second, the picture shifts depending on whether, like Heyzer, we focus on commodities and income or whether we focus on what Sen calls “functionings and capabilities.” In “China, Sri Lanka, and Costa Rica, for example, communal health services, medical care and basic education produce a quality of life superior to that which would be expected by the income indicators.”²⁸ The example of the Indian state of Kerala is illuminating: “While incomes within this Indian State are among the lowest, residents have the highest life expectancy at birth, a comparatively very low infant mortality rate, and higher level of literacy (especially female literacy, 87% compared to the national average of 39%).”²⁹

Recent research shows that while a small group of women have earnings on a par with men, the overwhelming majority of the world’s women continue to earn significantly less than men. This is largely attributable to 1) the kind of work women do and 2) their uncompensated ‘women’s work’, including their reproductive work.³⁰ In addition, researchers deplore the relative lack of gender-aggregated data and the resultant economic invisibility of the world’s women, especially the most marginalized.³¹

Wage Differentials

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Women earn less than men everywhere.³² They are paid less than men for doing the same work and limited to low-income sectors by widespread sex-based occupational segregation. In Brazil, for example, income earned by women is equivalent to 54% of that received by men.³³

Globalization, however, seems to be narrowing the gap. Drawing on the first British survey of wages in 1886, and data available from the first half of the 20th century as well as post-war annual surveys, economist Tzannatos shows that women's pay remained,

remarkably stable at around two-thirds of male pay until 1970. Then, female earnings increased to three-quarters of men's earnings in a period of less than ten years... compared to the century-long scenario for industrialized countries, the evidence... suggests that in many developing countries significant changes have taken place within the last few decades.³⁴

In Costa Rica, for example, the average monthly salary of women was 82% of that of men in 1990.³⁵

In Uruguay women earned 75% of the income received by men.³⁶

Women's Work

Globalization has transformed labor: "The concept of regular, full time wage labor... has been giving way to a more diverse pattern, characterized by the 'informalization' of employment through more outworking, contract labor, casual labor, part-time labor, homework" and other forms of labor beyond the protection of labor laws.³⁷ Sixty-one percent of the world's workers are employed in the informal sector.³⁸ This includes "farming, cottage industries, tool-making and garment-making, and in urban areas, petty trading (fruit and vegetable selling) and small-scale manufacturing enterprises."³⁹ More concretely, it includes "street vendors in Bogota, shoeshine workers in Calcutta, garbage collectors in Cairo, textile waste recyclers in Manila, home-based garment workers in Buenos Aires, and home-based electronics workers in West Yorkshire."⁴⁰ As economist Martha Chen concludes, "80% of workers in low-income countries and more than 40% of

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workers in middle-income countries are in informal and rural labor markets, effectively beyond the reach of unions or government.”⁴¹ In every country, more women than men are employed in such markets.

The informal sector is as crucial to the economic survival of poor women, as it is to the economies of developing states. In dynamic, export-oriented subsectors informal workers subsidize capitalist growth “by providing infrastructure, tools, equipment and often working below minimum wages in highly insecure and contingent employment.”⁴² In addition, as Sassen observes, women subsidize the “waged labor of men through their household production and subsistence farming.”⁴³

“Homework” is an important part of the informal sector because it enables women to participate in the market economy, however marginally, and still do their unpaid work, including reproductive work, in the home. Homeworkers comprise a large and growing segment of the labor force in many countries. Wherever sex-aggregated data is available, it shows that more women than men are employed in homework. In Greece, Ireland, Italy and The Netherlands, for example, up to 95% of homeworkers are women.⁴⁴

Women are also playing a larger role in agriculture. Because of expanding opportunities for men outside agriculture, land degradation, drought and other factors which reduce farm yields, men have abandoned their farms, leaving the women in charge in Honduras, Nepal, southern and eastern Africa, and Yemen.⁴⁵ Women farmers, however, generally have less access to resources such as credit and farm implements.⁴⁶ They have also historically been neglected by agricultural extension services.⁴⁷

Some economists theorize “that it is the spread of more flexible and informal employment that accounts for most of the upward trend in the female labor force,” noting that women

WORKSHOP DRAFT:
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predominate “in industries where profit margins are protected by reducing labor costs, extending hours and decreasing the numbers of formal production workers.”⁴⁸ As economist Guy Standing notes, flexibility means opportunity but it also means insecurity.⁴⁹

Women with dependent children may be desperate for opportunity, but they are also especially vulnerable; rapidly changing markets put not only their businesses but their children at risk. Thus, some feminist economists urge that “reproduction and unpaid work be recognized [as] economic activities. Based on this distinction, benefits and other social assistance/insurance should be the concern of broad public policies and not just... linked to employers or enterprises.”⁵⁰

Lack of Data

The data to assess the impact of globalization on women is largely unavailable. In Southeast Asia, for example, the Women Leaders Network (WLN), recently deplored the absence of “sex-aggregated data and analysis... essential to effective policy-making, and the success of APEC programs and projects.” Arguing that women have borne the brunt of financial and economic turmoil in the region, the group insists “that the full impact of the crisis on women and women’s livelihoods has yet to be fully understood and addressed.”⁵¹

The lack of data on women reflects the widespread invisibility of women’s work as well as state apathy. Women’s efforts to compensate for declining household incomes during recession, for example, are “not always picked up in official data” because such efforts are often concentrated “in the unrecorded, informal sector.”⁵²

Even more and better data, however, cannot capture subjective experience. The classes that follow hone in on the ways in which globalization affects not only markets, but specific groups of women. While these classes do not purport to be representative, the problems each of these groups

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faces affect many other groups as well. These chapters draw on a wide range of sources, including anecdotal accounts, to suggest a range of experience which might otherwise be overlooked. The experience of the marginalized is especially at risk of being lost.

PARTICULAR ISSUES, SPECIFIC GROUPS—A Seminar For and About Women of All Colors

Part I sets out the basic frameworks that we will draw on in the classes that follow. The first class begins with the material in the first part of this paper, to introduce the student to globalization, the removal of trade and other barriers among states. As Friedman argues, less developed countries, less developed countries (“LDCs”) want electricity, refrigeration, and running water. Developed countries want markets and cheap labor. Opening their markets to late capitalism, LDCs open their cultures to other influences as well. This includes human rights culture, and notions of women’s equality which profoundly threaten traditional patriarchal societies. It also includes commodification run amok, the erasure of rich local cultures and their replacement by a crass lowest common denominator of McDonald’s and American action movies. Thus, women are active participants in globalization, but they are also active in the multiple backlashes to globalization.

Class 2. Women and International Law: *A Prayer for My Daughter* introduces the student to international human rights law, focusing on its possibilities as well as its limitations. William Butler Yeats placed the poem *A Prayer for My Daughter* immediately after the better known *The Second Coming*. There, he apprehended “...mere anarchy loosed upon the world”. In *A Prayer for My Daughter*, he struggled to grapple with this anarchy in a constructive way for the sake of his beloved infant daughter. In this class, we consider how women throughout a dramatically changing world are drawing on human rights law, and transforming that law in the process of doing so. Like Yeats, they are radical and reactionary, creatively appropriating human rights rhetoric not only for their own

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survival— and its limitations are all too obvious for that purpose—but for the sake of their daughters, the future generations of women who will follow.

In class 3, Bottom Line Feminist Theory: *The Dream of a Common Language*, we discover why feminist theory is crucial to this project. First, we need feminist theory as an intellectual tool, to critique the ways in which existing laws, as well as proposed reforms, perpetuate gender norms. Second, we need theory as a political tool, to identify common goals and to generate consensus about how to achieve them. At the same time, however, feminist theory has been criticized for reducing women to an essential “woman” without race, nationality, class, age, or sexual orientation. Feminist scepticism about theory, however, has led to paralysis. This class explores the vast and fertile middle ground between the extremes of grand theory and paralysis. It draws on international law to ascertain the degree of consensus achieved in feminist theory in connection with a particular issue at a particular time, which I call “bottom line feminist theory”.

Part II examines a few of the remarkable, and sometimes paradoxical, consequences of globalization for families. In class 4, *Baby Girls From China in New York: A Thrice-Told Tale*, students learn how the one-child policy, adopted by the Communist government in 1980 to address the population crisis and promote women’s equality, has had the unforeseen result of almost a million abandoned baby girls every year. While foreigners criticize government, abandonment is a crime in China. Parents nevertheless continue to abandon baby girls because of the traditional preference for a son. This class tracks those baby girls who wind up in New York, where their usually white parents try to provide them with a rich experience of Chinese culture, excluding, of course, the misogyny that led to their abandonment in the first place.

WORKSHOP DRAFT:
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Class 5, *Domestic Violence and Human Rights: Goodbye Earl* (Pedro, Hans, Gen, Chou, etc.), examines the process through which women stories, whether told by pop icons like the Dixie Chicks in *Goodbye Earl*, or in hundreds of images with the UN Special Rapporteur for Violence Against Women, were transformed by women's NGOs into international human rights law. Women throughout Latin America are drawing on the Inter-American human rights system to generate support for hundreds of battered women's shelters throughout the region. Thus, international human rights norms seeped into the intimate relations between husband and wife, undermining the prerogatives of traditional *machismo* cultures.

Class 6, *Crazy Jane and the Bishop: Political and Social Constructions of Abortion* draws on Yeats's "Crazy Jane" series to compare and contrast abortion in three states. Yeat's "Crazy Jane" is a crone, a defiant outsider. She challenges the bishop to show that his abstract theology addresses her very earthy needs. Just as Crazy Jane challenges the bishop, the pragmatic strategies adopted by feminists on the national level challenge the abstract, universal constructions of international human rights law in this context. South Africa, Germany, and Japan—all secular democracies which recognize reproductive rights and women's equality—have recently enacted new abortion laws. In each country, women were active in the debates leading up to the reforms. International alliances have been problematic because of the very different political and social constructions of abortions in the three States.

In Part II, Women and Market Work, we consider why human rights law addressing fair and safe working conditions may be problematic for women. Such rights are often predicated on a male model of what Joan Williams calls an 'ideal worker'; that is, a worker with a wife. Class 7. *The Gender Jurisprudence of the European Court of Justice (ECJ)* analyses the ECJ's conception of 'equality'. The European human rights system, established after World War II, is today the most

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far-reaching and effective in the world. Most member states in the European Union generously support new mothers, assuring them paid leave and ample benefits as well as access to state-sponsored childcare. The ECJ has walked a fine line between supporting these benefits and expanding them to include fathers. At the same time, in *Kreil*, the ECJ barred discrimination against German women in the military, holding that they could not be barred from combat across the board. This decision envisions and supports a very different—and still controversial—role for women.

In class 8, *Commodification, Women's Work, and the ILO Convention on Home Work: 'Priceless' or Worthless?* we focus on the growing phenomenon of women's participation in informal labor, beyond the reach of trade unions and governments. Drawing on the groundbreaking work of the Indian Self-Employed Women's Association ("SEWA"), this class learns how home work blurs the distinction between reproductive and productive work. The women of SEWA are Friedman's 'turtles', left behind in a high-tech, knowledge-based global economy. Yet these women have created an alternative that enables them to work at home (like First World telecommuters), while avoiding the worst traditional abuses of home work. This class analyses the potential benefits, as well as the shortcomings, of the ILO Home Work Convention as a preliminary strategy to counter the exploitation of home workers.

In Part III. Women and Political Life, we examine some of the ways in which women are dealing with laws and institutions that have historically excluded them. Class 9, *Founding Fathers, Motherless States* looks at the reasons why certain human rights – including family rights, and the rights to an adequate standard of living and health care – are generally more important for women than for men. As U.S. influence spreads, however, these rights are becoming increasingly

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marginalized. While free market democracy promises an overall improvement in the standard-of-living, there are no guarantees. Already economically disadvantaged women, who often care for children and elderly parents as well, are the first to fall through shredded safety nets. This class describes how some of the women in the industrial wastelands of what was once the Soviet Union are trying to survive the fall.

Class 10, *Peace/work: Subversions of Armed Conflict* examines several initiatives by women's NGOs. These groups have persuaded international criminal tribunals to recognize rape as a war crime, organized peace movements in perennially war-torn Africa, and launched educational efforts to counter the ubiquitous equation of 'masculinity' with violence. These NGOs have used radio, film, and other mass media to disseminate the stories that philosopher Richard Rorty has shown are so crucial to human rights culture. This multi-pronged, 'piecework' approach to peace resonates with women's protests from ancient Greece through Vietnam, and assumes a fierce urgency in a post-Cold War, postmodern world.

The final class before, *Forgotten Girls?* draws on the story set out at the beginning of this paper. The hope is that those who take this seminar will not forget the Girls.

Even though many women remain subordinated by traditional norms, and even where the classic conception of international human rights has also failed them, women are challenging women's subordination throughout the world in a breathtaking range of activities. Drawing on a broad and proliferating range of strategies, women exert growing leverage as mothers and consumers in the family, as workers and investors in the market place, and as activists and leaders in national and international politics. They are using this leverage to get a bigger share of the pie, to take care of their children and families while they do so, to flee abusive husbands, to decide for

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themselves the number and spacing of their children, to find a safe place and to explore the world for themselves. They are transforming their lives, and changing the world, improvising as they go: “No spare time for a prior fitting – in with the stitches, too late to baste.” Rich’s concluding couplet resonates across cultures and across continents: ‘They say the season for doubt has passed/ The changes coming are due to last.’”

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1. Rekha Mehra & Sarah Gammage, *Trends, Countertrends and Gaps in Women's Employment*, 27 WORLD DEVELOP. 533 (1999). Zafiris Tzannatos, *Women and Labor Market Changes in the Global Economy: Growth Helps, Inequalities Hurt and Public Policy Matters*, *id.* at 551, 567. See also Susan Horton, *Marginalization Revisited: Women's Market Work and Pay, and Economic Development* in *id.* at 571. Saskia Sassen, *Toward a Feminist Analytics of the Global Economy*, 4 IND. J. GLOBAL LEGAL STUD. 7, 10 (1996).
 2. Alfred C. Aman, Jr., *Introduction: Feminism and Globalization: The Impact of the Global Economy on Women and Feminist Theory*, 4 IND. J. GLOBAL LEGAL STUD. 1, 4 (1996).
 3. Reginia Gagnier, *Feminist Postmodernism: The End of Feminism or the Ends of Theory?* THEORETICAL PERSPECTIVES ON SEXUAL DIFFERENCE 21, 24 (Deborah L. Rhode ed. 1990). As Gagnier continues, "On this point feminists agree, although many of us would extend the emancipatory project beyond women." *Id.*
 4. Josef Joffe, *One Dollar, One Vote* (Book Review) N.Y. TIMES BOOK REV., April 25, 1999 at 14 (citing KARL MARX & FREDERICK ENGELS, THE COMMUNIST MANIFESTO). Boaventura de Sousa Santos, *Oppositional Postmodernism and Globalization*, 23 L. & SOC. INQUIRY 121, 135 (1998).
 5. *Id.*
 6. Nicholas D. Kristof with David E. Sanger, *How U.S. Wooed Asia to Let Cash Flow In*, N.Y. TIMES, Feb. 16, 1999 at 1, 4.
 7. *Id.*
 8. Nicholas D. Kristof with Edward Wyatt, *Who Went Under In the World's Sea of Cash*, N.Y. TIMES, Feb. 15, 1999 at 1, 4.
 9. HOLLY SKLAR, CHAOS OR COMMUNITY: SEEKING SOLUTIONS, NOT SCAPEGOATS FOR BAD ECONOMICS 162 (1995)
 10. Kristof with Sanger, *supra* note 11 at 3.
 11. Joel Millman, *Is the Mexican Model Worth the Pain?*, WALL ST. J., March 8, 1999 at 1.
 12. *Id.*
 13. *Id.*

WORKSHOP DRAFT:
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14. Kristof with Wyatt, *supra* note 12 at 2.
15. THOMAS L. FRIEDMAN, *THE LEXUS AND THE OLIVE TREE* (1999).
16. *Id.* 273.
17. Gracia Clark, *Implications of Global Polarization for Feminist Work*, 4 *IND. J. GLOBAL LEGAL STUD.* 4 (1996).
18. *See, e.g., Hyatt ad*, *THE NEW YORKER*, Nov. 15, 1999 at 3 (“You may not master the ukulele in one lesson, but you’ll no doubt feel a connection with the culture that made it legendary.”). Friedman cites Madison Avenue throughout his book, noting without irony that “for some reason, advertising copywriters have a tremendous insight into globalization.” FRIEDMAN, *supra* note 38 at 381.
19. Clark, *supra* note 23 at 46.
20. ARUNDHATI ROY, *THE GOD OF SMALL THINGS* (1998).
21. José E. Alvarez, *Critical Theory and the North American Free Trade Agreement’s Chapter 11*, 28 *U. MIAMI INTER-AM. L. REV.* 303, 306 (1996-97).
22. *Id.*
23. <www.unifem.undp.org/about.htm>
24. Amartya Sen, *Capability and Well-Being*, in *THE QUALITY OF LIFE*, at 30 (Martha Nussbaum & Amartya Sen eds., 1993).
25. AMARTYA SEN, *INEQUALITY REEXAMINED* 123-24 (1992).
26. Amartya Sen, *More Than One Hundred Million Women Are Missing*, *N.Y. REV. BOOKS*, Dec. 20, 1990 at 61 (cited in STEINER & ALSTON, *supra* note 31 at 896). In India, 36.7 million are missing, in China 44 million, in North Africa 2.4 million and in Latin America 4.4 million. *WOMEN, CULTURE AND DEVELOPMENT* 3 (Martha C. Nussbaum & Jonathan Glover eds., 1995).
27. Richard Rorty, *Human Rights, Rationality, and Sentimentality* in *ON HUMAN RIGHTS: THE OXFORD AMNESTY LECTURES* 111 (Stephen Shute & Susan Hurley eds., 1993.).
28. SEN, *supra* note 31 at 126.
29. *Id.* at 127. Kerala is the site of *THE GOD OF SMALL THINGS*, *supra* note 25.

WORKSHOP DRAFT:
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30. Tzannatos, *supra* note 5.
31. See MARILYN WARING, *IF WOMEN COUNTED: A NEW FEMINIST ECONOMICS* (1988).
32. According to the United Nations, women's wages are less than those of men in 37 countries for which data are available. Mehra & Gammage, *supra* note 4 at 545.
33. OAS, *REPORT OF THE INTER-AMERICAN COMMISSION ON THE STATUS OF WOMEN IN THE AMERICAS 28-9* (1998) [hereinafter *STATUS OF WOMEN IN THE AMERICAS*].
34. Tzannatos, *supra* note 1 at 552.
35. *STATUS OF WOMEN IN THE AMERICAS*, *supra* note 40 at 28-29.
36. *Id.*
44. Guy Standing, *Global Feminization Through Flexible Labor: A Theme Revisited* in 27 *WORLD DEVELOP.* 583, 584, 587 (1999).
38. Martha Chen et al., *Counting the Invisible Workforce: The Case of Home-Based Workers* in 27 *WORLD DEVELOP.* 603, 604 (1999).
39. Mehra & Gammage, *supra* note 4 at 542.
40. *Id.*
41. Chen et al., *supra* note 45 at 603.
42. Mehra & Gammage, *supra* note 4 at 535.
43. SASKIA SASSEN, *LOSING CONTROL? SOVEREIGNTY IN AN AGE OF GLOBALIZATION* 11 (1996).
44. Mehra & Gammage, *supra* note 4 at 541.
45. Mehra & Gammage, *supra* note 4 at 539.
46. *Id.* (noting extensive literature developed over the past 20 years documenting difficulties faced by women farmers).
47. *Id.*
48. *Id.* at 534.
49. Standing, *supra* note 44.

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50. Tzannatos, *supra* note 4 at 567.

51. The WLN was founded in 1996 to promote the integration of gender perspectives into APEC (Asia Pacific Economic Cooperation). Declaration and Recommendations at Kuala Lumpur, Malaysia, Sept. 1-2, 1998. <www.unifem.undp.org/trade/rec7.htm>. *Id.*

52. Mehra & Gammage, *supra* note 4 at 537.