

Cultural Relativist and Feminist Critiques of International Human Rights – Friends or Foes?*

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This conference paper aims to generate workshop discussion about the similarities between two critiques of international human rights – those made by cultural relativists, on the one hand, and by feminists, on the other. The broad contours of these critiques will emerge in the ensuing discussion and I therefore propose the following initial brief description.

By the cultural relativist critique, I mean the critique which is made of the claim that human rights are universal, that is, that human rights are those held simply by virtue of being human and whose substance, form and interpretation are not subject to variations in culture (Donnelly 1989: 109-110). Cultural relativism consists in the rejection of this claim, contending instead that the source of human rights is culture, and since cultures are diverse, so too are the (non-universal) human rights which they dictate.¹

The feminist critique of human rights argues that, in practice, those who hold human rights are men and not women, and that gender equality, and freedom from discrimination for women, is given a low priority in the international arena.²

This paper will describe how these two critiques have come to oppose each other in the realm of women's international human rights. Section 1 consists of an exposition of cultural relativist arguments made in the field of women's human rights, by way of description of the site of intersection and disagreement between the feminist and relativist critiques. This section also suggests that cultural relativism seems to have a negative effect on the realization and enforcement of women's human rights, which fact goes towards explaining the feminist difficulties with relativism, which, in turn, may partly account for the relativist wariness of feminism. The apparent tensions, however, between the feminist and cultural relativist criticisms of the hegemonic ideology of human rights and, in consequence, of each other's respective positions, is, I shall suggest in Section 2, unfortunate and indeed unnecessary, in that important similarities exist between them. The parallels thus noted between the two branches of critique suggest the possibility that they might operate together, rather than in opposition to one another, to achieve progress in their respective goals, particularly their apparent concern for the dignity and well-being of women,

including women belonging to cultures which the relativists claim to want to protect (“women of culture”, for want of a better abbreviation). In Section 3, I shall tentatively propose an outline of what I term this “cooperative approach”.

1. Cultural Relativism of Women’s Human Rights

This Section will examine relativist claims made in relation to women’s human rights in the context of United Nation conferences, and those underlying reservations to the Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”)(United Nations 1980). Finally, the obstacle represented by these claims to the protection of women’s human rights is suggested.

1.1 United Nations Conferences

Women’s rights have been the focus of two conferences held this decade, the forums of which were also appropriated as sites for the making of cultural relativist contentions.

The International Conference on Population and Development held in Cairo in September 1994 was dominated by an opposition between the universality and relativity camps, and the relevance of gender in this debate came to the fore. Family planning and population control were at issue at the conference, and the fundamental question of women’s rights to control their bodies, free from the constraints of others, whether they be the community or family members, was debated. The claims of relativists clearly appear in the report of the Conference itself in the form of oral and written declarations reserving on certain crucial passages (United Nations 1994: 135-151). The reservations were predominantly motivated by religious objections (based in Islam and Catholicism) to abortion and family planning services. The spirit of the reservations is summarized in the statement of the Holy See (Vatican) which described its “intention...to associate itself with [the] consensus [of the international community approving the conference document] in a partial manner compatible with its own position, without hindering the consensus among other nations, but also without prejudicing its own position with regard to some sections” of the final document (United Nations 1994: 147). The reservations were of a varied nature, ranging from the explicit and detailed, such as that entered by the Holy See (United Nations 1994: 146-9), to those which made sweeping reference to *Shariah* (Islamic) Law as setting the boundary of the reserving country’s participation in the consensus, as in the reservation of Kuwait (United Nations 1994: 138). Some reservations, such as that entered by Libya, took the opportunity to scold the international community for engaging in some form of cultural imperialism: “no country, no civilization has the right to impose its political, economic and social orientations on any other people” (United Nations 1994: 139).

This represented the perfect arena for a cross-cultural coalition against certain women's rights championed as autonomy rights, in which "countries"³ with cultures as varied as that of the Holy See and Libya could form part of the same group.

This cultural relativist alliance was reproduced at the Fourth World Conference on Women (Bohlen 1995: 5), held in Beijing in September 1995, in which culture-based reservations were appended to the Conference's final document (United Nations 1996: §V). Similar patterns can be detected in that the bulk of the reservations seem to refer to religion, be it Islam or Catholicism, and broadly relate to similar rights as those contested in Cairo. On a positive note, some countries which reserved in Cairo failed to do so in Beijing, as is the case, for instance, of Brunei, Jordan, Syria, the United Arab Emirates and Yemen. There are, however, negative conclusions to be drawn from the comparison, emanating from the fact that the number of reservations increased between the two conferences, that some countries, such as the Dominican Republic and Malta, simply reiterated their Cairo reservations, that some countries, such as Egypt, filed more expansive reservations relating to religious values, and that others, such as Iraq, Malaysia and Morocco, added reservations pertaining to *Shariah* or, as in the case of Tunisia, to fundamental laws.

1.2 Reservations to CEDAW

Cultural relativism in reservations to CEDAW⁴ can be distinguished from that detailed above by the simple fact that resistance comes *after* consent - via ratification of the Convention - to work towards the goal of elimination of gender discrimination.⁵ The purpose, however, is the same - to exempt the reserving state from having to comply with part of a document, be it a binding international human rights instrument or a document approved by a consensus of delegates to world conferences.

The resistance here is of a varied nature but is essentially rooted in religious law and customary practices (Rehof 1993: 253-281). Thus, some countries, such as Egypt, Iraq and Libya, filed reservations based on *Shariah* Law, while others, such as Tunisia and Jordan, referred, in their reservations, to domestic laws which themselves incorporate religious laws. Some reservations, such as that of Egypt to CEDAW's article 2, are drawn in broad terms whereas others, such as Egypt's reservation to article 16, are more specific and informative. Some, such as that made by Libya, are made with reference to the whole of the Convention, whereas others are drawn in terms which relate back to specific provisions, as in the case of Egypt's reservations. The unifying theme is the desire to be seen to make a commitment to the elimination of discrimination against women while, in substance, omitting the term "all forms" (of discrimination) from the title of the Convention, on the grounds of culture and religion.

Having outlined cultural relativity in the field of women's international human rights, I shall now turn to consider the degree to which this presents an obstacle to the enforcement of these rights.

1.3 Relativism as an Obstacle to the Protection of Women's Human Rights

Both arenas of cultural resistance noted above result in weaker enforcement of women's human rights. To expose the extent of this obstacle, one should distinguish between hindrance of the rights of women who are citizens of reserving states and those who are not. For both sets of women, the fact of cultural resistance indicates the emergence of a deadlock in international negotiations concerning women's rights which detracts from a maximized consideration of the substance of those rights. For the women whose countries have filed reservations, the fact of cultural relativism effectively enables violations of those rights touched by the reservation to be carried out with impunity, or so it must seem from the perspective of the international consensus. However, as I shall now discuss, even as concerns the rest of the world's women, the fact of reservations by countries other than their own may be of relevance to their rights.

In relation to documents agreed at international conferences, although these are not – in contrast to Conventions, such as CEDAW – binding, the fact and nature of the consensus of the international community, and the degree of reservations to it, will affect the practical force of the documents themselves. A consensus, reached solely by way of bracketing the universality of women's human rights, will be weakened. Thus, if non-reserving countries see that reserving countries can get away with not respecting a given right, the former will be less shameful of having agreed to something which may no longer, at the practical level, be desirable to be put into effect.

CEDAW reservations also affect women from non-reserving states in that the integrity of the Convention is inferior to that of instruments in relation to which no or fewer reservations are entered (Clark 1991). CEDAW is one of the instruments most severely plagued by the reservation phenomenon, and it may be no surprise that the Convention is also one which seems to suffer disproportionate difficulties in terms of its enforcement.⁶

On a more pragmatic note, however, it must be conceded that to enter the international human rights forum with reservations is better than not to enter it at all. Reservations are, as it were, the lesser of two evils if they are truly a condition for a reserving state to enable a consensus to be formed at an international conference or to ratify a human rights convention.⁷

Having suggested that cultural relativism poses a serious obstacle to the enforcement of women's rights, most clearly as regards the rights of women from reserving countries but also of those from non-reserving ones, the remainder of this paper will concentrate on ways to clear this hurdle. Similarities between cultural relativist and feminist critiques will be explored in the next Section, as a basis for arguing for the cooperative approach proposed in Section 3.

2. Comparing the Cultural Relativist and Feminist Critiques of Human Rights

This Section will discuss three broad areas in which similarities can be detected between the feminist and cultural relativist critiques of human rights: their

respective difficulties with the claim to the universality of human rights; the potential which each has for being the vehicle for often hidden, political agendas which bear little or no relation to the apparent substance of their respective critiques; and the vulnerability of both critiques to the charge that they erroneously settle upon a set of essential characteristics belonging to gender or culture, as the case may be, to the exclusion of other aspects of the identities of those whom each claims to represent.

2.1 Difficulties with the Hegemonic Claim to Universality

Both the feminist and cultural relativist critiques of human rights highlight the emptiness of the claim that human rights are universal (Bunting 1993; Kandiyoti 1995: 19; and An-Na'im 1994: 171-2). They differ, however, in the sense that feminists do not dispute the theory of universality, but merely its translation into practice; relativists, on the other hand, dispute both the theory and practice.

1. Feminists argue that universality has not been realized in practice, that only men's rights are protected and that women have not yet been included in the "human" of human rights. The argument is well represented in unifying campaign slogans such as "Women's Rights as Human Rights" and variations on the same theme. If human rights really are to be universal, claim feminists, women's rights must also be guaranteed and the failure of the international community to do so, attacks the universal foundation of such rights.

2. Cultural relativists, for their part, echo these claims in their contention that existing catalogues of international human rights are imbued with a culture which is specific to the ideologies of certain regions, peoples and/or religions which are said to occupy, or have occupied, a dominant position in the international community. Human rights are seen as a modern form of imperialism, with "Western",⁸ principally North American and European, countries seeking to impose their particular view of society on the rest of the world, in much the same way as colonial powers in former times (Kandiyoti 1995:20-21).

3. The parallels between the two critiques are notable: just as, in the feminist version, human rights are made in the image of man, so too, from the perspective of cultural relativists, are they made in the image of the West; just as the hegemonic claim to universality serves to mask the male perspective of, and the benefit which men derive from, human rights, so too does it obfuscate the distinct ideology of the West with which human rights are imbued (*cf.* Kim 1993: 61). Thus, with different emphases, both sets of resistance argue that human rights are written so as to give priority to a certain type of social relations. Human rights result in the exclusion of alternative conceptions of society and the marginalization of those whose life situations do not or cannot fit the prescribed mold.

4. However, the relativist critique goes beyond the feminist to the extent that relativists, at least in their more radical manifestations (Donnelly 1989: 109), dismiss the possibility of universal norms, and reject the quest for universality. Feminists, to the contrary, strive towards the ideal of universality and, far from

giving up on the idea of it, base many of their arguments on the gap between the theory and practice of universality in the realm of women's rights. It is out of this last difference, as we shall see in Section 3.2, and the areas discussed in Sections 2.2 and 2.3 that the antagonism between the two critiques develops - that difference emerges, as it were, from a degree of sameness.

2.2 Hidden Politics

Both critiques have the potential for being appropriated to serve goals superficially unrelated to the apparent objectives to which their respective resistances are directed.

1. The manifest purpose of the feminist critique of human rights is the attainment of equality and the elimination of all forms of discrimination against women. However, according to some, notably cultural relativists, behind this argument lies a host of hidden agendas, ranging from the imperialistic, 'Islamophobic', to those which (otherwise) serve the national interests of states allied with the feminist cause (Mayer 1995a: 184). It is claimed either that feminists themselves embrace these agendas, as imperialists (Kim 1993: 43, 60) or 'Islamophobes', or that their critique is being appropriated by unlikely bedfellows, namely states which do not otherwise much care about gender inequality and discrimination against women, but are using these 'easy' targets as a front for other motives, such as attacks against states with whom they have antagonistic international relations on other grounds.⁹

2. In relation to the cultural relativist critique, a similar tendency can be detected. The apparent motive for making cultural relativist arguments is to elicit respect for, and to protect, the diversity of cultures, religions and fundamental values. The argument is that Western, individualistic perspectives on equality cannot be demonstrated to be superior to other systems based, say, on the complementarity of gender roles. This is the rationale to be found, for example, in the equality *versus* equity debate which came to the fore in negotiations in Beijing (Tempest 1995) and, for instance, in the language of a number of the reservations both to CEDAW (e.g. Egypt's reservation to article 16) and to U.N. conference documents (e.g. the Holy See's reservation in Beijing). However, beyond this rhetoric, argue some, principally feminists, is a hidden agenda in which objectives other than the promotion of the dignity of women are being pursued.

Firstly, relativism, far from being sympathetic to the well-being of women, is deeply antithetical to it, the objective of the cultural reservations being precisely to maintain the status quo of male dominance and gender discrimination (Mayer 1995a and b; Hernández-Truyol 1996: 660; Halim 1994: 407-410). Thus, it is highlighted that relativists choose to focus preponderantly on gender relations, whereas changes in other areas, such as trade and commerce, are deemed acceptable, notwithstanding that they may conflict with religious or customary precepts prevailing at the time of change (Kandiyoti 1995: 20; Halim 1994: 408-9).

Secondly, and in a somewhat less antagonistic vein which does not involve the claim that relativists are *necessarily* sexist, feminists posit that relativism appears in the realm of women's rights by way of a knee-jerk reaction against the West and its perceived imperialism (Halim 1994: 411). Cultural relativists fail to go beyond the perception that 'others' are trying to colonize 'their' culture, to consider the substantive gender issues in question.

Finally, studies have shown how certain countries, and/or movements operating within them, have used gender relations and the status of women to further political, be they nationalist or religious, goals (Moghadam 1994; Jayawardena 1986; Davies 1983). Here, the focus is not on women except as a means to an apparently unconnected political end.¹⁰

3. In sum, both critiques are accused of either or both of the following acts: first, of being antagonistic to the goals of the other critique. Thus, cultural relativists see feminist imperialists and feminists, sexist relativists. Secondly, the struggles of both camps are seen to have been appropriated by surprising partners: feminists are allied with sexist imperialists, and cultural relativists are seen to comprise a "hypocritical" (Mayer 1995b) alliance between mutually non-respecting cultures, as in the collaboration, for the purposes of the Cairo and Beijing conferences, between, say, the Christian and Islamic "fundamentalists" who would, in another context, be in an adversarial relationship with one another.

2.3 Essentialism

Both the feminist and cultural relativist critiques are seen to be guilty of essentializing that which they claim to protect - namely, women or culture, as the case may be - at the expense of a more holistic and heterogeneous vision which is inclusive of the multifaceted identities of "women of culture". They each are said to adopt an 'either/or' approach, failing to admit the significance of both gender and culture within the ambit of their respective critiques and, especially, in the identity of the "woman of culture". Here, again, the bulk of the criticisms directed at each set of critique emanates from the other - cultural relativists accusing feminists of essentialism, and feminists, cultural relativists.

1. Cultural relativism is said to be essentialist in that it depicts culture as a monolithic and readily recognizable entity (Mayer 1995b), often as a unitary system, as in one African tradition (Winter 1994: 955) or one notion of Islam. Culture is represented as something which is incapable of alteration to keep apace of changing circumstances and is seen as being impervious to the influence of globalization. To make reservations based on culture indicates a reluctance in principle to consider the possibility of progressive reform and thereby suggests that culture is being used blindly to maintain the status quo. Indeed, given the arguments detailed above that this serves to perpetuate male interests, some have been drawn to question whose version of culture is being protected (*cf.* Kim 1993: 87-104). There are instances of feminists within reserving states voicing objections to the portrayal of culture evinced by the reserva-

tions and arguing for internal reform in line, broadly, with the very rights touched by the reservations (Mayer 1995b). What voice is given to these women in the description of what culture is? Does not the essentialist portrayal of culture by relativists exclude its performance and understanding by women who are, by virtue of the drawing of state boundaries, imprisoned in the 'official' depiction of, and the male perspective on, the culture in question (Mayer 1995a: 181)?

2. Feminists, for their part, are accused, principally by cultural relativists, of having a particular type of woman in mind in their consideration of women's human rights. The woman who is to have international human rights does not belong to a minority culture and is not deeply religious. She is from the West and a product of Western ideology. She wants the sort of equality and freedom from discrimination which is defined by individualistic rights discourse and strict formal equality, at the expense of a system based on community, complementarity and the like (United Nations 1996: V§11 (Holy See)).

3. In sum, feminists accuse cultural relativists of protecting a male version of culture and cultural relativists see the feminist agenda as being founded on a Western notion of equality. The interrelatedness of these last accusations and those noted in Sections 2.1. and 2.2. are clear and the comparisons revelatory. Recall, for instance, the fact that relativists claim that universality masks a Western perspective on human rights, and for feminists, that it hides a male perspective. However, in the charge of essentialism which each levels against the other, they are accusing each other of committing the very error which each identified in the dominant claim to the universality of human rights. In other words, feminists are said by relativists to be protecting a Western notion of equality, much as universality discourse is seen by them to promote Western ideologies; and relativists are accused by feminists of safeguarding a male notion of culture, just as universality was identified by them as a vehicle for promoting male interests. That is, that in their respective critiques of the dominant discourse, rather than progressing beyond its failings, each is said to be perpetuating them.

4. At this juncture, I must confess to an unfortunate brevity, itself verging on the essentialist, in my depiction of the two critiques. However, I offer the following two explanations: first, for the sake of clarity and simplicity of exposition in this restricted space, and given that the focus of this paper is on the point of *intersection* between the two critiques, I have come to limit my description of them. Secondly, the act of limiting my exposition has been governed by the desire accurately to reflect the voice which emerges as dominant within each critique.¹¹ This is not to say, however, that there are no subdued and sometimes silent voices within one critique which may be sympathetic to the views espoused by the 'other' (Mayer 1995a: 180; Mahoney 1996: 829-837)¹². Indeed, part of the project of this paper is to think of ways in which to enable those voices to be heard, and it is to this end that I propose the following cooperative approach.

3. Towards a Cooperative Approach

In this concluding Section, I shall draw upon the findings of the foregoing Section to signal some of the lessons which should be learnt so as to ameliorate the relationship between the two sets of critique and, therefore, to assist the enforcement of women's human rights, especially those of "women of culture". I shall broadly outline a cooperative approach which is suggested by the comparisons of the previous Section.¹³

The approach I favour is one in which feminists and relativists work alongside each other and, rather than viewing each other as enemies, take serious account both of the substance of their respective critiques of human rights, and of the potential effect which their policies might have both on the 'other' critique and on "women of culture".

At worst, given the enormity of the gulf between feminists and cultural relativists, this project may seem naïve; at best, however, it is a pragmatic and strategic proposal which ought to be tried and tested before being abandoned as unrealistically optimistic.

There are two facets to this approach, the substantive and strategic.

1. I propose that feminists and relativists take each other's standpoints more seriously and respect each other's positions. The argument that I would make in favour of this approach rests on the uncanny similarities which exists between them. First, they attack the same targets, namely the dominant position within the international community, and especially the universality rhetoric which it espouses. Second, they employ the same arguments against each other, namely, as we have seen, the charge of essentialism and of furthering hidden agendas. Finally, they are both, although to differing degrees, emphasizing the same essential value, which is respect for difference, be it based on sex¹⁴ or culture.

Clearly, there are a number of differences between the feminist and relativist camps which this paper has ignored in the desire to make the case for the cooperative approach more forcefully and simply. I would argue, however, that these differences should be considered *within* the framework of the cooperative approach advanced in this paper. In what follows, I shall hint at ways in which any remaining conflicts between the two camps might be resolved in this way.

2. Turning to the pragmatic aspect of the cooperative approach, since my concern is for the enforcement of women's human rights, my focus here will be on the feminist critique, given that it most obviously shares this concern. I shall argue that feminists have reason to take account of relativist positions when devising their strategies, if they are to be mindful of the potential for a relativist backlash.

This potential is considerable and I shall take the case of feminist campaigns centring on universality as an example. "Mainstreaming", a policy advanced by feminists in recent times, founded on slogans of universality of human rights, seeks to ensure that women's rights are placed within the mainstream of human rights by the international community and not, as seems to be the

case, on the periphery, relegated to specialized institutions, with inferior funding and enforcement powers than the core human rights institutions (Bunch 1990 and 1995; Friedman 1995: 27-31).¹⁵ The result of the campaign, however, was costly for talk of universality could only strengthen the relativist opposition to women's human rights and the feminist goal of universality (see 2.1). In real terms, in relation to the document produced at the Vienna Conference on Human Rights of 1993 – the prime testing ground for the mainstreaming campaign, given the conference's focus on human rights generally – the aims of the campaign may have been frustrated for, far from being imbued with a gender-conscious perspective throughout, the document merely (although an achievement in itself) devoted discrete sections to women's rights (Sullivan 1994). In other words, the cost of the relativist backlash may have outweighed the benefits gained from adopting the universality rhetoric. Although this rhetoric clearly ought to have resonance for the dominant grouping in the international community with its favour for universality, in practice it seems to have failed to produce the kind of gains which would justify the negative impacts the campaign may have generated in the form of a relativist retort. Indeed, universality may be a misguided slogan for feminists on another ground for it can be used in a modifying sense by relativists to limit women's human rights, such that only those rights which are accepted by *all* cultures, religions or traditions are fit for the label 'universal' (Hernandez-Truyol 1996: 654n.196). Had those struggling for women's rights enforcement adopted the cooperative approach and sensitized their campaigns in light of the relativist position, I believe that the cost-benefit analysis might have been more positive. Thus, if the campaigns were to avoid the notion of universality and argue, instead, for the substantive results of mainstreaming, and highlight the fact that their claims are not primarily being made in response to those of relativists against universality, perhaps the relativist backlash would abate.¹⁶

Another example of the lack of sensitivity to the relativist position is found in the overtures of the CEDAW Committee (the body charged with CEDAW's enforcement) towards the reservations made by Islamic states to the Convention. The Committee proposed that a study be effected of how Islamic law affects women's rights under CEDAW. This was a reasonable and valid proposal given the number of reservations which refer to *Shariah* and the fact that the general language in which a number of them are written prevents the Committee from appreciating the exact boundary between matters covered by the reservation – and therefore beyond the Committee's purview – and those not. However, the Committee was forced to abandon the project and retreat with an air of embarrassment having had accusations of imperialism leveled against it (Bayefsky 1994: 352-3; Mayer 1995a: 178; Clark 1991: 287-8). Had the Committee taken account of the relativists' sensitivities, particularly as perceived victims of 'Islamophobia', perhaps a different outcome would have been yielded in which the serious problems posed by the reservations might have been more fruitfully addressed.¹⁷

3. For consistency and a degree of completeness, I shall venture to suggest how the strategic element of the cooperative approach might translate into

practice in relation to the aims of cultural relativists. I believe relativists should actively seek endorsement of their policies by women. The choice, for instance, of Professor Mary-Ann Glendon, a Harvard law professor who has worked closely on family law (Glendon 1977, 1987 and 1989), as the chief delegate of the Holy See at the Beijing Conference, is a strategic move, of the type I have in mind, to encourage the dialogue between the relativist and feminist camps (Butterfield 1995). Indeed, a comparison of the draft and final form of the wording of the crucial paragraph 9 of the Beijing document (setting out the Conference's objectives) suggests that a degree of compromise was in fact reached between relativism and universality of women's rights. The draft version was replete with brackets around words such as "respect for the various [religious and ethical values, cultural background and philosophical convictions of ... people]" and "[universal]" (United Nations 1995b: 11) (original brackets), indicating disagreement over these central issues. Although the final version omits all reference to universality, it stresses "the full realization of *all* human rights and fundamental freedoms of *all* women". It also argues for "respect for various religious and ethical values" (United Nations 1996: 21-22; emphasis added).¹⁸

Furthermore, if relativists can show that "women of culture" have been given the opportunity significantly¹⁹ to reflect upon, and contribute in the process of defining, the extent to which human rights should give way to the demands of their culture, I would argue that any remaining dissatisfactions which feminists might have ought to be considered with caution.

4. Surely it is unacceptable to force a choice upon "women of culture" between siding with the feminist and relativist critiques, that is, either to give priority to their culture or to their gender. Both critiques need to work alongside each other, by first examining their respective tendencies towards essentialism and ensuring that they are not serving any hidden agendas unrelated to the goals of gender equality or respect for the diversity of cultures (as the case may be), in order then to proceed with a multidimensional, respectful, and sensitive approach which promotes the dignity of the "woman of culture" and gives voice to her multifaceted identity. As things stand, neither can really stake the claim to speak on her behalf before the international community, be it in the name of gender equality, or of cultural diversity.

Notes

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1. *See generally*, for doctrinal works, Coomaraswamy 1994; Donnelly 1989, 109-124; Mayer 1995a; Renteln 1990; for cross-cultural works, An-Na'im 1992a; Baehr 1996; Pollis 1980; and for feminist cross-cultural works, Cook 1994; Peters 1995: 51-100.

2. *See generally* Bunch 1990 and 1995; Burrows 1986; Byrnes 1992; Charlesworth 1991; Cook 1994; Dallmeyer 1993; Engle

1992; Peters 1995; Pietilä 1994; Symposia 1981 and 1996.

3. The inverted commas indicate the vexed status of the Holy See in the international community.

4. *See generally* Clark 1991; Cook 1990; Jenefsky 1991; Lijnzaad 1995: 298-370; Rehof 1993; Venkatraman 1995.

5. However, all States within the UN system have undertaken not to discriminate on the basis of sex under United Nations 1945: art. 1.3 and United Nations 1948: arts. 2 and 7.

6. There are many factors which result in the inadequate enforcement of, and inferior respect given to, CEDAW, some of which may be unrelated to its reservations. *See generally* Byrnes 1989 and 1994; Coliver 1989; Galey 1984; Holt 1991.

7. *See* Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide Case, 1951 ICJ Rep. 15 (Adv. Op. 28 May) and the authors cited in note 4.

8. The inverted commas serve to question the existence of a homogenous Western culture. *See* Bunting 1993: 9 (many in the West are critical of liberal individualism and Enlightenment universalism reflected in human rights).

9. Compare studies in post-colonialism highlighting the use by colonisers of colonised women to paint an inferior picture of colonised society. *See* Shaheed 1994; Kandiyoti 1995: 20-1. *See also* Nesiah 1993: 193 n14 (forced sterilization policies cynically use rhetoric about women's rights).

10. *But see* Freeman 1993: 14.

11. *But see* Nesiah 1993: 191n.10.

12. For examples of feminist scholarship centered on engaging with these voices, *see, e.g.*, Engle 1992b and Nesiah 1993.

13. *Cf.* An-Na'im 1992b and 1994; Halim 1994: 419; Mahoney 1996.

14. The vexed sameness/difference debate within feminist literature exceeds the confines of this paper. *See generally* Becker 1994 (for references).

15. *See also* the authorities cited in note 6.

16. Note, however, that feminists may be responding to the low premium placed by the international community on women's rights, which itself may explain why relativ-

ism has been tolerated, and therefore allowed to become an obstacle, in the realm of women's rights.

17. The Committee has now settled upon an alternative mechanism for dealing with reservations, through the reporting procedure under CEDAW. *See* IWRAW 1996: 59-60. Of course, the advantages of a comprehensive survey initially advocated by the Committee are the comparisons between different embodiments of Islam and the leverage these give to women. *See* Shaheed 1994.

18. Although this paragraph reproduces part of the wording in the Vienna conference document, which paradoxically refers *both* to the universality of "all human rights" and "the significance of...cultural and religious backgrounds" (United Nations 1995: 30), it is significant to note that references to "universality" were omitted in Beijing.

19. *See* Rao 1995.

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