The object of "Rights" : third world women and the production of global human rights discourse

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The Object of “Rights”: Third World Women and the Production of Global Human Rights Discourse

A dissertation submitted in partial satisfaction of the requirements for the degree of
Doctor of Philosophy
in
Ethnic Studies

by
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The dissertation of Julietta Y. Hua is approved, and it is acceptable in quality and form for publication on microfilm:

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ABSTRACT OF THE DISSERTATION

The Object of “Rights”: Third World Women and the Production of Global Human Rights Discourse

by

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The US “women’s rights as human rights” doctrine continues to represent campaigns for international women’s rights through the stories and images of Asian, African, and Latin American women. As both the idea of global human rights, and the place of women within the context of international human rights discourse become more powerful in framing a U.S. national identity, it seems that only certain issues (located in Other places that are always assumed to be “behind”) come to define the US women’s human rights campaign.

Even while human rights and feminist literatures recognize the fallacy of assuming a “western gaze” in evaluating Other people and places, the reality of
the representation of women’s human rights issues, asylum law, and US governmental aid for victims of violations continue to place Third World women in a double-bind, where she must argue her own backward-ness in order to garner aid. This dissertation asks, “Why and how do certain issues become synonymous with ‘women’s human rights’ while others do not? What is the role of liberal feminist discourses in articulating what and who constitutes human rights? How and why do the women of ‘Other’ places become the central ‘victims’ of human rights violation?”

This dissertation examines three case studies – the representation of Southeast Asian women victim to sex trafficking as hapless “victim,” the signification of the woman/girl “victim” to China’s One Child Per Couple policy as trapped by her “traditional” cultural conditions, and the casting of Muslim women “victim” to Islamic cultural laws as needing to be “saved” in order to protect the idea of a global democracy. The analysis engages with the politics of identity, particularly in terms of how the “logic of exclusion” works to inform the US feminist mobilization around the issues identified as women’s human rights violations. Each case study outlines the ideological processes at work in defining who constitutes the “victim” of women’s human rights violations – that is, the discursive effects that allow the US to imagine itself as having progressed beyond the problems of patriarchy and racism.
I. Speaking to Difference: Reconciling Other’s Human Rights and Tracing Modern Power

Iran did nothing to welcome her [Homa] or to appreciate her. She was mired in a society that placed little value on the rights of women. No matter what she did or who she became in Iran, she was destined to always be no more than a woman in a country in which being a woman meant little. Throughout her life, she fought to change the inequities and reverse the injustices faced by all people in Iran. In the end, however, obstacles proved too powerful for her to overcome. Those obstacles took the form of a husband that seemed apathetic to his wife, a government that treated her with disrespect, and a combination of influences that affected her life from the day she was born until the day she died.
– Parvin Darabi (1999, 16)

In 1999, Parvin Darabi and Romin Thomson published their book Rage Against the Veil: The Courageous Life and Death of an Islamic Dissident. The book chronicles the life of the co-author’s sister, Dr. Homa Darabi, who tragically set herself on fire in a suburb of Tehran out of frustration with the government and culture of Iran that continued to deny her. For Parvin Darabi the death is explained as a culmination of her sister’s frustration with a repressive Iranian government. The text serves to critique the Iranian government and culture of Islam as inattentive to concerns of gender equality, often contrasting Parvin’s very different life in the US with that of her sister’s in Iran. I use Darabi’s text here as an emblematic example evidencing the various contradictions and tensions informing the discourse of women’s human rights.

Darabi’s text can easily be read as an example of human rights violations in the Middle East even if other Iranian women claim that they live fulfilling lives and incidents such as Homa’s are rare. Even while Darabi’s experiences provide valid demonstration of the mistreatment of humans, the fact that the text
can also be read as a proof of Islamic “primitivism” and “backwardness” is what I find troubling. While the violence suffered by women like Dr. Homa Darabi cannot and should not be denied, the issue of how to articulate concerns regarding the violation of human rights without reifying the privilege of the “western gaze” and without (re)producing orientalist knowledges has continued to plague the consciousness of women’s studies scholarship in the US. As US transnational feminist Caren Kaplan argues, certain “globalized feminist discourses” generate a kind of “cosmopolitanism … that produces and recuperates forms of orientalism, old and new” (2001, 220). For example, the fact that many Islamic governments codify practices that are taken as unfair for women in the US cannot be separated from the history of US political investment in many Islamic states for oil – a context that informs and is informed by the representation of certain cases of injustice as more important than others in the push for the human rights of women.¹ Thus, even in the case of Dr. Homa Darabi, where the atrocities she and her sister suffered are told by Parvin Darabi in her words, concern about the effect of her words in affirming ideas of US orientalism – that is, affirming the idea of a repressive and backward Iran – remain.

This dissertation addresses this general concern of how to negotiate the realities of violence perpetrated against women around the globe with the

¹Indeed, as Melani McAlister’s (2001) work reveals, “cultural and political encounters have made the Middle East matter to Americans.”
discursive effects of modern/(neo)colonial² knowledges that continue to cast certain global subjects as “logical” victims of human rights. The discourse of women’s human rights seems to be confronted with what Gayatri Chakravorty Spivak (1999), identifies as the impossible position of the “native informant.” Impossible because the very act of articulating the “native” renders her a subject-effect; that is, the very act of articulation already circumscribes her as the Other of the modern subject and an effect of (post)colonial knowledge.

Indeed, representation of the “native,” the Third World woman, or the Other does not automatically remedy the privileging of whiteness and male-ness constitutive of modern knowledge and subjectivity. Because representation is never a transparent process, even when the Other speaks to represent herself, the solution of speech to the problem of western privilege³ neither eradicates, nor addresses a more fundamental problem of the productive role of women’s human rights and globalized feminist discourses in constituting the Othered female subject.

² I use Walter Mignolo’s definition of modernity/coloniality, where “modern ways of knowing and being” refers to the various configurations of modernity/coloniality. Mignolo explains that, “coloniality … is the hidden face of modernity and its very condition of possibility” (2002, 158). Thus, while terms like orientalist and imperialist describe specific articulations of the inequities resulting from the emergence of a modern/colonial world, I take them as similar in that they are modern signifiers. And while some might argue that my description of the privileging of a “western gaze” in US articulations of women’s human rights is not necessarily (neo)colonial, I describe it as such precisely because, “the colonization of the Americas in the 16th and 17th centuries, and of Africa and Asia in the 19th and early 20th centuries, consolidated an idea of the West: a geopolitical image that exhibits chronological movement” – an image of the West that is narrated in one moment that locates modernity/coloniality in a post-Cold War world dominated by US neoliberalism (Mignolo 2002, 158).

³ I use “western privilege” as a signifier of the privileging of modern forms of being and knowing – a fundamental privileging of liberal conceptions of human rights and civil society that simply hopes to (re)produce the Other as another/different subject (one who is included as more than a subject-effect) within the context of international law, but whose inclusion fails to question the operations of power circumscribing her subject-formation.
Bringing together gender studies, ethnic studies, human rights, and global justice literatures, I argue that the consolidation of certain “feminist concerns” into US human rights policy signals the importance of a “new” multicultural rhetoric, one constituted through the idea of the centrality of women’s issues as global. Indeed, as Inderpal Grewal argues, the rise of neoliberalism in the context of the 1990s and turn of the millennium have deployed discourses of human rights and global citizenship to construct “‘American’ feminists as saviors and rescuers of ‘oppressed women’ elsewhere within a ‘global’ economy run by a few powerful states” (2005, 152). The project to include and extend liberal citizenship to women has indeed produced (women’s) human rights discourse as the site imagined to be the global equalizer, functioning in similar ways to the rhetoric of multiculturalism in the US, which argued for the inclusion of diversity in a manner that did not challenge structural inequalities. The rising importance of this global multicultural rhetoric, one that places the diversity and difference of women at the forefront, situates the US as the global leader of the new millennium, precisely because the “politics of difference” out of which the multicultural rhetoric emerges locates its origins in the legacy of the victories of the US Civil Rights Movements. I ask, why is it that even though we “know better” than to make universal claims, assume a Euro-centric perspective and cast the Other as perpetually more oppressed, that we nonetheless position Third World women
victims of human rights violations such that their figuration serves to reify imperialist, (neo)colonial, orientalist assumptions?

Furthermore, I argue that the inclusion of the Third World woman as the global subject who initiates us into a “new” era beyond the problems of modernity simply hides the fact that the processes of subject-formation that enable her are one and the same to that which (formerly) excluded her. While Michael Hardt and Antonio Negri (2000), and others note that the 1990s and the turn of the millennium mark a change in the ordering of the world (in part through globalization) – past colonial relations enabling an Empire ruled by a new, global juridical formation – I contend that this “new” globe simply (re)imagines “modern sovereignty” through the inclusion of a re-imagined modern (this time, Othered) subject.4 In other words, this new global juridical formation is not new insomuch as its logic and ordering depends upon an “old” investment in modern Subject(s), expressing what Walter Mignolo (2002) notes as a (re)configuration of “modernity/coloniality.”5 I examine the “logic of exclusion” – that is, the understanding that the problem of the difference of Others is their exclusion – and argue that it is the crux of modern processes of subject-formation. I locate the operation of the “logic of exclusion” within feminist discourse because the woman, and in particular the Third World

4 I use Hardt and Negri’s assertion of a changing context for understanding the globe at the turn of the millennium. However, I depart from the way in which they situate this changing context within a progressive narrative of the unfolding of capital.
5 Mignolo (2002) traces particular macro-narratives that emerge out of the image of the “West” consolidated through coloniality, and similarly, I locate the “new” global configurations marking the turn of the millennium within an “old” narrative of the (re)emergence of the modern/colonial world.
woman, signified through feminist discourse is the subject of US women’s
human rights.

I examine how feminist and women’s human rights discourses privilege
a modern ontology for understanding Woman because the result of this has been
the central figuration of Woman to the idea of a “new” global juridical order.
“Globalized feminist discourses” (Kaplan 2001) – discourses that engage with
the issue of gender power within a global or extra-national context – have
become central pillars marking the advancements of the new multicultural
millennium. I expand upon the compelling work of Grewal (2005) and Kaplan
(1996) that examines how (neo)colonial discourse is reproduced through the
championing of a global, multicultural feminism. It seems that the celebration
of the diversity of women’s rights articulated through the success of women’s
human rights discourse only hides the fact that the new global juridical order is
simply a reconfiguration of modernity/coloniality defined by its supposed
demise. My analysis focuses on US discourses of women’s human rights
because I am interested in how scholarship in US women’s studies fields has
informed the (re)fashioning of the nation as the globe’s leader for diversity.6

Working from scholars like Tani Barlow (2000), Grewal (2005), Minoo
Moallem (2005) and others who bring to the forefront the limitations to human
rights and global feminist discourses, I argue that through the championing of
women’s human rights, the US is able to fashion itself as the global leader of the

6 Avonne Fraser (2001) recognizes the contradictions at work in women’s human rights claims,
however, she argues that the primacy of European and US frameworks for understanding human
rights is the reason for the naturalization of the Othering of Third World women as victims.
21st century. This is enabled precisely because feminist discourse, as it is informed by the “politics of difference” (Young 1990), constitutes itself and its conception of difference through the “socio-historical logic of exclusion” (Silva 2006). Feminist discourse, as it advocates for the recognition of woman as a subject constituted through exclusion (Butler 1992) can be located within the legacy of the “politics of difference” that Iris Marion Young identifies as characterizing the political mobilizations of the 1960s. What Young suggests and Silva (2005, 2006) makes explicit, is that the privileging of inclusion/exclusion as the frame through which to understand difference does not address how Otherness functions to enable the (privileged) modern Subject. It simply takes the Other as an effect of the Subject, and desires to recuperate her as a “pristine” subject – as she existed before/outside the state of modernity. This strategy of recuperation, however, proves problematic because the “pristine” subject is a myth, the Other exists as different and Othered precisely because modern figurations of knowledge constituted her this way, thus making it an impossible enterprise to find her, as Othered, before the operations of modern discourse (Silva 2005).

In the sections that follow, I outline three key theoretical themes through which I analyze US women’s human rights discourse – the “logic of exclusion,” the “transparent ‘I’” or modern subject, and the recuperation of the modern myth. That the “logic of exclusion” constitutes difference as a matter of (prior) exclusion remedied by (present and future) inclusion limits the possibilities of
engaging with the circumscription of those very categories of difference. In the
US women’s human rights discourse, the deployment of Other women’s
difference as a matter of exclusion (from the discourse of rights and law)
forecloses interrogation into the ways the discourse of human rights itself serves
as a productive site of difference – that is, as a site where these very differences
are constituted. If we recognize the limits posed by the “logic of exclusion,” the
fact that the inclusion of the Other does not necessarily remedy the “western
gaze” or (neo)colonial assumptions begs further inquiry into the conditions of
the circumscription of difference. What are those conditions under which
categories of difference are circumscribed? In considering this question, I
outline the “transparent ‘I’” or modern subject as he who, in his claim to self-
determinancy and self-knowing, establishes that which he is not. Furthermore,
consideration of the “transparent ‘I’” leads to a consideration of the Other, with
and against whom the “transparent ‘I’” is constituted. Because the difference
signified through that Other’s body is a difference constituted through the “logic
of exclusion,” and thus a difference that does not question the production of
difference, any claim to universality – to human rights, for example – must
therefore recognize and remedy this (prior) exclusion. Thus, the inclusion of the
Other operates as a recuperative moment – one which recuperates human rights
as a universal principle.

Indeed, the Third World woman signified through US human rights
discourse, even in her inclusion as a global subject, remains in the precarious
place of being “not yet” properly conscious of feminist and human rights because her body ties her to the Otherness against which the “transparent ‘I’” is constituted. As I will illustrate in Chapter III the female “victim” of human rights violations is constituted through the discourse as “not yet” and not-quite the proper feminist/female (white, Euro-American) global subject. Only in Chapter IV, when the most innocent of the female “victims” of women’s human rights violations – the abandoned Chinese baby girl – is brought to the US and stripped of her “bad” cultural ties to China does her signification shift. And, while human rights serves as a site through which the US constitutes itself as a global exemplar and exception, in the case of sex trafficking and the One Child policy, the problem of Other’s violations of women’s human rights do not pose the physical presence of the US as imperative to the salvation of the Other “victims.” Rather, the action of the US legislature and of private citizens is enough to save these Other women. Chapter V, however, considers the case of Muslim particularity as that which not only impedes women’s human rights, but does so in a manner that justifies a physical US (military) presence and action to correct it.

In what follows, I outline three main theoretical themes that not only inform the analysis I perform in Chapters III, IV, and V, but also speak to the stakes of the project. What are at stake are crucial questions about difference that owe homage to the victories of the Civil Rights Movement and the identity politics it enabled. Yet I also recognize identity politics’ legacy of lukewarm
success, a legacy that allows a (neo)colonial “western gaze” to continue to inform the framing of women’s human rights even when Othered women are both recognized and asked to “speak for themselves.” With scholars like Ien Ang and Brett St. Louis (2005), Richard Thompson Ford (2005), and Denise Ferreira da Silva (2005, 2006), I examine the legacy of the Civil Rights and the ways in which this legacy has defined difference.

The “Logic of Exclusion” and the “Politics of Difference

In her work, Young (1990) names the identity politics enabled through the Civil Rights Movement the “politics of difference,” and argues that the “politics of difference” were primarily interested in a critique of assimilationist theories of (eradicating) difference; thus the alternative and “oppositional” framework they built imagined recognition and inclusion of difference (rather than eradication or exclusion) as the political solution. Moreover, for Ford “the politics of difference can be understood as a reaction to the hegemony of integrationism and assimilation, and to their cynical redeployment as limits on racial justice” (2005, 36). However, as Ford cautions, the possibility exists where “the politics of difference threatens to become another hegemony, no less totalizing, no less obsessive, no less myopic than the assimilationist ideal that preceded it” (2005, 36). Indeed, the backlash of identity politics has enabled privileged social groups to claim the same political allowances as less privileged ones, masking relations of power. Heterosexual masculinity can be celebrated for its contributions to difference in the same manner as queer politics; a tactic
that is visible, for instance, in the Christian organizing of the Promise Keepers, where heterosexual masculinity is elevated/celebrated under the guise of multiculturalism and tolerance.

Ford’s cautions are nowhere clearer than in the reification of the (neo)colonial, “western privilege” that defines human rights despite the inclusion of different and culturally particular (Other) subjects. The consolidation of feminist claims regarding the universality of gender experienced differently – marked by the visible inclusion of Third World women and their voices into the global dialogue – also establishes claims regarding the unequal, differential positioning amongst women around the globe as a (seeming) thing of the past. Yet (neo)colonial privilege and the “western gaze” still operate in women’s human rights discourse, both as it is articulated by self-identified feminist scholars of human rights, and through US national rhetoric. The fact that these problematic operations of power still operate to produce women’s human rights discourse is evident in the easy appropriation of (otherwise) progressive language and politics where “it is not uncommon for anti-abortionists like Operation Rescue to use imagery of Martin Luther King, Jr. in their opposition to abortion, even though King was pro-choice” (Ross et al 2002, 152), and where the “success” of the United Nation’s Cairo conference on population control “appears progressive, inspiring a certain [feeling that]… you can be for women’s rights and population control at the same time” (Hartmann
2002, 262). These continued operations of “modernity/coloniality,” however, because they are marked as past, rename the patriarchal oppression faced by Third World women not as an effect of modern/colonial power, but as a fact of their (Other) culture – in fact, an effect of (a culture of) patriarchy. Thus, the universal condition of Woman can still operate as the basis for the global impetus of feminist discourse. After all, if the Third World woman-“victim” is speaking to her own oppressed condition, how can we but accept the oppressiveness of patriarchal cultural practices in the Third World, even if our acceptance reifies (neo)colonial assumptions about Third World difference?

In part maintaining this guise of progress – of a move toward inclusion – is the shifting language of difference. Human rights (now) informed by the knowledges generated out of the “politics of difference,” recognize its past (mistaken) tendency to privilege the “west” – “western” conceptions of rights, of law, of even human. Concepts such as racism and orientalism identify the problem of exclusion, however, because the claims of multiculturalism and women’s human rights assume they have already reconciled the problem of exclusion through a politics of inclusion, the language of culture is key to articulations of difference. For instance, the discourse of human rights in the US

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7 Indeed, as Barlow notes, US financed international feminism “generally leaves unexamined the old saw that women’s interests run counter to their national interests” (2000, 1102). Barlow cautions against the claims of international feminisms that simply reassert (neo)liberal interests by “arguing that the commonality of women is an effect of the capital invested in them” (2000, 1101). For Barlow, this (neo)liberal impetus enables official White House policy, academic articulations, and the media to converge over a shared sense of “women’s rights as human rights.” However, the detriment to this move is, as Barlow makes clear (and which I hope also to examine) is that “although it tends to be erased, the other country is actually the necessary medium through which ‘international US feminism’ takes shape” (2000, 1100).
recognizes the ways it is informed by racially unjust assumptions. However, the racial bias of human rights is located in the past, where the visible inclusion of Third World women as speaking subjects of human rights signals the end of racial bias in defining human rights.

Yet, because the inclusion of the (racial, gendered) Other as a subject of human rights does not dismantle the fundamental privileging of modern ontology – a modern ontology that is only enabled through the constitution of excluded difference – underlying (women’s) human rights itself, the result is what Silva (2005), along with Taguieff (1990), identify as the shift to claims of culture sharing what was once the so-called problem of race – of division, of impeding the universality of humanity. While Taguieff argues that the “defense of cultural identity” forms the crux of a “new” form of racism, suggesting the overlap of biology with cultural claims to difference, Ford (2005) also suggests that a “new bigotry” is at work, not against types of people, but “ways of being” – in fact, cultures. Working from similar concerns, Silva argues (2006) that this outcome can be traced to the strategic investment of “difference politics” in the “socio-historical logic of exclusion.” Moreover, the recognition and inclusion of difference simply re-formulates the modern Subject in a way that (re)produces the Other as a variation of the modern Subject, eliding troubling questions of how whiteness comes to constitute the Subject (Silva 2005, 2001).

Using the language of culture suggests that those (past) processes of exclusion like racism and orientalism have been/are being resolved through the
recognition and inclusion of culture. Yet culture itself signifies the very operations and assumptions of power that produce racial difference. Discourses of racial difference, particularly those that, in their effort to remove biology from the concept of race, conceived of racial difference as a social phenomenon that would enable changing attitudes, helped define racial difference as a matter of consciousness. In attempting to de-biologize race, sociologists like Robert Park, influenced by the work of anthropologist Franz Boaz, “advocated theories of racial difference that focused on the divergent consciousness of groups” (Yu 2001, 45). In their production of a discourse of racial difference, Park and others like Milton Gordon simply constituted the US as a space of exception – a space where the racial (body) and cultural (consciousness) differences confronted each other.

In fact, what constitutes the idea of US exceptionalism is the understanding that the US is a space that offers the possibility of a future beyond these operations of (racial) power. The fact that the US is a “melting pot” and a nation of immigrants is understood as offering the possibility of moving beyond, whether through the confrontation of consciousnesses or through the physical amalgamation of raced bodies (for instance, Robert Park’s work). As Silva notes, in the US “whiteness connects the bodily configuration to global region, instituting an American strand of ‘Anglo-Saxon’ and later Eastern and Southern European immigrants as proper signifiers of a transparent ‘I.’ On the other hand, Indians, blacks and Asian immigrants’ physical attributes become, as the text of
Race Relations captures, signifiers of threatening by *affectable* consciousnesses … With this they produce a moral differentiation – the distinction between subjects of transparency and *affectability* – which does not challenge the view that the US American social configuration expresses post-Enlightenment European principles” (2006). Thus, the possibility offered by the idea of US racial exceptionalism operates as a myth – even while the promises are there, promises that Robert Park pursued, the very manner in which difference is conceived as a matter of transparent versus affectable consciousness renders these promises tools enabling the myth(s) of universality inherent to the “post-Enlightenment European principles” guiding modern/colonial relations of power.

**The “Transparent ‘I’” and His Other**

The idea of difference has been defined through US race relations and Civil Rights discourses as a matter of exclusion – a matter of problematic representations, constructions, and effects of social categories of difference. However, Silva (2006) argues that difference is inscribed in two moments of power, one, the social/symbolic – or social/scientific as Silva names it – where categories of difference are circumscribed through the social relations they produce, and two, an epistemic moment that provides the conditions (of power) under which these categories are produced. In the social/scientific moment, the logic of exclusion operates to “conceive of the social subject as a composite: an interior thing, one whose particularity is actualized in its temporal trajectory and
expressed by its exterior (bodily and social) configurations. Further, [the logic of exclusion] assume[s] that these exterior attributes constitute the basis for social unity/identity and differentiation/exclusion” (2006). This means that the modern subject is modern precisely because of his “interiority” (self-determination achieved when objects “exterior” to the mind are reconciled as of the mind) achieved through “temporality” (he knows he is in relation to himself in time), achieving what Silva terms the (modern) “transparent ‘I’” – an “I” produced as an effect of difference and relationality, which serves as the basis for social ontology (2006). The “transparent ‘I’” thus refers to the self-determined, self-knowing Subject of modern knowledge.

The limitations to the logic of exclusion not only include the fact that this strategy simply reproduces the excluded/differentiated subject as a mirror of the “transparent ‘I’” – in fact, as a “minor transparent ‘I’” – but also, according to Silva, the fact that the other (epistemic) moment of power that inscribes difference is elided. The fact that the very foundations of modern knowledge and subjectivity depend upon certain (racial/colonial and gender) relations of power, institutes an epistemic moment circumscribing difference. It is this moment that Silva argues has been overlooked by US race relations discourse and sociological studies of race. The category race is inscribed not only in a social/symbolic context, but also in an epistemic one – one that prescribes, so to speak, the social/symbolic by establishing the ontological, epistemological conditions under which categories of difference can later be named, identified,
defined, and analyzed. The logic of exclusion, by rendering difference simply a product of the social/scientific moment, produces the Other as a “minor transparent ‘I’” because it fails to recognize the epistemic moment of power inscribing the very conditions under which those categories of difference can be signified.

This epistemic moment of inscription deploys reason, self-determination, self-knowing as the premise of the subject, attributes that are constituted through a relation of power that produces alterity. As Jane Flax notes, “A central promise of Enlightenment and Western modernity is that conflicts between knowledge and power can be overcome by grounding claims to and the exercise of authority in reason … [Reason] operates identically in each subject and it can grasp laws that are objectively true” (1992, 447). Thus reason is the attribute that enables the subject to know – reason is (the truth of) knowledge because it is universal. The promise of modernity is that knowledge is not innate and given at birth, but acquired by any and all who can employ reason. Hence, as Locke argues, with the right tools (science), any man can access the universal laws governing nature. What then distinguishes humans from animals is their capability to reason, to not be governed solely by the “natural” emotions and passions (Hobbes) but to employ reason for self-determination (choice) – to know that one exists through knowing (Descartes).

With this configuration, then, there is a foundational opposition between those knowing subjects whose ability to choose defines them as free, and those
superstitious beings dominated by their own passions, by others because they do not employ reason. While every man has the ability to access reason, not every man will develop their rationality – in Locke’s case, for instance, women and children, for Hobbes this includes men clouded by passions. As these philosophers of Man reasoned about those attributes distinguishing man, they were most concerned with describing the conditions around them – the condition of Europe (Silva 2001). In those instances when other, non-Europeans were included into the discussion, for example Rousseau’s texts on the “noble savage,” they were cited as examples of man in earlier, primitive stages farther from rationality and closer to nature (Stocking 1982, 22). The most complex society, manned by the most rational of men, was, of course, located in Europe – exactly that place where these philosophers of man were situated. Indeed, because these ideas guiding and defining modern knowledge and subjectivity emerged within the context of European empire and colonialism, the epistemic moment of power that produces difference can be named racial and/or colonial.

The “origins” of modern Man, the “transparent ‘I,’” is best understood through Hegel’s reconciliation of the Other/outside, which completed the premise of modern knowledge and subjectivity. Hegel argues that the self-knowing subject only became such when he realizes that the things outside him signal a moment in the actualization of his self-consciousness. In other words, the self-knowing subject only becomes such when he has progressed from thinking things outside him are outside, to recognizing that because he only
knows them through his mind, they are actually part of the actualization of his self-consciousness. It was Hegel’s rationalization of those other things that enabled modern (European) men to reconcile the existence of the non-rational others of Europe – they only existed to enable the self-knowing modern subject (of Europe). Hence non-Europeans were established as the less rational Others (of Europe) who only existed to enable the actualization of European rationality.

What Silva’s (2005, 2006) work traces are the way in which racial difference functions as a constitutive tool in the making of modern Man, both in the inscription of difference within the epistemic context of the basis of modern knowledge itself, to its inscription within the social/scientific realm. Silva argues that race as a category of difference is an effective tool because it “provide[s] an account of human difference, an account in which particularity remains irreducible and un-sublatable, i.e. one which would not dissipate in the unfolding of spirit” (2006). In other words, it is because the alterity signified through racial difference, even while being reconciled as that which enables modern Man, is never able to exist as interior to him that racial difference provides such an effective tool. The Others of Europe are recognized and reconciled insofar as they only function as that which must be utterly rejected. Thus, for Silva, the strategy of the inclusion of Others can never be successful because it does not recognize that the racial must always remain “un-sublatable.” Attempts to include the Other constitute her as a Subject capable of being a (minor) variant of the self-determined “transparent ‘I.’”
Woman exists as a modern signifier of subjectivity in so far as her being is constituted through the recognition (through her experience) of different expressions of herself through time, differently excluded variations of herself – the Third World woman, the woman of color, the working class woman, and so on. The solution to the problem of difference is thus not inclusion since, as Silva (2005, 2006) suggests, the result of inclusion is simply the substitution of “a minor transparent ‘I’” – a subject actualized only through her rejection or celebration of her difference, but one that does not interrogate the circumscription of difference, that is, the fact that modern ontology constitutes the Other as she who can never be the same as the Subject, as she who must always remain un-sublatable. The strategy of inclusion reproduces, though not without contradictions, the “interior” and transparent “I,” (re)producing as subject the (previously) excluded Other without dismantling the fundamental privileging of modern ontology in “difference politics.” The limitations to this strategy of replacement/inclusion are evident in, for instance, the women’s human rights discourse when the self-representation of Third World women does not necessarily lead to the elimination of a “western” gaze and privilege in framing the issues.

The logic of exclusion defines and addresses difference only in its secondary, social/symbolic moment, and only considering difference in its social/symbolic moment I argue is an incomplete task that does not enable the intellectual work required to understand (more completely) the ways in which
power has operated to constitute difference. In my attempt to address both moments of power circumscribing the idea of difference, I use Fitzpatrick’s idea of a mythic, recuperative moment to show how the first, epistemic moment of power is reconciled into a second, social/symbolic moment to the effect that the epistemic moment is erased and the myth of modernity’s universalism is maintained. Thus my analysis examines how the category “Third World woman” is constituted through US women’s human rights discourse, arguing that the writing of her as a “victim” to human rights violations enables the myth of universality and maintains the modern operations of power that institute her as Other in the first place, even when her inclusion is read by that same modern narrative as resolving the problem of difference/Otherness.

The Recuperation of the Modern Myth

The act of inclusion functions as a (symbolic) remedy to the negative, exclusionary effects of modern subjectivity, where the recuperation of the Otherness through which the modern subject is constituted is read as a signal of the end of the problematic operations of subject-formation that enabled that Other. As Fitzpatrick (1992) explains, law tells a story of modern origin by creating an Other who exists before this tale, and thus enables it. This other, denied in the foundation of a universal modern law, yet always threatening to reveal that she is also modern in her constitution as the enabling-other of the narrative of modern progress, must therefore be incorporated back into the story of modern progress without revealing that which her alterity signifies. The
“politics of difference,” in its identification of the problem of modern subjectivity as the exclusion of the Other, fails to consider the moment of (mythic) recuperation – the moment of inclusion. Thus the (modern) conditions that enable the racial Other are not dismantled, and the exterior difference that marks the Other is simply re-named (for instance, as cultural)\(^8\) in order to signal the seeming end of the modern. Problematic relations of power and privilege remain because the strategy of inclusion cannot dismantle the very operations of modern subject-formation that constitute Otherness in the first place.

The Law enables the modern narrative by defining a transcendent and universal realm constituted as beyond even the modern project in its condition as social. As Fitzpatrick notes, “Law transcends society yet is of society” (1992, 9), and it is precisely the ability of Law to define itself as “of society” that gives it its power as universal. Thus, even while Law is definitive to the modern narrative, and enables the power and authority of modern knowledge, it is also able to hide this constitutive relation. It is this universal and transcendent definition of the law that operates to define human rights as a moral matter beyond reproach, while the social/practical definition and deployment of the law is seen as that which must be changed (in certain cultural circumstances). This tension, between human rights and its institution as a matter of moral Law, and its interpretation through culturally particular legal systems that may or may not protect human rights, forms the crux of women’s human rights discourse.

\(^8\) And it is precisely this operation of recuperation and inclusion that perhaps explains why many scholars remain hesitant and critical of the rhetoric of *multiculturalism*. 
Negotiating the fact that establishing certain (moral) human rights as universal necessarily depends upon the constitution and negation of particularity informs women’s human rights discourse, whether in its articulation through politicians, through NGOs or through feminist scholars critical of human rights frames. The dissertation considers the way the idea of morality works within human rights discourse to hide the fact that, as Nietzsche so adamantly pronounced, morality is itself a matter that needs to be critiqued – a fact not yet adequately addressed by feminist scholars of human rights. Chapter II thus considers the feminist critique of human rights, locating its limitations in the fact that feminist discourse itself, so long as it deploys the logic of exclusion, cannot address the ways its own epistemic formation enables the (re)production and (re)deployment of (neo)colonial operations of power.

Considered in the context of women’s human rights discourse, the “mythic recuperation” (Fitzpatrick 1992) of the Third World female subject – that is, her reincorporation into the modern narrative as its latest/last subject – is guided by an inclusionary move that signals the so-called end of “modernity/coloniality.” As such, this recuperation (re)formulates the (once excluded) subject through cultural terms, allowing the “liberal appropriation of multiculturalism [to] … embrace the socio-historical logic of exclusion as the correct account of social (racial, ethnic, gender) subjection, and accept the emergence of claims for recognition of cultural difference as proof of the failure of assimilation” (Silva 2006). In other words, the act of inclusion – of
constituting difference through the logic of exclusion – enables claims to the 
(past) failure of assimilation frameworks both by marking the visible inclusion 
of difference as well as by renaming that difference *culture* (a process that many 
scholars have identified as the crux of multiculturalism).

I use Silva’s compelling thesis of the “socio-historical logic of 
exclusion” as the basis of my analysis of the privileging of exclusion and 
historicity in feminist discourse. While the definitions of “feminist” and 
“feminism” have been varied and contentious, my use of feminist discourse is 
unified by the presence of a “socio-historical logic of exclusion” in texts that 
grapple with the female subject. I problematize the centrality of exclusion in 
feminist discourse, arguing that the privileging of exclusion is precisely what 
has yielded the conundrum of identity and representation and the precarious 
success of the inclusion of Othered women into feminist discourse, as well as 
the inclusion of women’s rights into the national and global human rights 
agenda.

**The Intersection of Gender and Racial Power: Situating Asian American 
Difference**

The fact that the very condition of modern knowledge and subjectivity 
depends upon certain relations of power, often named racial and/or colonial 
given the context of European empire and colonialism through which these 
knowledges emerged, must be understood as a matter of the intersection of both 
gender/patriarchal and racial/colonial power. Further, it is because modern
knowledge and subjectivity are constituted through not only racial/colonial, but also gendered relations of power that the 21st century campaign to “save” Other women can exist as such. And while this project focuses mainly on the way articulations of gender difference (through feminist discourse) inform (women’s) human rights as a US nation-making discourse, the troubling operations of universalism limiting feminist critiques of human rights also operates within global critical race literatures and many, though not all, international approaches to race relations analyses.

While this project examines primarily the way notions of Woman, patriarchy, and women’s rights are deployed in ways that include Othered women without addressing the fact that their inclusion only reifies the very relations of power that Other her in the first place, the ways in which US racial categories like “Asian” and “Asian American” are often deployed in similar manner to “Woman” also informs my treatment of each case study. Recalling Grewal and Kaplan’s (1996) wary and critical reading of Alice Walker and Pratibha Parmar’s Warrior Marks, my analysis of the discourses of sex trafficking as a problem for Southeast Asia, the One Child as articulating the problem of Chinese-ness, and the codification of Islam as a threat to women’s freedom also engages the limitations to US identity-based racial politics. Just as Grewal and Kaplan caution Walker to be careful of assuming her blackness automatically assumes a similar experience of patriarchal, racial oppression with the African women depicted in her film, I suggest in Chapter IV that the Asian
American subject plays a key role in enabling the constitution of the US as the global arbiter of the 21st century. As Laura Hyun Yi Kang (2002) notes in her work, it is in the difference of the Asian American subject from her Asian counterpart that enables the US to be constituted as the space of (multicultural women’s) freedom, a point that I unpack in Chapter IV’s examination of China’s One Child Per Couple Policy as it is tied to the salvation of abandoned Chinese girls by US parents.

The category “Asian/Asian American” has been constituted through US racial discourses as that which captures the homogenizing effect of orientalism and racism. However, it is the nuances of how Asian difference is constituted differently in my three women’s human rights sites that provides inflection to the varying ways each women’s human rights violation is described. The different ways Asian cultural difference is rendered (in Southeast Asia’s primitivity, in China’s traditionalism, and in the Middle East’s evil) speak to the particular US investment in each region. What I argue ties all three sites, despite the different ways Asian difference is constituted in each, is the fact that each enables the US to constitute itself as the global leader of a new millennium beyond the problems of racism, orientalism, women’s exclusion.

While the ultimate goal of the project is to re-center the women’s human rights discourse so that it no longer reifies the privilege of a “western” gaze, I believe this paradigmatic shift cannot take place without first deconstructing how privilege operates in identifying and constituting the (“victim”) subject of
women’s human rights. Clearly, the problem of the privileging of a “western gaze” in constituting what counts as women’s human rights has not been solved through representation. That is, even attempts at “better” representation, and self-representation nonetheless often fail to address the “western gaze,” and as Kaplan notes “participate in a kind of cosmopolitanism.” Thus my examination of each case study – global sex trafficking as a human rights violation, Islam as a religious and cultural difference that is prone to violating women’s human rights, and reproductive self-determination as a human right denied by China’s One Child Per Couple Policy – is interested in outlining the discursive processes of subject formation; discursive practices that work to (re)constitute concepts like race, culture, civilization, and so on within the context of a “new” global millennium, the 21st century. Examining how subjects are constituted through discourse explains how and why certain representations become hyper-visible, as well as how and why we come to interpret representations in particular ways.

**Methodology**

I identify human rights discourses’ assumption and therefore naturalization of sex as a key limitation to the articulation of women’s human rights. Thus my methodology seeks to refrain from this limitation by tracing the woman constituted through human rights discourse and engaging with subject-formation, rather than identity. The premise of identity is riddled with limitations – it not only takes for granted that concepts like sex and race exist naturally, it also presupposes representation as the strategy through which to
critique injustice. I attempt a beginning that does not make such assumptions by interrogating gendering and racialization as processes that produce various subjects, specifically the Third World woman—“victim” to human rights violations.

Deconstructing the operations of power and privilege at work in producing the subjects of women’s human rights discourses requires a methodology similar to that demonstrated by Kang (2002) in her work *Compositional Subjects: Enfiguring Asian/American Women* and by Mohanty (1988) in her “Under Western Eyes.” They map the conceptual limits of discourses and disciplines, in effect outlining the conditions of the production of knowledge. Similar to Mohanty’s work, which examines development literatures in order to understand the “Third World woman” constituted through them (different from the female bodies inhabiting the Third World), I unpack why certain issues become highlighted in the women’s human rights campaign and how discussions of these issues constitute “victim”-subjects. I examine, in particular, the consolidation of diversity and respect for race, gender, sexuality, nationality, and so on institutionalized at a global level through the UN Millennium Declaration, because the concern for both cultural and racial

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9 Because women’s human rights discourse never questions the (social) processes that naturalize sex, but rather begins with women, men, and their relations that the discourse has never fully engaged with sexuality. Sexuality necessitates that assumptions of women and men are thrown out the window, that sex itself is a socially produced/productive category. And, because women’s human rights discourse is limited by its claim to identity, sexuality has not only been considered a contentious issue, but only at issue in cases of a (queer) identity under threat of persecution (Clarke and Rothschild 2001).

10 For example, Kang examines the way disciplines like history and cinema studies have constituted the Asian female subject.
difference expressed through extra-national structures like the UN are informed by US discourses of difference and shares the contradictory outcomes of US identity politics.

Because I am interested in how the US has constituted itself as a leader of the new global millennium, especially in terms of respect for diversity, difference, and freedom – as a global exemplar – I focus my analysis on texts that both help inform, and are reflective of, US policy on women’s human rights. These texts include Congressional hearings, reports filed by the Dept. of State, Presidential addresses, as well as literatures informed by various non-governmental organizations, many of which are constituted by/constitute scholarly work identified as women’s studies or feminist human rights. Thus I examine certain women’s rights texts as primary documents that attest to the consolidation of feminist concerns into nation-making, while I use other feminist and women’s studies scholarship – generally those that interrogate the problematic privileging of modern ontology within feminist discourse – as secondary texts that reveal how the consolidation of certain feminist claims and concepts has been enabled. The methodological decision to focus on institutional documents reflects my desire to define as best as one can, the “official” national rhetoric concerning women’s human rights, because it seems that the “politics of difference” that once defined what was excess to the nation’s political institutions have now come to define the nation itself, as well as, I argue, the global mandate articulated through the UN. As I show in
Chapters II and III, the UN, in its articulation of a global community attentive to
diversity, has provided an international site through which claims to the
exemplary position of the US – as a place where both women’s freedom and the
reconciliation of difference – are constituted.

What I hope the analysis will reveal are the ways in which even
politically radical feminist discourses and their contributions to understanding
difference are (re)appropriated as edicts defining often politically conservative
governmental entities. 11 I argue that the consolidation of feminist concerns
about intersecting differences (generally of race, gender, nationality, sexuality
and class) into the national rhetoric of women’s human rights serves to detract
attention from the continued operations of a neocolonial “western gaze”
functioning to constitute the “victim”-subjects of women’s human rights
violations. Because the effects of this have already been articulated by scholars
like Maylei Blackwell and Nadine Naber as erasing the impact of “problems of
violence, poverty, labor, and globalization” on “women of color in our own,
local communities” by locating these problems as issues of international concern
(2002, 239), this dissertation will contribute further to such conversations by
exploring how and why the tensions of articulating global concerns regarding the
operations of gender power continue to reproduce imperial, neocolonial, cultural
privilege even when the Other speaks for herself.

11 Pierre-Andre Taguieff’s (1990) examination of the appropriation of anti-racist arguments by
France’s New Right resonates in this sense within the context of the US at the new millennium –
the language of difference and diversity that were once the purview of the politically “radical”
now define the international priorities of the state.
Chapter Preview

“Feminist” human rights literatures often begin with the assumption of androcentricity in laws and customs, identifying the inclusion of women’s experience as a first step toward addressing (prior) inability of human rights to properly address and recognize violations like domestic violence, reproductive freedom, domestic labor and so on (Byrnes 1994; Okin 1998). In contrast I examine how these literatures, in diagnosing global sex trafficking, the threat of Islam to Muslim women’s rights, and China’s One Child policy and reproductive self-determination, employ the logic of exclusion. As such, many feminist and women’s human rights discourses signify the “culture” of the “Third World” as culprit. And while I do not contend that these human rights agendas are separate and monolithic from each other, I examine each because each has been conceptualized as speaking to a particular aspect of women’s difference – her economic, social, and biological/reproductive difference – that, according to women’s human rights scholars, remains otherwise un-addressed by human rights discourse.

US human rights discourse, I suggest, (re)produces the privilege of the “western gaze” and thus enacts a different kind of violence against these women – that is, a symbolic violence produced through the conditions of representation. That these issues critique human rights as exclusionary to women already constricts the ways in which the issues can be articulated and understood, as well as the ways in which “victims” can speak. Thus, Chapter II begins by
exploring to what effect feminist discourses have informed human rights, unpacking the feminist critique of human rights. I trace the operation of the “socio-historical logic of exclusion” within feminist discourse, arguing that the privileging of the “evidence of experience” (Scott 1991) that enables the feminist mantra, “the personal is political” (when personal experience is accepted as political evidence of oppression), cannot but frame concerns regarding gender difference within an exclusionary/inclusionary paradigm. In Chapter II I argue that the logic of exclusion and the strategy of the “evidence of experience” enable what Mohanty and Alexander describe as, “token inclusion of our texts without reconceptualizing the whole white, middle-class, gendered knowledge base effectively absorbs and silences us” (1997, xvii). Indeed, as Mohanty and Alexander articulate, the “solution” of inclusion is often a gesture that does not necessarily question processes of knowledge production or validation; through privileging experience, the “token inclusion” of physical bodies, or the gesture toward the idea of “intersecting” differences, is able to substitute itself for epistemic questions into, for instance, the continued privileging of the modern subject and the continued privileging of Enlightenment methods even within such critical fields as women’s studies (Flax 1992).

After locating modern ontology in feminist discourse, I show how feminist discourse has informed the critique of human rights as excluding the particular experiences of women. Arguing that the 1990s signaled the
consolidation of *women’s issues* into a global agenda, I examine how the feminist critique of human rights reproduces the logic of exclusion. This investment in the logic of exclusion in human rights discourse is necessary because the very idea of human rights and ethical law already presupposes – and in fact only exists through – the fundamental conflict and negotiation between particular Others enabled through their exclusion from universality. I examine how human rights emerges as a site through which a (now global) feminist investment in the logic of exclusion operates, rendering feminist discourse complicit in the appropriation of certain claims regarding gender by national rhetoric and policy – claims that foreground the importance of particular interpretations of women’s human rights as key to the fulfillment of the edicts of global diversity instituted through the UN.

In Chapter III I examine the discourse of global sex trafficking in order to locate a configuration of “modernity/coloniality” expressed through a global multicultural rhetoric that is constituted through the centrality of *women’s issues*. In situating the problem of slavery in the Third World and as primarily a “woman’s issue,”¹² US women’s human rights discourse deploys a logic of exclusion that casts the Third World as a “final frontier,” where patriarchal cultural practices and problematic economic conditions located in the Third World enable sex trafficking. The discourse of women’s human rights reads the Third World’s prior exclusion from “fair” global economic relations due to

¹² Sex trafficking discourse also reveals the problematic naturalizing of “woman” within women’s human rights, as women are assumed to feel heavier effects of poverty (leading to their embroilment in trafficking) due to their sex.
colonialism as exacerbating the sex trafficking market. And while colonialism is often mentioned as leading to such an economic state, ultimately, the discourse naturalizes the idea of a primitive Third World culture precisely because the inclusion of the Third World woman—“victim”—is read as evidence that the unequal conditions of colonialism are in the past. Thus, even while the operations of “modernity/coloniality” configure a “new” global context characterized by a multicultural agenda (led by the US), “modernity/coloniality” is (dis)placed in the past in order for it to continue to configure the globe (even after its supposed demise). Moreover, the rhetoric of slavery enables US officials to reference the African slave trade of the past as evidence that this “new” form of slavery is a problem of Others—a problem of the Third World. The US is cast as having already dealt with the “problems” of slavery, thus enabling a constitution of the US as a global leader. I read this move as another moment when the seeming inclusion of “Third World women” as global subjects functions to hide the continued operations of modern ways of knowing and being.

This chapter considers the signification of the trafficked woman, comparing the different characterizations between the white, (usually Eastern) European woman to her non-European (usually Asian) trafficked counterpart. Doing so exposes how “modernity/coloniality” operate in configuring the global context of sex trafficking. Comparing the different subjects constituted through the trafficking discourse reveals how women’s human rights and the issue of sex
trafficking in particular serve as a site through which the white, Euro-American space is constituted as the moral exemplar – the universal standard of morality, if you will, for the rest of the culturally amoral (brown, black, Asian) globe.

Chapter IV considers the Chinese woman/girl signified as a “victim” to the One Child policy and the amoral patriarchal traditions (of China) that the policy articulates. Here I show how the strategy of incorporation uses the language of culture as a means to uphold the myth of inclusion and progress – the condition of multiculturalism. Indeed, the One Child policy, as it is tied to the abandonment and transnational adoption of Chinese baby girls, produces the US as a space of (racial) exceptionalism – of multicultural “success” (that comes with women’s freedom) within the narrative of racial progress and assimilation. In other words, the One Child discourse, as a women’s human rights issue, enables the recognition and rejection of assimilation as a “bad,” prior understanding of racial difference that has been overcome and replaced by the promises of inclusion and multicultural diversity signified through the (cultural difference of) adopted Chinese girls. Even while the signification of the woman/girl “victim” to the One Child enables claims to the end of assimilation frames, the very operations of (racial) power productive of assimilation continue to inform the “new,” multicultural understandings of difference promised by the inclusion of the Chinese girl-“victims.” And, it is precisely the fact that the One Child victimizes innocent baby girls that this site offers a different women’s
human rights subject – one who can be redeemed in her cultural assimilation as “American.”

Thus Chapter IV also considers the different significations of Chinese-ness as it is imagined “outside” and “inside” the US in order to illustrate how the Chinese and Chinese American subjects reveal the production of the US an exceptional space – exceptional in its supposed resolution of the “problem” of race and the exclusion of women. While the defining conditions of Asian American-ness are tied to the global – the outside –the Chinese difference constituted through the discourse of the One Child informs the racialization of Chinese American-ness under the logic of identity-based politics. The fact that the One Child is read as evidence of the deficiency of Chinese-ness thus compels claims regarding the (different) position of the Chinese American even while the assumption of shared identity also operates. I examine the ways in which the Asian American subject, because of the conditions of the racialization of Asian-ness, operates to help define the US as the global arbiter of freedom and democracy – in other words, the role of the signification of the Asian American subject in (re)producing (neo)colonial privilege and US imperialism. Chapter IV thus examines the notion of the US as a space/place of exception and exceptionalism through a mapping of the Chinese woman/girl “victim” of the One Child Per Couple Policy – a policy seen as a human rights violation that denies reproductive self-determination.
Unlike the Chinese girl subject of Chapter IV, who through cultural distancing from the “origins” of her Chinese-ness, is signified as the critical potential of the modern narrative – the critical potential that “resolves” the conundrum of universality and particularity, the US women’s human rights discourse constitutes the Muslim woman as “not yet” the kind of moral, feminist subject the universal principles of human rights promise. Though her failing is not necessarily for lack of her own desire or consciousness, nevertheless the Muslim woman, because of her Muslim particularity, must always inhabit the place of the Other. This is nowhere clearer than in the desire for translation that emerges as the solution for negotiating the central conflict of human rights – between universals and particular/Others. Chapter V thus examines how this negotiation between the idea of universality and its simultaneous recognition/inclusion and disavowal of particularity informs the signification of Muslim (cultural) difference as that which is antithetical to “feminist” consciousness and women’s freedom.

The women’s human right discourse argues that Islamic governments mis/use cultural relativism in order to justify the social/cultural oppression of Muslim women. I examine the claims of Islam and cultural particularity as antithetical to women’s human rights because these claims provide a site where the consolidation of feminist issues into state policy, the constitution of the US state as global leader, the scape-goating of culture, and the circular logic of exclusion that re-affirms the universality of “western” principles of human rights
come together. I trace the different significations of the Muslim female, the feminist, and the Muslim feminist subjects in order to show how the issue of Islam and feminism – the issue of to what extent, or whether both can exist simultaneously – (re)produces (neo)colonial privilege and the “western gaze” even while the inclusion of Islamic difference enables claims that the “western gaze” no longer operates in producing notions of women’s human rights and international feminisms. Chapter V considers several key asylum cases involving Muslim women arguing the threat of persecution by Islamic governments and cultures for their “feminist beliefs,” as well as the “debate” regarding the symbolic meaning of the veil, and the reading of the inclusion of Muslim feminist speaking subjects within human rights and feminist discourse(s).

The conclusion briefly reconsiders the issue of asylum and strategies to arguing gender-based legal claims, and reflects on my three sites. The debate concerning asylum brings to the forefront the conundrum of human rights around the issue of universal principles. The conditions for arguing asylum remain broad precisely because they address the universal principles behind human rights. However, as feminist critics of human rights have argued, the specific and particular experiences of women are often neglected within these broad conditions, as is the case with asylum. Thus the asylum debate reveals how the issue of difference and particularity and human rights only allows for strategies of inclusion – strategies that do not address the more fundamental
issue of the circumscription of difference. I ask to what extent, and whether, the very notion of human rights can be a viable site for addressing (neo)colonial power. The discursive analysis provided in this dissertation is necessary to understanding how certain ways of knowing and articulating establish the intelligibility of what we consider women’s human rights. This is especially poignant in the way organizations designed to help (Other) women place these women in a double bind, where they must argue their victimization to their primitive culture in order to garner aid.

What I hope this dissertation will contribute is a critical rethinking of the operation of exclusion in feminist discourse, and the contentious ways the “politics of difference” play out in women’s human rights. I hope that my analysis will suggest the benefits of a “politics of location” (Grewal and Kaplan 1996; Mohanty and Alexander 1997) that interrogates the operations of privilege, rather than focus on the (universal) rhetoric of victimization and oppression. While I do not want to suggest that oppression and victimization have not been useful concepts, I do hope that the dissertation reveals the limitations to framing analysis around these concerns. Shifting analysis to one that interrogates privilege, and seeks an understanding of the constitution of privileged subjects I believe will enable radical political possibilities.

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13 As Mignolo notes, inclusion remains problematic “insofar as it presupposes that the agency that establishes the inclusion is itself beyond inclusion: ‘he’ being already within the frame from which it is possible to think ‘inclusion’” (2002, 174). In other words, inclusion neglects to interrogate privilege.
II. When are Women’s Rights Human Rights?

In addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level … We rededicate ourselves to support all efforts to uphold the sovereign equality of all States … respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion.


The founding documents of the United Nations and the founding documents of America stand in the same tradition. Both assert that human beings should never be reduced to objects of power or commerce, because their dignity is inherent. Both require – both recognize a moral law that stands above men and nations, which must be defended and enforced by men and nations. And both point the way to peace, the peace that comes when all are free.


As President Bush recognizes, the documents defining the United Nations and those defining the US “stand in the same tradition” – a tradition that recognizes “human rights and fundamental freedoms,” including “respect for the equal rights of all without distinction as to race, sex, language or religion,” according to the UN’s Millennium Declaration. Evident in these statements is the centrality (imagined as foundational) of multicultural claims to difference that are nonetheless recognized for the sake of arguing the universal, human and moral principles guiding a global collective. A seeming step in the right direction, what are the effects of the recognition of racial, gender, cultural differences on the idea of moral law and human rights? What is the role of feminist discourse in enabling the consolidation of claims to difference, both by the UN and President Bush?
Echoing a language familiar to the US, race, sex, religion and language (a term that can be read as a euphemism for nationality, regionality, ethnicity) are key categories of difference that are now recognized as central not just to a conception of diversity germane to the US, but also the globe. And while the particular ways these concerns about diversity are addressed by the UN might differ from the rhetoric dominant in the US, the general conception of “equality through difference” is shared. The profuse concern during the 1990s for attentiveness to the condition of women, minorities, and the poor – in fact, particularity – evidenced in the re-approach to “traditional” issues of population control, development, human rights and so on is also evidence of the growing importance of the centrality of the voices and concerns of the Other. In fact, even President George W. Bush acknowledges the similarities of the goals for humanity in the new millennium in his statement to the UN, stating that both the “founding documents of the United Nations and the founding documents of American stand in the same tradition” (2003).

In what follows, I show how feminist discourse has informed the idea of human rights. My analysis complicates human rights fundamental conflict between universals and particulars (Grewal 2005). It is feminist discourse as a modern formation, specifically in the discourse’s unity under exclusion that

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14 What I am not suggesting is that the rhetoric of diversity and difference only entered the domain of the United Nations upon the new millennium. Rather, I suggest that the consolidation of this rhetoric into the formalized documents of global governance at the millennium is not without repercussion, and can be read as productive moments.

15 My use of “feminist discourse” as unified through the operation of the logic of exclusion echoes Butler, as she also states that the following question provides unity to feminist discourse:
enables feminist human rights claims to resolve the problem of the globe’s particulars by arguing that their inclusion into human rights will itself reveal the truly universal. In fact, dialogue across particulars (enabled through translation) is conceived of as that which will reveal and therefore actualize the global universality of human-ness at the core of human rights. I problematize the desire for translation, and argue that the strategy of inclusion, enabled through the primacy of the “evidence of experience” (Scott 1991) in feminist discourse, fails to dismantle the “transparent ‘I,’” thus allowing (neo)colonial operations of power and privilege to continue to inform women’s human rights, despite the visible and audible presence of Othered women.16

Feminist discourse and feminist critiques of human rights narrate their project(s) around first, identifying the excluded condition of female-ness and second, recognizing the various different articulations of the category woman. This is done to enable an ever-more complete woman, each moment of the recognition and inclusion of difference is read as a step toward a critical potential. Thus the inclusion of women into human rights is read as evidence of the field’s move away from androcentrism. The inclusion of the Third World also signals the field’s shift from euro-centrism and “western” privilege, and finally, the inclusion of the Third World woman marks the moment of human

“Through what exclusions has the feminist subject been constructed, and how do those excluded domains return to haunt the ‘integrity’ and ‘unity’ of the feminist ‘we’” (1992, 14).
16 As Ross et al note, assuming racial identity and political subjectivity are transparent – assuming that people of color should be politically radical because of their racial identity – problematically naturalizes race. The problematic assumptions of racial identity and political subjectivity enable conservative political groups like Operation Rescue to appropriate images of black-ness (the imagery of Martin Luther King, Jr., for example) according to Ross et al (2002).
rights truly universal potential. The issue I take here is that the troubles that feminist critiques of human rights diagnose do not necessarily just speak to exclusion – one of the most important contributions of feminist critiques of human rights has been its diagnosis of the continued privileging of “western” liberal paradigms for understanding law, a privileging that leads into the conundrum of universality. Yet the solution of inclusion does not adequately address this concern.

I first locate the emergence of the feminist, multicultural global order of the new millennium through the various UN Conferences of the 1990s that evidence the consolidation of feminist concerns into institutions of governance. I do this both to situate my analysis of sex trafficking (Chapter III), China’s One Child policy (Chapter IV), and Islam as it is constructed as an impediment to Muslim women’s rights (Chapter V), but to also foreground the operation of exclusion as it informs the success of feminist critiques of human rights as evidenced by the UN’s attentiveness to these critiques. I then examine US feminist discourse in order to argue that its deployment of a “logic of exclusion” elides the question of the problematic signification of the Other woman (US woman of color, Third World woman) – a signification that “(re)produces the [racially Other] subject as the pathological ‘I,’ a self-consciousness hopelessly haunted by its own impossible desire for transparency” (Silva 2006) – a signification that writes both the “transparent ‘I’” and his counterpart, the “minor transparent ‘I.’”
Consolidating “Feminist” Concerns: The 1990s United Nations Conferences

The political work of the Civil Rights era, while actively resisted through the 1980s backlash, by the 1990s was included into the concerns of the state in the move toward the politics of multiculturalism. Thus the 1990s marks the consolidation of “feminist” concerns into the state, where the “politics of difference” that at one time defined what was excess to the nation’s political institutions now define the nation. And, constituting the US as a nation defined by a “politics of difference” has enabled the US to both constitute the diversity mandate for the “new millennium” articulated through the UN in its Millennial Declaration, as well as to negotiate its role as a global leader. The consolidation of feminist concerns into the state is enabled precisely because the strategy of inclusion underlying feminist critiques of the state and its stance on human rights conceives of the political “goal” as exactly this – inclusion of an equitable (woman) “transparent ‘I.’” Therefore the 1990s to the turn of the millennium, and the maturation of the various UN’s projects for (global) human rights and women’s rights, provide the context for my analysis of the conditions under which women’s human rights are articulated, and the role of such articulations in processes of US nation-building as the global leader of the new millennium.

As scholars like Grewal (2005) have shown, while the UN declared 1975-85 the “Decade for Women,” the vision for the Decade did not come of age until the 1990s with the 1992 declaration opposing violence against women established by the UN Commission on the Status of Women, the 1993 Human
Rights Conference when women’s human rights became a central issue, the 1994 Cairo Conference on Population and Development when reproductive self-determination was the primary concern for population and development policies. Finally, the 1995 Beijing conference on women is understood as yielding the most specific document on the global rights of women to date. Indeed, US feminist discourses located a global venue through which to actualize a notion of feminist justice that conceptualized women’s freedom as the central nexus for the fulfillment of global diversity and human rights. Following the logic of exclusion, the problem of (past) critiques of human rights as Euro-centric and androcentric can be solved through the recognition and inclusion of Third World women. With regard to women’s human rights, Nilufer Cagatay, Caren Grown, and Aida Santiago identify the progressive successes of the UN Conferences on Women in the ability of each subsequent conference to better “integrate (both analytically and practically) gender, class, and race in more effective ways” (1986, 403). The various UN conferences of the 1990s, and their characterization as marking how “feminist groups have proliferated and gained a higher profile in international policy-making” (Foster 1994, 12), are evidence that, at least in the US, feminist concerns like women’s rights to reproductive self-determination should be considered part and parcel to any international mandate for global civil society.

What is often overlooked in claims advocating the inclusion of “women’s issues” and attentiveness to difference into the UN and US national
dialogue, however, is the fact that “the UN looks like it bridges the ‘natural’
gaps between the ‘peoples of the world,’ but the UN is actually a vital site for
the production and maintenance of such difference” (Nelson 1999, 291). This is
precisely why, even with the inclusion of differences into the UN and US
national dialogue, issues of institutional and structural privilege – for instance,
the way the structure of the UN privileges the address of certain kinds of
difference, those that are recognized by nation-states or NGOs– continue to be
elided, leaving only very contentious “successes.” Both the US and the UN act
as productive sites of power that circumscribe certain notions of difference and
particularity. I use the consolidation of certain feminist concerns and language
into the UN’s agenda as evidence of the ways the UN operates as a site where
certain notions of difference, notably definitions of difference that harken to the
US “politics of difference,” enable the constitution of the US as a global
exception beyond the problem of women’s exclusion troubling Other places.
US feminist discourses have been central to producing the UN as a site where
notions of US as an exemplary model of human rights are constituted.

For instance, the language of the UN Millennium Declaration reveals the
ways in which the (re)iteration of certain concepts – “respect for the equal rights
of all without distinction as to race, sex, language or religion” – have become
central in framing how the leading extra-national body of governance
conceptualized the stakes of the new millennium. In its Millennium
Declaration, the UN General Assembly adopted principles and values of
universality: “In addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. … We reaffirm our commitment to the purpose and principles of the Charter of the United Nations, which have proved timeless and universal” (2000). The Declaration not only restates the UN aims of global civil society, but does so by framing the issue as one between “timeless and universal” principles and “individual” responsibilities, both of which must protect “human dignity.” While the wording of these universal, human principles remains vague, the Declaration expands on key values it considers paramount to international relations in the 21st century. What is telling about these values – freedom, equality, solidarity, tolerance, respect for nature, shared responsibility – are that they negotiate the tensions between governance (peace) and freedom, the very tensions that inform human rights discourse in the US. The only difference between the “founding documents” of the US and the Declaration is the fact that the UN takes both the individual and nation-state/community as its actors. The similar principles – of concern for individual freedom while maintaining effective peaceful governance – however, are read as shared even by the President: “The United nations and my country share the deepest commitments. Both the American Declaration of Independence, and the Universal Declaration of Human Rights proclaim the equal value and dignity of every human life” (2004).
The President’s statement, read with the UN’s Declaration, suggests that what is shared between both is a conception of diversity that is tied to the inclusionary/exclusionary framework for conceiving of difference, a framework that narrates the unfolding of differences (race, sex, language, religion) that beg for recognition and inclusion – an inclusion that is then read as solving the problem of inequality and injustice. The President’s comments gesture to a conception of difference that is part of a Civil Rights legacy understood as largely dedicated to eradicating the remnants of the amoral activities of “human commerce” that characterized the transatlantic slave trade. Similarly, US feminist discourse, that is, feminist discourse that works to constitute the US as a nation with particular gender practices and discourse, defines itself in terms of the narrative progression of the uncovering of a series of exclusionary principles that differentiate the experience of woman. The logic of exclusion, through the deployment of historicity, constructs a narrative of discovery – one that began too focused on gender/sex as the primary axes of exclusion, to one that uncovers other axes like race and class that function with gender/sex. The narrative of revelation – one that uncovers cultural and national difference – naturalizes the globalizing of feminist concerns; not only are issues of concern to US feminist discourses identified in other places, but concerns articulated by other women are understood within the context of US feminist discourse. I use both the perception that women’s rights signals the nearing fulfillment of a global community attentive to diversity and humanism, and the perception that the end
of the Cold War and the turn of the millennium have ushered in a “new”
configuration of modernity/coloniality (one that champions its demise) to frame
my analysis of the signification of the “latest/last” subject of human rights.

Through understanding the operations of exclusion and the privileging of
experience in feminist discourse, the 21st century concern for cultural difference
can be read as simply a re-issuing of the “minor transparent ‘I’” that recuperates
racial exteriority/alterity as that which enables the properly modern subject. The
goals of inclusion of women of color and Third World women into women’s
studies, and of women into the political and social landscape of the nation, are
achieved through the privileging of exclusion as the problem, and experience as
the strategy through which this problem is addressed. Self-representation
through self-speech, while an invaluable tool for critiquing what Collins terms
the “knowledge validation process,” nonetheless forecloses epistemic questions
into the (re)production of the “minor transparent ‘I’” (Silva 2005, 2006) and the
naturalization of the categories “woman,” “woman of color,” and “Third World
woman.”

Historicizing Exclusion, Conflating Bodies, and the Intersection of Difference

In this section, I locate the operation of the “logic of exclusion” within
feminist discourse, tracing Rachel Lee’s (2000) analysis of historicity, where
women’s studies and feminist discourse define themselves through a narrative of
their own progression toward a critical future. Part and parcel to the “logic of
exclusion” is its narration of difference within a progress towards a less
exclusive, more inclusive future. Thus *historicity*, as a term that describes the rendering of the social/symbolic production of difference within a progressive narrative of inclusion, operates with the “logic of exclusion.” This progressive narration of inclusion of difference deploys what Scott terms the “evidence of experience” – that is, the inclusion of the Other’s experiences, which are rendered (formerly) excluded through the operation of historicity, symbolizes the very progress marking the move toward universal fulfillment of the human rights. I outline in greater detail the historicizing of exclusion through the inclusion of Other’s “evidence of experience,” which then enables a conflation of bodies of knowledge with those speaking Other bodies, and the resulting myth that this progressive inclusion of those (different) Others marks the end of modern operations of power – or, in the case of human rights, the nearing fulfillment of universal principles of humanity. I argue that feminist discourse, insofar as it expresses the conditions of the “politics of difference,” assumes the transparency between the act of speaking and the “resolution” of the circumscription of difference.

The “logic of exclusion” in feminist discourse situates the inclusion of the speaking Other subject’s “evidence of experience” and the resulting framework of intersectionality (the intersection of gender/sex, race, class) as a kind of false solution to the problem signified through the privileging of white, middle-class women’s experiences – that is, the privileging of (neo)colonial power and a “western gaze.” Lee argues that its deployment in narrating the
critical theorizing of the intersection of difference within feminist discourse forecloses the critical potential intersectionality promises – bodies of color and the phrase “race, class, gender” function as a “racial alibi” because the narration of the field’s (constitutive) progress locates this (racial) blind spot in the past. Despite the important work that theorizes the intersection of difference, the visible inclusion of bodies of color and the brandishing of “race, class, gender” seem too often to foreclose questions asking, “What epistemic conditions enable exclusion, and why have critiques of the field’s exclusivity enabled a ‘racial alibi?’”  

I examine how the conflation of bodies with bodies of knowledge through the privileging of the historicized exclusion of the Other’s “evidence of experience” enables woman to exist as a modern signifier. Using Lee’s work, I explain how the presence of bodies of color is read as the resolution of epistemic questions into feminist discourse’s privileging of modern ontology. Yet the inclusion of Othered women does not necessarily change the fact that woman exists as a modern signifier of subjectivity; for insofar as her being is constituted through the recognition (through her experience) of different expressions of herself through time, differently excluded variations of herself – the Third World woman “victim” to human rights violations being one variation –

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17 This is evidenced, for instance in the marginal status of works by scholars like Valerie Smith (1998), Mary Frances Berry (2000), and others who deploy “intersectionality” as a method of reading, a method of (re)narrating and re-imagining “conventional” histories. Their contributions remain marginal when taking into account the broader field of academic and scholarly work, and provide evidence that Mohanty and Alexander’s concerns of tokenization are not unfounded.
feminist discourse celebrates the modern subject. And, such being the case, the seeming resolution to the problem of differences amongst women does not answer the more fundamental question posed by Silva (2005) of “how whiteness came to signify the transparent ‘I’” productive of/produced through feminist discourse.

The “logic of exclusion,” with the “evidence of experience” and historicity guiding it, as it operates in feminist discourse, elides the question of how the Third World woman, woman of color, the Othered woman come to gesture to that alterity upon which the modern “transparent ‘I’” is constituted. Modern/colonial power institutes both epistemic and social/symbolic moments of alterity. This alterity, however, can never be named or recuperated, since it is that which enables the modern condition itself. However, the Othered subject – whose body signals that alterity – can and must be reconciled in order to maintain modern/colonial power. That is, the power of the modern condition lies in its (mythological) claim to a totalizing narrative – so totalizing that even the narrative of its own, supposed demise is simply another moment of modern/colonial power. Thus, through her seeming inclusion, the Othered woman signals the end of the modern, the seeming demise of modernity/coloniality, even while the very act of inclusion enables modern/colonial power. This plays out in women’s human rights, and is evident in the contradictory signification of the Othered woman whose inclusion signals the end of racism even while the Third World woman—“victim” reifies all those
assumptions (of Third World primitivism and backwardness) recognized as racist before.

**Producing the Racial Alibi Through the Socio-Historical Logic of Exclusion.** The “origin” (as the operation of historicity in feminist discourse locates it) of the disciplining, and therefore legitimizing, of women’s studies – or more generally, scholarship interested in interrogating the (excluded) condition of the female subject – is located with the political activism of the Civil Rights era (see Evans 1980). Converging with the activism of the 1960s and 70s that sought political recognition and inclusion of difference – Young’s “politics of difference” – the academic and scholarly inclusion of women was enabled through the articulation of oppression and difference by women speaking of their experiences of marginalization. It was also through experience that scholars like Gloria Anzaldúa and Cherrie Moraga (1981), Kimberlé Crenshaw (1991), Gloria Hull, Patricia Scott and Barbara Smith (1982), María Lugones and Elizabeth Spelman (1983) and others were able to articulate concerns for the racial exclusivity of feminism’s own racism. They posit a framework for understanding differences as intersecting, where the experiences of black women were not the same as those of black men or white women, but distinctive as black women.

Experience enabled critiques of what Collins (1990) terms the “knowledge validation process” (a process that reproduces “white patriarchal privilege”) without reproducing the practices of this process. Rather, experience
enabled those excluded from processes of knowledge creation to critique their
exclusion while creating valid forms of knowledge themselves. Experience
revealed the subjectivity of science and questioned the universality of logic –
indeed, critiquing the Enlightenment and its methods – and enabled such
important interventions as Sandra Harding’s “standpoint theory.” It is because
experience has proven to be such a valuable tool for critique that it continues to
be “at the center of feminist analysis” (Mohanty 2003, 106).

However, this privileging of experience has its own set of limitations –
limitations that I identify as enabling the ontological condition where Uma
Narayan’s concern for “cultural essentialism,” Kaplan’s “cosmopolitanism,”
Lee’s “racial alibi,” and the continued privileging of the “western gaze” in
human rights may be identified, but nonetheless are read as proof that things are
better, that racism and sexism are only national issues in so far as they are
located in other places. The simple inclusion of bodies of color does not
necessarily re-imagine the discipline in ways that are attentive to
intersectionality, precisely the point of concern for Lee. Speaking from
experience as a woman, for instance, naturalizes the category allowing for the
presence/absence of chromosomes, hormones (biology), genitals (how one
“looks”), and so on to define woman.18 Using experience as “evidence,” as

18 As Scott (1991) argues, experience is limited in part because its use presupposes the speaking
subject. In other words, to speak of one’s experience as Asian assumes, and thus naturalizes,
Asian-ness as a differential identity. However, if race is not real in any biological sense, but
rather a social construction, a mythology or knowledge constituted around certain biological
features (Montagu 1997), it is problematic to treat race and racial identities as natural. Similarly,
for Scott, sex, like race, is meaningful only as “knowledge about gender” (1999). Using a
Scott (1999) argues, forecloses questions into the social construction of sex and race by assuming the pre-existence of sex and race before knowledge of it, thus enabling the conflation of female bodies of color with knowledge about the condition of female bodies of color.¹⁹ I would also add that the “evidence of experience,” in assuming the transparency of self-representation through speech, renders difference primarily a matter of individual expression. The articulation of difference as a matter of individualized experience manages the conundrum of universality – the conundrum that any claim to universality (of the universality of patriarchy, for example) must both include and disavow particularity. This conundrum of universality, a conundrum for feminist discourse inasmuch as it makes claims to the universal constitution of the female subject through exclusionary registers, is managed through the individualizing of particularity, and the recuperation of difference as an individualized expression (that elides the social conditions of difference).

¹⁹ One limitation to beginning epistemic questions with already sexed and raced women/men is that it enables the conundrum identified in Grewal and Kaplan’s analysis of Alice Walker and Pratibha Parmar’s film, Warrior Marks, where Walker employs as “logic of identification” between herself, as an African American woman, and the African female victims of genital surgeries. Walker and Parmar’s controversial film was in part controversial because it erased the national privilege operating in Walker’s position as a US traveler, and the African women for whom she expresses concern (Grewal and Kaplan 1996). Walker, in effect, casts a (neo)colonial, “western” gaze on her African subjects, yet her national privilege remains unquestioned because of an assumption that Walker’s physical similarity (skin color) as well as her cultural and historical ties (as African American) to her African subjects allows her to understand the condition of her subjects as oppressed women “of color.” Indeed, it is to address the construction of a monolithic “woman of color” that Mohanty and Alexander deploy the term “Third World woman.” The privileging of experience, and the conflation of bodies it enables, proved to be the blindspot of scholars like Alice Walker, who did not acknowledge the operation of national privilege nor the specific context of US racial formation – a blindspot that often leads to the reproduction of (neo)colonial power relations, this time between bodies “of color.”
The unproblematic conflation of bodies of color with bodies of knowledge serves as a “racial alibi” precisely because of the operation of historicity in outlining the definitions and goals of women’s studies (Lee 2000). The historicizing of women’s studies as at one time inattentive to difference within the category “woman” enables a “racial alibi,” where the visible inclusion of bodies of color is taken as evidence of the field’s resolution of its racial bias.\(^\text{20}\) It is this conflation of bodies that I argue yields problematic assumptions about self-representation and self-speech, as well as the appropriation of feminist claims by the state, where the state’s inclusion of women’s human rights issues, and feminist critiques of the exclusion of women’s different experiences from human rights considerations, are read as evidence that racism and sexism are in the US past and now only pose concerns for other nations.

The conflation of physical bodies with bodies of knowledge has proved to be a problematic assumption and a key weakness of identity-based politics because of the conundrum of questions that arise regarding authenticity (see Ford 2005). For example, not all black people speak for the “interests” of blacks, assuming that there is even a way to identify “black interests.” Thus Grewal and Kaplan (1996) give cautionary advice to Alice Walker, asking us to be more attentive to the problematic (re)production of privilege, and avoid a “logic of identification” that assumes the exteriority (blackness) of African

\(^{20}\) Indeed, as Uma Narayan notes, the “feminist injunction to attend to ‘differences among women sometimes takes questionable forms,’” where “feminist efforts to avoid gender essentialism sometimes result in pictures of cultural differences among women that constitute what I shall call ‘cultural essentialism’” (2000, 81).
Americans equates to a transparent racial identification with the African female victims of genital surgeries. The effects of the privileging of exclusion and experience are evident in the framing of women’s human rights, where it is the (past) exclusion of Third World women’s bodies that is identified as the cause of the privileging of a “western” framework and the perpetuation of a (neo)colonial agenda in discussions regarding what and who counts in women’s human rights. And yet, even when the Third World woman is able to represent herself and have her voice translated into a global dialogue, as in the case of Homa and Parvin Darabi, her intervention does not necessarily dismantle the privileging of a “western gaze” and the productive operations of (neo)colonial discourses in signifying the subject(s) of women’s human rights.\(^\text{21}\)

Indeed, the visibility and self-representation of Othered women as victim to women’s rights violations comes with a price; visibility and representation often work to reify and naturalize “old” notions of Third World primitivism. Though human rights literatures recognize the problematic ways (neo)colonial discourses continue to inform women’s human rights, the solution of inclusion – of including Third World women to participate and voice their own concerns for human rights – fails to dismantle the fundamental privileging of liberal conceptions of human rights and civil society, a privileging that simply hopes to (re)produce the “minor transparent ‘I’” within the context of an international law (now) more attentive to global diversity. In what follows, I examine the

\(^{21}\) This is because, the privileging of exclusion and experience (re)deploy the problematic paradigm of an additive analysis of difference and oppression, where only the poorest, Third World woman of color can speak to and know the condition of “intersecting” differences.
epistemic parameters of human rights and locate the logic of exclusion operating in feminist discourse within feminist critiques of human rights.

**Problematizing Human Rights**

Despite the reaffirmation of the universality and indivisibility of all human rights, including at the Vienna and Beijing conferences, the debate continues and detractors claim that where local traditions or values are at odds with internationally recognized human rights, these traditions should take precedence. Thus, the rejection of the universality and indivisibility of all human rights is often a justification for women’s civil, cultural, economic, political and social rights to be systematically denied in the name of cultural values premised on unequal power relations between men and women.


Questioning whether 1998 was a “Wonderful Year for Women’s Human Rights,” Amnesty International’s concerns regarding claims to cultural relativism expose the conundrum of women’s human rights. While the idea of women’s human rights is enabled only through the recognition of the particularities of women’s experiences, including “non-western” particularities, it is precisely this attentiveness to difference that threatens to undo women’s human rights. Particularity can also be used to deny “women’s civil, cultural, economic, political and social rights … in the name of cultural values premised on unequal power relations between men and women.”

Amnesty International frames the issue of women’s human rights around the assumption that first, there

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22 Indeed, scholars like Susan Okin (1998) recognize that however useful conceptions of relativism have proven in drawing attention to (neo)colonial privilege, one limitation in its use is precisely the concern articulated in Amnesty International’s statement—relativism has been used to justify actions that deny the “human-ness” of certain peoples. A common concern and critique of relativism, I take up the question of why this on-going debate concerning the tension between ideas of universality and relativity/particularity is seen as especially salient in discussions of Muslim states in Chapter V.
is such as thing as universal human rights, second, that these human rights are violated by problematic “local traditions and values,” and third, that these violations privilege men at the expense of women. The picture Amnesty paints envisions a divide between those actors who defend the universality of human rights, and those beholden to their “local traditions and values.” Why is it that certain nations and peoples are imagined as always those beholden to “local tradition?” And, despite critics wary of any claim to universalism, why have critiques of the way, for instance, “western” values have come to define what counts as human rights unable to engage with claims like those made by Amnesty? Why is that when the idea of universal human rights is problematized as a myth, these critiques simply become understood as claims being made by those beholden to “local traditions” that are against the idea of human rights anyway? And, why have claims to women’s human rights, even those made by self-identified feminists, been limited by what Grewal notes as the use of “the concept of ‘third world’ non-European ‘backwardness’ to explain why the ‘third world’ lacks human rights” (2005, 129)?

In what follows, I examine the feminist critique of human rights, arguing that this critique, because it is premised on the logic of exclusion and historicity, fails to dismantle the fundamental troubles of human rights – articulated by Amnesty International – the conundrum of universality. The conversations regarding universalism and relativism, and the privileging of “western” notions of rights and law that are central to human rights discourse deploy the logic of
exclusion. This deployment signifies the Third World as the latest and last place where problems of human rights persist, whether in the problem of (cultural) behaviors that violate human rights, or in the problem of Third World (cultural) contexts and (how to deal with) their particularities. I do not mean to suggest that policies and practices harmful to women do not exist in the Third World; rather I want to draw attention to the operations of the logic of exclusion informing human rights to examine why certain “victims” and violations become synonymous with women’s human rights.

Both the concerns regarding the privileging of “western” notions of rights and the universalizing of these “western” notions at the expense of Others, identify exclusion as the problem – exclusion hides and renders universal assumptions that are in fact particular or “western.” Thus, human rights literatures emphasize the necessary participation of the Third World in identifying, and thus (re)defining, human rights violations (see Cagatay, Grown, and Santiago 1986; Coomaraswamy 1994; Nesiah 2000). Indeed, the critique of (neo)colonialism and orientalism operating within conceptions of human rights that privilege “western” liberal notions of rights is also central to feminist critiques – critiques that take gender/sex as a primary axes around unequal relations of power operate. 23 Both diagnose the problem as the exclusion of Others, and pose the solution of including the bodies and voices of these Others – an inclusion that serves as an alibi that signals the end to androcentrism and

23 Indeed, as a particular conversation about human rights that takes gender/sex as central to its analysis, the feminist human rights scholarship is informed by/informs feminist discourse.
euro-centrism in human rights, an inclusion that enables the mythic recuperation of the law (Fitzpatrick 1992).

I begin by examining the conflict that constitutes human rights, identifying the central conflict as the desire for peace at some cost to freedom, civil society that must always restrict natural rights, or rational/positivist and moral/ethical law. Then I argue that the various feminist critiques of human rights, while complicating this fundamental contradiction embedded in human rights by inserting racial and gendered particulars (in addition to the already recognized national ones), nevertheless fail to fully address human rights’ problematic premises on modern ontology. As I have argued earlier, feminist discourse, as an expression of the “politics of difference,” is invested in the very strategies that define modern ontology. The discourse’s reliance on exclusion and historicity suggest that the problem and solution to the universalizing tendency of human rights is simply to recognize its various gendered, raced/cultured expressions around the globe. This is accomplished through the insertion of both gendered and raced/cultured bodies and voices – bodies and voices understood as excluded from human rights in the past, problematically situating the Third World woman as the “final frontier” and human rights “critical potential.” The discourse understands human rights as only truly human when the particularities of the globe can come together to translate the universal.
The literature on human rights, while vast and varied, tends to frame human rights in terms of the struggle and negotiation of the state (civil society) with natural law/rights (human rights). This comes as no surprise given that the majority of work on human rights is generated out of disciplines like political science and legal studies, disciplines interested in situating human rights within knowledge of institutions like the state and the law – both of which are constitutive of modern power. In this context human rights are defined as universal, moral, ethical, natural rights – rights that extend beyond the state or the contracts of the civil society.²⁴ Charlotte Bunch describes human rights “as inalienable,” rights that “no one can voluntarily abdicate … since those are rights which we have by virtue of being human” (2001a, 139). In this sense, human rights as natural rights are beyond the legitimate governance of the state – the state can only ensure their protection, but cannot restrict their exercise. Human rights thus produce a “global” context beyond the boundaries of the state and always already assume the modern subject – subject to juridical governance.

Amidst claims to the “end of the nation-state,” human rights, as “today’s most influential version” of natural rights (Keane 2003, 187), opened up debate regarding globalization – whether it signaled the decline of the nation-state, to what extent its “compression of time and space” (Harvey 1989) altered the state of the world, whether cosmopolitanism wasn’t a more salient lens through which to examine the world (Cheah and Robbins 1998), and so on. In response to the

²⁴ Diana Zoelle notes that, “A human right implies that any system of government is unacceptable if it denies the full expression of the natural, inalienable rights of human beings” (2000, 15).
various claims that in some way or another suggested a “new” global
collection configuration that moved away from nation-states and nationalisms, to one that
saw transnational flows of peoples, products, and ways of life as promising to
alter the analytics of global studies, scholars like John Eade and Darren O’Byrne
(2005), Carol Breckenridge, Sheldon Pollock, Homi Bhabha and Dipesh
Chakrabarty (2002) revisit the global debate in ways that recognize the
continued salience of the (modern) nation in constituting subjects. Within this
literature, one that acknowledges the importance of transnational flows and the
nation-state, the concept of a “global civil society” driven by ideas like human
rights is posited within a field of nation-states.25

These literatures, in their various explorations of a new configuration of
modernity/coloniality locate human rights as central to the project of “global
civil society.” Global civil society is often posited as the guarantor of the ethics
of human rights (Keane 2003) precisely because global civil society, as an
alternative to the political sphere dominated by states, is itself located within the
ethical sphere (O’Byrne 2005). Already, what returns in these “new” debates
regarding global civil society, is the “old” question of how to define human
rights (as ethical, natural law) without relegating and reducing it to the realm of
the positivist law of the state. Scholars like Romany (1994) argue that in order
for international law to be effective (as the institution of human rights), it must
take as subject the individual human rather than the citizen-subject. Yet, others

25 For example, Keane (2003) notes that while the state is a central impetus for global civil
society – a pluralist set of “non-state” institutions – it is generally the perceptions of the state as
inactive, along with market forces and civic institutions that enable global civil society.
like O’Byrne (2005) would argue that the very act of relegating human rights to an institution like international law, defeats the purpose of human rights as ethical and natural law. What these debates as to the role of the law within global civil society miss is the fact that the force of the Law constitutes the modern condition, a claim articulated by Fitzpatrick (1992). That is, the very conception of law as both a force beyond the social, yet also a force of the social (and the reconciliation of this dilemma), lies at the heart of the modern condition, producing the conditions of (modern) power (a power that produces difference).

For example, the Law is precisely that which enables the negotiation of the conundrum of peace and freedom. Since, as liberal political theories point out, natural rights are always sacrificed to some extent to ensure civil society, whether this sacrifice happens out of fear of anarchy (Hobbes) or out of desire for peace (Locke), the Law is crucial to maintaining the myth of peace and freedom – the Law’s mythological aspect as universal and transcendent serves to ensure the idea of freedom even while the law restricts the freedom of some to ensure peace (Fitzpatrick 1992; Nelson 1999). And, as Jacqueline Bhabha describes, this is the central conflict of human rights and refugee/asylum laws: “Refugees crystallize the conflict between two founding principles of modern society – the belief in universal human rights which inhere in all individuals by virtue of their common dignity, and the sovereignty of nation-states. Legal systems – both national and international – address this conflict in their refugee
provisions” (1999, 178). The absolute state of freedom or nature is always imagined to be in constant negotiation with the desire for peace – a peace that cannot be instituted without governance. The idea of human rights, so long as it is defined through conceptions of natural law, will always reproduce the contentious struggle between the desire for freedom countered by the necessity of peace/governance, evident, for example, in the continued struggle within human rights discourse of the desire for universal principles coupled by the struggle to acknowledge yet also disavow particularity.

Thus the conflict in human rights discourse revolves primarily around the fact that, conceived as natural rights, human rights must be sacrificed to some extent to ensure civil society. Literature that grapples with the role of human rights therefore often analyzes the role of the state, asking whether the state can or is protecting human rights (through the law), as well as the extent of the state’s role (Rishmawi 1994), or even whether states can monitor and police each other to ensure human rights (for example Booth 1998; Galey 1993). In fact, scholars like Knop (1994), in arguing for the efficacy of extra-national institutions and a global civil society, claim that in some contexts the state no longer functions at the will or needs of the civil society. Similarly, Keane (2003) suggests that human rights emerge out of state inactivity, and while how to enforce/ensure these rights is one question, Keane recognizes another, no less important question of how one identifies human rights. These two questions: Who defines human rights and how, and who ensures these rights and how, stem
from the basic dilemma between universality and particularity – if human rights speak to universal conditions, how do we know what they are? What is the role of the (particular) state governments/institutions if they, by their nature as institutions of positivist law, cannot institute or define human rights (as natural rights and therefore fundamentally oppositional to governance)? Human rights literatures concerned with the role of the state and state sovereignty, often debate the universality of “rights” in relationship to a necessary acknowledgment of cultural relativism that protects some idea of national sovereignty. The idea of cultural relativism has been important to human rights literatures primarily because it has enabled critiques of values and laws that, while assumed universal, according to some, arise out of a particular context or culture.

Many feminist critiques of human rights reject the privileging of rationalism forwarded by neo-Kantian approaches to human rights, which argue that human rights and the universal principles they capture are not vague, but can be described through rational procedures. Instead, feminist critiques of human rights argue that the often-vague principles of natural law can be specified through (cultural) exchanges and dialogue that lead to “common human values.” These claims to particularity have been important, not only to avoid Euro-centrism in human rights, but also to the conception of women’s human rights as speaking to the particular experiences of women often neglected in human rights discussions. However, what remains to be addressed is the
modern subject underlying the notion of human rights and the fact that human rights, so long as they are conceptualized through understandings of natural law, are productive of, modern/colonial frames of understanding nation-states, governance, and the Law.

What is significant in the women’s human rights literatures is the fact that, while recognizing the troubles of human rights – the trouble of establishing universals amid particulars that cannot be denied (troubles articulated by Amnesty International, as well as scholars like Kristin Miller\textsuperscript{26}) the literature fails to adequately address this contradiction. Women’s human rights discourse solves the problem of how to define universals by suggesting a strategy of inclusion – the inclusion of particulars, where the dialogue amongst them will reveal that which can be universalized. Yet, if one critique of human rights is that, as an expression of natural, ethical law, it is premised on liberal (“western”) notions of law and rights (liberal western notions that are also androcentric), the inclusion of particulars does not address this fact – in fact it cannot because inclusion protects the “transparent ‘I’” guiding liberal notions of law and rights. I argue that the feminist critique of human rights, while promising to explode the idea of human rights as defined by modern, liberal notions of natural rights and ethical law, never quite succeeds because of its own investment in modern ontology.

\textsuperscript{26} Miller (1996) notes that, “relativism allows countries to violate international human rights standards by using culture to justify their departure from universalist norms … allowing universalists to impose their definition of human rights on Iran.”
Employing the logic of exclusion and the “evidence of experience,” scholars like Hilary Charlesworth (1994) and Celia Romany (2000), arguing that the jurisdiction of the law constitutes a public realm, critique the androcentrism of rights and law – an androcentrism evident in the inability of rights and law to grapple with the private sphere. Thus, the question “who determines human rights” has been critiqued by feminist scholars as excluding women and their particular experiences. Indeed this critique, deployed against the US legal system as well as international conceptions of the law, argues that legal measures, like asylum laws, are not able to consider the “special” circumstances of women.

Thus feminist human rights literatures, recognizing the fundamental investment in liberal ideologies of rights, increasingly argue for a shift in “existing theories, compilations, and prioritizations of human rights” that “have been constructed after a male model” (Okin 1998, 34). As Susan Okin further notes, “Both the early conception of ‘the rights of man’ in the seventeenth century and the original conception of international ‘human rights’ in the mid-twentieth century were formulated with male household heads in mind” (1998, 34). Thus identified, scholars like Okin, Charlesworth, Bunch and others identify the solution to issues of androcentrism as the inclusion of women’s voices and experiences (Okin 1998). As Charlesworth notes, “We must work to ensure that women’s voices find a public audience, to reorient the boundaries of
mainstream human rights law so that it incorporates an understanding of the
world from the perspective of the socially subjugated” (1994, 76).

However, arguing for the inclusion of women’s issues or the more
radical reorientation of human rights and the law through consideration of
women’s experiences falls victim to the problems of modern ontology also
characterizing feminist discourse and other “politics of difference.” Indeed, the
critique of androcentrism and Euro-centrism in human rights simply
inserts/includes gendered and racial/cultural particulars/Others into questions of
how the universals underlying human rights are defined and who determines
them. I am not trying to argue against the problematic legacy of liberal,
Lockean frames in defining rights, rather I argue that the tactic of inclusion –
including women’s experiences, the experiences of the Third World – does not
necessarily allow for the reorientation of “the boundaries of mainstream human
rights law” – a point I return to in Chapter IV, where I examine the specific
ways the conundrum of human rights informs the discourse of (women’s)
reproductive right to self-determination. The tactic of including the experiences
representative of the “perspective of the socially subjugated” merely substitutes,
momentarily, the “minor transparent ‘I’” keeping in place the operations of
power that privilege “western” liberal/Lockean notions of rights.

I suspect that it is this conundrum that, while explicitly unrecognized in
the feminist literature on human rights, informs many scholars’ hesitancy in
universalizing the idea of rights. Thus Cook, Okin, Bunch and others emphasize
that the idea of rights as universal is problematic because this idea is specific to a “western” liberal context, and universalizing it would thus impose (neo)colonial power relations. Yet, without some universal concept of “human-ness” and “woman,” there would be no basis upon which to claim human rights and the human rights of women. This tension, between establishing some universal conception of human-ness, while also being careful not to flatten differences amongst women, centrally informs feminist human rights literatures. The feminist critique of human rights (re)produces the very concerns of US feminist discourses – concerns regarding difference within the category woman. Indeed, women’s human rights provide a site where feminist discourse converges with concerns about the role of the state both with its subjects and within a global context.

Recognizing the category woman, both as global/universal in its signification of subjects constituted through exclusion, and as heterogeneous/particular in the experiences of exclusion, a large majority of feminist literature on human rights argues the universality of the subordination of women, even while the practices of subordination may vary (Bunch 2001a; Cook 1994; Okin 1998; Prugl and Meyer 1999; and so on). While some scholars pose dissention to the idea of the universality women’s subordination (Nesiah 2000), arguing that such an assumption reproduces imperialist discourse, the majority of feminist human rights literature acknowledges that what makes women’s human rights a global concern is the universality of
women’s subordination – of patriarchy, or the cultural expression of male privilege – rather than any universal conception of rights.

Most feminist human rights literatures take this middle-ground stance on the issue of universalizing women’s rights – rather than argue that certain rights are universal, a claim that is privy to Euro-centrism, feminist critiques of human rights generally negotiate the particularity of rights to cultural contexts, while recognizing that patriarchy/subordination as well as the category woman are universal. For instance, Cook articulates such claims noting that, “no one lost sight of the limitations of a rights strategy and the fact that its effectiveness would vary from culture to culture … Asam Halim, a legal practitioner from Khartoum, Sudan, observed that, while the nature of subordination and thus the means to combat it may vary, ‘we must not lose sight of the fact that we are subordinated because we are women’ and that the goal of eliminating all forms of subordination of women remains universal” (1994, 5). Thus, feminist scholars have generally advocated that the rights that need to be recognized, included, and protected vary from context to context, and in the privileging of the “evidence of experience,” these particular (cultural) expressions of woman can only be articulated by women identified as of these (cultural) contexts if women’s human rights is to avoid “western” privilege. Of course, my concern here is that even the visible and audible inclusion of these Other experiences of woman do not necessarily eliminate the (neo)colonial, “western” privilege informing human rights discourse.
Even in texts that question the assumption of universal male oppression because of its imperial and (neo)colonial effects, the cause of such (neo)colonial effects is identified as the lack of representation of Third World women in US feminist legal and human rights scholarship (Nesiah 2000; Romany 2000). Claims of cultural relativism, in dealing with the idea of human rights and international law, have enabled critiques of (neo)colonial privilege informing definitions of human rights (Coomaraswamy 1994). The operation of cultural relativism in human rights claims is similar to the role that experience plays in feminist discourse; claims to universality are critiqued as particular; and in fact, claims to relativism often use experience as evidence. Under the assumption that “it would be wrong to assume that the values contained in the Universal Declaration of Human Rights are truly universal” (Coomaraswamy 1994, 41), advocates of women’s human rights like Cook, Coomaraswamy, and Nesiah (2000) argue the necessity of Third World involvement in identifying problematic aspects of the culture, thus respecting relativism while agreeing that the subordination of women, in its varied forms, exits universally. The assumption is that the act of translating the different needs of women’s rights in different (cultural) contexts will reveal that which is ultimately universal (patriarchy not the least of these). This inclusion of Other women’s experiences and voices is then read as evidence that human rights is (now) beyond the problems of androcentrism and Euro-centrism.
The inclusion of Third World women’s voices can in one sense be read as attentiveness to relativism, yet the emphasis of the literature on dialogue and translation (Afkhami 1995; An-Na’im 1994; Romany 1994) simply reaffirm a universal condition of female exclusion. Many scholars, especially those engaged with the issue of the codification into law of certain Islamic beliefs, argue that universal principles like human rights emerge out of the realization that particularity actually reveals similarity with proper translation and dialogue, a point I elaborate further in Chapter V. The universal is unquestionably upheld as the universal in the project to uncover its various forms through translation (of cultural differences). The role of the “Third World woman” is particularly important in this context, as it is through her voicing of her particular experiences that similarities in the (excluded) condition of female-ness can be uncovered. The problem with the so-called solution of translation, I argue, is that translation already assumes a kind of transparency, between the speaking subject and the act of speech – an assumption that misses the fact that speech, and strategies of representation in general, are always already mediated, as Spivak and Silva reveal.

However useful in identifying difference, the “evidence of experience” necessitates that only the poorest woman from the Third World can accurately represent the conditions of difference, since she is “nearest” in experience to the cultural, economic, and social conditions that result in her varied experiences as (subordinated) woman. Cultural relativism assumes a problematic connection
between exterior markers of culture with knowledge of that culture, an effect of the logic of identification. What I find problematic here, is that the conflation of physical bodies with knowledge about these bodies, even while rendering visible the problematic effects of a history of global colonial relations, nonetheless signify Third World difference as that which continues to be informed by patriarchal, oppressive beliefs, traditions, customs, culture.

In a sense, the visibility of Third World women, while acknowledging that the condition of being behind is an effect of colonial power relations, nonetheless signifies the Third World as still behind, only now that colonialism is in the past, the condition of “being behind” is attributed to culture rather than being a matter of colonial relations (relations that provided the defining conditions of modern racial difference) – a cultural difference that can be translated to reveal the universal truths behind the (excluded) condition of “woman.” This is a point I explore further in Chapter III. Historicity erases colonial power, displacing it in the past, even while its operations continue to inform the present configuration of the globe. The inclusion of women into human rights is read as evidence of the field’s move away from andro-centrism, the inclusion of the Third World signals the field’s move away from euro-centrism and “western” privilege, and the inclusion of the Third World woman marks the moment of human rights truly universal potential. Yet including “new” subjects of human rights does not address the issue of the continued
privileging of “western” liberal paradigms for understanding law, a privileging that leads to the conundrum of universality.

If the feminist human rights literature points to these more troubling dilemmas of the conundrum of universality and the (continued) privileging of “western” liberal conceptions of law (as the negotiation between positivist and moral law), then inclusion does not adequately address these issues – inclusion maintains the “western” liberal frame and simply hopes that the recuperation of the excluded Other will eventually alter it. What I hope I have suggested in my review of the literature is that inclusion does not adequately address, because it cannot fully recognize, the privileging of modern ontology that fundamentally informs human rights (as natural, ethical law). Rather, I suggest a deconstruction of the epistemological conditions constituting human rights, women’s human rights, and more generally, the “politics of difference.”

Concluding Remarks: Looking Ahead

The epistemic process of locating feminist discourse’s “racial alibi” in the past enables the US to constitute itself as an authority on global feminism – on issues of gender oppression and patriarchy located outside of national borders. This is done first by identifying the problem at the crux of defining US feminist discourse as one of exclusion. Secondly, US feminist discourse is then defined by its narrative “progress,” one that begins with inattention to the ways race and class operate to differentiate the experience of woman, to a present that has reconciled this initial blind spot through the inclusion of “women of color,”
both as physical presences and as symbolic presence in the acknowledgment of intersectionality. Thirdly, “Third World women” are posited, problematically, the “final frontier” – the next subject of exclusion signifying a “critical potential” (Lee 2000). Thus, locating the problem of exclusivity in the past – both in terms of the exclusion of gender issues from the national agenda and in terms of the exclusion of Othered women’s experiences – enables the constitution of the US as “ahead” of other nations, where women are identified as not “free” to exercise the kinds of political (suffrage) and social (education) rights located in the herstory of the US.27 What I question are the epistemic conditions that provide a narrative of feminist discourse that intersects with, and informs imaginings of the nation as “beyond” racism and sexism – imaginings that necessarily appropriate certain feminist claims regarding exclusion and difference.

Feminist discourse, as it is informed by the “politics of difference,” and the feminist critique of human rights that diagnoses the privileging of “western” liberal paradigms of rights and law, write themselves a conundrum – because the privilege of modern ontology is not and cannot be fully addressed, these potentially radical endeavors are easily appropriated by the very institutions they critique. For instance, that multiculturalism now defines the cultural goals of the

27 I do not want to suggest that these problems and issues do not exist within the context of the US, as many scholars and activists have argued, de jure rights do not necessarily mean they are practiced de facto (see for instance, Roberts 1997). Rather, I take Silva’s critique of the logic of exclusion to argue that its function within feminist discourse enables the constitution of the nation-state as having “solved” de jure sexism and racism in the past (specifically, through Civil Rights legislations).
US state as well as the UN signals the recuperative appropriation of the “politics of difference.” Similarly, the hyper-visible recognition of Other women’s human rights signals the appropriation of both concerns regarding gender and racial/cultural difference into the state, a move that elides the more troubling questions of the continued productive power of modernity/coloniality in configuring the globe. If inclusion is the only goal, it has been a success. However, I suspect that feminist discourse, and the feminist critique of human rights seek to provide more critical and radical engagement of “western” power and the privileging of modern ways of knowing and being.

Recognizing that the exclusion of “women’s issues” from human rights, scholars like Romany (2000, 54) argue that only through making “visible the compounded social marginalization these women experience” will issues like violence, reproductive rights and sex slavery be properly considered human rights concerns. The logic of exclusion enables “feminist” human rights discourse to be narrated within a story of progressive inclusions that culminates in the 1990s and the recognition/inclusion of the “Third World” as the final (due to past colonial relations) place of inclusion. In addition, because the rhetoric of the “new millennium” enables the US to posit its global “exceptionalism” in matters of women’s rights and freedom – a construction consolidated through the UN’s millennial declaration on diversity (2001) – that I situate Chapter III here.
The issue of sex trafficking, while generally acknowledged as an ongoing activity, has emerged as a key issue at the turn of the new millennium. Specifically, with the UN Conference on Human Rights in 1993 the trafficking of women was formally recognized as a human rights concern. Seven years later, with the UN Millennium Declaration and the passage of the US Trafficking in Persons Act, international legislation and policing efforts situated trafficking as the issue of the new millennium – the “last issue of humanity.” In positing its position as the “natural” leader in the fight against trafficking, the US displaces trafficking as a matter of Others – specifically, a matter of an amoral culture of patriarchy located in Other (often Southeast Asian) parts of the globe.

I trace the signification of the trafficked “victim” in order to reveal how the amoral difference of patriarchy (re)deploys modern, (neo)colonial relations of power – relations of power constituted through the intersection of racial power and patriarchal power. I examine how this “problem of Others” is characterized through the discourse in order to argue that despite claims to political and economic inequality, the ultimate culprit of trafficking is cast as the cultural deviance of Other, Southeast Asian forms of patriarchy. I argue that casting the trafficking as a matter of a deviant culture of patriarchy enables the mythic recuperation of the modern narrative – a narrative that promises universal principles. Culture functions as both a site of racialization as well as a site that negotiates the fundamental tension of human rights – its promises to
universality even while this universalism depends upon the existence and (then) eradication of particularity. In examining the specific ways the category Third World Woman is inscribed in US sex trafficking discourse, the elision between the idea of sex trafficking as a modern manifestation of an “old evil” enables the US to (dis)locate itself from trafficking – trafficking is a problem for the US insomuch as Other women are trafficked into the US by Other men, and this results in a moral lapse. Thus, Chapter III examines how the imagery and allusions to the transatlantic slave trade of the US past enables a discourse of sex trafficking that situates it as a problem of Others, specifically Southeast Asian Others cast as beholden to a primitive culture.

Chapter III argues that the US, in its discourse regarding women’s human rights, constitutes itself as an exemplary global “model” in the fight against trafficking. I do not want to suggest that this is a good thing, or that constructing the US as a global leader of women’s human rights is right or even persuasive. Rather, I suggest that the centrality of exclusion in framing the relation between the state and difference enables a constitution of the US as a global model and arbiter for women’s human rights, even while this constitution is riddled with contradictions, as Zoelle’s (2000) work notes. My analysis of the discourse of sex trafficking works to uncover the ways in which the US attempts to posit itself as a leader of a global community that imagines itself as progressing toward a more perfect civil society – indeed, as progressing toward a global multicultural moment. And, because of the tensions in negotiating
human rights as natural rights against the idea of the (contracted) civil society, constituting the US as a legitimate arbiter of human rights necessarily requires an imagining of the US as epitomizing the principles of universality that provide the law and extra-national institutions like the UN legitimacy. It is this national rhetoric that I argue enables human rights to operate as a site through which the US can constitute itself as a global exemplar – a place where, because of its history of slavery, now captures those very moral principles productive of human rights (moral principles that are then argued as needing to be translated to Other parts of the globe, a point I examine in Chapter V).
III. Saving the Future of Morality: Trafficking in Other Women and the US as Global Exemplar

There’s another humanitarian crisis spreading, yet hidden from view. Each year, an estimated 800,000 to 900,000 human beings are bought, sold or forced across the world’s borders. Among them are hundreds of thousands of teenage girls, and others as young as five, who fall victim to the sex trade. This commerce in human life generates billions of dollars each year – much of which is used to finance organized crime … We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade, and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time.
– President George W. Bush at the 2003 Address to the UN General Assembly

Referring to the trafficking of humans, usually women and children, over national borders as commodities in the global sex trade, President George W. Bush’s 2003 Address to the UN General Assembly appropriates both the political position of US women’s rights advocates who have continued to debate the selling of women’s bodies, and the language of those interested in the place of blackness in the US racial landscape for whom the transatlantic slave trade is key. By first establishing that 800,000 to 900,000 humans are “bought, sold or forced across the world’s borders,” the commerce of human bodies is both established as a world problem, as well as a “humanitarian crisis.” The fact that the President describes this current crisis as a resurrection of an “old evil,” one that returns to the US “nearly two centuries after slavery was officially ended” enables the global trafficking of women to be read as a new problem that threatens to take us back to “old evils.” The President’s consolidation of a “women’s rights issue” (the trafficking of women) and a “race issue” (the
transatlantic slave trade) is telling in its revelation of the convergence of
discourses of difference toward a multiculturalist agenda – one espoused by a
President who identifies himself with the “New Right.”28 This convergence of
race and gender in the President’s framing of US goals for the UN and the
global community it governs is the outcome and legacy of a politics of identity
that relies both on exclusion and historicity in defining difference, the
repercussions of which have enabled a hijacking of the “progressive” language
and concerns to emerge out of a Civil Rights and feminist legacy, and which
have enabled the rhetoric of a global multiculturalism constituted through
women’s rights.

While noted as a historical activity that can be compared to other kinds
of slavery, the trafficking of women and children for the (illegal) sex trade has,
since the mid-1990s, (re)emerged as a concern for the international, UN
community. With the Conference on Human Rights in 1993, sex trafficking was
formally recognized as the human rights issue marking the end of the 20th
century. At the turn of the millennium, sex trafficking marked the “last issue of
humanity” – that remnant of “old” practices of human bondage that threatened
progress towards a human rights driven global civil society. Sex trafficking has
thus served as a site where US governmental, feminist and UN discourses

28 I use “New Right” to refer to those within the Republican party who advance a platform that
emphasizes moral issues over the traditional political ideology of the party that is framed by the
idea of a smaller federal government. The term has been used by politicians and political
analysts, including 1996 Presidential hopeful Pat Buchanan. Buchanan has used the term to
differentiate his position, as a “traditional” Republican, from that of President George W. Bush
and the Religious Right, who are willing to abandon the idea of small federal government in
order to legislate, for example, the legality of same-sex marriages.
converge, particularly in their imaginings of the global subject of the new millennium – a subject with the capacity to a self-determined life of freedom.

Thus, I begin by tracing how the trafficked woman is constituted as agent, victim, and/or both. I illustrate how the signification of the Other trafficked “victim,” notably the Southeast Asian woman, naturalizes constructions of a (deviant) amoral culture of patriarchy that keep her from self-determination. The victim/agency paradigm limits the ways we can engage with the issue of trafficking as a human rights violation because its rendering of economic conditions assumes that they are given, thus suggesting that the “real” culprit is cultural. On the other hand, while the victim-agency paradigm circumscribes the signification of the white/Western, usually Eastern European “victim” of trafficking, the condition of her victimization is, unlike her non-European counterparts, primarily cast as political and economic – temporary rather than innate.

I ask, “What kind of subject is constituted through the discourse of sex trafficking?” In answering this question, I then examine the difference of the trafficked subject to the (feminist) savior-subject, as well as the different

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29 I employ a methodology similar to that of Ryan Bishop and Lillian Robinson’s Night Market: Sexual Cultures and the Thai Economic Miracle (1998). I examine the discursive production of the sex trafficking and the “trafficked woman/victim” constituted through it. Bishop and Robinson highlight specific tropes that recur within the discourse of sex tourism in order to identify the function of the Other (she who is imagined as selling sex) historically. While their examination of historical texts is to establish a discursive genealogy of the production of the Other of sex tourism, I situate my discursive mapping within the context of the consolidation of a “politics of difference” into the US national agenda, and the consolidation of a global community characterized by the conception of a diverse humanity celebrated and protected through the extra-national governance of the United Nations and other bodies, including the US, that are perceived as representing a “greater (humanitarian) good.”
characterizations of trafficked European and non-European women. While I analyze feminist, NGO and governmental texts, this section focuses mainly on a reading of two UN public service announcements (PSA), *Cleaning Lady* and *Human Trafficking*. These PSAs are part of a new millennial campaign of the UN Office of Drugs and Crime to fight the trafficking of women for sexual labor. The PSAs together reveal the difference between the white/Western/First World subject, whether she is herself trafficked or saving other trafficked women, and the Third World subject’s implicit construction of an amoral and deviant culture of patriarchy located in Other places. I argue that this difference is constituted through claims to the morality of patriarchy, as *Cleaning Lady* illustrates, where the patriarchy of the white/Western/First World is characterized as redeemable and only momentarily threatened by the activities of trafficking. Unlike the white/Western/first (or second) world agent, the trafficked Other woman is incapable of helping herself because of her inherent inability to escape the very (amoral, patriarchal) cultural conditions that lead to her trafficking. I argue that the examination of the difference of patriarchies reveals how modern operations of power depend upon the intersection of racial and gendered relations of power – an intersection that is deployed in the negotiation of universality.

Finally, I consider how the victim-agency paradigm circumscribes the conditions of subjection, different significations of the trafficked “victim” and the production of difference through patriarchy all operates to constitute the US
as the global moral exemplar. Despite the fact that white, western Europe is also a place where the proper moral values antithetical to trafficking can be located, it is the US’s claim to the history of the transatlantic slave trade and the resulting actions to remedy this evil (the Civil War, the Thirteenth Amendment, the Civil Rights Act) that allows the rhetorical construction of the US as beyond the problems of culture and economy identified as enabling a “modern form of slavery.”

I begin with a brief discussion of the theoretical terrain informing my analysis. Sex trafficking, through the victim-agency frame, constitutes the trafficked Other woman as morally troubled and therefore “not yet” embodying a proper feminist and human rights consciousness. However, the white/Western/First world woman, whether trafficked or not, is cast as momentarily effected by the moral lapse of trafficking that “originates” in the culture of the Third World, particularly Southeast Asia. This difference speaks to the importance of the construction of Third World, Southeast Asian particularity – one that is so inherently amoral it cannot save its own women – to managing universality and the idea of universal principles.

**The Limits of Women’s Human Rights: The Conditions of Representation**

How is it that the trafficking of Other women for a global sex trade has come to signal the “last issue of humanity,” and what of it? Similar to Mignolo’s (2000) “modern/colonial world system” – or the idea that the knowledge that produced Europe as a colonial power continues to inform global
relations – Dipesh Chakrabarty (2000) also points out the continued legacy of Enlightenment humanism. Women’s human rights and sex trafficking discourse as a violation of these principles provides a site where the operations of “modern/colonial” power can be exposed, specifically in the ways they circumscribe the trafficked female subject as “not yet,” or as Silva terms, a “minor transparent ‘I.’” Sex trafficking, as a human rights concern that can be tied to the transatlantic slave trade of the European and US past, enables what Chakrabarty terms the “waiting-room version of history” – the modern (European) idea of history that allowed the colonizing power a “way of saying ‘not yet’ to somebody else” (2000, 8).

Sex trafficking as a women’s human rights violation characterized as the “last issue of humanity” establishes human rights and women’s freedom within the “waiting-room” of history, where those Other, non-European subjects, identified as the “originators” of trafficking, are “not yet” proper (moral) global subjects – they are global subjects, but “not yet” the kind of subject captured by the white, Euro-American body (see Silva 2006) – because they resurrect what, for the rest of the (already moral) globe, is an “old evil” – in fact, the “old evil” of the African slave trade that both Europe and the US have already resolved. I trace the signification of the trafficked female subject not only because her signification as “not yet” a moral, human rights and feminist subject is indicative of the continued operations of (modern, European) configurations of power, but because she must always signify the subject-in-waiting in order to
enable the myth of universality – the very myth that underwrites human rights. Human rights, as it describes the universality of humanity (and the principles guiding it), rejects the particular. Yet, at the same time, universality cannot exist without that which is particular. This conundrum establishes the mythic quality of universality and human rights.

Even as Enlightenment thinkers rejected mythological knowledge and established Man, not God, as the measure of man, where everything could be known and “objects have and maintain identity ‘in themselves, complete, self-referring, and proper,’” the resolution of particularity with the generalizable would require a mythic quality (Fitzpatrick 1992, 48-49). In his examination of the mythological aspect of modern law, Fitzpatrick notes that, while the law, like other objects, was rendered “intrinsic” – an object that maintained its identity “in itself,” yet neither could it be “merely terrestrial” (1992, 55). According to Fitzpatrick, the law, as that which replaced God in the harkening of the power of the sovereign state, had to exist as more than simply an “object of man.” It must maintain a quality of transcendence in order to sustain the legitimacy of rule. Thus the mythological aspect of the law lies with the fact that it is imagined as both transcending the social (as Law) as well as of the social (laws). This mythic resolution occurred through the “site of origin.” For Fitzpatrick, by establishing a narrative of origin, marking that Other who exists before the law and (re)reading that Other back into the story of origin as that which is “not yet,” the Law can at once be of (certain, not Other) man and also
above all mankind (transcendent). Yet, because the Other always threatens to reveal the mythical origin of the Law she must also be included as its subject; she must be recuperated back into the narrative of origin not as the enabling-Other, but as, what Lee (2000) terms the “critical potential” – the latest/last subject.

The transcendent quality of the Law can only be maintained with the Other’s inclusion, an inclusion that is already produced through the conditions of juridical power. Thus the inclusion of the Other serves as the mythic resolution of the modern – her inclusion signals the (final) evidence of the universality of modern principles, even while hiding the fact that the conditions of her inclusion are always already “given,” as Butler (1999) explains. Butler notes that (modern) juridical power “‘produces’ what it claims merely to represent” (5) and the “domains of political and linguistic ‘representation’ set out in advance the criterion by which subjects themselves are formed, with the result that representation is extended only to what can be acknowledged as a subject” (1999, 4). Thus, as Chakrabarty notes, the force of historicism writes the Other as “not yet,” though the possibility of her inclusion must be there (and is always already there), according to Fitzpatrick, in order to resolve the transcendent and terrestrial – (law is a matter of men, since some European men have already created it, yet it is also a matter beyond any one man). The modern conditions of the juridical already circumscribe the ways in which the (Othered) subject can be represented (as “not yet”), as Butler notes.
What Fitzpatrick’s examination of modern law reveals is that the modern project derives its force (of power) through its resolution of universality (the transcendent) with the particular (terrestrial). Indeed, the power of the modern condition of knowledge lies with the fact that universality is (mythically) established as universal through the inclusion of those very Others whose (one-time) exclusion from the universal enabled the very idea. Thus, though the Other is always already a modern subject, she is signified as “not yet” modern – she is relegated to signification in the “waiting room of history.” As Silva notes, the rendering of difference through the “socio-historical logic of exclusion” constructs a (mythological) solution to difference that advocates the celebration and inclusion of that which was previously excluded.

Silva’s work traces the way racial difference is defined through the social/scientific moment of the inscription of modern power. She argues that in its inscription through exclusion, difference is rendered a social product (a product of social relations), thus hiding the fact that there are epistemic conditions that prescribe, so to speak, the social/scientific moment of inscription by establishing the ontological, epistemological conditions under which categories of difference can later be named, identified, defined, and analyzed. Thus the strategy of inclusion is simply another moment in the unfolding of modern power and ontology, one that produces the Other as a “minor transparent ‘I’” (Silva 2006) – an “I” produced as an effect of difference and relationality, only this time she is that which, in the past, was excluded (for
Fitzpatrick, from Law; for Chakrabarty, from History; for Lee from the project of women’s studies and feminism). Yet, as Fitzpatrick, Silva and others note, the very act of inclusion is one that hides the epistemic conditions of modern power – conditions that produce an alterity and that produce the Other whose body marks the alterity that must always remain before/outside the Law. Thus, as Butler reminds us, the conditions of the signification of the Other are already prescribed. In fact, as Silva explains, the conditions of signification of the Other are prescribed by the very ontological conditions of modern power established in the epistemic moment of modern power’s inscription.

The ontological process and its conditions, which Fitzpatrick, Silva, and others outline, enable what Lee (2000) identifies as the problem of the “racial alibi” in women’s studies disciplines, where the categories “woman of color” and “Third World woman” are signified as the “critical potential” or final frontier of women’s studies – the inclusion of the (raced) bodies mark the resolution of racism in women’s studies’ past. Indeed, the signification of the “Third World woman” – the trafficked “victim” – as the critical potential of the promises of the universal, the promises of the universality captured by human rights, I read as another moment of modern power. The signification of the trafficked “victim” as the critical potential of human rights (and the universal principles it captures) is a moment of inclusion – a recuperative moment that resolves the universal (transcendent) with the particular (terrestrial). If the inclusion of the Third World woman victim to trafficking serves as a
recuperative moment enabling the (mythological) power of modern ontology, then the difference captured by her body must signify that alterity that can never be avowed. Yet that alterity, one that produces her as the enabling-other of the modern subject, even while it is recuperated back into the modern narrative through the salvation of the Third World trafficked woman, must still ensure an enabling negation – the reason why the Third World male cannot be saved.

Women’s human rights capture another moment of modern power, one that promises to move beyond the “old” exclusions of the Enlightenment (women, non-Europeans, the poor) by claiming the universality of human principles. Yet the fact that those universal human principles produce the (modern) conditions circumscribing the conditions of representation of subjects marked by difference (Others) is elided in the moment of the inclusion of the Third World woman-“victim” to violations like trafficking. By tracing the signification of the Third World woman victim to trafficking, I hope to expose how women’s human rights provides the latest/last site of the consolidation of modern power.

The Limits to a Victim-Agency Paradigm: The Conditions of Subjectivity

The conditions of subjectivity and representation of non-European, most often Southeast Asian, women subject to trafficking are evident in the rendering of trafficking as legible only within a victimization-agency paradigm. The victimization-agency paradigm produces the subject of trafficking as a “minor transparent ‘I’” – she is always “not yet” realizing her feminist and human rights
potential. Considering the framing of sex trafficking as a human rights violation that victimizes, I ask, “What is left unaccounted for in these characterizations of the ‘victims’ of trafficking? What causes of her condition are not mentioned or minimized?” I read the deployment of the victim-agency paradigm under which the trafficking “victim” is articulated (in NGO, feminist and governmental sites) as evidence of the fact that the inclusion of the Third World, trafficked woman (and her difference) simply serves as the moment of recuperation of the myth of universality. The trafficked woman is always already “victim” because the very conditions of subjectivity produce her as a “minor transparent ‘I’” – in other words, she can never be an agent in the same manner as the white/Western/First World female subject because her body marks that alterity (that which enables the “transparent ‘I’”) which can never be avowed. As a “victim” subject, the trafficked Other can never be the same as the agent – she remains always she who enables the agent even while her recognition as victimized includes her into the global history.

The paradigm of victim-agent not surprisingly delimits the sex trafficking discourse, and the difference between the Eastern European and non-European, Other trafficked women is produced through the extent to which each can claim agency, a point I elaborate through the following sections. First, however, I examine the conditions of victimization circumscribing the signification of the trafficked subject. In a statement ubiquitous to the discourse, Human Rights Watch notes, “Women and girls face a wide range of abuse,
including debt bondage; illegal confinement; forced labor; rape; physical abuse; exposure to HIV/AIDS; and in some cases, murder. … working conditions are inhumane ... Health care and birth control education are minimal” (Asia Watch 1993, 3-4). Human Rights Watch continues to note that even when Southeast Asian governments and police crack down on trafficking, the result is often the arrests and deportations of trafficked women. Not only are trafficked women victimized by the men who solicit and sell them, but also by the very institutions of law and order that are supposed to ensure justice. The victimization is clear and even threatens to lead to the ultimate affront to humanity – murder. Solutions to trafficking thus revolve around the extension of agency.

As Jo Doezema notes, the general framework for understanding sex trafficking has relied upon either seeing women as victim, where “prostitution is considered violence against women and defined as ‘sexual exploitation,’” or on seeing women as agents, depending on whether they are trafficked and forced, or the extent to which they are voluntary sex workers (2000, 33). Indeed, Skrobanek, Boonpakdee and Jantateero recount how grassroots women’s advocacy groups, “showed us that our women need not always be victims, but can take hold of their own lives, and create a better future for themselves and their community” (1997, viii). These self-identified feminist authors (particularly as those who identify as “Third World”) attentive to the problematic ways salvation and victimization are deployed to further (neo)colonial relations, offer limited responses generally confined to imagining
the “victim” as agent, as Skrobanek, Boonpakdee and Jantateero’s comments reveal.

Similarly, taking what Doezema notes as the position of Global Alliance Against Trafficking in Women (GAATW), Louis Brown argues that, “certainly, not all sex workers are victims and not all are forced to sell their bodies. Some of the women like their work – but not many – and we question which proportion would choose prostitution as an occupation if society had offered them any other reasonable option” (2000, 25). Situating trafficking with(in) sex work, Brown’s statements are emblematic of the discourse’s general deployment of a victim-agency paradigm for articulating the trafficked subject. While organizations like GAATW take the position that trafficking must be distinct from “voluntary prostitution” (Doezema 2000, 33), alternative positions, like that taken by Coalition Against Trafficking in Women (CATW) situate trafficking as another form of exploitation enabled by a general cultural of patriarchy and violence against women, whether forced or voluntary. However, organizations like GAATW note, as exemplified by Brown’s statement, that even when women “like their work,” there is skepticism whether, given other choices, any of them would remain in sex work. In posing the question of “which proportion would choose prostitution as an occupation if society had offered them any other reasonable option,” Brown’s statement suggests that the choice women in sex work have is ultimately limited by the larger conditions subjecting them. Brown’s statement suggests that even women who find some
agency within their condition, the conditions are ultimately victimizing in that they do not provide any *real* choice.

While the discourse of trafficking as a women’s human rights violation renders the trafficked subject intelligible as victimized, it also needs to show how she can become an agent since agency defines the trafficked woman as *human* – a liberated individual. The literature therefore also shows how she finds ways in her daily life, usually in exercising choice when she can, of showing aspects of individual agency – an individualized agency that is read as that which defines her as human. For instance, agency is often located in women’s initial choice to leave home. In a profile of a trafficked Thai woman, Human Rights Watch notes the woman as stating, “My parents asked me not to go, but I thought if I went for just one year I could make money for my family and son. I didn’t realize what kind of work I was going to do until I was on my way to Japan” (2000). Human Rights Watch constructs the woman as exercising agency in her choice to leave home, even against the desires of her parents, parents who can be read as signifiers of tradition – a (patriarchal perhaps?) tradition and culture that does not look favorably upon women working outside the home. While the trafficked woman exercises agency initially, she is later victimized by the recruiters who lied to her about her work, the Japanese men she serviced, the even her family, who did not accept her when she later returned to Thailand. Thus, the text exemplifies a common discursive trend – even when the “third world woman” exercises agency, she is
still victim. Even in exercising her agency, the text only further emphasizes the extent of her victimization. Thus the need for Western rescue becomes necessary to ensure that she will enjoy her existence as an individual agent.

The desire to offer the victim-subject some notion of freedom and self-determination is understandable. What is important here is that the discourse of sex trafficking, and the trafficked subject it institutes, already writes itself in such a way that it is almost impossible to engage with the issue of trafficking outside of a victim-agency paradigm. If the trafficked subject is always already victim, part of the solution is thus to enable her to escape her victimization, to give her individual choice and self-determination so that her fate is her own and not an effect of globalized criminal networks and/or a deviant culture of patriarchy. Yet, this solution does not address the fact that the discourse of rescue – of offering agency – reproduces other political-economic and discursive conditions that institute certain female bodies as enabling-others. In other words, constituting the trafficked victim as also (individual) agent does not dismantle the modern operations of power that problematically produce her as Other in the first place. It simply produces her as an(Other) kind of modern subject – a subject who is “not yet” self-determined, though she is a subject included into the folds of the very operations of (modern) power that render her a subject-effect. The trafficked woman is signified as a “minor transparent ‘I’” – a self-determined subject included into the folds of the very operations of (modern) power that render her a subject-effect. And, it is her inclusion as a
self-determined “minor transparent ‘I’” that enables the myth of universality –
the myth that the modern Subject, while enabled only by the constitution of that
which he is not, is indeed universal despite this originary negation.

The Immateriality of the Economic: Locating Culture. Despite the
insistence that the globalizing forces of capitalism are at the heart of the sex
trafficking issue, the victim-agency paradigm constructs globalization as given –
as a natural and transparent process that exacerbates other (cultural) conditions
that cause trafficking. Trafficking, as an activity that renders the trafficked
commodities in a global sex industry (according to the UN Protocol to Prevent,
Suppress and Punish Trafficking in Persons, Especially Women and Children
2000), necessarily asks, “What is the role of the economic?” However, the
victim-agency paradigm, in suggesting that the trafficked woman’s victimization
stems not only from her economic conditions but her cultural ones – in fact
suggesting that these cultural factors exist even before the economic conditions
brought on by colonialism and globalization – renders the economic immaterial
as a “real,” originary cause of trafficking. By taking globalization as given, the
sex trafficking discourse casts (off) economic (historical) factors as simply
exacerbating other (inherent) cultural conditions, enabling the (re)configuring of
the globe that naturalizes the exemplary position of the US.

The notion of globalization, both in terms of the role of global capital in
shaping economic relations between nations as well as labor as the impetus of
migration (for instance, Bindman 1998; Brody et al 1997; Hynes and Raymond
underwrites articulation of sex trafficking as a human rights violation. Trafficking in (“naïve and desperate”) women is often noted to be “one of the fastest growing criminal enterprises in the global economy” (Foo 2002, 50). And as Human Rights Watch notes, sex trafficking is “a quintessential 21st century crime problem [where] in an era of globalization and enhanced technology, small networks of criminals can operate in internationally” (2004b). 30 As is often the case, the development of technology becomes a signifier of (an otherwise vague term) globalization (see, for instance, Sassen 1998). Technology, as something that is defined by its internal and perpetual move forward, defines globalization as a forwardly propelled force – one that is read as the force behind (modern) history.

What is troubling about these characterizations of globalization, however, is that in describing a phenomenon (of the relations of capital), scholars tend to write its history – a history that seeks the origins of whence and how globalization became globalization – and in doing so, reproduce modern/colonial conditions of power. For example, David Harvey notes that, “something akin to ‘globalization’ has a long presence within the history of capitalism. Certainly from 1492 onwards, and even before, the internationalization of trade and commerce was well under way” (2000, 54). Globalization is thus a force that locates its own origin, whether in 1492 as

30 Indeed, the fact that the “young Brown, Asian, or Black woman” is hyper-visible in representing the “trafficked, victimized sex worker” is noted as in part an effect of the fact that this image is “refracted through mainstream television programs” (Kempadoo 2001, 32).
Harvey notes, or at other historical moments – in fact, like the tendency toward historicity that Lee (2000) identifies in women’s studies, globalization (as a field, if it can even be called that) also defines itself through its own narration toward progress.

The discourse of sex trafficking deploys these notions of globalization in order to acknowledge it as a present force that exacerbates other, (cultural) conditions at the root of trafficking, bringing trafficking to places like Europe and the US. Thus the discourse, as it produces trafficking as a matter of globalization, naturalizes the construction of those “primitive” other places where the conditions for trafficking emerged even before the birth of globalization, rendering trafficking a global problem only with the advent of globalization. For instance, while victimization to economic conditions is always noted, the economic conditions to which the trafficked woman is victim are generally taken for granted as something that cannot be altered. The US Dept. of State notes that,

Poor countries have been flooded with images of wealth and prosperity beamed in through television or radio and lavish displays of wealth send powerful messages to impoverished citizens about the benefits of material acquisition. More often than not, an ‘ends justifies the means’ rationale has taken root within communities to legitimize the source of the wealth, regardless of how acquired. (2003)

The Dept. of State poses trafficking as an issue of globalization and the economy, where technology like “television or radio” signal the unfolding of
global capitalism (see also Human Rights Watch 2004b). The result, according to the text, is the flooding of poor countries with images of wealth. Yet, what is elided is the question of how these countries came to poverty in the first place, and how their poverty continues to be naturalized.

The Dept. of State constructs trafficking in a manner emblematic to the discourse – as one that assumes the economic conditions are given, and thus places culture and attitudes which do not consider how wealth is acquired as the real problem, as that which needs to be policed. The fact that images of wealth are spreading to poor countries is taken for granted, and in doing so, the State Dept. constructs trafficking as “really” about problematic cultural attitudes that rationalize the idea of the “ends justifying the means.” The text constructs the problem as one of “bad” attitudes and ideas – with the immoral way poor communities react to images of wealth – immoral because these poor communities do not show what Max Weber termed the “spirit of capitalism and the protestant work ethic.” In short, the US Dept. of State constructs the problematic difference of “poor countries” as not about their poverty, but about the amoral cultural attitudes of poor people – attitudes that neither consider how wealth is acquired nor the “ethics” of work. Indeed, even while the evils of (past) colonial power are acknowledged, the discourse of trafficking nonetheless reproduces and naturalizes the very configurations of modern power that characterized colonial relations by deploying historicity to render them in the

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31 As Human Rights Watch notes, sex trafficking is “a quintessential 21st century crime problem [where] in an era of globalization and enhanced technology, small networks of criminals can operate in internationally” (2004b).
past. For the Dept. of State, the question of how poor countries came into poverty is elided, it is simply assumed as a necessary and unquestionable result of the history of globalization.

Even when the framing of sex trafficking is attentive to the combination of globalization, militarism, and colonialism all as reasons for trafficking (for instance, Brody et al 1997; Brown 2000; Douglas 2003; Hynes and Raymond 2002; Skrobanek, Boonpakdee and Jantateero 1997), the suggestion is that these political formations simply exacerbate (already) present cultural conditions that enable trafficking in Other places. As evident in the Dept. of State’s text, poverty simply exacerbates and encourages “bad” cultural attitudes that already exist in Other places. And globalization is taken as the force behind the resurrection of such a “primitive” practice as sex trafficking in the more “developed” regions of the globe (namely the US and Europe). The sex trafficking discourse, through the deployment of a victim-agency paradigm that takes globalization for granted, casts trafficking as primarily about the moral deficiency of Others.

Trafficking as the Moral Problem of Others: Constructing the Difference of Patriarchy

Even while trafficking is characterized as a global problem – one that effects the US and Western Europe as much as those Other places – it is the moral difference produced through the discourse, notably in the different significations of the trafficked Other woman to her white/Western/First (or
Second) world sisters, that enables the constitution of the US as the exemplary
global leader in the fight against trafficking. Not only are those Other places
where trafficking originates morally and culturally deficient, but, conversely, the
US is constituted against these Other places as a space of progressivism. For the
US Dept. of State, trafficking is a problem for the US insofar as the activities of
trafficked “victims” and the criminal (other) men who facilitate trafficking
_temporarily_ threaten the (moral) culture of the US. The so-called problem of
trafficking is cast not as a problem of patriarchal practices, but with the “bad”
cultural attitudes of certain forms of patriarchy – “bad” cultural attitudes located
in Other places, predominantly Southeast Asia. In the following, I first examine
the production of moral difference through the different significations of the
(white) Eastern European trafficked woman and her non-European (usually
Southeast Asian) counterpart. I examine this difference because the very fact
that European women can be driven to participate in trafficking (along with the
effects of using the rhetoric of slavery to describe trafficking, which I examine
later) suggests a particular US claim to the position of global moral exemplar.

While the majority of the “victims,” (as well as the “criminals” who
operate and smuggle humans) are identified as coming from nations such as
Thailand, Cambodia, Vietnam, and India, a certain extent are identified as
coming from the former Eastern block. Yet, Eastern European trafficked
women are characterized very differently from their non-European counterparts,
who are constituted as perpetually behind. For instance, as Ann Marie Bertone notes,

prostitution has existed for thousands of years in many different societies. However, South and Southeast Asia are one of the original areas of the world where sexualized work and sex trafficking developed. For example, Thailand’s sex tourism can be traced back through local forms of prostitution and concubinage, and colonial sex trading … After Asia, Eastern Europe and the former Soviet Union are extremely fast growing markets for young women … Since the fall of Communism, criminal networks have flourished … in the trafficking of women to the Middle East and Western Europe. (2000, 8)

As Bertone’s statement suggests, trafficking in Eastern Europe and the former Soviet is a “recent” problem attributed to the fall of Communism and the political instability that has ensued. In Asia, on the other hand, the problem is cast as innate – a matter that cannot simply be addressed with “good” governance because it is an activity that goes back “thousands of years.” In fact, not only does Bertone identify outright that Asia is an original site of the globe where trafficking developed, her move tying the practice to “traditions” like “concubinage” suggest that the problem with Asia is cultural and pre-exists the state. For Bertone, this means that while the current political and economic conditions exacerbate trafficking, even bringing it to regions of Europe, the underlying cause of trafficking lies in the local culture of Asia – the reason why South and Southeast Asia are “one of the original areas of the world where sexualized work and sex trafficking developed.” And, even in implicating colonialism as complicit in exacerbating trafficking in certain areas of the globe,
as Bertone’s statement reveals, it is a matter of the past – it is something that is over, leaving culture as the reason trafficking continues to exist in Asia.

As Bertone’s statement reveals, “South and Southeast Asia are one of the original areas of the world where sexualized work and sex trafficking developed” precisely because of the tradition of “local forms of prostitution and concubinage” – traditions that emerge out of a patriarchal culture – and “colonial sex trading.” While “colonial sex trading” implicates the history of colonialism in the region, ultimately, the inclusion of the Third World woman as a global subject signifying the end of modernity/coloniality, enables the reading that the patriarchal traditions and culture are what enable trafficking to continue to exist. For Bertone, this means that while the current political and economic conditions exacerbate trafficking, even bringing it to regions of Europe, the underlying cause of trafficking lies in the local culture of Southeast Asia – the reason why South and Southeast Asia are “one of the original areas of the world where sexualized work and sex trafficking developed.” Thus, in casting colonial relations as a reason for the originating of trafficking in the Third World, and in casting off colonialism in the past, the discourse naturalizes the idea of a primitive Third World culture as (past and present) culprit. As I will show later in this chapter, trafficking is cast as a problem for the white/Western/First (and Second) world insofar as trafficked Other women bring its criminal activities to the white/Western/First world.
Bertone’s juxtaposition is a larger trend defining the discourse. In a 1999 Congressional Hearing, Rep. Christopher Smith (R-NJ) notes that although trafficking has been a problem for many years in Asian countries, it was not until the end of communism in East-Central Europe and the break up of the Soviet Union that a sex trade in the OSACE region began to develop … As traffickers know very well, other populations of particularly vulnerable women can be found in conflict and post-conflict settings. (US Congress 1999c, 2)

Like Bertone, Rep. Smith casts trafficking as a “recent” problem in Eastern Europe, while it has existed in Asian countries for “many years.” By constructing this difference between the Eastern European victims of political instability to their Asian counterparts who have always been trafficked, the Congressman naturalizes the backwardness of Asia – it has always, and will always harbor practices like trafficking, simply because. Without any explanation for why trafficking in Asia has always been a problem, even while the Congressman takes pains to outline the political and economic reasons (including war) trafficking has recently emerged in Europe, he implies that the problem has existed and continues to exist in Asia because it is Asia. On the other hand, the “bad” decisions and “bad” activities of trafficking that emerge in Eastern Europe are the result of political and economic instability, according to the literature, not a matter of cultural practices that pre-existed this condition. Culture is naturalized as the backward and unchanging problem of Asia – unchanging since it has enabled trafficking to flourish for “many years.”

In addition to the series of three Congressional Hearings on trafficking that took place in 1999, the House held a follow-up hearing in 2002 that
discussed the particular issue of “the sex slave trade in Bosnia.” The US House of Representatives notes that in many cases, particularly in unstable political settings like the former Yugoslavia, part of the problem is the involvement of UN peacekeepers in sexual misconduct. The trafficking of the white/Western/First (and Second) world woman is read as an outcome of political and economic instability – of the war in Bosnia and the failure of the UN to institute political stability, never as a matter that is cultural. And, holding a hearing that constitutes the UN as incapable of dealing with the international problem of trafficking, the US House of Representatives recommends that the US train American police to recognize and report the potential sexual misconduct of UN peacekeepers (US Congress 2002b). Thus, not only does the US take it upon itself to monitor the legislative and policing efforts of other nations, the US Congress has even suggested that the US provide an international police force to monitor the UN – a bold move that constitutes a US national identity centered around the role of global police force and (moral)arbiter.

The discourse of trafficking produces the culture of Asia as either part of a purer past that is now contaminated by globalization, where globalization changes the tradition of keeping women at home (Quy 2000; Skrobanek, Boonpakdee and Jantateero 1997) thus forcing women to find “work” through any means necessary, or part of a problematic past that continues to inform the present (Bertone 2000; Brody et al 1997). However, whether as pure or
problematic, culture is identified as that which keeps the Third World in a state of primitivism – culture is thus characterized as establishing a deviant and patriarchal present (Brown 2000; Seabrook 2001; US Dept of State 2001, 2002, 2003, 2005). As Siriporn, Boonpakdee and Jantateero note, family relationships have changed significantly in terms of hierarchy and gender roles. Traditionally, the father and other senior male members of the family held most power over decision-making. This has been changed to some degree by the increasingly obvious contribution of women in the rise of family status through labour migration … It seems that the traditional way of life, characterized by mutuality and interdependence, is being replaced by a competitive materialism. Poorer members of the community must struggle hard in order to gain acceptance from others. (1997, 74-76)

Here the problem lies with traditions of “hierarchy and gender roles,” however, what differs in the framing of the so-called problem of culture is that globalization brings both good and bad results. While the Dept. of State simply noted globalization as an unquestionable force, an inevitable unfolding, Siriporn, Boonpakdee and Jantateero differ in their level of engagement with the role of globalization in stressing “traditions.” While “labour migration” has enabled women to have greater power within the family and community, this has been coupled, according to the authors, by an increasing materialism and competitiveness. What the authors assume, however, is that the problem is with “traditions” – the problem lies with the fact that certain “good” traditions like “interdependence and mutuality” are being eroded even while other traditions like “hierarchy” and “gaining acceptance” remain. The text suggests that globalization’s opening of women’s freedoms of mobility (both figuratively
within the family, and literally as part of labor migration) will cause strain and tension as these “new” (gender) roles collide with “old” traditions of gender hierarchy. Even while the authors take a slightly more critical look at the idea of tradition and globalization, their framing of the causes of trafficking still posit traditions and attitudes as ultimately the problem – traditions and attitudes that are problematic because the brand of patriarchy they enact does not allow for the recognition of women’s self-determination and mobility.

The literature suggests that the proliferation of sex trafficking and other illicit/illegal sex industry practices are culturally expectant considering that, for instance in the case of Asia, “both traditional and modern Asian societies are highly gender biased” (Brown 2000, 31), resulting in practices like daughter abandonment, female infanticide, honor killings, and so on (Asia Watch 1993; AWHRC 1994, 1995; GAATW 1997; Human Rights Watch 2000; Hyland 2001; Peach 1999; Quy 2000; Seabrook 2001). Religion and Buddhism are often cited as cultural aspects rendering trafficking expectant and flourishing in certain places. For example, in her analysis of the specific role of Buddhism in fostering a cultural atmosphere that allows sex trafficking to flourish, Lucinda Peach (1999) notes the various aspects of Buddhism, like its exclusion of women from the clergy, its belief that women are inferior, its reincarnation rationale, and its views on prostitution, foster a particular kind of patriarchal culture in Thailand. Peach’s text signifies Thailand as “backward” in its inability to separate state and religion. Indeed, Buddhism provides a key
cultural aspect differentiating Asia from places like Eastern Europe, where discussions of sex trafficking are completely devoid of references to “cultural” aspects like religion, not surprising, given Eastern Europe’s (modern) communist history, which saw religion as an impediment to progress.

Peach argues that “Buddhist culture” renders the efforts of international human rights laws ineffective. She notes,

The trafficking in women and children for prostitution and sex tourism in Thailand involves the most blatant violations of women’s human rights. Yet because this phenomenon is under-girded by cultural and religious attitudes, beliefs, and practices, especially regarding gender roles and relationships, that legitimate its continuation, it has largely evaded the efforts of international human rights law to curb its proliferation. (215) … International human rights law is premised on a conception of humans as independent, autonomous individuals. Yet this conception of the human conflicts with Buddhist cultural constructions of female identity. … Recognition of women’s human rights is made especially difficult in Thailand because Buddhist culture views women as socially embedded in family, kin, and community rather than as self-determining, independent individuals. … Since human rights cannot be asserted without ‘an awareness to a legitimate claim to reasonable control and determination of one’s own life,’ it is questionable that international human rights law can be of much use to Thai women who lack such an awareness … Given their socialization, it is unreasonable to expect that Thai women will even be aware they have ‘human rights,’ never mind take action to enforce them on their own behalf. (1999, 221)

What Peach’s text reiterates is the idea of a culture of deviant patriarchy – deviant in its failure to recognize women as also “self-determining, independent individuals.” Tying these amoral and deviant patriarchal beliefs to Buddhism, and implying the pervasiveness of “Buddhist culture … in family, kin, and community,” enables the text to suggest that regardless of other (economic, political, colonial) factors that might exacerbate sex trafficking in places like
Thailand, that is all they do – *exacerbate* a condition that is always already there, a condition that is determined by religious cultural attitudes and beliefs. What is significant in Peach’s text is that it suggests that the problem is not only with the religious beliefs of Buddhism (beliefs that cannot easily be challenged), but with the Thai women socialized in such a way as to make them unaware “they have ‘human rights,’ never mind take action to enforce them on their own behalf.” Thus human rights laws designed to enable individual self-determination are lost on women victim to deviant cultures of patriarchy.

The deviance is thus not located in the patriarchal relations of power, per se, but in the fact that women are kept from awareness of self-determination by culture: “None of the women I met and who had been trafficked or sold into sexual slavery ever questioned the right of their families, or the agents, to sell them” (Brown 2000, 209). The trafficked woman, insofar as she fails to question the “right of [her] families … to sell them” is thus signified as part of the problem – the fact that she enables the very culture that sells and traffics her renders her rescue from “outside” imperative. As Peach notes, Thai women are already hopeless, already behind in their understanding of universal principles of humanity like self-determination. The women “victim” to trafficking are thus part of the problem insofar as they cannot recognize their activities as “bad.” Yet because their socialization into a religious cultural system of beliefs never offers them the chance of recognizing their “bad” activities, these women must be saved. The women are cast as victimized by a cultural condition that never
enables them the possibility of self-enlightenment, they are never given the opportunity of knowing and always already “lack such awareness.”

The casting of a (deviant) culture of patriarchy as the fundamental (and unchanging) problem leading to trafficking deploys (neo)colonial, modern operations of power that naturalize the backward state of the Other places of the globe. Trafficking discourse suggests that while culture informs the attitudes of individuals, it is recognized also as a force beyond any one individual. For instance, “rural culture,” according to Human Rights Watch, dictates family structures and community expectations in places like South East Asia where trafficking is encouraged by cultural assumptions that normalize the selling of daughters:

Of the 30 girls and women, 11 have been brought into Thailand by family members. The network for finding work in Thailand appears to be well known in the rural areas of Burma that supply the women and girls. Relatives knew, for example, to take their daughters or sisters to the ‘Mekong shop’ in Mae Sai or to a particularly well-known agent or to a certain temple. (Asian Watch 1993, 47)

The fact that relatives of trafficked victims are characterized as “knowing” and “willing” in the commerce of girls and women suggests a deviant culture of patriarchy, one that extends beyond the “bad” choices of any individual to characterize the culture as a whole. The fact that women are trafficked by their own family members, people who should have the women’s “best interest” in mind, further characterizes the deviancy and moral degeneracy of these (Southeast Asian) Third World cultures – not even the mothers and sisters have the moral capacity to see the selling of family members abhorrent. Thus, the
solution to trafficking entails teaching Third World women the moral values necessary to see trafficking as a “bad” activity, since their cultural conditions normalize and condone trafficking, even making it an activity in which family members participate. And, since the “real problem” leading to trafficking is cultural and not individual (it is not a problem of “bad” individuals per se), salvation from outside becomes a necessity – the Third World woman’s body marks her own complicity in the conditions that lead to her trafficking, a fact that is conveyed in Brown’s statement that trafficked women never “questioned the right of their families, or the agents, to sell them.”

By blaming a deviant culture of patriarchy, one that lacks a moral consciousness, the trafficking discourse further constructs the US as the global exception. Trafficking is a matter of concern for the US insomuch as trafficked (Other) women are smuggled into the US, criminal (Other) men come to the US to run prostitution rings, and the activities of trafficking result in a moral lapse (both in the Third and “First” worlds). Trafficking is cast as a two-fold problem, one, the soliciting and selling of sex – a behavior that can be remedied through a moral appeal (both to the white man who solicits and the Third World woman who sells) – and two, the production of the conditions that lead certain women into trafficking, economic and cultural conditions that cannot be altered without the eradication of the men who enable and perpetuate these “traditions.” The problem is not patriarchy per se, but a deviant culture of patriarchy that withholds self-awareness and self-determination – a deviant culture of
patriarchy that is (re)produced through the presence/absence of law and enforcement (see for instance, Rho-Ng 2000; Ryf 2002; US Dept. of State 2001, 2002, 2003; US Congress 1999a, 1999b, 1999c; GAATW 1997).

The law figures in the sex trafficking discourse as that which, in its absence, marks those “troubled” Other places and peoples standing in the way of the actualization of the universal principles of human rights. And, since their ignorance is not a matter of some “bad” individuals, but a problem of the whole culture, these troubled Others are never capable of helping themselves. Precisely because the third world woman victim to trafficking hopelessly constitutes the very cultural conditions that enable her to be trafficked, she must be saved by others – by those who can instill in her proper economic, feminist and human rights values. Part of the solution to trafficking is thus to teach Third World women the moral values necessary to see trafficking as a “bad” activity. The fundamental problem, on the other hand, is cast as a matter of already criminal Other men – men who maintain the deviant culture of patriarchy characterizing and keeping the Third World in a “primitive” state – men who are the smugglers, fathers, husbands, brothers of the victim. Men who can never be saved since doing so would threaten the intersections of gender and racial power that prescribe the modern conditions of subjectivity.

Cleaning Up After Human Trafficking: Cleaning Lady and Intersectionality

The conditions of subjectivity circumscribing the trafficked woman – that is, the reason why the trafficked subject can only be understood through a
victim-agency paradigm and as “victim” to amoral cultural practices that do not allow women self-determination – signal the continued operations of modern/colonial power in configuring the globe. In order to map how women’s human rights, and specifically sex trafficking, are produced as sites of modern/colonial power, I examine two UN PSAs, *Cleaning Lady* (1998, 2003) and *Human Trafficking*. Taken together, the PSAs reveal the conditions of subjectivity outlined in the preceding sections, and both explain how these conditions enable modern/colonial power as well as why they operate in the manner that they do. In the following, I trace how the inclusion of the Third World woman negotiates the fundamental dilemma of liberal theories of rights and law – the tension between universality and particularity – through a reading of *Cleaning Lady* and *Human Trafficking*.

In *Cleaning Lady* viewers are led through a day in the life of a white/Western woman who works as a cleaning lady.\(^{32}\) The PSA is framed around the cleaning lady’s three encounters with “other” women victim to trafficking. The public service announcement opens with the cleaning lady not at work, but out in the city. The first image of the PSA is a reflection of the cleaning lady in a glass window of a storefront. Perhaps playing on images of women window-shopping, the PSA quickly reveals the cleaning lady gazing through the window at a young, brown, female body on display. The camera rests on the brown female’s face followed by a tight shot of the cleaning lady.

\(^{32}\) The PSA can be viewed at http://www.unodc.org/unodc/en/multimedia_video.html. Many thanks to Grace Kim for drawing my attention to the PSA.
Conveying the meeting of each woman’s eyes with the other, this is the cleaning lady’s first moment of recognition. The cleaning lady holds up a note to the young woman on the other side of the glass divide; the note reads, “Need help?”

In the next frame, viewers see the cleaning lady at work. The camera shifts to a shot of a young Asian female wearing sunglasses fighting off a large, older white man. Before the cleaning lady and the Asian female can share a moment of recognition, the camera takes viewers outside, to what looks to be an ally behind the building where the cleaning lady works. In this ally, the cleaning lady witnesses a young, black female being harassed by a large white man. The man is shown walking away, as the camera once again focuses on a tight shot of the black female’s face followed directly by an image of the cleaning lady passing her the “need help” note. The camera angle shifts to follow the cleaning lady’s back as she walks down the indoor halls of her workplace.

In the final moment, the cleaning lady is facing the young Asian female from an earlier shot. The cleaning lady shares a moment of recognition with the young Asian female, as the camera focuses on tight shots of both women’s faces, lingering momentarily on the Asian female, now without her glasses and revealing a black eye. The announcement ends with an image of the cleaning lady taking our “victim” by the hand and leading her away, running. There is no dialogue within the PSA narrative, all of the encounters of the cleaning lady convey, through the camera’s lingering on the cleaning lady and the brown, black, Asian females’ faces, a sense of understanding and communication.
without verbal exchange. The text accompanying this public service announcement reads, “Women and children are trafficked for sexual exploitation and forced labor, but something can be done. You can help.” The “you” conveyed through the PSA’s visual representation suggests the intended audience is the west/first world – the world of the cleaning lady.

Rearticulating a familiar (colonial) narrative, Cleaning Lady centers the issue of trafficking on the plight of Other women (victims) saved from patriarchy by the white woman (agent) – our protagonist. What is compelling about this narrative of (colonial) salvation is the fact that the cleaning lady holds the potential for change – there are no proactive characters other than the cleaning lady. In addition, not only are viewers compelled to identify and/or sympathize with the cleaning lady, but her narrative is also constructed around her identification with the women she encounters. Several aspects of the announcement are suggestive. The fact that it is the Asian woman whom the cleaning lady physically saves must be read within the context of trafficking discourse that identifies Asia as last and latest sites where trafficking exists. Just as the trends of the broader discourse suggests, the black and brown regions of the globe are also places where trafficking is a problem, however, they are not the primary regions worth saving. The cleaning lady recognizes the black woman as trafficking victim, but it is with the (East/Southeast) Asian woman that the plight to save women from trafficking ends and begins. The cleaning lady’s narrative ends in her saving the Asian woman, while the announcement
ends with a call for help in the future, signifying the Asian female as the latest victim, where the viewer’s responsibilities begin.

The fact that *Cleaning Lady* constructs our protagonist as laboring provides a point of identification between the cleaning lady and the trafficked women. The announcement suggests that there is a shared condition of being women within a capitalist economy – the cleaning lady encounters these Other laboring bodies at work, and recognizes their economic exploitation. However, even while the announcement suggests a universal gender component and a universal class component to being women, the cleaning lady’s (white/Western/first world woman’s) moral difference from the trafficked women – a different that puts her in the position to save the Others -- enables the announcement to not only (re)deploy (neo)colonial relations of power, but hide the continued operations of a “western gaze” behind the guise of global multiculturalism. Put differently, while the cleaning lady’s position as a working woman adds to assumptions of the shared condition of female-ness to underwrite the announcement, it is the fact that the Other bodies are forced that renders cleaning lady different. The cleaning lady (the white/Western/First World woman) is in the position of savior precisely because she works in a proper and legitimated space of labor – she understands those (cultural) values of the “spirit of capitalism and the protestant work ethic” that maintain her moral difference from the trafficked woman. And, even when the white/Western/first world woman is herself a victim of trafficking, as is the case
with European victims, her condition of being trafficked is rendered a matter of political or economic circumstance, as Bertone’s statements reveal.

In another similar PSA, titled *Human Trafficking*, the trafficked victims represented are a white/First (or Second) World (Eastern European perhaps?) woman, and an Asian female character. This PSA, narrated to the trafficked women, is also devoid of dialogue. The initial image presents a young, white woman in everyday clothes (looking much like a college co-ed), and the accompanying text that reads, “Go work abroad.” The camera then moves to an image of the girl in a small, lackluster bedroom, ending in a close-up of the girl’s face, a tear running down her cheek; the text continues to read, “Housing will be provided.” Viewers are then introduced to the Asian female character, with her back to the camera, watching while her passport is torn in two by a man (presumably her pimp) – the text reads, “No work permit required.” Moving to a close up of the Asian woman’s face, the camera presents her naked body from the neck up, lying on a bed, while two large, wrinkled, white (male) hands move down her face and out of frame; the text to this image reads, “You’ll meet new, interesting people” and is followed by a shot of a room filled with white women wearing nothing but their underwear – a scene that reproduces images of a bordello – with text reading, “nice co-workers.” Viewers then see a white man looking into a peep-hole. The camera follows the gaze of the man to reveal our young, white female “victim” dancing on stage in only her underwear; the accompanying text reads, “your own comfortable work space.” In what follows,
the camera presents the white woman in her underwear counting money in her bedroom, though the camera quickly moves from the woman to a close-up of the needle and rubber tube lying on her bed. Quickly following this scene is one that presents the Asian woman in a hallway with a man, who is taking a roll of money away from her. The text with these scenes read, “excellent salary.” In the final scene, viewers are returned to the Asian woman, still lying on her back, though the hands that were touching her before are no longer visible. Rather, the camera focuses on her face, which is now cringing in pain/discomfort. The text reads, “Are you interested?”

Read with the UN’s other PSAs, namely *Cleaning Lady*, the suggestion of difference between the white/Western/First World (or, in the case of *Human Trafficking*, Second World) woman to the Other, mainly Asian women “victim” to trafficking is striking in its suggestion of choice. In *Human Trafficking*, our white female protagonist is clearly presented in the opening scene as a woman who has chosen to live and work abroad, though that choice may have come out of desperation (the viewer will never know) – she is alone, never with any character that might be a pimp or coercer. In contrast, the PSA does not gesture to any back-story for the Asian female character – she is only presented as victim, from the initial scene of her having her passport torn in two by a mysterious man, to scenes of her lying naked on her back, to that of her having her money taken away by her pimp, yet another face-less man. The only time the white female character is suggested to be “with” a man, is in a scene that
pans from a man looking through a peep-hole to the white woman on the other side, pole dancing in her underwear. She is the object of his gaze, but she is always separated from the threatening male characters – whether by a wall, or by the camera. While she is also a “victim,” the scenes of the white woman suggest that her closest and “worst” victimizers are drugs (which the PSA suggests she buys). On the other hand, the PSA presents very explicit scenes of the Asian female character being harassed, molested and threatened by anonymous male characters. The different characterizations of white/Western/First World victims of trafficking, and their non-European counterparts is constituted through morality, where the moral capacities of the white/Western/First World women distinguishes them as “incidental” victims of trafficking. On the other hand, the fact that the brown, black, Asian women are victim is understood as a matter of their culture – an amoral culture characterized by patriarchal traditions and practices like concubinage. They are presented as having no possibility of self-determination. While the white female character of Human Trafficking is suggested as having some choice and control of her very terrible conditions, the Asian female character is not given any possibility of self-determination – she is always presented as victimized by the anonymous male characters, just as the discourse suggests she is always already victimized by her culture. Thus, the difference constructed in Human Trafficking can be read with the broader discourse that suggests non-European women “victim” to trafficking are victimized by their amoral cultural conditions
even before they are trafficked, rendering them characters without any kind of self-determination or any possibility of saving themselves.

The different characterizations of the Asian and white trafficked victims in *Human Trafficking*, and the difference between the cleaning lady and the trafficked women she saves, speak to the fact that modern operations of power rely upon both gendered and racial power – a point that becomes clear when we consider that which is invisible in *Cleaning Lady*. Indeed, while the announcement enables viewers to identify with the character of the cleaning lady, the brown, black, Asian trafficked woman, or the white First World men, the Third World male subject is completely erased. Indeed, perhaps because the male solicitors share the space of the “First World,” the world of the cleaning lady, they are who really matter. *Cleaning Lady* suggests that appealing to the morality of both the third world woman victim and men in the “First World” is the solution to saving the victims of trafficking (an appeal made through the white woman who knows both the white man and the Third World woman).

Unlike *Human Trafficking*, where the PSA’s message is directed toward the trafficked woman (who, as the discourse suggests, is assumed not to know her own oppression and exploitation), *Cleaning Lady*’s central point of identification around the white woman agent suggests that the PSA’s message is primarily for those “incidental” citizens who might witness the trafficking of others. The viewer-ship for the announcement is the “First World” – the world of the cleaning lady. In fact, *Cleaning Lady* runs on the US Armed Forces
Television Network (AFTV) as well as the BBC and CNN International. As part of television networking specifically designed for overseas US servicemen/women in places like South Korea (AFTV), Cleaning Lady’s message is clear – First World subjects, even when (or especially when) abroad, are integral to saving trafficked Other women. Moreover, considering the controversy surrounding US militarism in places like South Korea, where the sexual exploitation of “native” women has been part of the process of US militarism, airing the PSA on AFTV is one way to absolve the role of US militarism and imperialism in producing conditions that enable trafficking. The intended viewer-ship of the PSA, as well as the PSA’s visual representations draw a line between the patriarchy represented through the white male characters – a patriarchy with a moral conscience – and that (deviant, amoral) patriarchy signified through the invisible-because-it-must-be-eradicated Third World male body.

The very fact that Cleaning Lady’s message implicates white male characters of the First World suggests that they can be reached, even when they are the pimps and patrons. They matter in a way that the invisible Third World male subject does not. In fact, the Third World male subject, insofar as his absence haunts Cleaning Lady, only exists within the announcement as the specter of that deviant culture of patriarchy that has led the trafficked victims to the world of the cleaning lady. What Cleaning Lady suggests, then is that the saving of the Third World woman must be accompanied by the constitution of
Third World man as utterly un-savable.\textsuperscript{33} This is because the circumscription of racial difference renders it an “un-sublatable” particularity, one that, even while being reconciled as that which enables modern Man, is never able to exist as interior to him. Thus the inclusionary move that enables a politics of difference recognizes the difference of Other women, and in doing so fulfills the myth that the modern operations of power that othered her are now past – in fact, reconciling her (racial) alterity back into the narrative of modern Man.

However, it is because the recuperation of the Third World woman as a global subject must still ensure an enabling negation – an enabling-Other who marks a moment that is \textit{before} and thus not modern – that the Third World male cannot be recuperated. It is here that the work of patriarchal power intersects with racial power. The Third World woman can be saved, but the Third World man must be disavowed; to do otherwise would be to threaten patriarchal power. In other words, saving Third World men is not an option because to do so would pose a threat to the modern operations of power configuring the globe – operations that depend on the intersection of both patriarchal and racial power. This, of course, is not to suggest the negation of patriarchal privilege operating within Third World contexts. Rather, I argue that within US discourses of

\textsuperscript{33} Indeed, in an award-winning UN Office of Drugs and Crime 2005 PSA, Third World males are represented as not just culpable, but beyond help. The PSA, \textit{Better Future}, while dealing with the broader issue of bonded labor, reproduces similar assumptions about the un-save-ability of Third World male that are also present in the sex trafficking discourse. In this PSA, Third World men are represented both as victims and criminal traffickers. What is striking about this PSA is its focus on scenes that imply the violent acts committed against “victims” by the Third World male traffickers. For instance, in the closing scene of the PSA, a small black child is depicted in a field as a larger, black male body approaches him from behind, raising a whip.
women’s human rights, the category “Third World Woman” is constituted as needing to be saved precisely because she cannot claim patriarchal privilege.

As Silva’s work reveals, while constructed as a universal political form under which women’s human rights can be argued, the construction of the particularity of patriarchal practices enacts racial power in a manner that “produces the (emancipated) female subject as a modern consciousness, therefore necessarily situating her within the spatial limits of modern (European) being” (2004, 217). The “saving” of the Third World woman “victim” to trafficking not only signifies the feminist subject as “a modern consciousness,” where the Third World woman’s inability to actualize self-determination and self-awareness is identified as the problem, but the accompanying signification of the Third World male as that which keeps her from her “feminist” potential renders him utterly un-savable. Difference is thus circumscribed through the site of patriarchy, and this difference is written as a matter of morality.34

By rendering women’s rights a matter of moral law and human rights, the inclusion of the Third World woman negotiates the fundamental dilemma of liberal theories of rights and law – the tension between universality and particularity. Human rights depend upon a notion of universality – both in the

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34 Indeed, part of what enables the US to constitute itself as global arbiter/enforcer through the trafficking discourse (and women’s human rights more generally) is the notion of morality – a morality that is defined through Anglo-American Puritanism, a morality that constitutes “American exceptionalism.” In fact, these moral claims were deployed by US feminists during the Progressive Era (1900s-20s) in their campaign to stymie prostitution amongst white ethnic European immigrant women and women of color. In a hauntingly similar move, US feminists mobilized to pass the “white slavery act” – the Mann Act of 1910 – to protect and educate immigrant women, women of color, ad white men to the moral degeneracy of prostitution (thanks to Grace Kim for drawing my attention to this).
universal moral principles driving it, and in the universality of human-ness. Yet, the possibility of universality also depends upon the simultaneous existence and disavowal of particularity. The Third World woman enables the recuperation of the myth of universality by marking the inclusion of particularity/difference even while her victimization to a (deviant) culture of patriarchy signals an alterity that must be disavowed – (the reason why Third World male subject cannot be saved). The deviant cultural aspects of the Third World woman that are disavowed in her recuperative moment are nonetheless signified through the Third World female bodies (always haunting her constitution as subject). Her racialized body suggests she is forever tied to that which must be negated. Negotiating this dis/avowal necessitates her subject-formation through the paradigm of victimization/agency – she can never be the (white) woman, the cleaning lady, however she is also not the criminal Third World man who is her primary victimizer. And, it is the moral capacities of the bodies in question that serve as the gauge for whether these bodies count as human.

As victim to the amoral culture of patriarchy of the Third World, the Third World woman is signified as needing to be saved from herself – her body marks her complicity in perpetuating the conditions that lead to her victimization, thus the need for salvation from outside. Rendering global sex trafficking a moral issue by framing it around the victimization and agency of the trafficked woman and an appeal to the moral consciousness of certain forms of patriarchy, does little to address the broader operations of (modern) power.
that continue to inform the production of trafficking discourse. The fact that the naturalization of “Third World” primitivism posited against a US “progressivism” depends on modern operations of power – the very operations of power that enabled colonialism – is elided and managed through the rhetoric of global multiculturalism that places modern operations of power in the past, refusing to recognize how it continues to configure the globe.

Constituting the US as the Globe’s Moral Exemplar: Deploying the Rhetoric of Slavery

Sex trafficking and women’s human rights serves as sites that enable the constitution of the (history of the) US as that exemplary nation poised to lead the globe into the new millennium’s promises of a diverse global community – in fact, a global multicultural promise where the troubles of race and women’s exclusion are past. The discourse’s production of difference between the Eastern European and non-European trafficked women in part enables the US to constitute itself as a global exemplar by locating trafficking as a problem that victimizes (some) European women. And, while the discourse acknowledges that immigration brings trafficking to the US, because the political instability identified as enabling trafficking to flourish in Europe is not a “problem” of the US, white/Western US women are never identified as trafficked “victims.” This section first examines two examples of US legislation that enact and produce the constitution of the US as the global exemplar in the fight against trafficking. Here I also consider the rhetoric of the transatlantic slave trade as it is invoked
in the sex trafficking literature as ensuring the exemplary position of the US as a moral leader.

The role of the US is constructed as one that will serve as an exemplar and enforcer/encourager for other nations, even those of Europe, namely through two key pieces of legislation: The Trafficking Victims Protection Act of 2000 (P.L. 106-386), and the Trafficking Victims Protection Reauthorization Act of 2004 (H.R. 2620), which established the Office to Monitor and Combat Trafficking in Persons and instates a yearly “Trafficking in Persons Report” filed by the US Dept. of State. The annual report on trafficking not only defines which nations have “problems” that allow sex trafficking to begin, but organizes these nations into tiers according to the level of law and enforcement each nation is seen to have implemented. In fact, the 2005 Trafficking in Persons Report includes maps of the world (minus the US) with statistics as to regional law enforcement, where “Europe and Eurasia” report the highest numbers of prosecutions, convictions, and new or amended legislation. And while the number of prosecutions has declined in “East Asia and the Pacific,” and the “Western Hemisphere,” these regions report proportionally more convictions as well as a rise in new legislation.

While “Europe and Eurasia” are assumed to be most successfully combating trafficking (as evidenced in their number of prosecutions, convictions and legislation), the “Western Hemisphere” and “East Asia and the Pacific” are constructed as doing something, though possibly not enough. The fact that they
have proportionally more convictions suggests that legal action taken against trafficking is working, however, the decline in the actual number of these prosecutions suggests that either trafficking itself is declining, or that law enforcement is taking a less active role in policing. In addition, the fact that the Reports suggest the US’s very active involvement in “East Asia and the Pacific” in curbing trafficking, implies that perhaps the decline in this region is partially due to US intervention. The texts imply that at least “East Asia and the Pacific” is a region willing to receive help, unlike the “Near East.” Tellingly, the “Near East” (Northern Africa and the Middle East) is reported to not only have dropped from 1,004 prosecutions in 2003 to 134 in 2004, the rate of conviction has also dropped, as well as the number of new legislation from 4 in 2003 to only 1 in 2004.

The report thus constructs the difference of both “Europe and Eurasia,” as regions that have (morally) proper police and legal forces – not to mention a morally upright culture that keeps incidents of trafficking at a minimum to begin with – and the US, which is exempt from the report altogether since it has even been taking actions to help prosecute trafficking elsewhere through the passage of the various Freedom from Sexual Trafficking Act (HR 1356). This act, one that produces annual reports on other parts of the globe, can be read as a kind of global legal action. By reporting on other nations, and using that report to determine whether nations receive non-humanitarian assistance, the US can enact a kind of international law that gauges the extent to which other nations
are seen as “doing enough” to stop trafficking. And, while trafficking is acknowledged as a problem in the US, it is only a problem insofar as Others bring trafficking to the US. The Act and Annual Report produce the US as a destination, rather than an “originator.” Those who are primarily subject(ed) to this new form of slavery, and those who are the primary facilitators of this 21st century problem (smugglers) are identified as Others – notably Asian Others.

Fighting the “Old Evils” of Slavery. The fact that sex trafficking is a kind of human bondage enables the reading of the (global) progress towards freedom for all women within the context of the history of US race relations – a history that defined difference through the “logic of exclusion.” Indeed, to restate President George W. Bush’s UN Address, sex trafficking is the reemergence of an “old evil” – the same “old evil” that, “nearly two centuries after the abolition of the transatlantic slave trade, and more than a century after slavery was officially ended in its last strongholds,” continues to “thrive in our time” (2003). That trafficking is characterized both as a resurrection of the “old evils” of the transatlantic slave trade and as Dr. Laura J. Lederer, Director of The Protection Project, notes “one of the last, unfortunately the last, even in the women’s movement the last, of the issues, but definitely not the least, to be examined by our society” (US Congress 1999a, 40), suggests that the US, because it has already eradicated this “old evil” in the past, is poised to lead the global confrontation of its resurrection in the new millennium. The elision between the idea of “the women’s emancipation issue of the 21st century,” and a
“modern day form of slavery” that resurrects “old evils” suggests that since the US can locate slavery in its past, and since the “evils” that characterized slavery (namely racial injustice) have been resolved along with the emancipation of women through Civil Rights legislation, that this new form of slavery is a (global) problem concerning Others.

The matter of the global trafficking of humans, especially as workers in an illegal sex trade, is characterized most often as a “modern day form of slavery.” Indeed, it is not only President Bush, members of his administration, and US governmental institutions (Condoleezza Rice, Ambassador John Miller, the US Dept. of Health and Human Services, US Dept. of State, the US Congress, US Dept. of Justice, Dept. of Defense, the CIA, and so on)

35 Secretary Rice noted in an address given on June 3, 2005 before the fifth annual Department of State Trafficking in Persons Report that, “Trafficking in human beings is nothing less than a modern form of slavery. And President Bush has called upon all countries to confront this evil … To confront the abomination of human trafficking, a modern day abolitionist movement has emerged. Concerned citizens, students, faith-based organizations, feminists and other nongovernmental groups are doing courageous and compassionate work to end this trade in human degradation” (italics mine).

36 The Administration for Children and Families, in their “Campaign to Rescue and Restore Victims of Human Trafficking” notes that, “Sex trafficking is a modern-day form of slavery” (HHS, AFC 2005).

37 Theresa Loar, Director of the President’s Interagency Council on Women, US Department of State, notes in the 1999 House Hearing, Trafficking of Women and Children in the International Sex Trade that, “Trafficking in human beings is a form of modern-day slavery. At its core, the international trade in women and children is about rape, abduction, coercion, violence and exploitation in the most reprehensible ways” (1999a, 14).

38 In the 1999 Congressional Hearing, The Sex Trade: Trafficking of Women and Children in Europe and the United States, Chairman Christopher H. Smith (R-NJ) notes that, “trafficking in human being is a form of modern-day slavery. When a woman or child is trafficked or sexually exploited by force, fraud, or coercion for commercial gain, she is denied the most basic human rights enumerated in the Universal Declaration of Human Rights and numerous international human rights agreements – namely, her rights to liberty and security of person, her right not to be held in slavery of servitude, and her right to be free from cruel or inhumane treatment” (1). In another Hearing, one that implicates the United Nations in the problem of trafficking (thus subsuming the activities of the United Nations into the concerns of the US Congress), The UN and the Sex Slave Trade in Bosnia, the hearing opens with a description of the problem as
that characterize sex trafficking as a “modern day form of slavery,” but also NGOs like Human Trafficking.org, the International Rescue Committee, International Justice Mission, Amnesty International, the Polaris Project and Human Rights Watch, to name a few.  

And, while sex trafficking can easily be understood as a kind of enslavement, it is the specific ways in which the transatlantic slave trade in the US is referenced that enables the US to posit itself as “ahead” in the efforts to eradicate slavery. For instance, The Dept. of Justice deals with issues of trafficking in persons through its Civil Rights Division. In a guide for non-governmental organizations, the Dept. of Justice notes that, “Trafficking in persons – also known as ‘human trafficking’ – is a form of modern-day slavery … Under federal law, the technical term for modern-day slavery directly tied to African slavery. The sex “slave trade” is described as characterized by the same pain, horror, and exploitation as the African slave trade (2002b, 6).

Samantha L. Quigley, of the American Forces Press Service, writes for the US Department of Defense’s American Forces Information Services to disseminate information regarding issues seen as relevant to armed forces personnel stationed abroad. In a September 21, 2004 article, she echoes the words of both President Bush and State Department Representative and head of the Office to Monitor and Combat Trafficking in Persons John Miller, and adds that the “Department of Defense has declared a zero tolerance policy and is employing training to achieve that objective, and is implementing new provisions of the Uniform Code of Military Justice that will punish the patronizing of prostitutes,” perhaps in an effort to “clean up” the military’s reputation abroad for turning a blind eye to illegal and illicit sex trade – one that is intimately tied to the trafficking of humans.

Amy O’Neill Richard’s report, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*, conducted under the auspices of the Bureau of Intelligence and Research, has a disclaimer that notes, “All statements of fact, opinion, analysis, policy, and position expressed herein are those of the author. They do not necessarily reflect official policies, positions, or views of the Department of State, the Director of Central Intelligence, the Central Intelligence Agency, or any other US Government of foreign government entity, past or present” (1999) – for the skeptical reader, a disclaimer that enables government institutions to scapegoat Richard in the event of controversy. However, disclaimer or no, that the Center for the Study of Intelligence has conducted research into the matter of sex trafficking means that in doing so, it has already defined trafficking as a matter of national intelligence, thereby rendering trafficking a matter that agencies like the CIA must consider as of interest.

slavery or coerced labor is ‘severe forms of trafficking in persons’” (USDOJ 2005). What is also significant in the Dept’s guide is its discussion of the federal laws already in place to prohibit this “modern-day form of slavery.” They include the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), which is noted as a supplement to the Thirteenth Amendment. Indeed, President Bush’s statements tying sex trafficking to the “old evils” of the transatlantic slave trade are emblematic of the manner in which sex trafficking is characterized at large. In a telling statement, the Polaris Project, “a multicultural grassroots organization combating human trafficking and modern-day slavery,” identifies itself as a community of concerned individuals (“community members, survivors, and professionals”) dedicated to fighting “trafficking and slavery in the spirit of a modern-day Underground Railroad” (Polaris Project 2005). Not only does the Polaris Project characterize itself as a “modern-day Underground Railroad,” even its name – Polaris Project – makes reference to US slave narratives that recount how slaves attempting to escape the South often used the North Star as their night-time guide.

The fact that trafficking would threaten the work of “US women’s movements” and Civil Rights victories understood as remedying (not all, but most of) the residual affects of that “old evil” is thus a matter of concern for the US. And, in reading trafficking within the specific narrative of the history of US race relations and women’s rights, this new global problem enables the US to posit itself as the natural leader of the new global millennium – 300 years before
the UN Millennial Declaration the US Declaration of Independence already established the importance of human rights. Because it is the importance of these human rights – of “human dignity,” as the President repeats throughout his speech – that is undermined in the practice of trafficking, that trafficking is a problem for the US. What this rhetorical construction erases are the very ways trafficking is actually constructed as a site through which “western privilege” and (neo)colonial relations of power can continue to operate in ordering the globe. Trafficking inflicts violence on women, yes; but what of the symbolic violence that renders non-European trafficked women “victims” incapable (because of their backward cultural beliefs) of seeing their condition as “bad,” women incapable of even imagining freedom?

The framing of sex trafficking as both “the women’s emancipation issue of the 21st century,” and a “modern day form of slavery” that stands in the same tradition as the “old evils” of the transatlantic slave trade located in the US past, rhetorically suggests that the US, in having abolished slavery and its remnants through both the Thirteenth Amendment and Civil Rights legislation (in turn enabling an inclusionary and multicultural present imagined in the US) embodies the possibility of (global, women’s) freedom. Indeed, the US is an exemplar precisely because of its claim to a freedom defined through the right to individual choice – a claim that is made through the history of the transatlantic slave trade and its progressive end, from the Civil War to Suffrage to the
political and cultural shifts resulting from the Civil Rights and Women’s Movements.

Recuperating the Myth of Universality: A Moral Imperative

Mr. Chairman, I certainly want to commend your leadership, and I say outstanding leadership, in our Nation in leading the forefront, the problem of human rights violations throughout the world, and I think that [HR1238, “International Trafficking in Women and Child Protection Act”] is an excellent start … This [trafficking and other human rights violations] is not an Asian issue, Mr. Chairman. It is human. These people are human beings. They may not be Europeans in Kosovo or in other places in Europe, but they are human beings, and we ought not to forget them.


The inclusion of the Third World woman—“victim” to trafficking as a global subject marks another moment configured by modernity/coloniality, one that assumes the end of modern operations of power and dangles the promises of universality. As Rep. Faleomavaega notes, trafficking is “not an Asian issue … it is human,” and despite the fact that they are not Europeans, “we ought not to forget them.” By rendering women’s rights a matter of moral law and human rights, the inclusion of the Third World woman negotiates the fundamental dilemma of liberal theories of rights and law – the tension between universality and particularity. The Asian female victim of trafficking to which Faleomavaega refers “is human” – she shares the universality of female-ness – while at the same time, her Asian body serves as a marker of particularity – she is not European, but “we ought not the forget [her]” anyway. Human rights depend upon a notion of universality – the universal moral principles driving it,
and the universality of human-ness. Yet, the possibility of universality also depends upon the simultaneous existence and disavowal of particularity. The Third World woman subject of trafficking enables the recuperation of the myth of universality by marking the inclusion of particularity/difference even while her victimization to a (deviant) culture of patriarchy signals a particularity that must be eliminated.

The deviant cultural aspects of the Third World woman-“victim” that are disavowed in her recuperative moment are nonetheless signified through the Third World female bodies (always haunting her constitution as subject) – her racialized body suggests she is forever tied to that which must be negated. Negotiating this dis/avowal necessitates her subject-formation through victimization/agency – she can never be the (white) woman, the “cleaning lady,” however she is also not the criminal Third World man who is her primary victimizer. And, it is the moral capacities of the bodies in question that serve as the gauge for whether these bodies count as human. As victim to the moral lapses of white, “First World” men who solicit sexual services and as victim to the amoral cultural of patriarchy of the Third World, Third World women must be saved from herself.

The logic of exclusion and the strategy of inclusion, in privileging a modern (self-determined) subject, refuses to address the fact that the inclusion of the Other as yet another version of the “transparent I” itself enables modern strategies of power by recuperating the myth of universality. The logic of
exclusion reconciles difference back into the folds of modern ontology and discourse. The alterity signified through racial and gendered difference enables the modern subject, yet always threatens to reveal the myth of universality that the modern subject purports. In the very constitution of that rational, modern “transparent I,” there must be an irrational Other. However, because modern ontology is defined through the transparency and accessibility of rationality to any and all (universality), the Other rejected in the constitution of the modern subject, must be also able to claim the very grounds upon which the modern subject stands, at least this is the myth (Fitzpatrick 1992).

In a moment that evidences how the inclusion of the politics of difference (re)produce – by recuperating – the very (modern, neocolonial) operations of power that institute racial difference, Korean American former Asst. Secretary of State Harold Hongju Koh notes,

All too often we think of trafficking as a faceless problem, a criminal problem, an economic problem, an immigration problem, a health problem, but let me speak about it not as a multibillion dollar industry, although it is, nor as an immigration of health problem, although it is also that. Let me speak about it from the perspective of a human rights lawyer who sees in trafficking the very antithesis of the Universal Declaration of Human Rights … By [trafficker’s] acts they deny their victims freedom of movement, freedom of association, and the most basic freedom to have a childhood … [Traffickers] do not respect any of these rights because they view their victims as objects, chattel to be bought and sold as needed. (1999a, 9)

Koh reiterates the criminality of the traffickers, casting them as lacking the moral conscious necessary for inclusion into the “new” global community (of the turn of the millennium) ruled by universal principles of moral law and
human rights. Naming all the different ways in which trafficking is a “faceless problem,” Koh then proceeds to place a “face” to the problem, targeting the role of traffickers who reproduce a deviant culture of patriarchy that casts “their victims as objects, chattel to be bought and sold as needed.” Even while Koh’s othered body suggests a similarity to the male bodies of color identified by Koh as the problem of trafficking, it is his American-ness that distinguishes Koh from those other(ed) male bodies. His American-ness enables Koh to serve as a signifier of a US that is beyond the problems of racial power (the very power that naturalizes the backward-ness of the Other). Koh’s body serves as a marker, a racial alibi. The visible inclusion of his othered body is read as resolution of the (modern) operations of racial power that characterized the “old evils” of slavery and Jim Crow in the US, thus positing the US as the natural leader in fighting and monitoring the resurrection of this “old evil” that denies trafficked victims the freedoms of human-ness. Yet, the fact that Koh can serve in the upper echelons of US governmental power and can voice his concerns regarding Other women does not dismantle, but only (re)produces, the problematic operations of (modern) power that are supposedly ended with the inclusion of the Third World woman as global subject.

As the example of Koh introduces, the conditions of racialization of Asian difference in the US enable the Asian American subject to both complicate and reaffirm the notion of US as a space/place of (racial) exceptionalism – a (racial) exceptionalism enabled through the site of women’s
human rights. Not only is the US the global exemplar where the potential moral values of women’s human rights have already been actualized (as evidenced in the US’s history women’s emancipation), but it is also an (racial) exception. The US is constituted as a space where the history of immigration and race relations has collided to posit the US as holding an exceptional racial potential. I consider this and the centrality of the rhetoric and language of culture to the recuperative moment in the myth of universality in my analysis of China’s One Child policy.

What becomes clear in Chapter IV is that Chinese-ness, as it is constructed through US women’s human rights discourse, is rendered a cultural deviance located in its patriarchal traditions – traditions that can be overcome with enough cultural distance. Unlike the “primitive” patriarchal practices that the sex trafficking discourse locates as the problem in Southeast Asia, the context of China’s modernization project (of which the One Child is one program) renders the deviant culture of patriarchy operating in China a matter of perverted and a-modern traditions that force Chinese mothers to abandon their baby daughters. Yet the potential to escape these traditions exists for the Chinese girl “victim,” even while they do not exist for the trafficked Other woman. Unlike the trafficked Other woman and the Chinese woman, the Chinese baby girl “victim” to the One Child is not “not yet” a proper feminist and human rights subject. Rather, (the potential of) her adoption by “American”
parents enables her to embody the very potential to which these “not yet”
women victim to human rights violations can always ever gesture.
IV. Constructing American Exceptionalism Through China’s One Child Per Couple Policy: The Limits of Race

A group of 22 illegal Chinese immigrants, some of them survivors of the shipwreck of the *Golden Venture* off New York, say they have gone on a hunger strike to protest their detention for more than two years and the Government’s plans to deport them. The protesting refugees are all women … The 10 who are here at the Kern County jail in Lerdo say they are entitled to political asylum because of China’s family planning policies of forced abortions or sterilizations … The passengers were crammed into a 40-foot-by-20-foot hold and had a single ladder to the deck. There were no lifeboats or life jackets; privacy and sanitation were almost nonexistent. Water was severely rationed. When the ship arrived in New York after months at sea, many dived into the chilly waters in the mistaken belief that as long as they touched American soil, they would eventually be released … The *Golden Venture* case opened a window on the ugly underworld of smuggling humans from China to American, helping to expose a vast and highly lucrative business.

At once evoking images of the American immigrant narrative, with the arrival aboard a ship in New York’s harbor and immigrants so desperate they dive into “53-degree seas;” the transatlantic slave narrative, with passengers “crammed into a 40-foot-by-20-foot hold” for “up to three years in transit to the United States;” and finally, images of a Chinese culture and government restrictive of women’s rights to reproductive self-determination, the *New York Times*’ description of the *Golden Venture* case captures the multiple layers and complicated entanglements comprising US women’s human rights discourse. References to the immigrant narrative and slavery situate the *Golden Venture* debacle within the historical trajectory of US race relations, which is in turn placed within the context of contemporary concerns regarding human rights – human trafficking and China’s denial of reproductive self-determination. The
description of the *Golden Venture* case reveals how women’s human rights serves as a productive site of (neo)colonial/modern power. The idea of US progressivism is naturalized against the constitution of China as perpetually in a state of being behind, where the plight of Chinese women trying to escape forced abortions and sterilizations is yet another episode in the continuing saga – one characterized as increasingly inclusive of difference – of the constitution of the US as the global arbiter of (Other women’s) freedom.

As is the case in other women’s human rights sites, “feminist” concerns regarding reproductive self-determination converge with conservative political agendas over the One Child policy. Conservatives that see abortion as a crime argue against the One Child even while their traditionally “radical” feminist counterparts do the same. The consolidation of certain “feminist concerns” into US human rights policy signals the importance of a “new” multicultural rhetoric, one constituted through the idea of the centrality of women’s issues as global – an issue in need of critical interrogation, as Tani Barlow notes, so long it erases the fact that “the other country is actually the necessary medium through which ‘international US feminism’ takes shape” (2000, 1100).

China continues to occupy a prominent space in US global concerns, and is often characterized as a gross human rights abuser. Thus the signification of the Chinese woman/girl victim to the One Child policy and a subject of women’s human rights play a crucial role in constituting the US the global arbiter of freedom in a post- Cold War context. China’s communist government
is characterized as an oppressive and often dictatorial force – mainly casting the government’s prohibition of free speech and free choice as anti-democratic and abusive of human rights – prohibitions that inhibit the actualization of human rights on a global scale. Within this context, women’s rights to reproductive self-determination, and by extension their freedom from violence in China serves as a key site producing the US as a space of exception (from human rights violations, women’s exclusion, racial exclusion and so on). I consider how the signification of the Chinese woman/girl “victim” enables a particular conception of (exceptional) American-ness, an American difference that is constructed around the notion of attentiveness to women’s rights and (global) freedom. I also consider the particular ways in which Chinese difference is written through notions of China’s traditionalism – a traditionalism that is understood as holding back the actualization of human rights.

Read as a human rights violation, the One Child Per Couple policy enables the construction of Chinese difference as amoral, and as a violation with outcomes like baby girl abandonment, adoption serves as a site where the signification of Chinese difference can be posited against the constitution of American progressivism. My analysis of the One Child Policy discourse reveals the difference between the signification of the Chinese woman/girl “victim” to the policy from her Chinese American “sister” in a manner that retains orientalist constructions of Chinese-ness as deviant in its adherence to problematic patriarchal cultures and traditions. At the same time, this signifying
process enables claims to women’s human rights even while it poses that the problem keeping women’s human rights from its global actualization is not patriarchy per se. Rather, the problem is cast as one of certain forms of (deviant, amoral) patriarchy – patriarchal practices and traditions that characterize places like China as behind. The signification of Chinese American difference produces the US as a space of exception, where the amoral (cultural) difference of Chinese-ness can be slowly erased and assimilated over time. Thus, I trace the Chinese female subject “victim” to the One Child and the Chinese American woman, in order to show how racial power intersects with notions of nation and citizenship in enabling women’s human rights to serve as the site through which the US is produced as the global exception – and thus the global leader in matters of the rights and freedoms of women and minorities. I begin with a brief consideration of the theoretical terrain through which my analysis of the One Child discourse rests.

The “Politics of Difference” and the (Il)logic of Identity

The 1990s saw what some might describe as the fruition of the prior political mobilization of Civil Rights activists, feminist mobilizers, and “Third World” subjects on both the national, US structures of governance as well as the international, global (United Nations) agenda. With regard to the issue of women’s human rights, the 1990s has been characterized as an era where “traditional” international concerns like population control and development in the Third World shifted towards more inclusive and attentive frames like
reproductive self-determination. The understanding of difference through exclusion, as that which has been excluded, inflected these shifts so that the move from population control to reproductive rights named the move toward less exclusive and more inclusive framings of human-ness – of human rights.

The “politics of difference” solidified the understanding of difference through exclusion and not only imaged that in doing so, it would remedy past framings that privileged assimilation, but also instituted historicity – or the reading/rendering of the problem of difference as moving progressively toward resolution. In her work Lee maps the deployment of historicity within the women’s studies discipline, where the discipline’s defining of itself as its own critical progression enables the eliding of bodies of color with knowledge about the difference of bodies of color (2000). Lee argues that this process not only serves as women’s studies “racial alibi” – where the physical and visible inclusion of bodies of color signify the discipline’s resolution of the problem of (racial) difference within the category “woman” – but leads to the unproblematized tokenization of the “Woman of Color” or “Third World Woman” subject. Indeed, the privileging of the “evidence of experience” as a tool for women and people of color to critique the dominant discourses as privileging whiteness and male-ness (Scott 1991), while enabling these very important interventions that question what Collins’ terms the “Euro-centric, masculinist knowledge validation process,” also enabled the conflation of bodies of color with knowledge about those bodies.
This conflation between certain visible markers of the body with bodies of knowledge about the experiences of those bodies enables what Grewal and Kaplan term the “logic of identification” – a slippery slope insofar as this logic assumes shared experiences of oppression that flatten the operations of power at work situating those subjects assumed as similar, differently (an eliding of power that also characterizes multiculturalism). In other words, Grewal and Kaplan are critical of the way the logic of racial identification assumes that the way racial power has produced US subjects translates across the globe to provide a shared component of racial identity, for instance, between black women in the US and African women in Africa. While the concept of race has, as Evelyn Brooks Higginbotham argues, provided a kind of global meta-narrative, one that “lends meaning to a host of terms and expressions, to a myriad aspects of life that would otherwise fall outside the referential domain of race,” this meta-narrative of race as a global concept is itself a construction produced within the context of the operations of racial power in the US (1992, 255). The result has enabled racialized US subjects to assume a similar subject-position to those bodies in other places understood as marked in identical ways. That is, the conditions of racialization in the US (as all processes of differentiation) are always already global in the sense that they produce social categories that evoke the negated, the Other, the “outside.”

Thus the conditions of racialization always already implicate an “outside,” and with the case of Asian difference, that notion of the “outside” is
articulated through the site of national citizenship, yielding what Lowe has termed the racial formation of Asian-ness in the US through the concept of the “foreigner-within” (1996, 5). The discourse of the One Child Per Couple Policy, and China’s problem of female baby abandonment, produces and is productive of the processes of racialization (of Asian difference) in the US, where the violations happening to Chinese women and girls “over there” inform the racialization of Asian difference in the US, and the processes of US racialization of Asian-ness inform the signifying process of the Chinese woman/girl “victim” to the One Child. Tracing the ways in which racial power produces an (Asian) “outside” with an (Asian) “inside” reveals what Said terms “orientalism” – that is, the discursive production of the “orient” and knowledge about it over and against the constitution of the “occident” as progressive (1979). I examine how knowledge of Asian, and specifically Chinese difference is produced through the One Child policy discourse, and argue that racial power not only constructs a “backward” Chinese cultural difference, but also enables the production of the US as a (exceptional) place where these “backward” cultural differences can be “corrected.” In fact, the US is produced as a space where the “bad” difference of Chinese-ness – an amoral difference that restricts women’s freedom – can be overcome because of the US’s claim to an (exceptional) history of race relations and immigration.

The human rights of (Other) women serves as a site through which racial power operates to constitute the difference between the Chinese woman/girl
“victim” and the Asian American subject – a difference that enables the production of the US as a space of exceptionalism, a space where women’s freedom and the discouraging effects of racial exclusion and racism can and are being overcome. Indeed, the promise of cultural pluralism – of a multicultural society inclusive of difference and diversity – can be traced in the signification of the abandoned-and-adopted Chinese girl “victim” of the One Child. Tracing the trajectory of the One Child discourse, from a population “problem,” to a women’s human rights concern, to an issue of abandonment and transnational adoption, reveals the operation of historicity and exclusion in constituting notions of (racial) difference. In other words, the operation of racial power in the US, as it narrates the “problem” of racial difference as at one time a matter to be assimilated, to now a matter to be celebrated, is revealed in the very trajectory of the discourse of (Chinese) women’s human right to reproductive self-determination. The fact that the discourse of the One Child in the US is always about the adoption of abandoned baby girls by “American” parents, as well as the fact that it is also always about the Chinese American subject, reveals how the issue of Other women’s human rights operates to constitute the US as a space of (women’s) freedom and (racial) “exceptionalism.

Background on the One Child Per Couple Policy and US/China Relations

Understood as a product of development efforts in China stretching back to Mao’s cultural revolution, the One Child policy uses incentives and disincentives to encourage couples to have only one child. Under the
Communist government’s plans for modernizing China, the One Child policy addressed issues of population growth. For instance, guarantees to free education and health care are given to couples agreeing to have only one child. Births are recorded and monitored by local authorities. Children must be registered in order to take advantage of social programs, and only under certain, specific circumstances is a second child allowed registration (Scharping 2003, 125-135). The One Child discourse in the US identifies coercion, suicides, forced abortions and sterilization, and child abandonment as the policy’s adverse effects. Thus the policy continues to remain a prominent issue in the US (for instance, the US Congress over the years has held several special hearings to discuss China’s One Child policy) as it is characterized as exemplifying human rights violations taking place in China that are definitive in constituting US-China relations.

The One Child emerged as a central issue of women’s human rights within the US during the 1980s, both as Cold War politics situated China as an emerging Communist threat, and as the decline of the Cold War propelled fears of China’s emergence as a new global superpower. As a nation identified with Communist politics, China is cast within the post-Cold War context as “behind” – a remnant of “old” geopolitical configurations. These notions of China’s hard and fast adherence to its traditions are evident in the framing of the One Child policy as a human rights concern. During the 1980s, the One Child captured what was seen as communist threats to freedom and democracy – namely,
through the denial of a woman’s right to choose. Through the 1990s and at the
turn of the millennium, the One Child continues to be constituted as an
important issue for US human rights discourse, in part because China remains a
prominent player in global politics. I examine this continued investment in the
One Child policy, as well as the specific ways the One Child is articulated at the
turn of the millennium.

In what follows, I trace the right to choice claims as they are articulated
in the US because they serve to establish a context for understanding the One
Child. Concerns over attentiveness to the varying histories and experiences of
different groups of women to reproductive rights in the US is understood as
moving the debate around reproduction closer to universal applicability.
Historicity and the logic of exclusion are evident in the debate around
reproductive rights, and this domestic debate informs that way in which global
concerns for women’s right to reproductive choice can be articulated and
understood. In addition, the framing of reproductive self-determination itself
produces the US as a space of exception. In the following, I not only provide
context for the development of the discourse around the One Child, but in doing
so, I hope to illuminate the limitations that already frame claims regarding
reproductive rights and the One Child policy as well as the implicit operations of
modern power that enable the site of women’s reproductive rights to produce the
US as a space of exception.
Reproductive Self-Determination as a Global Mandate

The language of reproductive self-determination emerges both out of the US context of right-to-choice debates and the international context of development and population control. In the context of the US, debates over a woman’s right to an abortion are complicated by the history of eugenics and other racist policies policing “appropriate” reproduction. As Susan Davis (1988), Angela Davis (1983), Vanaja Dhruvarajan and Jill Vickers (2002), Linda Gordon (2002), Iris Lopez (1997), Dorothy Roberts (1990, 1998) and others note, the language of reproductive self-determination avoids the often painful connotations that terms like abortion carry (considering the history of forced abortions on poor white women and women of color). Language inclusive of the differing histories of battles for control over fertility and women’s bodies, reproductive self-determination is sensitive to different groups of women and their differing experiences with abortion and reproduction (S. Davis 1988).

Similarly, the appearance of reproductive self-determination in the UN International Conference on Population and Development held in Cairo, 1994, signaled a marked departure from prior approaches to fertility and reproduction on the international scene. Shifting the discourse of population and development away from control, and towards self-determination, the Cairo conference is understood as evidence of how “feminist groups have proliferated and gained a higher profile in international policy-making since 1975” (Foster
1994, 12) – a move only enabled, according to sources that include the Center for Reproductive Law and Policy (Boland 1997) by the inclusion of Other women’s concerns and voices (Kirshenbaum 1994).

As this narration of global feminism and reproductive self-determination reveals, the project of including concerns for the politics of difference at home converged with an international interest in inclusionary language and policy (see for example Lee 2000, Rahman et al 2003). Writing about the work of the International Reproductive Rights Research Action Group (IRRRAG), Rosalind Petchesky emphasizes the organization’s attentiveness to considering “women in Southern countries” in conceptualizing the future of reproductive rights. She notes that IRRRAG is premised on more closely considering the “local contexts and ways of thinking in which women in their everyday lives negotiate reproductive health and sexual matters” (Petchesky 1998a, 1). Similar to the debate “at home,” discourse regarding justice and human rights for women recognizes the differing experiences and relations of women to reproduction as a

42 Melanie Lee (2000) urges African American women in the US to “work for reproductive self-determination’s classification as a human right.” She notes that the participation of women of color in the US is key because (previous) definitions of reproductive rights have been too narrow. Lee notes that the inclusion of women of color’s voices in the effort to establish reproductive self-determination as a human right will avoid the problems of divisive-ness that had plagued the campaign for reproductive rights at home (in the past).

43 Citing the 1994 Cairo Conference as the moment when reproductive right became internationally recognized, Anika Rahman (2003) notes that while reproductive rights in the US are largely framed around abortion, 1994 enabled the US to consider population policy as also a matter of reproductive rights, thanks to the United Nations conference (which included the participation of Third World nations). Rahman’s insights suggest a tie between the politics within and without that is necessary for the future success of reproductive rights. As commentary given at a panel titled “Women’s Rights: Reframing the Issues for the Future,” Rahman suggests that 1994 provides an opportunity to forge a productive future of reproductive rights for women – a future that depends on the convergence of the concerns raised at home regarding the different experiences and relationships of women in the US to abortion, with the concerns raised internationally regarding the problematic policing of certain women’s bodies.
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experiences and relationships of women in the US to abortion, with the concerns
raised internationally regarding the problematic policing of certain women’s
bodies. In both cases, however, the inclusion of the Other woman deploys
historicity, which reads inclusion as remedying a past wrong, where the
recognition of difference marks a moment that is read as bringing the campaign
for women’s (reproductive) rights closer to its goals of ensuring the rights of all
women.

The language of reproductive self-determination, and the included
(Other) bodies it signifies, situates the problematic (neo)colonial privilege
informing population control in the past. As Petchesky notes, “the concept of reproductive rights is by no means universally accepted among feminist groups around the globe. For some, it evokes an even more devious scenario that masks racist and eugenic population control behind ‘a feminist face’” (1998a, 6) – a “blind spot” of some global feminisms that is revealed with the inclusion of Othered voices. Reproductive self-determination thus signals an alternative language understood as both marking the end of the privileging of a “western gaze” and as moving the campaign for women’s human rights all the more closer to universality. Yet, as Petchesky’s concerns express, the very choice of wording suggests that the (neo)colonial, modern operations of power that informed (past) policies of eugenics both abroad and at home continue to inform and order the globe – reproductive self-determination evokes a primary category defining modern (liberal) ontology, self-determination.

As a specific site through which feminist scholars have engaged with the conundrum of human rights, the engagement with reproductive self-determination reproduces that which continues to trouble the feminist critique of human rights – the (necessary) dependence on a liberal modern ontology in order to engage with human rights at all. As Petchesky (1998b) elsewhere notes, regarding the abortion debate in the US, anti-abortionists depend on a biological logic for their claims, where both womanhood and the fetus are understood as biologically given categories. Thus, for Petchesky, the oppositional strategy she suggests is one that conceives of human life as not
simply biology, but also (more importantly) a matter of consciousness and human will (choice). Similarly, Katha Pollitt (1998) argues that the problem with the anti-choice movement is that in considering the fetus a person, it denies the personhood of the mother by denying her choice and will (see also Callahan 1995). As I have noted in Chapter II, feminists’ critiques of human rights and feminist claims regarding reproductive self-determination identify the limitations and problems of human rights discourse – it’s reliance on liberal, Lockean conceptions of rights and law. However, as Pollitt’s and Petchesky’s text evidence, addressing the privileging of modern ontology in legal and (human) rights discourse is nearly an impossible task if the strategy is to extend human rights as a more inclusive realm.

I briefly visit the domestic debate around abortion because it reveals how the parameters of the reproductive self-determination discourse always already privileges a modern subject – one defined by self-consciousness and will, one who’s self-hood rests on her ability to choose. While constricting the claims that can be made regarding reproduction and women’s human rights, this fundamental privileging of a modern subject of the law is nonetheless necessary in order to argue reproductive self-determination as a human right, since human rights is itself constricted by its very definition as a moral right – human rights cannot but privilege liberal, Lockean notions of rights and law. As with the domestic abortion debate, the international campaign for reproductive self-determination reveals similar limitations. My analysis of US discourse
surrounding China’s One Child policy thus identifies moments that reveal the intersection and complicity of feminist narratives of (global) justice and rights with the project of modernity and US imperialism.

**The Difference Culture Makes: The Moral Failure of the One Child**

China’s use of forced abortion and coercive family practices denies Chinese women their most basic of human rights: The right to decide their reproductive futures … China does not need to resort to coercion to control its population growth. When women in the developing world have access to education and the full range of reproductive health care services, they choose to have smaller families … Too many [Chinese] officials at the national and local levels refuse to step away from the old dogma.


Reconciling the freedom to reproductive self-determination and the fear of over-population in the “developing world,” Rep. Lantos argues that with the proper cultural values, including those ensuring women’s access to education and “the full range of reproductive health care services,” women in the “developing world” including Chinese women, will “choose to have smaller families.” Thus, the Congressman’s stance is able to avoid the shortcomings of population control and development policies identified by many feminists – that is, the tendency of these policies to disregard both local cultures and traditions, and the rights of women. The Congressman does not question China’s need to control the growth of its population; he assumes that this is necessary. What the Congressman does take issue with are the ways China’s policies deny “women their most basic of human rights.” And, by arguing that instilling proper values
in women will actually result in their choosing to have smaller families, the
Congressman is able to advance both the goals of population control and the
idea of women’s human rights. Indeed, it is this move to render the issue a
matter of morals – of instilling in Chinese women proper and educated values,
and thus removing the “problematic” traditions – that suggests the problem is in
Chinese-ness. Not only do the women lack the proper values necessary for them
to one, recognize their rights and two, do what is “best” for society, but even the
government fails in their attempts to instill these values. The government’s
attempt at addressing issues of population growth and poverty is cast as ill
conceived and misdirected. The suggestion underlying the Congressman’s
comments identify the problem as *Chinese culture* – a culture that both renders
Chinese women incapable of doing the “right thing” and renders the
government’s attempt not only ineffectual, but actually working against
principles of human rights. An often articulated sentiment, the idea that women
educated about their rights and given the full range of social freedoms will
choose to limit themselves suggests that the individual (woman’s) capacity to
enlightenment is there, it is only the surrounding (patriarchal) culture that keeps
her from realizing it.

In what follows, I examine the ways the language of culture appears in
the discourse of the One Child, tracing the constitution of the Chinese female
subject and her difference. I argue that the language of culture naturalizes the
idea a backward and amoral Chinese difference against a US progressivism.
Often cited as part of a well-meaning move to control population growth, scholars, politicians and activists in the US cite the One Child policy’s inability to change with the shift in demography discourse – one where the central concern is articulated in terms of reproductive self-determination – as the policy’s biggest problem. It is this conceptualization of the policy as one of the remaining population control efforts not-yet attentive to modern issues of women’s rights to reproductive self-determination that works to constitute the Chinese woman/girl “victim” as the latest subject of the globe while naturalizing the construction of a traditional Chinese culture that keeps China behind.

Several culprits appear as reasons why China’s policy is particularly abhorrent, but overwhelmingly, the central problem with the policy is identified as the “Asian tradition” shaping the policy and informing people’s reactions and attitudes toward it – the same “Asian tradition” that keeps Chinese women from (feminist) enlightenment (Samuels 1999, 707-734).44 As John Aird’s testimony to the US Congress evidences,

> The reasons for the continuing resistance [to the One Child] are partly cultural and partly circumstantial. Chinese traditions going back thousands of years emphasize the importance of having children as an act of filial piety. These values have largely eroded among the urban population but are still widely shared among rural Chinese. In villages they are reinforced by the fact that Chinese farmers have no social security system and are dependent upon their children for care in their old age. Since, also in accordance with Chinese tradition, daughters joining the families of their husbands upon marriage and are seldom able to offer support for their own parents, it is especially important to rural

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44 Samuels defines “Asian tradition” in the following way: “Emphasis on community and societal harmony over the individual, a sense of loyalty and duty toward one’s family, self-reliance, thrift, a general tolerance of benign authoritarianism, a stress on education, respect for the elderly, and respect for the accumulation of wealth.”
couples to have at least one son to look after them in their waning years. (US Congress 1995, 83)

Reinvoking orientalist assumptions of “Chinese traditions going back thousands of years,” Aird poses the problem with the One Child as two-fold. First, there are the “Chinese traditions” of filial piety – traditions that privilege sons within the family. This combined with the traditions of familial obligation and self-reliance work against the “success” of the One Child policy. For Aird, the One Child is problematic because it disregards the right to reproductive self-determination, disregards the Chinese traditions guiding, especially, rural life and, reflects the inadequacies of the government – inadequacies that enable the “circumstantial” reasons for resistance. Not only does the government fail to understand the fact that rural folk are still beholden to their traditions, but Aird suggests that the problem is with the government’s inability to provide structural resources that would help the rural folk leave these traditions behind – resources like social security for the elderly (Davin 198545). Aird and others (for instance, Hartmann 1987;46 White 200047) suggest that the problem is two-fold: a matter

45 In her research Davin notes that tradition and law “impose on children the obligation of supporting aged parents. In practice of course the obligation falls most heavily upon the sons and hence son-preference in [sic] undiminished in rural areas despite all the attempts since 1949 to change it … the single-child family policy has brought back the threat to female infant life. Now if a peasant family brings up a daughter it must sacrifice its chances of a son, or suffer the penalties for giving birth to a second child outside the plan” (1985, 62).
46 Again, suggesting that the problem is both the government’s poor policy decisions and the culture and traditions of China, Hartmann notes that, “The new system [One Child] has also encouraged the resurgence of the traditional values and practices of pre-Revolutionary China, including the view that women’s main purpose in life is to bear and raise children … Coupled with these factors, the one-child policy has already had very negative consequences for women. The most tragic is the dramatic increase in female infanticide” (1987, 151).
47 For White, “The tragedy of the policy is that it has forced as large portion of the population to choose between two types of hegemonic discourse – a socialist and developmental one that emphasizes duty to the collective society, and a patriarchal one that emphasizes duty to family
of cultural preference for sons and a government that both disregards the cultural traditions of large families and does not provide adequate social infrastructure (like social security) for rural folk.

Aird’s statement constructs the Chinese female subject as beholden to patrilineal traditions. The fact that she is bound to and dependent upon her husband constructs her difference from the “enlightened” feminist subject (of the US) – she has no opportunity or freedom to earn her own living, nor does she have choice over her own reproductive choices thanks to the One Child. Aird casts the Chinese female subject as rural and tradition-bound, suggesting however, that her unenlightened condition might be a good thing, as it means there is “continuing resistance” to the One Child. Aird suggests that while resistance to the One Child exists this resistance is cast as a matter of “culture” and “circumstance,” taking away any possibility of a Chinese “feminist” subject. Rather, Aird suggests that even in moments of resistance to the policy, the resistance comes not from the Chinese subjects’ intellectual understanding of the policy as violating their human rights, but rather from an ingrained cultural reaction. Thus even in positing the rural Chinese as making “good” decisions in their views toward a problematic policy, Aird casts these Chinese as coming to these “good” decisions in problematic ways. The Chinese who resist the One Child do not do so out of proper reasons of principle – of women’s human right to reproductive self-determination – but for “backward” reasons tied to their ancestors – both of which have been legitimated by the state, though the latter was intended to be subordinate to the former” (2000, 197).
“tradition bound” understandings of the world. Not only is the problem with the government’s policy (one that disregards women’s human rights), but also with the tradition bound folk who, even while they resist the government’s policy, do so for “bad” reasons – reasons that include maintaining patrilineal family structures and son preference. Aird’s statement thus signifies the Chinese female as a subject of morality – she makes moral decisions, though for amoral reasons. Chinese women are characterized as victimized twice, once by a government that does not respect a woman’s right to reproductive self-determination, and once by a patriarchal culture that condones a husband’s rejection of a wife who cannot reproduce sons – the former also understood as an effect of a patriarchal culture and society.

Claims challenging these troubling assumptions of rural Chinese traditionalism debate whether the folk are blindly reproducing the “Chinese traditions going back thousands of years,” but do not necessarily question the orientalist and modern constructions of a backward (in its inability to grasp the “modern” idea of women’s liberation) rural folk tradition. In other words, so-called oppositional claims within the One Child debate do not question the idea of a problematic and deviant Chinese culture of patriarchy that privileges sons over daughters. Rather, the debate is framed around whether and to what extent rural folk, and particularly the Chinese women and girls are blind victims to their culture. For instance, scholars like Elisabeth Croll contend that,

Folklore suggests that the poor were well aware of their limited ability to support many children. As one old folk saying suggested: ‘To feed a
family of five a peasant must work like an animal. But even with whipping, an animal couldn’t support a family of six.’ Couples and especially poor couples thus took steps to limit the number of children as a precaution against poverty … A common method of limiting the number of children in addition to withdrawal, abstinence and abortion was female infanticide. (1985, 11)

For Croll, rural folk are not as ignorant as they might be cast, and “old folk sayings” even recognize the contradictions inherent in traditions like patrilineal family structures that dictate the necessity of sons, even while that might mean having more children than one can afford. Croll’s statement is a move to construct the rural Chinese subject as empowered despite their “tradition bound” condition. However, even while the intent may be to characterize the poor, peasants and rural folk as self-aware of their condition – in fact as agents – Croll’s statement still constitutes the agent as victim to an amoral patriarchal practices like female infanticide, a practice that denies the humanity of its most innocent of (newborn) victims. Croll instills agency in the folk’s recognition that limiting “the number of children” is a necessary “precaution against poverty,” but she then renders the folk and their traditions backward and amoral in noting that female infanticide is seen as a method of birth control by the folk. Thus, even while Croll takes a very different stance from Aird in her characterization of the rural folk, her text nonetheless signifies a Chinese subject very similar to that of Aird’s text. Like Aird, Croll constructs the difference of the Chinese subject through morality – her difference form Aird comes only with the extent to which the subject know her condition. For Croll, the Chinese subject is not blind to her condition, however, despite her knowing, she
nonetheless chooses to enact morally reprehensible traditions like female infanticide. What underlies Croll’s statement, which is shared with Aird despite their different characterizations of the rural folk, is the assumption that the folk are backward so long as their traditions continue to enact an amoral culture of patriarchy.

The One Child policy is characterized as problematic in its privileging of sons to the exclusion of women’s rights, especially in the rural, and female infanticide is read as an effect of this. With this characterization, the problem of culture is predominantly situated in the rural folk, constituting the rural folk as most untainted by the modernizing forces at work in the cities and thus most connected to the land and its “old” traditions. Whether the claims are to modernize the rural folk so that they no longer depend on sons, thus curbing the negative effects of the One Child on daughters and mothers, or to better respect and include the practices of the rural folk in policy-making, the construction of rural Chinese-ness as behind remains. In placing the problematic traditions in the countryside, the literature constructs the rural as the place where Chinese-ness exists in its most “Chinese” form. That is, the difference of the Chinese subject (re)inscribes the troubling assumptions of the (modern) dichotomy between categories of rural and urban. Urban Chinese are cast as more “modern” and less Chinese, a fact supported through claims that urban Chinese

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48 For instance, Hartmann notes that, “son preference is still very strong in China, since daughters usually leave home after marriage to live with their in-laws, whereas sons help care for their parents in old age and carry on the family line. When the first – and only – child is a daughter, some couples resort to murder” (1987, 151-2).
women are freer – in the sense that they have more opportunities outside of the home – than their rural counterparts. While the adverse effects of policies like the One Child are not seen to effect the urban population as severely, the discourse suggests the fact that urban women are beholden to the policy is an adverse effect of rural practices infringing on an otherwise modern urban life (see Milwertz 1997).49

The fact that even in implicating China’s form of government the discourse identifies the real fault with Chinese culture – Chinese social relations – is significant in naturalizing a conception of (deviant, amoral) Chinese difference while eliding the more troubling questions of the way (neo)colonial power and “moral imperialism” operate to frame the discourse of the One Child. For instance, as Tyrene White notes, while a well-meaning effort to promote modern principles, the One Child fails because it is bound to the deviant patriarchal Chinese culture:

Despite the CCP’s massive and prolonged effort to justify its claim to control child-bearing by emphasizing the public and social costs of child-rearing and insisting that population growth is an impediment to modernization, it has been unable to overcome the influence of patriarchal culture. This competing world view, which continues to hold sway across rural China, places family loyalty and filial obligation, not socialist ethics, at the center of the child-bearing calculus. … In the new rural world of money, markets, corruption and clans, the weak can be bullied and preyed upon by the strong. Having a son can help a family avoid the miserable fate of being among the weak.

49 In her study, Milwertz examines the promotion of the One Child within urban China. She argues that most urban women choose to limit their childbearing. However, while the policy is promoted as one that will extend women’s freedoms Milwertz argues that it does not result in urban women’s greater sense of self. Rather, Milwertz argues that the policy exacerbates the dual role of women as both working, “modern” women and as private mothers and wives.
Ironically, and tragically, the state’s own policy has helped further to inscribe and reproduce this traditional world view. After the extreme and ill-advised sterilization campaign in 1983, and in the wake of growing evidence of female infanticide, the state responded by simply reversing itself on the crucial issue of the value of female offspring … Though the state did not condone the cultural preference for males, it did concede the economic and social realities that made sons more valuable. (2000, 193)

Juxtaposing the tools of the “modern” world – money and markets – with the “competing world view” present in rural China characterized by “clans,” White reifies the constructions of China as behind. The problem lies with Chinese social relations, organized around “clans” that prioritize a patriarchal (rural) culture and “traditional world view,” one that impedes the modern ethics of communism and socialism. While the modern force of “socialist ethics” seeks to remedy the problematic traditions of male preference, a conflict arises in China’s perversion and inability to properly actualize a modern governmental form. It is not communism, but the particular ways Chinese culture perverts communist and socialist ethics that is problematic. The fact that even in implicating China’s form of government the discourse identifies the real fault with Chinese culture – Chinese social relations – is significant in naturalizing a conception of (deviant) Chinese difference while eliding the more troubling questions of the way (neo)colonial power and “moral imperialism” operate to frame the discourse of the One Child.

Naming the difference of the Chinese woman “victim” to the One Child policy a matter of culture displaces the possibility that (neo)colonial/modern operations of power might contribute to her condition. Rather, framing the
discourse around culture suggests that the condition of the Chinese woman “victim” is a matter of Chinese social relations – Chinese social relations that are too traditional, too tied to clan mentality, enabling “social realities that make sons more valuable” (White 2000, 193). Thus while the Chinese government is often credited for attempting to promote women’s freedom, ultimately the Chinese fail to understand how to actualize it. The problem is thus framed in terms of a battle against a patriarchal Chinese culture and tradition, whether it is a culture that condones the sacrifice of girl babies or the culture that enables a communist government to require individual rights “to be subordinated to perceptions (usually elite) of the generalized social and economic welfare rights of the society” (Boland 1994, 96). The issue of the One Child is thus framed in a way that articulates the failure of China not with communism, but with an amoral Chinese traditionalism.

While I do not deny the problematic practices of patriarchal power operating in China, what I do question is the way that this “culture of patriarchy” is characterized through US women’s human rights discourse. I contend that the culture of patriarchy constructed through the One Child discourse reifies the privilege of the “western gaze” and (neo)colonial operations of power. In other words, the characterization of a Chinese culture of patriarchy does not identify the problem as patriarchal power constituting global subjects, but simply argues that the particular kind of patriarchy found in China (especially in the rural areas) is not in concert with the universal ideals of
women’s human rights. Thus patriarchy serves as a site through which the moral difference of global subjects institutes the “feminist” consciousness within the modern operations of (racial) power. Patriarchy serves as the site through which racial power produces and situates (differentiated) subjects (see Silva 2002). As the discourse of the One Child and its characterization of an amoral culture of patriarchy shows, racial power and gender power intersect in configuring global relations.

It is the understanding of China’s culture of patriarchy as “tradition-bound,” and thus devaluing of children who are not legitimate sons, that defines China’s brand of patriarchy deviant and amoral – it is a patriarchy that not only disregards women’s right to self-determination, but goes so far as to murder children. The particular expression of patriarchy in China – a patriarchy informed by Chinese culture and traditions – is characterized as enabling policies like the One Child that keep women from reproductive self-determination and foster a culture that devalues women/girls to the extent that they even exclude baby girls from humanity. Indeed, the One Child is often tied to the issue of female infanticide and abandoned, unregistered children, mostly girls – girls who, if they are lucky, find adoptive parents from the US (for

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50 In her examination of Fauzyia Kassindja’s asylum case (on the basis that she would be forced to undergo female genital cutting if denied asylum), Denise Silva argues that international feminist discourse constructs “patriarchy as a signifier of African particularity” (2004, 204). Silva’s work reveals that while constructed as a universal political form under which women’s human rights can be argued, the construction of the particularity of patriarchal practices enacts racial power in a manner that “produces the (emancipated) female subject as a modern consciousness, therefore necessarily situating her within the spatial limits of modern (European) being” (2004, 217).

**Salvation and the Birth of the Future: Abandonment and Adoption**

The issue of the One Child, as a productive site of racialization and knowledge of Chinese difference, is cast as a problem for the US not only because of its implications for international relations, but also because immigration has placed the Chinese within the US racial order. The One Child is read as troubling for US domestic policy insofar as it brings Chinese difference to the US, whether as legal or illegal immigrants like those detained in the *Golden Venture* case. Working to establish notions of Asian difference as both inside and outside the nation (Lowe 1996; Palumbo-Liu 1999), the discourse of the One Child enables the constitution of Chinese traditionalism to be understood within a progressive narrative of cultural assimilation-to-pluralism that posits the US as an exceptional space of (racial and women’s) freedom, a problem insofar as this narrative of assimilation-to-pluralism is evidence of the continuing operations of modern, (neo)colonial power.

The discourse of the One Child not only evokes the human rights of the Chinese women subject to its birth control policy, but also frames the violation of Chinese women’s human rights as that which enables the actualization of the (multicultural) logic of cultural pluralism in the US – a logic that renders the difference produced by the operations of racial power a matter of “culture” in a way that suggests the demise of those “bad” operations of racial power. The
One Child enables the constitution of the US as a space of exceptionalism by constructing the difference of the US as one characterized by the US’s resolution of those “bad,” racist outcomes in the past (eliding the fact that racial power continues to inform the present). As a policy tied to abandoned baby girls, the adoption of these abandoned girls by US parents enables the myth of multiculturalism – it enables the myth that the “problem” of race is getting better, now that we have learned to appreciate the value of (cultural) difference. Multiculturalism is a rhetoric that not only flattens relations of power and champions a “post-racial,” moment after race, but also deploys historicity to hide the continued operations of (modern) racial power in producing difference.  

Indeed, examining the One Child as a matter tied to transnational adoption reveals the intersection of the gender power working to establish the centrality of (Other) women’s freedom with the racial power that works to ensure a multicultural understanding of (women’s “cultural”) difference – an intersection that enables the constitution of the US as a space of (racial) exceptionalism.

Implicating the neglect of China’s government in addressing the issue of orphan mortality, Human Rights Watch notes that, “the crisis of abandoned children continues unabated, due in part to China’s one-child policy … children

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51 Many scholars have critiqued the various strategies and outcomes of multiculturalism, including Lowe who argues that, “Multiculturalism levels the important differences and contradictions within and among racial and ethnic minority groups according to the discourse of pluralism, which asserts that American culture is a democratic terrain to which every variety of constituency has equal access and in which all are represented, while simultaneously masking the existence of exclusions by recuperating dissent, conflict, and otherness through the promise of inclusion” (1996, 86).
without serious disabilities [] are abandoned because of traditional attitudes that value boy children more highly” (1996, 3). Thus Human Rights Watch casts China as condoning troubling human rights violations due to a culture that devalues abandoned, illegal/illegitimate, and girl babies. In their report, the tragic over-abundance of orphaned girls is both a result of the One Child policy, which forces couples to abandon babies not approved by the government, and a result of a patriarchal culture that values sons over daughters – not a matter of government under-funding. The report reads orphanage deaths as orchestrated female infanticide, and thus produces China’s patriarchal practices and traditions amoral in their victimization of the most innocent—“non-disabled abandoned infants” who “are in effect legally relegated to the status of ‘second-class orphans’ and thereby in practice condemned to remain for the rest of their childhoods – or until they die – in state institutional care, save for the tiny minority who are adopted by foreigners” (2004).

Looking Abroad: Salvation from Outside. Adoption by foreigners seems to be one means of salvation for the children “victims” of the One Child, according to Human Rights Watch. Indeed, the adoption of children, mostly girls, from China has gained such national attention as to yield a Congressional Roundtable, *China’s Children: Adoption, Orphanages, and Children with Disabilities*, in October of 2002. In the Roundtable report, both Nancy Robertson, President and CEO of the Grace Children’s Foundation, an NGO dedicated to the needs of children in Chinese orphanages, and Susan Soon-
Keum Cox, Vice President of the Hold International Children’s Services in Oregon suggest that adoption of Chinese babies by Americans not only helps address the adverse effects of policies like the One Child, but also provides a “bridge between two cultures and nationalities.” Like Human Rights Watch, Cox and Robertson both suggest that the salvation and modernization of China can only come from outside – from the US, in particular. Human Rights Watch notes that the Chinese government’s passage of “legislation on the question of domestic adoptions … make[s] it virtually impossible for most Chinese couples to adopt healthy abandoned children” (2004). Thus not only is the culture and traditions of son-preference an obstacle, but so also is the government itself. For Human Rights Watch, not only are China’s amoral cultural practices keeping China from helping itself, but the government is also incapable of addressing the fallout of the nation’s patriarchal traditions, thus the need for salvation from outside.

Similarly, Cox and Robertson, interested in promoting transnational adoptions of Chinese girls, also construct Chinese backwardness against the assumption of a US progressivism through their signification of the Chinese girl “victim.” For Robertson, Chinese orphans, adopted or not, “have unwittingly become Ambassadors – bridges, actually– between our two great nations (US Congress 2002a, 5),” and for Cox the fact that adoptees provide a “bridge between two cultures and nationalities” makes the challenge of American parents “help[ing] children stay connected to their country and heritage” US
In characterizing Chinese children as the “bridge” between two nations and cultures, as “Ambassadors,” both Robertson and Cox suggest that despite their adoption, despite the fact that these children will grow up in the US, they will remain Chinese. Indeed, their bodies will forever tie the children to China. The signifying work of their texts reveals the troubles of identity-based understandings of racial difference. Even while the orphans might be US citizens, they are nonetheless signified as marked by their Chinese difference – a difference that placed her in the condition of being an abandoned orphan in the first place. Thus the Chinese girl subject is constituted through the idea of her own cultural complicity to the very conditions that led her to be orphaned – her body marks her complicity to the amoral culture of patriarchy that condones abandonment and infanticide and her narrative of adoption is framed within these understandings – she is abandoned because her “culture” does not allow women the freedom of reproductive choice. For Cox and Robertson, this means that not only are the Chinese girls a site where the US and China can come together despite their different political agendas, but the Chinese girls must be rescued from “outside” – her body’s tie to an amoral culture of patriarchy indicates that she will never grow up to be able to “help herself.”

The ability to “save” China’s women/girl victims must come from outside because racial power renders the difference of Chinese-ness morally incapable of saving itself – the difference of Chinese-ness is too ingrained and
too cultural, not even the “modern” dictates of communism (when self-applied to China) could “solve” the problem of culture. Only those subjects properly exercising “feminist” women’s rights values can save the “victims” of Chinese culture. This is not only because China’s culture will not allow salvation from within its national body, but because China’s cultural inability to save its own girls and women is central to enabling the idea of the US as global arbiter of freedom. The discourse of transnational adoption, as a means of “helping” women and children victimized by the One Child Policy, produces the US as a (exceptional) space of freedom. In what follows, I trace the difference between the Chinese woman/girl “victim” to her Chinese American counterpart to show how racial power operates to produce women’s human rights as the site through which the US can constitute itself as the global exception.

Adopting American-ness: Signifying Chinese Adoptees the “Critical Potential.” The adoption narrative overwhelmingly deploys the trope of “bridges” in characterizing the (symbolic) role of adopted Chinese girls otherwise abandoned by their Chinese mothers. The signification of the adopted (or not-yet adopted) Chinese orphan girl as the “hope of the future” not only expresses the concerns of Lee (2000) of women of color symbolizing the “final frontier” – the (supposed) resolution of racism and sexism in US women’s studies – but constructs Asian difference within the logic of assimilation. Even when assimilation is rejected, as it is in the discourse of Chinese adoption, the
discourse nonetheless deploys the logic of assimilation paradigms in understanding the (racial/cultural) difference of the Chinese girl orphan.

The narrative of adoption, as an outcome of the One Child, reveals the troubled ways identity-based conceptions of race, and specifically the logic behind assimilationist paradigms, are (re)articulated through the rhetoric of multiculturalism and cultural diversity. The Chinese adoption narrative reveals the ways racial power continues to operate (specifically the expression of racial power through the logic of assimilation) in the (multicultural) claims that argue the demise of race and assimilationist paradigms. For instance, in The Lost Daughters of China, Karin Evans (2000) chronicles the process of her adoption of her Chinese daughter and their “bi-cultural” life in the US. For Evans’ and the vast majority of Chinese adoption discourse, the main challenge to adopting a Chinese baby is the question of what extent parents (who, demographically, are mostly white) need to be attentive to their adopted daughter’s Chinese “roots.” As Richard Tessler, Gail Gamache and Liming Liu’s (1999) research on bi-cultural socialization of “Chinese and American” families (“American” parents with adopted Chinese children) reveals, the socialization of adopted Chinese with their “Chinese-ness” is crucial to the experience of transnational adoptions.

Often read in contrast to the experiences of Korean adoptees in the 1950s and 60s, the Chinese narrative is read within a multicultural lens, one that celebrates differences. While the history of Korean adoption is read as a
precursor to the Chinese case, the literature recognizes Korea as a failure
(possibly because the adoption of Korean children threatens to gesture to the US
imperialism) – a product of its time (1950s-60s) and circumstance (the Korean
War).\textsuperscript{52} It is an example from which to learn (Tessler, Gamache and Liu 1999).

For example, anthropologies Toby Alice Volkman notes,

\begin{quote}
In an earlier era, adoption across borders was assumed to be straightforward. A child traveled to a new country and stayed there. A child born in Korea and adopted in Minnesota was expected to grow up and remain simply a (white) American. Parents and adoption organizations did not question that their acts were good deeds. The past was erased or contained in an abandoned ‘there’; the racialized trace of origins tended to be treated as manageable. … By the late twentieth century, the idea of the social construction of identity had assumed a prominent place in the culture of adoption in North America, Europe, and Australia. (2005b, 4)
\end{quote}

In another moment, Volkman adds,

\begin{quote}
There is a movement toward the palpable and the particular among families who have adopted from China … At the same time, there is a movement that goes beyond the China community to create a broader, more transcendent space … the mentorship program created by the largely Korean members of Also Known As (AKA), an organization of adult adoptees, was formed particularly to reach adopted Chinese children. The Culture Day sponsored by AKA was notable for its Korean drummers and dancers who performed along with groups of Vietnamese and Chinese dancers – and even salsa dancers from Colombia – a mix of adopted and hyphenated Americans.” (2005a, 105)
\end{quote}

Volkman’s text creates a narrative of transnational adoption that reads it within a progressive and multicultural frame. The text notes that “in an earlier era,”

Korean adoptees were often raised without any consciousness of their difference, and “parents did not question” whether their tactics were “good” or

\textsuperscript{52} The celebratory nature of the discourse of Chinese adoptions, unlike the characterization of Korean adoptions as a failure, does not serve as a reminder of US imperialism. While Korean babies not only signify the failure of assimilation, they also reveal the history of the Korean War.
not. However, Volkman argues that the context of the late 20th century brought about the idea of the “social construction of identity,” which marks a kind of “advancement” in attitudes regarding difference, and frames the changing tactics of parents of overseas adoptions within a history of (multicultural) progress, one that marks the contemporary moment of Chinese adoptions as holding the promise of the post-racial moment beyond the troubles of racial politics. While the racial politics of the 1960s urged American parents to approach transnational adoption through the paradigm of assimilation, the parents of Chinese adoptees “know better.” They know that assimilation is not always the best strategy for raising transnationally adopted children thanks to the interventions into notions of difference by feminist discourse and other “politics of difference” – a progress that, for instance, recognizes the heterogeneity and instability of identity, and sees identity as a social construct.

For Volkman, Chinese adoptions not only call attention to the plight of women’s human rights in China, but also provide the possibility of creating a “more transcendent space” – a space that begins to move beyond (past) “problems” of racial identity. Volkman notes, for instance, that Chinese adoptions have enabled a kind of cross-cultural community to develop where Korean, Chinese, Vietnamese, and even Colombian adoptees and their adopted parents celebrate the fact that America has adopted difference. What is troubling about Volkman’s and other similar texts regarding the adoption of Chinese baby girls, is that while Volkman notes that the celebrations of cultural
difference are enabled by progress towards understanding race and identity as a social construct and the US as a space of difference (not assimilated homogeneity), Volkman’s treatment of the difference of the adopted children simply reads their racial difference as something that is “filled” by them with chosen (social) meanings. In other words, while the idea of race as a socially constructed category critiques notions of naturalized differences tied to physical attributes, Volkman’s text does not actually imagine race in this manner. Volkman’s text assumes the racial difference of the Korean and Chinese children; what it sees as “socially constructed” are the cultural practices that “fill” those (already) racially marked bodies. And, because these cultural practices are a matter of choice and thus practices that can be shared by the white parents of the adopted children (and other adopted children from other “cultures”) makes the racial identity of the adopted children a “social construct” – their identities are constructed by themselves and their adoptive parents through their choice to participate in their cultural learning. Aside from the fact that Volkman’s discussion of the “promising” transcendent spaces enabled by Chinese adoptions produces a multicultural understanding of difference as a matter of (aesthetic, celebratory, chosen) cultural practices, her text exemplifies the dominant framing of Chinese adoptions – one that stresses a kind of “bi-cultural” socialization that is always a matter of a choice that can only be made in the US.
What Volkman’s and others ignore, however, is the fact that this choice (as to the extent to which Chinese adoptees identify with their Chinese-ness) deploys the same operations of racial power that enabled, for instance, assimilationist paradigms. The signification of racial difference remains the same despite the different, multicultural perspective that now circumscribes understandings of difference. Chinese-ness is now simply a matter of individual choice, and that the “progressiveness” of this perspective emerges within a US context produces the US as a space of exception(alism). In a statement that mirrors Volkman’s, Tessler, Gamache and Liu note that the history of America has long been written as the story of the assimilation of immigrants and the ‘great melting pot.’ Child socialization was largely uni-cultural, emphasizing Anglo-conformity particularly in the public school system, and the proportion of ‘unhyphenated Americans’ among second-generation Americans was on the rise. But since the 1960s, theories of assimilation have given way to the idea of cultural pluralism (5). … Compared with the children of Chinese immigrant parent’s immigrant children who are adopted by American parents are less likely to have their birth cultures reinforced at home without strenuous efforts. Because their adoptive parents are in large part not Chinese, the difficulty is not with American socialization, which takes place without conscious parental effort within the context of American family life, but rather with Chinese socialization. … American parents must decide whether and how to retain their children’s connections to their birth cultures. (1999, 6)

What Tessler, Gamache and Liu’s text adds to the narrative is the contrast between the pre- and post-1960s social attitudes regarding difference. Tessler, Gamache and Liu mark the change from assimilationist paradigms to “cultural pluralism” with the Civil Rights and Women’s Movements that characterized the 1960s. In addition, they note that “Anglo-conformity” led to a rise of
“unhyphenated Americans” amongst the “second generation.” Framing this as a failure of (past) attitudes regarding difference, the text then contrasts the condition of pre-1960 immigrants to that of contemporary “immigrant” adoptees. Noting that Chinese adoptees do not have their “birth cultures reinforced at home without strenuous efforts” (unlike their counterparts who have Chinese immigrant parents), the text, aside from assuming that “American parents” cannot also be “Chinese,” emphasizes the importance of choice – of choosing whether, how and to what extent they will “retain their children’s connections to their birth cultures.” What the issue of Chinese adoptions enables is the imagining of a kind of “post-racial” moment that promises to end the so-called troubling aspects of (racialized) difference. In other words, it constructs a space and place where racial identification is rendered a matter of personal choice (a tactic that produces modern, self-determined subjects), and it does this through the rendering of the differences conveyed on the Chinese girls’ bodies a matter of cultural practices and traditions – in fact, it does this by deploying a multicultural logic of (racial) difference. In addition, by situating the matter of Chinese adoption as both tied to the issue of the One Child and women’s human rights, as well as another moment in the history of the US’s “politics of difference,” Chinese adoption discourse constructs the US as a space of exceptionalism. The US is a place where the promises of “cultural pluralism” have begun actualization through the adoption of Chinese girls by white
(“American”) parents – parents who take part in the Chinese-ness of their adopted daughters.

The adopted Chinese girls are signified as the “critical potential” of both women’s human rights and of US racial politics. They enable a kind of multicultural embodiment of cultural mixing without the threat of miscegenation, all within the context of women’s human rights violations in China. For instance, Volkman notes that the traditional adoption origin story – the question of “real” parents and DNA connections – shifts in the context of Chinese adoption:

The search for the place of birth and abandonment; the telling of the story of being found; the salvaged orphanage brick that represents an individual’s history; the forging of solidarity with others who have been adopted from the same town, or orphanage, or even crib, or at the same moment: all of these substitute for the unattainable ‘kin in the gene.’ (2005a, 105)

The context of transnational Chinese adoptions challenges the “dominant ideology” of “genetic history” precisely because (white) parents are forced to imagine alternate means of forging family (Volkman 2005a, 104). And while this alternative way of conceptualizing family is something that defines most adoption stories, the case of Chinese adoptions is particularly forceful because parents never have the option of “hiding” the fact that their children are not biologically theirs. The fact that adopted (white) parents are “progressive” about their racial politics, and the fact that the adopted Chinese girls embody a visual reminder of their (racial/cultural) difference makes the case of transnational Chinese adoption the site of the promises of a multi-cultural, “post-
racial” future – a future where the gene no longer figures (even though it does) and the difference of Chinese-ness is simply rendered a “solidarity with others who have been adopted … at the same moment,” including the (white) adopted parents. Assimilation is cast as failure, and the (white) American parents are constructed as the “newest” hope in addressing racism, where racism is defined as exclusion. Chinese-ness is thus figured through the logic of multiculturalism an aesthetic difference that is constructed and chosen – indeed, included – even while the bodies of the adopted Chinese girls serve as a visual reminder that their “choice” of identifying with their Chinese-ness is always already over- determined. As Evans notes, “It’s a phenomenon that spans the gaps of distance, culture, race, language, economics, and heritage. It is a tale of twentieth-century cultures mixing with each other in an unprecedented way” (2000, 3). Yet, it is a mixing that never threatens the logic of the “kin in the gene” – it is a mixing that never poses the threat of miscegenation, and thus never threatens (the biological basis of) the logic of race.

That the rhetoric and logic of multiculturalism informing Chinese adoptions is simply a (re)configuring of the same racial power – a racial power that operates on the “logic of exclusion” – that produced assimilationist paradigms and resulted in the racist attitudes of the US past is nowhere clearer than in narratives like Evans’. Evans identifies the problem of race in the racist individuals she encounters. She recounts a personal anecdote:

“Have you noticed that our children don’t look Asian anymore?” said one of the [Caucasian] women Mark and I traveled to China with …
“They just look like themselves,” said my friend. “They just look like our kids.” What she said was true. When I looked into Kelly’s face now, it was just Kelly’s beloved face. Whatever physical distinctions there are between us had blurred with familiarity. Yet other people – including my daughter at some point – would perceive our differences, and therein lay the seeds of a problem (190). …Mark and I haven’t yet encountered an overtly rude remark … One man put it very gently in a post office line, when he said, “Your daughter is beautiful. What is her ethnicity?”

Other Caucasian parents of Chinese children have reported more serious challenges. One father in San Francisco was stopped by the police, who had been called by someone who was alarmed at seeing an older white man with a small Chinese girl. (2000, 191)

Evans and the community of people participating in transnational Chinese adoptions identify the problem of race with the racist individuals they encounter. The problem of race, according to Evan’s text, lies with the individuals who recognize the racial difference of Evans and Kelly, and apply racist stereotypes and ideas (of exotic Asian beauty, for example) in reading the scene. Even while Evans and her cohort demonstrate the “post-racial” promise of the future – one where their adopted Chinese daughters no longer look “Asian” but are simply “our kids” – that progress is impeded by those (ignorant) individuals who still apply the biological logic of race; a logic that makes it hard to believe an “older white man with a small Chinese girl” might not be a criminal relationship. What Evans’ text reveals is the assumption that racism is defined solely as exclusion – where the exclusion of (the possibility of) “Chinese and American” families, the exclusion of Chinese daughters, defines racism. However, as Silva (2006) notes the “logic of exclusion” is itself a (modern) strategy of power.
Exclusion enables claims that the so-called problem of difference (that racism) is past/passed in the moment of inclusion, hiding the fact that inclusion itself enables another moment configured by (modern) racial power – a point that is evident in the fact that Evans (re)deploys “racist” attitudes even while constructing her (inclusive) self as “beyond” such things. The irony of Evan’s attitude toward the racist individuals and the racist logic they employ is captured in another moment in Evan’s narrative of adoption:

I took Kelly out to moongaze, part of the observations for the Chinese Festival of the August Moon. I thought it was a perfect time to honor my daughter’s birth parents, since they, too, might have stared at that same moon during the ceremonies in southern China … In the part of the world where Kelly comes from, families, in the light of glowing paper lanterns, would have been eating traditional round mooncakes made of thin dough stuffed with fruit, nuts, meat, and sweet paste. (204)

When Kelly and I walk through San Francisco’s Chinatown, I find myself looking into the faces we pass – grandmothers bent over with bags of oranges; mothers pushing babies in strollers or carrying them on their backs in fabric slings the old-fashioned way; teenagers sitting in a restaurant window eating noodles. I know that most of the people along Grant Avenue or Stockton Street or in Portsmouth Square are Cantonese, from Guangdong province, where Kelly comes from. (2000, 221)

While Evans identifies the problem of race as other’s identification of certain aspects of Kelly’s biological difference from Evans’, Evans herself recognizes and constructs Kelly’s difference in the same manner. And, while Evans never overtly identifies that which makes Kelly “special” as marked through her body, she assumes this in her identification of China as the place where that difference “originates,” and in her recognition of the people in Chinatown as also sharing that difference – a difference that is communicated through Kelly and the people of Chinatown’s bodies, bodies identified as different from Evans’ own.
“Caucasian” body. Evans desire to allow Kelly to learn the culture of her birthplace deploys a racial logic that identifies certain practices and traditions as definitive of difference, a difference marked on the body. This is the same logic that is chastised by Evans as deployed by the racist individuals who map certain ideas and practices onto particular (marked) bodies. For instance, Evans’ statement that most of the people she encounters in San Francisco’s Chinatown are from Guangdong province reveals her deployment of orientalist and racial logics that see the visual similarities of the bodies occupying Chinatown and assumes they are “from Guangdong.” While Evans’ text connotes the suggestion that those who are not from Guangdong are probably from other provinces in China, the text does not consider that those bodies might not “originate” in China at all. Because they are in Chinatown, and because their bodies are marked in similar ways to Kelly, Evans assumes they are all Chinese – Evans deploys the logic of racial identification. In addition, the fact that Evans’ narrative of adoption is framed through the articulation of the author’s orientalizing and liberal desire to “save” the Other (at one point, Evans recounts how her husband, when asked why he wanted to adopt, compares himself to Atticus Finch of Harper Lee’s *To Kill a Mockingbird* – the ultimate “American” hero who recognizes the fallacy of Jim Crow and sacrifices his own comfort to “save” a black man from death) reveals the very ways racial power inform Evans own narrative, despite her insistence that she does not deploy racial power!
The Difference of Chinese-American-ness: The US as a Space of (Women’s) Freedom. As the adopted Chinese girls signify the “critical potential” of the “politics of difference,” and the US is thus imagined as the space of exceptionalism where such a critical potential might be actualized, the discourse raises questions as to the Chinese American subject. The adopted Chinese girls are clearly signified as Chinese and American subjects, yet their signification renders them different from the Chinese-American (hyphenated) subject – as Tesseler, Gamache and Liu note, they are different, even while some conditions of racialization of Asian-ness are shared. Even while Chinese-Americans are evoked in the adoption literature (as Evans’ Chinatown episode exemplifies), they remain marginal. Indeed, the Chinese-American subject is generally only discussed in reference to their marginality as adoptive parents of Chinese girls. Noting that not many Chinese Americans adopt girls from China, Tessler, Gamache and Liu state that

The segment of the Chinese-American community that appears to be most receptive to and interested in the adopted children and their families are second- and third-generation Chinese-American professionals and scholars who are themselves rediscovering pride in their Chinese roots. (1999, 146)

Tessler, Gamache and Liu’s text gestures to those operations of racial power underlying the discourse of adoption, the One Child, and women’s human rights – that is, the text produces the US as a space of racial exceptionalism where second- and third-generation Chinese-Americans interested in “rediscovering pride in their Chinese roots” are allowed to do so. Tessler, Gamache and Liu
read the Chinese-American adoption of Chinese babies through the frame of assimilation that understands the generational (and physical) distance of second- and third-generation progeny of Chinese immigrants as “more American” in their recognition of their freedom and choice to identify as Chinese. And, of course, those who choose to “rediscover” their Chinese-ness do so through forging a connection to China via an adopted girl.

The difference of the Chinese girl (and mother) subject to the Chinese-American subject thus serves as another moment constituting the US as the space of exceptionalism – exceptional in its supposed actualization of women’s freedom and the freedom from the (biological) troubles of race. And, while the Chinese-American subject is regarded as tied to her Chinese counterpart, it is her difference that completes the constitution of the US as a space of women’s freedom. For instance, in the Ford Foundation’s study on *Asian American Women: Issues, Concerns, and Responsive Human and Civil Rights Advocacy*, Lora Foo notes that one obstacle to reproductive freedom for Asian American women is the “lingering traditions of male preference” (2002, 117). Indeed, Foo’s study notes that

First-generation Asian American women often experience reproductive oppression when their husbands and extended families put both overt and subtle pressure on them to bear a male child … The devaluation of girls and adult women until they bear male children has led to the practice of aborting female fetuses in certain Asian countries. In China, because of its one-child policy, women use ultrasound or amniocentesis to determine the gender of the fetus in order to abort female fetuses. … In the US, a study of prenatal testing … found that Asian and white women undergo prenatal diagnosis for chromosomal disorders at a significantly higher rate than Latina and African Americans. Experts speculate that
the low use of prenatal testing by Latinas may be due to Catholic religious beliefs. African American women may avoid such tests due to historical experiences with sterilization abuse, eugenics politics, and the infamous Tuskegee Institute study that allowed African American men affected with veneral diseases to go untreated. In contrast, Chinese women had high utilization rates for prenatal testing, including amniocentesis. Experts speculate that the practices resulting from China’s one-child policy influence the acceptance and use of prenatal testing. (2002, 118)

The framing of reproductive freedom for Asian American women in this text reifies racialized assumptions used to posit a racial hierarchy along civilizational rhetoric – from the primitive, tradition-bound (Latinas) to those who are progressive because they use technology in proper ways (whites). While Latinas avoid proper prenatal technologies because of their primitive adherence to “religious beliefs,” Foo notes that African Americans also neglect prenatal care, though they do so for differing reasons. For African Americans, their avoidance is understandable, given their “historical experiences with sterilization abuse, eugenics politics, and the infamous Tuskegee Institute.” Thus, the text constructs both Latinas and African American women as making “bad” decisions about prenatal care, though Latinas make these “bad” decisions because of their primitive adherence to religious traditions and African Americans because the history of racism conditions them to be distrustful. The text suggests that African American women reject prenatal technologies not because they are blindly following their religious beliefs, but because of the history of racism – a reason that posits African Americans as avoiding prenatal care for reasons of (racial) conscience/consciousness while Latinas are
unthinking in this aspect, simply following the dictates of their religious traditions.

While the assumption behind the text is that prenatal technologies are good – in fact, Latinas and African American women should use them more – the ways in which Asian women use this technology is bad because of their cultural traditions that pressure them to abort baby girls. Asian American women’s use of prenatal technologies is good in this sense, however, by placing the discussion of prenatal technologies within the context of China and its repressive reproductive policies, Chinese, and by extension Asian American women are cast as using these technologies for “bad reasons.” First, the author places Asian American women within the context of immigration, noting that, “first generation Asian American women often experience reproductive oppression when their husbands and extended families put both overt and subtle pressure on them to bear a male child.” Here, Asian American women are constructed as subjects through immigration discourses, specifically within the paradigm of assimilationist understandings of immigration. “First generation Asian American women” are bound to their traditions, traditions that “put both overt and subtle pressure on them to bear a male child.” And because of modernizing efforts and the One Child, China conditions women to “use ultrasound or amniocentesis,” making Chinese American women more likely to use these technologies in the US. However, China’s patriarchal traditions and culture condition Chinese women to use these technologies for “bad” reasons –
“to determine the gender of the fetus in order to abort female fetuses.” While Asian American’s use prenatal care, they do so for “bad” reasons tied to their adherence to patriarchal traditions. Whites are constructed as the ideal subject of reproductive freedom, and, thus go unexamined in the text. African Americans still struggle to shed the trauma of their historical experiences, however, they, like whites, are not beholden to their “bad” traditions. Read within the context of assimilationist paradigms of understanding immigration in the US, this logic makes perfect sense – whites and African Americans, as subjects with the “longest” claim to the US, are cast as most untroubled by “bad” cultural traditions, while Latinas are simply too religious and thus too skeptical of science, and Asian women simply pervert an otherwise progressive tool due to their cultural beliefs/programming.

The One Child is cast as a “problem” for the US both because Chinese bodies literally bring the issue to US shores (through immigration), but also because this understanding of the One Child enables the very construction of the US as an exceptional space through immigration narratives that champion the “success” of assimilation – the “successes” of later generations of Chinese American women in casting off their traditions. In another example emblematic of the ways in which the One Child and female infanticide are understood, Sharon Hom notes, with regard to female infanticide and human rights violations in China:

I begin thinking about the future by remembering a past journey. In 1987 I returned to my village in Guangzhou with my parents and my
little boy. After forty years away from his home village, the hardest
decision for my father was to return, but we made our way on the
modern express train from Hong Kong, onto two ferry crossings, and
along a dust rural road. And there at the end of a cloud of dust of our
approaching noisy van was a throng of several hundred people, all my
relatives, all Homs (yes, a patrilocal village). … My father said that
nothing had changed except for the paved road into the village. I begin
thinking about the future by remembering the unknown lives of millions
of people who will never travel beyond these mountains, beyond that
paved road. (2000, 255)

What is significant in Hom’s tale, as in other, similar narratives often tied to
infanticide and other women’s human rights concerns, is the distinction drawn
between the Chinese woman/girl “victim” and the Chinese American subject.

Even as the conditions of racialization of Asian-ness in the US necessarily
gesture to that which is imagined as outside and foreign to the national body, the
condition of Asian difference (in this case Chinese difference) occupying the
interior space of the nation and that which is imagined as outside are
differentiated. Hom’s text is emblematic of the ways in which Asian difference
within, and Asian difference without, are both inextricably linked in their
constitution even while they operate to signify different racialized subjects. The
distinction between Hom and her parents, able to leave China for the US, and
her Chinese relatives, stuck in the unchanging rural life dictated by cultural
traditions like patrilocal community organization despite the “modern express
train” and “paved road,” is paramount to enabling the idea of the US as the
space of (modern) conditions like women’s emancipation. Thus, while the
conception of racial difference underlies this narrative through the idea of a
Chinese-ness passed from generation to generation that ties Hom to China
despite her “Americanization,” it is her distancing from China that enables Hom’s subject to claim modernity. Read as a signifier of the Chinese American subject, Hom, through her distancing from Chinese culture, is a different kind of modern subject from her Chinese relatives still on the verge of being initiated into humanity.

Through the logic of identity-based politics, the Asian American subject, through her difference and distance from the Asian-ness imagined outside the nation, in some ways enables the constitution of the US as the (exceptional) global arbiter of freedom. Reasserting (past) narratives that imagine the US as a nation of exception – exceptional in part because of its history of race relations – the signification of the Asian American subject reassures, even as it also calls into crisis, the idea of a global multicultural future led by the US. Thus Hom’s text is significant in that it rewrites and defines American exceptionalism through the idea of the US as a space that enables the freedom of Others. While China remains unchanged “except for the paved road into the village,” the different signification of Hom and her son enables the claims of modernity and the promise of universality.

Through the logic of identification, Hom’s difference from her Chinese relatives serves as evidence that even those outside of the margins of the narrative of modern progress (the Chinese woman/girl victim) can and soon will be modern subjects like Hom. The Otherness Hom shares with the Chinese woman/girl victims in the patrilocal Chinese village enables the promises of
modernity, hiding the fact that the Chinese woman/girl victim is already modern so long as she functions to signify the threatening alterity upon which the narrative of modern origin is constructed. And, like Hom’s text, the difference of the Chinese subject from her African, Latin American, even Southeast Asian, counterparts lies in the fact that she knows better – she is not simply an ignorant and unenlightened subject, she is merely rendered incapable by the (patrilocal) culture in which she exists.

Like the suggestion that Hom’s parents knew better, the Chinese woman “victim” is also characterized as knowing in the adoption literature. For instance, Evans is careful to note that the Chinese mothers who abandon their baby girls are reluctant to do so and only do so out of no other choice. Evans recounts how sometimes abandoned babies appear with notes written by their mothers, notes that read: “I am heartbroken to give her up. But in China, women have no power and I have no choice. I hope someone will care for her” (2000, 87). Unlike Hom’s parents, who, presumably, had the ability to leave their condition because Hom’s grandfather had the choice, the Chinese women “victim” to the One Child do not, as only women, have the choice to enact their own salvation. Indeed, as the Golden Venture case shows, it is only when Chinese women are accompanied by (“enlightened”) Chinese men, (who “know better”), that they are able to “escape” to the US. In a telling court case, Zhao v. Reno (265 F.3d 83), Ke Zhen Zhao won his asylum case and established forced sterilization and abortion within the purview of “persecution” (National
The fact that Zhao, as a male Chinese subject, was able to change asylum precedent regarding persons fleeing from coercive population control programs in 1996 is telling. His case further demonstrates the formation of the discourse of women’s human rights and the One Child policy as one where the constitution of the Chinese female subject as incapable of saving herself, even when she knows of her own oppression.

By contrasting the cultural conditions that have continued to “bind” the lives of women in China to the “mysterious woman” Evans encounters in the parking lot of her Chinese hotel, the Chinese woman “victim” is constituted as historically and culturally “bound” by a patriarchal tradition that gives her no choice. The Chinese mother is cast as just as much a “victim” in need of salvation as her abandoned baby daughter:

The accounts I read of the lives of Chinese women, whether contemporary of historical, offered pictures of unrelenting hardship. Bound feet, bound lives. Girls bought and sold. Infanticide. Lives of powerlessness and melancholy, reaching far back into history (30). … I thought of the mysterious woman with the red silk bundle that night in Guangzhou. Whether that was a baby she held in her arms or not, whatever had brought her to that point of desperation in a hotel parking lot meant that she, too, was a lost daughter of China. (Evans 2000, 123)

The “mysterious woman” is left no other choice than to abandon her baby. The mysterious woman’s (imagined) action is rendered an act of desperation, it is never seen as a choice, even though the mothers who abandon their babies clearly exercise some choice in the matter. What is significant here is both the fact that the Chinese mother is also cast as a “victim” to be saved, despite her act of abandonment – “she, too, was a lost daughter of China.” Even while the
discourse identifies the One Child and the culture of (amoral) patriarchy behind it as “bad” because it leads to abandonment, the actual mother-figure who abandons must not be identified as the problem. Her salvation is necessary for a women’s human rights agenda since she is the primary “victim” of policies like the One Child that are seen as violating reproductive self-determination. Thus, her (later) act of daughter abandonment cannot be an amoral act like those patriarchal practices binding women’s feet and lives. The mother’s act of abandonment is different – it must be in order for her to be saved. As Evans’ text reveals, the mother’s act of abandonment is cast as a choice made because there is no choice. And, as in Evans’ text, the Chinese woman/mother is constituted as always having no choice, even when she exercises choice – her actions are always already determined by the amoral patriarchal traditions that govern her. It is only when the woman flees to the US (as Hom’s grandmother, though she was only able because she was with Hom’s grandfather) or her daughter is adopted by “American” parents that there is salvation and choice. There cannot be any possibility of the Chinese woman’s choice in the context of China, and the fact that the possibility of choice only appears with the intervention of the US constitutes the US as a (exceptional) space of women’s freedom – a women’s freedom that is enabled through assimilationist understandings of the historical and geographical erosion of race and racism.

It is in the casting of Chinese cultural difference as deviant, and yet removable through “Americanization” – as evidenced in the writing of the
Chinese American woman as different from the Chinese woman/girl victim (and the adopted “daughter of China” as different from either) – that also reveals the necessary writing of Chinese difference as a matter of culture. Discourses of racial difference, particularly those that, in their effort to remove biology from the concept of race, conceived of racial difference as a social phenomenon that would enable changing attitudes, helped define racial difference as a matter of consciousness. Part of the US claim to racial exceptionalism rests in the US claim to a narrative of assimilation – one that sees assimilation as a past mistake in racial thinking. The fact that the US is a “melting pot” and a nation of immigrants is understood as offering the possibility of moving beyond, whether through the confrontation of consciousnesses or through the physical amalgamation of raced bodies. However, the possibility offered by the idea of US exceptionalism operates as a myth, and this becomes evident in considering texts on Chinese adoption, where authors like Evans claim that adopted Chinese girls hold the promise of moving beyond “old” paradigms of race even while Evans deploys these “old” paradigms in her conceptualization of a future that is beyond.

The distinction between the deviant ways Chinese-ness expresses patriarchy versus the (moral) patriarchal relations that constitute the US as a leader in women’s emancipation (gauged by the “opening” of rights for women, in fact women’s inclusion into the nation’s political, social, and cultural realms) is especially evident in the characterization of Chinese cultural difference within
the discourse of transnational adoption. Seen as a cause of abandonment and female infanticide, the One Child discourse enables narratives regarding the need for the transnational adoptions of Chinese baby girls by US nationals. These baby girls are characterized as needing to be “saved” from the Chinese culture that devalues their and their mother’s existences; they need to be saved not only from a devalued life as an orphaned girl, but also from infanticide – the ultimate exclusion from humanity. And, while the Chinese government is characterized as seemingly taking steps to help its folk progress, because it is bound to its folk, the government’s efforts are awkward and incomplete – “nothing has changed except for the paved road” (Hom 2000). Thus, the US is reaffirmed as the arbiter of (other) women’s freedom both through the signification of the Chinese woman/girl as victim to a deviant Chinese culture, and the characterization of a Chinese government bound to its folk.

The narrative of transnational adoption relies upon assumptions of Chinese deviance and traditionalism posited against a US progressivism, evident in the construction of difference between Chinese in China and Chinese Americans. Recalling assimilation paradigms, the idea of Chinese American difference is key to constituting the US as the global leader and arbiter of freedom; the One Child, female infanticide, and transnational adoption are sites through which the signification of the Chinese woman/girl “victim” different from her Chinese American counterpart reveal the operations of (neo)colonial power that continue to produce Chinese-ness as difference in need of (moral)
reform. The fact that Chinese Americans are tied through racialization to their Chinese counterparts also enables historicity and exclusion to operate within the US narrative of race relations – one that reads the adverse effects of race as slowly becoming a thing of the past with the inclusion of difference.

A Question of Morals: Concluding Remarks

My wife and I have four children. In China, three of them would be dead. Any of you who might have children, unless they were first explicitly authorized by the government as part of the one-child per-couple policy, and even if you had not had any, if you were not in line to have that child, the government steps in and destroys your child … The Taliban totally mistreats its women. The Chinese government and the UNFPA, under the guise of population control, dripping with euphemisms, grossly mistreats its women.

-- Chairman Christopher Smith (R-NJ) 107th Congressional Hearing, Coercive Population Control in China

America’s war on terrorism … is more than a military enterprise. It is a moral enterprise. To defeat terrorism, we must remain true to America’s values … As every civilized person, Mr. Chairman, I have long been a staunch critic of coerced abortions wherever they may occur. Such abhorrent practices violate every principle of human decency, and as a strong supporter of a woman’s right to choose, I cannot conceive of anything more offensive than robbing women of their freedom to control their own bodies and their own destinies.

– Rep. Tom Lantos (D-CA), Senior and Ranking Democratic member of the Committee on International Relations, 107th Congressional Hearing, Coercive Population Control in China

For the Congressmen so emotionally committed to ending women’s human rights violations, in this case in China, the issue of morality lies not with their own production of a discourse that deploys a symbolic violence, but with establishing proper, moral patriarchal relations – relations that depend upon the intersection of racial and patriarchal power. And, in the post-September 11, 2001 context, these concerns serve as the crux of legitimizing a global war on
the terrors of deviant cultures of patriarchy like that of China and the Taliban. While the language of terror has been deployed even before September 11, 2001 in characterizing China’s women’s human rights violations, this rhetoric is particularly striking after 2001 as a means to establish the US as a global arbiter of freedom. Casting reproductive self-determination as an issue threatened by terror, both Congressmen frame the One Child as an impediment to global freedom, on that counters “true American values” and abhors any “civilized person.” The Senator asserts the moral degeneracy of Chinese culture, and thus justifies both the need for US intervention in saving the Chinese women and children “victim” to the policy, and the construction of the US as a space of exception.

The issue of the One Child, as a productive site of racialization and knowledge of Chinese difference, is cast as a problem for the US not only because of its implications for international relations, but also because immigration has placed the Chinese within the US racial order. The One Child is read as troubling for US domestic policy insofar as it brings Chinese difference to the US, whether as legal immigrants like adopted Chinese baby girls or illegal immigrants like those detained in the Golden Venture case.53

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53 In accordance with the constitution of the US as an exceptional space of freedom (and difference), the US legal system replays the problematic signification of the Chinese woman/girl “victim” to a deviant culture of Chinese patriarchy in cases that use “cultural defense” arguments. As Leti Volpp explains in her article “(Mis)Identifying Culture: Asian Women and the ‘Cultural Defense,’” the legal strategy of arguing that certain behaviors (violence against women) must be forgiven in certain contexts (concerning Asian “victims” and defendants) because of “cultural values,” simply reasserts racist and orientalist constructions of Asian traditionalism under the guise of “culture.” Critical of the seemingly liberal manner that cultural defense is argued, Volpp argues that this strategy attentive to difference simply hides the fact
Working to establish notions of Asian difference as both inside and outside the nation, the discourse of the One Child enables the constitution of Chinese traditionalism to be understood within a progressive narrative of cultural assimilation that posits the US as an exceptional space of (racial) freedom. And, as a women’s human rights issue tied to infant abandonment, the One Child is read as part and parcel to the issue of adoption (see for instance, Tessler, Gamache and Liu 1999; Evans 2000; Johnson 2005; Volkman 2005a, b).

Framed as a moral issue, women’s human rights, the One Child policy, the health and freedom of Chinese women and girls, are all avenues through which a certain, US-privileged conception of women’s human rights and reproductive self-determination are deployed onto the Others of the globe. What is troubling in the One Child discourse, and women’s human rights in general, is the fact that women like Ma Weihua (forced to have an abortion before facing the death penalty) and Mao Hengfeng (fired from her job and sent to a labor camp for disregarding the One Child policy) not only become “racial alibis” – to use Lee’s (2000) term – whose bodies are read as signs that (neo)colonial power and moral imperialism are moments in past configurations of the globe, but that these women are only able to articulate the violence committed against them using certain frames for understanding women’s rights, and a particular language of victimization – one that reifies their own cultural failures and

that it reasserts racist and orientalist notions of a US legal system that is transparent and the “affectable,” tradition-bound legal subjects of particularity it must now include. In its inclusion of othered legal subjects, the US legal apparatus works to produce the US nation as an inclusionary and exceptional space of freedom.
backwardness. Certainly, there is a moral issue at stake. If violence is inflicted upon the women “victim” to women’s human rights violations not only in their physical lives, but also symbolic, in terms of how they must be signified in order to become intelligible as victims of women’s human rights violations, what is our responsibility?
V. Troubling Muslim Difference: Translation and the Limits of Speech

In 1996, a heavy shroud was placed on the people of Afghanistan when the Taliban captured Kabul. Since then, the Taliban has taken the peaceful and sacred scriptures of the Prophet Muhammad, and distorted them into a rulebook of terror … Bearing the scars of the Taliban’s crimes against its own people, Afghanistan’s women have been buried beneath a veil. The burqa, the forcible cover of women, is an attempt by the Taliban to hide from the world the violence and pain that the regime has imposed on Afghanistan under the pretext of religion. The Taliban is far from being students of the true Muslim faith … The US role is not to dictate what a post-Taliban government will look like. Our role is to empower and enable, in order to ensure that the true and unfettered voice of the Afghan people is heard loudly and clearly … Can neighboring countries such as Pakistan and Iran, and other such as Russia, be neutralized to prevent their interference in a post-Taliban Afghanistan?

– Rep. Ileana Ros-Lehtinen (R-FL), Chairperson of the Subcommittee, Afghan People vs the Taliban, October 31, 2001

In a Congressional Hearing originally scheduled to take place September 12, 2001, Rep. Ros-Lehtinen captures the dominant themes through which the issue of Islam and women’s rights has been filtered. First, she notes that the problem is not Islam as a religion per se, but the “distorted” ways the Taliban has interpreted and codified religious tenets. Second, she suggests that the evidence of the Taliban’s “distorted” attempts to use Islam as a means of justifying terror lies with the women of Afghanistan – “buried beneath a veil.” Finally, while evoking the right of cultural particularism by noting that Afghanistan and its people should live as they like, Rep. Ros-Lehtinen nonetheless suggests that the US, in its supreme understanding of the universal principles of humanity, should “empower and enable” that properly particular Afghan-ness to be “heard loudly and clearly.” Suggesting that certain neighboring countries – Pakistan and Iran, other so-called Muslim states not
considered trusted political allies of the US; and Russia, which has a history of colonialism and invasion in Afghanistan, not to mention its own political troubles since the fall of the Iron Curtain – are not only incapable of helping Afghanistan, but must even be “neutralized to prevent their interference,” the Rep. creates both cultural (religious fanaticism) and political reasons that justify US intervention. What is – or is it – significant that a woman chairs this hearing?

While the events of September 11, 2001 have focused the issue of Islamic governments and women’s human rights around particular ways the Taliban manifests concerns regarding the managing of cultural particularity, the central US concern nonetheless remains the role of Islamic cultural laws in “victimizing” Muslim women. US political concerns have revolved around the casting of Muslim women as needing to be “saved” from the evil men who interpret the Koran in “distorted” ways in order to protect the idea of a global democracy. And, while the context of Afghan, Iraqi, and Iranian women have been hyper-visible since September 11 I look at the way Islam in general is constituted through US women’s human rights discourse as antithetical to the Muslim feminist subject. Thus this chapter examines how US women’s human rights discourse has framed Islamic culture as a problem that “victimizes” Muslim women to the threat of global democracy.  

While I recognize that the homogenization of difference has been a strategy through which (neo)colonial operations of power like the “western gaze” have worked, because my ultimate goal is to trace the continued operations of (neo)colonial power (“modernity/coloniality”) in constructing the idea of a “new” global juridical order, I examine how Islam as a homogenized
This chapter engages with the question of how the heterogeneity and sameness of the category “woman” constituted through human rights, and to what effect? By tracing the feminist, Muslim and (the possibility of a) Muslim feminist subjects constituted through the women’s human rights discourse, I illustrate the way in which Muslim particularity has been constructed as so reprehensible that it has justified US (military) presence and action in certain “troubled” Muslim nations, a fact that the post-September 11th context exposes. Like the trafficked Other woman, the Muslim woman is also signified as unable to escape her cultural deviance, though in the case of Islam, the cultural deviance is rendered a matter of “bad” individual men, not of the culture as a whole. However, in contrast to the amoral cultural deviance identified by the discourse as causing trafficking in Other places, Muslim particularity is constituted as holding the potential of being so utterly antithetical to a feminist and human rights consciousness that it, under certain unfavorable circumstances (i.e. “bad” male leaders like Sadam Hussein or the Taliban), poses a threat worth of US (military) intervention.

Departing from Moallem’s (1999, 2005) work, which examines the production of Islamic fundamentalism through modern/colonial power and thus situates the construction of Islam-as-antithetical-to-western-feminism as a construct is constituted through US women’s human rights discourse as an “evil” threat to women’s freedom. Thus, my texts range from Congressional Hearings regarding Afghanistan and the Taliban, to concerns articulated by NGOs and scholars regarding the rights of Muslim women in Iraq, Iran, and other oil producing “Muslim nations.” In part because of economic interest in certain Muslim countries, these nations have been constructed as (hypervisible) representatives of all “Muslim” states.
productive moment of modern power, I examine the signification of the feminist, Muslim, and Muslim feminist subjects in order to reveal how the “evidence of experience” and assumptions behind the “speaking (subaltern) subject” negotiate the contradiction of particularity troubling feminist discourse. Feminist discourse, so long as it attempts to address the contradiction of universality and particularism through the inclusion of the (individual, “enlightened”) Muslim woman and her speech, which attests to a translatable experience of patriarchal violence, will remain complicit in the modern, (neo)colonial operations of power that render the Muslim woman’s difference a (single) individual instance of choice. In other words, feminist discourse, as it informs the campaign to extend “freedom” to Muslim women, elides the operations of (racial) power that produce the social difference of Islam – rather it reads this difference as a matter of individual (religious) choice, one that must be protected even as it is understood as the very force behind the violation of Muslim women’s human rights. In the following, I briefly discuss the conditions of speech and argue that the so-called solution of translation elides the (epistemic) question of the production of difference by assuming the transparency between the speaking subject and her “evidence of experience.”

Letting Her Speak for Herself

European colonialism, US imperialism, the slave trade, Jim Crow and racism, and so on are all terms that describe particular configurations of modern/colonial power (see Mignolo 2002) – power that “resolves” the
contradiction of universality and particularism, that is, the contradiction that universality requires both the presence and disavowal of particularism. This contradiction is resolved through the “socio-historical logic of exclusion” that hides these operations of power behind claims to progress towards a more inclusive present. Certain “western” feminist discourse, while critical of the ways modern/colonial power (re)configure social relations, nonetheless remain invested in certain aspects of modern subjectivity, namely, the self-determined, “enlightened” subject (only this time she is a “feminist” who understands the limits of universal claims). Feminist discourse, so long as it is defined through exclusion – or the question of “through what exclusions does the female subject emerge,” as Butler (1992) notes – enacts the “logic of exclusion” at the crux of modern ontology, and can be understood as an articulation of the “politics of difference.”

The continued investment in the self-determined (female/feminist) subject, despite feminist discourse’s critical interventions into certain aspects of the operations of modern/colonial power – namely how universal concepts like “man” and “woman” are defined – is simply a symptom of its “limited critique of representation” (Silva 2005, 324). As Silva notes, the “politics of difference” has yet to address “the relationship between difference and transparency, which shows how, because they assume the irreducibility of the difference between post-Enlightenment Europeans and their ‘others,’ the social scientific signifiers informing prevailing accounts of social subjection undermine the very project of
global justice they animate” (2005, 324). In other words, because the fact of difference is always already assumed, the critiques of representation forwarded through a “politics of difference” do not address the epistemic conditions under which the “social scientific signifiers” of difference are circumscribed. Because the conditions of power operating in the production of the very categories of difference (the “social scientific signifiers”) is left unexamined, the strategies of the “politics of difference” assume a kind of transparency between the different body and the articulation of the (experiential) condition of difference. Thus, as Spivak argues, the fact of speaking for oneself – of one’s different condition – can never be assumed to be a transparent process. In her work, Spivak traces the “philosophical” foreclosure of the “native informant,” arguing that while the “Woman is put outside of Philosophy by the Master Subject, she is argued into that dismissal, not foreclosed as a casual rhetorical gesture. The ruses against the racial other are different” (1999, 30). In order to capture that alterity (the racial “subaltern”) that can never be named (because, in the very act of naming and in the very act of speech itself, she is already produced as a subject under the conditions set forth by those very “social scientific signifiers” that presuppose the “irreducibility of the difference between the post-Enlightenment European and their ‘others’”) Spivak makes a distinction between the “native informant” and the “post-colonial subject.” Spivak suggests that the position of the “native informant” is impossible because the very act of articulating her
renders her a subject-effect, an Other of the modern subject and an effect of postcolonial knowledge.

I argue that feminist discourse, insofar as it expresses the conditions of the “politics of difference,” assumes the transparency between the act of speaking and the “resolution” of the circumscription of difference. Thus, those articulations of feminist discourse that define its “unity” through exclusion remain complicit in reproducing the very relations of power that the project of feminist critique attempts to dismantle. Indeed, many feminist scholars have gestured to this conundrum. The privileging of the “evidence of experience,” for example, not only naturalizes the category “woman” by foreclosing questions that ask what operations of power produce the category (in various moments), as Scott (1991) reveals, but constitutes the “social scientific signifiers” of difference as individualized accounts. In other words, the women’s human rights discourse, in assuming the transparency of self-representation through speech, deploys the “evidence of experience” that renders difference primarily a matter of individual expression. Individual Muslim women can speak to their experiences of violence and repression of rights, and in doing so, enable a (Muslim female) particularity stripped of the operations of

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55 For example, Scott (1991) is wary of the privileging of the “evidence of experience” because it reproduces the condition of transparency – one that deploys a female subject who is always already a woman. The “evidence of experience,” for Scott, forecloses questions into the process and conditions of gendering because it begins with an already differentiated subject, one who speaks to her experience and, in doing so, naturalizes her condition as different. Similarly, Mohanty and Alexander (1997), Lee (2000) and many others critical of the “tokenism” of women’s studies disciplines and literatures speak to – or, rather, speak around – the problem of assuming the conflation between bodies of color and knowledge about those bodies of color. In fact, to address this “problem,” Riley (1988) chooses to engage in an intellectual and historical mapping of the various ways the category “woman” has been constituted.
(racial) power that produce the social conditions of her difference from other, non-Muslim women, giving the illusion that “women’s rights” and female-ness are naturally universal.

While critical of the fact of universality, feminist discourse and feminist critiques of human rights must nonetheless locate something that can be universalized, namely, the category “woman” or the operations of patriarchy. Indeed, the political project of feminist discourse is premised on the “unity” of a category like “woman” to serve as an analytic tool through which the differences of its expression can be named, a fact that Lee (2000) traces in her interrogation of women’s studies disciplines and their production of “women’s studies” and “feminist” knowledges as a progressive uncovering of the different experience of women. Thus, feminist critiques of human rights (or those critiques of human rights that locate the gendered exclusions through which notions of human rights are constituted), and human rights in general, are plagued with the conundrum of establishing universal principles even while acknowledging the particularities of their expression. The very fact of universality is dependent on both the disavowal and recognition of particularity, and how to negotiate this fact has been a central question driving human rights, feminist critiques of human rights, and feminist discourse. As Butler notes, “The universal can be the universal only to the extent that it remains untainted by what is particular, concrete, and individual. Thus it requires the constant and meaningless vanishing of the individual” (2000, 23). I argue, however, that it is not the “vanishing of the
individual” that enables the universal. Rather, the conundrum of universality is managed through the very notion of the individual – the individualizing of particularity, and the recuperation of difference as an individualized expression (that elides the social conditions of difference).

Women’s human rights, inflected by the intellectual work of feminist discourse, thus negotiate the conundrum of universality through the strategy of the “evidence of experience” – a strategy that individualizes particularity. That is, even while the universal principles behind “women’s human rights” might remain vague, the inclusion of particular female subjects – in fact, “other” women – as subjects speaking to their experiences of violence, is assumed to eventually uncover and define those universal principles, a point that is explored in the latter portion of this chapter. The strategy for women’s human rights has been to include the speech of the other women in an effort to delineate that which can be universalized. This strategy stems from the inherent concerns over simply assuming universals, of concerns over privileging a “western gaze.”

Women’s human rights discourse thus advocates notions of translation and dialogue as a means to uncover, through the expressions of particularity, that which is universal. As Butler recounts,

The claim to universality always takes place in a given syntax, through a certain set of cultural conventions in a recognizable venue … Thus, for the claim to work, for it to compel consensus, and for the claim, performatively, to enact the very universality it enunciates, it must undergo a set of translations into the various rhetorical and cultural contexts in which the meaning and force of universal claims are made. Significantly, this means that no assertion of universality takes place apart from a cultural norm, and, given the array of contesting norms that
constitute the international field, no assertion can be made without at once requiring a cultural translation. Without translation, the very concept of universality cannot cross the linguistic borders it claims, in principle, to be able to cross … Of course, translation by itself can also work in full complicity with the logic of colonial expansion when translation becomes the instrument through which dominant values are transposed into the language of the subordinated, and the subordinated run the risk of coming to know and understand them as tokens of their “liberation.” (2000, 35)

Butler shows that claims to universality necessitate translation, since universality itself emerges within a particular “cultural context” – enabling an understanding of that claim as universal – even while the very meaning of universality must reach beyond that “cultural norm.” While her description of the operations of universality reveal why the notion of translation always couples it, what remains to be considered is the fact that the strategy of translation is already circumscribed by the very conditions of power producing those “social scientific signifiers” naming difference. Translation already assumes a kind of transparency, between the speaking subject and the act of speech – an assumption that misses the fact that speech, and strategies of representation in general, are always already mediated, as Spivak and Silva reveal. Universality requires the instrument of translation, and universality is that which underwrites modern power. Translation is not so much “the instrument through which dominant values are transposed into the language of the subordinated,” but rather a signifier of the conditions of power that enable the very idea of “dominant values.” That is, the idea of “dominant values” necessitates the act of translation because translation enables the reincorporation
of the Other through transparency – the transparency assumed between “the language of the subordinated” and the condition of alterity.

I examine how the “evidence of experience” and translation are deployed in the signification of the Muslim woman, and trace how her Muslim difference is individualized so that it can be (re)incorporated back into the very conditions of power that produce difference, resulting in the seeming resolution of the contradictions of modern/colonial power and the appropriation of “feminist” and women’s human rights claims by conservative political figures like President George W. Bush and his wife, Laura. By examining the conditions of signification of the Muslim woman, the feminist, and the Muslim feminist subjects, I illustrate how women’s human rights operates as a site through which modern/colonial power (re)configures the globe as a space of cross-cultural dialogue – a configuration that presents itself as beyond the so-called problem of difference.

Feminists, Muslim Women and Freedom

Within the discourse of women’s human rights, Islam is produced as an especially troubling religion and culture to women. Thus, the issue of feminist values within Islamic societies has continued to garner a central place in the history of geopolitical relations between the US and so-called Muslim nations.56

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56 As McAllister’s (2001) history of cultural representations of the Middle East argues, cultural texts need to be understood within a broader field of knowledge and meaning-making – a field that informs and is informed by the history of geopolitical relations. I add to McAllister’s work by extending her interrogation of the discursive construction of Muslim difference into the context of the new millennium, a context that reveals the consolidation of certain “feminist
What I hope to show in the following analysis are the ways in which the discourse of Islam as a threat to women’s human rights constructs the feminist subject and the Muslim woman. The difference of these two subject positions reveals the signification of the Muslim woman as “not yet” a feminist subject, even though the literature identifies pockets of feminist consciousness amongst Muslim women. I examine the construction of the feminist subject and the Muslim woman first through the asylum case *Fatin v INS*, second through the debate regarding the significance of the veil, and third through the dialogue regarding the inclusion and representation of Muslim women’s voices into the human rights discourse. Underlying each of these three moments of the signification of the feminist subject and the Muslim woman is the production of the problem of Islam as a matter of “bad” interpretations that are both the result of, and result in, a deviant and evil culture of patriarchy. In the case of asylum, the debate regarding the veil, and the issue of representation, I examine how the “evidence of experience” renders and recuperates Muslim difference as an individualized account – a rendering of Muslim difference that allows its recuperation into the (translated) dialogue of a multicultural, human rights globe.

**Fatin v INS: Including the Feminist Subject.** In 1984, Parastoo Fatin applied to the Immigration and Naturalization Services for political asylum. Fatin hoped to remain in the US rather than return to her native Iran. To argue
her need for political asylum, Fatin noted that as a “feminist” and “westernized woman” who would refuse to wear the veil and conform to Iran’s Muslim social and cultural dictates, she would be persecuted by the Iranian government. The court noted that while her rights and freedoms might be restricted in Iran, this did not necessarily mean she would be singled out and persecuted by the Iranian government. After her the initial denial of her application for political asylum, Fatin filed a petition for review by the Board of Immigration Appeals in 1993. The circuit judge in her appeal petition included Samuel Alito, who was later nominated in 2005 by President George W. Bush to the Supreme Court. With the nomination and confirmation of Judge Alito, the Fatin case garnered renewed attention, and Alito’s denial to Fatin’s appeal for asylum became newsworthy within the post-September 11th context of the war on (Muslim) terror primarily focused on Afghanistan (where the war was initially focused after rumors that Osama Bin Laden, who claimed responsibility for the September 11th hijackings, was hiding there), Iraq (which quickly became the second site of war, where Saddam Hussein was cast as part of the broader “culture of evil” that enabled the September 11th hijackings), and later Iran (cast as yet another threatening site after rumors of its nuclear weaponry).

What is interesting in the Fatin case, is not only the manner in which it constructed Muslim women, feminist subjects and the “problem” of Islam, but also how its renewed publicity in 2005 reveals Fatin’s subsequent effects on women’s human rights legal claims. Indeed, while Alito was able to uphold the claim that Iran’s Islamic government and practices would not pose any severe threat to women, the context of post September 11th, 2001 suggests that “times have changed” – where the US government has taken upon itself the responsibility to “free” Muslim women from the (patriarchal) terrors of Islamic fundamentalism.
The *Fatin* case is one of the first in a series of asylum claims filed against the INS that argued the legal validity of “feminism” as a political opinion for which women could be persecuted and thus (theoretically) win asylum. The *Fatin* case in particular reveals not only the (later) trajectory of asylum claims for “victims” of women’s human rights violations, but also expose the troubling discursive limits circumscribing the issue of the particularity and difference of women, both within the legal and institutional structures of governance, as well as within feminist discourse itself. I retread the terrain laid out by *Fatin v. INS* because it was the landmark case exposing the conditions under which Other, and specifically Muslim, women could be recognized as global legal and feminist subjects. While Fatin ultimately lost her asylum claim, the result of her appeal case was the recognition of “feminist” Muslim women – Muslim women who refuse to conform to Muslim governments’ gender specific laws (like laws requiring the donning of the veil) – as a “particular social group.” “Feminist” values, in other words, were recognized as a “political consciousness” that could, in certain circumstances, be under threat of persecution.

Fatin initiated a series of cases involving Muslim women arguing for asylum on the basis of their “feminist” political identities; these included *Safaie v. INS* (25 F.3d 636, 1994), *Fisher v. INS* (79 F.3d 955, 1996), *Sharif v. INS* (87 F.3d 932, 1996), and *Yadegar-Sargis v. INS* (297 F.3d 596, 2002). These cases all attempted to re-address the issue of asylum for Muslim women based on their
“feminist” political identification. Safaie, like Fatin, recognized that the category, “non-conforming Muslim women,” satisfied the definition of “membership in a particular social group,” but, again like Fatin, failed to achieve asylum for Safaie because she had worn the veil and “her opposition was not deep or intense enough” (Martin and Lamoureux 2003). Sharif attempted to argue (without success) that her denial of freedoms she enjoyed in the US amounted to persecution.58 Yadegar-Sargis established that the claimant did experience hardship in being forced to wear Islamic garb, but that her hardship did not amount to persecution. In all of these cases, the court upheld the right of cultural particularism. By arguing that, while restrictive of Muslim women’s freedom gender specific Islamic laws did not amount to physical harm or violence that could be defined as persecution, the courts gesture to the discursive limits circumscribing the issue of Muslim particularity and feminism.

The trajectory of the court decisions, evident in the different outcome for Fatin in her initial 1986 case to her 1993 appeal, also reveals the shifting limits of the discourse of “Muslim women’s freedom.” For example, in her initial case, Fatin argued that her political identification as a “feminist” who “believe[s] in equal rights for women” and believes “a woman as a human being can do and should be able to do what they want to do” (Fatin qtd in Fativ v INS 1993) would be compromised if forced to return to Iran. The judge noted in

58 Articulating the ways asylum cases like Sharif and Fatin produce the US as a space of exceptionalism and women’s freedom, Alison Graves suggests that “Western asylum law” offers Iranian women “the chance to have a place where ideas can freely be expressed,” a chance that “may prove to be an integral step in improving conditions for the women of Iran” (1996, 9).
response that the “respondent has offered no objective indicia which would lead the Court to believe that there is a possibility that she would be persecuted upon return to Iran. Respondent has not been politically active in the United States nor openly opposed to the Khomeni Government” (*Fatin v INS* 1993). In her initial, 1986 case, the Court refused to acknowledge Fatin as a feminist subject, arguing that her political inactivity was proof that Fatin could only speculate to her persecution and punishment, perhaps suggesting that such a thing as a Muslim feminist was impossible. Similarly, Fatin, even while positing her position as a Muslim feminist subject, in arguing the incompatibility between her own “enlightened” views as a Muslim feminist and Iran’s Islamic government and culture, also constructs Islam and feminism as antithetical.

In her appeal case before Judge Alito, however, Fatin’s identity as a Muslim feminist subject was not only affirmed, but also recognized as placing Fatin within a “particular social group” – a category necessary for successful asylum claims. The shift, from her 1986 case, where the Judge’s decision suggested the incompatibility of feminism and Islam, to Judge Alito’s appeal ruling recognizing Fatin as both feminist and Muslim, signals the ways “women’s rights” and “feminism” have become the sites through which claims to global pluralism and multiculturalism are enabled. The consolidation of feminist claims in the 1990s to issues of women’s human rights undoubtedly played a role in the shifting the extent to which Fatin’s subjectivity could be read as “feminist” by the US immigration courts. As Judge Alito notes,
In order to prevail on a withholding-of-deportation or asylum claim based on political opinion, an alien must (1) specify the political opinion on which he or she relies, (2) show that he or she holds that opinion, and (3) show that he or she would be persecuted or has a well-founded fear of persecution based on that opinion. In this case, if the petitioner’s political opinion is defined simply as “feminism,” she would presumably satisfy the first element, for we have little doubt that feminist qualifies as a political opinion within the meaning of the relevant statues. Similarly, she might well satisfy the second element, since she testified at some length and in some detail about her feminist views. She could not, however, satisfy the third element because the administrative record does not establish that Iranian feminists are generally subjected to treatment so harsh that it might accurately be described as “persecution.” (Fatin v. INS 1993)

Lauded by some as the “back-door” opened by Alito that could help gender based asylum claims in the future, Alito’s recognition of feminism as a “political opinion” worthy of constituting a “particular social group,” is often read by legal scholars as a move toward extending asylum to women. Alito’s statement continues, arguing that while the Court agrees that Fatin’s return to Iran would require her to “comply with the Iranian laws or suffer severe consequences” and

59 In a review published in the American University Journal of Gender and the Law, Alison Graves characterized the Fatin case as “a stepping stone for Iranian women. It finally showed an international awareness of repression on the basis of gender persecution (9). …The Fatin decision and Western asylum law offer Iranian women a good opportunity to turn their subjugation into a plan for the future” (1996, 11). The San Francisco Chronicle notes that even while Alito upheld Fatin’s deportation, “the ruling was also the first by a federal appeals court to hold that persecution based on gender can be grounds for asylum. It became a precedent for other federal courts reviewing the cases of women fleeing repressive regimes” (2005). David A. Martin and Yvonne Lamoureux, Professors of Law, also note that the significance of the Fatin case was its recognition of gender as the basis for claims to a particular social group (2003). Indeed, as the precedent to several gender-based asylum cases, Fatin enabled the Safaie v. INS (1994) case, which recognized the non-compliance of Muslim women as persecution (though Safaie herself, because she wore the mandatory Islamic garb, was not granted asylum). However, as many advocates for women’s legal/asylum rights have pointed out, despite the recognition of gender-based claims, the cases involving Muslim women and Muslim “social norms” have mostly been denied (see for example, Binder 2001; Crawley 2000; Goldberg 1993; Shapiro 2000).
agrees “that the indicated consequences of noncompliance would constitute persecution, we must still inquire whether her other option – compliance – would also constitute persecution” (Fatin v. INS 1993).

What Alito’s response to the Fatin case reveals is that while Fatin can claim to be a feminist subject, the consequence of this is her choice – her choice to comply or not to the dictates of the Iranian law. Alito then uses Fatin’s choice as the reason for denial of her appeal – by giving her the (feminist) choice of whether to comply or not, Alito is able to argue that Fatin at least has one option that would not result in persecution. In other words, by bestowing a feminist consciousness to Fatin – one that enables her to see her condition in an enlightened manner that reveals her government’s “bad” laws – Alito also produces Fatin as a subject who has the freedom to choose not to be persecuted (by complying to those “bad” laws). The assumption for Alito, constructed between his text, is that non-enlightened, non-feminist Iranian women do not know enough to even consider non-compliance. For Alito, Fatin’s ability to see that she has a choice of whether to comply or not is what makes her a feminist subject. Indeed, Alito does not consider that for Fatin, “feminist freedom” might be freedom from choice, not freedom to choice. Alito imposes the idea of “feminist consciousness” in a manner that does not consider the Muslim difference of Fatin, perhaps indicating the limits to which “feminist” and Muslim can be read together. Despite the shifts in considering gender-based persecution, Alito’s refusal to consider Fatin’s Muslim difference, and the
original judge’s insistence in considering only Fatin’s Muslim difference both maintain the notion of Islam and feminism as antithetical.

Alito not only ensures that reading Fatin as a feminist subject gives her the choice to put herself in the position of not being threatened by persecution, he also argues that the issue of Fatin’s feminist identification is a mute point, since it is assumed the Iranian government treats all women similarly, whether they are feminists or not. In upholding the original observation of the Board that Fatin (whether as a feminist of not) “would be ‘subject to the same restrictions and requirements’ as the rest of the population,” Alito universalizes the condition of female-ness. Thus, even while allowing “feminist” to be a political identity, he argues that in the case of Fatin, it is not enough to prove threat of persecution since Fatin would be treated no differently that the “rest of the population.” Alito, even while refusing to consider Fatin’s Muslim difference, assumes her shared gender identity not with non-Muslim, First World women, but with other Iranian and Muslim women. In other words, Alito only considers Fatin’s Muslim difference in terms of compliance – while her “feminist” consciousness gives her the choice not to comply, it is her Muslim difference that offers the option of compliance to gender-specific Islamic laws. Thus Alito ensures that Fatin’s (“westernized, feminist”) difference from her “sisters” (a difference that gives Fatin the choice of compliance) is nonetheless irrelevant in her claim to asylum, and cannot override Fatin’s cultural/religious/racial similarity to them. Alito cements the notion of Fatin as not yet a feminist
subject in his argument that Fatin’s (feminist) choice gives her the freedom not to persecuted, even though that choice might force Fatin to participate in her own complicity to second-class citizenship. For Fatin her “feminist” subjectivity is one that frees her from the choice of compliance, which Alito denies. Indeed, Alito’s remarks construct Fatin as responsible for her own inferior position within Iran, noting that, “her [Fatin’s] brief to the BIA stated only that she would seek to avoid Islamic practices ‘as much as she could’” but not necessarily refuse to comply. And, while Fatin’s un-enlightened sisters cannot see their own oppression, Fatin’s feminist consciousness enables her to know her own complicity – a mark of her ultimate failure as a feminist subject. That is, in the case of Fatin, the knowledge that she chooses complicity writes her as a failed feminist subject, even though her choice to comply is no choice at all.

The legal conditions exposed in the Fatin, and other similar asylum cases suggest that even when the terrain shifts to allow for the recognition and inclusion of Muslim and feminist difference, these shifts do not necessarily address the question of how these categories of difference are circumscribed. Thus, with the Fatin case, even in “progressing” toward a legal recognition of the feminist subject, the constitution of who/what that feminist subject is remain complicit in (neo)colonial assumptions and the privileging of a “western gaze.” In other words, while Alito’s remarks reread the Fatin case in a manner that extended gender-based asylum claims – that is, claims to asylum advocating the
“enlightened” female subject as (in particular cultural circumstances) under threat of political persecution – his remarks failed to address the fact that his circumscription of “feminist” assumed that certain cultural contexts are “backward” in their rejection of the category. Failing to see his assumptions regarding cultural difference (assumptions which, in the case of Fatin and Muslim difference constitute Islam and feminism as antithetical), Alito’s remarks gesture to the continuing operations of modern/colonial power, despite his allowance of “feminist progress” in asylum claims. These asylum cases thus reveal how the site of women’s human rights and global feminism enable the retooling of modern/colonial power within the context of multiculturalism and cultural diversity.

Veiling (Neo)Colonial Power: Including Muslim Women’s Voices. The Fatin case constructs Muslim difference as antithetical to the idea of “feminist” consciousness, and this construction enables the continued operations of (neo)colonial power even while the feminist subject garners increased legal efficacy and Muslim difference garners inclusion and recognition. Indeed, as Moallem argues, the construction of Muslim difference as antithetical to the idea of “feminist” consciousness enables the continued operations of modern/colonial power in a way that elides question into the process of constructing categories (like Muslim and feminist) of difference (2005). Indeed, Moallem’s claims suggest that the signification of the Muslim woman as a victim of Muslim culture deploys an oppositional dichotomy that sees “western” feminism and
Islamic fundamentalism as antithetical. The veil has thus come to have an almost fetishized existence within US discourses of women’s human rights as that which captures Muslim women’s patriarchal oppression. In examining the “debate” concerning the veil, I argue that the discursive parameters always already inform how even the voices of Muslim women can be rendered intelligible. In other words, I examine how the “evidence of experience” of Muslim women does not necessarily address the continued troubling operations of a “western gaze” in framing the issue of Muslim women’s oppression. Rather, even when Muslim women speak for themselves, their speech is always already circumscribed within a (US/“Western”) discursive context that assumes Muslim women’s victimization to an evil and deviant culture of patriarchy. Indeed, as the Fatin case reveals, Fatin’s own testimony is read within already prescribed parameters of asylum law, as well as the particular legal context ruled by Alito.

The veil has proved a central site in the construction of the Muslim woman and the feminist subject. Indeed, in the aforementioned Fatin case, Judge Alito notes that the Iranian restriction discussed most prominently in the petitioner’s testimony was the requirement that women wear the chador or traditional veil, but the most that the petitioner’s testimony showed was that she would find that requirement objectionable and would seek to avoid compliance if possible … While we assume for the sake of argument that requiring some women to wear chadors may be so abhorrent to them that it would be tantamount to persecution, this requirement clearly does not constitute persecution for all women. Presumably, there are devout Shi’ite women in Iran who find this requirement entirely appropriate. Presumably, there are other women in Iran who find it either
inconvenient, irritating, mildly objectionable, or highly offensive, but for whom it falls short of constituting persecution.” (Fatin v. INS 1993)

Alito notes that while the wearing of the veil is a practice Fatin finds “objectionable,” that there are Muslim women who do not necessarily see it this way. In fact, there are women “who find this requirement entirely appropriate.” Perhaps recognizing the fact that Fatin’s evoking of the veil operates on a symbolic level, where being forced to wear it connotes more than simply obliging to a cultural and religious practice, Alito is quick to note that the issue of the veil is mute since some Muslim women find wearing it “entirely appropriate.” In a sense, Alito uses the “evidence of experience” of other Muslim women (women who do not find wearing the veil abhorrent) to elide Fatin’s concerns regarding patriarchal privilege operating within Iran. In fact, not only does Alito elide Fatin’s concerns, he even suggests that her concerns are speculative – they are at best guesses and presumptions of what might happen upon her return. Alito does not allow Fatin any viable claim until Fatin can return to Iran and experiences gender-based persecution because of her feminist beliefs, though by that time, Fatin’s ability to seek recourse and asylum in the US will no longer be available. Alito suggests that what is lacking in the Fatin case are viable “evidences of experience” supporting Fatin’s claim. In addition, Alito deploys the “evidence of experience” to argue against Fatin’s example of being forced to wear the veil. What is implied in his statement is again the difference Fatin’s feminist consciousness affords her – where she can read the requirement of the veil as symbolic of the Iranian government’s
rejection of broader feminist principles, while her unenlightened sisters may not see the veil in this way. Alito constructs Fatin’s feminist subjectivity and identification as the problem – not only does it enable him to deny Fatin asylum by giving Fatin choice, it also enables him to read Fatin’s attitudes towards the veil as a matter of her personal opinion/bias juxtaposed against other Muslim women’s opposing sentiments. Indeed, the issue of the veil, as Senator Ros-Lehtinen’s statement to Congress shows, has been a central site through which feminist claims are constructed and claimed. Fatin’s reference to the veil gestures to a debate within feminist circles, of whether the donning of the burqa can and should be read as a sign of the (deviant) repressive patriarchal practices defining certain Muslim communities.

As Rep. Ros-Lehtinen’s use of the veil rhetoric in her statements to the Congress reveal, the veil has often been seen as a marker of Muslim women’s oppression. As Lama Abu-Odeh notes, in the context of Iran, the veil “has been the topic of heated debate in Muslim countries” since the Iranian Revolution of 1979 because 1979 marked a moment when adopting the veil shifted from being “the individual choice of the Muslim women” to something that was “sanctioned” through penalties to those who did not comply (1992). Symbolizing the loss of Muslim women’s choice (and thus the eventual degradation of any feminist consciousness in Muslim nations), the rhetoric of the veil has often been used in the US to connote this oppressive (cultural, religious) condition of women in Muslim states. For example, in her look
“inside the Afghan women’s resistance” to the Taliban, Cheryl Benard (2002) titles her study of the Revolutionary Association of the Women of Afghanistan’s (RAWA) efforts to oppose fundamentalism *Veiled Courage*. Similarly, Harriet Logan’s photo-journalistic account of her visits to Afghanistan in 1997 and 2001 (“During Taliban Rule” and “After the Taliban’s Defeat”), mainly comprised of 23 accounts given by Afghan women of their experiences, is titled *Un/Veiled: Voices of Women in Afghanistan*. Both of these texts deploy the connotative meanings behind the rhetoric of the veil. In Benard’s case, she argues that Afghan women secretly organize their resistance to the Taliban, and in Logan’s, she suggests the opening up of opportunities for feminist consciousness after the Taliban’s defeat. The assumption behind claims that the donning of the veil reveals Muslim women’s oppression reads these veiled bodies as antithetical to the feminist subject, often citing unveiled women as anomalies and sometimes as “westernized” Muslim feminists, as Fatin argued of her own identity.

Concerned with the problematic opposition posed between Muslim women and feminist subjects, as well as with the ways seeing the veil as oppressive often reproduces the privilege of the “western gaze,” feminist scholars like Haleh Afshar and Lama Abu-Odeh argue the necessity of contextualizing the practice of wearing the veil. Afshar, for example, interviews Muslim women to show that even while they might don the veil and practice Islam, this does not necessarily mean that they are anti-feminist. Similarly, Abu-Odeh notes that while “public sexual harassment seems to reinforce the
non-veiled woman’s ambivalence about her body, making her powerless in the fact of unwelcome intrusions. The problem does not seem to exist for veiled women, since adopting the veil was meant to shield them from such sexual approaches” (1992). Abu-Odeh continues to note that a woman’s willingness to raise objections to such male intrusions is notably different when she is veiled. Her sense of the ‘untouchability’ of her body is usually very strong, in contrast to the woman who is not veiled. Whereas the latter would swallow the intrusions as inevitable and part of her daily life, trying to bypass them through any subtle ways she can muster (by looking at the man angrily and moving away from him). The veiled woman, on the other hand, is more likely to confront the man with self-righteousness … it is also true that veiled women’s exposure to male intrusions in the first place is considerably less than the others. (1992)

Abu-Odeh contextualizes the effect of wearing the veil within a Muslim culture that condones sexual harassment – a culture where passengers on a bus who witness the harassment of an unveiled woman “might chide the woman for failing to dress properly” (1992). She argues that understood within this cultural context, wearing the veil is empowering to women. Evoking connotative meanings regarding secrecy, Abu-Odeh reads the veil as a way in which the sexuality of the female body can be produced counter to the dominant heteronormative, patriarchal assumptions of female sexuality. Later, in her attempt to read the veil as disempowering, Abu-Odeh reveals that, “unless I engaged in intellectual elitism and accused these women of false consciousness and of not knowing their own good, there was no way that I could point to instances of the disempowerment of the veil. What it all sounds like so far is a hopeless clash of normative visions” (1992). For Abu-Odeh, since the Muslim
female body and sexuality is constructed through the veil (whether any individual Muslim woman wears it or not), reading the veil outside of this context leads to “elitist” claims that of the veil as disempowering.

What Afshar, Abu-Odeh, and others suggest is the reading of Muslim women as feminist subjects, where accusations of the veil as disempowering engage in “intellectual elitism.” Speaking as Muslim women who identify as feminist, and as in the case of Afshar’s work, citing interviews with other Muslim women who practice feminist values, these scholars engage the “evidence of experience” to argue the possibility of a Muslim and feminist subject – a subject who understands her own position within an Islamic culture, and negotiates herself within it, as Abu-Odeh argues. However, others, like Janet Afary question the reading of the veil as “a conscious symbol of resistance.” Afary, critical of scholars like Abu-Odeh and MacLeod, notes that what MacLeod leaves unquestioned in her reading of the veil as empowering (because it allows women agency over some part of their lives) is “the fundamentalist message that male sexuality is by nature ‘uncontrollable,’ that women ‘induce’ inappropriate male sexual behavior” (2002, 60). Skeptical of reading the veil as empowering, Afary asks questions like, “How much autonomy does a veiled woman have when the very acceptance of the veil means approval of gender segregation, and the admission that a woman is first and foremost a sexual object? What does it mean when the burden of avoiding
sexual harassment is placed on women, while men are seen as impulsive creatures with little or no control over their sexual desires” (2002, 61)?

What Abu-Odeh tries to address in her reading of the veil as empowering, and what Afshar more clearly identifies, is the central conundrum of women’s human rights – that is, the necessary move to find some universal gender component to the category “woman,” even while acknowledging the category’s heterogeneity and contextuality. Scholars like Afshar are critical of the way the veil has become a central site through which feminists have tried to argue the universality of patriarchy, and argue, rather, that the veil itself is a bad example because of its cultural particularity. To make her point, Afshar engages the “evidence of experience” of Muslim women who both don the veil and identify as feminists. On the other hand, those like Afary and Fatin also engage the “evidence of experience” to argue the veil as disempowering. Two points come to mind: First, deploying the “evidence of experience” reveals the unending-ness of the debate. So long as some Muslim women experience the veil as empowering or disempowering, the issue looks to remain unresolved (perhaps a good thing, as it enables continued discussion). Second, and more importantly, the way the debate over the meaning of the veil is framed reproduces similar limitations as the victimization-agency paradigm. Whether the claim is to the empowering or disempowering nature of the veil, each argument is engaged in constructing similar kinds of feminist subjects –self-
knowing and self-determined individual women who desire the exercise of choice and see this as a step toward freedom.

What is troubling about this construction of the feminist subject is revealed in First Lady Laura Bush’s statement, one that (re)produces the same kind of feminist subject produced through the discourse of Muslim women’s rights and the veil. The deployment of the “evidence of experience” renders Muslim difference an individualized account, enabling its (re)incorporation back into the very conditions of power that produce difference, and resulting in the appropriation of “feminist” and women’s human rights claims by conservative political figures like President George W. Bush and his wife, Laura. Laura Bush notes in her address jointly presented with the President, that

although Abigail Adams, like many women during her time – and since, I might add – handled the domestic duties, she believed that women should have an active role in developing our young nation. As her husband helped to establish our democracy, she wrote to him and said, ‘In the new code of laws, I desire you would remember the ladies and be more generous and favorable to them than your ancestors.’ Abigail Adams is one of the many women who helped establish the vitality of our nation. Others, like Elizabeth Cady Stanton and Susan B. Anthony, led the determined struggle to gain suffrage for women. And, today, their actions continue to inspire women around the world. … The struggle for women’s rights is a story of ordinary women doing extraordinary things. And today, the women of Afghanistan are writing a new chapter in their history. Afghan women who were once virtual prisoners in their homes, unable to go to school or to work, are helping rebuild their country. Several women helped draft and review the country’s new constitution, which reserves seats in parliament for women. In more than 2000 villages, women lead local councils. And this year, all Afghan women will have the opportunity to vote in the presidential election. (President and First Lady 2004)
First Lady to a President who identifies himself with the Republican Religious Right, Laura Bush begins her remarks by situating the conflict in Afghanistan within the history of US suffragists like Elizabeth Cady Stanton and Susan B. Anthony. Gesturing to this history of feminist activism in the US to garner the vote for women, Bush suggests that a similar struggle is necessary for the rebuilding of Afghanistan into a democratic society – a rebuilding that marks “a new chapter in their history.” Bush emphasizes the need for Afghan women to participate in the political, social, and moral fabric is central to the rebuilding of a democratic Afghanistan. What Bush suggests in her call for the inclusion of Afghan women as political subjects, is that the problem with the Taliban – the root of it’s terror and evil, so to speak – lies with the fact that it denies women and minorities “proper” exercise of freedom and self-determination – it denies proper forms of representation. The Taliban’s evil and anti-democratic ways are premised on the patriarchal practices of keeping women as “virtual prisoners in their homes, unable to go to school or work.” And in outlining the “bad” practices of the Taliban – practices that kept women and minorities from participating in civil society – Bush constructs the proper feminist subject as one who helps “draft and review the country’s constitution,” beginning with her vote.

What is suggestive in Bush’s statement is first, that she constructs a feminist subject in much the same way as self-identified feminists like Abu-Odeh. The feminist subject is one whose voice is represented in the broader
social, political, and cultural context of Iran, Afghanistan, or any other Muslim state constructed as restrictive of women’s rights. For Abu-Odeh, this representation happens through the veil, where the veil enables women to speak freely, to some extent. For Afary, the veil is questioned as possibly proving to be an impediment to representation. For Bush, the vote, rather than the veil, serves as the primary vehicle for representation. Furthermore, in each case, representation is posited as groundwork for a feminist consciousness. The fact of representation is read as enabling women to begin questioning their rights – in effect enabling them to become self-determined individuals. What the seeming similarity in the kind of feminist subject constituted through Bush’s agenda and that of Muslim feminists like Abu-Odeh reveals is that feminist discourse is itself the site where (neo)liberal agendas and (neo)colonial power work to configure the globe in the context of the new millennium.60

Second, Bush’s statement places the emerging conditions that enable the possibility of a feminist consciousness in post-Taliban Afghanistan within the narrative of US suffrage. Doing so works to construct the Muslim feminist subject (of Afghanistan) as “not yet.” Bush’s reference to the history of suffrage in the US suggests that the feminist potential of Afghanistan is behind – delayed by the Taliban, and almost completely eradicated by them (if not for US intervention!). Here historicity operates to construct the US as the “progressive” exception against Afghanistan as the “backward” rule. For Bush, the US is the

60 I argue in Chapter II that this is the case because feminist discourse continues to rely upon a “logic of exclusion” in defining its subject of difference.
natural choice in helping Afghanistan restore democracy after the Taliban because the US already has its own national-historical experience with suffrage. And, as Rep. Ros-Lehtinen notes in her Congressional address, the US is the moral choice because of the history of Cold War politics makes other options, like Russia both suspect and incapable. For the Congresswoman, “Our [US] role is to empower and enable, in order to ensure that the true and unfettered voice of the Afghan people is heard loudly and clearly” (2001, 3). Russia, the Congresswoman assumes, is plagued with its own political problems, and Afghanistan’s Pakistani and Iranian neighbors are also morally suspect because they have harbored their own versions of the Taliban.

When are Muslim Women Feminist Subjects? Morality and Representation. That the texts of self-identified Muslim feminists like Abu-Odeh and self-identified political conservatives like Laura Bush overlap in their constitution of a feminist subject reveals how the inclusion of Other women enables the complicity of feminist discourse in (re)producing (neo)colonial privilege. The framing of the problem of Islamic practices of patriarchy through the inclusion of Muslim women – an inclusion seen to produce a Muslim feminist subject – fails to address the fact that the inclusion of certain kinds of feminist subjects enables (neo)colonial privilege and a US (neo)liberal agenda in the Middle East. For instance, in Logan’s work, she reproduces the words of various Afghan women:
1997: Fahrida was fourteen years old and lived with her parents, five sisters, and three brothers. She lost her leg during a mujahideen rocket attack, which also killed the two children she was playing with. Fahrida: “So many people talk about how bad the Taliban are, but I don’t think they’re right. Eight years ago, when I was seven years old, I went out into the street to play with some of my friends. We weren’t doing anything wrong – just playing on a quiet street – when a shell landed. It killed both of my friends … I hate the mujahideen for doing this to me – they took away my leg and, with that, my freedom … Of course, the Taliban will be better for us than those terrible men were.” (2002, 21)

Logan continues her “Kabul” chapter with Roya’s story:

2001: Roya is fifteen years old. Roya: “I was in school when the Taliban came to Kabul – I enjoyed learning very much. … I was told that they would not allow me to go to school anymore … While the Taliban were here, my mother worked illegally … I worried every day when my mother left the house that she would be arrested or beaten. But she had no choice but to work – my father is dead. I hated the Taliban for that – they knew there were many widows here in Kabul who had no way to support their families if they couldn’t work. These Talibs were very bad people.” (2002, 31)

Logan juxtaposes stories told by women in 1997 to those told in 2001 throughout her book, generally organizing the book by the general themes drawn out in the women’s stories (i.e. schooling, food distribution, etc.). This structure enables Logan to make implicit claims through the various women’s narratives. For instance, through her juxtaposition of Fahrida’s story to that of Roya, Logan constructs Fahrida as the naïve and unknowing teen who cannot imagine a condition worse than her experience with the mujahideen. Fahrida notes that, “of course, the Taliban will be better for us.” Following Fahrida’s comments with tales like Roya’s, of the fear and restriction experienced by women during Taliban rule, enables Logan’s text to suggest that Fahrida did not know better at the time, because she could not imagine worse. Logan, through the tales of
women and girls like Roya, suggests that the time of the Taliban was, in fact, just as bad, if not worse, than the time before. Logan’s juxtaposition of narratives similar to Fahrida’s and Roya’s – of a naïve 1997 subject to a more enlightened 2001 subject – produces a certain kind of feminist subject and consciousness, one that is self-knowing and enlightened to the conditions around her.

Logan’s use of Roya’s narrative, one that recounts Roya’s fear for her mother even while Roya understands her mother’s need to work, posits Roya as a kind of feminist subject – or a subject with a burgeoning feminist consciousness. Even at fifteen, Roya is acutely aware of the unfairness of the Taliban’s decrees keeping women from education and livelihood. And, juxtaposed with Fahrida’s narrative, one that constructs her as unenlightened and not knowing any better, Roya enables Logan to produce feminist consciousness and subjectivity as one that is at odds with the Taliban. Thus, even without using her own words, even without saying so, Logan implies the backwardness of Afghanistan before US intervention. Not only is the condition of Taliban rule repressive and restrictive of women’s freedom (from education, work – essentially from the public sphere), but so also is pre-Taliban Afghanistan. The mujahideen is constructed as just as repressive and amoral; as Fahrida notes, “How could I think them good” when they killed and maimed children?
Logan’s text is evidence of the way even the inclusion of Muslim
women’s voices, even their inclusion as feminist speaking subjects, does not
necessarily address the issue of (neo)colonial privilege and power. In her
attempt to help women in a desperate situation, Logan simply circumscribes the
words of Fahrida, Roya and the 21 other Afghan women’s voices within a
broader discursive context of US progressivism posited against a Muslim
backwardness. Underlying the text, and thus the effect of each woman’s
narrative is the affirmation of “western” freedom. Logan’s text thus outlines the
limits to the “evidence of experience.” Speaking for oneself – representation –
is itself not enough to address the broader discursive conditions that
circumscribe speech. Perhaps this is nowhere clearer than in the skepticism
articulated by feminist writers like Susan Muaddi Darraj of the “freeing” of
women as justification for war.61 Darraj is critical of how the war is framed
with the underlying assumption that, “We American women have finally
succeeded in moving the feminist movement to the top of our nation’s list of
priorities; now it’s time to help our less fortunate sisters” (2002, 166). Darraj’s
skepticism of the claims justifying war to ensure the proper inclusion and
representation of Muslim women, however, reveal the complexities of discourse
and knowledge – where the inclusion of the voices of Muslim women can serve

61 Katha Pollitt also states, “Let’s not kid ourselves: This war is not about freeing women from
government-mandated burqas, or teaching girls to read, or improving Afghan women’s ghastly
maternal mortality rate … If women’s rights and well-being were aims of US Afghan policy, the
Carter, Reagan, and Bush administrations would never have financed the mujahedeen” in
as a red herring. Muslim women’s representation diverts attention from the fact that there are epistemic conditions informing the “materiality” of the war.

How the war is understood, how Muslim women are understood, how the Muslim feminist is understood all gesture to the operations of power producing their articulation. For instance, Logan’s reproduction of Afghan women’s voices is preceded by Logan’s own narrative of life in Afghanistan in 1997 and then again in 2001. This narrative is taken from her visits to the nation. She notes of her visit in 1997:

According to a Taliban decree enforced by the religious police, it was illegal for a woman to ride in a car with me, or even talk to me … Working with my translator, Marina, I was virtually smuggled into women’s homes, where I was always met with immeasurable warmth and kindness … Almost as soon as I entered Zargoona’s [an informant] tiny, freezing room, she started to cry. She, Marina, and I huddled together under thick, heavy blankets. Tears ran down Marina’s face as she translated Zargoona’s strangled voice. Her story was heart-wrenching. (2002, xiv)

Logan then proceeds to chronicle her experiences upon her 2001 return to Afghanistan:

I think there was some presumption in the West that all women in Afghanistan would immediately shed their burkas the very second they no longer had to wear them. But the change is occurring slowly, partly because of the men’s reaction to seeing women uncovered in public for the first time in five years … The lives of Zargoona and of all these women can only be made better if they are not forgotten again. As the world moves on to the next story, the next issue– which in naturally will – these women continue to live in a country that had manifestly failed them through its years of fighting, its neglect of their basic rights, an its inability to see their worth. And although I am in no position, of course, to pass judgment in such a way, I only hope that the future of the women of Afghanistan will be substantially better than their past. (2002, xx)
Even while Logan’s ordering of the Afghan women’s narratives itself produces a self-knowing, self-determined feminist subject within the context of Islamic fundamentalists like the Taliban who practice amoral patriarchy, Logan’s preface leaves little doubt that the Afghan women’s narratives reaffirm assumptions of “western” progress posited against the “backwardness” of Muslim Afghanistan, and assumptions of Muslim women as “not-yet” or “not quite” feminist subjects. Indeed, Muslim women like Roya are “not yet,” “not quite” feminist subjects because their cultural, social, and political conditions do not enable them to put into practice their feminist principles – the Taliban ensure this. As Logan notes, even while the Taliban forbid her from speaking to any women, the moment Logan enters Zargoona’s home, she is met with “warmth and kindness.” The tears Zargoona sheds construct her as grateful and overwhelmed by Logan’s presence and the opportunity Logan presents of sharing the story of her hardships. The text implies the hopelessness for women under the Taliban regime, and later the slow change and the possibility of new hope afforded Afghanistan after US intervention: “Change is occurring slowly … The lives of Zargoona and of all these women can only be made better if they are not forgotten again.”

The fact that Logan frames the Afghan women’s narratives within her own account of her visits and observations of life in Afghanistan ensures that her book will be read within a particular meta-narrative – one which sees US intervention as necessary for “saving” women, where white/western/first world
women like Logan are feminist subjects over and against the Muslim women “not-yet” able to enact their own (latent) feminist consciousness. Indeed, Logan’s book not only constructs the Muslim feminist (through the words of women like Roya), but in doing so also constructs the “proper,” already-feminist subject – Logan and women like her. Even while Logan suggests that she is “in no position … to pass judgment,” her text enables her to do so anyway by positing the victimization of the Muslim women over and against the position of Logan herself. The difference between the Muslim women and Logan hinges on each subject’s capability to enact her feminist principles – while women like Roya and Zargoona are forced to remain silent, to live isolated lives, Logan risks the wrath of the Taliban to speak to women like Roya and Zargoona. Indeed, Logan takes the risks her Afghan counterparts dare not/cannot, and in speaking to women enables them to articulate their feminist consciousness.

What remains un-addressed – in fact, what is enabled through Logan’s text – is the discourse of Islamic primitivism and evil that also informs Rep. Ros-Lehtinen and Laura Bush texts, texts that justify US military intervention as necessary to “freeing” women. And, the inclusion of Muslim women’s voices does not automatically remedy this fact. Rather, it enables the eliding of the question of (neo)colonial power, the eliding of the “western” privilege circumscribing the conditions of inclusion. The issue of women’s human rights within Muslim states is thus rendered one of representation – both the need to represent Muslim women within and without. As Bush and Logan note, it is not
enough to ensure the participation and representation of Muslim women within the context of their own religion/culture/nation, but they must “not be forgotten” by the larger global/human rights community. Muslim women’s human rights are also rendered a moral issue. For Bush, the history of suffrage in the US – and for Logan the fact that the welfare of Afghan women depends upon the rest of the world not forgetting – constructs the US as having a moral obligation to help ensure (women’s) freedom elsewhere. For Logan, Bush, and even the various self-identified Muslim feminists (for instance, those engaged in the meaning of the veil), the question of “when can Muslim women be feminist subjects” is always already a moral one. If Muslim women are to also be (“not yet”) feminist subjects, the problem must be cast as the way Islam is expressed by certain “bad” people (like the Taliban), not Islam per se.

The problem must be cast through morality – through the amoral expression of Islam that stifles the (potential) feminist consciousness of Muslim women. This reconciles both the construction of certain expressions of Islam as antithetical to feminism, and the construction of certain Muslims as feminist subjects. And, because this feminist consciousness is already circumscribed within a discursive context that privileges notions of US progressivism, of the US as a global exemplar, the US’s role in the interests of Muslim women is also rendered a moral obligation. As Feminist Majority, a non-profit organization that identifies itself as “working for women’s equality,” notes in a Congressional Hearing:
Women … [are] essential to the rebuilding of the country’s social infrastructure and civilization itself. The restoration of the rights of women is crucial both for the sake of human rights and to make possible the return to civil society … The restoration of a broad-based democracy, representative of both ethnic minorities and women, with women at the table, is necessary to break the back of a terrorist and a war-torn existence … We as Americans do feel a moral obligation to Afghanistan because it was the last stop in the Cold War … We must meet the challenge and as our parents, not settle for expediency but strive for the dream of democracy and human rights for all– and in Eleanor Roosevelt’s memory, we cannot forget the women. (2001a, 14)

Using the Cold War as one way of justifying the US’s moral obligation to save women in Afghanistan, the Feminist Majority constructs the US as a space of exception. Because the US has already recognized that “the restoration of the rights of women” are “crucial … for the sake of human rights” and “civil society,” as evidenced by the legacy of women like Eleanor Roosevelt, and because the US and its principles of democracy and inclusion of “ethnic minorities and women” proved the victor of the Cold War, it is the natural leader/savior of Afghanistan. As a nation that was failed by the US during the Cold War, the Feminist Majority posits the “moral obligation” of the US as all the more dire in the 21st century. As Jan Goodwin notes, “Afghan women and teenage girls [were] abducted and then sexually assaulted by Soviet soldiers” (1994, 87). Similar to Feminist Majority, Goodwin also suggests a moral obligation of the US to save Afghan women, in part because of its earlier failure to address the ways “the occupation reversed progress for women” (1994, 89). The Feminist Majority’s call not to “forget the women” is significant in that it reiterates the inclusion of women as signifiers of a progress toward freedom and
human rights – a progress that elides examination of the continued operations of modernity/coloniality that, for instance, enabled the US to wage what can easily be seen as an imperial war in Afghanistan and later Iraq at the turn of the 21st century. The text not only suggests that necessity of US intervention in ensuring the return of civilization and the enactment of “true,” inclusive democracy in Afghanistan, but posits these projects as that which defines (and has defined) the US – these projects are the “challenge” of “our parents” as well as contemporary American’s “moral obligation.” And, part of this moral obligation lies in the fact that the Taliban and other “bad” interpretations of Islam impede the “rights of women” so crucial to the establishing of civilization and civil society.

Translating the Qur’an: Enabling a Muslim Feminist Subject

These claims, along with claims made by Muslims invested in reading the Qur’an for gender segregation and inequality, have produced a discursive context where feminism and women’s rights are read as “western” and antithetical to Islam. This, of course, is a constructed difference that erases the possibility of Muslim feminists – or at least erases the ability of Muslim feminists to be Muslim in the same way as their male counterparts; Muslim feminists are constructed through this dichotomy as “less authentic” (Moallem 2005). Thus self-identified Muslim feminists and those attentive to cultural relativism posit the problem of Islam and women’s rights as a matter of “bad” (amoral) interpretations of Islam. The solution is to represent women and “minorities” since the exclusion of their interpretations of Islam is what has
enabled “bad,” patriarchal interpretations to flourish (for example, Doumato 1995; Mohgadam 2002; Wali 1995). The problem cannot be posed as Islam, since to do so would be to quash the possibility of the Muslim feminist subject.

The so-called problem of Islam and feminism – the reason the two are often constructed as antithetical – is produced as a matter of culture and the amoral, patriarchal practices of “bad” men and some unenlightened (often rural and poor) women, a culture that operates against the principles of Islam itself. For instance, Goodwin notes in her book, *Price of Honor: Muslim Women Lift the Veil of Silence on the Islamic World* that

Islam, in fact, may be the only religion that formally specified women’s rights and sought ways to protect them … It is not the Koran that compels Islamic women to be enshrusted from head to toe or confined to their homes while men feel free to pester women who do venture out (30). … Once more they were to be hidden behind veils, a development that now seemed to legitimize and institutionalize inequality for women. In fact, calls by Islamist organizations in recent years for Muslim women to veil themselves have been followed shortly thereafter by demands that women stop working, stay home, limit their educations, and resign positions of authority … Despite the limitations placed on them, Muslim women have achieved amazing gains (31). … How is it then, that Islam, the only religion to outline formally the protection of women’s rights, is also the faith most perceived to oppress women? When Islam began fourteen hundred years ago, the women around the Prophet participated in public life, were vocal about social inequities, and often shared decision making with him. In fact, many women displayed traits that a modern-day feminist would recognize. (1994, 34)

Goodwin, contrasts the fact that Islam, the Koran, and the Prophet were not only concerned with women’s rights, but saw women’s participation as crucial, to the fact that at different historical moments, the rise of Islamic radicalism has enabled “Islamist organizations” to limit the mobility of women. Through her
contrast and her question of how a religion that “formally [protects] women’s rights is also the faith most perceived to oppress women” Goodwin expresses a common sentiment defining the discourse – that is, the distinction between Islam as a religious and holy text not antithetical to traits of “a modern-day feminist” and Islam as it is expressed by “bad” organizations. Similarly, Zohreh Sullivan analyzes Shariati’s work to reveal the way Shariati “reminds his audience of the denigration to which Islamic culture (not Islam) has subjected the image of women. He contrasts the civility of Qur’anic respect for girls against an Arab poet’s advice that fathers of daughters select the grave (over house and husband) as their most suitable son-in-law” (2000, 240). Sullivan’s analysis of Shariati reveals, like Goodwin, how “modern-day feminist” principles can be located in the Qur’an. Shariati argues, rather, that “Islamic culture (not Islam)” has rendered women the property of men to the threat of women’s lives.

Locating “modern-day feminist” traits in Islam is necessary to enabling a Muslim feminist subject (or the potential for one) – a subject who then also enables a reason to “save” Islam and Muslim women. Raffat Hassan notes that despite the fact that women such as Khadijah and ‘A’ishah (wives of the Prophet Muhammad) and Rab’ia al-Basri (the outstanding woman Sufi) figured significantly in early Islam, the Islamic tradition has, by and large, remained rigidly patriarchal to this day. (2002, 138)

The project of those interested in recuperating Islam thus becomes both historical and representational, where the revelation of a history of Islam where Muslim women were represented (as no less than figures displaying “modern-day feminist” traits). The strategy is thus to distinguish between Islam as a
“pure” religion and “Islamic tradition” or “Islamic culture.” This is done either through arguing an Islam before interpretation that advocates women’s rights a la Goodwin, or through arguing a “feminist” interpretation of Islam (where the representation of key Muslim women figure significantly in the meaning of Islam) as Hassan’s statement exemplifies.

Similar to Hassan, Asma Barlas’ project is to (re)read the Qur’an through a lens liberatory to Muslim women. She argues that the problem of patriarchy and the Qur’an has to do not with the text itself, but with its interpretations, interpretations that do not consider the Qur’an as a historical text, and interpretations that structure and legitimize certain social orders through the Shari’ah (Muslim law). Barlas states,

> Although it is not always easy to make these distinctions – between Islam’s actuality and its transcendent truth, between the Qur’an and its exegesis, and between Islam and Muslim practices (thus between texts, cultures, and histories) – they nonetheless allow us to see that many ideas and practices, including the theme of patriarchy, ascribed to the Qur’an do not originate in it or have been read into the text in contextually problematic ways. (2002, 11)

For scholars like Barlas interested in recuperating Islam as a feminist tool that might help Muslim women, the project of creating a history of the Prophet and Islam’s origin that is not antithetical to “women’s rights” is crucial, since it also reveals the fact that the Qur’an and Islamic principles are always a matter of contextualized interpretations. Thus, the Qur’an is not a patriarchal text per se, however patriarchal themes are ascribed to it by those who desire to read it this way. The problem is thus cast not as Islam per se, but the amoral Muslim
people who enforce patriarchal readings of Islam. And, since these patriarchal readings privilege Muslim men, they are constructed as the “problem.” The assumption behind the recuperation of Islam argues that Muslim women who might be complicit in patriarchal readings of Islam are simply “unenlightened” – their support of patriarchal, fundamentalist readings of Islam is understood as emerging from their ignorance of they ways these readings limit their mobility and rights (as Logan’s tale of Fahrida evidences). What continues to be elided in this discursive construction is the fact that the very (Muslim) feminist subject that needs to be saved is a feminist subject defined and produced through a “western gaze” – she is defined by (modern) traits like self-determination.

Additionally, the attempt to locate a time when Islamic tradition/culture did not result in patriarchal interpretations often requires scholars to return to the time of the Prophet, since, as Goodwin notes, “pre-Islamic Arabia is believed to have been a male-dominated society, where women were scarcely more than sales commodities, and girl babies were so little valued they were frequently buried alive” (1994, 35). Similarly, Angela E.V. King notes,

it is important to note that the violations of women’s rights did not start with the Taliban regime. Women had been consistently discriminated against and marginalized before the Taliban came to power in a system of traditional kinship where gender relations within the family unit, as well as within the local community, were dominated by males. (2002, 152)

Thus the project to recuperate the Qur’an and Islam often reaffirms conceptions of the people of these regions as always tending toward rigid patriarchal practices, with the exception of the time of the Prophet. For Goodwin, “pre-
Islamic Arabia” was defined by a culture of deviant patriarchy, and after the time of the Prophet, this region is again prone to revert to its patriarchal tendencies. For King, the Taliban “came to power in a system of traditional kinship … dominated by males,” so that, while “bad” interpreters like the Taliban are a problem, they exist because of a “pre-Islamic Arabian” tendency toward male domination. Both these text exemplify a broader discursive trend, one that locates the marginalization and discrimination of women outside Islam, to the effect that it produces “bad” interpretations of Islam (Similarly Alshejni 1999 argues culture as the main obstacle to Muslim women’s rights). The problem is thus cast as a pre-Islamic tendency toward amoral and backward (when they manifest in post-Islamic Arabia”) patriarchal practices and traditions.

Often, these moments of regression to past patriarchal cultural tendencies come with political instability (the Soviet invasion and subsequent collapse in Afghanistan or the fallout of the Iranian revolution, for example). As Amnesty International notes, “The conflict [between different Afghan factions], which has so devastated the country, has been fuelled by outside powers who have provided political and military support to their favoured Afghan armed groups” (1999, 6). The discourse is varied in the way scholars and NGOs view the effect of the Soviet invasion – for Amnesty and scholars like Zohra Yusuf Daoud and Sara Amiyar (2002) the Soviet invasion stifled women’s rights, while for Arline Lederman and Gloria Steinem the invasion brought “positive evolution to the
public Afghan woman” (Lederman 2002, 54). However, whether these “outside” interventions helped or hindered the “bad” interpreters of Islam, the framing of the issue elides the history of colonialism and imperialism in Afghanistan. Rather, the issue of “outside” intervention is posed as either good because it results in the stifling of “bad” interpretations of Islam, or bad because it enables “bad” interpreters to come to power. This treatment of colonial/imperial relations reaffirms that the “real” problem in Muslim states are the “bad” interpreters of Islam who pre-exist the history of outside intervention. What is troubling here is that even when there are attempts to distinguish Islam as an interpreted text in a manner that enables a Muslim feminist subject and reveals the fallacy of seeing Islam as a so-called problem, these attempts cannot remedy the (orientalist) assumptions of a “backward” Middle East and Central Asia – a patriarchal, amoral and “backward” culture of Islam.

The problem may not be Islam as a religion per se, as scholars like Barlas show, yet it nonetheless remains a problem of Islam – of certain Muslim cultural traditions and interpretations and Muslim interpreters. This conundrum is particularly evident in Fatima Mernissi’s attempt to dismantle orientalist assumptions of Islam as irrational and backward. Mernissi states,

To equate Islam with irrationality is probably as absurd as it is to equate liberal democracy with rationality. The reasonable question to ask is: how can we increase the chances of rationality in the Muslim world? The ‘we,’ of course, is any individual or group, regardless of culture and nationality, interested in nurturing the chances of rational discourse and government in the next century … Thus posed, the question has at least two advantages: first, it liberates us from the racist bias inherent in polarizing the debate about which cultural group is rational and which is
not. Second it empowers us, both Westerners and Muslims, by helping us identify key factors, which can increase the chances of rational problem solving and reduce the need for violent methods of conflict resolution. (1995, 43)

Here, the author acknowledges that the naturalization of Islam as irrational is an effect of racism and orientalism, hence it is “absurd.” However, while the equation of Islam with irrationality is rejected because it is read as evidence of racism, Mernissi, in advocating for the “increase of chances of rationality in the Muslim world,” naturalizes and deploys a narrative of progress that assumes “rationality” is a necessary component in the movement toward “the next century,” one characterized by the reduction of “violent methods of conflict resolution.” Indeed, the solution that Mernissi poses is one that is dominant in a moment constituted by “post-racial,” “multicultural” politics. She demands a “we” inclusive of “any individual or group, regardless of culture and nationality” that will work toward nurturing rationality in the Muslim world.

Even though Mernissi recognizes this gesture toward cultural diversity as one that will “liberate us from the racist bias,” the kind of “racist bias” operating in discourses of orientalism that construct the Orient as irrational, the author suggests that while there may be individual Muslims who are rational, who reject “violent methods of conflict resolution,” as a whole the “Muslim world” and Muslims as a “cultural group,” need more rationality and less violence in order to be initiated into the “next century.” In her “rejection” of racist bias, Mernissi naturalizes certain constructions of the “Muslim world” that are effects of the operation of racial (signifying) power. The suggestion that equating Islam
with irrationality is absurd, even while the “Muslim world” might need more rationality and less violence, indicates Mernissi’s deployment of the distinction between Islam as a religion (somehow disconnected from the social), Islam as it manifests in the social world to delineate a “cultural group,” and those individual who foster irrationality and violence in the “Muslim world.” And, Mernissi’s text, despite arguing against orientalist constructions of the “Muslim world” as backward and irrational, nonetheless implies that backward-ness and irrationality exist in the “Muslim world” – Mernissi’s text simply individualizes the “problem” to enable some rational, Muslim (perhaps feminist?) individuals.

Similarly, in an attempt to work around the ways the idea of a “Muslim culture” is constructed as backward and patriarchal, Mahnaz Afkhami, scholar and author of “educational tools and research papers” published by Sisterhood is Global Institute (SIGI), a non-profit working toward the international solidarity of women, argues that “neither Islam nor the culture of Muslim peoples is per se an obstacle to women’s achieving rights. Rather, Muslim women face patriarchal structures that certain men in power or seeking political power misrepresent as religion and culture” (2001, 236). Afkhami elsewhere notes that to the extent that Islam, defined and interpreted by traditionalist “Muslim” men, is allowed to determine the context and contour of the debate on women’s human rights, women will be on the losing side of the debate because the conclusion is already contained in the premise and reflected in the process. Arguably, this is the heart of the moral tragedy of Muslim societies in our time. (1995, 2)

Eleanor Abdella Doumato also tries to recuperate the idea of Muslim culture by arguing culture’s inherent dynamism, where the context of globalization and
economic changes as well as the new cultural meanings conveyed through television and literature have altered the perception of “women’s roles” and thus “Muslim culture” (see also Sunder 2002).

The issue for Doumato is thus similar to Afkhami’s view – “bad” men in power have enacted patriarchal structures that they pass off as part of Islam and Muslim culture. Like the strategy posed by Mernissi, I suspect that Afkhami, Doumato and others are concerned with the ways blaming “Muslim culture” in order to save Islam as a religion nonetheless deploys orientalist assumptions of a “backward” and patriarchal (Muslim) peoples. However, individualizing the problem of patriarchy and Islam to a matter of “bad,” amoral Muslim men still maintains that this problem remain “the moral tragedy of Muslim societies in our time.” Thus, while the problem is cast as one of individual Muslim men who practice a deviant and amoral patriarchy, the fact that they are Muslim renders this problem of the individual a problem of “Muslim societies,” in effect reifying constructions of Islamic states as backward and evil (to the extent they allow these men to gain power). Whether as a problem of the larger “Muslim culture/tradition” or as a problem of the individual Muslim man, the result is the same – nations like the US are able to justify the eradication of these “evil” men.

Indeed, as a “moral tragedy of Muslim societies,” what to do with the “bad” Muslim man is posed in a way that always ensures the need for salvation from outside. In other words, these texts suggest that because “Muslim societies” are hopelessly constituted by the “bad” Muslim man (this being the “moral
tragedy”), Muslim societies will never be able to adequately address the problem.

Thus, despite the work of men and women within the “Muslim world,” their success is only a success when they are recognized and supported by nations like the US – nations that define themselves as advocates for women’s human rights. For example, Bernard’s study of Revolutionary Association of the Women of Afghanistan (RAWA) not only recognizes and constructs the participants of RAWA as feminist subjects, but she attributes their success to the fact that they encourage and capitalize on the idea of “worldwide female solidarity.” As Benard notes, RAWA appeared on Oprah and unlike other “Islamic women’s groups [that] have by and large disdained to use the international women’s response as a resource – or have simply not known how to harness it,” RAWA “was smart enough to recognize what a powerful tool the Taliban handed them when it made Western women angry” (2002, 186).

Benard’s text lauds the work of RAWA, constructing the women of RAWA as Muslim feminist subjects. However, their work within Afghanistan did not dismantle the Taliban. Benard is clear in her text that it was only with the help

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62 Oprah notes in a December 3, 2001 episode titled “Helping Women of the World” that, “The women of Afghanistan have been some of the most demoralized and abused in the world. They have long known that terrorism office – often focuses on oppressing women especially … So as we continue to watch the Taliban lose control of Afghanistan, we have seen women taking off their burqas, but now questions are being raised about whether the long silenced women of Afghanistan will have a voice in the post-Taliban government.” Expressing concerns similar to those articulated by Laura Bush, the question for Oprah after the fall of the Taliban and the initial eradication of patriarchal practices like veiling, is whether women will be properly represented and included. To this effect, Oprah is supportive of both NGOs like International Rescue Committee helping restore a democracy in Afghanistan, and the US (imperial) occupation of Afghanistan. This episode also covered sex trafficking and female genital mutilation as worldwide practices of “hatred and terrorism” against women.
of US military intervention encouraged by angry “Western women” like *Oprah* and her target audience, that RAWA became truly successful. And, unlike their counterparts, RAWA garners international recognition as a feminist organization because they appealed to Oprah and angry “Western women.” Benard’s study of RAWA reaffirms what is implicit in the vast majority of the discourse (including texts like Afkhami’s and Mernissi’s) – that is, despite the “internal” work of groups like RAWA (to echo Mernissi, groups “interested in nurturing the chances of rational discourse and government”), real success comes only through intervention and recognition from “outside,” from the international community. As Benard’s text implies, RAWA was never able to oust the Taliban, only US intervention was able to do that (though they did so with the help of, and for the benefit of women like the those in RAWA).

**Translating Human Rights: Locating Muslim Particularity in the Global**

The discourse of women’s human rights, and specifically the question of Islam and women’s rights, situates itself as a matter of interpretation, where the idea of Islam as an abstract religion (principles) standing outside of the social context is posited with the practiced Islam that is a product of culture. As Amnesty International notes, “Islamic law is not a given, but depends crucially on human interpretations which are shaped by cultural and ethnic differences” (1999). Echoing a sentiment that constitutes a trend within the discourse, Amnesty suggests that problems with Islamic law come from their “human interpretations,” and thus posits a distinction between Islam and Islamic
jurisprudence as a “pure” expression of principles, and the Islamic law that is a result of “human interpretations which are shaped by cultural and ethnic differences” – Islam as it is expressed by culture. Yet, the idea of practiced Islam an expression of its (oppressive, patriarchal) cultural context also defines this cultural context as Muslim. Hence, while the notion of Islam as only religious principles is posited against the practiced Islam – Islam as those principles are expressed (by men) into daily practices – in the end, the very cultural context, the very “human interpretations,” are located within Islam. In fact, women’s human rights advocates are critical of claims that gender-specific Islamic laws and practices are simply expressions of cultural particularism, arguing that these claims strip away the operations of gendered power that produce the social conditions of Muslim male difference from Muslim females – a move that has enabled the recuperation of Islam as simply another (cultural) difference that should be recognized and respected in the global multicultural dialogue. Yet this is what the women’s human rights discourse also does (recuperates Muslim difference as an individual expression), only the recuperation happens with the construction of the “problem” of Islam as a matter of “bad” individual men who deploy their own perverted, patriarchal interpretations of the Koran.

The “problem” of Islam and relativism outlined by scholars like Mernissi, Doumato, Afkhami and others suggests the necessary inclusion of Other voices – for instance, through “internal discourse” – however, the
“internal discourse” must be validated by the external “human rights community,” as evident in the work of those like Benard. I argue that the inclusion of Muslim women’s voices and the inclusion of Muslim women as political, legal subjects (privy to asylum) enable the production of human rights as a site of modern power. Examining the way Islam is constituted through US women’s human rights discourse as enabling the victimization of Muslim women reveals the contradiction troubling the very notion of human rights – that between the idea of universality and its enabling-negation, particularity. Thus I return to the conundrum of human rights as universal – a conundrum that, while diagnosed by feminist critiques of human rights, has yet to be adequately addressed because the logic of exclusion operating in these feminist critiques does not dismantle racial power. Solutions to the problem of particularism have centered on the notion of translation and dialogue. The logic behind this inclusionary move dictates that with the proper translation, universal principles will emerge despite their (culturally) particular embeddedness. The fact that culture, and religion as an arm of culture, functions as a site through which (neo)colonial power can be recuperated is key to this debate precisely because the notion of interpretation enables the idea of Islam to exist, while its perverted and deviant material manifestations can be annihilated (perverted and deviant manifestations and interpretations that are captured in the bodies of Muslim male subjects). Thus the way the so-called problem of Islam is cast as a matter
of bad and good interpreters elides the more fundamental questions of how
categories of difference are circumscribed and to what effect.

The “solution” of dialogue simply seeks to include “Third World”
subjects, but does not necessarily challenge the modern operations of power at
work in producing human rights and universal principles. For instance, legal
scholar Madhavi Suder notes that

many Muslim feminists are pursuing human rights strategies that
combine religion and equality claims, advocating that women from
Muslim countries and communities reinterpret their culture and religion
in nondiscriminatory ways … what I call a ‘cultural dissent’ approach to
women’s human rights law recognizes the internal reform efforts of
women from Muslim countries and communities and refuses to grant
rights to discriminate in the name of culture or religion. This approach
treats Muslim religion and culture as publicly circulating meanings to
which all Muslims have access, rather than as the privately owned
meanings of any one religious faction. (2002, 150)

For Suder, to avoid the pitfalls of “traditional cultural relativist approaches” that
“might condone discriminatory practices,” the alternative is an inclusionary
move that recognizes Muslim women as viable voices of “cultural dissent.” In
other words, Suder suggests that “traditional cultural relativist approaches” are
discriminatory because they did not include the voices of women. By including
Muslim women, Suder sees the resolution of a seeming disconnect between
human rights and “Muslim religion and culture.” The so-called problem of
“Muslim religion and culture” that discriminates and violates human rights
principles can be solved through the inclusion of the Muslim women. The
Muslim woman thus serves as site through which the tension between
universalism and particularity can be negotiated. However, to enable this
negotiation through the site of the Muslim woman also requires that she be
signified in a way that distinguishes her as a feminist subject, as opposed to her
unenlightened, culturally bound sisters. As Suder’s statement reveals, it is the
inclusion and recognition of “Muslim feminists” that is key – other Muslim
women, who do not know feminist, human rights principles, are simply rendered
troubled effects of the “privately owned meanings of one religious faction” that
discriminates and denies women’s human rights.

Translating Global Multiculturalism and the “Problem” of Interpretation

A feminist critique of human rights law needs to engage in a dialogue
which forces the anti-subordination thrust of feminism through the filter
of cultural diversity … Such a dialogue would be informed by the need
to transcend any relativistic paralysis since in “a world of radical
inequality, relativist resignation reinforces the status quo.” This premise
is in tune with my desire to make the feminist critique in this article
politically translatable.

-- Celina Romany (1996, 106)

What Romany’s statement reveals is the fundamental dilemma of human
rights and feminist critiques of human rights, that is, the fact that while feminist
discourse has called for attentiveness to difference, this very call has then been
turned around and used to “reinforce the status quo” – to justify patriarchal
practices beneath claims to cultural relativism (see Grewal 2005). The fact that
very language of diversity and differences amongst women can then also be
used to justify patriarchal practices not only reveals the conundrum resulting
from the deployment of the logic of exclusion and historicity in defining
difference, but also relates the discursive parameters producing (women’s)
human rights. Romany’s concerns also highlight a central theme through which
the issue of the codification of Islamic culture as a violation of women’s human
rights is produced. The production of Islamic laws and governments as a threat
to women’s human rights is informed by this dilemma – one that must
acknowledge “cultural diversity” even while “relativist resignation reinforces
the status quo.” In similar vein, scholar Kristin Miller notes that, “relativism
allows countries to violate international human rights standards by using culture
to justify their departure from universalist norms,” in reference to the
deployment of relativism by the Iranian government as reasoning “against
allowing universalists to impose their definition of human rights on Iran”
(1996). Thus the issue is framed as one of translation, whether it is the problem
of “bad” translations of the Koran that are protected under claims to relativism,
or the desire articulated by Romany of proper translation and “dialogue” that
will solve the problem of relativism by forcing “the anti-subordination thrust of
feminism through the filter of cultural diversity.”

The (re)casting of the age-old debate regarding universal principles and
“local” particularity through the idea of translation enables Romany to maintain
the idea of a universal standard, protect “cultural diversity,” and also keep
certain governments from using relativism as a way to disregard those universal
principles – indeed, it enables the idea of a universal Law, one that enables
humanity, to both “transcend society yet [be] of society” (Fitzpatrick 1992, 9).
The desire to maintain universality and a conception of universal human rights,
and the conflict it faces in the midst of claims to relativism, thus inform the move to (re)cast the issue of particularity as a matter of dialogue and translation. For instance, Abdullahi Ahmed An-Na‘im notes that the maintaining an international system of order situated within a (diverse) landscape of localities means,

> The norms of the international system should be validated in terms of the values and institution of each culture, and also in terms of shared or similar values and institutions of all cultures. This can be achieved, I suggest, through what I call “internal discourse” within the framework of the each culture, and “cross-cultural dialogue” among the various cultural traditions of the world. (1994, 174)

The solution that An-Na‘im proposes, and which Romany also alludes to, is one premised on the belief that with proper “internal” and “cross-cultural” dialogue “among the various cultural traditions of the world,” some and perhaps even all, the universal principles guiding human rights will be validated. For An-Na‘im, the process is two-fold. First, each culture must have their own “internal discourse” discussing what values should be validated and valued. The assumption here is that part of this “internal discourse” will involve Muslim women doing the leg-work of bringing to the forefront (of their own cultures and governments, as well those of the rest of the world) those values of their “cultural traditions” that should not be deemed universal. As Azizah al-Hibri notes in the *American University Journal of International Law and Policy*:

> It is imperative that Muslim women find their own way in the thickets of patriarchal religious reasoning, just as Christian and Jewish women have been doing … This position does not mean that Western women, secular or religious, will have no role in the struggle for Muslim women’s rights.
Rather, it means that their role will be supportive and thus secondary to that of Muslim women, as it should be in this matter. (1997, 4)

For al-Hibri, An-Na’im and others, the inclusion of Muslim women is paramount to addressing the issue of “relativistic paralysis” and “relativistic resignation” since Muslim women are representative of the very relativism used to justify their oppression. In other words, Muslim women can claim Islam even while they critique its “translation” and practice, thus making their inclusion and participation paramount.

To avoid claims that notions of women’s human rights are Western-centric, or privilege the cultural values of some at the cost of others, An-Na’im and Romany’s call for dialogue not only places the burden of speech on the Other, Muslim woman, but assumes that coupled with the second step in the process of dialogue, “cross-cultural dialogue,” the outcome will be a reaffirmation of the very values and principles under attack by “bad” relativists.

For An-Na’im, those “norms of the international system” under question will be validated once “internal discourse” is allowed and coupled with “cross-cultural dialogue.” An-Na’im is suggesting that Muslim women speaking for themselves is not enough – their speech must then be validated by “cross-cultural dialogue,” one that validates the “norms of the international system.” In fact, Muslim women’s speech must be checked against the norms of the international system – they must be checked against the notion of women’s human rights by other “cultures.” Muslim women will be “primary,” as al-Hibri notes, but their work is only complete with the “supportive” role of “Western
women.” What al-Hibri’s statement reveals, is the “which came first, chicken or egg” logic of a women’s human rights discourse premised on the notion of dialogue and translation. To determine what defines women’s human rights rests on the inclusion of Other, Muslim women’s speech, but that speech must echo those “universal” values of women’s human rights (the reason why the inclusion of the speaking Muslim feminist subject is always already limited by the broader discourse, as Logan’s work shows). The fact that Muslim women’s speech must echo that which is already “universal” exposes the assumption underlying translation – that is, the assumption of transparency between the speaking subject and the condition of difference. Muslim women’s speech is never simply a transparent, unmediated process, but rather one circumscribed by the conditions of power productive of universality itself. Muslim women’s speech must be before women’s human rights and it must be behind it. In other words, proper ways of engaging an “internal discourse” are already determined (by, in the case of women’s human rights “Western women”) even while the “internal discourse” is posited as “primary,” as the before of women’s human rights.

The solution of dialogue operates to ensure the mythic quality of universality – universal principles and values guiding human rights are constructed as both of society, yet transcending it. And, as Fitzpatrick (1992) argues regarding the recuperative moment when the revelation of this mythic component is subsumed into its very narrative unfolding, the notion of dialogue
ensures that the threat of particularity and relativism to universal rights is rendered a moment in the issuing of universality. The values validated through “cross-cultural dialogue” are exactly those values that enable “cross-cultural dialogue.” In other words, universal principles are assumed to be transcendent – they are simply reaffirmed as universal by being reflected back through “internal dialogue.” In that sense, “internal discourse” simply serves as a mirror to the universal principles that are reflected as emerging out of “cross-cultural dialogue” even while they actually enable “cross-cultural dialogue” (a fact that is elided). And, even while scholars like Butler (2000) read this moment of mirroring and reiteration as holding the potential of “contamination” and “displacement” of the original term(s) being translated, the conditions of “contamination” and “displacement” are already prescribed – “contamination” and “displacement,” insofar as they are effects of inclusion, are already circumscribed by the epistemic conditions of (modern) power that produce difference.

What is interesting in the construction of al-Hibri’s claims, a logic that also operates in An-Na’im and many other discussions of Islam and women’s rights, is the elision of questions into the contentious notion of universal principles. Indeed, al-Hibri, like An-Na’im, assumes that universal principles do exist – that the “international community has made a commitment to women’s rights” is not really problematized. Even while al-Hibri suggests that Muslim women “find their own way in the thickets of patriarchal religious reasoning,”
these “internal” dialogues are assumed to be in concert with the “international community” that “has made a commitment to women’s human rights.” What these commitments are, and how they are argued to be universal are not at issue for al-Hibri. And, while An-Na’im, Romany, and others have been attentive to questions of what and how universal principles are determined, even their suggestions for dialogue never really challenge the idea of universality and the universal components of humanity. Because universalism itself is a myth that negotiates the contradictions of particularity, it is premised on the logic of inclusion – universality is a concept produced through a logic of exclusion, a logic that enables both the recuperation and negation of particularity, universality’s enabling-other.

As evident in An-Na’im’s statement, allowing Others to speak for themselves is assumed to reveal that certain universal principles and values – like women’s human rights – are, indeed, universal since they will be validated through “cross-cultural dialogue.” Of course, this logic assumes that each “internal discourse” will happen within its own contained space of “pure” culture uninformed by others. What is not addressed is the fact that “internal discourse” itself is always already informed and produced by “cross-cultural dialogue.” The values enabling “cross-cultural dialogue” are exactly those that are validated through “cross-cultural dialogue.” In other words, what An-Na’im and others interested in dialogue and “proper” communication and translation do not address is the fact that such a thing as “internal discourse” is not something
that can be separated from “cross-cultural dialogue.” And, “internal discourse” coupled with “cross-cultural dialogue” simply resolves the contradiction of universality, a modern concept premised upon the (modern) operations of the logic of exclusion.

What these discussions of “what to do with relativism” miss is the question of how the very notion of universality is premised on the (enabling) negation of Otherness, so that some expressions of Otherness will always need to be eradicated in the quest for universalism (racism, colonialism, orientalism have functioned to ensure this). I argue that a more generative question in interrogating women’s human rights is to ask: “How is the very notion of ‘Islamic culture’ produced, and what does its production reveal about how (racial, gender) power is operating?” Instead, the discourse of women’s human rights and the role of Islamic jurisprudence are rendered matters of translation – one, the translation between cultural insiders and outsiders, and two, the “good” and “bad” translations of the Qur’an. What I hope to have revealed is that even when the problem understood as not Islam per se, but the traditions and culture that translate it into patriarchal practices, the problem is nonetheless always Islam.

**Concluding Remarks**

The difference between Afghanistan and other areas of the world troubled by “bad” interpreters of Islam and the US constructs the US as a space of transparency where the troubles of relativism and women’s exclusion have
already been resolved – where “internal dialogue” has taken place in the US past (Suffrage, the Second Wave of the Women’s Movement, Civil Rights, the inclusion of women of color into feminism are all moments of past “internal dialogue”). And, the fact that even when the issue of women’s human rights and Islam is rendered not a matter of Islam per se, but “bad” men in power who argue that women’s oppression is a part of Islam, the matter is still rendered the “moral tragedy of Muslim societies.” In other words, the discourse suggests there is something particular about Muslim difference that allows individual “bad” men to claim the antithetical nature of Islam and feminism. This construction of the “bad” Muslim man hides the fact that the discourse of women’s human rights produces Islam and feminism as antithetical and naturalizes the construction of the Muslim woman as unable to escape her deviant (cultural) particularity.

The assumption that the problem is with “bad” Muslim men, and not with the discursive conditions delimiting the articulation of women’s human rights, is constituted not only in US legal and political sites (like the Fatin v. INS case, the Bushs’ remarks, Congressional Hearings and so on) and NGO sites like Amnesty International, but also through “feminist” and “Muslim” sites like the texts of Afkhami, Benard, Logan, and others. Thus, even when Muslim women like Parvin Darabi in her book Rage Against the Veil, the women of RAWA, and the women in Logan’s text “speak for themselves,” their speech is always already informed by the assumptions and claims of the broader discourse –
assumptions and claims that reveal the continued operations of (neo)colonial power relations.

While the voices of Muslim women often challenge the circumscription of the broader discourse by revealing its inherent tensions, the inclusion of their voices itself is not enough to dismantle the underlying relations of (neo)colonial power that enable the discourse and its articulation. This, I hope, becomes clear when we consider how and when (under what conditions) the Muslim feminist subject can be recognized and included, as well as when we consider the moments when these subjects “speak for themselves” only to reaffirm their own cultural deficiencies and to justify US imperial intervention in the form of a (racist) “war on terror.” The fact that they are Muslim – that their bodies mark their complicity to the condition of Muslim difference – renders them “not yet.” Even when they are recognized as feminist subjects, as Alito’s decision in the Fatin case and Benard’s account of RAWA reveal, they are always also “not-yet.” In the case of RAWA, they lacked what was necessary to defeat the Taliban – a lack that Benard fills through the Western feminists who came to the support of RAWA. For Fatin, the acknowledgment of her feminist subjectivity served as her Achilles heal – her ultimate denial of asylum.

While scholars have been attentive to the ways the conundrum of universality informs feminist discourse and women’s human rights, solutions to addressing the tension between universality and particularity – because they hope to retain, without deconstructing, universality – reproduce the very
operations of modern/colonial power these critiques of universality attempt to
address. For instance, legal and feminist scholar Shefali Desai exposes the
conundrum of universality and cultural particularity in Afghan women’s asylum
claims:

In evaluating an Afghan woman’s refugee and asylum claim, feminist
theory can embrace neither cultural relativism and send the claimant
back to her country thus implying that the Taliban’s laws regulating
women’s lives are merely an expression of culture, nor universalism that
would grant the claimant refugee status but fail to question the
universality of internationally established women’s human rights
standards. The former addresses critiques of feminism as merely another
form of imperialism, but leaves feminism without a standard by which to
“condemn abuses of women throughout the world,” and in Afghanistan
in particular. Meanwhile, the latter solution declares that all women
suffer from patriarchal oppression and that the way out of this oppression
is by applying an established set of human rights to the asylum claim. It
offers “the promise of uniting women,” but risks the oppressive
essentialism that feminist theory seeks to combat. (1999, 15)

Desai clearly outlines feminist discourse’s limitations. On the one hand,
feminist discourse’s commitment to heterogeneity of the experience of “woman”
means that it cannot dismiss claims to cultural relativism, even when those
claims justify violence against women. On the other hand, the necessity of
recognizing the universal component of the category “woman” or the operation
of patriarchy runs the risk of defining patriarchal practices as a homogenous and
“essential” structure that supplants feminist discourse’s critical impulse toward
addressing difference/particularity. How to address this conundrum thus lies at
the heart of the issue of women’s human rights, feminist claims to asylum, and
the project of (global) feminist discourse. For Desai, like many others, one
solution is to focus on “the individual woman’s voice” (1999, 20) – that is, to
accept the “evidence of experience” of individual claimant’s definitions of “membership in a particular group” and persecution. If the asylum courts accepted individual women’s differing definitions of persecution and “membership in a particular group,” the courts would recognize that women might experience the violation of human rights differently. Thus, for Desai, a human rights informed by feminist theory would be defined through the particular claims to rights articulated by individual claimants. What this “solution” fails to recognize, however, is that the individualizing of difference enables the elision of its social conditions – it elides the fact that Muslim difference is more than any individualized account of the experience of being Muslim.

The conundrum that Desai identifies provides an opportunity to (re)examine Islamic fundamentalism (for instance, as it is articulated by the Taliban), feminist discourse, and human rights and asylum as productive sites where modern power is both challenged and affirmed – a deconstructive exercise that Moallem’s work performs. Examining how the fundamental contradiction between universality and particularity are managed through the signification of difference (as a translatable, individualized account) – whether Muslim difference, women’s difference, or Muslim women’s difference – exposes the operations of (gendered, racial) power at work to produce the global.
VI. Conclusion: Saving Human Rights?

The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations … Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood … Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status … Article 3. Everyone has the right to life, liberty and security of person.

-- Universal Declaration of Human Rights, United Nations General Assembly, December 10, 1948

Respect for differences between cultures is validated by the scientific fact that no technique of qualitatively evaluating cultures has been discovered … standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole.

-- 1947 Executive Board of the American Anthropological Association (qtd in Coomaraswamy 2002)

Most countries are today strongly defending their own cultures. And there is more respect and mutual understanding of the value of other cultures than ever before. But the point is a different one: there are limits to the practices that countries can expect the international community to accept, or condone, even when the practices have deep cultural roots. This is where human rights enters the picture.

-- Gro Harlem Bruntland, Prime Minister of Norway, from the closing address to the Fourth UN World Conference on Women (qtd in Amnesty International’s 1998: A Wonderful Year for Women’s Human Rights?)

As the examples of the United Nations Universal Declaration of Human Rights, the American Anthropological Association, and Prime Minister Bruntland’s closing address to the Fourth UN World Conference on Women reveal, the issue of human rights has been defined through the question of, “to what extent can universal principles of humanity be established?” While the
United Nations Declaration establishes a broad range of human rights like “life, liberty, and security of person,” the American Anthropological Association preempts these universal rights with a statement emphasizing that the “standards and values … relative to the culture” cannot and must not become standards and values applied to “mankind as a whole.” Human rights scholars have grappled with this dilemma of validating universal standards even while refraining from establishing standards particular any one culture as universal. Prime Minister Bruntland’s statement articulates a familiar stance, one that advocates the necessity of universal principles of humanity (or human rights) even while protecting both the sovereignty of the nation-state and the right to (cultural) difference. And, often the right of nation-state sovereignty and the right to cultural particularity overlap in figuring global actors.

The United Nations, as an extra-national structure of governance, is, much like the Universal Declaration of Human Rights it establishes, torn between upholding the universal principles of humanity even while being restricted by its need to protect the sovereignty of its (particular) nation-state actors. Recognizing, perhaps, its own limited powers in enforcing international jurisprudence, the United Nations’ Declaration uses appropriately vague wording in defining human rights – already establishing human rights as an interpretive enterprise. In addition, the first three articles of the Declaration clearly reveal the extent to which the United Nations is constituted through liberal individualism and the “transparent ‘I.’” As the Declaration states, “All
human beings are born free and equal in dignity and rights … they are endowed with reason and conscience.” To this extent, human rights are always already a site of modern/colonial power – relations of power that institute both epistemic and social/symbolic moments of alterity. The recuperation, through inclusion, of those Others whose bodies signal that alterity (an alterity that can never be recuperated or named) does not necessarily address the epistemic conditions of power circumscribing the Other’s representation.

Feminist discourse, as it has enabled the consideration of difference/particularity into that which has otherwise been assumed to be universal, has provided critical inquiry regarding the importance of gender/sex specificity in defining what counts as human rights. Scholars like Susan Moller Okin have called attention to the androcentricity of human rights, arguing that, “There can be little doubt that both Locke and his contemporaries and the framers of the Universal Declaration had male household heads foremost in mind when thinking about those who were to hold the ‘natural’ and the ‘human’ rights they respectively argued for and proclaimed … The problem is that existing theories, compilations, and prioritizations of human rights have been constructed after a male model” (1998, 34). For Okin, the problem is that the particularity of male-ness has been assumed in defining, identifying, and redressing human rights violations. Arguing that the inclusion of women’s difference not only reveals this bias, but also the danger in assuming universality when that which is universal cannot address the particularities of (in this case)
women, Okin states that the consideration and inclusion of “women’s life experiences” alters the “theories, compilations, and prioritizations” of human rights, bringing to the fore issues like “rape … domestic violence, reproductive freedom, and valuation of childcare and other domestic labor as work, and unequal opportunity for women and girls in education, employment, housing, credit, and health care” (1998, 35).

As Okin’s text reveals, feminist discourse has provided the basis (largely by arguing the inclusion of women’s “evidence of experience”) of critical inquiry into the concerns articulated in 1947 by the American Anthropological Association. That is, feminist discourse has asked to what extent the universal principles of human rights emerge out of the particular experiences of men, particularly First World/western men. Feminist discourse, in engaging with both difference and the female subject, and in defining feminism as its own critical potential, necessarily produces questions into the universality of the category “woman.” Scholars like Marianne Braig and Soonja Wolte, Radhika Coomaraswamy, and Martha Minow all grapple with the extent to which women’s human rights can both address gender-specific violence as violations of human rights, as well as the heterogeneity of “women’s life experiences.”

Informed by the work of (feminist) anthropologists who draw attention to cultural particularity and relativism, feminist human rights literatures have often taken the stance that while the category “woman” cannot be universalized, the fact of patriarchy can. Thus, feminist critiques of human rights have not
only argued the male bias of human rights, but also the different cultural experiences of patriarchy that, while culturally particular expressions, are nonetheless oppressive to women as practices of patriarchy. As Prime Minister Bruntland notes, even while cultural practices must be respected as part of what makes the global community global, “there are limits to the practices that countries can expect the international community to accept, or condone, even when the practices have deep cultural roots” and “this is where human rights enters the picture.”

In the case of asylum, for example, feminist discourse has enabled claims drawing attention to and challenging the male bias embedded in the terms for arguing persecution and gaining asylum. As Paula Abrams notes, the problem with US asylum law is that, “according to the BIA, a finding of persecution requires evidence of an individualized threat, not merely evidence of general oppression” (2000, 885). Arguing that coercive population control policies like China’s One Child should provide grounds for asylum on the basis of violation of human rights to reproductive self-determination, Abrams notes that asylum laws do not protect women because their experiences of rights violations tend to arise out of general state policies that are informed by, and uphold, patriarchal cultural attitudes and traditions. In the case of the One Child, claimants had to argue their targeting as individuals by government officials, rather than the generally coercive nature of the policy as grounds for asylum. The point that Abrams explores is also evident in the legal precedents
set by *Fatin* (12 F.3d 1233), *Sharif* (87 F. 3rd 932), and other asylum cases featuring Muslim women claiming persecution on the basis of their “western” (and feminist) ideas.

As Judge Alito’s remarks regarding Fatin’s appeal case illustrate, even while feminism could be regarded as a political opinion for which certain women might face the threat of persecution, the general policies of gender-specific dress codes were not enough to win asylum. Fatin needed to prove that the Islamic Iranian government targeted her as an individual feminist, rather than as a Muslim woman in general. Attempting to address both the issue of cultural particularity and the universal condition of patriarchy – a condition that might not manifest in state sanctioned persecution against individual women – feminist strategies in response to these asylum cases have shifted to focusing on redefining the parameters of what counts as persecution. One notable claim, for instance, has been to argue that certain cultures of patriarchy commit gross violations of women’s human rights, and this amounts to persecution, even if there is no individual state action that threatens the life of the woman (for example, Binder 2001). Feminist strategies toward asylum laws have generally argued the need for asylum to be more inclusive of the gender-specific experiences of women as a social group oppressed by cultures of patriarchy. Asylum cases involving female claimants arguing their violation of women’s human rights have attempted to argue that state inactivity towards individual men’s (brother’s, father’s, husband’s) violent practices amount to persecution.
because, in ignoring these individual men’s “bad” behavior, the state condones a culture of patriarchal violence (see for example Binder 2001; Shapiro 2000). Legal scholars like Pamela Goldberg (1993) argue that a state’s failure to protect women from violent acts amounts to state persecution, since, by failing to legislate and enforce laws that protect women, the state is in effect sustaining a culture of patriarchy that violates/ignores women’s human rights.

That these claims are made in the realm of US asylum law has the effect of reifying constructions of other places (not the US) as behind in their failure to address cultures of patriarchy that provide their Other women no means of legal recourse or protection in their Other culture. The extent to which these different cultures of patriarchy are seen as requiring outside engagement varies – for Southeast Asia, the deviance is abhorrent enough to require the salvation of its women from outside, but not so abhorrent that, like certain Muslim nations, need US (military) intervention and occupation. In the case of Southeast Asia and its cultural practices that enable sex trafficking, it is enough for the US to ask for more legislation and policing. With the case of Muslim particularity, a physical US presence is necessary to ensure feminist and human rights (moral) values. Chinese-ness, on the other hand, while plagued by its (largely rural) traditionalism, is constructed as a particularity able to be corrected with enough geographical and cultural distance.

In all three cases, however, the (neo)colonial privilege and “western gaze” continue to operate in defining what counts as women’s human rights and
who can be saved from violations. This is because, while providing a strategy for feminist discourse, the idea of a universal patriarchal oppression differently expressed and experienced according to culture, does not address, because it deploys, the fundamental problem of universality and human rights itself. As natural rights that uphold notions of universality (however defined), human rights is always already a site productive of modern/colonial power – the very relations of power that produce difference as an “affectable consciousness” and “minor transparent ‘I.’” Human rights operates as a site through which both the production of modern power and its global (social) conditions have reconfigured the (discursive) terms through which we engage, envision, and articulate. For example, the recuperation of critiques of the exclusionary nature of universal principles of human rights through the inclusion of Other women’s voices – their “evidence of experience” – has enabled claims that those (exclusionary) practices defining modern power, like racism, orientalism, euro-centrism, androcentrism, are no more. This inclusion, while addressing an effect of modern power, elides its other, less tangible effects – that is, inclusion does not dismantle the epistemic relations of power circumscribing how and with what language we can engage with the social/symbolic or representational conditions of difference.

In other words, including the Other woman’s voice – indeed, letting her speak for herself – does not in and of itself remedy the troubling operations of modern power and its production of difference. This is nowhere clearer than in
Harriet Logan’s (2002) book, where Logan allows Afghan women speak for themselves. The book, while comprised mainly of transcriptions of her interviews with Afghan women, nonetheless prescribes and establishes the parameters circumscribing the reader’s understanding of the Afghan women’s words. That is, the very organizational strategies, Logan’s introductory statements, the photos, and so on of the book produce a meta-narrative – boundaries, if you will – that already circumscribe how the Afghan women’s words can be read. Though Logan’s book cannot be taken as an analogy, it can perhaps be understood as an allegorical example of the (discursive) troubles of human rights, despite the “feminist” interventions that draw attention to human rights andro- and euro-centrism. Even while the Third World/non-western/Other woman has been included into the folds of human rights as speaking subjects, the discourse of (women’s) human rights nonetheless reifies those troubling significations of their difference (for instance, their difference as backward or amoral) that their inclusion is supposed to remedy.

While the recognition of asylum law’s and women’s human rights’ privileging of the individual has been useful in establishing the liberal, Lockeans assumptions through which human rights are constituted, what I argue remains generally un-addressed in women’s human rights discourse is the extent to which human rights, as a productive site of modern power, can be a tool of critiquing these very operations of power, and to what extent feminist discourse can and should attempt to save (by transforming) human rights. Attentive to the
limits of universal claims, scholars like Coomaraswamy, Khan and Desai have admirably attempted to reconceptualize human rights in a manner that addresses the tension between universality and particularity. That is, recognizing that universalizing claims of human rights have (in the past) and can be (in the present) restrictive and destructive of cultural difference, even while arguing the truth of patriarchy and violence against all women, many self-identified feminist scholars argue the need for “a common understanding of the need to confront issues of cultural relativism in a united way” (Coomaraswamy 2002, 16). For Coomaraswamy and others, there is a need to “come together” as women in order to address “the tension between cultural relativism and universal feminism” so that work toward abolishing patriarchal privilege can be addressed in all contexts.

The strategy for resolving this tension between the desire for universal principles that at the same time accommodate cultural particularity thus often involves dialogue and translation: “What we need today is internal dialogue, first among women in third world societies and then between the women and the larger community. Outsiders must promote and aid this dialogue, giving their support so that such a dialogue is open, rich, and transformative” (Coomaraswamy 2002, 16). What such calls for translation miss is that the problem of universal human rights and the difference/particularity needing to be recognized/included is a problem that exists before translation. That is, the problem of human rights as a claim to universality that both disavows and
produces difference/particularity requires unpacking the epistemic conditions of the production of universality itself. Translation and dialogue – between the “internal” community of “women in the third world” and the “outsiders” of the “larger community” – does not interrogate the conditions of universality; translation simply (re)enacts those conditions through the inclusion of some particularity at the cost of others.

Even within the scope of asylum law, this notion of including the speech of Others as the first step towards addressing the problem of universality, human rights, and “universal feminism’s” inattentiveness to cultural particularity is suggested as a means to remedy the (prior) problems of asylum law’s gender and culture bias. For instance, with regard to the issue of granting asylum to Chinese citizens fleeing the One Child policy, E. Tobin Shiers suggests amending asylum proceedings to allow for a conscientious objector clause, where the “conscientious objector to forced sterilization object to the means chosen by the government to advance its otherwise legitimate ends (1031) … Rather than stretching the political asylum provision beyond its meaning, the present Congress should add the ‘moral conviction’ and ‘valid reasons of conscience’ basis to the current list of grounds for refugee status for the persecuted” (1990, 1032). For Shiers, taking claimants moral beliefs seriously by allowing them to speak their minds (so to speak), allows the asylum provisions to transform and change with the context of each case. Similarly, Desai notes that courts simply need to accept that one woman’s experiences of
persecution should be read as a valid construction of a “particular social group.” That is, for Desai, the courts should grant asylum claims according to the “individual woman’s voice” that argues her membership, for instance “as Afghan women who oppose the effects of the Taliban’s practice of Islamic law upon their bodies and minds,” in a particular social group (1999, 842). This way, the court protects women’s choices to adhere to “feminist” ideals. Like Shiers’ suggestion, the moral capacities of the claimants would provide the grounds for asylum.

While these suggestions for amending the troubles of human rights and asylum laws are laudable, they are limited by their very desire to hold on to the notion of universality itself. Universality is constituted by the very particularities it produces. Yet it must also resolve/disavow these particularities in order to maintain its power and legitimacy as universal. Thus, the inclusion and recognition of particularity does not necessarily remedy the conundrum of universality, it simply acts out its foundational contradiction. The inclusion of Other women’s voices into the folds of human rights, while holding the possibility of revealing this contradiction, nonetheless elides addressing the fact that the very notion of universality itself always already produces her difference/as different – and this production of difference is what is fundamentally vexing because attempts to address the effects of difference never seem to dismantle its production. For example, if we return once again to the strategy of “internal dialogue” within the scope of a broader “global dialogue”
we see that while this internal/external dialogue can change the meaning of the terms, it does not address the terms themselves. Thus, while Coomaraswamy notes the importance of “outsiders” to promote “internal dialogue,” this strategy does not address the inherent privilege at work. Why is it that outsider’s – noted to as the non-third world – responsibilities are only to listen to the results of the work performed by those participating in this “internal dialogue?” As many US feminists of color pointed out, the very act of asking white women to listen to/include Other women into women’s studies and feminist discourse relies on and reifies the privileging of whiteness.

Furthermore, the claim to universality is central to the constituting the power of the modern, and like the Law (which is also a constitutive site of modern power), universality operates on a myth. That universality is both constituted by, yet seeking to usurp the particular provides the conditions of its mythological nature. And while the speaking Other can gesture to this fact and even threaten to expose it, her act of speech, in and of itself, does not guarantee any dismantling of the contradictory and mythological conditions of universality, which are constitutive of the modern narrative. Thus, while the inclusion of the speaking Other can transform to some extent the discursive parameters circumscribing the very condition of speech, this does not necessarily equate to the dismantling of the troubling conditions under which her difference is constituted. For example, in her co-authored book Playing With Fire: Feminist Thought And Activism Through Seven Lives In India –
collection of essays by herself and six other women of the collective, Sangtin Yatra – Richa Nagar (2006) recounts how the Hindi publication of the book elicited angry responses from their NGO sponsor because, according to the NGO, the authors neither acknowledged nor attributed their (feminist, activist) work to the NGO and because the narratives the essays recounted, of working through their differences and exploring what it means to be women and feminists, did not reproduce the kind of (feminist) narrative or language the NGO deemed proper. The fact that for the book’s English publication Nagar reflects on what this negative response from the NGO might reveal as to the conditions of knowledge production, and also simply the concerns articulated by the NGO themselves, expose how these speaking subjects were able to reveal the fact that discursive parameters always already circumscribe their speech. And while invaluable and necessary, I argue that this work also needs to be accompanied by work that delineates and deconstructs the conditions and operations of power that enable those discursive parameters.

The “evidence of experience” and inclusion of the speaking Other are strategies of critique that are limited by their own reproduction and investment in the very assumptions constituting that which they attempt to critique – notably, assumptions regarding the subject as a self-determined “I.” Similarly, (women’s) human rights, as a site of modern power, are limited in the extent to which they can be “outside” modern power. Given these limitations, given the very limited scope of even those attempts to address the fundamental trouble of
human rights as a site reproducing the very (neo)colonial, western privilege it
hopes to be “beyond” (by including the particularity of the Other), is it possible
to save human rights? Can human rights still provide what is necessary for a
critical engagement of the very operations of power that constitute it? While the
intent of this project was to simply engage with these questions, and not to
provide any definitive answer to them, I hope that the work at least suggests that
whether or not human rights can be saved/is worth saving, we need first to see it
as un-savable before we can even consider saving it.
References


----- 1994. *In the court of women II: Asia tribunal on women’s human rights in Tokyo*. Manila, Philippines: AWHRC.


Darraj, Susan Muaddi. 2002. Understanding the other sister: The case of Arab feminism. In Reed. 165-175.


Hull, Gloria T., Patricia Bell Scott and Barbara Smith, eds. 1982. *All the women are white, all the men are black, but some of us are brave: Black women’s studies*. Old Westbury: The Feminist Press.


----- Beijing +5: Beginning and ending with women’s human rights. In Meillon. 2-7.


Moghadam, Valentine M. 2002. The two faces of Iran: Women’s activism, the reform movement, and the Islamic republic. In Reed. 91-103.


Murray, Alison. 1998. Debt-bondage and trafficking: Don’t believe the hype. In Kempadoo and Doezena. 51-64.


Parastoo Fatin v. Immigration and Naturalization Service. 12 F.3d 1233 (3rd Cir. 1993).


Soroya Sharif v Immigration and Naturalization Service. 87 F. 3rd 932 (7th Cir. 1996).


