

EXPLOITATION UNDER ERASURE: ECONOMIC, SOCIAL AND CULTURAL RIGHTS ENGAGE ECONOMIC GLOBALISATION

[I]t might be pointed out that, whereas Lehman Brothers, thanks to computers, “earned about \$2 million for ... 15 minutes work,” the entire economic text would not be what it is if it could not write itself as a palimpsest upon another text where a woman in Sri Lanka has to work 2,287 minutes to buy a t-shirt. The “post-modern” and “pre-modern” are inscribed together.¹

WHITE FEMINISTS AND HUMAN RIGHTS DISCOURSE

In the closing paragraphs of the final chapter of *The Alchemy of Race and Rights*² Patricia Williams moors a story about being jostled from the footpath into the gutter by a group of loping, white adolescent basketball players. Responding:

[i]n a thoughtless instant I snatched off my brown silk headrag, my flag of African femininity and propriety, my sign of meek and supplicatory place and presentation. I released the armoured rage of my short nappy hair ... and hissed “Don’t I exist for you? See me! And deflect, godammit!”³

Williams’ demand goes unheeded: “[t]hey gave me wide berth. They clearly had no idea that I was talking to them or about them.” It is only when Williams clothes her body in the discourse of rights that the white boys recognise her gaze, albeit diffidently, and permit her active participation into their economy. “I stood tall and spoke loudly into their ranks: ‘I

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1 Spivak, *In Other Worlds: Essays in Cultural Politics* (Routledge, New York 1988) p171.

2 Williams, *The Alchemy of Race and Rights* (Harvard University Press, Cambridge, Mass. 1991).

3 At p235.

have my rights!' The Dartmouth Summer Basketball Camp raised its collective eyebrows and exhaled, with a certain tested nobility of exhaustion and solidarity."⁴

Williams' staging of this slippage between the response of the white boys to her hissing anger and her tall-standing declaration of rights is offered as a "gift of intelligent rage". This gift is a reiteration in the text's final moments of Williams' complicated commitment to rights discourse as a useful political conduit, the value of which lies in its operation as a standard mediating the entry of oppressed social groups into the dominant social economy, "the magic wand of visibility and invisibility, of inclusion and exclusion, of power and no power".⁵

The eloquence of the argument circling Williams' "gift of intelligent rage" is highly compelling and consequently is often exercised by defenders of rights discourse to trump critics. For example, in her ground-breaking work on feminist analysis of international law, Hilary Charlesworth summons the "immense alchemical fire" which breathed life into the United States Black civil rights movement to fuel feminist interventions into international human rights discourse,⁶ interventions which have met with a surprising level of formal success.⁷ However, whilst fully acknowledging the strategic importance of such actions, I am not at all convinced that, as a white feminist scholar in a colonised country, my subject position in a paper concerning human rights should inscribe, *sans question*, the position of a Black American feminist. This intellectual move seems a little too amnesic that the gift Williams' presents to her reader is bound up with the heavily taxed concept of

4 At pp235-236.

5 At p164. Williams' thesis is partially produced in response to the broadly Marxist critique of the Critical Legal Studies (CLS) movement that rights discourse fails to facilitate a liberatory agenda. See Tushnet, "An Essay on Rights" (1982) 62 *U Tex L Rev* 1386. For Williams, announcing the disutility of rights discourse *per se*, places the CLS critique within an (at least) race-blind political field and the promise offered by rights is the possibility, even rhetorically, of bounded autonomy.

6 After quoting Williams, Charlesworth notes that "[t]he empowering function of rights discourse for women, particularly in the international sphere where we are still almost completely invisible, is a crucial aspect of its value." Charlesworth, "What are 'Women's International Human Rights'?" in Cook (ed), *Human Rights of Women: National and International Perspectives* (University of Pennsylvania Press, Philadelphia 1994) p61.

7 After years of struggle, feminist activists succeeded in having the human rights of women and the girl-child named as an "inalienable, integral and indivisible part of universal human rights" in paragraph 18 of the Vienna Declaration and Programme of Action 1993, the agreed document from the World Conference on Human Rights. This followed the success of securing the issue of violence against women being deemed worthy of human rights interest in the 1993 General Assembly Declaration on the Elimination of Violence Against Women (A/Res/48/104), and a UN Special Rapporteur on violence against women being appointed. For an analysis of the precarious status of violence against women as a violation of women's human rights, see Otto, "Violence Against Women - Something Other Than A Violation of Human Rights?" (1993) 1 *Aust Feminist LJ* 159.

difference.⁸ In the twilight of the post-modern age, discussions of difference should not merely engender a reverential nod at what are termed “different voices” but should compel critique of the way in which difference is generated as oppression, what its production authorises and what it excludes.

One way to begin revealing what the discourse of human rights excludes might be to review the initial body figured by Williams in her story, the hissing body armoured with short nappy hair, which demands the gaze of the white college boys, but cannot be seen. As psychoanalysis has taught us, the concept of the gaze is not a matter of indifference but signifies a complicated apparatus through which difference is negotiated and valued within Western communities.⁹ According to psychoanalysis, from the point of view of the hegemonic subject (male, white, heterosexual, middle-class), difference, particularly sexual difference, is (mis)recognised as the absence of a coherent, reflective self. Fearful of this perceived absence, the hegemonic subject, or more precisely the dominant ideology, scripts and repudiates “the other’s” difference as loss, a no-thing, and attempts to repudiate any association with this loss by creating a homosocial economy. Paradoxically, however, the “no-thing” of the other is in fact the pivotal thing, as it is its perceived incoherence which shores up the hegemonic subject’s sense of coherence. According to this logic of symbiosis, the very existence of the incoherent other operates as a constant threat to the hegemonic subject, a threat which must be persistently kept in check through the repudiation of the other.¹⁰

Williams’ story coincides with this psychoanalytic schema. Displacing her meek and supplicatory body with a body displaying the armoured rage of short nappy hair, the unmistakable sign of a powerful Black woman, Williams attempts to wrench the white boys’ recognition of her from an absence which can, without reflection, be railroaded into the gutter to that of an active and legitimate subject, recognisable within their public economy. However Williams’ transgression from the meek and slave-like “object of property” to a powerful Black, gendered subject only allows her to switch from a site of invisibility to one of inscrutability (“[t]hey gave me wide berth. They clearly had no idea I was talking to them”). It is the status of this inscrutable body as excessive which alerts the reader to what must be feared, colonised and submerged in order for Williams’ final body, clothed in the discourse of human rights, to become visible and valuable within the white adolescent’s homosocial economy.

8 As above, fn 5. The concept of “difference” has become somewhat of a synecdoche within Western feminist intellectual production for the enabling crisis presented by the teachings of many Third World women and certain strands of rigorous post-structuralism. For a cogent discussion of this see Spivak, *In Other Worlds: Essays in Cultural Politics*, pp134-153.

9 See Grosz, *Sexual Subversions: Three French Feminists* (Allen & Unwin, Sydney 1989).

10 For example, through its analysis of the feminine subject as the “incoherent other” which is persistently encroaching on the “bounded” masculine subject, Lacanian psychoanalysis offers a useful explanation for the psycho-social dynamics of the violent repudiation of women within Western societies through sexual violence. As above, pp126-137.

As writers such as Gayatri Chakravorty Spivak¹¹ and Edward Said¹² have elaborated, the psychoanalytic schema of subjectivity is both produced by, and reflective of, a more general ideological drive of Eurocentric imperialism, the “civilising” urge which operates along the differential of constructing particular groups of peoples as disorderly, excessive, primitive, other, and in doing so secures a construct of “the West” as rational, enlightened, powerful. If, as Anour Abdel-Malek suggests “contemporary imperialism, is, in a real sense, a hegemonic imperialism”¹³ then it is from this perspective that my “I” would reconstellate the economy in which Williams’ is circulating her gift. For, as compelling as I find Williams’ argument, I am equally convinced that the potential for international human rights discourse to be manipulated as a vehicle for Western imperialist hegemony is immense and not to be trifled with.¹⁴ Underpinned by a history of Western legal-political values, constitutionally forced to negotiate the difference between “international” and “universalising”, human rights discourse, as Williams asserts, also occupies the perilous position of keeper of the “magic wand” of “invisibility and visibility” of the disenfranchised. One consequence for those controlling such a powerful magic wand is the urge to occupy the inescapably civilising position of “saviour of the oppressed”.¹⁵

It is, I think, the coalescence of these concerns which renders the invocation of human rights discourse vulnerable to a particular brand of imperialism, what Spivak curtly names benevolent colonialism.¹⁶ White feminists have persistently attracted the charge of benevolent colonialism by engaging in analytic practices which assume that the networks of power operating on the bodies of women are continuous and can be analysed by reference to universal frameworks. By writing out the specificity of other women, the Northern feminist scholar is inevitably secured as the subject of her own investigations, foreclosing the possibility of a political analysis which effectively responds to specific forms of other women’s oppression.¹⁷

11 Spivak, *In Other Worlds: Essays in Cultural Politics* pp134-153.

12 Said, *Orientalism* (Pantheon Books, New York 1978).

13 Abdel-Malek, *Social Dialectics: Nation and Revolution* (State University of New York Press, Albany 1981) p145 cited in Mohanty, “Under Western Eyes: Feminist Scholarship and Colonial Discourse” (1984) 12(3) *boundary 2* 333 at 335.

14 For an analysis of the relationships between human rights and imperialism within the context of international collective security see Orford, “The Politics of Collective Security” (1996) 17 *Mich J Int’l L* 373; Orford, “The Uses of Sovereignty in the New Imperial Order” (1996) 6 *Aust Feminist LJ* 63.

15 For example, the preamble to the *Universal Declaration on Human Rights* has an implicit civilising urge: “[w]hereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind”: GA Res 217A(III), 10 December 1948.

16 Spivak, *In Other Worlds: Essays in Cultural Politics* p179.

17 Adrian Howe suggests key feminist approaches to international law are travelling the benevolent colonialist route. See Howe, “White Western Feminism Meets International Law: Challenges/Complicity, Erasures/Encounter” (1995) 4 *Aust Feminist LJ* 63.

How, then, does a white feminist engage responsibly with the discourse of international human rights without inadvertently authorising the sovereignty of the Northern subject? In the spirit of Chandra Talpade Mohanty's wry condemnation "[s]isterhood cannot be assumed on the basis of gender; it must be forged in concrete, historical and political practice and analysis",¹⁸ I will take as my analytic opening the space between the two 1995 international women's conferences in Beijing, the Non Government Organisation Forum on Women and the United Nations Fourth World Conference on Women.¹⁹ What I heard passionately repeated like a mantra from many feminist networks of the South and a few from the North was that the critical issues which activist feminists must urgently address were the increasing globalisation of the economy, the unbridled power of trans-national corporations (TNCs) and the recolonising effects of international institutions and agreements such as the World Bank, the International Monetary Fund (IMF) and, most particularly, the Uruguay Round of the General Agreement on Trade and Tariffs (GATT).²⁰ Only within this global economic web could other conference themes (governance, peace, human rights, personal violence) be meaningfully mapped.

The economy of the United Nations (UN) conference, however, could not afford such gifts of intelligent rage. Although the Platform for Action's areas of critical concern relating to poverty and the economy refer to the unequal impact on women of programs of international financial institutions and economic globalisation, the genesis of this inequality is not assigned to multinational capitalism nor the global imbalance of wealth. As Dianne Otto notes, the problem for poor women is characterised as liberal capitalism's *bête noir*, lack of equal access and opportunity, nothing that a bit of targeted credit, business training and entrepreneurialship won't cure.²¹ In a Platform of 361 paragraphs, references to TNCs are negligible and to my knowledge the GATT is not mentioned at all.

Keeping in mind that the UN conference followed hot on the heels of the rhetorical ascension of women's human rights as key international concerns,²² how is one to evaluate the distance between the two conferences through a human rights lens whilst avoiding the duplicity of benevolent colonialism?

18 Mohanty, "Under Western Eyes: Feminist Scholarship and Colonial Discourse" (1984) 12 *boundary* 2 333 at 339.

19 I attended the Forum in my personal capacity. Unlike the UN Conference, the NGO Forum was not geared towards producing an agreed Platform for Action, so that my narration of "what happened" as an attendee is even more personally circumscribed than theoretical manoeuvres would usually produce.

20 Groups articulating these concerns included: Development Alternatives with Women for a New Era (DAWN); Indigenous Women's Network; Grassroots Organisations Operating Together in Sisterhood; Council for Economic Empowerment of Women in Africa; Women's Environment Development Organisation (WEDO); International Association for Feminist Economics; Asian Women's Human Rights Council.

21 Otto, "Holding Up Half the Sky, But for Whose Benefit?: A Critical Analysis of the Fourth World Conference on Women" (1996) 6 *Aust Feminist LJ* 7.

22 As above, fn 7.

Spivak proposes one possible analytical framework in her complex analysis of the generation of "value" in critical scholarship.²³ Spivak asserts that there are two mutually exclusive ways in which one can predicate the subject of a scholarly investigation. One is the "idealist" predication of the subject which, nurtured from the liberal humanist tradition, places the defining feature of the subject as "consciousness", where consciousness is not thought but is bound up with notions of the subject's intention towards the world. Analytical work from this perspective engages in evaluating the ways in which certain ideological positions which structure one's relationship to the world operate to exclude other positions and how such exclusion establishes structures of *domination*.²⁴

The other possible predication of the subject, which is rarely attended to in critical scholarship, is the "materialist" predication which, from the Marxist tradition, asserts that the defining feature of the subject is "labour power". It was Marx's fundamental insight into the nature of capitalism that "labour power" is not work (labour) but the ability of a person to create value which is greater than the value the labour cost that person (hence the dynamic of profit).²⁵ A focus on the subject as labour power would entail an investigation of issues concerning the dynamic of *exploitation* in the creation of "value", rather than a focus on domination. Urging critical scholarship to take such a focus, Spivak remarks that such a theoretical move would create a persistent undoing of the role of exploitation in what is deemed *valuable* in the production of consciousness and culture.²⁶ As she carefully points out, this methodology is not an "embarrassing economic determinism", but rather a putting of the "economic text 'under erasure', to see, that is, the unavoidable and pervasive *importance* of its operation and yet to question it as a concept of the *last resort*".²⁷

Taking my cue from Spivak, I would like to respond to the space between the two conferences by considering a materialist predication of the subject of international economic, social and cultural rights, the most likely bundle of human rights relevant to the macroeconomic issues raised at the NGO Forum. In order to rope off a field of inquiry, I wish to investigate how a series of reports authorised by key UN bodies produce economic, social and cultural rights within the light of economic globalisation. First, however, I would like to map out the meaning of economic globalisation as presented at the NGO Forum by the women of the South.

23 For a detailed exposition of Spivak's analysis of the question of "value", see Spivak, *In Other Worlds: Essays in Cultural Politics* pp 154-175; Spivak, *Outside in the Teaching Machine* (Routledge, New York 1993) pp53-76.

24 For example, the argument that rape results from uncontrollable hormonal urges excludes the feminist analysis that rape is an issue of power and that naturalising such power permits such domination to continue.

25 Marx, *Capital* Vol 1, Moore & Aveling (trans), (Progress Publishers, Moscow 1954) pp43-87.

26 Spivak, *In Other Worlds: Essays in Cultural Politics* pp154-175.

27 At 168. Emphasis original.

ECONOMIC GLOBALISATION

The glossy phrase “economic globalisation” generally refers to the current, unprecedented expansion of multinational capitalism throughout the globe, the free market ethos no longer fettered by state socialist blockage. The subjects of this increasing economic integration are TNCs, operating primarily through foreign direct investment in private industry, chiefly agriculture, pharmaceuticals, arms and increasingly services and telecommunications.²⁸ Through monopolistic strategies of mergers, acquisitions and alliances and through intrafirm transactions, TNCs wield immense and highly concentrated control over global assets and international trade,²⁹ with the vast majority of key TNCs residing in a few industrialised countries.³⁰ This exponential blossoming of TNCs winds through a range of factors. The entangling by Northern financial institutions of many Southern countries in the mire of foreign debt during the 1970s and the subsequent Structural Adjustment Programs (SAPs) of the IMF and the World Bank, forced on many Southern (and to a lesser degree Northern) countries a strictly free market economy amenable to TNCs based on minimised Government social services, deregulation, privatisation and export production.³¹ The “technological revolution”, via areas such as microelectronics, biotechnology and communications, has also significantly altered patterns of production in ways enabling of global capital.³²

The effects of economic globalisation are enormous and only a few effects can be mentioned here. Globalisation has further entrenched the reign of North/South inequality and the deprivation, starvation and death wrought on many Southern countries by SAPs.³³ TNCs’ vast economic reach has undermined the power of many States vis-a-vis investment requirements, a position which has a cascading effect on State power in relation to the

28 *Background Document Prepared by the Secretary-General on The Relationship Between the Enjoyment of Human Rights, in Particular International Labor and Trade Union Rights, and the Working Methods and Activities of Transnational Corporations* E/CN.4/Sub.2/1995/11 p4.

29 At p11. The Secretary-General notes that “[i]ntrafirm transactions, which account for 40 per cent of world trade, give TNCs the possibility to exploit price differentials around the world and set prices as global oligopolies.”

30 At p2. The Secretary-General notes that “of the 100 largest TNCs, 53 are located in Western Europe, 27 in the United States and 14 in Japan”.

31 There is a wealth of writing in this area. For a general overview, see Bello, *Dark Victory: The United States, Structural Adjustment and Global Poverty* (Pluto Press, London 1994); George, *A Fate Worse Than Debt* (Penguin, Harmondsworth 1988); George, *The Debt Boomerang* (Pluto Press, London 1992).

32 Development Alternatives with Women for a New Era (DAWN), *Markers on the Way: The DAWN Debates on Alternative Development* (DAWN, Barbados 1995) pp5-6 which discusses the role of integrated computer technology, global communication systems and genetic technology in furthering the reach and control of TNCs.

33 As above, fns 28 and 32.

provision of social services, industrial relations and general economic management.³⁴ Through economic might, locational flexibility and subcontracting, the quality of employment offered by TNCs is often precarious, repetitive, and operates in oppressive and abusive conditions.³⁵ Notwithstanding TNCs' concentration of economic power, their operational practices have created a decreasing spiral of employment opportunities, affecting unemployment world wide and often decimating local industry.³⁶ Outside of the economic frame, the poverty and inequality bolstered by globalisation can be linked to the growth of transnational trafficking in women and children and a rise in fundamentalist, patriarchal forces,³⁷ scripting violence in the name of "the nation" in the wake of a failed "decolonisation".³⁸

Institutional mechanisms to facilitate the power of TNCs coalesced in the Uruguay Round of the GATT³⁹ described as:

concerted efforts on the part of the developed countries to reshape the existing international trading system [to] promote maximum freedom of TNCs to operate world-wide.⁴⁰

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- 34 *Background Document Prepared by the Secretary-General on The Relationship Between the Enjoyment of Human Rights, in Particular International Labor and Trade Union Rights, and the Working Methods and Activities of Transnational Corporations* pp20-33. At p15 the Secretary-General notes that trade union power has been specifically undermined through either non-union preferences for employees or government prohibitions on union activity, particularly in Export Processing Zones.
- 35 See as above pp20-33. These conditions do not merely prevail in the South, but are clearly operating in the North in situations such as textile homework.
- 36 As above, fn 34; Development Alternatives with Women for a New Era (DAWN), *Markers on the Way: The DAWN Debates on Alternative Development* p6; and *Background Document Prepared by the Secretary-General on The Relationship Between the Enjoyment of Human Rights, in Particular International Labor and Trade Union Rights, and the Working Methods and Activities of Transnational Corporations* p26. For example, TNCs' switch of focus to low labour intensive services industry, their practice of mergers and acquisitions which result in operational closures and an increase in speculative trading, which has a destabilising effect on employment.
- 37 Development Alternatives with Women for a New Era (DAWN), *Markers on the Way: The DAWN Debates on Alternative Development* p7.
- 38 Spivak, "Supplementing Marxism" in Magnus & Cullenberg (eds), *Whither Marxism? Global Crises in International Perspective* (Routledge, New York 1995) p114.
- 39 The Uruguay Round was the eighth in a series of multilateral trade agreements aimed at encouraging international trade through the reduction of tariff and non-tariff restrictions on imports. For a detailed analysis of the interests at stake in this Round, see Raghavan, *Recolonisation: GATT, the Uruguay Round and the Third World* (Zed Books, London 1990).
- 40 Saigal, "Why Fear Free Trade in Services?" (1986) 21 *Economic and Political Weekly* 551 at 552, cited in Raghavan, *Recolonisation: GATT, the Uruguay Round and the Third World* p44. At p74 Raghavan notes that part of the reason the US pushed so hard for the Uruguay Round was the demand of TNCs for increased deregulation in their new investment areas of services and telecommunications.

The Uruguay Round prised apart traditional definitions of property related trade, and authorised hard core, deregulation policies in the areas of services (including finance, communications), trade-related investment measures (domestic laws on foreign ownership) and trade-related intellectual property rights (TRIPs), all of which are enmeshed with the priorities of TNCs. Negotiations were opaque and occurred with little informed input from the South.⁴¹ The role of TNCs in the TRIPs agreement is particularly informative. Discussing the input of thirteen key United States TNCs (including General Electric, General Motors, Hewlett Packard, Monsanto, IBM and Johnson & Johnson) in brokering the main aspects of the agreement, James Enyart of Monsanto proudly remarked:

[w]e went to Geneva where we presented [our] document to the staff of the GATT Secretariat. What I have described to you is absolutely unprecedented in GATT. Industry has identified a major problem in international trade. It crafted a solution, reduced it to a concrete proposal and sold it to our own and other Governments. ... The industries and traders of world commerce have played simultaneously the role of patients, the diagnosticians and the prescribing physicians.⁴²

Although exercising little agency over outcomes, the effects on the South of the Uruguay Round of the GATT are immense and have precipitated what Chakravarthi Raghavan has characterised as the South's recolonisation.⁴³

More profoundly, however, the measures relating particularly to TRIPs reach far beyond issues of trade agreements: permitting patenting on biodiversity, including the possibility of human genetic material,⁴⁴ summons foundational ethical questions of human rights.⁴⁵

41 At pp62-65 Raghavan notes this was due to the South's weak collective bargaining position during negotiations (due to the use of individualised forms of discussions), the South's inability to resource a sufficiently high level of economic staff and the general opacity within the media of the substance of the Round.

42 Enyart, "A GATT Intellectual Property Code" *Les Nouvelles* June 1990 pp54-56, cited in Women's Environment Development Organisation, *Who Owns Knowledge? Who Owns the Earth? Intellectual Property Rights and Biodiversity Under the New GATT and World Trade Organisation* (Monograph, 1995) p2.

43 As above, fn 39. Part of this recolonisation is the acceleration of the flow of resources from the South to the North. See Raghavan, "\$200 billion gain from Uruguay Round: Fact and Fiction" (1993) 29/30 *Third World Resurgence* 42.

44 Although the TRIPs Agreement permits countries to generally exclude from patentability plants and animals, this provision is to be reviewed every four years after the establishment of the World Trade Organisation and commentators suggest that "the USA can be expected to exercise pressure ... for the inclusion of a requirement of patentability of life within the Agreement on TRIPs": Trebilcock & Howse, *The Regulation of International Trade* (Routledge, London 1995) p268.

45 Shiva, "The Effects of WTO on Women's Rights" (1995) 61/62 *Third World Resurgence* 52. For a general discussions of TRIPs and accusations of South "pirating" of trans-nationally owned resources see Raghavan, "Biopiracy Reaches New Heights" (1995) 63

To pick but one example, if a farmer eeking out a meagre existence must now pay a royalty to a Western based TNC on a seed saved from her own crop⁴⁶ because a history of industrial exploitation has placed the TNC in a position to "control" the seed (code for "historically control the labour power of the farming communities") then what is the meaning of the right to food? Is it not that food, and hence life, has become a private privilege for which these farmers must pay? And if a farmer must pay for life, not through a relation of exchange but within a legal cage where her living is in violation of a patent, then hasn't she been relegated to a status even more shadowy than the slave (the object of property) - an infringement on the object of property?

It is from the heart of this grim perspective that I would like to scrutinise the predication of the subject of economic, social and cultural rights.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Historically, the rights mapped in the International Covenant on Economic, Social and Cultural Rights (the Covenant) have been the human rights regime's shabby second cousin, forced to stumble along after the flash and bravado of civil and political rights.⁴⁷ However, with the fading of the Cold War, the age of economic, social and cultural rights has dawned, their indivisibility, interdependence and inter relationship with civil and political rights strongly affirmed in the 1993 Vienna Declaration and Program of Action.⁴⁸ Or so the story goes.

In order to plot the predication of the subject of these economic, social and cultural rights, I will consider eight reports submitted between 1989 and 1995 by three Special Rapporteurs to the Sub-Commission on the Prevention of Discrimination Against

Third World Resurgence 12 and Shiva, "Who are the Real Pirates?" (1995) 63 *Third World Resurgence* 16.

46 Shiva "Conflicts of Global Ecology: Environmental Activism in a Period of Global Reach" (1994) 19 *Alternatives* 195 at 204.

47 The Covenant entered into force on 3 January 1976 following the deposit of the 35th instrument of ratification. As at 30 June 1994, it had been ratified by 129 States. See Note by the Secretary-General, *States parties to the International Covenant on Economic, Social and Cultural Rights and Status of the Submission of Reports in Accordance with the Programme Established by the Economic and Social Council in Resolution 1988/4 and Rule 58 of the Rules of Procedure of the Committee* E/C.12/1994/2. For an overview of the history of the Covenant see Craven, *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development* (Clarendon Press, Oxford 1995) pp1-16. Unlike the *International Covenant on Civil and Political Rights*, the Covenant has no individual communications procedure and it had no effective supervisory body until 1986. See also Alston, "The Committee on Economic, Social and Cultural Rights" in Alston (ed), *The United Nations and Human Rights: A Critical Appraisal* (Clarendon Press, Oxford 1992) p473.

48 Operative paragraph 5. The Declaration is the agreed platform of the World Conference on Human Rights, held in Vienna 1993.

Minorities. These reports focus on the realisation of economic, social and cultural rights generally (the Turk Reports),⁴⁹ and specifically on income distribution (the Eide and the Bengoa Reports)⁵⁰ and extreme poverty (the Despouy Reports).⁵¹ These reports form a backdrop to most resolutions on economic, social and cultural rights in the Sub-Commission and in the Commission on Human Rights.⁵² Their generalist focus is more amenable to my investigation than other reports submitted to the Sub-Commission during this time⁵³ and they are not restrained by the State based reporting system of the Committee on Economic, Social and Cultural Rights. Consequently, by interrogating them, one can tease out certain themes currently circulating within the UN machinery on economic, social and cultural rights.

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- 49 *The Realisation of Economic, Social and Cultural Rights: Preliminary Report by Mr Daniel Turk* E/CN.4/Sub.2/1989/19 (herein cited as the Turk Report No 1); *The Realisation of Economic, Social and Cultural Rights: Progress Report by Mr Daniel Turk* E/CN.4/Sub.2/1990/19 (herein cited as the Turk Report No 2); *The Realisation of Economic, Social and Cultural Rights: Second Progress Report by Mr Daniel Turk* E/CN.4/Sub.2/1991/17 (herein cited as the Turk Report No 3); *The Realisation of Economic, Social and Cultural Rights: Final Report by Mr Daniel Turk* E/CN.4/Sub.2/1992/16 (herein cited as the Turk Report No 4).
- 50 *The Realisation of Economic, Social and Cultural Rights: Preparatory Document on the Relationship Between the Enjoyment of Human Rights, in Particular Economic, Social and Cultural Rights and Income Distribution, Prepared by Mr Asbjorn Eide* E/CN.4/Sub.2/1994/21 (herein cited as the Eide Report); *The Realisation of Economic, Social and Cultural Rights: Preliminary Report on the Relationship Between the Enjoyment of Human Rights, in Particular Economic, Social and Cultural Rights and Income Distribution, Prepared by Mr Jose Bengoa* E/CN.4/Sub.2/1995/14 (herein cited as the Bengoa Report).
- 51 *The Realisation of Economic, Social and Cultural Rights: Preliminary Report on Human Rights and Extreme Poverty Prepared by Mr Leandro Despouy* E/CN.4/Sub.2/1993/16 (herein cited as the Despouy Report No 1); *The Realisation of Economic, Social and Cultural Rights: Interim Report on Human Rights and Extreme Poverty Prepared by Mr Leandro Despouy* E/CN.4/Sub.2/1994/19 (herein cited as the Despouy Report No 2); *The Realisation of Economic, Social and Cultural Rights: Second Interim Report on Human Rights and Extreme Poverty Prepared by Mr Leandro Despouy* E/CN.4/Sub.2/1995/15 (herein cited as the Despouy Report No 3).
- 52 See the Commission on Human Rights resolutions concerning foreign debt and structural adjustment, for example E/CN.4/1995/176, and the forthcoming report of the 1996 session.
- 53 Other reports circulating in the past five years are: the reports of the Special Rapporteur on the right to adequate housing, for example *The Right to Adequate Housing: Final Report by Mr Rajindar Sachar*, E/CN.4/Sub.2/1995/12; *Secretary-General's Preliminary Report on Basic Policy Guidelines on Structural Adjustment Programs*, E/CN.4/Sub.2/1995/10; *Interim Report on Opposition to the Impunity of Perpetrators of Human Rights Violations (Economic, Social and Cultural Rights)* by Mr El Hadji Guisse, E/CN.4/Sub.2/1995/19; *Background Document Prepared by the Secretary-General on The Relationship Between the Enjoyment of Human Rights, in Particular International Labor and Trade Union Rights, and the Working Methods and Activities of Transnational Corporations*. These last three reports, although relevant, are only working papers and hence not particularly useful for analysis.

CAPITALISM, EQUALITY AND RIGHTS

In producing their subject of economic, social and cultural rights, a curious continuum in all eight reports is the silence surrounding the word “capitalism” which does not appear once. A typical example is the Turk Report’s list of factors “responsible for the painful state of affairs in which hundreds of millions of people ... are deprived of [their economic, social and cultural] rights”.⁵⁴ The key factors listed are directly linked to the cold face of multinational capitalism (debt, structural adjustment, income distribution, economic growth as a panacea) but “capitalism” itself is not permitted to appear. Jacques Derrida has suggested in a different context that the dazzling failure to name what is so crucial results from the need to posit an origin of society, an origin which must be sacred and hence need not be justified and cannot be revealed. Derrida writes:

So dangerous is this supplementarity that one can only show it indirectly, by means of the examples of certain effects derived from it. One can neither show it, nor name it as such, but only indicate it, by a silent movement of the finger.⁵⁵

The threat of “equality” circulates through the Turk, Eide and Bengoa Reports as one such effect. The Turk Report warns of the dangers of an “unqualified egalitarianism” which has “a very destimulating effect on the creation of wealth”⁵⁶ and Eide cautions that “[s]ome categories of ‘welfare’ measures ... may ... reduce creativity and productivity”.⁵⁷ The Bengoa Report is more blunt, blithely stating that although it is natural that all people aspire to the living standards of the West, these standards cannot be seen as a right.⁵⁸ The communist threat, lurking at the margins of these texts, is a threat to textbook capitalist economics: that “value” operates as a differential and that multinational investment requires an unequal international division of labour in order to keep a supply of relatively “cheap” labour in the South, the value of which is realised in, and profited from, in the North.⁵⁹

With “capitalism” all but safely under erasure, along with any reference to TNCs and one reference to GATT, the reports engage in a complex production of the Western humanist subject as subject of economic, social and cultural rights.

54 The Turk Report No 4 p11. Factors seen as meriting particular attention are structural adjustment, debt, income distribution, misconceptions of the state, economic growth as a panacea; privatising human rights; misguided visions of development; deficient political will; environmental devastation; military expenditure and armed conflict; dualistic views of human rights.

55 Derrida, *Of Grammatology*, Spivak (trans), (John Hopkins Press, Baltimore 1976) p266.

56 The Turk Report No 4 p10.

57 The Eide Report p6.

58 The Bengoa Report p12.

59 Spivak, *In Other Worlds: Essays in Cultural Politics* pp166-167.

ADJUSTING TO NATURE/NATURALISING ADJUSTMENT

The Turk Report provides a sustained analysis of the decimating effect of debt and SAPs in the South. In a section entitled “Who’s to blame?” the report initially hedges the question by naming “external factors combined with certain internal forces”⁶⁰ as the culprits. However, its final answer is “human beings”,⁶¹ thereby subsuming the entire international political economy which created SAPs into an unfortunate event of general human error. In a similar move, the Report’s warning against “[t]he current global embrace of the market”⁶² and the “flurry of many States romantically to embrace the market”⁶³ slides a political economy driven primarily by TNCs and selected Northern States into “the global” view. This globalising of a specific and local view erases the web of exploitative practices engineered to ensure that “there is no alternative” for States in the South but to forcibly embrace “free” market policies.

This construction of the “global view” most dangerously emerges in the Turk Report’s statement that there is “more or less general agreement” that some form of adjustment is necessary in the “vast majority of States, those of the South as well as the North”.⁶⁴ By slotting in a reference to the North, “adjustment” is naturalised as merely one of those realities dictated to all by the invisible economic hand. As the exploitation condensed and monumentalised in the seemingly scientific phrase “adjustment”⁶⁵ is rendered inevitable, the *communities* which this report tells us have been decimated by the effects of SAPs are rendered irrelevant to any agreement on their fate. Their views, no doubt, infringe on the property of others.

The solution is to craft adjustment “with a human face”, commensurable with incorporating human rights indicators of one sort or another. Although generally guarded about the World Bank’s recent conversion to poverty reduction and human rights,⁶⁶ the Turk Report sees as “visionary” the Bank’s efforts to reduce poverty through encouraging government expenditure on social services and providing safety nets for those “inevitably” disadvantaged by SAPs. Granting the World Bank an idealist predication, whose consciousness can now strive to reduce poverty, and submerging the materialist predication that the Bank’s *raison d’être* is profiteering for the Northern elite, the Bank can be positioned as the saviour of its own destructive effects. On the other side of the international division of labour, the physical and psychological violence of “adjustment” imperialism continues.

60 The Turk Report No 3 p21.

61 At p22.

62 The Turk Report No 4 p24..

63 At p27.

64 The Turk Report No 3 p22.

65 Spivak, *In Other Worlds: Essays in Cultural Politics* p169.

66 The Turk Report No 4 pp36-37.

INCOME SIMPLICITER

Spivak has noted that a paradox of humanist capitalism is that it tacitly makes its plans according to a materialist subject predication, whilst its official ideology offers the discourse of idealist humanism. One example of this manoeuvre is to exalt a fetishised concept of “money”, which people just naturally desire and value, whilst subverting the international division of labour which produces “money” as “valuable”.⁶⁷ The Eide and Bengoa Reports on income distribution take a similar route. The Reports wrench definitions of income distribution from “ideological debate and dogmatic fervour” (the text of international exploitation) and fetishise income distribution as a neutral measurement⁶⁸ of relative levels of “international equity”⁶⁹ (the contradiction between its neutrality and its relativity left unresolved). Inequalities of wealth are consequently addressed by appeals to humanist consciousness and glib universalism: “we live in an interconnected, globalized world ... and must therefore join together in solidarity”.⁷⁰

This dynamic continues in the explanations offered for income disparity. Although the Eide Report briefly refers to the negative impact of SAPs and unabated rural to urban migration in the South as relevant factors, the Report clearly states that income disparity is primarily caused by differential levels of North/South access to resources, technological progress, education, work force skills and managerial flexibility.⁷¹ By failing to analyse the reasons why such differential levels of resources exist vis-a-vis the international division of labour, the Report allows the North to be predicated through a humanist logic of “naturally” more advanced, educated and technologically proficient, its control of world resources a mark of such advancement. Conversely, the South’s lack of resources implicitly flows from the locals’ native backwardness. The historical text of imperialist expropriation, the statistics on the flow of resources from the South to the North⁷² and the effects of TNC capital flight are thereby erased.

Solutions can then be located within the benevolent discourse of aid, shoring up the North as “saviour” in its forging of “genuine international economic co-operation”.⁷³ Within this spirit of benevolence, the Turk and Eide Reports approvingly cite the World Bank’s formula for poverty reduction as making “productive use of the poor’s most abundant asset, labour”.⁷⁴ Possessing only labour power, the “poor” are predicated as the materialist subject par excellence. Their possibility of adjusting to a humanist predication is via education, which the Turk and Eide Reports and the World Bank see as critical in ensuring

67 Spivak, *In Other Worlds: Essays in Cultural Politics* p168.

68 The Eide Report p5.

69 The Bengoa Report p9.

70 As above.

71 The Eide Report pp16-17.

72 The Turk Report No 4 p19.

73 The Eide Report p17, citing the draft declaration and program of action for the World Summit for Social Development.

74 At p18; and see the Turk Report No 4 pp37-39.

disadvantaged groups “new opportunities [within adjusted economies] but also ... the means to exploit such opportunities”.⁷⁵ As “international co-operation” folds into the imperialist crisis strategy of using education as a key tool for ensuring capitalist circulation,⁷⁶ the World Bank’s oppressive political economy is again naturalised as a former “mistake”, which its benevolent consciousness can now rectify.

Poverty as a site for capitalist crisis management also threads through the Despouy Report on extreme poverty. Although the Turk Report recognises poverty as a relation to wealth,⁷⁷ the Despouy Report fails to engage in any political analysis save for an occasional nod at the deleterious effects of SAPs. Instead, it casts “poverty” as a timeless “scourge that has indeed plagued all historical eras”,⁷⁸ this ahistorical frame silencing the political text of exploitation. The most significant feature of poverty is named as its universality, where the “universal” is code for “poverty affects Northern countries”, a point insistently repeated in the report. Deflecting attention away from the differential depth of poverty vis-a-vis the international division of labour and the North/South divide, this insistence alerts one to an underlying concern in the Despouy Report of the state of the Northern economy. The Reports on income distribution are less discreet: “inequitable income distribution is ... *becoming* the main *threat* to world peace, political stability ... and the maintenance of social life”.⁷⁹ In a *multinational* theatre where poverty became an actuality quite some ago, the anxiety hedging the sudden international interest in poverty is revealed: it is encroaching on “us”.

PARTNERSHIPS AND PARTICIPATION IN THE VILLAGE

As Anne Orford argues, current representations of threats to world security operate complicitly with the global process of recolonisation of the South.⁸⁰ Within the Reports, this complicity is manifested in the drive to establish “partnerships” and other “participatory” mechanisms as responses to the failed realisation for hundreds of millions of people of economic, social and cultural rights. This focus on partnerships and participation is heralded as a new global approach, signalling a slide of the concept of “globalisation” into the banality of the post Cold War “global village”. Underpinned by the nostalgic desire for a mythical founding unity, the global village offers all players the chance to really work together for mutually beneficial outcomes. However, scripted as it is through particular forms of telecommunications and information networks which produce the local as the global, claims to a global village are only made possible by the constant of

75 The Eide Report p19.

76 Spivak, “Can the Subaltern Speak” in Grossberg & Nelson (eds), *Marxism and the Interpretation of Culture* (University of Illinois Press, Urbana 1988) p271.

77 The Turk Report No 1 p14.

78 The Despouy Report No 2 p12.

79 The Bengoa Report p11. Emphasis added.

80 Orford, “The Uses of Sovereignty in the New Imperial Order” (1996) 6 *Aust Feminist LJ* 63.

economic exploitation, with “cheap” labour reserves in the comprador theatres⁸¹ producing the technological hardware for TNCs like IBM. The invisibility of this constant secures the village’s Northern occupation.

The most grotesque form of this new global approach is the quest for a “partnership with the poor”, an approach applauded in subsequent poverty resolutions at the Commission on Human Rights. The Turk Report passionately claims that answers to poverty must be produced within a joint venture or dynamic confrontation with the poor:

The dignity of the individual [the poor] can reach fulfilment only if it is revealed or confirmed by a partner [the non-poor]. The endeavour to understand extreme poverty derives from the same relationship of partnership and fraternity. It reflects the desire of the non-poor to know and their refusal to be indifferent.⁸²

With questions of power and exploitation submerged by the assumptions of equality implicit in the claims to “partnership and fraternity”, this joint venture engages in a securing of the North as hegemonic humanist Subject par excellence. In the above quote, *our* humanist dignity assumed, *our* gaze is placed as the mirror revealing and measuring the poor’s consciousness. However, as it is only through *our* humanist interpretative mechanisms that knowledge about poverty will be computed, conveyed and developed into strategies for international action, revealing the poor merely reveals a projected image of ourselves. The poor, then, are in fact the measure of *our* dignity, and their encroaching impoverishment as a threat to the humanity of the Northern sovereign subject becomes a site for crisis management.

This dynamic plays itself out in the Seminar on Extreme Poverty⁸³ a “ground breaking”⁸⁴ exercise in which thirty “extremely poor people” were brought to New York to engage in “direct dialogue” with UN bodies. Ethical questions aside as to the implications of this exchange on the lives of those people, the audacity of the assumption that one can know “the poor” through the reductio ad absurdum of flying thirty “extremely poor people” to New York reveals the seminar as a paradigmatic site of imperialist homogenising of “the poor”. This creation of an homogeneous “poor” continues in the substance of the “direct

81 “Comprador” generally refers to a native agent of a foreign business house. In post-colonial discourse, the phrase has been extended to cover situations such as the operation of TNCs in local government supported Export Processing Zones.

82 The Turk Report No 2 p51.

83 Commission on Human Rights, *Report of the Seminar on Extreme Poverty and the Denial of Human Rights E/CN.4/1995/101*.

84 The Despouy Report is highly self-congratulatory about the seminar noting it was “the first time, an international seminar was organized in response to a direct appeal by individuals caught in the vicious circle of extreme poverty and was held with their participation. In that sense, it was an experience of partnership with the most deprived.” The Despouy Report No 3 p5.

dialogue”, which proceeds by way of the thirty extremely poor people telling their story to the attentive UN representatives, the governing assumption being that one can “know the poor” through their concrete experience. However, by staging the speaking subaltern through the positivism of “concrete experience”, the seminar erases all trace of the ways in which any re-presentation of such experience is overdetermined by the historical circuits of imperialist law and education or by the epistemic violence wrought on “the poor” by the international division of labour.⁸⁵ Unsurprisingly, these overdetermined representations by “the extremely poor” do not offer a subversive analysis of international political economy, but are merely depoliticised accounts of poverty as a vicious cycle of misery.

With authorial power, the Despouy Report interprets these statements through a series of banal generalisations about “poverty”, consistent with its homogenising frame of “the poor”, providing no political specificity as to how poverty in particular circumstances can be resisted or why it arose. On the contrary, the Report’s primary conclusion is that human rights are indivisible: precisely the conceptual claim of the original Despouy Report and continuous with the views of other UN conferences. Our “commonality” with the poor assured and the commitment of the UN to poverty shored up through such a conclusion, future “partnerships” with the poor can continue to be forged. Mingling epistemic violence with the advancement of civilisation, token inclusion of “the poor” legitimises the failure to speak the text of trans-national exploitation which structures poverty as necessary relation.

This staging of participatory partnership is a microcosm of the response mapped in the Turk and Eide Reports to the deleterious effect of SAPs on economic, social and cultural rights. Having previously naturalised SAPs, the Turk Report ascribes them a neutral, malleable form which can be “utilized as an opportunity for redressing social imbalances. ... This process remains an issue of conscious choice.”⁸⁶ The role of the state as an agent of this humanist consciousness is somewhat sticky. The Turk Report, whilst acknowledging that the state’s autonomy has been significantly undermined by SAPs, asks the “extremely piercing question [of] ... the viability of the modern nation State within the context of its clear failure in fulfilling economic, social and cultural rights. Might a new vision be required?”⁸⁷

Although cast in generalist terms, this new vision is directed at the disorderly South, which the Report castigates for using the burden of SAPs to avoid their human rights responsibilities (a criticism also directed at the South by the Committee on Economic, Social and Cultural Rights). Through a positivist political frame these States and their “chosen” political economy are no longer serviceable within a humanist framework. As

85 For a discussion of these mechanics of re-presentation of “experience” see Spivak, “Can the Subaltern Speak” in Grossberg & Nelson (eds), *Marxism and the Interpretation of Culture* pp271-313.

86 The Turk Report No 3 p58.

87 At p56.

institutional power relations masquerade as “choices” for the South, the Report proposes strengthening the “participation” of international financial institutions in these States’ political economy, including supporting the World Bank’s commitment to poverty reduction through making “governance” a loan conditionality, and encouraging the IMF to assist states in ensuring that fiscal policies are beneficial to human rights.⁸⁸ Concepts of “participation” therefore operate as levellers of institutional responsibility, profit and control. The responsibility of the IMF and the World Bank in enforcing SAPs, the systemic logic of which generated new levels of poverty, is either erased or again ascribed to humanist “mistakes” which can now be remedied by these institutions’ newly-honed expert intervention. With “governance” in place, the “choices” of the South bear the burden for their poverty, their humanist capabilities now measured through a:

new regime of grassroots imperialism in the form of low-intensity conflict management, in which Western-based nongovernmental organizations are being used to replace African governments.⁸⁹

Yet it is precisely the role of the participation of the grassroots which the Turk Report sees as balancing the possibility of a “supranational” governance body.⁹⁰ The Report notes that the declining capacity of the States vis-a-vis social justice has inspired the evolution of new citizens’ movements where “real participation occurs ... and where the legitimate needs of people” are voiced.⁹¹ The Report recommends the incorporation of this “real participation” into the development process through increased liaison at the national and international levels. For example, the Report champions the role of the state in “creating space” for citizens individually to realise economic, social and cultural rights.⁹² Using the right to housing as an example, state respect for citizens’ occupation of land and buildings is urged as a manifestation of that right. Continuous with other romantic, anti-establishment trends, this urging of respect for citizen creativity privileges a concept of “use-value” of labour as the most secure anchor of social justice,⁹³ whilst submerging the hegemonic mode of labour as “exchange-value”. Without an analysis of private property and its role in the exploitation of labour power within a global framework, this focus on “use-value” and the creativity of civil society participates in what Spivak calls the humanist critique of the reification of labour “co-opted and modernised to recode unreconstructed global capitalism as democracy”.⁹⁴

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- 88 The Turk Report No 4 pp59-61. The other Reports reach similar conclusions.
 89 Nabudere, “The African Challenge” (1994) 19 *Alternatives* 163 at 170. See also George & Sabelli, *Faith and Credit: The World Bank’s Secular Empire* (Penguin, London 1994) pp142-161; Tandon, “Recolonization of Subject Peoples” (1994) 19 *Alternatives* 173.
 90 George and Sabelli, *Faith and Credit* p159.
 91 The Turk Report No 4 p47.
 92 At pp49-50.
 93 Spivak, *In Other Worlds: Essays in Cultural Politics* pp161-162.
 94 Spivak, “Supplementing Marxism” in Magnus & Cullenberg (eds), *Whither Marxism? Global Crises in International Perspective* p110.

Similarly, at an international level, the Report urges the World Bank and borrowers to “properly inform” local peoples of decisions which will affect them and provide an “appropriate opportunity” for expression of their views prior to final decisions.⁹⁵ This proposal mirrors what Iris Marion Young names the distributive paradigm of social justice, the most consistent paradigm of social justice employed by Western, capitalist welfare democracies.⁹⁶ The distributive paradigm equates questions of social justice with questions of the state’s morally proper allocation of resources (capital, technology, food) whilst failing to critique the institutional structures of domination (international division of labour, ownership of property, cultural means of production) which generate inequality as relation. By erasing these power relations, the fiction of the impartial state (or by analogy the impartial international institution) is perpetuated. Consistent with this analysis, the Turk Report’s participatory model for relations between the World Bank and the locals reifies “participation” as a thing or commodity which can be distributed by the World Bank through dialogue and selective decentralisation. The fact that the World Bank retains the ultimate power to *enforce* their decisions regardless of consultation, thanks to a myriad of unequal power relations produced through the continuing regime of international exploitation, is therefore legitimised through humanist notions of liberal pluralism.⁹⁷

LAW AND VIOLENCE

This hazy silence surrounding the issue of enforcement underpins the Reports’ recoding of civic participation as democracy. By predicating international financial institutions and the state as humanist agents, able to be persuaded by the reasoned arguments of their newly invigorated citizens, “participation” becomes blurred with the actuality of “enforcement” and institutional mechanisms of force drop from view. Although under erasure, there power remains. It is no oversight that SAPs did not compromise the state’s violent, repressive capacity which, in the interests of private and patriarchal property rights, served to quell opposition to economic globalisation.⁹⁸ The right to employ violence through law to protect the dominant social order is a fundamental and constitutive right of, at least, the Western state.⁹⁹ This constitutive right, filtered as it is through the “pyramid of violence”¹⁰⁰ of the judiciary, police, military, jailer and other enforcers, creates the condition of “effective domination” of social dissidents, enabling the smooth “transmission’ of the engine of justice”.¹⁰¹ In a situation where private property rights are so fine tuned that TNC patents on *seeds* are enforceable via national law and international

95 The Turk Report No 4 p60.

96 Young, *Justice and the Politics of Difference* (Princeton University Press, New Jersey 1990).

97 At pp15-91.

98 Development Alternatives with Women for a New Era (DAWN), *Markers on the Way: The DAWN Debates on Alternative Development* p7.

99 Cover, “Violence and the Word” (1986) 95 *Yale LJ* 1601; Devlin, “Nomos and Thanatos (Part A). The Killing Fields: Modern Law and Legal Theory” (1989) 12 *Dalhousie LJ* 298.

100 Cover, “Violence and the Word” (1986)*Yale LJ* 1601 at 1609.

101 At 1619.

agreements, blurring “participation” into “enforcement” through celebratory calls for civil society screens analysis of such political institutions of oppression and their entanglement with the international political economy.

Within an international frame, rigorous conceptualising of issues of enforcement is similarly critical. The Security Council is increasingly “chiselling its weapons to enable ... more direct interventions in the affairs of ... subject peoples”¹⁰² through emerging notions of the right to “democratic governance”.¹⁰³ These interventions shore up the text of global political economy as a palimpsest for “human rights” concerns, as was so breathtakingly displayed during the protracted Gulf War.¹⁰⁴ By silencing these scenarios, the Reports finally ensure the sovereignty of the Northern subject of international capitalism and the dominance of military TNCs¹⁰⁵ as subject of economic, social and cultural rights.

CONCLUSIONS

I began this article considering issues of responsibility, of how white feminist scholarship could resist the imperialist urge of international human rights discourse by a persistent undoing of the role of exploitation in current evaluations of human rights. As detailed above, the truly grim power of TNCs in the global economy are under no threat from the definitions of economic, social and cultural rights currently being produced in key UN documents. The subject of these rights remains firmly in the shoes of the legal subject of transnational capitalism. Consistent with this analysis, voting in the Commission on Human Rights in the past two years on these generalised reports, urging respect for human rights, has reached consensus. Voting on resolutions more critical of trans-national exploitation, such as on foreign debt and structural adjustment programs, have been increasingly split along a North/South divide.¹⁰⁶ The Department of Foreign Affairs and Trade sees this split as “the inability ... of delegations (in all regional groups) to seriously address the content of these rights, and the tendency of (mainly G77) delegations to fall back on north-south rhetoric”.¹⁰⁷ Although voting patterns overwhelmingly affirmed criticism of the South’s foreign debt and SAPs, the imperialist structure of international

102 Tandon, “Recolonization of Subject Peoples” (1994) 19 *Alternatives* 173 at 177.

103 Franck, “The Emerging Right of Democratic Governance” (1992) 86 *AJIL* 46. For an analysis of this right, see Simpson, “Imagined Consent: Democratic Liberalism in International Theory” (1994) 15 *Aust YBIL* 103.

104 For a discussion of the pivotal role played by the rhetoric of human rights discourse in legitimising Security Council action in the Gulf War, see Alston, “The Security Council and Human Rights: Lessons to be Learned from the Iraq-Kuwait Crisis and its Aftermath” (1992) 13 *Aust YBIL* 107

105 Orford, “The Politics of Collective Security” (1996) 17 *Mich J Int’l L* 373; Orford, “The Uses of Sovereignty in the New Imperial Order” (1996) 6 *Aust Feminist LJ* 63.

106 See Commission on Human Rights resolutions concerning foreign debt and structural adjustment, for example E/CN.4/1995/176, and the forthcoming report of the 1996 session.

107 Commission on Human Rights, *Human Rights and Indigenous Issues Newsletter*, Issue 2 (Department of Foreign Affairs and Trade, Canberra 1996) p2.

relations permits the minority view to place fractured positions on transnational exploitation as, once again, primarily the responsibility of the disorderly South.

Issues of responsibility, however, reach further than mapping reports and voting patterns. As a final gesture, and in the spirit of the feminist activism which persistently raised the ferocity of global crisis at the Beijing NGO Forum, I would like to mark the re-energization of civil society as a site where white feminist engagement in human rights discourse must persistently undo the text of exploitation. Debates concerning the role of civil society in international fora are blossoming within Northern feminist legal scholarship.¹⁰⁸ Anne Orford, considering comments by Spivak, places concern for an international civil society as a “peculiarly Northern phenomenon ... not of immediate relevance to the least privileged women in the South who are engaged in ‘hardcore economic resistance’”.¹⁰⁹ It seems to me that this generation of different sites of responsibility often uncritically slides into a generation of mere “difference”, shoring up a Northern activist text which fails to account for the fact that its condition of possibility is complicit with the *need* for hardcore economic resistance in the South. On the exploiters’ side of the international division of labour, the kindling of an international civil society must be persistently interrupted by these hardcore, economic concerns. This unglamorous persistence opens the possibility for white feminists to assist in moving towards an international political *and* economic framework unmarked by “global apartheid”,¹¹⁰ where a farmer is no longer an infringement on a patent owned by a TNC.

108 See for example Otto, “Nongovernmental Organisations in the United Nations System: The Emerging Role of International Civil Society” (1996) 18 *Hum Rts Q* 107.

109 Orford, “The Uses of Sovereignty in the New Imperial Order” (1996) 6 *Aust Feminist LJ* 63 at 82 discussing Stephens, “Running Interference: An Interview with Gayatri Chakravorty Spivak” (1995) 7 *Aust Women’s Book Rev* 19.

110 Mazrui, “Global Apartheid: Structural and Overt” (1994) 19 *Alternatives* 185.