

Women's Human Rights in Africa: Beyond the Debate over the Universality or Relativity of Human Rights

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INTRODUCTION

In the fifty years following the adoption of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948, anthropology as a discipline has embraced a predominantly ethical relativist stance toward the idea of human rights as a legitimate universal concern for all cultures. In the past decade, however, the rising prominence of women's rights as human rights has challenged this point of view. Within the context of the global women's human rights movement, feminist anthropologists are in the forefront of this challenge, striving to uphold anthropology's important focus on cultural context, while at the same time exhibiting a deep concern for practices which harm women, including female genital mutilation and satie, both of which may be argued to be morally objectionable outside of any given culture. Feminist anthropological theory and feminist legal scholarship have questioned the desirability of objective ethnographic reporting of such practices, claiming that to remain aloof from statements of value implies complicity through silence¹.

Objective reporting, it is argued, denies the existence of the researcher as a "positioned subject" with a point of view, such that the absence of a point of view in reality is a point of view that is not articulated. The effort to articulate a feminist anthropological position on human rights not only undermines the validity of ethical relativism, but also emphatically argues that the western liberal tradition, which informs the bulk of the contemporary human rights movement, represents a fragmentary discourse on human rights, and so cannot currently make claims for universality. In addition, human rights are not yet recognized as universally valid, and the dominant focus in the movement is still on political and civil rights, or first generation rights, as compared to the weaker emphasis on important economic, social, and cultural rights. These second generation rights, in addition to third and fourth generation rights (group rights and women's rights, respectively), are not nearly as well integrated into the existing international instruments dealing with reporting, evaluation, and monitoring procedures of human rights violations.

Feminist anthropology endorses the view that context is critical in our understanding and explication of any given situation; however, it also insists that cultural context, like any particular situation, is only a part of a much deeper and complex totality within which a particular context is necessarily subsumed. To strive toward completeness is to strive to embrace multiple traditions under the umbrella of universal human rights, and to do so the

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significance of second, third, and fourth generation rights must be regarded as significant a priority as first generation rights.

Feminist anthropologists who support women's human rights must face the same conundrum that feminist legal scholars, such as Rebecca Cook, have articulated, namely, "how can universal human rights be legitimized in radically different societies without succumbing to either homogenizing universalism or the paralysis of ... relativism?"².

This question is the central concern of this paper. It rests on the assumption that international human rights norms should indeed become part of the legal culture of any given society, and to do so, they must strike responsive chords in the general human public consciousness³. This paper argues that a defensible way in which this challenge may be met is to acknowledge that universality and specificity are not necessarily intrinsically oppositional forces, or, if you wish, they are not mutually exclusive, either conceptually or practically⁴.

To demonstrate this point, a number of prerequisite points must be made: (1) ethical relativism is an untenable position; (2) relativism does not preclude cultural context, but the anthropological position generally has overlooked this fact; (3) a human rights discourse containing universal principles which are culturally meaningful depends on inter- and intracultural dialogues; (4) the topic of women's human rights in Africa encapsulates many of the contentious issues swirling around international human rights, prominently among them, the relationship between the individual and society.

To explore these claims, I draw primarily upon my recent experience co-editing a volume of essays entitled, "Women's Rights As Human Rights: Activism and Social Change in Africa"⁵. The process of pulling the project together produced significant discussions around the tensions between relativism and universality, and the tendency to confuse universality with moral absolutism--a rigid position which obscures the flexibility which universality can encompass. Because the process by which the editors have come to adopt such a perspective sheds light on the argument itself, this paper outlines the stages through which these perspectives emerged.

The project's initial goal was to bring together scholars and activists to think about women's human rights in diverse African situations. The co-editor of the volume, Dr. Naima Hasci, is both a social anthropologist and an international development worker with the World Bank, most recently the United Nations Development Program, and thus brings perspectives from both endeavors. Hasci's work with Somali refugee women in Kenya provides an especially interesting example of not only the value but the necessity of bringing together universal principles and cultural context so that women's human rights can be upheld. I begin the inquiry into this process first by examining some of the internal contradictions of ethical relativism.

ETHICAL RELATIVISM

Ethical relativism is an extreme and highly conservative position. I employ the term here, as historian Merrilee H. Salmon has recently argued⁶, to refer to the understanding that ethical principles emerge within specific cultural contexts, shifting from culture to culture. In this view, extracultural standards of moral judgments are not possible; moral judgments can only be determined through the standards of a culture's norms. This view is unacceptable, as Salmon points out, since it relies on a notion of culture which we anthropologists have ourselves

rejected over the past few decades, namely, that culture is a bounded and internally coherent whole.

Anthropology's revised notions of the culture concept render ethical relativism an incoherent perspective. It has become common place over the past decade to refer to culture as unbounded, although attempts to erect boundaries through political coercion and cultural nationalism are rampant in the world. Culture is also described as heterogeneous, fluid, shifting, emergent, contradictory, processual, and other such descriptions which aim to capture an indeterminateness about the idea. In this alternative view of culture, both moral values and a society's norms emerge out of a conglomeration of interwoven ideas obtained through a complex array of processes which include various forms of historical and/or contemporary contact with "outsiders."

In a recent article in the *New York Review of Books*, Clifford Geertz discusses these two contrasting notions of culture, invoking Mary Louise Pratt's idea of "contact zones," a term she employs to refer to the power-laden dynamics of cultural intersections. Contact zones are defined as "the spaces in which peoples geographically and historically separated come into contact with each other and establish ongoing relations, usually involving conditions of coercion, radical inequality and intractable conflict"⁷. Norms and moral values are neither wholly shared or fixed, and they are never culturally "pure", for indeed there is no such thing.

Even in relatively isolated and/or egalitarian groups, variations in values and the existence of power dynamics should challenge us not to accept too easily the ethical relativist perspective, since the expressed or ideal moral standard is clearly never the only view, but typically that of the powerful. It is in this sense that ethical relativism is a conservative position. It unwittingly supports the hegemonic moral standard, subverting the voices of resistance whose moral values may have emerged either through contact zones or from intergroup dynamics. Given these inconsistencies with the ethical relativist stance, the book's contributors have endeavored to move beyond the polarizing debate to embrace instead Rebecca Cook's ideal of a concept of universal human rights which is neither homogenizing nor subject to the errors of relativism. In so doing, however, we cannot accept the notion of a "universal human nature," which fails to see particulars. Rather, we must recognize that persons have rights as concrete persons, not as abstract constructions.

Gail Linsenbard, moral philosopher and Sartre and De Beauvoir scholar, sheds further light on the possibilities for an intersection of the universal with the culturally specific in her chapter "Women's Rights as Human Rights: An Ontological Grounding." Linsenbard contends that arguments in support of women's rights as human rights involve both specific claims about the conditions of particular women and groups of women, as well as universal claims about women as human beings who, by virtue of their humanity share a fundamental ontological existence. She expresses what this shared ontology is in her defense of women's rights as human rights:

An adequate account of women's rights as human rights must reveal women's oppression as culturally, socially, and historically situated; that is, it must pay attention to the particular kind of oppression that women suffer in situation ... It is in this sense that Simone de Beauvoir and Jean Paul Sartre have emphasized that women and men are "singular-universals." That is, they are understood in virtue of their particular situation which is lived by them singularly, but their situation--as situation--has a universal dimension to the extent that all situations are lived

and experienced in a particular way by everyone. Thus we might offer a ... defense of women's rights as human rights in light of the fact that their situation--as situation--has a universal dimension in so far as it is one aspect of the human condition which, as situation, all persons share⁸.

THE BOOK PROJECT: A CROSS-DISCIPLINARY DIALOGUE

This section explores in some detail the actual process by which the project's participants embraced a position which seeks an intersection between cultural specificity and universal principles. Again, the process is valuable since it demonstrates how abstract ideas are negotiated and hashed out in an actual setting involving groups of people who are often seen as antagonistic. "Western" and "African" feminists each are labels which lump together diverse groups of people and disparate theoretical frameworks emphasizing sameness over diversity. The range of perspectives, by contrast, proffered by the diversity of the project participants was crucial to our task. Scholars hailed from cultural anthropology, moral philosophy, social history, political science, and feminist legal studies. Activist participants worked with four primary organizations: Oxfam America, Grassroots International, the UNDP, and the Center for Third World Legal Studies.

While the diversity of the members remains crucial, the labels which characterize variations--westerners/Africans; western feminists/African feminists--do so sloppily, subverting existing commonalities for the sake of emphasizing differences, implicitly suggesting the deterministic view that nationality and culture are the dominant factors in human interaction and primary influences in differences of opinion. When liberal, Marxist, socialist, and radical feminisms can all be subsumed under the label "western" feminism, the starkly reductionist quality of the label reveals itself. While differences did indeed exist, commonalities did as well, generated both through shared experiences and through independent development of similar conclusions. Frequently, the tensions which surfaced were more the result of differences in methodologies and approaches to a shared topic. We discovered this at a conference held on December 5-6, 1997 at the Massachusetts College of Liberal Arts, where participants presented their papers for discussion and critique.

One of the first concerns the participants wanted to address was the fact that the structure and institutions of women's international human rights law needs to be strengthened. As feminist legal scholar Hilary Charlesworth demonstrates, the structures supporting women's human rights are more fragile than the mainstream human rights instruments which do not address gender specific rights. Charlesworth argues that the international instruments dealing with women have "weaker implementation obligations and procedures; the institutions designed to draft and monitor them are under-resourced and their roles often circumscribed compared to other human rights bodies"⁹. The explanation for this state of affairs pertains to the still marginal status of women's human rights on the general agenda of the human rights movement. This fact in and of itself demonstrates that no matter what differences women have with one another, the marginalization of their human rights affects all women by virtue of their being women.

In addressing this problem, the rather distinct purviews of scholars and activists emerged, although it would be overly simplistic to say that these divisions were rigid along disciplinary lines, and to do so would only reify the labels and their generalized characterizations. Thus, some scholars placed greater weight on the theoretical frameworks adopted to describe and explain the predicament of women's human rights, and some used the frequently jargonistic language of poststructuralism and its focus on discursive analysis. Activists generally analyzed the successes or failures of specific women's rights projects designed with the assistance of their organizations. These particular perspectives gave rise to some important questions about the relationship between theory and practice. What I found particularly interesting was the way in which the creative process of imagining the book itself distilled many of the difficulties which exist at a much larger scale in any effort to articulate connections between the academic world and the world of social movements.

For example, the book's essays had been organized into two sections, the first theoretical, the second case studies. Activists protested that this organization privileged theory over practice, implicitly supporting scholarly approaches over activist ones. They urged instead for a thematic organization which, it was argued, would do away with such a dualism. Ironically, it is theory itself which ultimately helps to move beyond the theory/practice dualism. As poststructuralism and Marxist theory have made abundantly clear, practices are always supported by a set of assumptions and often unspoken or unrecognized suppositions, hence the notion of praxis. But activists, not necessarily guided by poststructuralist theory, were nonetheless aware that the book's initial organization would perpetuate a false theory: that theory has more to say than concrete examples.

Once we agreed on the framework of the book, a second discussion ensued around the origins of theoretical works used by researchers. A Kenyan scholar argued that the historical tendency of western scholars to overlook the contributions of African theorists was reflected in the choice of theorists that scholars employed in their discussions. How could we not include leading African thinkers in a project designed to embrace cultural context in the search for a truly universal human rights? This point led to a commitment on the part of participants to read and incorporate in their chapters some articles by African thinkers such as Oloka-Onyango, Wa Matua, and others, examining their approaches to the cultural relevance of international human rights.

To summarize, these exchanges helped to clarify the intellectual terrain of the book, and to identify a common objective: to work toward a theoretical position which recognizes the validity of African women's rights within their respective, concrete socio-historical settings as human rights with universal import.

WHY WOMEN'S HUMAN RIGHTS IN AFRICA?

The arenas of women's human rights and human rights in Africa specifically, are domains which emphasize the polemic of the relativist horn and the universalist horn. The perspectives of each surface in sociocultural and philosophical questions about the relationship of the individual to society in Africa. The African Charter on Human and Peoples' Rights, adopted in 1986, underscores for many the tension between individual human rights and group or peoples'

rights. In the relativist view, the sanctity of the extended family in Africa undermines the legitimacy of individual rights, viewed as a western import. Other human rights instruments too, such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), adopted by the General Assembly in 1993, privileges an independent, free woman.

Women's human rights activists do indeed emphasize the idea of personal autonomy, precisely as a means of addressing the oppression of individual women within the family unit where women's human rights are frequently violated through domestic violence, restrictions on access to resources, and in matters of marriage, divorce, and property rights. In other words, the human rights of women epitomize questions about the relationship of the individual to the group. Those in support of universal precepts, including African legal scholar Makau Wa Matua, argue that individual rights must always be applied in a social milieu. Matua says:

"... a thorough understanding of the meaning of human rights, and the complicated processes through which they are protected and realized, would seem to link inextricably the concepts of human rights, peoples' rights, and duties of individuals. Individual rights cannot make sense in a social and political vacuum, devoid of the duties assumed by individuals. This appears to be more true in Africa than any other place"¹⁰.

Matua is principally interested in the nature of the relationship between the individual and society in Africa, which he characterizes as dramatically different from the relationship between the individual and the state in western societies. What is significant to this argument, in addition to the nature of the relationships described, is simply the acknowledgment that a relationship exists. The oversimplified opposition between the individualistic west and communitarian Africa ignores the ways in which individuals with varying degrees of personal autonomy are constituted as members of society through groups, everywhere.

Women's struggles for human rights often position them in opposition to family and social networks where their roles and rights have been defined; however, because of the sanctity of the family, they often choose not to seek empowerment and freedom which sets them against their kin. It is therefore crucial to find ways for women to be protected as individuals against abuses. Doing so should not mean that the family will be undermined as an important social institution. Coomaraswamy makes a fundamental observation when she asserts that "the family is the place where individuals learn to care, to trust and to nurture each other. The law should protect and privilege that kind of family and no other"¹¹.

Although attention to the realm of the family in Africa is central to any discussion of women's human rights, this focus should not distract from other sources of abuse against women which occur outside the local cultural context. To place a spotlight on the family as the exclusive source of discrimination against women puts disproportionate blame on this particular cultural domain, to the exclusion of other violations of women's integrity. For example, in many parts of Africa discriminatory practices remain unnoticed as such, and many states--Algeria, for instance--uphold patterns of conduct which some deny are disadvantageous to women, claiming instead that the attitude toward women is essential to the cultural integrity of those countries and significant constituents of national identity.

International practices too, such as the structural adjustment programs (SAPs) of the World Bank and IMF, which in many ways contribute to suspicion toward international human rights agendas, may themselves constitute violations of personal economic rights. As Illumoka has

pointed out, SAPs have led to the depreciation of local currencies and the "rationalization of industry, including privatization of public enterprises and reduction of government expenditure on social services, resulting in spiraling inflation ... and severely restricted access to education and health facilities"¹². In their wake, SAPs have contributed especially to the devaluation of women's work. Nurturing cultural institutions are thus threatened through international financial arrangements.

As the African women activists working on the book project argue, the participation of African women in the international women's rights movement emphasizes that the affronts women suffer to their human dignity cannot only be solved through local institutions. This being the case, the debate over the relativity or universality of human rights is one which actually distorts the problem, rather than illuminating the condition of women. The harm in maintaining this bipolar debate is that it perpetuates "international hierarchies of power that contribute to the on-going polarization of the West and the Third World and [limit] ... the definition and scope of struggles perceived to fall within the purview of women's human rights"¹³.

Oloka-Onyango and Tamale suggest that one possible remedy lies in an "intra-cultural and cross-cultural dialogue" which recognizes that "the personal is political, but the political is extremely rich and diverse"¹⁴. It is this remedy which has the potential to push anthropology past its commitment to the philosophy of relativism. Although anthropologists have always engaged in cross-cultural dialogue, these dialogues were not exchanges in the manner supported by Oloka-Onyango and Tamale which require recognition of cultural assets and limitations on all sides. Nor have these dialogues been inspired by the feminist consciousness that introduces the dialectic between the personal and the political.

Since the book project has fostered both a cross-disciplinary and cross-cultural dialogue of this nature, for the remainder of the paper, I examine how a dialogue of the type proposed by Oloka-Onyango and Tamale can be useful in moving beyond the debate toward an alternative approach to women's human rights. I begin by exploring how the historically relativist perspective toward human rights in anthropology impeded intra-cultural exchanges, in spite of its intentions to defend the powerless.

ANTHROPOLOGY, HUMAN RIGHTS AND ETHICAL RELATIVISM

In 1948, the American Anthropological Association (AAA) distributed a statement written by Melville Herskovitz rejecting the universality of international human rights norms. In formally advocating such a rejection, the AAA posited that the recently released Universal Declaration of Human Rights enumerated rights and freedoms which were culturally, ideologically, and politically nonuniversal¹⁵. Rather, the rights and freedoms cited therein contained a western, Judeo-Christian bias, and therefore could not be regarded as rights which are inalienable.

In a recently published article in *Human Rights Quarterly*, Ann-Belinda Preis explores the way in which the 1948 decision formed a foundational and predominantly uncritical approach to human rights on the part of anthropologists which remained unchallenged for the next thirty or so years. Herskovitz's point of view emanated from his concern, and the larger

anthropological concern, with the impact of western colonialism on two-thirds of the world, and the hypocrisy of supporting the claim for human rights while colonial regimes which drafted and signed the Declaration simultaneously committed atrocities in the name of the civilizing mission¹⁶.

In an article which addresses statements of this kind, Wa Mutua states that while the current human rights movement has its roots in the western liberal tradition, and this fact indicates a lack of completeness, it does not, however, deny "the universality of many of its ideals and norms." Mutua argues:

In the West, the language of rights primarily developed along the trajectory of claims against the state; entitlements which imply the rights to seek an individual remedy for a wrong. The African language of duty, however, offers a different meaning for individual/state-society relations; while people had rights, they also bore duties. The resolution of a claim was not necessarily directed at satisfying or remedying an individual wrong. It was an opportunity for society to contemplate the complex web of individual and community duties and rights to seek a balance between the competing claims of the individual and society. This view is not relativist. It does not advance or advocate the concept of apartheid in human rights or the notion that each cultural tradition has generated its own distinctive and irreconcilable concept of human rights¹⁷.

Moreover, Matua recognizes that relativism in human rights serves as an anti-imperial device, as Herskovitz intended as an advocate for colonized societies; but, its use as such represents a misunderstanding inspired by cultural-nationalism. While arguments against relativism are often ethnocentric and, in Matua's view, a symptom of the moral imperialism of the west, he also insists that both extremes--relativism and ethnocentric arguments against relativism--"only serve to detain the development of a universal jurisprudence of human rights"¹⁸. Herskovitz's position deserves more critical reflection than this paper allows but, suffice to say, his position had a profound effect on anthropological thought, such that the anti-relativist position has only recently begun to amass proponents.

Perspectives proffered by Canadian Africanist Rhoda Howard and political scientist Jack Donnelly represent some of the well-known challenges to the position of ethical relativism. Donnelly recognizes that there are other trajectories for human rights within the liberal tradition, outside of the conception of the individual as "atomistic and alienated from society and the state." Howard's position, according to Matua, however, represents an ethnocentric critique of relativism. Matua says of Howard that:

[S]he refuses to acknowledge that pre-colonial African societies knew human rights as a concept ... Howard is so fixated with the Western notion of rights attaching only to the atomized individual that she summarily dismisses arguments by African scholars, some of whom could be classified as cultural relativists, that individual rights were held in a social, collective context¹⁹.

Howard does point out that while women and men have more formal rights in post-colonial Africa, the western model has essentially deprived women of the political influence they had in many indigenous societies. Her example of the 1929 "Women's War" in Nigeria is a case in point, in which tens of thousands of Igbo women attacked chiefs appointed by the British, as a protest against the abrogation of their traditional power. Moreover, Howard also

insists that there can be no adequate analysis of the human rights of African women, or improvements made for their effective implementation without understanding the sociohistorical context of women's lives. Legislation that does not recognize the influence of culture and tradition on male and female perceptions of each other will be ineffective²⁰.

While Donnelly and Howard are two examples of engagement with human rights in the African context, the more widespread challenge to relativism which has swept the discipline has just begun to move more seriously into the realm of human rights, emanating especially from feminist circles. The context for this challenge, as I have stated throughout, is within the increasingly prominent place of women's rights issues on the general agenda of the human rights movement. Since feminism aims to connect the academic world with social change, feminist anthropologists work not only to describe and analyze the lives of women and gender relations, but to generate strategies to improve them. The feminist agenda is antithetical to relativism--but not subsequently, cultural context--since it depends on judgments in order to develop strategies for change.

Feminist anthropology has inevitably intersected with international women's human rights movement asserting, as feminist anthropologist Martha C. Ward puts it: "flatly stated, the treatment of women in human societies transcends cultural boundaries"²¹. These statements are not ethnocentric rejections of relativism, but rather claims supported by diverse groups agreeing with Oloka-Onyango and Tamale's dictum that the personal is political, but the political is extremely rich and diverse. Feminists from both camps have argued that "it is simply unacceptable to subject women to subordinate treatment that enslaves them to men," and that "human rights is about regulated civilized behavior and conduct toward all human beings"²². These positions reflect a coming together in feminist anthropology of applied and academic approaches, with clear activist points of view attached to research agendas.

The women's human rights movement now faces the challenge of carrying "women's voices, interests, and concerns into the mainstream human rights law-making arena so that the diversity of women's experiences in different cultures is introduced into international human rights law"²³, establishing new forms of contact zones which eschew coercion, radical inequality, and intractable conflict. It is through this process that anthropologists can be especially valuable participants, employing their strengths in collecting and analyzing ethnographies which establish avenues to disseminate the voices of the women with whom they collaborate.

I now turn to Naima Hasci's work with Somali women refugees in Kenya. As an anthropologist and human rights activist, Hasci provides a wonderful illustration of the need to unite activism and scholarship as an approach for bridging international, national, and local institutions for women's human rights so that they may assist more effectively the communities they endeavor to serve.

THE EXAMPLE OF SOMALI WOMEN REFUGEES IN KENYA

In her chapter, "From the Frying Pan into the Fire", Hasci examines the rights of refugee women in Africa, focusing on Somali refugee women in Kenya during the period 1991-1997. She seeks to address "the inconsistencies between the high level standard setting of human rights laws by the international community and the low level enforcement of such rights at the

national level", especially with respect to the protection of refugee women's rights in countries of asylum.

Hasci begins with a discussion of the location of refugee settlements in border communities²⁴, where "the state's juridical presence is minimal or non-existing." In such instances, the host community wields de-facto powers at the local level often with negative impact on refugees. At the international level, CEDAW has been instrumental in highlighting and interpreting violence against women. Article 1 of the Convention is relevant to female refugees, condemning "any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life." Also, since 1988 the United Nations High Commissioner for Refugees (UNHCR) has discussed the issues of safety, discrimination, and sexual exploitation, and in 1995 finally published guidelines on violence against and protection of refugee women. While these guidelines on refugee women's protection are "extensive, detailed and drawn from various refugee women's experiences in the camps, including Somali women in Kenya in the last 7 years ... it remains to be seen how effective CEDAW and the UNHCR's guidelines will be in contributing to the prevention or mitigation of sexual violence and the promotion of equity among refugees"²⁵.

Since national governments are ultimately responsible for effectively implementing international human rights standards, it is the Kenyan government which is responsible for implementing the UNHCR's guidelines. According to Kenya's national law, rape is a crime punishable by imprisonment with hard labor for life, with or without corporal punishment²⁶. In spite of this, the police and military in Kenya have "not only been negligent in their duties to stop the rape crimes, but on the contrary, in many instances the Kenyan police were reported to have raped, beaten and killed refugee women."

Hasci argues that given Kenya's poor human rights record, especially toward women, and its policy of persecution of Somali-Kenyans, "the international community and particularly the UNHCR could have taken appropriate measures in time to avoid the establishment of the refugee camps in such a dangerous region where border disputes play a role in acts of aggression against refugees."

Clearly, protection by the host government of refugees is not occurring; instead, the camps create "prison-like conditions providing minimal assistance, water, food, shelter and medicine"²⁷. Although international agencies are theoretically supposed to work in conjunction with host governments for the protection of refugees, the paradox, says Hasci, is that "the UNHCR itself is in a sense, like the refugees, a guest of the Kenyan government, and in the final analysis, it operates in an environment over which it has little control, and therefore unable to fulfill effectively its mandate"²⁸.

In exploring ideas which may lay the foundation for future solutions to these kinds of paradoxes, it is imperative to generate a commitment and sense of ownership of laws at the national and local levels. Existing laws should be linked to or drawn from existing indigenous socio-legal norms and principles, such as, for instance, the Somali "xeer". The international community faces a dilemma: how to uphold the universality which breathes life into international legal instruments of women's rights while at the same time minimizing those laws' disassociation from local socio-legal norms.

Attention to institutions such as the "xeer" is essential. The "xeer" is a socially constructed set of norms established to safeguard security and social justice for Somalis in Somalia and in the diaspora. While there is no room within the confines of this paper to delve into the specific structure and principles of the "xeer," it is nonetheless significant to point out that it stands as one of the pillars of communal relations, and as such codifies accepted standards of conduct and behavior. Since the international and national normative systems function inadequately, refugee women must gain access to their rights by negotiating all three levels: international, national, and cultural. Institutions which draw from legal structures that societies can identify with are crucial if human rights are to become integrated into the legal culture of a given society.

Action toward this end is occurring. In the past few years, the United Nations General Assembly and the Commission on Human Rights have successfully urged Mary Robinson, the High Commissioner, to establish through her Technical Cooperation Program, National Human Rights Institutions. These Institutions refer to bodies established by governments through constitutional or legislative processes for the express purpose of supporting and protecting human rights.

The idea behind these organizations is that "the development of a culture of human rights at the national level depends on the existence of a vigorous civil society, one which encourages the formation of community groups; which not only tolerate but encourage respect for individual differences"²⁹. This mission represents the parallel aim of the women's human rights movement to acknowledge women as autonomous persons within the realm of family relations, in that both strive to integrate the individual and the community as two essential components of coherent human rights principles.

The General Assembly and the Commission on Human Rights recognize the importance of diversity among those who comprise the National Institutions, since "an effective, credible National Institution will be one which reflects in composition, the community it is established to serve"³⁰. Moreover, because those individuals who require help the most are unlikely to seek out the Institution, one of its purviews is to develop approaches to assist those with physical disabilities and those in remote locations without adequate transportation.

Community groups established to support the work of the Institution will promote decentralization and greater accessibility. Since it is crucial that National Institutions respond to particular community needs, the nature of the assistance has been varied. Over the past few years in Africa, Institutions have been established in South Africa, Uganda, and Zambia. Ultimately, National Human Rights Institutions have the potential to manifest the rhetoric of international instruments such as CEDAW and the African Charter. Moreover, they can achieve this

... in a manner which is consistent with the standards prescribed in the international treaties, while accommodating constitutional particularities and the extraordinarily disparate challenges posed by local conditions and cultures -- thus respecting ethnic, cultural, religious and linguistic diversity in a more informed and sensitive manner than any regional or international body³¹.

National Institutions reflect the burgeoning awareness of the limitations to relativism and the necessity of developing a truly universal human rights discourse, one which recognizes that

women's rights are indeed human rights, and that African women's rights need to recognize that African women exist as "singular-universals" as do we all. In her chapter's conclusion, Hasci concurs:

... the issue here is not about maintaining relativism as a dichotomy to universalism, but about integrating, adapting and building on what is universally human and gender-sensitive about a society's cultural and juridical heritage so that it can be genuinely sustained locally, nationally and internationally³².

Notes

1. I would like to thank Dr. Gail Linsenbard for her insights and critical reading of parts of this paper. This article is dedicated to my parents, Sanford and Vivian Fox, whose own scholarship and activism for human rights continues to inspire me.
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19. Both Howard and Donnelly uphold the importance of establishing the universality of human rights, although both recognize that universal acceptance does not exist. Howard, for instance, has most recently argued that concepts of human dignity exist in many African cultures, but dignity should not be equated with the notion of rights; therefore, attempts to establish the existence of universally held notions of rights overlook the significant distinctions therein.
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24. Hasci defines border communities as "... culturally coherent territories where people of definite cultural identities have had to be split into two or more units, each faction placed in the area of jurisdiction of a distinct state; which functions to integrate such a pre-existing culture area into a new socio-economic system removed from the whole original culture." "From the Frying Pan into the Fire: Somali Refugee Women's Rights in Kenya," In Dian J. Fox and Naima Hasci, eds., *Women's Rights as Human Rights*: Lewiston, NY: Edwin Mellen Press, forthcoming, 1999.
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