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Johanna Leinius
Rirhandu Mageza-Barthel *Editors*

Negotiating Normativity

Postcolonial Appropriations,
Contestations, and Transformations

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Normative Legitimacy and Normative Dilemmas: Postcolonial Interventions

**Nikita Dhawan, Elisabeth Fink, Johanna Leinius,
and Rirhandu Mageza-Barthel**

Research on colonialism as well as its impact on today's world has been at the center of critical debates throughout the last decades, contributing to major revisions of theoretical, methodological and epistemological assumptions. It has produced a wide range of research topics as well as a more nuanced understanding of the (post-) colonial¹ condition (cf. Ashcroft et al. 1989; Lewis and Mills 2003; McClintock et al. 1997; Spivak 1990). However, one of the biggest difficulties still lies in the differentiated analysis of the various operations of power, which is attentive to its complexities, yet does not refrain from the critical interrogation of supposedly “liberating” or “empowering” agendas.

Against this background, this volume aims at analyzing the interweaving of the productive as well as limiting aspects of power by employing postcolonial-feminist research perspectives, which have proven to contribute the most to (self-)critical

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¹ Within postcolonial discourses, many terms denote hegemonic global power relations and structures of domination, such as Orient/Occident, global North/global South, First World/Third World (Castro Varela and Dhawan 2015). The contrastive pair “the West and the Rest,” established by Stuart Hall (1992) is commonly referred to in scholarly literature as well. The current volume primarily employs the terms “global South/North,” since this pair diverges from suggesting monolithic entities and draws attention to the “South” within the “North” and vice versa.

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approaches of postcolonial studies (cf. Lewis and Mills 2003; Mohanty 2003; Rajan and Park 2000). The specific focus of this volume lies on critically scrutinizing how power manifests itself in norms and normativity; by opening up new research perspectives that point towards the ambivalent and twofold character of normativity, we show how norms are appropriated, contested as well as transformed.

The analyses contained in this volume take a stance against restricting binaries as well as against the assumption of an allegedly all-encompassing (post-)colonial power. This introduction begins by outlining the editors' notion of norms and normativity, then portrays how normativity has been negotiated in postcolonial feminist approaches and finally elaborates on how the concepts of appropriation, contestation and transformation assist in understanding resistance and its entanglement with the multifaceted trajectories of power in a postcolonial world.

Negotiating Normativity

Different fields in the social sciences and humanities have attempted to determine how norms operate. Some have identified norms as an area of research interest precisely because they highlight social interaction and ideational influence as the foundation for cooperation and conflict. Others seek to isolate how norms function as an extension of society and/or serve material interests. Within these, it is often assumed that there is a strong correlation between people's normative beliefs and their actions and practices. The Oxford Dictionary of Philosophy tells us in this regard that "a norm is a rule or a definite pattern of behavior, departure [from] which renders a person liable to censure" (Blackburn 2008: 255). Norms set principles that individuals and collectivities employ to distinguish between appropriate and inappropriate values, attitudes and behaviors. Essentially, they define and regulate what is expected, required or desirable in particular circumstances. Norms evolve not only through time, but also vary between social classes and groups. What is deemed to be acceptable speech or behavior in one context may not be approved in another. As social beings, individuals learn when and where it is appropriate to say certain things or avoid certain practices. Knowledge about cultural, legal and social norms, for instance, influences one's position in society and community. Typically, this knowledge is derived through experience and education.

Individuals subscribe to norms by accepting them as reasonable and proper standards for behavior. In this sense, norms provide reasons to act, believe or feel. Indeed, almost all aspects of socio-political interactions are to a great extent norm-governed. The nature of norms, the source of their authority and the form they should take occupy center-stage in any theory of social interaction, ethics and law. Norms are accompanied by the expectation that individuals and collectivities will follow the prescribed practices, while avoiding the prohibited ones. Variance between beliefs and behavior elicits sanction and disapproval. Normativity, which refers to the regulatory function of norms, is therefore deeply linked to the operation of power. Norms do not only simply describe how the subject, society or the world

is; rather they prescribe how they should be, thereby creating obligations and duties. Moreover, they also function in a constitutive manner by representing both implicit as well as explicit standards of behavior (cf. Kardam 2004; Locher and Prügl 2001). Whereas the former finds its expression among others as social mores, expectations and/or morality, the latter appear as policies, laws and/or international agreements. Owing to their interlinked nature, norms and normativity reflect two sides of the same coin, whose relationship is characterized by a tension that is not easily resolved. Norms, for instance, also operate as an ideal against which subjects and actions are rendered legible or illegible, because they govern our interactions with others, determining whether we can recognize them and in turn be recognized by them (Butler 2004: 53; Mills 2007: 138). Deference to norms maintains one's inclusion within a particular group, while defying norms can lead to marginalization or even loss of life.

Although they might seem staid and predetermined, norms are neither monolithic nor isolated from other socio-political structures: depending on the particularities one is confronted with at any given time and place they may clash with each other in as much as they may reinforce one another (cf. Finnemore and Sikkink 1998; Stienstra 1999; Cortell and Davis 2000). Some norms supersede and resonate more strongly than others might. Thus, owing to their entanglements, hegemonic norms mutually reinforce each other, creating a uniform normative pattern that becomes pervasive. Through societal expectation, peer pressure, propriety and at times politics of shame, norms operate within social practices as the implicit standard of normalization. These regulatory practices produce and constrain intelligibility by structuring the socio-political and cultural worlds not just through their impact on ideas and beliefs, but also materially, in the way that they operate explicitly through institutions and daily practices producing normative subjectivities (Chambers and Carver 2008: 147). However, even as subjects are dependent upon and emerge from within normative orders, they are not fully determined by them. The contingency of norms makes room for creative political agency, even as they hinder the subject's legibility and intelligibility. This reveals the normative dilemmas we face,

although we need norms in order to live, and to live well, and to know in what direction to transform our social world, we are also constrained by norms in ways that sometimes do violence to us, and which, for reasons of social justice, we must oppose. (Butler 2004: 206)

This complicates any straightforward understandings of the relation between norms, power and agency. Judith Butler's idea of "normative violence" is extremely instructive in that it outlines how the violence of particular norms determines what or who counts as an agentic subject (2008). Unlike scholars who predominantly highlight norms' enabling characteristics, Butler's focus is on the twofold capacity of norms to exert violence: On the one hand, there is the occasional and incidental violence that relates to the particular manifestation of the norm. On the other hand, the violence internal to norms by virtue of their constitutive "world-making" and "reality-conferring capacity" is outlined (Mills 2007: 140). Hegemonic norms exert violence on those bodies that violate such norms, whereas those who conform to the

norms profit. Certain forms of violence are consequently deemed as legitimate and permissible, since hegemonic norms are naturalized and appear as common sense. While Butler's reflections on norms help understand how heteronormativity is enforced, it also explains other violent gendered processes that require a norm to take hold. One need only consider that genocide in Rwanda was conceivable, because a "genocidal norm" had been instilled on large sectors of Rwandan society (see Fujii 2004). Genocide entails the targeted killing and annihilation of a group identified as 'other,' therefore this target needs to be outlined and the violence—which would otherwise be forbidden—sanctioned by an authority. Particularly in the case of Rwanda the mass participation in the genocide meant that the population had to be included into the genocidal narrative (Mageza-Barthel 2015).² For such atrocities occurring in the midst of any society to be condoned, widespread support and toleration has to be rallied, at the very least. This warped moral landscape, which sanctioned the most extreme form of collective violence, reflects the consequences of not contesting a heinous hegemonic norm and illustrates how the unfathomable becomes possible. Nevertheless, despite being pervasive, the genocidal norm was not all-encompassing, since crucial pockets of resistance existed (cf. Jefrevomas 1995; Prunier 1998; Hintjens 1999). Thus, norms are associated with incentives and consent that are produced and legitimized in the social, religious, economic and cultural spheres.

This discussion shifts focus from questions of the relation between sanctions and norms on two important points: Firstly, power here is not understood only negatively, as something that prohibits or represses. Rather, the power of norms is productive: it mobilizes certain subjects and practices, while delegitimizing others. Secondly, the approach above marks a shift from the liberal conceptions of the rational subject, who makes deliberate choices about which norms to conform to. Rather, norms produce subjects and bodies even as they regulate them (Dhawan 2013: 197). The notion of normative violence does not imply that norms are non-negotiable. Inversely, the negotiability of norms does not imply that norms cannot be violent and coercively implemented (Castro Varela and Dhawan 2011: 97). The subject is, thereby, caught in an ambivalent relationship to the normative structures that produce it but which it might oppose. Normativity is always vulnerable to disruption, always haunted by that which it excludes. If the normative framework only persists to the extent that it is performatively re-enacted with everyday practice, there necessarily remains the potential for disruption and re-signification (Butler 2004: 223).

To summarize: norms emerge historically in specific cultural and political contexts to provide evaluative criteria to critically assess our socio-cultural, legal and economic practices. In delimiting the contours of the social, norms are a necessary and unavoidable part of life. They are action-guiding and operate as an ideal against which practices and subjects are rendered legible within a specific framework. Normative intelligibility is thereby deeply linked to survival, whereby subjects that

²These were most visibly transported by such as Kangura's *Ten Hutu Commandments* that shored-up fear and hatred among Rwandans (see Taylor 1999).

fall outside hegemonic norms of recognition are vulnerable to “normative violence.” This indicates the aspirational and orchestrating effects of norms as well as their regulative and coercive dimensions (Dhawan 2013: 209).

Normative orders are justified insofar as those subject to them have the possibility of intervening and transforming these orders. Postcolonialism, as a field of study, emerged as such an attempt to negotiate historical legacies of colonialism by enabling the agency of disenfranchised postcolonial subjects. It is worthwhile to clarify some key terms that are relevant when focusing on geopolitics of normative orders: The label “First World” is commonly used synonymously with “Northern countries” to refer to the so-called G7 as the group of seven “leading” industrial countries, many of whom were former colonial powers (Castro Varela and Dhawan 2015). In contrast, the “Third World” of “Southern countries” is used for the member countries of the G77, which represents a loose network of over 130 formerly colonized states. Originally, the “Third World”³ described the non-aligned states, which during the conflict of the Cold War belonged to neither the capitalist “First” nor the communist “Second World,” but positioned itself between these military blocs. When the renowned Bandung Conference took place in 1955, 29 states exclusively from Asia and Africa, adopted the term to designate themselves.⁴ For the first time, countries of the “Third World” came into appearance as a third force. Among other things, they formulated the end of colonial rule in countries that had not reached their formal independence yet, and advanced the right of self-determination and peaceful cooperation as common goals. Today, however, the assertive appellation “Third World” is often used only to refer to economic “under-development,” even though The Bandung Conference, also seen as the predecessor of the Non-Aligned Movement founded in 1961 in Belgrade, was an important expression of the political independence of previously colonized nation-states. Within this historical and political context, ties between African and Asian nation-states and their societal agents, who hope to overcome the negative effects of a bipolar world order by invoking multipolarity and new transnational dynamics are still marked by this foundational principle of South–South relations (Mageza-Barthel forthcoming). Postcolonialism has thus not merely replaced the term “Third World,” on the contrary the concept is problematized and reflected on critically within postcolonial theory (cf. for instance Young 2001: 4).

For a postcolonial-feminist perspective, the challenge lies in re-articulating norms such as to make the claims of previously disenfranchised communities legible and intelligible. In the case of commonly-agreed upon normative frameworks, the condemnation of the discrepancies between made commitments and executed policies gives rise to demands for increasing accountability or countering impunity in the postcolonial world. Nevertheless, the capacity to challenge hegemonic norms

³The term, introduced in 1952 by the French demographer Alfred Sauvy (1898–1990), functions as an analogy to the “third estate” of the French Revolution to describe those countries where the majority of the world’s population lived but who remained powerless in global politics.

⁴Overall, the conference is regarded as the first international postcolonial conference (cf. Young 2001: 191).

presupposes an ability to negotiate one's relation to norms. This is not a call for undermining all normative claims; rather the emphasis is on the need to devise new constellations of normativity, which would enable subjects struggling for enfranchisement. Normativity can function as a site of political agency, even as the vulnerability of the subject is closely related to normative regulations. The dual nature of normativity, namely the entanglements of diverse norms as well as their impact on social realities, marks an important point of departure for theory-building and critical intervention on how normativity might be negotiated. This also entails an interrogation of the very foundations of normative critical theory.

Normative Bias and Normative Legitimacy: Postcolonial Critical Interventions

Critical theory, as a term, is itself contested and fuzzy encompassing a diverse range of theoretical perspectives and approaches. In its narrow usage, it refers to the Frankfurt School of social theory, whereas the more general usage refers to any intervention in cultural, social and political theory that questions relations of power and domination. These include feminist, queer, postcolonial and critical race theory that can all be considered different strands of critical theory (Dhawan 2014; Allen 2016).

Critical theory's practical and political aim is freedom and emancipation, while its theoretical aim is to understand the (ideal) conditions under which emancipation is possible. What is distinctive about the Frankfurt School's approach is its combination of political realism and normative political theory. Furthermore, its conception of critical subjectivity entails a self-reflexive subject that understands itself to be framed by socio-political and economic relations of power. As has recently been emphasized by scholars such as Amy Allen (2016), it is particularly surprising that the Frankfurt School, with its focus on emancipatory political struggles, has systematically abstained from engagement with theorizing processes of decolonization (*ibid*: xiv). It is argued that the School's shocking silence on racism, empire and anti-colonial struggles is not mere oversight. Rather, it is symptomatic of the Eurocentrism that infects European intellectual tradition. Its dubious transhistorical claims of universality marginalize and silence other epistemologies and normative principles that diverge from and are different to the European model. Given the violence and exclusions that inform European narratives of normativity, the legitimacy of ideals like justice, rights, rule of law, sovereignty, progress, democracy and secularism, which are legacies of Enlightenment, are consequently cast in doubt.

Frankfurt School defends its lack of engagement with postcolonial studies in terms of the paucity of normative foundationalism in postcolonial scholarship (Allen 2016: xv). For normative theorists, critical theory requires norms of progress and development as forward-looking ideas of perfection and improvement, in order to be truly critical (*ibid*: 11). According to them, norms are moral-political imperatives that inspire more just political orders. Abandonment of these normative commitments suggests historical pessimism and a turn away from progressive politics.

Postcolonial theory as heavily influenced by French poststructuralist critical theory, alternatively associate ideas of progress, development and rationality with Eurocentric imperialism. Accordingly, Postcolonial Studies regards the Frankfurt School's strategies of normative foundationalism as false universalisms that deny difference and diversity. Following poststructuralists (Butler 2009: 153, 161), postcolonial scholars argue that despite ignorance of particular contexts and practices that are judged, strong universal judgments are professed by normative theorists, even as ignorance is rationalized as a necessary ingredient for objectivity and neutrality. One detects a normative bias in the Frankfurt school, whereby parochialism at times passes itself off as universal reason. This makes it urgent to re-evaluate the criteria for valuing certain norms. As argued by postcolonial and poststructuralist scholars, the aim is not merely to transform existing norms in an effort to make them more inclusive, but rather to investigate how it may be possible to enable new normative orders to emerge by contesting Eurocentric norms of recognition.

This has opened up a huge chasm between the two with the Frankfurt School accusing the postcolonial scholars of normative nihilism and relativism (Allen 2016: 11). Postcolonial theory-building has supposedly been negatively influenced by the crypto-normativism of French poststructuralist critical theory. The emphasis on the *contingency* of the emancipatory function of norms by poststructuralists and postcolonial scholars is thereby considered uncritical by normative theorists.

In turn, the Frankfurt School are urged to rethink the legitimacy of norms like justice, human rights and democracy in light of the experiences of colonialism (Allen 2016: 2–4). Only by reassessing the links between moral-political universalism and European imperialism would it become truly critical. Grounding and justifying the normativity of critical theory has hitherto drawn on the legacies of European Enlightenment and its commitment to developmental advancement over what is constructed as pre-modern, non-modern and traditional forms of life. Consequently, normative critical theory is invested in a developmentalist, progressive view of history, in which Europe stages itself as more advanced. For postcolonial theorists the language of progress and development is, however, inextricably tied to the politics of oppression and domination. Contemporary critical theory must in their view hence be decolonized by radically reconfiguring the approach to normativity (Dhawan 2014).

In light of these debates, our volume negotiates the challenges of circumventing the dilemma of normative universalism vis-à-vis normative relativism. Drawing on postcolonial-queer-feminist perspectives, the effort is to uphold normative commitments without recourse to foundationalist premises. The volume reconfigures the contours of the critical through a non-foundationalist approach to normative legitimacy. It thus sets itself apart from universalist normative theorists who claim that in order to be critical, normative foundationalism is imperative. Moreover, the various contributions outline the contingencies and dilemmas of normative commitments by focusing on the exercise of ethical vocabulary and political norms of European Enlightenment in the non-Western world. They unfold how universal normative principles reveal themselves to be provincial and exclusionary although they persist in being self-affirming and self-congratulatory. By reinforcing the superiority of

European normative principles as more civilized and advanced, these are established as benchmarks to assess non-European societies, epistemic orders and practices (ibid: 19, 22, Dhawan 2014). Commitment to such normative foundationalism disavows and obscures the violent legacies of European colonialism and the ambivalence of Enlightenment ideals (Dhawan 2014). However, the antidote to Eurocentrism and imperialism is neither nativism nor the categorical negation of Enlightenment normative theorizing (Chakrabarty 2000). Rather, it requires a pluralisation and diversification of the narratives of normative legitimacy. Differences in experiences, perspectives and location influence how normative principles are formulated and operationalized. Moreover, remapping the widely accepted relation between normativity and history allows for recounting alternative histories of Enlightenment modernity (Allen 2016: 166). The intention is consequently to among other things reflect on moments of normative violence in emancipatory narratives of European Enlightenment (Dhawan 2014).

However, postcolonial theory should not be considered an opponent of normative critical theory. In some ways, the effort is to rescue Enlightenment normativity from its destructive and regressive tendencies by undermining Enlightenment's Eurocentrism (Allen 2016: 204; Dhawan 2015). Drawing on the first generation of the Frankfurt School, we argue that the normative legacies of Enlightenment are deeply ambivalent and contradictory. They are simultaneously inflected by both barbarism and civility, domination and emancipation. If normative commitments define individuals and societies, then postcolonial-queer-feminist critical theory's struggle for decolonization asks how reconfiguring normativity might question the limits of our most sure ways of knowing, doing and thinking. In this context, feminist and especially postcolonial-feminist approaches are characterized by the attempt to consider and analyze a wide range of power structures as well as their interdependence in a historical perspective. This volume therefore highlights the contributions of postcolonial-feminist studies in understanding the functioning of norms and normativity in a postcolonial world. It also aims to show how such a perspective, when used as an analytical lens to scrutinize processes of negotiating normativity in specific socio-political and historical settings, can shed light on the dynamics of how norms are appropriated, contested and transformed.

Feminist and Postcolonial Approaches on Negotiating Norms and Normativity

Europe ruled over 85% of global territories in the form of colonies, protectorates and dependencies at the turn of the twentieth century. Colonial expansion was an extensively violent process marked by exploitation, genocide and suppression. Colonialism was, however, presented as a triumph of the civilized, moral, rational, superior human who altruistically carried the burden of bringing the fruits of reason, modernity, liberty, equality, emancipation, technology, progress and rule of law

from Europe to other parts of the world (Dhawan 2014: 13). Even though colonies served primarily as locations of economic exploitation, they were also the sites where the civilising mission was conducted with the explicit aim of producing reformed colonial subjects, who would experience the European intervention as a liberating process. By universalizing European norms, values and practices, colonial epistemologies monopolized the production of knowledge, thereby delegitimizing and disqualifying non-European systems of knowledge. Europe's construction as a normative power left a trail of violent and exploitative systems in the name of modernity, progress, rationality, emancipation, rights, justice and peace (Dhawan 2014: 40). On the grounds of their superiority, European norms were claimed to be worth emulating, even as the native could only attempt to be like the European. Having been set up to fail from the very beginning any attempts to imitate European norms could only produce "bad," "weak" or "failed" copies, which once again confirmed the authority of the European "original" (Dhawan 2014: 40).

In view of the "enabling violation" of colonialism, namely, its coercive but also its facilitating powers, postcolonial-feminist theorists such as Gayatri Spivak (1999) emphasize that decolonization cannot merely entail a rejection of Western norms. It can neither be the aim to recover "authentic" nor "uncontaminated" non-Western norms. Indeed, the tensions between global/universal norms and ostensibly local/indigenous ones in the global South have been studied extensively. Through the acknowledgement of multilevel politics overall and transnational politics in particular, the question how norms are "domesticated," how they are "vernacularized," "translated" or "negotiated" is brought to bear again (cf. Antrobus 2004; Merry 2006; Wölte 2008; Mageza-Barthel 2015). An added challenge is how to trace the entanglements between diverse European and non-European normativities, when the political imperative is to undo the violation that informs post/colonial normative orders in such a manner that those subjected to them may have a possibility of intervening and transforming them (Dhawan 2014: 69).

By employing postcolonial-feminist perspectives that draw insights from gender studies, queer studies, critical race theory and Third World feminist movements, this volume extends the analysis of norms and normativity beyond identifying the historical sources and nature of norms. In so doing, the entanglement of different power structures that inform socio-cultural, economic and political manifestations of normative violence as well as the negotiation and transformation of norms in regional, national and transnational contexts is taken into account. Thus, the various contributions trace the diverse trajectories of norms: How do norms travel among the asymmetrical spaces of postcoloniality? How are they translated from one idiom into another? Who attends to norms and who is authorized to function as "cultural translator"? Once norms have travelled into other worlds, how are they negotiated? What happens to them on their arrival? Is it possible to talk of conceptual flows across the North–South divide without subjecting the experiences, representations, translations or interpretations of the latter to the hegemonic standards of the former? And finally, how is violence exerted in the name of upholding norms even as the very same norms can be employed to confront violence (Dhawan 2012)?

Theorizing the dynamics between race, class, gender, sexuality, religion and other social categories by scrutinizing their formations and intersections in current debates on development politics, humanitarian aid, post-conflict transformation and international law, the contributions show how transnational power relations can only be understood with reference to global inequalities. Together, they illustrate how norms can function as sites of emancipation and political agency, even while being deeply implicated in the exertion of power and domination. At the same time, the concurrent application of feminist and postcolonial perspectives exposes hegemonic norms to a “double critique” for their imperialist as well as heterosexist structures and practices. Postcolonial feminist approaches unfold how imperialism mobilizes gender as an alibi to legitimize itself. Constructing the “repressed” native female justifies the imposition of the “modernizing,” “liberating” and “progressive” regime of empire, a process that consolidates Europe’s self-image as civilizationally superior. The “Third World woman” as a “victim” of her culture becomes an object to be rescued by the liberating powers. Between imperial and nationalist masculinities, she remains caught between competing patriarchal ideologies (Spivak 1988; Dhawan 2012, 2013; Grieco this volume). Equally significant is the critique of imperialist feminism offered by feminist postcolonial theory. The discourse about the “emancipated” woman automatically evokes the image of the white, Western, bourgeois woman vis-à-vis the ‘other’ woman who is relegated to the role of the “repressed” subject. This goes hand in glove with the construction of the “Third World” or the “Orient” in which gender oppression is instrumentalized as symptomatic of an essential, non-Western barbarism. The “emancipated” Western feminist is the one who has “voice” in contrast to her “muted” Third World counterpart (Mohanty 2003; Dhawan 2012, 2013; Fink 2014; Fink and Leinius 2014).

However, as argued by postcolonial feminists, the critical process of negotiating the perspectives of those who have been silenced and erased across both sides of the colonial divide is not a straightforward practice of “recovery” (see Leinius 2014, 2016). The ethics of representation is persistently confronted with the institutional procedures of co-option that construct the marginal, ‘the other’ as a new object of investigation. Colonialism, we argue, is not just about the military conquest of geographical territories and economic exploitation, but also about “epistemic violence,” namely, violence produced discursively through the imperial politics of knowledge production and subject constitution. Decolonization without doubt necessarily entails facilitating the appropriation, contestation and transformation of Western normative orders.

Postcolonial Appropriations, Contestations and Transformations

The difficulty is to confront the power behind European expansion without assuming it was all-determining and to probe the clash of different forms of social organization without treating them as self-contained and autonomous. The binaries colonizer/colonized,

Western/non-Western, and domination/resistance begin as useful devices or opening up questions of power but end up constraining the search for precise ways in which power is deployed and the ways in which power is engaged, contested, deflected and appropriated (Cooper 1994: 1517)

Questions of the nature and articulation of resistance, agency and voice in colonial settings lie at the heart of postcolonial studies and have caused considerable controversies amongst its most eminent scholars. The beginning of the debate was characterized by the formation of two opposing camps: those who aimed at recuperating the native voice in order to challenge elitist and colonial historiography and those who scrutinized such endeavors by pointing to the heterogeneity of colonial subjects. The latter also revealed the impact of colonial discourse on the construction of subjectivity (cf. Guha 1982; Spivak 1988). While the former were criticized for the homogenization of the colonized, the latter were accused of neglecting anti-colonial resistance while primarily focusing on the alleged all-encompassing power of colonial discourse (cf. Spivak 1985; Parry 1987). However, the debate progressed and moved away from the initial controversy to an endeavor to gain more nuanced understandings of the various ways in which the colonized responded to exercises of colonial power. Those debates have not only led to greater differentiation as well as proliferation of postcolonial approaches, but also to a new understanding of resistance, whose manifestations are analyzed in processes of appropriations, contestations and transformations.

Appropriations

Etymologically, to appropriate means to take or to make one's own, the taking into possession of something previously external to oneself. The relation between self and 'other' as well as questions of belonging and of possession consequently lie at the center of practices of appropriation. In Marxist theory, the term "appropriation" similarly denotes the processes through which both alienation and property are created (cf. Jessop and Wheatley 1999: 87): The bourgeois class appropriates the fruits of the proletariat's labor, converts them into property, thereby producing and sustaining social classes. Appropriation is depicted as an inherently unstable process that creates cracks that leave open the intrinsic possibility of radical transformation: The term intentionally also denotes the transcendence of alienation and private property and—as "real appropriation"—the advent of communism (cf. Marx 2000 [1844]: 43; Jaeggi 2002).

Processes of appropriation have also been scrutinized as cultural appropriation, most basically defined as "the taking—from a culture that is not one's own—of intellectual property, cultural expressions or artifacts, history and ways of knowledge" (Writers' Union of Canada 1992 cit. in Ziff and Rao 1997: 1). Notwithstanding the essentialist view on culture reproduced in this definition, it points to some of the crucial characteristics of processes of appropriation: Their relational dynamic,

the distinct levels on which appropriation can occur, as well as the fundamental importance of power in shaping the process of “taking” from another.

Power here is not to be understood only as coercive “taking from” by means of force, even though such expressions of power certainly play a role in processes of appropriation of, for example, territory. But even territorial appropriations hinge on the power to define “the means by which such acts of appropriation are to be understood” (Spurr 1993: 28). The power of appropriation also lies in its discursive dimension, because

by naming things, we take possession of them. Employed as substantives in the web of syntax, these names acquire an ontological status—a substance—of their own, thus obscuring or concealing the original act of appropriation (ibid.: 32).

Appropriating entities by naming them also shapes the political fields in which conflicts are being carried out; the normative claims then become recognizable and thus negotiable. This is of particular concern to postcolonial contexts, where different normative orders often uneasily overlap with hegemonic normative orders, defining the overall societal norms. For instance, in the eco-territorial conflict since 2004 regarding the expansion of the Yanacocha goldmine in the Peruvian province of Cajamarca, the naming of the mountains and lagoons implicated in the expansion plans became a central issue of negotiating distinct normative orders: While the mining company and state actors appropriated them as “natural resources,” exploitable for promoting the overall progress and well-being of national society, local social movements and transnational environmentalist activists conferred agential capacities to them. By naming themselves political subjects in their own right, they raised claims for justice, well-being and recognition stemming from distinct normative orders (Leinius 2016; de la Cadena 2010). This example shows how appropriation is not a unidirectional process: While the power to appropriate, as well as the power to name such appropriations, invariably lies most often with the dominant group(s), the directionality of appropriation might also be reversed. In these instances, appropriation can potentially serve as a tool of subversion and/or resistance. As processes of appropriation, however, are always already entangled in the web of power relations crisscrossing any social field, there cannot be “first an appropriation and then a subversion. Sometimes it is both at once; sometimes it remains caught in an irresolvable tension, and sometimes a fatally unsubversive appropriation takes place” (Butler 1997: 386).

This multidirectional character of practices of appropriation is reflected in its application in postcolonial studies: Here, appropriation has been used both as a term that describes the way in which the territory, epistemological practices and culture of colonized societies have been taken over by the colonizers as well as a term illuminating the ways in which the colonized have applied the tools of the dominant discourse to displace and, potentially, to challenge its hegemony (cf. Ashcroft 2001a: 5; Hart 1997; Ashcroft et al. 1989: 38–77).

As a strategy of displacement, appropriation has been applied to describe the ways in which postcolonial societies use aspects of the imperial culture—be it language, literature, artistic expressions or forms of thought—to articulate their own

social and cultural identities. But the strategy of appropriation remains fraught with tensions also in the postcolonial context: that what has been appropriated always continues to “bear the burden” of another experience (cf. Ashcroft et al. 1989: 38); while re-articulation might become a tool of resistance and contribute to the transformation of hegemonic constellations, the deeply entrenched history of that what has been appropriated might just as well submerge the intent to propagate an alternative meaning through appropriation and stabilize hegemony instead. Reflecting on the figure of Antigone as champion of the feminist defiance of state authority, Butler (2000: 11) voices these inherent tensions when she writes that:

[Antigone] asserts herself through appropriating the voice of the other, the one to whom she is opposed; thus her autonomy is gained through the appropriation of the authoritative voice of the one she resists, an appropriation that has within it traces of a simultaneous refusal and assimilation of that very authority.

Whereas strategies of appropriation—regardless of their subversive intentions—are not always easily recognizable as strategies of resistance, dynamics of contestation are usually more explicit about their intended outcome. That does not, however, exempt them from their entanglement with hegemonic norms and authority.

Contestations

Though widely used as a term that characterizes action or opposition in postcolonial politics, the term “contestation” is rarely defined. Its dictionary definition refers to two origins, the first of which relates to the more commonly used characterization of an “action or process of disputing or arguing,” whereas the less common usage refers to the act of “witnessing” (Stevenson 2010). Contestation is often used as a vantage point from which to critique existing political systems and structures, specifically the theory and exercise of democracy (for example Benhabib 1996; Hassim 2006). As has been highlighted by scholars like Chantal Mouffe (2000), it is confrontation, agonism, conflict and struggle and not deliberation that are at the very core of politics.

Contesting norms and normativity is not only about rendering transparent why some normative order is unacceptable or unjust. It also implicates resistance to certain practices and social relations. Opposition against colonialism by liberation movements, against authoritarian political systems or globalization is not only about outlining the injustice and violence of these hegemonic normative orders, but also experimenting with strategies of subverting and reconfiguring them. Ideally, it entails struggles for an alternative system drawing on shared group interests that emerge around identified injustices, exclusions and marginalization. For example, in the face of neoliberal globalization and its systematic tactics of disenfranchisement and dispossession, there is a proliferation of protest movements globally. At the same time, in contemporary scholarship on oppositional social movements, what constitutes a social movement is controversially discussed. Either because

such movements are not homogenous or unified from the outset, because they differentiate themselves over time and because the object of their contestation is oftentimes dynamic and not static. The form the contestation may take on could express itself as critique from within social movements too. In this wider global context, oppositional norms should be regarded as fluid, dynamic and contingent (cf. Stienstra 1999: 266). Their impact depends on the differential access to power possessed by those affected by them—which once more highlights that gender, race, class, religion are relational categories. As a result, through the act of contesting normative orders (e.g. colonialism), not only do new movements grow out of the old, but new socio-political identities are produced (e.g. gendered subaltern subjects). Such perspectives have most pronouncedly come together on debates surrounding “representation” that have been raised concerning gender, racial or class equality and equity.

Considering issues of representation as the “standing-in” for group and constituent interests once more highlights that whereas resistance—and even appropriation—might be something that can take place without directly being perceived by the addressee, when contesting something (or someone) it has to be acted out, acknowledged and/or impinge on the other. If the potential of contestation should lead to a transformation of norms, institutions and power structures, then a pertinent question is when marginalized groups enter political institutions, do they contest power relations and which boundaries do they face when doing so (cf. Goetz and Hassim 2003; Phillips 2003 [1998])? Compared to both appropriation and transformation, contestation, understood as a synonym of struggle and conflict, underscores the sites of defiance more strongly than the other two terms. The complexities of existing relations and structures, where the different political levels intersect with one another to pertinently create framing conditions, oftentimes leads to local, national and global levels being discussed and placed in relation to one another.

Transformations

As the last term referring to normativity’s negotiation “transformation” most strongly invokes the process of fulfilled change. The critical examination of anti-colonial movements has led to a more cautious approach towards the simple inversion of colonial binary oppositions in discursive resistance strategies for the transformation of colonial settings (Bhabha 1994; Suleri 1992). Instead of simply glorifying anti-colonial resistance movements as efforts by heroic actors to challenge colonial domination, postcolonial scholars unfold the limits and prospects of anti-colonial nationalism. Despite acknowledging the significant contributions of anti-colonial nationalists to imaginations of solidarity and liberation, they raise awareness of the exclusions that accompany nationalist thought and action (cf. Chatterjee 1986; McClintock et al. 1997; Sharpe 1989). It is within political transformation processes, both in peace time and after conflicts, that societies’ norms are put up for negotiation once more. They create a context within which new values

and orders are introduced, and groups thought to be on the margins of society and politics are brought into the center of deliberations. Whereas the borders of (post) colonial nation states remain as markers of colonial power across the world, the norms governing people within them have shifted predominantly throughout the different waves of decolonization. During these transformation processes, women and others marginalized in previous eras have found openings around which they have mobilized to affect both socio-economic and political change (Goetz and Hassim 2003; Tripp et al. 2009). They have entered politics in various roles—as part of the electorate, as party members, as governmental officers, as women’s representatives and in civil society—with the aim of changing the social fabric by employing wider claims of gender justice (Mageza-Barthel 2012, 2015). As a result, the paradoxical nature of transformative politics is revealed by pointing to the exclusions and co-optations of women as well as members of lower castes and classes. Moreover, the widespread disillusionment about the ambivalent or even reactionary character of oppositional politics as well as the continuance of discrimination and exclusions after liberation contributed to the fundamental reconsideration of conventional notions of resistance. Accordingly, careful attention is paid to strategies that aim to move beyond the binaries that were imposed by the colonizers. Resistance here is not merely understood as oppositional and defensive, but rather as an active and creative process. It leads to new and more inclusive conceptualizations of identity and belonging:

(...) the most fascinating feature of post-colonial societies is a ‘resistance’ that manifests itself as a refusal to be absorbed, a resistance which engages that which is resisted in a different way, taking the array of influences exerted by the dominating power, and altering them into tools for expressing a deeply held sense of identity and cultural being. (Ashcroft 2001a: 20)

As this quote suggests, it is in the context of postcolonial societies that much emphasis was placed on the decolonizing effects of “postcolonial transformations,” which can be understood as appropriations and alterations of imperial technologies. The terms “postcolonial transformation” or “transformative resistance” were most prominently introduced by Bill Ashcroft (1989, 2001a, b) who—by focusing on daily transformative practices as well as literary and artistic works—aims to highlight the contributions of ordinary people, artists and writers to productive engagements with dominant discourses (cf. 2001a: 21). In doing so, he claims to reveal the most influential and persistent but hardly ever acknowledged form of resistance:

In this respect “transformation” is contrary to what we normally think of as “resistance” because the latter has been locked into the party-political imagery of opposition, a discourse of “prevention.” But post-colonial transformation has been the most powerful and active form of resistance in colonized societies because it has been so relentless, so every day and, above all, so integral a part of the imaginations of these societies. (Ashcroft 2001a: 20)

By thinking resistance as a process characterized by the negotiation of hegemonic norms through appropriation, contestation and transformation strategies and dynamics, this volume moves away from common understandings of power, resistance and agency by opening them up for processes that go beyond a simple rejection and point to the inherently relational aspects of reconfiguring normativity.

About the Contributions

The various contributions in this volume aim at critically exploring the transnationalisation and negotiation of norms under the postcolonial condition. The book's first part deals with the appropriation of transnational norms. In the opening chapter, "Can the Subaltern Speak within International Law?" Kiran Grewal explores the ways in which international legal interventions engage with the subaltern subject. Focusing on the Special Court for Sierra Leone, she outlines how international legal discourses continue to marginalize the subaltern through either failing to include her perspective or, where attempts are made, by only being able to hear what is expected to be heard. However, Grewal also suggests that analysing the strategic ways in which subaltern subjects (dis-)engage with the Enlightenment ideas embodied in international law opens up an important and productive site of resistance. Sara de Jong takes the figure of the (gendered) 'cultural broker' as the point of departure for her chapter "Native Informants and Cultural Brokers in the Post-colonial Migration Regime." She traces its emergence in the colonial era and delineates its functions within post-colonial migration regimes at the nexus of integration and diversity discourses. Drawing on illustrative examples from the Austrian context on how cultural brokers are mobilized in the governance of migration and integration, de Jong's chapter explores the possibilities for resistance and contestation, wherein cultural brokers can employ their 'double vision' to shift their roles and manipulate interpretations. The next chapter, by Joshua Kwesi Aikins on "Indigenising Democracy?" focuses on the Ghanaian Constitution Review Process and the renegotiating of indigenous political authorities. The analysis examines gendered representation in the indigenous political systems, the democratic system and their statutory interface. The debate about the role of indigenous institutions and the position of female indigenous authorities threw these divergent perspectives into sharp relief. The outcome of the female indigenous authorities' positions during the renegotiation of constitutionally mandated institutions points to the potential and the constraints for democracy's decolonisation and indigenisation through popular deliberation. Simone Datzberger turns to debates on peacebuilding and development research. In her chapter, "Civil Society as a Postcolonial Project" she argues that despite the "local turn" in this ambit, there has been little critique or nuanced reflection on the import of a normative notion of civil society to regions outside the Western world. Accounts of civil societies in peacebuilding processes seem to be largely detached from a considerable body of postcolonial literature that questions the appropriation of the concept of civil society in non-Western environments. Against this backdrop, this chapter not only contests normative prescriptions, but also queries cultural appropriations and preconceived perceptions of local civil societies in post-conflict sub-Saharan Africa. It points to the adverse effects of Eurocentric normativity when it comes to approaching the concept of civil society in post-colonial and post-conflict equatorial Africa. The section's final chapter on "Undoing Subalternity?" by Philipp Zehmisch critically juxtaposes Gayatri Spivak's efforts to undo subalternity by inserting it into the circuit of hegemony with James

Scott's arguments about the practices of state evasion and subaltern self-marginalization. From the perspective of anarchist anthropology, the Spivakian opening up of political communication towards the inclusion of subaltern speech is, on the one hand, an essential goal. It is congruent with the basic democratic principles of consensual decision-making among social groups living outside or at the margins of state influence. On the other hand, the insistence on including subalterns into hegemony, as Zehmisch argues, entails an inherent paradox. Many subalterns, especially indigenous people and groups, who resort to anarchist ways of life, escape from the state and its communicational structures as a survival strategy. As argued by James Scott, evasion from state exploitation and domination is linked to the maintenance of political and socio-cultural autonomy and a self-sustained economy. Drawing on ethnographic example from the Andaman Islands in India, the chapter addresses this tension between the appropriation and contestation of hegemonic norms and practices by subaltern groups.

The book's second part brings to light queer and feminist perspectives on post-colonial appropriations and contestations. Fouziehya Towghi draws on ethnographic research in Pakistan in her chapter on "The Re-colonization of South Asian Women's Bodies." Her aim is to address the relationship between homebirths and routine labour induction, by interrogating the implications this has on Pakistani women's health. The chapter delineates the colonial biopolitics underlying the advocacy of risky uterine-contracting drugs on humanitarian grounds. These interventions constitute post-colonial histories of such reproductive technologies administered to women in the "global South" that resemble practices of colonial governmentality of bodies, medicines and healthcare. Now, as it was then, the 'pill' becomes a substitute for the structural and economic transformation required to prevent death and disease. It also overshadows endeavours to bring about the quality of healthcare necessary to genuinely secure South Asian women's health. Kyra Grieco's "Motherhood, Mining and Modernity in the Peruvian Highlands from Corporate Development to Social Mobilization" focuses on the extractive activities in Peru, which national governments have promoted as the only viable road to development in the Andes in the past two decades. This paradigm of extractive modernity is increasingly questioned by protest movements that oppose the implementation of new mining projects on the grounds of their social and environmental consequences. In this context, the gendered impacts of mining and mobilization have rarely been addressed. Yet women play an increasingly important role both as targets of mining-led or related development programs and as participants in social mobilization against extractive industries. In both cases, women's physical bodies and their social role as mothers are at the center of a modernity model. Her ethnographic research carried out in the region of Cajamarca, one of the areas of heavy mining investment and the site of intense social conflict since 2011, provides insights into how women are at once subjects and objects of contested modernity with its Eurocentric norms of maternity and womanhood. At the same time, she focuses on the creative agency with which women operate as active subjects in the definition and implementation of their rights. "Women's Rights in the Aftermath of the Arab Spring" by Tanja Scheiterbauer analyses how current transition processes in Tunisia not only influ-

ence women's activists' opportunities to promote women's rights but also impact their discursive framing. The Tunisian women's movement has been marked by an ambivalent relation vis-à-vis the state's co-option of feminist struggles, since women's rights and women's emancipation have long been a central norm legitimizing the postcolonial authoritarian regimes of Bourguiba and Ben Ali. They have, however, also been employed to delegitimize traditional and Islamic social forces. Therefore, the chapter shows how women's rights have been negotiated and reframed in the long-term structural processes of post-colonial state formation. Against this historical background, the chapter examines the possibilities and strategies currently employed by the Tunisian women's movement to frame the issue of women's rights, negotiating the dilemmas of either being accused of acting as (Westernized) agents of the old secular elites, or reinforcing an "authentic" Islamic understanding of women's rights propagated by religious social forces. In a similar vein, Lucia Artner and Gavaza Maluleke take-up the controversy surrounding the universalization of women's rights. Their chapter "Contested Universal R/rights—The Family Code in Mali" focuses on the ongoing dispute over the amendments of the Family Code meant to improve women's social status in Mali. Critics view these amendments as incompatible with the Qur'an; this case hence functions as a "negative" example for a dialogue that does not take place on common grounds and in which people are unable or unwilling to be self-reflexive. Artner and Maluleke outline how contesting parties invoke and appropriate normative ideas about religion, secularism and human rights to strengthen their ideological positions. In so doing, they monopolize their particular viewpoint as the only universally valid one. Drawing on the documentary film "Family Code," the chapter illustrates how different participants in this debate have appropriated particular (and often divergent) normative ideas in order to fortify their own positions, while discrediting others. Postcolonial and transnational feminist scholarship provides the discussions against which Artner and Maluleke examine the various factors important for facilitating a dialogue between scholars and "ordinary" women, while focusing on the struggles that have previously taken place within feminist interventions in international politics that resulted in the emergence of a grounded dialogue (such as transversal politics). The section on postcolonial-queer-feminist appropriations and contestations concludes with a chapter focusing on the Spanner case in the UK, in which a group of gay male sadomasochists were successfully prosecuted in the early 1990s for assault despite the objections of their willing sexual partners. Jordana Greenblatt's chapter "'Cruelty is uncivilized'" explores how despite tendencies to understand consent as a common-sense concept, it is a dynamically shifting social, legal, and theoretical construct that is mobilized in the service of a "civilized" norm. The chapter makes explicit the connections between regulating sexual and (Western, imperial) national borders through discourses of civilization and barbarity. These discourses uphold the dividing lines between the normative and the anomalous. Consent becomes essential in producing and enforcing the normative, civilized subject, maintaining the integrity of the masculine and national bodies as well as consolidating the boundary between "civilized" nations and their "barbarous" exteriors. Consequently, welcoming and enjoying the pain of "barbarous" interactions for its

own sake is uncivilized, uncivil, and incompatible with the civilized subject able to give meaningful consent.

The volume's third section delves into transformations of development politics, which brings together ideas around postcolonial appropriations, contestations and transformations in a field of particular importance to the global South. In "Negotiating 'Development': Constitution, Appropriation and Contestation," Aram Ziai examines the rise of the 'development' discourse in the first half of the twentieth century and its later appropriation and contestation. In the context of the World Wars, anti-colonial movements, the Russian Revolution and the Great Depression, a new way of representing territories and peoples in the South emerged, which moved away from the ideology of White supremacy, but held on to the principle of trusteeship. After decolonization, elites in the "global South" appropriated the concept of development for their own ends, affirming the principle of trusteeship on the national level while rejecting and condemning it on the international level. At the same time, they employed the label 'less developed' to articulate demands for financial transfers and special treatment in the UN system, even as the term itself was not contested at this point. Against this historical background, Ziai's chapter centers on two recent contestations that have emerged, namely, the discourse of participation and ownership on the one hand, and Post-Development on the other hand. Both reveal what Foucault calls the tactical polyvalence of discourses, which outlines how the same discourse can be used for different political ends. Dana Lüddemann analyses forms of political government—not limited to state politics—and their relation to subjectivities and technologies of the self in her chapter "Political Economy, Subjectivity and Agency." In order to examine how knowledge systems and discursive formations are linked to political fields and governmental regulations, her chapter takes the discourses on micro-finance as an empirical case to explore paradigms and power relations that emerge in the context of these programs. Instead of a straightforward exclusion of subalterns from the social order, she admonishes their selective integration into political and economic processes. In particular, her attention turns to the explicit gendered subjectivity of subaltern subjects in the "global South" as (potential) receivers of micro-credits. These subalterns become targets as primary "development agents" in place of their families and communities. Social change within this regime is thereby re-formulated and coded in terms of access to markets: Subaltern women are pressed to integrate themselves into the global market as entrepreneurs, and adapt to norms of productivity, efficiency and profitability resulting in political and economic consequences not only for their individual lives, but for society at large. Mohammad Tanzimuddin Khan undertakes a critique of co-management approach to nature/forest conservation in his chapter on "Normative Conflicts in Bangladesh." Khan investigates the limitations of the co-management approach, especially when it involves asymmetrical power relations among participating stakeholders. In such cases, interests of the powerful business actors prevail over nature/forest conservation and as a result, "sustainable development" becomes a sheer pretext; the state and other non-state actors merely become legitimacy-providers. Drawing on a case study of the Chevron-IUCN business partnership in Bangladesh, which conducted a seismic survey in the ecologically sensitive and

legally protected Lawachara national park where the existing forest laws of the country were violated, Khan highlights the normative conflicts that emerge in contemporary discourses of nature/forest conservation. In conclusion, Jini Kim Watson argues for a turn to literary representation as a means to scrutinize the ideological forms and effects of postcolonial indebtedness in her contribution on “‘We Want You to Ask us First’: Development, International Aid and the Politics of Indebtedness.” Drawing from the insights of anthropology, gender studies and legal scholarship, she explores the way that aid mechanisms have restructured “First World” and “Third World” hierarchies in the wake of formal colonialism, producing a new reckoning of guilt, debt, and burden for the postcolonial era.

With these different regional foci, methodological approaches and conceptual framings, the volume adopts a bandwidth of views that unearth the various options of—and barriers to—negotiating norms and normativity for actors within particular local settings or issue areas. These range from the strategic (dis-)engagement with national as well as inter- and supranational institutions and organizations over the (subversive) appropriation and translation of hegemonic norms. It also includes the negotiation and contestation of specific orders and policies in nation-states or within civil society. These courses of action imply encounters within public spheres, which include but are not limited to the organization and mobilization of (counter-)publics. Their critical engagement with hegemonic framings involves challenging the terms of recognition as well as the contents of normative judgments. Ours is not a call for undermining normative claims; rather we emphasize the need to devise new constellations of normativity that would enable subjects struggling for enfranchisement. Spivak explains how interventionist critique entails the obligation of having “to inhabit the structures of violence and violation” it seeks to alter:

[a]s far as I can understand, in order to intervene one must negotiate. [...] the more vulnerable your position, the more you have to negotiate. We are not talking about discursive negotiations, or negotiations between equals, not even a collective bargaining. It seems to me that if you are in a position of where you are [...] being constituted by Western liberalism, you have to negotiate to see what positive role you can play from within the constraints of Western liberalism [...] breaking it open (Spivak 1990: 72).

Even though the structures and patterns of normativity calling for resistance appear similar, no two negotiations, appropriations, contestations or transformations are the same. Moreover, Spivak’s is not a call for wholesale critique or corrective additive for historical injustices. Along similar lines, we employ the terms negotiation, appropriation, contestation and transformation in order to acknowledge the diverse tactics and strategies mobilized by various actors to generate social, legal and cultural change. Far from assuming a causal link between these terms, we seek to shed light on the gray areas around processes of the global migration, transnationalisation and translation of norms. The line between subversion and the mere imitation of norms is not easy to draw. Subversion does not happen automatically and its effects cannot be predicted in advance. Counter-hegemonic practice does not lie in the mere chance that numerous individuals undermine hegemonic norms. Thus, there is no guaranteed way to contest hegemonic normativity, whereby subversion is an incalculable and contingent effect. Norms are neither frozen in time

nor can they be challenged in the same way at all times. The analysis of the historical conditions in which norms emerge and in which they regulate is crucial for a counter-hegemonic politics (Varela et al. 2011; Dhawan 2013). The capacity to develop a critical relation to hegemonic norms presupposes an ability to disarticulate and rearticulate them such that this might enable political claims of the disenfranchised. Indeed, the necessary slippage of normative frameworks produces the space for creative agency. Political contest resides in exceeding and reworking the norm; it rests on negotiating normativity.

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Part I
Appropriating Transnational Norms

Can the Subaltern Speak within International Law? Women's Rights Activism, International Legal Institutions and the Power of 'Strategic Misunderstanding'

Kiran Grewal

Introduction

Since the 1990s there has been a well-documented proliferation of international legal institutions as well as 'Rule of Law' projects established in a variety of post-conflict settings: famous examples include the International Criminal Tribunals for the former Yugoslavia and Rwanda, 'hybrid' tribunals such as the Special Court for Sierra Leone and the Cambodian Extraordinary Chambers and the establishment of the International Criminal Court in 2002. Advocates of this development argue that aside from assisting to build economically and politically stable and secure regimes these interventions hold an emancipatory potential for marginalised populations across the globe. Meanwhile critics point to the elitism and inefficacy of international institutions and law and the potential for these interventions to reproduce processes of cultural, political and economic domination.

In this chapter I explore the ways in which international legal interventions engage with the subaltern subject. Focusing on the work of the Special Court for Sierra Leone, I will show how international legal discourses continue to marginalize the subaltern through either failing to include her perspective or, where attempts are made, by only being able to hear what we expect to hear. However, I also seek to show that this is not the entire picture and indeed to focus on only this, as I myself and many other critical scholars have, is in fact reproducing a particular power dynamic. Instead, I conclude by suggesting that a shift towards analyzing the strategic ways in which subaltern subjects engage (and disengage) with the Enlightenment ideas embodied in international law opens up an important and productive site of resistance.

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As Boaventura de Sousa Santos and César Rodríguez-Garavito note, much of the existing literature on law and globalization focuses on the top-level actors and institutions (2005: 2). While they speak specifically of transnational corporations and ‘Northern’ states, I would add to this list international NGOs and international community professionals (‘experts’). In the process, these actors are reinscribed with the power to effect change within specifically located sites reproducing the dichotomy between those who ‘right’ and those who are perpetually ‘wronged’ (Spivak 2004, see also Douzinas 2007). What remains under-observed and analysed are the forms of “subaltern cosmopolitan legality” (de Sousa Santos and Rodríguez-Garavito 2005), which may be making use of the law as a tool for counter-hegemonic struggles.

Part of the problem has been the production of a binary between the enlightened space of ‘abstract universal law’ and the specifically located site of (‘non-Western’) culture and tradition. International law has in this way been both claimed to reflect the embodiment of ‘Western’ Enlightenment principles and simultaneously abstracted to assert a universal applicability. In this sense its very founding assumptions have been both informed by and constitutive of imperialism (Anghie 2005). As the SCSL’s engagement with forced marriage as a crime against humanity illustrates, the reproduction of a classic colonial logic remains at the heart of many international legal ventures. While perhaps not overtly imperialistic in its designs (although this too is hotly debated), the manner in which local marginalized subjects are incorporated into the realm of international law demonstrates an underlying set of assumptions which continue to be informed by a colonial imaginary of Enlightenment principles versus the barbaric, uncivilised ‘non-West.’

At the same time, the quest to identify and engage with an authentic ‘local woman’s voice’ highlights the constrained space within which ‘non-Western’ subjects are able to participate in international legal discourse. While women’s rights remains everywhere a debate that is highly diverse, nuanced, conflicting and contradictory, in the context of international law it becomes a ‘problem’ to be managed by the international community. This flattening, of the complexity stands in contrast to the lived realities of those supposedly being ‘emancipated.’ And at the same time it is the ways in which these subaltern subjects nonetheless draw on and utilize these discourses, which perhaps best point to the subversive and emancipatory potential of international law.

The Imperial Origins of International Institutions

The implications of international law in the imperial project and the inevitable legacies of this to be found within contemporary international legal frameworks are well-documented. As scholars such as Anthony Anghie and Balakrishnan Rajagopal have argued, colonialism has been a central feature in the formation of international law (Anghie 2005: 742; Rajagopal 2006). Indeed in an effort to explore the nature

and impact of this relationship between imperialism and international law, the 'Third World Approaches to International Law' (TWAIL) movement was established in the 1990s (inspired by the Bandung conference in 1955) and has produced a vast body of scholarship exploring the political, philosophical and economic implications of the colonialist foundations of international law (Matua and Anghie 2000; Rajagopal 2000; Chimni 2006).

Beyond the historical continuities within institutions and laws, the very essence of rights discourses has been the promotion of Enlightenment values: rationality, secularity, individualism and universalism. Again, these values not only provide the basis for justifying contemporary humanitarian interventionism but were also the foundation for the asserted 'civilising mission' at the heart of many European colonial projects.¹ At the same time, in his description of contemporary debates about global governance, Himadeep Muppidi (2005) also identifies the continuum in colonial logic in the construction of the 'Other' as object whose responsibilities are already defined and whose rationality is never presumed.

It has also been convincingly argued by scholars such as Jean and John Comaroff (2006) and Achille Mbembe (2001) that this new obsession with law and lawlessness within the 'Global South' is a form of reconstructing the traditional colonial divide between the disorder of the colony and the civilisation offered by the metropole. Susan Silbey (1997) has described a form of 'postmodern colonialism' within which—despite forms of local invention and innovation attempting to reshape them—standardised global exports are imposed regardless of context and serve to structure not only local institutions, but the very terms of local debate. Thus, according to Boaventura de Sousa Santos, social transformation is no longer seen as a political problem but rather an economic and technical one: "The rule of law and the judicial system are thus conceived of as principles of social ordering, as instruments of a depoliticised conception of social transformation." This results, he concludes, in "... the streamlining of the emancipatory potential of the rule of law and the conversion of the latter into just one more technique of regulation" (2002: 340).

This shift from politics to governance—or to draw on the language employed by Jacques Rancière (1999), from politics to 'police'—serves two purposes. On the one hand it secures the power of elites (both local and international) who then 'manage' the masses viewed less as citizens and more as 'populations' (Chatterjee 2004). On the other it reinforces a picture of a 'rights and rule-of-law' endowed international order seeking to bring civilisation to those who have yet to experience their Enlightenment: those Douzinas' pithily describes as the "infants of humanity" (2007: 83).

¹ While admittedly this 'mission to civilise' was often invoked cynically to sanitise more ruthless aims of economic and military exploitation—a criticism that has similarly been made of US interventionism in recent times—at least within French imperialism, historians have argued that the 'civilising mission' cannot be excluded from one of the core justifications for colonization (Conklin 1997).

Gender in the New (Neo)colonial World Order

At the same time, the specific ways in which gender is understood and treated within international governance and legal regimes is also reflective of more than simply a gender bias (by now thoroughly documented and critiqued by feminist scholars). The construction of femininity and masculinity within international law discourses also relies on and reinforces specific colonial discourses (Otto 2006). The constructed distinction between the experiences of sexual violence in times of ‘peace’ and times of ‘war’ may say less about the different contexts and more about the sorts of women who will always be attributed autonomy and those who will perpetually be constructed as victims (a point I will return to later in this chapter).

Wairimū Ngarūiya Njambi (2004) has argued in relation to the debates regarding female genital mutilation that there is a disturbing continuum from colonial exhibitions, which showed African female genitals to the detailed descriptions within human rights scholars’ (including feminists) texts of mutilated, violated labia. In international criminal law there is a similar (porno)graphic tendency to reproduce detailed accounts of the degradation, violation and mutilation of African women’s vaginas. Meanwhile, this voyeuristic fascination with Black women’s bodies and sexualities also contributes to what the ‘West’ ‘already knows’ about the lives of ‘non-Western’ women: the violence and subjugation they face by virtue of being victims of their ‘non-Western’ traditions and cultures. This is the ‘Third World Woman’ of whom Chandra Mohanty has written (1988: 65).

Adding to this, Ratna Kapur has argued that without adequately addressing both the colonial legacies and ‘First World’ ideological hegemony contained within the law, feminists from all different ideological positions themselves contribute to the ongoing marginalisation and exploitation of subaltern and ‘Third World’ subjects (Kapur 2005: 5). Just as the ‘Hindu wife’ in colonial *sati* debates was, as Sunder Rajan describes, “both indispensable (the justification for the imperialist project itself) and eminently dispensable (the sacrifice offered to an emergent Western feminist individualism)” (2004: 46), the ‘non-Western’ female victim is both a justification for intervention and ultimately consumed in a reiterated celebration of the ‘feminism’ only the ‘West’ can bring. This is perhaps best-illustrated by the way in which the Special Court for Sierra Leone dealt with the issue of forced marriage as a crime against humanity.

The Special Court for Sierra Leone

Following the end of the 10-year civil war in Sierra Leone, there was a mass international community intervention. This took the form of various aid programs dedicated to post-conflict reconstruction and state reform, the establishment of a Truth and Reconciliation Commission and an internationalised court (the Special Court for Sierra Leone, hereafter the SCSL): a joint initiative of the United Nations and

the government of Sierra Leone. A number of key atrocities were identified as a focus of concern: the huge rate of amputations carried out by rebel groups during the conflict, the use of child soldiers (prosecuted for the first time as an international crime) and the extensive sexual and gender-based violence inflicted by all parties to the conflict. This latter issue became key to the SCSL's cases following a statement by the SCSL Chief Prosecutor that gender would be the 'cornerstone' of the prosecution strategy.²

Alongside charges of rape, sexual violence and sexual slavery (explicitly named for the first time within the list of crimes of the SCSL Statute) the Prosecution also decided to include a separate count in the indictments of the RUF³ and AFRC⁴ accused of forced marriage as 'other inhumane act.' This decision was reported as reflecting the SCSL's commitment to the wishes of local Sierra Leonean women and widely celebrated within international feminist legal networks (Frulli 2008; Muddell 2007; Park 2006; Nowrojee 2005; Damgaard 2004; Eaton 2004). And indeed, many women's rights and human rights activists in Sierra Leone expressed optimism for how this might assist with addressing the historical disempowerment and discrimination women had faced.⁵ However the ways in which the violation was characterised raises some interesting insights into the ways in which women, human rights and the relationship between the 'local' and the 'international' interact within international criminal trials.

'Forced Marriage' Versus 'Arranged Marriage': The Nature of the Violation

Finding the accused guilty of forced marriage as a crime against humanity, in her partly dissenting opinion in the AFRC case (which was later endorsed on appeal and in the RUF judgment) Justice Doherty made the following observation:

On the evidence I find that the intention of the 'husband' was to oblige the victim to work and care for him and his property, to fulfil his sexual needs, remain faithful and loyal to him and to bear children if the 'wife' became pregnant. In return, he would protect the 'wife' from rape by other men, give her food when food was available and, depending on his status, confer a corresponding status upon the wife. In effect, these are rights and obligations

²For a more detailed discussion and background to the SCSL see Grewal (2012a); Babbitt and Lutz (2009).

³RUF stands for the Revolutionary United Front, the rebel group led by Foday Sankoh. Of five initial indictees, three alleged 'leaders' were prosecuted from this group: Issa Hassan Sesay, Morris Kallon and Augustine Gbao.

⁴AFRC stands for the Armed Forces Revolutionary Council, a group of military personnel who staged a coup in 1997 and, after being ousted, fled to the countryside where they sporadically fought against and with the RUF. Three individuals were indicted from this group: Alex Tamba Brima, Ibrahim Bazy Kamara and Santigie Borbor Kanu.

⁵Interviews were conducted with human rights and women's rights organisations in Sierra Leone in 2006 and 2011.

of the type referred to by the Defence expert as being involved in traditional marriages but in there is no agreement of the family or kin of the 'wife' and the status is forced by violence or coercion upon the female partner.⁶

What is striking in this paragraph is the way in which Her Honour does not seek to problematise the assumed role of the 'wife' in a traditional Sierra Leonean marriage but simply qualifies the acceptability of this state of affairs as dependent on whether the 'wife's' family or kin have agreed to this arrangement. Given the intensity of feminist critiques of family as a site of discrimination and violence, both internationally and within Sierra Leone itself this is a startling finding. However it was in fact reflective of the overall approach taken to the prosecution of forced marriage and in particular the importance of separating forced marriage from legitimate customary marriage practices in Sierra Leone. This is made clear in the initial advice given to the Prosecutor's Office by law professor Michael Scharf.

Professor Scharf (writing with Suzanne Mattler), whilst noting the potential for overlap between those practices identified as 'arranged marriages' in peacetime and those identified as 'forced marriages' in times of war identifies what he considers to be the distinguishing features of the latter: the first is a lack of consent (if not from the prospective spouse at least from her family) accompanied by the payment of 'bridewealth' (Scharf and Mattler 2005: 81), the second is the intention of the practice: "The practice of arranged marriage is not injurious to the groups that practice it in intent or result. Forced marriage, in contrast, has no basis in the benevolent parental objectives to assist children or to perpetuate important values, and it is highly injurious to its victims" (2005: 89). This sentiment was reproduced repeatedly by Zainab Bangura, the Prosecution expert witness who testified in both the RUF and AFRC trials (a point I will discuss further shortly). Thus it was apparent 'cultural sensitivity' that justified the endorsement of an extremely conservative vision of Sierra Leonean marriage practices. This produces two problematic outcomes. First, certainly it would be dangerous to assert that all forms of arranged marriage are deeply injurious or ill-intentioned. However, so too is the assumption that arranged marriage in Sierra Leone is to automatically be seen as a 'benevolent' and legitimate practice. In the name of sensitivity for cultural difference, assumptions are made about the intent behind practices without any basis: a process which only serves to reinforce local structures of domination.

In fact, from talking to human rights activists in Sierra Leone, many expressed concern regarding the practice of early marriage in rural areas of Sierra Leone. Its continued practice was certainly not perceived by many local people committed to human or women's rights as an acceptable cultural practice. Furthermore, traditional marriage processes have been contested not just at the level of urban rights activists but also among rural communities themselves (Coulter 2009; Fanthorpe 2005; Hardin 1993). In fact Kris Hardin, in her anthropological study of a diamond mining town in Kono district, far eastern Sierra Leone, found that the majority of couples were living together without having completed customary bridewealth payments.

⁶ AFRC Trial Chamber Judgment, Partly Dissenting Opinion of Justice Doherty on Count 7 (Sexual Slavery) and Count 8 (Forced Marriage) at para. 49.

Moreover young men and women both expressed reluctance to enter into formal marriages, seeing them as exploitative arrangements: the men for the reason of excessive financial burdens and the women because, “[they] generally felt that men were disrespectful to them and, moreover, tried to take advantage of them by expecting their labour and children but were unwilling to support them or be respectful of their families” (1993: 69).

In this light, the reification of ‘customary marriage’ in contrast to the condemnation of forced marriage during the conflict becomes worthy of greater interrogation. It raises significant questions about whose interests are served by presenting—and endorsing—an idealised picture of traditional marriage against which the wrong of forced marriage is constructed. It also demands us to be more cautious about reiterating values and standards, which may not in fact reflect the lived reality of the very people apparently being given redress.

At the same time, I would argue that this process not only reinforces existing hierarchies and discourses of domination in Sierra Leone, it also contributes to reinforcing another hierarchical relationship. This apparent ‘respect’ for local culture once again divides the communitarian traditional culture of Sierra Leone from the ‘enlightened’ feminist universalism of international law. A local, contextual feminist response thus becomes virtually impossible. Finally, while the ‘Third World Woman’ is provided some space within which to speak, it is a highly constrained and regulated space.

The Voice of the ‘Third World Woman’

In apparent response to potential allegations of imperialism and disconnect from context, the SCSL did hire a ‘local expert’ to comment on the issue of forced marriage. Zainab Bangura—a Sierra Leonean insurance broker and civil society activist—was selected and presented both a written expert report and testimony in the AFRC and RUF trials. However, her role within the trials points to far deeper issues of inequality and hegemony that cannot be addressed simply by allowing a different narrator to speak.

First of all, it is impossible to escape a feeling of instrumentalism on the part of the SCSL allowing the voice of the ‘expert’ to be a Sierra Leonean woman. Whilst Scharf and Mattler provided their advice to the SCSL Prosecutor in 2004, the Prosecution itself told the Trial Chamber that Ms Bangura was not selected to act as an expert witness and compile a report on the issue until February 2005.⁷ This was after another non-Sierra Leonean ‘gender expert’ had already prepared a report on sexual violence. The Prosecution told the Trial Chamber that, “given the distinct

⁷ Separate and Concurring Opinion of Justice Doherty on Prosecution Request for Leave to Call an Additional Witness Pursuant to Rule 73bis (E) and Joint Defence Application to Exclude this Expert Evidence of Zainab Hawa Bangura or Alternatively to Cross-Examine Her Pursuant to Rule 94bis, 21 October 2005, Case No.SCSL-04-16-PT, at para. 5.

social and cultural consequences of forced marriage and its uniqueness to the Sierra Leone conflict, the best evidence in that regard would come from a Sierra Leonean expert.”⁸

Yet the question of what in fact qualifies Bangura as an expert remains unanswered. Is it on customary marriage or marriage practices in Sierra Leone? On the situation of women’s rights in Sierra Leone? The experience of being a ‘bush wife’? It seems Bangura cannot and does not speak authoritatively on any of these topics, which raises the question of what her testimony adds to that of the ‘bush wives’ themselves. Her evidence slides between generalised statements and personal anecdotes drawn from her own life and beliefs, a point also made by one of the defence counsel: “Is it fair to say in that regard, when it comes to the selection of your sources, that for you an important factor was your personal account of the events during the war?”⁹

For the defence the significance of this is the undermining of her testimony. However for my purposes it is interesting and important for another reason. Essentially, Bangura becomes positioned as a ‘native informant’ whose ‘lived experience’ allows her to speak as someone who ‘was there’ and ‘knows’:

...if you have gone through trauma yourself, you know what it means and you know how you feel about it and you know how you respond to questions about it.¹⁰

... Because I was here in Freetown. I worked here, I stayed here. And even when I went into exile for 9/10 months, I came back. So when it comes to the reality of the situation on the ground, because I was very much involved in the process, I develop a relationship with the AFRC and RUF.¹¹

Accepting the distinction between the abstract reporting of a situation and that of ‘living it,’ having not herself been a ‘bush wife’ however, the question remains of what Bangura’s testimony adds to that already presented by the women themselves. Bangura’s role could perhaps be seen as that of the “urban elite activist from the Global South” who, “understand[s] and state[s] a problem intelligibly for the taste of the North” (Spivak 2004: 528). In this sense she becomes the ‘native informant,’ brought in to render transparent the otherwise opaque culture of the ‘non-West.’

Yet, as Uma Narayan cautions: “The ‘Authentic Insider’ position becomes profoundly limiting for Third-World individuals when they get routinely cast as Native Informants while being denied auditions for other roles they could play just as well” (1997: 145). This is an argument I have made elsewhere in relation to Dutch Somali writer Ayaan Hirsi Ali whose positioning of herself as ‘previously oppressed now enlightened Muslim/African woman’ has both drawn on and subverted postcolonial feminist theory (Grewal 2012b). The main danger is that this positioning ultimately

⁸ Decision on Prosecution Request for Leave to call an Additional Witness (Zainab Hawa Bangura) pursuant to Rule 73 bis (E), and on Joint Defence Notice to inform the Trial Chamber of its position vis-à-vis the proposed Expert Witness (Mrs. Bangura) pursuant to Rule 94 bis.

⁹ AFRC transcript of hearing, 3 October 2005, p85, lines 20–22. <http://www.rscsl.org/Documents/Transcripts/AFRC/AFRC-100305.pdf>. Accessed 2 Nov 2015.

¹⁰ Ibid., 97, lines 15–17.

¹¹ Ibid. 86, lines 10–14.

does little to disrupt dominant gendered or racialised hierarchies: and the case of Bangura's testimony in the SCSL is no exception.

Looking at Bangura's testimony, a fascinating and contradictory account of both her own life and that of 'Sierra Leonean women' more generally emerges. She begins by reiterating a classic narrative of a subjugated African woman (escaping an arranged early marriage at 12, facing discrimination as an adult) who becomes disillusioned with her culture, is offered access to democracy, rights and knowledge in the 'West' (facilitated by UNDP and the American Embassy, she attended training programmes in the US) and comes home to educate her less fortunate sisters.¹²

She goes on to provide an explanation for the 'wrong' associated with forced marriage that does not differ significantly from that provided by Scharf and Mattler some 2 years earlier. When asked to define what she means by 'forced marriage,' Bangura states:

I use it for girls who have been who had been [sic] abducted and literally taken as wives, because when I spoke to this girl, I said, "What happened?" She said, "When he comes to the house, when he captured, he said, 'You now me wife.'" That you are my wife...¹³

The repeated use of the term 'wife' by women Bangura interviewed supports the claim made by various commentators that the decision to name the violation 'forced marriage' reflected an incorporation of the victims' perspective (Muddell 2007: 95). However, I think it is important to dig a little deeper into the significance of this terminology being used. As Bangura identifies earlier in her testimony, in peacetime within more traditional communities in Sierra Leone, wives are considered their husband's 'property': "When the husbands die, they dispose you with the rest of the property."¹⁴ She goes on to explain that, in the context of forced marriage,

... right from the beginning of the entire relationship with him he identifies you as his wife, which means you belong to him. You are with him and you are part of his property, I might say, because he takes care of you, he protects you, he feeds you. So you are part and parcel of him.¹⁵

And, in response to the question of why the men used the term 'wife': "It is a sign of control. It is a sign of ownership. It is like—because in our tradition when somebody is your wife, you have complete control over him [sic]."¹⁶ Added to this, Bangura's intermittent use of consent to mean that of the girl/woman herself and that of her family raises significant questions about the extent to which the prosecution of forced marriage is really motivated by a desire to protect the rights of women. Instead it seems to reiterate Scharf and Mattler's argument that the crime of forced marriage should be prosecuted because "forced marriages demean and distort the institution of marriage itself" (2005: 77). Rather than calling into question the role

¹² Ibid., 5–20.

¹³ Ibid., 52.

¹⁴ Ibid., 20, lines 1–2; see also 53, lines 17–27.

¹⁵ Ibid., 51–52.

¹⁶ Ibid., 53, lines 13–15.

of 'wives,' the patriarchal conception is reinforced and naturalised with the violation being positioned as the misuse of the term rather than the content of the role itself. This seems to further demonstrate Nivedita Menon's (2004) argument that the law tends to fix essentialised (and often oppressive) identities rather than opening up more emancipatory possibilities.

This fixing of hegemonic identities must be further problematized when placed within the framework of international human rights. As Douzinas (2007) has argued, it is precisely the simultaneous assertion of an universal humanity and the establishment of one specific set of ('Western' Enlightenment) values as legitimate (and defensible by force if necessary) that has led to the hegemony of human rights and its capacity to reinforce existing power relations. It has also been an effective means of reducing the individual subjectivity of the 'non-Western' human rights 'victim' and reinforcing the 'civilisation' of the 'West':

We can feel great pity for the victims of human rights abuses; but pity is tinged with a little contempt for their fickleness and passivity and huge aversion towards the bestiality of their compatriots and tormentors. We do not like these others, but we love pitying them. They, the savages/victims, make us civilized. (Douzinas 2007: 71)

In this sense, the Sierra Leonean bush wife becomes the means for affirming a number of core beliefs the West has about itself: that (patriarchal) marriage is an inherently human good, that the perversion of this good is the result of the acts of 'non-Western' 'others' (from whom this is perhaps to be expected), the 'non-Western' woman is an inherently pitiable victim in her homogenised state of oppression and it remains the 'white man's (and woman's) burden' to bring civilisation in the form of rights and law to rescue this victim from her culture, her men and herself. The continuation of a colonial logic is unquestionable. What makes the case of 'forced marriage' doubly difficult for a postcolonial feminist is that to condemn the SCSL for its affirmation of local marriage practices is to apparently conform to a narrative in which tradition is inherently repressive and African women always oppressed, yet to recognise the cultural context within which women experience marriage—in both conflict and peace—in Sierra Leone, potentially legitimates a conservative, patriarchal understanding of local customary law, kinship and gender relations.

In critiquing Bangura's role and narrative within the SCSL trials, I do not wish to suggest she had no right to speak. Rather, I see her as demonstrating the constrained space within which the 'Third World' female subject must situate herself: as both a narrator of universalised suffering and a representative of her culture and tradition. As I have argued elsewhere (Grewal 2012b), the colonial residues within feminist and culturalist discourses continue to make it virtually impossible for many women to find a space that is both sensitive to the gender and race/cultural politics at stake. Bangura seems to once again—in a manner similar to that which I have identified elsewhere in relation to Somali writer Ayaan Hirsi Ali—demand further interrogation of "how the legacies of colonial racial and gender orders continue to be rejuvenated and reproduced through the bodies of postcolonial subjects" (Grewal 2012b: 589).

But it is precisely her role as the 'voice of the Sierra Leonean woman' presented as authoritative and authentic within the arena of international law that obscures the diversity of practices, processes of domination and acts of resistance and agency Sierra Leonean women experience in both times of war and times of peace. Not only is her testimony contradictory as a result—as she struggles to simultaneously present an accurate account of 'Sierra Leonean culture' and women's experience of violence and discrimination—it also silences other potential voices and perspectives, reducing them to the silent, victimised mass Douzinas describes (2007:69). Perhaps this is in part the result of the epistemic discontinuity with the subaltern Spivak sees as inevitable when postcolonial elites utilise human rights discourse (2004: 527). But it is also a means of confirming a particular vision of Sierra Leonean women's lives that does not allow space either for 'bush wives' to be seen as anything other than victims¹⁷ nor for resistance in peacetime to be expressed *within and according to* Sierra Leonean cultural norms as the individualist feminist perspective becomes antithetical to the naturalised conflation of individual and familial consent within Bangura's testimony.

International Law as Site of Domination, Resistance and Struggle

So to return to the initial question this chapter sought to answer: can international legal arenas really live up to their emancipatory aspirations or are they yet another site for the reinforcement of ethnocentric universalism and the silencing of the subaltern? When analysing the SCSL proceedings, it becomes easy to identify with Ratna Kapur's characterisation of the law as, "a site of discursive struggle, where the role and place of the world's cultural Others who are peripheral subjects... have been and continue to be fought out" (2005: 3). Not only do the characterisations of forced marriage by the international expert and the SCSL collude with the most conservative, traditional patriarchal representations of culture and marriage in Sierra Leone—in a manner parallel to Narayan's identification of 'Western' feminists adopting a 'colonialist stance' to 'Third World Women'—they further legitimate this position by imbuing it with the authority of law. Meanwhile, the contortions that become evident in the process of Bangura's testimony highlight that it is not simply a matter of allowing the 'Third World Woman' to speak but also addressing the conditions within which her voice can possibly be heard. Her selection as 'expert witness' to speak about the experience of Sierra Leonean women (as a whole) and her evidence would seem to once again reinforce Spivak's argument that the subaltern can never be heard in her own terms.

¹⁷ And indeed, the ethnographic studies of 'bush wives' suggest a much more complex and ambiguous experience with some achieving significant power within the rebel force, perpetrating serious acts of violence themselves and in some cases falling in love with their husbands and remaining with them after the war: see for example Coulter's (2009) fascinating study.

At the same time, to conclude that any attempt at engagement with international rights discourses on the part of ‘non-Western’ women is a condemned and counter-productive enterprise is a far from ideal outcome. Nor is it the argument I wish to make here. In the words of Uma Narayan: “given that [...] negative attitudes and stereotypes about Third-World communities are produced in a number of powerful institutional sites, I find it unlikely that the solution for ‘Western cultural arrogance’ lies in Third-World feminist silence about the problems women face in their national and cultural contexts!” (Narayan 1997: 135).

If we accept that the law is a site of contestation (as Kapur suggests) and that human rights discourses, for all their investment in maintaining existing power structures, cannot be completely contained by this, then it is possible to also see the SCSL prosecutions from a different perspective. As Muppidi also identifies, “[s]ubalterns might not just accept or reject the definition [of the political order of responsibilities] but also misread, misunderstand, appropriate, or rearticulate the carefully defined scope of their putative responsibilities” (2003: 283). It is precisely this scope for ‘misunderstanding’ to which I now wish to turn.

The Power of ‘Strategic Misunderstanding’

In their 1987 article, Silbey and Sarat are critical of the law and society tradition for oversimplifying both the relationship of law to society and the concepts of ‘law’ and ‘society’ themselves: “We [the law and society movement] looked for the connections between law and society as if the two were separate and singular. They are not” (1987: 172). As the relationship between women’s rights activism and the Special Court for Sierra Leone demonstrates, the relationship between law and society is extremely ambiguous and diverse. And while Silbey and Sarat are concerned to highlight the negative impact of law on marginalised members of society, in the final section of this chapter I will identify some of the ways in which less privileged groups and individuals may in fact also make creative use of law, exercising an agency that those of us working within the logic of law’s hegemony have all too often not seen. In this sense, law emerges as both an instrument for governance *and* a tool of the governed (Chatterjee 2004) to be used instrumentally.

Returning to Sierra Leone in 2011 and based on my reading of the judgments that had been handed down by this point, I was prepared to find that the SCSL’s gender prosecutions had at best achieved no real change in the local context and at worst had reinforced patriarchal structures for the reasons set out above. My conversations with members of the human rights and women’s rights community to that point had been far from optimistic and there were already reports that while for a brief period women were speaking of sexual violence they experienced in the war, this was no longer possible in the post-conflict context (Grewal 2012a). In terms of formal

reforms, while three of the Gender Acts¹⁸ passed in 2007, The Sexual Offences Act (relating to sexual violence) remained stalled at the drafting stage.¹⁹

What I discovered over the course of my interviews therefore came as a big surprise. A key finding of my 2011 fieldwork was that the further from the SCSL and the less their knowledge of the detail of its work, the more women's rights actors seemed to be supportive and see it as a positive intervention. This could be—and indeed all too often is—read as evidence of their ignorance. Certainly the educated local elites were more sceptical of its value, for very similar reasons to my own. These educated elites were also responsible for 'training' their less privileged sisters (and others) in women's rights as if knowledge of legal norms were in itself a source of empowerment. I would however like to offer another reading of this positive engagement with the SCSL by extremely marginalised actors: one that draws on and expands Chatterjee's (2004) concept of the 'politics of the governed.'

For many more marginalised and disadvantaged women, while the SCSL did not directly impact upon or improve their lives it provided to their mind a powerful ally. The details of *what* the SCSL had actually said about forced marriage were less important to them than the fact that the SCSL had said *something*! In this sense, it might be seen as a parallel to studies such as that by McCann (1994), which found that even as lawsuits on pay equality were unsuccessful, they played a significant role in mobilising women and raising public consciousness.

Added to this, when I asked whether any of the women had in fact read the judgment (or a summary) and whether they were concerned with the ways in which the SCSL had apparently legitimated customary marriage practices, even where the woman's or girl's consent was disputable, they looked at me as if I was insane. No, they had not read the judgments—who had? They were hundreds of pages and full of legal jargon—but nor had the local authorities, chiefs, lawyers and magistrates. What mattered was that they could assert, "Forced marriage is a crime! The SCSL said so!". The distinction drawn by the judges between 'forced marriage' and 'arranged marriage' was an irrelevant detail. It is this that I am calling 'strategic misunderstanding.'

The notion of 'strategic misunderstanding' is one that I have sought to develop following a lecture also in 2011 given by postcolonial scholar Dipesh Chakrabarty. Commenting on the concept of cosmopolitanism, Chakrabarty remarked that while everyone was very concerned with talking to each other and achieving understanding, a certain amount of talking at cross purposes and *not* understanding each other might actually create a more productive space.

In an attempt to evidence the positive qualities of misunderstanding, Chakrabarty gave the example of a correspondence relationship that lasted for many years between Bengali poet Rabindranath Tagore and an American businesswoman whom he had met on a visit to the University of Chicago. While I found Chakrabarty's

¹⁸ In 2007 the Sierra Leonean parliament passed the Domestic Violence Act, The Devolution of Estates Act and The Registration of Customary Marriage and Divorce Act: 3 of a suite of legislation drafted and lobbied for by a wide range of local and international civil society actors.

¹⁹ It was finally passed in 2012: UN Women (2012).

reading of this relationship problematic for reasons I won't go into here, I was provoked by the essence of his argument about how the ability of each party to talk at cross purposes for years meant both gained from the relationship. In that case it was not intentional but rather neither party was either capable or really cared to truly understand the 'other.' Instead they took what they needed from the relationship and through it fostered what both sides found to be a mutually beneficial cross-cultural amity.

This started me thinking about what I had seen in Sierra Leone earlier in the year. I had been working on the assumption that the SCSL jurisprudence was not only disconnected and potentially disempowering for Sierra Leonean women's activism. However this assumption was working on the basis that they even knew or cared what the SCSL had in fact ruled. In fact, many women's rights activists were happily referring to the SCSL's prosecution of forced marriage and claiming it as a victory which allowed them to campaign against ongoing forced early and arranged marriages. This is despite the fact that the SCSL had specifically sought to differentiate between these practices and forced marriage in the context of the conflict.

What parts of the women's rights movement had done in Sierra Leone was to take what they believed to be the best parts of the SCSL. They used it to show "the international community cares about Sierra Leonean women." They also turned the issue of women's rights into something that was no longer purely local and therefore dismissible but an issue with international meaning: an approach that has ramifications both economically and politically. As various commentators have demonstrated international HRs *does* now have power in the sense of being a part of the language of diplomacy. In many ways this would seem like a classic example of what Keck and Sikkink (1998) have famously called the 'Boomerang approach' adopted by transnational advocacy networks. The framing of an issue within an increasingly dominant international discourse—that of human rights—allows for the building of solidarity beyond bounded, isolated contexts and allows for other actors to also place pressure on the dominant local elite to change oppressive structures.

However what I am suggesting is that even within Keck and Sikkink's invaluable contribution, there remains a certain internationalised/ing logic. This logic assumes that the norms are generated in this mythical space known as 'the international' and are inherently radical and progressive (and I would add, 'Western' and based on Enlightenment principles). They are then adopted, deployed, rearticulated in specific contexts—known as 'the local' (Spivak makes a similar point: 2004: 526) that is inherently traditional, conservative and reactionary. This reproduces the linear timeline of the civilising mission. Remaining within the internationalised logic, one must either blindly endorse the external norm or reject completely.²⁰

What is in fact more interesting is that it was the effort to first get the SCSL to take up the issue of violence against women, then strategically misrepresent what the SCSL in fact said on the part of Sierra Leonean women's rights actors that has

²⁰ For interesting discussion of the much more complex, fluid and contingent process of norm internalization, see Acharya (2004).

opened possibilities for progressive change. This process is therefore both internationalised and locally contextual but not in the classic formulation which assumes international community and advocacy networks to be the gatekeepers of rights and progressive norms and the local community being intervened upon as the site of conservatism and tradition. This to me reflects an important shift in the way we think about the relationship between local and global activism. Too often it seems that international actors speak from a perspective that assumes the pre-existence of certain norms that then need to be adapted to 'fit' in different contexts (see Rajagopal 2003: 188 for a similar argument). It also opens up the possibility for viewing international institutions as potential sites of emancipation in a different way.

This is not to suggest that we should give up our critique of these institutions and accept them as they stand. I still believe them to be highly problematic and requiring ongoing decolonisation and democratisation. One of the major problems of course with strategic misunderstanding is the risk of forgetting the huge power imbalance and I do not at all suggest this. Rather I am inspired by Ilan Kapoor's reading and renegotiation of Homi Bhabha on agency, hybridization and resistance. As Kapoor notes: "For Bhabha, power produces much more than a resistant subject. It can bring forth a creative agent, capable of subverting authority in positive and unanticipated ways." The performativity identified by Bhabha will always operate within the constraints of the given discursive context but *how* this discursive context is acted within will always be open to the individual actor (2008: 132–133). As a result, hybridity occurs in the very process of domination.

I think this recognition of the creative space open even within highly restrictive hegemonic discourses and structures is important. To remain too focused on these institutions serves to force us to remain within their logic: a process that all too often means we miss other important practices, actors and sites of resistance. While I believe that the processes of domination and marginalisation enacted by institutions like the SCSL *should* and indeed *must* be constantly exposed and critiqued, to *only* focus on this as I—and most other commentators engaging with them—have means we elevate them in status. They become the sole means of empowerment: a position that reproduces their dominance even amongst those of us who are seeking to resist this. If, as Marshall and Barclay claim, "law is what people think it is, what they say it is, and what they do to implement the meanings they create" (2003: 621), then the significance of the SCSL's judgments is far beyond my own limited legalistic analysis of definitional failings. By recognising and valourising this I hope to contribute to the project to "*de-elitize* international law by writing resistance into it, to make it recognize subaltern voices" (Rajagopal 2000: 534, emphasis in orig.).

Conclusion

In this chapter I have sought to demonstrate that far from providing an inherently progressive response to existing global and local power relations, international legal institutions have proved to be significant sites for the reproduction and

legitimation of existing power structures. The assumption that the subaltern subject will be able to engage productively within this space—and be heard—requires much greater critical reflection. As the case of forced marriage demonstrates, the prevailing dominance of colonialist logics of rights, identity and civilisation (not to mention of uncontested patriarchy) continue to limit the space within which marginalised subjects from the ‘non-West’ are able to achieve recognition and redress for the wrongs they have suffered and challenge the hierarchies which continue to subjugate them.

At the same time, this is not the only picture to emerge. By shifting the focus away from how international courts like the SCSL themselves reconcile competing interests of culture, rights and identity, towards the ways in which subaltern subjects engage strategically with international processes and discourses, another picture of international law’s emancipatory potential emerges. What this points to is the importance of us continuing to engage critically and relentlessly with imperialist international institutions (as Ilan Kapoor has powerfully argued), while simultaneously recognising that the power of international legal discourses cannot and should not be contained within their institutional uses. To do this is to miss the important sites of agency and resistance within which the subaltern continues to seek to have her voice heard on her own terms.

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Cultural Brokers in Post-colonial Migration Regimes

Sara de Jong

The relation and parallels between colonial regimes and post-colonial migration regimes are not restricted to the often quoted “We are here, because you were there” (Mercer 1994: 7). Important continuities can also be identified in other discursive and material formations. Knowledge production is central to this; for example, in the case of colonialism, the discipline of anthropology has been instrumental in marking boundaries between ‘civilised’ and ‘non-civilised.’ ‘Western’ anthropologists, ‘Orientalists’ and historians were often supported by ‘native informants’ from the communities they studied. Many colonial administrators, settlers and conquerors were dependent on the brokerage services of ‘indigenous women’—with prominent examples including Pocahontas, Malinche and Krotoa (Scully 2005). As Clara Sue Kidwell states for the U.S. American context: “there is an important Indian woman in virtually every major encounter between Europeans and Indians in the New Worlds. As mistresses or wives, they counselled, translated and guided white men who were entering new territory” (1992: 97). While this signals important gender dimensions of cultural brokerage, Pamela Scully also rightly points to gender assumptions in historiography. She observes that narratives of indigenous women supporting white men might not always have received sufficient critical scholarly attention as the image of the woman as interpreter and broker chimes all too well with classical stereotypes about women’s caring and peacemaker roles (Scully 2005).

This chapter will take the figure of the (gendered) ‘cultural broker’ as the point of departure and trace its embeddedness in the governance of migration. It will analyse how diversity approaches function as a governing technique to subsume

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critique into the hegemonic normative order as well as explore possibilities for resistance and contestation from the location of the cultural broker. The first section will present the figures of the native informant and cultural broker. In the two subsequent sections, I will introduce the diversity paradigm and link this with integration imperatives. The remainder of this chapter will draw on illustrative examples from the Austrian context from an on-going research project on how cultural brokers are employed in the governance of migration and integration.¹ The empirical data, which I work with, include semi-structured interviews² with employees with a migrant background working as social workers³ for Austrian ‘mainstream’ NGOs to support migrants.⁴ This material will be brought into dialogue with representations of the award winning project *Nachbarinnen* (*Neighbours*), based on analysis of its website as well as press releases and newspaper articles. With reference to these examples, I will demonstrate that the historical figure of the cultural broker is productive in understanding how diversity programmes operate to reinforce the norms of a disciplining integration imperative. I will argue that an attentive counter-hegemonic reading is needed to identify instances of contestation that can emerge from the precarious position of the cultural broker.

The Native Informant and the Cultural Broker

Colonial researchers have relied on people from the communities they studied for access, information and translation (Sanjek 1993; Clifford 1983). Whereas in the last decades there have been some efforts to retrieve the contributions of these informants and reinstate them as fellow researchers, at the time their work was rarely recognised according to its full merit. This, despite the fact that ‘Western’ researchers depended on their aid as they often lacked fluency in the ‘local’ languages, background information and contacts (Sanjek 1993). Data that was collected was often serving the interests of the colonial machinery. Therefore the relationship between researchers and the communities they studied was fraught with tension. Native informants could play a key role in mediating in the face of suspicion, thereby becoming doubly complicit in the power structures of colonial governance.

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²The fieldwork so far comprises 21 interviews with social workers from ‘mainstream’ NGOs including the main four NGO actors in Austrian asylum politics (Götzelmann 2010). The NGOs are either funded through churches, linked to political parties, and/or received (indirect) funding from the national state, city councils or social welfare services, such as the Public Employment Service Austria.

³The German job title of the research participants was either *BeraterIn* or *BetreuerIn*, with the first referring to those with a social work degree and the latter to those without. In this chapter, I will use ‘social worker’ as an umbrella term.

⁴This importantly excluded migrant self-organisations.

The so-called ‘native anthropologist’ functioned as the native informant of the post-colonial era. Kirin Narayan (1993) has drawn attention to the manner in which the one-way role that the native anthropologist was expected to play has been challenged. She quotes the example of the Oxford-educated Indian anthropologist, M. N. Srinivas, who was interrogated by Indian villagers about the ways of the English, thereby forcing the ‘native anthropologist’ to engage in two-way translation. This two-way traffic is more appropriately captured by the term ‘cultural broker,’ as will be explained below.

In the Canadian Hudson Bay, European fur traders were actively encouraged to engage in relationships with indigenous ‘Indian’ women, in order to foster good trading contacts between European settlers and ‘Indian’ communities (Van Kirk 1980). In colonial New York, there are accounts of white settler children placed among the indigenous population to learn their language and culture in order to more effectively act as cultural brokers (Hagedorn 1995). In African and Asian colonies, European men were dependent on the linguistic, cultural and medical knowledge of local women, which was secured through establishing liaisons; while most of these women remained in marginalised positions, some managed to gain a position of relative power (Stoler 2002; Zastoupil 2002). From the 1990s, anthropological scholarship on people acting as cultural brokers has experienced an upsurge (Karttunen 1994), which according to some (Weibel-Orlando 1995; Massmann 2000) can be attributed to the fact that the pluralisation of the U.S. brought an increased interest in those who negotiated between different communities. An early example of the application of the concept of cultural broker constitutes social scientists Karin Gentemann and Tony Whitehead’s (1983) adoption of the concept as a model for the ‘integration’ of African American students in Higher Education. In the *Journal of Negro Education* they present a project that took place in the 1960s and 1970s in which staff positions were introduced for so-called ‘teacher counsellors.’ These counsellors had similar socio-economic and experiential backgrounds to the African American students and were expected to facilitate their educational success. Selection criteria for the counsellor position included proven adaptation to the dominant community, defined as “demonstrated ability to negotiate the wider social system” (ibid.: 121). According to them, the cultural broker could perform a linking function based on being “acculturated in both the mainstream [sic] and the ethnic [sic] cultures.” S/he is expected “to take mainstream values and communicate them to the ethnic cultures, and communicate the ethnic culture to the mainstream” (ibid.: 119). This cultural broker project could be read as a prelude to the current expansion of the diversity paradigm.

The Diversity Paradigm and the Incorporation of ‘Difference’

Diversity is increasingly becoming a dominant concept, and has since the 1990s also gained footing in the German-speaking area after emerging in the US-American context (Neuhold and Scheibelhofer 2010; Mecheril 2013). It is grounded in

identity politics as well as in neoliberal individualistic ideologies (Heite 2008). In contrast to earlier assimilationist paradigms, a diversity perspective presents diversity as the norm rather than as the exception (Kuhn 2012). Diversity discourses differ from multicultural discourses in their “semantic shift from the recognition of collective identities to that of individual competences [which] facilitates a connection both to the individualization discourse and to notions of individual entrepreneurial spirit” (Faist 2008: 9).

Whereas ‘being between cultures’ usually has carried a negative connotation, both commercial as well as non-profit social organisations now start regarding diversity as providing added (economic) value (Faist 2008; Castro Varela 2010). Traditionally, the professional is supposed to separate the private and public realm; in diversity programmes, however, the employee is expected to draw on their private experiences (Lutz 1991).

It is important to counterbalance the recognition that diversity programmes can have emancipatory potential as they move away from the deficit model in which the migrant is only perceived as ‘lacking,’ with a critical assessment of its traps. Whereas the multicultural paradigm allowed some space for a rights discourse, this is absent in diversity approaches, which are silent on discrimination and marginalisation (Faist 2008). By placing equal emphasis on different categories of differentiation without attention to the underlying structural inequalities, diversity perspectives can have a depoliticising effect and have departed from the original impetus of identity politics (Heite 2008; Kuhn 2012). In 2013, the Austrian liberal newspaper, *Der Standard* (2013), for example, published a map of Austria under the title ‘Oh, you colourful Austria! Our cultural diversity.’⁵ This presented, side by side, in coloured blocks different facts ranging from “Vorarlberger [region in Austria] cheese is produced in 7 product groups with 61 brands” to “Vorarlberg has 27 mosques, 0 minarets, 1 Islamic cemetery, 1 Jewish cemetery, and 6 breakdance schools.”⁶ Diversity approaches tend to reinforce hegemonic discourses in which a naturalised ‘difference’ is annexed as (only) value (Mecheril 2013). Since ‘diversity’ cannot be understood in a pre-social realm, “it remains a dilemma to celebrate diversity as space of the Other, without attention to the process of othering” (Castro Varela 2010: 257; italics added). When ‘culture’ is taken as fixed and is racialised, it is essential to pay attention to the post-colonial continuities of its formation. Managing diversity, according to Melanie Kuhn, relies on an assumption “that one should manage, treat, process, and shape difference and steer it in productive directions” (2012). Here diversity approaches reveal themselves as a potential form of governance.

⁵In German: Oh du buntes Österreich! Unsere kulturelle Vielfalt (2013).

⁶All newspaper and interview quotes are translated from German to English by the author. Academic quotes in German are also translated into English by the author.

Governing Integration

The seductive label of diversity politics conceals processes of Othering and (neoliberal) governance. A governance perspective widens the scope of agents that are relevant units for the analysis of politics, and pays more attention to the symbolic and discursive level (Langthaler and Trauner 2009; Betts 2011). This perspective reveals that also those social institutions or actors that are usually viewed as a counterforce to the state could be seen as supportive of the state (Hess and Karakayalı 2010: 381). As Helma Lutz writes: “the capitalist welfare state attempts to direct the inherent societal contradictions through its social service apparatus” (1991: 155). The complicity of social work with state interests can be traced back to colonial times and the work of missionaries, ‘Western’ feminists, and other philanthropic projects (Heron 2007).

In the case of Austria’s migration regime, an increase in services for asylum seekers in the Austrian asylum system, such as the ones laid down in the Basic Support Agreement of 2004, always went hand in hand with more restrictive asylum laws (Rosenberger and König 2012). The dominance of the large Christian NGOs in Austria was even further sedimented with the introduction of this Basic Support System. NGOs function as “operative partners” for the different provinces (Bundesländer) in the provision of services to asylum seekers (Langthaler and Trauner 2009: 460). Sabine Hess and Serhat Karakayalı have described these outsourcing practices of the state to NGOs as the “NGOisation of politics” (2010: 384). Such NGOs can be understood as part of the governance of migration and the related integration discourse, including diversity politics.

In Austria, a shift in the meaning of ‘integration’ can be detected from the 1990s to the 2000s. Whereas initially integration was viewed as a demand on the host society for legal equality that would allow migrants to participate on an equal level with Austrians, successful integration became understood as encompassing the “individual commitment to characteristics typifying national citizenship” (Franz 2012: 275). As Julia Mourão Permoser notes in relation to the growing emphasis on immigrant integration in Europe, the introduction of integration requirements are “the result of [...] the idea that secure status and socio-economic rights should be conceived of as a reward for successful integration rather than a stepping stone in the integration process” (2011: 2). In 2003, Austria introduced a policy on integration requirements for migrants. It is argued that since its material implications were limited, they should be understood as symbolic politics in the context of a hostile political and societal climate (Perchinig 2010). The Austrian federal system, however, allows the city of Vienna to deviate from national politics in its migration policies. The city’s migration politics were initially restrictive, but from the 2000s the city started introducing diversity programmes that viewed migration as a potential for the city rather than merely as negative (ibid. 2010).

Diversity Management as a Disciplining Integration Imperative

In the current conjunction diversity and integration discourses coincide. Petra Neuhold and Paul Scheibelhofer describe that, for the German language context, diversity management is “a discourse that is oscillating between the recognition of difference and a disciplining integration imperative” (2010: 9). This ambivalent discourse can for example be identified in the ‘Mentoring for Migrants’ project carried out by the Public Employment Service Austria (AMS)⁷ together with the federal Austrian Economic Chambers (WKO) and the Austrian Integration Fund (ÖIF).⁸ In this project, qualified migrants are supported in their entrance into the labour market. The AMS obviously draws on a diversity management discourse, emphasising in their press release that migrants’ “available experiences, language abilities and intercultural know-how are very useful for companies” (AMS 2009). That same press release narrates one of its ‘success stories’: a trained doctor, who worked for 10 years as a care assistant, now found a position as a “Turnusarzt” (a trained doctor who still has to complete practical placement). This so-called success story does not question the systematic problem of the lack of recognition of foreign qualifications, but locates success in the mentoring of the migrant.

Whereas in the previous example integration is linked to the migrant employee only, in a more recent AMS-project that trains people with a migration background to become ‘integration coaches,’ integration is doubly inscribed. First, AMS only finances the training if the completion of such course increases the labour market integration of the integration coach. Second, the job description of the coach is to support and guide migrants, for example with regard to education and the labour market. Here, the integration coach features as a contemporary version of the colonial cultural broker. This corresponds with both the individualised discourse of diversity as well as with the integration discourse that locates the responsibility of ‘adaptation’ with the migrants. Again, structural inequalities are not considered, leave alone questioned.

These projects do not stand alone, as I will now continue to show with a more extensive analysis of the discursive representation of the project *Neighbours*, which will be read in conjunction with semi-structured interviews with migrant employees of ‘mainstream’ NGOs supporting migrants. In the project *Neighbours*, which was developed by an Austrian medical doctor together with a social worker and, in the spirit of the interest of both commercial and social partners in diversity, financed by, among others, the Ministry of Social Affairs, the Bank Austria Social Prize and Coca-Cola, women with a migration background are trained to become ‘social assistants.’ They have a “bridging role” and function like a “door opener” (Bank Austria Sozialpreis 2012a). On the Alpen-Adria-University of Klagenfurt website (2009), responsible for developing the training course for the *Neighbours*-project,

⁷In German: Arbeitsmarktservice Österreich.

⁸In German: Österreichischer Integrationsfonds.

the language of ‘capital’ is employed to describe their skills: “The ‘capital’ that the future neighbours bring [...] consists of their mother tongue, their cultural knowledge, their close connections to their respective communities and their ability to move naturally in two cultures.” The project website explains their role: “In familiar environments, such as schools, the playground or culturally specific celebrations, they approach mothers from the same cultural community and pass on to them what they once had learned and experienced themselves” (www.nachbarinnen.at). Here the gendered nature of sexualised cultural brokers in colonial times has shifted to gendered cultural brokers as nurturing mothers.

The project’s target group is described by different sources as families “living withdrawn,” implying that the isolation of such families is due to the passivity of the family rather than an effect of societal rejection (Respekt.net; Vasari 2013, Bank Austria Sozialpreis 2012a). This trope emerges even more explicitly in an article about the project of *Falter*, an Austrian left-liberal weekly magazine, and is complemented by the gendered and racialised image of ‘Third World women’ as immobile and as prolific child bearers⁹:

[These women] live here [...] in the multiple room apartments that are reserved for families with many children. They sit behind the curtains, the whole day, and wait until their children come home from school. They [do not] know the Stephansdom [prominent church in the old city centre of Vienna] [...], they just move in the smallest radius to the next Lidl supermarket. (Hamann 2013: 41)

The next section will discuss the underlying assumptions and implications that emerge from the ‘translating’ between this target group and the Austrian white majority society.

Cultural Mediators as Integration Brokers

The cultural broker’s task of translation has always encompassed more than mere language interpretation, and has extended to forms of negotiation. The connection between translating and access can be detected in the testimony of one of the project’s founders, quoted in the *Falter* article: “I notice that I often hit a barrier with my words [...] which does not solely have to do with language” (Hamann 2013: 41). In contrast, the Turkish-Austrian Ms. Ekici,¹⁰ one of the ‘neighbours,’ is described as follows: “She knows the codes, the rituals. She can correctly interpret the gestures and knows when one can better remain silent” (Hamann 2013: 42).

⁹See de Jong (2015) for a more detailed analysis of how gendered racialisation is articulated through time and space.

¹⁰Ms. Ekici, sometimes referred to as Gül Ekici, features often as the only interviewed ‘neighbour’ in articles about the project. While some articles also refer to other ‘neighbours,’ it is clear that the figure of Ms. Ekici comes to stand in for ‘neighbours’ in general with one article stating: “It soon became clear that more of such Güls were needed” (Helmberger 2013:14).

Underlying the idea of the radical incomprehensibility of other cultural codes is the assumption of what Uma Narayan has called the “Package Picture of Cultures,” the idea that cultures are “neatly wrapped packages, sealed off from each other, possessing sharply defined edges or contours” (2000: 1084). The fact that those delineations between ‘cultures’ are constructions with a historical legacy remains hidden (ibid.). The act of translation signals the precarious position of the cultural broker operating in a power field. The highly controversial cultural broker, Malinche, translator (and mistress) of General Cortés in the conquest of Mexico, is commonly seen as traitor:

As translator [Malinche] mediates between antagonistic cultural and historical domains. If we assume that language is always in some sense metaphoric, then, any discourse [...] is liable to be implicated in treachery when perceived to be going beyond repetition of what the community perceives as the ‘true’ and/or ‘authentic’ concept, image, or narrative. (Alarcón 1989: 62)

The cultural brokers’ translation skills are dependent on their proficiency in both the dominant language and the language of the ‘Other.’ Proficiency in the dominant language, however, comes to be seen not merely as a skill, but as a norm of ‘civilisation’ or integration. In an article in *Der Standard* about the project, a Somali woman supported through the project refers to her Somali ‘neighbour’: “She says, the solution is the language, then the integration will succeed” (Winkler-Hermaden 2013). The state can use language competence as a manoeuvre to distract from the discriminatory mechanisms that protect privileges, for example in the work place. It not only frames language acquisition as a duty on the side of the migrant, but also through that, individualises integration (Carrington 2010).

Some social workers that I interviewed, while explaining that language courses were only available to a limited degree to themselves and their clients, did not connect this to a structural critique of the exclusionary tendencies of the migration regime. Alisa,¹¹ for example, explained to me, in the spirit of the entrepreneurial migrant embraced by diversity approaches:

At the time I did not have the opportunity to attend a German language course as we did not receive pocket money [support of the state] during that time [...]. Then I had to learn everything by myself, so I phoned my cousin in [my home country] to tell her to send dictionaries so I could learn German.

Rather, their role as cultural brokers role could reinforce the normative discourse in which the migrant has a lack and where ‘integration’ is dependent on the individual efforts of migrants. In another interview, Toma for example seems to repeat a common assimilationist frame: “I try to do the [counselling] in German because that is good for both. Because we are in Austria, and one speaks German here.” The reinforcement of integration norms through the ‘exemplary’ status of the cultural broker will be discussed in the next section.

¹¹ Names have been changed for anonymity of the research participants.

The ‘Exemplary’ Cultural Broker

The historical mapping of both the native informant and the cultural broker reveals them as ‘exemplary figures,’ which are on the one hand presented as sharing their identity with ‘their’ community and on the other hand as distinct from ‘their’ community by virtue of exceptional character. Kathrin Roller, for example, relates how the representation of two converted African women, married to German missionaries, is cast in a “despite rhetoric”; the women’s pious and positive characteristics are emphasised despite their racialisation (Roller 2004: 227 [translation by author]). The *Falter* article describes Ms. Ekici according to this trope: “At first sight she looks exactly like the other women. She wears wide, grey ‘Turkish trousers’ [Pluderhosen], and above a tunic and a headscarf. What distinguishes her is her direct look. Her confident body posture. Her steady voice. Her loud laughing. And her directness.” (Hamann 2013: 42) In the *Neighbours*-project it emerges clearly that integration takes on the double meaning of labour market integration, and more significantly, of perceived ‘cultural integration.’ These norms of integration are reinforced by means of a cultural broker who herself is perceived as approaching the norm sufficiently to exercise this role. At the same time, the very position of the cultural broker further reinforces incorporation into the norm.

It is no coincidence that the double position of Ms. Ekici is articulated through an emphasis on clothing (as a signifier of the introvert Turkish women supported by the project) and demeanour (as a token for her approximation of the extrovert Austrian woman). The headscarf reappears again in an article in the Christian liberal newspaper *Die Furche*, when Ms. Ekici is reported to have the task of informing other Turkish women about “Gymnastics and Nordic-Walking with headscarf” sessions at the neighbourhood centre (Helmberger 2013). An article in *Der Standard* about the project opens with a similarly gendered and racialised description: “Three women sit on a park bench, laugh and talk. They seem happy, their faces are surrounded by colourful headscarves, with their bright colours lighting up in the sun. In the meantime, their children run riot on the playground” (Winkler-Hermaden 2013). The headscarf, in particular, has become a “marker of difference” which designates African and Asian women “as bodies to be saved by benevolent and more civilized Europeans” (Razack 2001: 6–7). As Chandra Mohanty famously suggests: “Universal images of ‘the third world woman’ (the veiled woman, chaste virgin, etc.), images constructed from adding the ‘third world difference’ to ‘sexual difference’ are predicated upon [...] assumptions about Western women as secular, liberated, and having control over their own lives” (1984: 335). As one of the *Neighbour*-project founders explains in a promotional video of the Austrian Bank Social Prize (2012b): “They have the complete responsibility [for their families] but they live in total traditional dependence. [...] When you give them the opportunities that you have in this country for women and children in their hands, what develops from that is a free, competent woman who can really achieve something.”

In migration as well as in development discourses, women from the ‘global South’ are simultaneously represented as ultimate victims and as the effective

saviours of their communities (Wilson 2011). The project website for example states: “Although women belong to the weakest members of migrant families, while they often live in economic and traditionally determined dependence, they have a central role in raising children as well as the incumbent responsibility in health care and the organisation of daily life” (www.nachbarinnen.at). The status of cultural broker is bestowed upon the ‘exceptional’ migrant by the dominant community: “I was discovered, says a beaming [Ms. Ekici]” (Hamann 2013: 42). Similar stories of recruitment were told by my interview participants. As Dana explains:

I was searching for accommodation myself at the time. When I arrived there, for some reason, the manager from the accommodation office [of the NGO] approached me whether I would be interested in joining them, because he liked the way in which I had looked for apartments myself on the phone. That is how I started.

However, these stories of ‘lucky recruitment’ need to be situated in the context of a racist and gendered labour market (Bakondy 2010). The social sector with a migrant client group has been one of the few sectors where migrants have been able to access skilled jobs (Erel 2010). This emerges clearly when a young interview participant, Alisa, who claimed asylum in Austria as a child, discusses her entry into the labour market:

“And after my school exams I went to the employment office [AMS], and I had a strange counsellor there, because I wanted to continue studying, do something better. [...] I had twelve subjects and for all of them I received the highest mark possible and I go to this job consultant and she says: Yes, you can work at [the supermarket] behind the till. And I said: ‘I do not want to do that, I want to work in an office, like you.’ Then she said: ‘Here there is no opportunity.’ Then I just went outside. I never went back to the job centre. And then I was searching for something else, another possibility. And so I came to [name organisation] to ask: ‘please help me, how shall I continue?’ And this colleague, when he saw my transcript with only As, he said: “Oh, great, maybe you can do an internship here.”

Narratives of recruitment by the hegemonic society in which cultural brokers might emerge as passive need to be counterbalanced with an exploration of the agency of cultural brokers once they occupy such positions.

Contestation and Resistance

The Bridge Poem¹² by Donna Kate Rushin

I’ve had enough
I’m sick of seeing and touching
Both sides of things
Sick of being the damn bridge for everybody

[...]

I explain my mother to my father my father to my little sister
My little sister to my brother my brother to the white feminists
The white feminists to the Black church folks the Black church folks

¹²This is an extract of the poem.

To the Ex-hippies the ex-hippies to the Black separatists the
Black separatists to the artists the artists to my friends' parents...

Then

I've got the explain myself

To everybody

I do more translating

Than the Gawdamn U.N.

Forget it

I'm sick of it

I'm sick of filling in your gaps

It is important to consider in what ways the positionality of the cultural broker allows for the disavowal of that role or the contestation of norms, as expressed in the above extract of *The Bridge Poem* about the bridging position of black women. Scully (2005) underlines in relation to the writing on gendered colonial cultural brokers the difficulties in presenting their complex relation with hegemonic structures: "We still struggle to find an idiom that allows us to fully account for or render indigenous women's actions outside of the victim/betrayer dynamic and to recognize that women performed very complicated negotiations with constrained possibilities."

Returning to Gentemann and Whitehead's early use of the concept of cultural broker for multi-ethnic education, it is interesting to see that the authors recognise that the brokering should not 'only' lead to the adaptation of minority students, but also to changes in the dominant educational system. Historically, cultural brokers have been most effective when there was relative equality between two communities as a well as recognition of mutual interests (Hagedorn 1988).

The agency and power of the cultural broker emerges from its definition as an "expert in the manipulation of cultural symbols" (Gentemann and Whitehead 1983: 119; italics added). The potential for contestation that the positionality of cultural brokers might be able to offer could lie both in the (re)defining of the 'problem' which they are supposed to mediate as well as in their intervention. A closer reading of the articles on the *Neighbours*-project reveals that while the dominant representation of the target group constitutes them as having withdrawn themselves from Austrian society, Ms. Ekici is quoted to say that "people feel lonely and left alone in their new home country" (Vasari 2013). As her colleague Rehab Kandil explains in the *Wieninternational*, a weekly magazine of the City of Vienna: "Together we can create trust. For we can very well understand why someone withdraws" (Schmidberger 2013).

Some interviewees reported having noted down their initial experiences in Austria and now drew on their writings to understand and support clients who more recently arrived. Ana explains the use of experiential knowledge in an interview:

We have a lot of colleagues here who have a refugee background, who can talk to the clients differently. I have for example heard conversations of colleagues without refugee background with their clients, who would ask questions that I would never ever ask, which are clear to me. That is like a woman, who has given birth and knows how that is.

This recalls Sandra Harding's standpoint theory (1991), which attributes knowledge or a 'double vision' to marginalised subjects. This double vision can be employed to contest the more narrow role of counselling based on language and cultural skills, and extend this to affective empathy and knowledge about survival in the Austrian migration system.

Whereas potential expressions of resistance can be the refusal on the part of the cultural broker to play her expected role, or in the manipulation of the knowledge being transferred, it is difficult to identify such moments in a hegemonic normative order. Maria Baaz, in her research on development cooperation, found that "'resistance'—or advice not taken—[by 'Southern' partner NGOs] was interpreted in terms of passivity" by 'Northern' donor organisations (Baaz 2005: 76). James Scott argues that in hegemonic power settings subordinated groups' behaviour follows both a "public transcript" and a "hidden transcript" (1990: 4). The *Falter* article about the *Nachbarinnen*-project provides an example of how identifying contestations might require searching for hidden transcripts. The journalist describes a health meeting at which the doctor, the social worker, Gül Elkici and a range of women from different backgrounds are present; only the Turkish women from the target group are missing. Apparently, Ms. Ekici knows why, since the gathering is organised during the screening of a popular programme on Turkish satellite TV. The symbolically loaded television reappears in another article in *Die Furche* as a marker of passivity and alterity. It quotes an example of a concrete goal that the women of the target group could work on supported by their 'neighbour' to improve their family's life: "Can we manage to only watch one television series a day?" (Helmberger 2013). The *Falter* journalist describes Ms. Ekici's response regarding the absent Turkish women as follows: "'They have explained to me which important things they have to get done, but they simply urgently have to watch television,' Ms. Ekici says and grins. It must be difficult to deceive her" (Hamann 2013: 42). This interpretation centres on the 'deceptive migrant,' who needs to be surveilled by the cultural broker in service of the dominant system. However, I would argue that the grinning can also be read as challenging the hegemonic expectations on what the broker should deliver. The choice between a Turkish TV programme versus the Austrian health meeting can be symbolic for a collective refusal to comply with an assimilationist integration discourse.

Conclusion

This chapter has traced the gendered and racialised figure of the cultural broker that emerged in the colonial era within a post-colonial migration regime at the nexus of integration and diversity discourses. While the presented conceptual analysis is relevant for a wider context, this chapter has particularly focussed on the national setting of Austria by mapping its migration regime and drawing on a range of empirical examples from (the discursive representations of) projects.

Diversity approaches have been described here as implicated in processes of Othering. Competences valued in diversity frameworks are employed to reinforce rather than to challenge existing discriminatory and marginalising structures. The emphasis on the individual level, both with regards to the cultural broker and her 'target group,' has the effect of disguising structural inequalities. The normative order of integration shows parallels with the civilising mission of colonial times. Contemporary cultural brokers can be seen to both facilitate the sedimentation of the normative integration order and reinforce the norm by embodying that very model. Moreover, the cultural broker, despite of—or actually exactly because of—his/her functioning as a bridge, can be instrumentalised to demarcate boundaries between 'Self' and 'Other' and function as buffers between two zones, framed as radically different.

Despite the fact that the cultural brokers can be said to occupy a privileged location in relation to the marginalised group they are identified with, their position is highly precarious and can only be understood in relation to existing power dynamics. Therefore, an exploration and examination of spaces of contestation and resistance that this particular positionality could render requires an attentive counter-hegemonic reading. Such reading can reveal that cultural brokers can employ their 'double vision' to shift their roles and manipulate interpretations.

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Indigenising Democracy? Renegotiating the Role of Indigenous Political Authorities in Ghana's Constitution Review

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Ghana has a long history of being heralded as a 'master pupil' of 'Western' designs: From the 'model colony' of the Empire to one of the first Sub-Saharan independent states to acquire World Bank loans to a 'successful' implementer of Structural Adjustment Programmes and post-Cold-War democratisation (Hutchful 2002). With over a decade of 'rapid growth' (Hamidu 2015: 149) and six successive democratic elections since 1992 the country has been praised as a "beacon of democracy for other African countries to emulate" (ibid: 140). Largely absent from recent analysis and praise of Ghana's and Africa's rise and potential are notions of Ghanaian or African conceptual agency, of the roles that norms, practices or institutions inspired by indigenous or anti-colonial foundations may play in the current dispensation. The poster child of the 'Africa Rising' narrative seems to have succeeded solely by imbibing and competently implementing 'Western' lessons. A more nuanced reading of the Ghanaian case reveals omissions in this teleological narrative that frames African success as an ever closer approximation of unmarked and universalised standards of 'Western'-style representative democracy with the required, but suitably minimal regulation of a free-market economy. On closer inspection, the one-sided, market-driven 'Africa Rising' optimism often appears as reductively Eurocentric as the Afro-pessimist narrative it so triumphantly claims to replace. Such ahistoric assessments of supposedly linear success omit the sustained negotiations between divergent normative foundations within and between the multiplicity of polities that were forced together through the colonial demarcation of territory today known as the Republic of Ghana. Yet on a daily basis Ghanaians navigate and negotiate these divergent normativities—the diverse constellation of norms, values and standards of legitimacy that inform and under-gird social

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relations, hierarchies and institutions from the family to the market place to indigenous polities.

For this reason, debates about how the indigenous polities that institutionalise such norms should be incorporated into state structures were flagged as an important aspect of the Ghanaian Constitution Review Process, the largest reform project in Ghana's current political dispensation. This process represents the ambitious attempt to reshape Ghanaian democracy in the image of its ostensible sovereign—the people of Ghana. In an unprecedented consultation process, Ghanaians across the country and the diaspora were asked to share their opinions on the 1992 constitution and voice their demands for improvements in the law of the land. Beyond reviewing the constitution, which had ushered in the longest period of constitutional rule in the history of the republic, the mandate of the Constitution Review Commission (CRC) expressly included the collation of submissions on further legal and administrative changes Ghanaians might demand to ensure the creation of a more responsive, inclusive and equitable polity.

One issue explicitly flagged for debate was the future role of Ghana's diverse set of indigenous political institutions, which have been an important factor in local and national politics since the colonial imposition forced a number of diverse indigenous states into one 'Western'-style polity (Constitution Review Commission 2011: 508–519). The constitution review process became an arena for the renegotiation of their future role. Since British colonial authorities sidelined the female and augmented the male line of complementary dual hierarchies in the largest indigenous polities, the interaction between indigenous and 'Western'-style institutions has been marked by a continued coloniality of gender and of power. Female indigenous authorities have been protesting this exclusion—and have used the constitution review process to voice their demands for the adherence to indigenous norms and the abolition of institutionalised colonial traditions. They represent one set of voices that spoke loudly and clearly during the consultations. The following analysis of these debates and negotiations examines to what extent the participants have not just been invited to speak, but made themselves heard.

This chapter contextualises the constitution review debates by prefacing them with sections on Ghana's plural political systems, the limits of translation, the coloniality of language and indigeneity as well as a brief sketch of historical pathways to the present institutional arrangement. The analysis of the review process draws from participant observation of public constitution review consultations I conducted as a PhD researcher in 2010 as well as my subsequent work as an associate researcher of the CRC in 2010 and 2011. After joining the Commission I helped conceptualise and conduct a qualitative analysis of the more than 83,000 submissions which the commission received.¹ Both presented many opportunities for background conversations, interviews and exchanges with constitution review staff, members of the review commission and participants. These insights are complemented with outcomes

¹ Submissions the Ghana Constitution Review Commission received in 2010 from the general public have been anonymised. Hereinafter they are referred to as Anonymised Submission 2010.

captured in the final report of the CRC. Having observed the consultations before joining the CRC as a Ghanaian-German PhD student, I am analysing both the constitution review process and the content of the submissions from the vantage point of an outsider within. While this chapter does not allow for an in-depth analysis of a review process that resulted in a 988 page Constitution Review Report, I will illustrate negotiations about how and which indigenous normativities should inform institutional design in Ghanaian democracy by tracing the debate on gendered representation of indigenous authorities in Ghana's plural polity. By providing historical contextualisation of the current institutional arrangements and the debates, the chapter positions Ghanaian experiences, debates and practices as attempted answers to questions that are relevant across the globe: How can and should democracy be institutionalised in plural polities marked by colonial hierarchies? How can and should indigenous polities be included into such arrangements in ways that avoid partiality towards more influential groups while enabling the plural polity to include indigenous modes of legitimacy that democracy cannot easily generate or replace?

The analysed submissions and debates sketch out an ambitious concept of African democratic statehood that represents an important corrective to 'Western' perceptions. What is more, they also counter standpoints which opt to invoke the worn-out binary of ('Western') modernity versus (indigenous) tradition in a rather simplistic argumentation against or for the inclusion of indigenous political authorities and institutions in democratic governance.

Beyond Conceptual Poverty: Plural Political Systems

The uni-linear teleology of development as achieving 'Western' standards in the way society, economy, and polity are organised offers a master narrative against which 'non-Western' contexts continue to be measured and declared deficient. 'Western' designs thus emerge as the "theoretical subject of all histories" (Chakrabarty 1992: 1). Democracy emerges as a panacea to solve interlocking political, social, and economic problems through the magic bullet of good governance—with a narrow, election-centred, procedural view of 'Western' democracy becoming the blue print for the rest of the world. The contrast between 'Western' democracy promotion and the lack of consultation of Africans in the conceptualisation of their polities betrays the perpetuation of hierarchies between supposed 'partners.' The absence of African concepts of democracy in 'Western' rationales for democracy promotion indicates that the deployed concepts are themselves undemocratic: They have not emerged from a dialogue with African partners, let alone from consultations with the citizens concerned, but from the drawing board of experts on democracy arguing exclusively in 'Western' paradigms. Paradoxically, the practice of 'fostering democracy' remains markedly undemocratic, beset by a conceptual poverty in the midst of plenty as it does not draw from the intricate institutional tapestry that has unfolded from the onset and in the wake of colonialism: Indigenous

political institutions have co-evolved along with their ‘Western’ counterparts, manifesting a plethora of diverse designs and practices which represent institutional crystallisations of indigenous normativities, their interplay with each other and multiple ‘Western’-style administrative and political systems.

Moreover, Ghanaian and other African institutional arrangements provide experiences with various attempts at a practical answer to crucial questions that ‘Western’ democracy has to tackle as it is being adopted and adapted in the ‘South’: In a plural polity marked by colonial hierarchies, how should the relations between indigenous polities be organised? How can a democratic state constructively engage with the multiplicity of indigenous polities on its territory without seeming partial to any of them? Which institutional framework would grant visibility and weight to their notions of legitimacy, practices of decision-making, and representation without complicating or limiting the scope of democratic inclusion?

The constitution review process allowed for debates about the future of the Ghanaian plural polity, transcending oft-cited universalised notions of ‘Western’-style democracy as ‘ahead of’ or ‘beyond’ African political traditions and practices to include perspectives emerging from a lived reality in which the latter have informed and inflected the former. The debate about the role of indigenous institutions and the position of female indigenous authorities brought these divergent perspectives into sharp relief. Analysing this debate thus allows for an examination of the gendered representation in the indigenous political systems, the democratic system, and their statutory interface.

Limits of Translation and the Coloniality of Language

This analysis traces practices which Ghanaian publics debate in English and Pidgin as well as in Twi, Ewe, and a variety of other indigenous languages. These debates are beset by a hierarchy which privileges colonially imposed English as the only official language of state and the constitution, resulting in a coloniality of language: Drawing on Anibal Quijano’s concept of coloniality of power and one of its subsequent applications and elaborations in the form of a coloniality of gender (Lugones 2010), I identify a specific normalisation of colonial continuities and exclusion of indigenous normativities enabled by the continued use of English as the only language of state. The coloniality of language constricts conceptual space, granting and withholding legitimacy based on conceptual proximity to norms encapsulated in its standard use. It is distinct from, but contributing to, the specific coloniality of power in the Ghanaian context. One of its more obvious traces is the undifferentiated simplification of the plethora of divergent indigenous systems as “chieftaincy” and the office holders as “chiefs.” Far from innocent translations, these colonial terms were introduced to simplify and primordialise the complexity of indigenous polities. The importance of such usage for colonial domination and the imposition of European patriarchal overrule can be examined in Ghana’s Akan cultural sphere: its polities are home to about 49 % of the population and their shared institutional

design has impacted on various non-Akan polities (Odotei 2006: 83). The introduction of the blanket terms “chief” for male and “queenmother” for female Akan authorities was part of colonial attempts to redesign gendered notions of power and legitimacy in ways that sought to weaken female authority (ibid.).

Despite their colonial trajectory and reductive effects, these terms have been partially re-appropriated and redefined through their usage in the contemporary Ghanaian context. They are re-signified and made more complex, for example, through their redefinition in the 22nd chapter of the Ghanaian constitution of 1992 entitled ‘Chieftaincy.’ It “guarantees” the institution and defines its office-holders as follows:

In this Chapter [...], “chief” means a person, who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queenmother in accordance with the relevant customary law and usage.

Here the re-signification is apparent not only in the expressly stated inclusion of female office holders, but also in the extensive reference to various modes and stages of becoming an indigenous authority. The formulation highlights the fact that divergent notions of legitimacy and different normativities underpin the diverse set of indigenous authorities across the country. The concepts of “enstoolment” and “enskinment” refer to key symbols of different indigenous polities: The stool is a symbol of statehood and its intergenerational contract across Akan indigenous polities in southern and central Ghana, while specific skins signify comparable, though not similar, concepts across many polities in the north. Both serve as reminders of the obligations and the limits of power—office holders who fail to live up to their responsibility towards past, present, and future generations which they have publicly sworn to uphold at their installation ceremony can be “destooled” or “deskinning,” that is, deposed. The constitutional definition with its reference to multiple modes of selection for and installation in office and its inclusion of indigenous symbols counteracts the simplifying colonial connotations of the term “chief.”

Yet this attempted re-signification of colonial terminology through contextualisation in the diversity of indigenous norms with which the offices are imbued and legitimised remains fraught with the coloniality of language: The term “queenmother” is a remnant of British attempts to recast indigenous authority in a more feudal image, as the mislabelling of female lines of indigenous authority was just one aspect of a concerted effort to weaken their roles as checks and balances of their male counterparts in indigenous Akan polities: *Ahemaa*, female office holders (sing.: *ohemma*), played an important role in the nomination of *ahene*, their male counterparts (sing.: *ohene*), of whom they were senior family members, older sisters or mothers, but never wives (Odotei 2006: 86). Unlike in the European context, *ahemmaa* do not occupy their position as a consequence of their familial or marital relationship to any man. This is due to the matrilineal kinship structure of Akan societies, in which inheritance is traced through female lines. Unsurprisingly, organisations of female indigenous authorities critique the term “queenmother” and prefer terms such as “female leaders” or “female chiefs” to demand a recognition and

rectification of their recent relative marginalisation. The constitution review process became an important arena for voicing these demands.

When describing the divergent, yet overlapping political spheres of Ghana, I seek to move beyond the static and monolithic ascriptions that dichotomise the ‘Western’-style aspects of the plural polity as ‘modern’ while the indigenous ones are framed as ‘traditional,’ insulating sets of institutions which had been forced into contestation and iterative interaction by the colonial state. The concept of ‘traditional’ institutions and authorities is particularly problematic, as it is often used to petrify African institutions and actors by constructing them as manifestations of ahistoric collectives shaped by static culture in the singular, a construction that has rightly been criticised as “unanimism” (Hountondji 1996: xviii). Such simplified notions are themselves colonial trajectories, which are used to uphold a specific claim to customary legitimacy. Instead, I opt for terms that gesture towards the fact that no post-contact institutional arrangement marked by colonial trajectories can be described as purely modern-as-‘Western’ or traditional-as-customary: I use the designation ‘Western-style’ for aspects of the polity designed according to European blueprints and ‘indigenous institutions,’ in which ‘indigenous authorities’ hold office, for pre-colonially inspired structures and offices. The term ‘indigenous’ is used here with recourse to its Latin etymology, which points to an ‘origin in’ without implying a timeless, monolithic authenticity unchanged by history—to the contrary, indigeneity does not preclude change over time, multiplicity, and internal tensions and contradictions, important hallmarks of the systems and interactions I seek to describe. My usage does not solve all problems with the coloniality of language and its inescapable reduction—a generic term, whether “chief” or “indigenous authority” does not allow for a nuanced exploration of the divergent roles, responsibilities, limits and normative underpinnings of indigenous offices, which differ vastly across and within indigenous polities. But the terms highlight how institutions are rooted in divergent histories of ideas, inflected by interaction.

Coloniality and Indigeneity: Deconstruction and Desilencing

The binary conception of modern, ‘Western’-style democratic as opposed to traditional indigenous institutions is overcome by the creative ways in which the factual coexistence and mutual influence of these systems is negotiated. Yet, this binary continues to be evoked in debates about Ghana and many other plural polities across the ‘South.’ The result is a conceptual poverty that is unable to perceive the many ways in which the systems have influenced each other, have found ways of cohabitation and interaction that can be conflictual, but are often cooperative and complementary. To enable a more nuanced debate, it is important to deconstruct the binary by naming its colonial roots and its present workings in debates about democracy, development, and indigenous authorities. But beyond deconstruction, it is also necessary to begin the process of desilencing the ‘other’ set of actors who manoeuvre within the complex field of *Realpolitik* that has always existed beyond the binary.

Any attempt to critique and transcend this binary must not lose sight of its continued political saliency, its expediency for actors benefiting from imbalances within the current institutional arrangement, and disempowering effects on many others.

It is this double movement that enables my mode of inquiry to address criticism of some postcolonial approaches which are said to rely too heavily on poststructuralist deconstruction to analyse the workings of colonial power/knowledge (Franzki and Aikins 2010: 12–16). South American theorists of the Group Modernity/Colonality have criticised these approaches as generalising from the Indian experience with British colonialism (Boatca and Costa 2012: 16) and as relying too heavily on ‘Western’ theoretical and epistemic foundations, thus perpetuating the conceptual Eurocentricity they set out to critique (Grosfoguel 2007: 212). Elaborating Quijano’s notion of coloniality, these scholars have pointed out that aspects of postcolonial studies themselves need to be decolonised conceptually. This chapter takes up a key insight from this debate: A comprehensive analysis of the negotiation of normativities in the context of colonial trajectories requires both deconstructive and desilencing approaches. Differences notwithstanding, post- and decolonial approaches share a “common denominator (...), the study of colonial relations of power and their present-day consequences” (Boatca and Costa 2012: 16). My attempt to work towards desilencing the experiences, perspectives, and normativities of the colonised deploys Ato Quayson’s notion of the postcolonial as a continuous “process of postcolonising” (Quayson 2000: 10). Such an attempt to move beyond colonial modes of knowledge production and legitimisation of power needs to be acutely aware that it is not situated outside the colonial framework it is critiquing. It is itself profoundly affected by the social and political transformations wrought by the colonial encounter. Just as for many antecedents,² my precarious position as outsider within necessitates reflection and critique “from the interstices of the hegemony” (Kapoor 2008: 139). This reflexive, deconstructive and desilencing approach seeks to trace indigenous normativities, colonial impositions and their mutually transformative contestations. A desilencing approach to the analysis of Ghanaian indigenous polities is needed to address the prevalence of notions of African underdevelopment, lack of sophistication, and unfettered despotism in its indigenous polities. Such prevailing notions have a stifling impact on scholarly and policy debates on the existing indigenous institutions and their interplay with the ‘Western’-style institutions of the democratic state.

Since the onset of colonial expansion, indigenous political authorities have always been referenced to justify ‘Western’ conceptual and political trusteeship (Koelble and Li Puma 2011). Since then, the plethora of diverse indigenous polities across the ‘South’ has been labelled ‘traditional’ and ‘backward,’ a window into Europe’s feudal past, stifling arrangements to be superseded by superior ‘Western’ designs. The diversity of such systems as well as their complex inner workings,

²If postcolonial perspectives are conceptualised in this way, the rich tradition of anticolonial writing and theoretical reflection—in the territory of today’s Ghana associated with names such as Wilmot Blyden, Africanus Horton, Mensah Sarbah and other nineteenth century thinkers and activists—becomes an important part of the canon (Korang 2009).

their change over time, the normativities embedded in them have been collapsed into a simplifying construction of primordial leadership based on a monolithic and unchanging core of authentic, traditional values and beliefs. The impact of such thinking is felt across the spectrum ranging from scholars who critique and oppose the idea that indigenous institutions should play a political role in present-day governance (Ubink 2008) to those who are in favour of such coexistence (Ray and Reddy 2003) or advocate for the remoulding of the political system to incorporate indigenous principles of consensus-based decision making (Wiredu 1995) or even for recasting it in the image of indigenous polities (Ayittey 2006).

Critics deem indigenous systems to be outmoded, inflexible, and oppressive along the lines of gender—because they privilege men—as well as culture, ascribed ‘ethnicity,’ and lineage—because they privilege members of “royal lineages.” Class is another dimension of exclusion cited by critics because occupants of high positions are increasingly recruited from the well-educated and/or wealthy sections of society. Advocates for a greater role for indigenous authorities project them as being the guardians of authentically African culture because they supposedly embody unbroken pre-colonial traditions and are more authentic and legitimate representatives of their people’s interests because they “live with their people,” as commonly claimed in the constitution review debates. Both lines of thought rely on the same simplifying dichotomy, but differ in their assessment on which side is worth strengthening. Said binary under-girds positions taken by supporters and critics of a stronger role for indigenous authorities. Yet it is at best an inadequate depiction of a reality in which indigenous and ‘Western’-style systems have been in a mutually transformative exchange since the colonial encounter. Like many other ‘Southern’ states, the Ghanaian polity has transcended this binary by creatively incorporating ‘Western’-style democracy and various indigenous polities. However, any analysis of present-day dynamics in the Ghanaian polity needs to be grounded in the history that has shaped it.

Past to Present: Entangled Histories

The histories of the coloniser and the colonised are inextricably entangled in ways that make it impossible to tell a solely “European” or “African” history of the last 400 years (Bhambra 2009). This is particularly evident on the territory of today’s Ghana, where colonial imposition and African agency reshaped each other and created a specific set of institutional arrangements. This interplay began in 1481, when the Portuguese completed Elmina castle,³ a hub for the trade in gold and, all too soon, in enslaved Africans. It was codified in 1844, when coastal indigenous authorities signed a bond accepting the British Queen’s “power and jurisdiction” and were later given roles in local colonial administration. British colonialism altered the

³Tellingly, Elmina Castle is the oldest ‘modern European’ architectural structure erected outside Europe.

indigenous political set-up through a series of interventions designed to implement indirect rule. The theory and practice of indirect rule was characterised by a bifurcation between citizens and subjects, between a minority governed by law and the vast majority governed by custom (Mamdani 1996, 2012). Claiming to respect and preserve ‘native culture,’ the British liberally reshaped indigenous political systems. Under the guise of preserving ‘authentic’ African intuitions, only certain lines of authority were given an official role in the colonial framework—and the backing of the coercive force of the colonial administration.

Colonialism thus introduced an important distinction between a variety of indigenous institutions and a much smaller cast of colonially supported indigenous authorities. These authorities needed to be despotic to be an effective relay of colonial rule, for which reason inclusive elements as well as checks and balances in the systems were systematically weakened. Oftentimes, whole institutional arrangements, in which powers were shared between hereditary and (s)electd office-holders, religious, professional or age-set groups were flattened to strengthen and stabilise male lines of personalised long-term authority.

In the Ghanaian context, this is particularly evident in the case of the selective incorporation of male authorities into the colonial administration and legal system across the matrilineal Akan polities. Female authorities and their important role as check on male counterparts were sidelined.

Such meddling created and exacerbated power imbalances, which provoked a great deal of resistance, as waves of destoolment swept the Gold Coast Colony in the 1930s (Brempong 2006: 29)—but also elicited collaboration from those who benefited. A dual state structure was established, in which colonial officers were citizens of the Empire with civil rights, while Africans were subjects of their colonially propped-up indigenous rulers, and to the respective, colonially mandated ‘customary law.’ For Mamdani, the trajectories of this bifurcation and colonial overrule—a combined system he describes as “decentralised despotism” (Mamdani 2012: 65)—are the source of many dysfunctions in both indigenous and ‘Western’-style systems across Africa today. Despotic structures of indirect rule have been found to negatively affect long-term stability and post-independence democracy across the former British Empire (Lange 2009).

This history illustrates the enforced interaction of the systems in ways that make it impossible to conceive of indigenous institutions as an ‘authentic African other’ of the state structures imposed by empire. Tellingly, the works of early nineteenth century Gold Coast resistance writers and activists such as Africanus Horton, Edward Wilmot Blyden and John Mensah Sarbah were all acutely aware of the fact that even when supposedly mobilizing ‘tradition,’ they were opposing colonial imposition from within (Korang 2009). It is for this reason that one of the most successful, if short lived, implementations of their ideas, the Fante Confederation established in 1868, was not a revival of supposedly pre-colonial authenticity, but an innovative political system which sought to give institutional expression to both West African and European political normativities and legitimacies: It was framed by a written constitution, establishing a system that combined indigenous titles and roles such as a Council of Elders, institutionalising consensus-oriented, deliberative

norms of legitimate decision-making with a ‘Western’-style, elected legislative chamber headed by an elected “King-president” (Agbodeka 1971: 25). The British colonial administration identified the Confederation as a dangerous precedent of indigenous sovereignty. Accordingly a strategy of destabilisation was exerted through infiltration and bribes as well as military threats from both the British and the powerful Asante Empire at the northern border of the Confederation, triggering its collapse in 1873 (Agbodeka 1971; Laumann 1993). The innovative ideas which established it lived on past its demise and constituted seeds of nationalist consciousness and agitation that were to become epitomised by Dr. Kwame Nkrumah. After juridical independence in 1957, the ambitious nationalists who took control of the colonial state machinery found themselves confronted with a system that could not do without personalised indigenous authority. Nkrumah’s early days in power were marked by populist, anti-chiefly rhetoric in which indigenous authorities were marked as corrupted stooges of the fading colonial order (Arhin 2002: 34–40). Despite its popularity, his government proved unable to abolish or even weaken them and thus enacted politics of accommodation with uncanny similarities to indirect rule: Indigenous authorities who towed the party line were rewarded with preferential treatment, resource allocation, and access to the ‘corridors of power,’ which engaged indigenous authorities as a link to the government through all the coming episodes of Ghana’s chequered political history: The Republican constitution of 1960 was overthrown with its promulgator Kwame Nkrumah in a CIA-backed coup in 1966. The democratic polities framed by the 1969 and 1979 Constitutions lasted 27 months each and were preceded and followed by military rule. The 1992 Constitution marked the transition into the Fourth Republic with Ghana’s hitherto most stable democratic dispensation. The current institutional design is marked by “shared but divided” sovereignty (Nieuwaal and Dijk 1999) which “guarantees” the institution of chieftaincy” in “accordance with relevant customary law and usage” (1992 Constitution of Ghana). This shared polity exhibits a diversity of indigenous institutions and authorities, some of whom wield considerable influence at the local, regional, and national level while others are merely nominal figureheads or colonial inventions which communities have come to appreciate as reliable medium to articulate collective land claims.

As constitutionally mandated, statutory institutions, ten Regional Houses of Chiefs and one National House of Chiefs provide important interfaces between indigenous authorities and ‘Western’-style state institutions. They enable the state to have structured interactions with chiefs that minimise the pitfalls of perceived partiality. Recruited from these Houses, Chiefs are represented in a plethora of public institutions such as the Lands and Forestry Commission or the Council of State, which advises the president. They are, however, constitutionally banned from taking part in active partisan politics—officeholders in one system who ascend to office in the other system are required to resign from their previous post. Despite this regulation, political events such as presidential visits or campaign stops generally seek symbolic permission and secure the presence of local indigenous authorities as representatives of “their people.” Thus, the historically rooted entanglement between ‘Western’-style and indigenous institutions both in the formal and the informal

realms of politics continues to this day. Many Ghanaians position themselves beyond a dichotomy, which propagates either a 'purely' democratic practice or the return to 'authentic' political systems. The complex social reality they navigate on a daily basis entails creative reconfiguration, code and role switching. Contemporary reality is characterised more by overlaps and interplays than by stark dichotomies between "Western-style" and "African" modes of political organisation and contestation. It is also marked by an elite conflation between high-ranking positions in both spheres. The question that arises from such interplay is whether it is compatible with or even conducive to Ghana's democracy. It is the perspective of those who experience this interplay that is best able to answer these questions. Their assessment is key in any debate about indigenising, deepening or even just realising Ghanaian democracy.

"Without Chiefs, There Is No Unity": Ghanaian Public Opinion on Indigenous Authorities in the Constitution Review Process

The Constitution Review Commission's nationwide consultations, which took place from April 2010 through June 2011, were a historic exercise in popular consultation on an unprecedented scale in the history of the Ghanaian as well many 'Western' constitutions. It was based on one of the few 2008 general election campaign pledges that could be found in the manifestos of both major Ghanaian parties. Thus, the idea was not subject to the entrenched bipartisanship that characterises the current constitutional dispensation. The role of indigenous political authorities in Ghana's democracy was one of the topics explicitly flagged for review through a set of nationwide consultations. Submissions could be made at over 350 public and special group fora held across the country and the diaspora, with translators of local, regional languages as well as sign language on standby or via telephone, mail, email, Facebook, Twitter and SMS. Each of the 170 administrative districts of Ghana was visited twice, and each of the ten regional capitals once, for public consultations where people were invited to make oral or written submissions. Interest groups ranging from people with disabilities and youth to former operators of the constitution, namely former presidents, ministers, and attorney generals were invited for hearings. Overall, Ghanaians made more than 83,000 submissions to the commission.

The submissions on Chieftaincy allow for a rare insight into Ghanaian popular opinion on Chieftaincy and the way it interacts with the 'Western'-style political system. Submissions made to the Constitution Review Commission were a special instance of communication informed by arguments and expectations which need to be understood in context: Each submission represented a rare occasion for Ghanaians to voice their demands on and aspirations for a future Ghanaian policy in a forum where they could expect their contribution to be taken into account for the drafting of constitutional revisions. This first exercise of its kind in the current constitutional

dispensation included a unique opportunity to make recommendations for the future role of indigenous authorities.

The key arguments put forth in the submissions sketch a picture of a complicated symbiotic relationship: There were few calls for abolishing either parliamentary democracy or indigenous systems in favour of the other—a majority of submissions wanted both systems in place. Contributors stressed that they wanted indigenous institutions to play a role in local administration, especially in development planning and community contributions to infrastructural improvements (Constitution Review Commission 2011: 519–525). In this, their demand was mirroring earlier research findings about public opinion on indigenous authority (Logan 2009; Abotchie et al. 2006). They appreciated the role of indigenous authorities as adjudicators in courts based on indigenous notions of restorative justice. For this reason chiefly courts, which are often preferred over ‘Western’-style courts in legal issues pertaining to family, land, and communal conflicts, were seen as providing important stabilising services. Especially with regard to their legal functions, indigenous institutions were depicted as guarantors of local peace and cohesion. As one submission explained: “without chiefs, there is no unity” (anonymised submission 2010). The submissions also reiterated the fact that Ghanaians demand boundaries between the interlocking indigenous and ‘Western’-style political spheres: One of the most prominent topics that emerged from the chieftaincy related submissions is that “the overwhelming number of submissions at all levels of the consultations, including with chiefs’ support the ban on chiefs’ participation in active partisan politics” (Constitution Review Commission 2011: 532). Submissions particularly stressed the need for politicians to refrain from meddling with indigenous institutions.

The constitution review exercise also illustrates the imprint of binary thinking in colonial categories, when especially in press coverage, but also in some of the submissions, the modernity/tradition binary is deployed and equated with the two spheres. The majority of submissions, however, were concerned with the complex interplay that transcends this binary. It is instructive to note that the submissions differentiate between indigenous institutions, whose positive roles were enumerated, and indigenous office-holders, whose undesirable conduct, most notably in the form of “dabbling into politics and destroying the institution of chieftaincy” (anonymised submission 2010) was criticised. Ghanaians brought their ideas and ideal cases of how indigenous authorities should act to bear on less than ideal realities—an important differentiation in the realm of indigenous governance.

A look at other, seemingly unconnected aspects of the constitution review debate is almost equally enlightening about the unique features of indigenous institutions and the roles people envision for Chieftaincy. This is because some of the perceived deficiencies of the ‘Western’-style system make indigenous authorities an attractive and important addition to the plural polity: One core concern expressed in the submissions is the perception that ever more acrimonious partisan politics are undermining issue-focused policy debate and are thus impeding long-term development planning. It is in this light that the overwhelming support for the constitutional separation of the partisan realm and indigenous institutions becomes instructive.

Another key function of indigenous polities becomes evident in one of the several submissions that were frequently repeated during public consultations across the country: Participants requested that the new constitution be translated into Ghanaian languages. Some of the oral submissions made explicit comparisons and noted that indigenous institutions are more accessible because of the cultural requirement to speak the indigenous language when conducting their affairs (anonymised submission 2010). This illustrates both a failure of 'Western'-style state institutions to empower citizens to understand their inner workings and a clear advantage that indigenous institutions have in that regard.

The Constitution Review Process as Arena: Tradition Versus Indigenous Norms

The importance and influence of indigenous authorities was not only evident in the content of submissions, but also in the process of the consultations—the first round of district-level consultations often relied on indigenous authorities to gather the local population for the consultations. This illustrates their importance as state-society relay often used by local and national government, international agencies and NGOs, but it also led to attendant challenges. Deviating from the original consultation concept, the Commission decided to revisit all 170 districts, this time meeting citizens in smaller groups not assembled by their respective indigenous authorities. This change of tactics was informed by repeated acts of demonstrative deference towards indigenous authorities during hearings. One incident witnessed by several associate researchers was repeatedly cited in debates that led to the change. It reveals the importance of this change of strategy: At one of the public consultations, one of the *Nananom* took the microphone to demand a rise of the retirement age—society needed to benefit from the experience of the elderly and secure their upkeep, he explained. A young man reacted by explaining why *Nana*'s demand disappointed him: Given high rates of youth unemployment, he would have hoped for a suggestion to the contrary, as it was the responsibility of community leaders to lead by good example and to give the next generation and their future a chance. The enraged *Nana* demanded that the youth kneel down, apologise and retract—the young man complied immediately. The incident illustrates the tension between colonially altered 'traditions' and the norms and values on which indigenous institutions are based: Responsibility for future generations is a value, which is symbolically inscribed into the insignia of every *Nana*—it is chiefly obligation that is confirmed in the oath of office, non-adherence by office holders is a ground for destoolment. These normative underpinnings were implicit in the participant's respectfully crafted response, but absent from the office-holder's harsh reaction. The colonially remodelled 'traditional' authority of the office-holder was in conflict with indigenous norms.

The constitution review process brought about a major shift regarding the roles of female indigenous authorities: In various regional consultations, they had demanded a change in the membership of the ten Regional Houses of Chiefs as well as the National House of Chiefs. Despite the fact that the constitutional definition explicitly states “chief or queenmother” and thus includes female authorities, I could observe that their male counterparts resisted their inclusion in the Houses on grounds of supposed traditions. Female indigenous authorities protested and denounced these activities as contradicting the very norms on which indigenous offices are based. The most poignant debate about this long-standing conflict took place at the CRCs regional capital hearing in Kumasi, the capital of both the Ashanti Region and Asanteman, the most populous and most influential indigenous polity in Ghana with a reputation for upholding its indigenous institutions. On the ninth and tenth of December 2010, I observed the public hearing in the presence of commission members. It was chaired by the *Mamponghe*, the occupant of the Silver Stool and thus the second-highest ranking *Nana* in Asanteman. He found himself at the centre of an intense debate in which a large delegation of *ahemmaa* charged the CRC with granting them access to the Regional Houses and the National House of Chiefs. *Ahene* in the audience sought to defend the status quo but the *ahemmaa* insisted that this long-standing grievance needed to be resolved since their role was to represent women and children and to contribute to conflict resolution and development. These claims were a means to subtly invoke the division of labour in indigenous Akan polities: In juridical matters, the *ahene* and their courts customarily dealt with *amansem*, matters of state, while *efisem*, or domestic matters, were handled by the *ahemaas*’ courts. The latter also acted as courts of appeal for specific cases tried in the *ahenes*’ courts (Manuh 1988: 55). A superficial reading of these terms invites an interpretation that easily falls in line with European patriarchal notions and practices of female domesticity and male political agency. However, in the context of matrilineal Akan societies, where inheritance and familial belonging were traced through female lines, this division of labour takes on a different significance. The complementary positions were accentuated by seniority and the role of the *ohemma* as symbolic mother of the community—and trustee of all communal lands. Her importance is also captured in the concept of the proverbial *aberewa*, wisdom personified in the ‘old woman’ who needs to be consulted as a final step in major decision-making processes (Brempong 2000: 8)—thus giving her a final say in all matters of importance for the polity. In this context, the male indigenous authorities’ protestations and references to ‘tradition’ were in clear breach of indigenous norms, and female authorities were able to marshal those against their male counterparts. The argument was further complicated by the observation of one participant about the nature of the Houses of Chiefs: As statutory state institutions, they were created to enable different indigenous authorities to interface with ‘Western’-style state structures—no individual member could therefore marshal his notion of ‘tradition’ to bar other indigenous authorities’ access to the Houses.

The intricate combination of indigenous norms and equal-access arguments led the *Mamponghe* to subtly call male indigenous authorities to order. He promised that he would take the matter to the National House of Chiefs for further delibera-

tion—which yielded far-reaching results: This long-standing controversy was settled by a panel of high-ranking indigenous authorities during a week-long National Constitution Review Conference in April 2011. A panel chaired by Naa Prof Nabila, the president of the National House of Chiefs, declared that the practice of exclusion was about to end: From autumn 2011, female indigenous authorities were to join the Houses.⁴ Importantly, this was to happen across the country, including in non-Akan areas, where female indigenous leaders had been articulating similar demands and some had sought to remodel their institutional arrangements after the image of Akan female authorities—continuing a centuries-old pattern of cross-polity diffusion of institutional innovations. This development illustrates the flexibility of indigenous institutions, the possibility for the adaptation of norms across indigenous polities, and the importance of the constitution reform process as an arena for renegotiations and a catalyst for changes in institutions which are older than the constitution itself.

The renegotiation of female indigenous authorities' position in constitutionally mandated institutions points to the constraints of coloniality and the potential for decolonisation of indigenous institutions. In addition, through the combination of arguments referencing indigenous norms as well as logics of representation in 'Western'-style, statutory state structures, they also generated a precedent for the indigenisation of democracy through popular deliberation.

Looking Back to Face Forward: A More Plural Polity

The review process has enabled a renegotiation of the normative underpinnings and sources of legitimacy of the Ghanaian polity. I interpret it as a nascent attempt to move beyond a specific conceptual poverty induced by colonial trajectories and imposed through the coloniality of language and power manifest in 'Western'-style state structures across Africa and much of the 'global South.' These structures are aided and abetted by 'development cooperation' and its core aims of fostering democracy and good governance. Such endeavors have yet to foster a truly democratic debate, let alone a negotiation that would transcend the normative underpinnings of 'Western'-style democracy and include indigenous political concepts, practices and institutions. For even though democracy is projected as a universal developmental panacea to the ills of 'underdevelopment,' it remains markedly provincial in its conceptualisation and institutional design. The Ghanaian constitution

⁴While this process is far from complete, it strengthens the position of female indigenous authorities as they demand the implementation of the decision across the country. Since *ahemaa* have argued that they need to join the Houses to further the interests of women, their success makes it easier for women in their indigenous jurisdictions to demand just that. Given the stark gender imbalance in Ghana's parliament, indigenous institutions can become important corrective vectors for gendered representation. This ongoing change in the statutory interface illustrates how Ghana's plural polity creates capacities for representation, decision-making, resource allocation etc. that each subsystem would lack on their own.

review enabled the assessment of a practice that has superseded 'Western' designs of democratic statehood by combining them with indigenous institutions. As has been shown, these institutions have undergone colonial modifications and are themselves beset by a gendered coloniality of power, which has been critically addressed in ways that have marshalled indigenous normativities to demand more inclusive representation.

The constitution review exercise assessed Ghana's institutional design and reiterated strong popular support for a plural polity with 'Western'-style and indigenous political spheres. Ghanaians are well aware of the complex interactions in this plural system, they identify both conducive and problematic elements, and have very specific ideas about the ways in which the systems should coexist: With regard to some policy areas, they deem such mutual influence beneficial and desirable, for example in the context of local governance and 'development planning.' In other areas they opt for complementarity and parallel systems, for example in the context of indigenous polities' communal land administration and the courts of indigenous jurisdictions.

In doing so, they simply take the liberty to differentiate the ideal case of what could be from a messier and imperfect reality—a way of thinking that is all too often reserved for democracy itself, particularly when less than ideal experiences with democracy are framed as regrettable, but necessary stepping stones. By neither idealising 'Western'-style democracy nor romanticising indigenous political authorities, they open the possibility for a pragmatic optimisation of their imperfect interactions. Contemporary contestations around the role of indigenous authorities as well as the discernible imprint of the coloniality of power in both the indigenous polities and their interaction with the state illustrate the necessity to identify and augment both collaborative and complementary aspects of their complex interplay. Such an endeavor requires an analysis of the ways in which past interactions shape the current interplay between institutions and authorities in the plural polity. This necessitates a more comprehensive application of the famous Akan proverb encapsulated in the 'Sankofa' Adinkra symbol: Its exhortation to "return and fetch it" is an invitation to critically examine one's past to understand the present in order to be able to shape one's future.

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Civil Society as a Postcolonial Project: Challenging Normative Notions in Post-conflict Sub-Saharan Africa

Simone Datzberger

Introduction

The rapid invasion, occupation and partition of African territory by European powers between 1876 and 1912—known as the Scramble for Africa—and the Berlin Conference of 1884–1885 resulted in the colonization of almost all of Africa, with Liberia and the Ethiopian Empire being the exceptions. The subsequent processes of decolonization in sub-Saharan Africa produced more civil wars than civil societies. In other words, after centuries of suppression, instituting socio-political change was not nurtured by a legitimising force—the people—or by means of peaceful public contestation, deliberation and debate. Instead, formal independence around the mid-twentieth century was followed by political violence, in some instances genocide, as well as the constantly deepening impoverishment of the region. According to the UCDP/PRIO armed conflict database,¹ around 65 % of all states in sub-Saharan Africa experienced armed conflict between 1946 and 2010.² Notably, most of them were civil wars. More recently, political violence in the region

Acknowledging that sub-Saharan Africa is a colonial construct of geographic and cultural borders, dividing ‘black’ Africa from the rest, the term sub-Saharan Africa will be used in reference to the current geographical borders, drawn by former European colonies in the south of the Sahara only. This excludes all North African countries from Morocco to Egypt. Likewise South Africa is disregarded given its distinct history (cf. Chabal and Daloz 1999). The same applies to Ethiopia, Eritrea, Somalia and Northern Sudan.

¹ See: Uppsala Conflict Data Program (UCDP). Uppsala University. <http://www.ucdp.uu.se/gpda-tabase/search.php>. Accessed 23 July 2015.

² An extensive account and analysis of violent conflicts in postcolonial sub-Saharan Africa is provided by Scott Straus (2012).

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is declining in frequency and intensity. The number of civil wars decreased in the late 2000s to less than half the number of those occurring during the mid-1990s (Straus 2012).

In an attempt to rebuild and reconstruct these conflict-affected states (and their societies), the international community has deployed a total of 27 peacekeeping and/or observer missions in the past, and currently runs nine peacekeeping operations across the continent.³ These peacekeeping missions are usually either followed by several peacebuilding operations and initiatives or by various development programs and plans. The results, however, have been rather disappointing: large parts of the continent remain in an acute economic crisis, marginalized from the international sphere and politically volatile. Not surprisingly, external or international efforts to establish peace and foster sustainable development have been harshly critiqued by academics and practitioners for imposing “top-down” or culturally insensitive approaches to re-building these states (cf. Wennmann 2010). The list of criticisms is long-ranging, from the disapproval of how the everyday realities and challenges of the very people affected by these programs are disregarded, to describing liberal peacebuilding and development operations as neo-colonial or imperialist endeavours.

In response, there has been a burgeoning interest in the role and involvement of local civil society in peacebuilding and development processes.⁴ The promise of a flourishing, vibrant and democracy-committed civil society often not only legitimizes externally-driven agendas, but simultaneously has become a universal panacea towards liberal democratization and thereafter peace and development (cf. Hawthorn 2001; Jenkins 2001). Remarkably, the historical, socio-ethnographic and local contexts as well as understanding of civil society remains often unaddressed; civil society has largely become an uncontested idea (Datzberger 2015a; Lewis 2001). But civil society, as an intellectual construct of eighteenth and nineteenth-century capitalist ‘Western’ society, never really matched the realities of social and political life in equatorial Africa. Within the practitioners’ camp, prescriptions and slogans like “strengthening civil society initiatives” or “enhancing civil society participation” have arisen as key ingredients in the language of peacebuilding agendas, priority plans and strategies. At the same time, a growing number of scholars have begun to examine the role and potential of local civil societies to build a

³For more detailed information visit the United Nations Peacekeeping website. <http://www.un.org/en/peacekeeping/operations/past.shtml>. Accessed 23 Aug 2015.

⁴Reference is made to the langue of peacebuilding and development programs, projects and agendas or Poverty Reduction Strategy Papers (PRSPs) by the international community (e.g. United Nations, United Nations Development Programme, World Bank but also bilateral donors, multi-donor trust funds or various INGOs). See for instance the World Bank’s Engagement with Civil Society: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20093200~menuPK:220424~pagePK:220503~piPK:220476~theSitePK:228717,00.html>, accessed 23 July 2015; or UNDP’s Engagement with Civil Society: http://www.undp.org/content/undp/en/home/ourwork/partners/civil_society_organizations/, accessed on 23 July 2015, or the Istanbul Principles for Civil Society Effectiveness, see <http://www.cso-effectiveness.org/IstanbulPrinciples>, accessed 25 May 2015.

deeply-embedded peace into society (e.g. Cubitt 2013; Fitzduff 2004; Paffenholz 2010; Paffenholz and Spurk 2006; Van Tongeren et al. 2005). All of these contributions are undoubtedly significant. However, there has been little critique or thorough reflection upon the import of a normative notion of civil society to regions outside the 'Western' world. In other words, accounts on the role, function, potential or activities of civil societies in peacebuilding processes seem to be largely detached from a considerable body of literature that questions the appropriation of the concept of civil society in 'non-Western' environments (e.g. Chabal and Daloz 1999; Chatterjee 2004; Comaroff and Comaroff 1999; Ferguson 2006; Ferguson and Gupta 2002; Harbeson et al. 1994; Kaviraj and Khilnani 2001; Lewis 2001; Lumumba-Kasongo 2005; Mamdani 1996). The chapter at hand is an attempt to contest normative prescriptions and their preconceived perceptions of local civil societies in peacebuilding and development processes in post-conflict sub-Saharan Africa. Differently put, it explores the consequences of applying a 'Westernized' and normative conception of civil society to sub-Saharan African post-conflict settings. In this attempt, the term normativity will be approached with regards to how international aid agencies and donors, involved in peacebuilding and development efforts, established a set of standards and notions on what civil society ought to be during a country's transition from conflict to sustainable peace. Normativity will be thus understood as a means of prescribing 'Western' norms to 'non-Western' contexts, such as sub-Saharan Africa.

Accordingly, the chapter is divided into three main sections: The first part briefly discusses how international donors and aid agencies currently use a 'Western' notion of the term 'civil society.' The second part sheds light on what David Lewis (2001) calls the "usefulness" of the concept of civil society in 'non-Western' contexts, with a special focus on sub-Saharan Africa. The third part then addresses the adverse effects of normativity when it comes to approaching the concept of civil society in postcolonial and post-conflict equatorial Africa. The central argument will be that civil society in post-conflict sub-Saharan Africa has to be regarded as an empirical and not purely normative concept to enable local societies to come to terms with a colonial, postcolonial and conflict-shattered past. That means cultural appropriations based on intellectual ideas from the 'West' and thus the effects of importing these norms should not remain unconsidered. How and whether values and norms that constitute a 'Western'-style civil society are going to be entrenched in the long haul should be the task of local civil spheres and not the 'Western' researcher or practitioner.

Western Norm Setting and Usage of Civil Society

After the fall of communism, the 1990s came to be the golden era for civil society movements, associations and organizations, fueling fruitful and vast debates on the role of non-governmental organizations in local, national and global spheres (Salamon 1994). The number, involvement and activities of international

non-governmental organizations (INGOs) as well as local civil society organisations (CSOs) grew significantly across the world. The figures speak for themselves. While in 1985–1986 funding provided to CSOs amounted to US\$3.1 billion per year, it increased to US\$6.7 billion in 1999 and US\$7.1 billion in 2001 (Debiel and Sticht 2005). More recently, the OECD (Organisation for Economic Cooperation and Development) reports in 2013, that US\$19.3 billion of ODA (Official Development Assistance) was allocated to and through CSOs by its Development Assistance Committee members, compared to US\$17.3 billion on average over the period 2008–2011 (OECD 2013: 4). Likewise the United Nations Department of Economic and Social Affairs (UNDESA) has established a relationship with over 30,000 CSOs worldwide.⁵ In short, the events in and around 1989 have had not only a great impact on civil society formation and organisation—globally and locally—but also intensified civil society interactions with international institutions and organisations as such the World Bank (WB), United Nations (UN) or OECD. The rapid increase of funding for and collaboration with civil society actors is also reflected in frameworks for conflict-affected states. For example the Fourth High-Level Forum on Aid Effectiveness in Busan (HLF-4) officially created more space for civil society involvement in conflict and post-conflict states.⁶ Language promoting the role of civil society can also be found in much earlier frameworks such as the IMF's (International Monetary Fund) and WB's PRSPs (Poverty Reduction Strategy Papers) or in the strategic frameworks for peacebuilding of the United Nations Peacebuilding Commission.⁷

In practice, this growing support has led to a gradual norm diffusion of what and who civil society ought to be and do in peacebuilding and development processes—be it within the boundaries of a single state or worldwide. Externally driven agendas literally started to 'liberalise' the civil sphere in question by means of all kinds of projects or programming on the ground. To give an example, in 2009 the United Nations Peacebuilding Fund (UN PBF) provided \$140,000 of funding to Sierra Leone for a project entitled Attitudinal and Behavioral Change (ABC) Secretariat (PBF/SLE/A-6). The project description reads as follows (UN PBF 2009):

One of the causative factors of the decade long civil war is the negative attitude of Sierra Leoneans towards state property and the citizenry. It is the view of government to change this negative trend by re-orientating the minds of our citizens through continuous engagement and discussions on the need to change their attitude towards work, authority, state property and fellow citizens.

Similar rhetoric can be found in the Ugandan case. The country's National Development Plan (2010–2015) repeatedly refers to various trainings and ways of programming that seek to transform the mindset of the population in order to appre-

⁵ See: <http://www.un.org/en/civilsociety/>. Accessed 22 Aug 2015.

⁶ See: <http://www.oecd.org/dac/effectiveness/fourth-highlevelforumonaideffectiveness.htm>. Accessed 30 Aug 2015.

⁷ I provide a more detailed analysis of these frameworks with regards to their approach towards civil society in Datzberger (2014: 91–115).

ciate productivity and development (Republic of Uganda 2010). Peacebuilding and development programming and interventions thus clearly import, transplant and root 'Western' values and norms into seemingly 'illiberal' and often 'non-Western' societies. In this process, the concept of civil society is commonly embraced as it emerged as intellectual idea in 'Western' political philosophy and thought, that is: independent from the state, political, private and economic spheres but in close interaction with them, as well as a domain of social life in which public opinion can be formed.⁸ For example, donors such as the WB define civil society as a wide array of non-governmental or not-for profit organisations.⁹ In the same way, DFID's (Department for International Development) Civil Society Department emphasises that civil society includes a wide range of actors outside the realm of the state, thereby referring to the same forms of civic associations (DFID 2013). The United Nations Development Programme (UNDP)'s Strategy on Civil Society and Civic Engagement uses a similar definition but stresses that civil society also constitutes citizens acting individually and collectively (UNDP 2012). What all of them have in common is that they target civil society as an actor who ought to contribute and manifest predetermined long-term impacts based on a liberal ideal. This reinforces Verkoren and van Leeuwen's (2013) point that donors, such as the WB, UN or DFID follow by and large two theoretical traditions when it comes to approaching civil society. The first one builds on the classical work of Alexis de Tocqueville (1864), which underscores the importance of specific actors, such as organized groups of citizens in maintaining peaceful social relations and a functioning democracy. In placing strong emphasis on the right to form civic associations, civil society is approached through the lens of associational life. While civil society serves as a watchdog, it also strengthens democracy and thwarts any form of tyranny. The second one builds on more European oriented traditions, reflecting the work of Antonio Gramsci (2010) and to a large extent also Jürgen Habermas (1991) in emphasizing the active part citizens may have in shaping the character of their state.

In short, by drawing on 'Western' norms and idea(l)s, civil society is generally posited as one of the key ingredients if not panaceas for sustainable development and peace. Such an approach yet sidelines that civil society takes on various meanings in many different countries and regions. In sub-Saharan Africa, most societies are characterized by the legacies of the slave trade, colonial rule, societal, economic, political and/or ethnic disorder, elite capture, and severe poverty. Thus the socio-historical background, social stratification and everyday realities of conflict-affected societies in the region differ tremendously if compared to the 'Occidental' world.

⁸Civil society is probably one of the most theoretically, rhetorically and semantically contested terms. While the scope of this Chapter won't allow to do justice to the many scholarly contributions on how civil society emerged as a concept in the 'Occidental' world, notable and comprehensive contributions on the evolution, but also interpretation, of the concept have been made by Chambers and Kymlicka 2002; Cohen and Arato 1994; Gellner 1994; Hall 1995; Kaldor 2003; Keane 1988; Keane 1998, to name but a few.

⁹See: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0contentMDK:20101499~menuPK:244752~pagePK:220503~piPK:220476~theSitePK:228717,00.html>. Accessed 30 Aug 2015.

Against this backdrop, the remainder of this chapter critically discusses why the appropriation of such an approach and understanding of civil society in post-conflict sub-Saharan Africa can be a difficult task to undertake.

The Contestation of a Western Notion of Civil Society in Sub-Saharan Africa

The characteristics of any civil sphere are deeply rooted in a country's history of state formation. While conducting field research in Sierra Leone¹⁰, a local human rights activist stated that his country lost its identity and consequently its traditional cultural norms and values as soon as the slave trade and later colonisation overshadowed the history of the country. Taking up his point, a strict normative focus on the potentials or promises of civil society in the peacebuilding and development processes of sub-Saharan Africa risks disregarding both, the century-long slave trade and the effects of colonial rule. With regards to the former, the legacy of slavery continues to shape the everyday lives of millions of citizens, as well as the political landscape, in countries such as Benin, Mali, Niger, Mauritania, Senegal, Sierra Leone, Nigeria or Burkina Faso (Hahonou and Pelckmans 2011). To this day, the slave origins of high-ranking politicians remain public secrets and none of them fully assumes this as a part of their postcolonial identity. At the same time, slave trade and slavery nurtured a political culture in which the civil sphere saw itself deprived of agency and voice. During colonial rule, African societies were once again bereft of their own, self-created way of socio-cultural evolution. Ethnic divisions, tribalism, clientelism and patrimonialism were fuelled and impelled by colonialism and consequently led to the severe fragmentation, but also the impoverishment, of local societies. Upon independence, sub-Saharan African societies continued to struggle with racial or ethnic privileges, unequal patterns of power and resource allocation as well as little tolerance for political opposition (cf. Mamdani 1996). In short, the legacy of colonialism challenged democratization processes later on, in particular historically accumulated privileges, an urban/rural divide as well as direct and indirect rule and its expression in (customary) law (Mamdani 1996: 13–34). The absence of genuine state consolidation in newly independent sub-Saharan Africa led to the emergence of distinct civic publics if not identities, famously coined by Peter Ekeh (1975) as “the bifurcated state.” Until now, the complex relationship between appropriated colonial ideologies (=based on ‘Western’ ideologies) and primordial (=traditional, though often distorted during colonial rule) societal characteristics shape sub-Saharan African societies and their social fabrics in ambiguous ways. Returning to the case of Sierra Leone, this can be manifested in numerous societal features (Datzberger 2015b: 1602–1603): Official law is still challenged by widely practiced and accepted customary law. Chiefs are

¹⁰ I conducted extensive fieldwork in 2011 and 2012 for my doctoral thesis (cf. Datzberger 2014, 2015b). The ensuing sections will discuss and revert to some of my findings.

struggling with the power given to local councillors, while local councillors may feel a certain loyalty towards chiefs. Gender equality campaigns are frequently run by women who belong to secret societies favouring the practice of female genital mutilation. Hospitals and medical INGOs operate alongside traditional medicine men. Youth complain about intergenerational power imbalances and patriarchal societal structures, while showering community elders with deference and respect (ibid.: 1603–1604).

While Sierra Leone is certainly not representative for the sub-Saharan region as a whole, it nonetheless exemplifies how postcolonial societies are still in the midst of renegotiating societal intersections of the primordial and civic public—admittedly, to varying degrees depending on the country and cultural context. What these processes of re-negotiation still have in common is that they clearly affect the characteristics of state-society relations and communal life. In other words, even though democratic institutions were more or less successfully (re-)established on the surface, the civil sphere of many sub-Saharan post-conflict states continues to be embedded in neo-patrimonial and/or religious networks and tribalism (Chabal and Daloz 1999). Also mind-sets about how to live a responsible communal life, as well as the political nature of communities, stand in stark contradiction to liberal norms and ideas of civil society (Piot 1999). Consequently ‘Western’ perceptions of the individual as an autonomous social actor are challenged by a political tradition of the collective as the true ethical and moral entity. How values and norms that constitute a liberal civil society are going to be socially entrenched in the long haul is yet the task of the local civil sphere in question, and not the ‘Western’ researcher or practitioner. However, as it will be contended in the ensuing section, in sub-Saharan Africa such processes of re-negotiating values and norms are frequently hampered by widespread poverty, conflict and deprivation of basic physiological needs among the wider civil sphere.

What is more, prescriptive notions of civil society clearly distract from important reflections and discussions on what being an African citizen in the twenty-first century actually means and involves. This goes hand in hand with Chris Allen’s (1997) observation, who finds that civil society in sub-Saharan Africa appears to be merely an ideological construct:

...[A]part from the grant-seeking NGOs and the academic, it is proponents of the “liberal project” who need civil society: western governments, their associated agencies, multinationals, and IFIs. Africanists can dispense with it: “civil society” forms part of a large body of general concepts that have appeared briefly to illuminate analysis but which are too diffuse, inclusive and ideologically laden to sustain illumination: nation building, modernisation, elite, dependency, disengagement—even, perhaps, ethnicity. (Allen 1997: 337)

Allen’s statement gives rise to important questions, for example, to what extent civil society is in some way ‘artificially’ constructed by external actors (e.g. through specific funding schemes, capacity-building programs or training targeting local civic associations/organizations), but also to what degree civil society emerges rather organically (in its own formation)? In the case of Uganda, for instance, leading CSOs are in the main well-funded and urban-based with a token presence in the rural areas and led by a highly educated elite (Larok 2012; Thue et al. 2002). On the

other hand, the majority of grassroots and less-visible civil society actors are frequently characterized by political illiteracy (*ibid.*).

At the same time, it is crucial to acknowledge, however, that local actors do not disregard external influence and support for CSOs. Thus, appropriating a 'Westernized' concept of civil society is not necessarily perceived negatively among local actors. To revert again to the example of Sierra Leone: Even though interviewees voiced frustrations about the lack of ownership, many positive mentions were made with regards to 'Western' support and what there is to be potentially 'learned'—be it through workshops or any other form of training. Thus, there was a noticeable pro-'Western' attitude among interviewees towards external intervention and donor support. Also, points of criticism made by local CSOs were not against the appropriation of 'Western' norms or standards but mainly revolved around the behaviour of donors, other CSOs, the government or structural and cultural barriers. In a more broader sense, Tukumbi Lumumba-Kasongo (2005) contends that it is not that the wider civil sphere in sub-Saharan Africa would not appreciate the ideas or principles of liberal democracies, but that the processes of creating rules, norms and institutionalization have been hijacked by the political elite. He further holds that *this* democracy and its processes have not been able to address the core issues of African societies, such as the equal distribution of resources, social justice, employment, gender equality and individual and collective rights (2005: 202). This has led to a new form of imperialism and, ironically, in some instances even to a nostalgia about colonial rule. Also in the case of Sierra Leone, the colonial era was at times glorified by older, educated and Freetown-based segments of the population in describing it as a time when the country benefited from a fully functioning educational system and hospitals (Datzberger 2014: 225). Similar observations have been made by William Easterly (2007: 237), who refers to a comparable nostalgia with regard to minority white regimes in Zimbabwe.

To sum up, the aim of this section was to set forth the argument that the clearly demarcated liberal boundaries of state/society and politics/economics seem repeatedly challenged by the history of state formation, social stratification and everyday realities of postcolonial and war-torn societies in sub-Saharan Africa. The 'Western' notion of civil society presented in the first section thus becomes inappropriate for any peacebuilding or development project. In other words, although there seems to be a widespread consensus among aid agencies and the international community on how an ideal civil society in equatorial Africa ought to form a developed and peaceful state, there is hardly any focus on what kind of postcolonial society actually emerged out of colonial rule and subsequent postcolonial conflicts. This is unfortunate as "different circumstances produce different meanings" (Jenkins 2001: 251). In alignment with Mamdani (1996: 19), this chapter stresses the need in current practice for an analysis of civil society (and, in fact, of empirical enquiry) that allows us to understand it in its actual formation, rather than as a promised agenda for change. This argument also reflects the work of David Lewis (2001), who urges for an analysis of civil society as it actually exists, in order to understand its *real* characteristics and structures rather than prescribing them. In short, putting too

much weight on civil society as a normative project, can lead to many unintended consequences—some of which shall be briefly addressed below.

Consequences of Applying a Westernized and Normative Notion of Civil Society in Sub-Saharan African Post-conflict States

The previous discussions were not intended to suggest that studies should refrain from any normative thought at all. Rather, they propose that the import but also appropriation of norms should, for one, not be ill-conceived endeavours (in theory and practice), and two, should not distract from socio-historical characteristics and everyday realities on the ground. When it comes to civil society in postcolonial and post-conflict sub-Saharan Africa, it seems essential to shift the focus to questions such as: how do wars and peacebuilding processes continuously change the concept/formation of civil society in postcolonial sub-Saharan Africa? After the colonial experience, how is civil society once again constructed by external and international peace-builders and development practitioners? Is it possible to avoid cultural appropriation based on imported thought patterns from the 'West'? Certainly, the effects of colonial rule on society should be not excluded from any prescribed peacebuilding and development agenda. This is not to imply that 'Western' norms, such as civil society or democracy, are not well perceived by local societies. The point is, however, social and cultural dimensions, as well as the historical evolution of the socio-cultural characteristics of societies, in post-conflict sub-Saharan environments are often overlooked or only vaguely discussed. An awareness of how history has shaped identities and societal configurations is critical in order to understand current societal developments, but also the internal and external power relations that affect and also challenge civil societies in the region. To conclude, I now turn to some theoretical and practical implications for scholars and practitioners alike. It is argued that:

Applying a Normative Notion of Civil Society in any Liberal State-Building Project Implies Stabilizing the 'Demos' First

In order to establish long-lasting peace and development in fragile states, external interventions based on liberal norms and values require the construction of a particular kind of social order, organized around the individual and his or her own rights (Barkawi and Laffey 2001: 11). For Mark Duffield, the aim of liberal state-building efforts appears to be: "[...] to transform the dysfunctional and war-affected societies that it encounters on its borders into cooperative, representative and especially, stable entities" (2001: 11).

However, societal transformation in any form whatsoever, can only take root if certain basic needs are met. In the twenty-first century, many sub-Saharan post-conflict countries remain among the poorest places on earth. To list only a few of the persistent development dilemmas, despite economic growth throughout the region, poverty reduction has had only marginal success. According to the United Nations Development Programme (UNDP), the people living on less than US\$1.25 a day decreased from 56.5 % in 1990 to 47.5 % in 2008. Likewise, sub-Saharan Africa exhibits a mixed record on the Millennium Development Goals (MDGs).¹¹ Overall, current life expectancy is low, often almost half of the population is illiterate, child mortality rates are high and every fifth woman dies from preventable complications during birth or pregnancy. Circumstances are, of course, country and context specific, yet most of them share one common feature: dependency on external aid. Dependency, as one of the legacies of century-long slave trade and colonial rule, impedes self-sufficient development in various areas and aspects of everyday life (cf. Easterly 2007). The effects colonialism has had on African societies are still reflected in the current monopolization of wealth and power among a few (elites) next to a vast majority living in abject poverty. Thus, comparing a sub-Saharan African post-conflict country's society to Abraham Maslow's (1943) famous "Hierarchy of Needs" (1943), one may question from where a physiologically starved society—not to mention the lack of safety and sometimes also love/belonging and esteem—finds the strength for self-actualization, self-transformation and self-articulation as it occurs in the 'Western' world? Normative notions of civil society consequently risk overlooking societies' key constraints that thwart any form of self-actualization from taking place.

Normative Conceptions of Civil Society Repress the Political History of Self-Determination and How This Influenced the Collective Identity Within and of the Civil Sphere

The 'African case' perfectly illustrates how borders are "political creations on the basis of the usefulness to those who created them" (Herbst 1989: 692). Ironically, in the sub-Saharan African context, processes of self-determination are mainly associated with the period after decolonization, thus roughly from 1945 onwards. Independence during that time is often portrayed as having produced more illiberal societies, undemocratic states and stateless refugees than democracies in sub-Saharan Africa. Yet, Herbst's (1989) article on the creation and maintenance of national boundaries in Africa reminds us about two important facts: Firstly, Africa's present political map was drawn between 1885 and 1904, ignoring demographic, ethnographic or topographic factors. Secondly, since independence, the vast majority of

¹¹ Information retrieved from UNDP, see: <http://web.undp.org/africa/poverty.shtml>. Accessed 23 July 2015.

these borders have remained virtually untouched, not because the local populations have been determined to maintain them, but because the system for the most part continues to serve the political needs of the former colonialists and present-day African leaders. With the later establishment of the Organisation of African Unity (OAU), newly introduced laws and norms once again effectively quashed the right of self-determination. Herbst therefore concludes, “borders are always artificial because states are not natural creations” (1989: 692).

To what extent the long-run effects of the scramble for Africa and externally imposed borders have caused civil unrest and conflict in the region remains to this day a highly debated point (cf. Michalopoulos and Papaioannou 2011). In practice, the maxims of self-determination are often quashed by imperialism, vague legal language and the political and economic interests of foreign and local elites. If the aim is to better understand the dynamics inherent in present sub-Saharan African post-conflict societies, they ought to be reconnected with a pre-colonial and colonial past (cf. Chabal 1996). On the one hand, this would imply an acknowledgment and recognition of how identity has been distorted and de-constructed over time. On the other hand, such an approach requires a thorough reflection upon how colonialism and the events on and around independence have become an integral part of present sub-Saharan African identities. More importantly, identity has to be embraced in the plural, considering how the effects of colonial rule differ between each country, region, society, community and respective colonizer.

Normative Notions of Civil Society Disregard the Political Culture of Local Societies

Scholars repeatedly refer to processes of instrumentalization, technocratization or depoliticization of local civil society landscapes by international aid agencies or governments in post-conflict states (Goetschel and Hagmann 2009; Datzberger 2015b; Verkoren and van Leeuwen 2012; Howell and Pearce 2002). For instance, Laurent Goetschel and Tobias Hagmann (2009) argue that the bargaining power of weaker social groups needs to be better examined and reflected in the formulation and implementation of external donor projects and activities. Building on their point, this chapter contends that the political culture of a society in the shadows of a hitherto bifurcated state remains an often-overlooked point. In short, elite capture (nurtured during colonial rule) and consequently severe poverty and social, economic and political everyday realities often constrain and challenge local participation. More attention has to be given to questions such as: how do societies in postcolonial sub-Saharan Africa cope with external interventions promoting liberal values and norms? Can they use these influences to their own advantage in the long run? Can we truly avoid cultural imperialism or appropriation, and if not, to what extent do external actors distort or cultivate local political activity stemming from the civil sphere? How are liberal values and norms re-negotiated within postcolonial

societies? Unless these questions are addressed, any normative notion of civil society is irrelevant.

The Import of Normative Notions Sidelines a Socio-historical Inquiry of the Status Quo

Literature on the role (thus not theory) of civil society in peacebuilding processes often distinguishes between “actor-oriented” or “functional” approaches (Datzberger 2014: 91–113). The latter promises to assess how civil society contributes to peacebuilding and development as well as to identify the enabling and disabling factors of civil society engagement in post-war situations. Thania Paffenholz (2010), for instance, impressively investigates the potential of civil society activities in peacebuilding processes and recognizes seven different functions of civil society, namely: protection, monitoring, advocacy and public communication, in-group socialization, social cohesion, inter-mediation and facilitation and service delivery. Undoubtedly, functional and actor-centered approaches both add tremendous value to understanding civil society involvement in peacebuilding and development processes. Yet, this often sidelines an analysis and thorough inquiry of a civil society’s specific composition, characteristics and historical and country-specific context. Further, a focus that is overly functional-oriented runs the risk of overlooking the fact that civil societies are re-shaped in the course of peacebuilding and development processes, while their own environment is subject to re-construction itself. In short, this chapter stresses the need to infuse these assessments with a thorough discussion of the following aspects: colonial legacy, urban versus rural areas, neo-patrimonial networks and chiefdom systems, ethnic and religious organizations and religious leaders, gender relations and equality, and cultural and ethnic identities. Admittedly, this list is far from being extensive and not all of these aspects have been addressed in the scope of this chapter such as: gender inequalities, the role of religion or society’s overall life circumstances (e.g. living conditions, health, nutrition, education).

A Too Rigid Normative Focus Leaves Little Leeway for Gray Scales

In post-conflict countries, the potential spoilers of a peace process might not only be parts of national elites or external actors, but can also be found at a very local level (e.g. rebel groups or insurgents). In the six key elements of his “Institutionalization before Liberalization Peacebuilding Strategy,” Roland Paris (2004) urges in point three to “promote good civil society” while simultaneously restraining its “bad” variant, particularly during the early phases of a peacebuilding mission when

governmental institutions are still being constructed (2004: 194). But who is to determine 'good' and 'bad'? One has to be very careful not to get lost in narrow dichotomies and must accept that there are many gray scales. Former ex-combatants experience different forms of reintegration into society and everyday life—depending on country, community and the individual's motivation and circumstances. Likewise, is someone who commits petty crimes in order to ensure the daily survival of his or her family a bad part of society yet a good family member? Can one justify corruption among poorer communities if we take into account aspects such as poverty, despair or no prospects for a better life? All these conflicting dilemmas that are a part of everyday life and experiences deserve more attention in any discourse when it comes to better understanding civil societies in post-conflict sub-Saharan Africa.

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Undoing Subalternity? Anarchist Anthropology and the Dialectics of Participation and Autonomy

Philipp Zehmisch

At first glance, the undoing of subalternity appears to be self-evidently desirable.¹ All over the world, subalterns have been continuously subdued by exploitative state systems, corporations and feudal relations of clientelism. In India, for example, interactions between “the poor” and state bureaucracies are structured by inequality, arbitrariness and indifference (Gupta 2012: 22–26). Anthropologist Akhil Gupta estimates that since Indian Independence, about one hundred and forty million people have been left to die (2012: 5), with the lack of access to nutrition and medicine causing about two million untimely deaths a year. This number is much higher than the annual loss of human life due to global disasters (ibid.). In my view, the condition of subalternity is a key factor causing such rampant morbidity. Lacking voice and recognition as legitimate subjects across several generations, subalterns continue to have unequal access to means of production and essential goods such as food and medicine.

My understanding of the mechanisms of subaltern exclusion from means of production draws on Spivak’s (1988) famous and often misunderstood conceptualisation of subalterns as people who cannot speak and be counted in institutionalised

¹Subalternity can be defined as position of disenfranchised groups in the modern state, who are denied access to the state. Since colonial times, subalterns have been cut off from lines of upward social mobility and the cultural lines that produced the colonial subject (Spivak 2000: 325). Here, I draw on the term subaltern as promulgated by the Subaltern Studies collective of historians to represent subaltern persons or groups in colonial South Asia. At the moment, Subaltern Studies is no longer to be understood as a project that exclusively engages with the historical reconstruction of subaltern consciousness. For instance, “Subaltern Studies XI” (Chatterjee and Jeganathan 2000) and other recent works (cf. Nur 2012; Pandey 2010; Rabasa 2010) rethink subaltern theory in the contemporary era.

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frameworks of representation.² Hegemony implies that representations follow culturally codified patterns in order to be recognised as legitimate political subjects.³ “Hegemonic listening” (Dhawan 2007a: 273–74) functions to render only those voices legible that are articulated within the epistemic boundaries of science and post-Enlightenment rationalism (cf. Chakrabarty 2010).

Acknowledging the harmful socio-economic effects of subaltern exclusion from public speech, global public sphere theories prescribe universal “remedies”: they propagate formal equality, human rights, development and democratic participation. However, while these “remedies” are applied to “empower” the powerless in order to claim rights and recognition, they regularly produce opposite effects. Politicians, for example, often “highjack” subaltern voices in order to put forward their own hegemonic agendas. Bureaucrats design and execute development and welfare policies, which are meant to ameliorate the lives of the subaltern without asking what subalterns themselves want. Human rights exist on paper, but only “those who govern” are able to claim them, while “those who are governed” are not recognised as subjects of law (cf. Chatterjee 2004). The “selective hearing” and “strategic deafness” (Dhawan 2007a: 279) of these political actors, who ignore and silence non-hegemonic forms of articulation, contributes to subaltern exclusion from regional, national and transnational discourses, in which recognition, entitlements, rights and resources are negotiated.

To sum up, subalternity is an effect of persistent structural inequalities. The undoing of subalternity appears thus, at first glance, as imperative. At this point, I would like to draw attention to Spivak’s suggestion regarding how subalternity could possibly be undone. Spivak demands that we have to work against subalternity by “inserting the subaltern into the circuit of hegemony” (Spivak 1992: 46).⁴ Her claim rests on the assumption that “to work for the subaltern, means to bring it

²Between speakers and listeners, there is a hierarchical asymmetry, so that the one who speaks with authority knows that s/he is heard and acknowledged. The act of listening empowers the speaker because it recognises her/him as person with a political voice. For Spivak (1988), the speech act functions as a transaction between speaker and listener, in which those who are not listened to are unable to speak (Dhawan 2007a: 278).

³From a Gramscian perspective, hegemony is the power of the ruling class to convince the other classes that their interests are the interests of all (Ashcroft et al. 1998: 116). The modern capitalist state is, thus, not simply an apparatus of force. In most cases, as electoral democracy it relies on populist politics and a variety of social institutions to mobilise such consent (Chatterjee 2011: 145). Domination by consent is produced through a subtle and inclusive power over the economy, the education system and the media, in which the interests of the ruling classes are presented as general interests of all (Ashcroft et al. 1998: 116).

⁴I draw on the following statement: “When you say cannot speak, it means that if speaking involves speaking and listening, this possibility of response, responsibility, does not exist in the subaltern’s sphere. You bring out these so-called subalterns from the woodwork; the only way that speech is produced is by inserting the subaltern into the circuit of hegemony, which is what should happen, as subaltern. Who the hell wants to museumize or protect subalternity? Only extremely reactionary, dubious anthropologicist museumizers. No activist wants to keep the subaltern in the space of difference. To do *a thing*, to work for the subaltern, means to bring it into speech. The third thing, which is the worst, that is, you don’t give the subaltern voice. You work *for* the bloody subaltern, you work against subalternity” (Spivak 1992: 46, italics in orig.).

into speech” (ibid.). In my reading of Spivak, undoing subalternity implies that the academic and/or activist must not speak for the subaltern, but that she or he should work towards undoing the space of epistemic difference, in which the subaltern is banished. Such a reconfiguration of the conditions of speech would theoretically enable subalterns to speak for themselves within hegemonic frameworks, consequently undoing subaltern silence and their ruthless exploitation.

If Spivak’s call were ever to be put into practice, I believe that it might be conducive to improve the lives of many subalterns worldwide. However, I doubt that Spivak’s ideas would necessarily be appreciated by all subalterns. What if not every subaltern wants to be heard by hegemonic actors and speak within these frameworks because she or he prefers to avoid interaction with persons and institutions that represent the state and the market?

My paper seeks to critically examine Spivak’s claim of undoing subalternity by including the subaltern into hegemonic circuits. In what follows, I will outline some theoretical ideas to rethink Spivak’s argument. Questioning Spivak’s presupposition that each and every subaltern wants “to get the hell out of subalternity” (Spivak 2003; cited in Dhawan 2007b), I assert that many subalterns might be rather content with a subaltern positionality—i.e. being external to hegemony—under the condition that they succeed in subsisting on “natural” resources and in maintaining their political and cultural independence.

Firstly, I aim to juxtapose her ideas with an emergent disciplinary approach that has been labelled “anarchist anthropology” or “anarchist history” (cf. Graeber 2008; Scott 2009; Gibson and Sillander 2011). Drawing on James Scott (1985, 2009) I will argue that throughout history certain communities have consciously evaded interaction with states by resorting to economic and political strategies that have ensured their partial autonomy from hegemonic influence. I call these practices “anarchist,” not because the Western political ideology of anarchism has inspired people to distance themselves from the state, but because, for ages, these communities have already put the political ideals of anarchism into practice without being labelled and understood accordingly. The history of these “natural” anarchists can, therefore, be understood as subaltern to both the movement of anarchism as well as the hegemonic project of the state.

In the contemporary era, the problem of subaltern participation in the state can, however, not be easily dismissed by just declaring certain communities as “anarchists.” As subalterns are not able to ignore the presence of the state in their lives, they have to find ways to negotiate with it and, to a certain extent, participate in it.⁵ Often, subalterns expect states to provide them with resources and services in return

⁵The earlier generation of subaltern historians insisted that subaltern consciousness was external to the state. This claim cannot be upheld in the present. Firstly, since the 1970s, the postcolonial nation-state has targeted the subaltern as subject of electoral politics and government welfare (Chatterjee 2010: 84). Secondly, in the context of social, cultural and economic globalisation, the role of the subaltern in transnational spheres needs to be rethought, because the subaltern is “no longer cut off from lines of access to the centre” (Spivak 2000: 326).

for their participation in electoral democratic processes and in contributing to the larger economy through their labour power. Even if these expectations are hardly matched, subalterns have continued to engage with the state, while, at the same time, living according to anarchist principles at the margins of the state. I argue that an oscillation between inclusion in and exclusion from the state structures the everyday-lives of subalterns—a process that I term the “dialectic” between participation and autonomy. In the second part of the paper, I will discuss this dialectic more concretely by referring to an ethnographic example. I will elaborate on how the Ranchis, a community of subaltern labour migrants, who have settled in marginal zones of the Andaman Islands resort to anarchist principles of self-rule and subsistence, while at the same time, appropriating the state apparatus in order to get recognition and access to funds.

Anarchist Anthropology

The hegemonic narrative of “modernisation” constructs communities living at the fringes or outside of states as being in need of inclusion into hegemonic circuits in order to get access to the lines of social mobility. Disputing this normative assumption might be difficult. I am, however, at least inclined to ask about the other side of the coin: Could we imagine other ways of looking at the world’s “poor” besides stereotyping them as “backward” and deprived victims of “modernity”? What about their agency and personal freedoms? Can we think of subalterns, in spite of the obvious hardships conditioned by a life in the margins, as living largely self-sufficient lives apart from the “outside” world and even “enjoying” that kind of life?

Anarchist anthropology offers different responses to these questions in contrast to hegemonic state narratives. This emerging disciplinary approach embraces the argument that throughout history of humanity the majority of people have governed themselves (Graeber 2008: 65).⁶ David Graeber (2008) emphasises that anarchist principles—autonomy, voluntary association, self-organisation, mutual aid, direct democracy—have continuously shaped modes of social organisation and subsistence practices among non-state communities around the world.⁷ Pierre Clastres (2008) similarly describes how indigenous people in the Amazonian lowlands have

⁶From this perspective, state rule is regarded as a comparatively recent invention that covered only fragments of the world population until the modern state considerably expanded two centuries ago. However, the institutionalisation of states does not necessarily mean that these are pervasively present within their official territories, but rather that they coexist with anarchist spaces (Graeber 2008: 54).

⁷Applying these general ideas to the history of anthropology from the nineteenth century onwards, I believe it is safe to argue that the majority of political institutions studied by anthropologists as an antidote to “modern” state societies (cf. Maine 1861; Morgan 1877; Radcliffe-Brown 1922; Fortes and Evans-Pritchard 1940; Leach 1954; Sahlins 1974) can be tentatively labelled as anarchist.

created social cohesion through mechanisms of consensual decision-making. Treating each other as equal members of a community, they do not swear allegiance to any form of external domination that divides them politically (Clastres 2008: 24). This ensures that neither their own headman nor any external state entity is in a position to institutionalise rule.

Scott's "The Art of Not Being Governed" (2009) highlights the Southeast Asian hill region as an example of anarchist history. Over the course of two millennia, the majority of the region's population has lived outside or at the fringes of states and governed themselves (Scott 2009: xiv ff.). Following the desire not to be governed, many hill residents, who could be understood as runaway, fugitive and maroon communities, once migrated from the fertile, irrigated rice-farming states in the Southeast Asian lowlands to the highlands in order to flee from "slavery, conscription, taxes, corvée labor, epidemics, and warfare" (ibid: ix). Drawing inspiration from Willem van Schendel, Scott calls this highland region "Zomia" (ibid: xiv).⁸ Not being fully incorporated and governed by states, peoples' self-rule and autonomy as well as their evasion from statehood have been historically marked as proof of their "primitivism" and "backwardness." Scott counterargues that this hegemonic view needs to be corrected. Most highlanders have willingly resorted to a lifestyle of pastoralism, foraging or shifting cultivation outside the state centres in order to evade state influence. Their escape from the state, therefore, has to be regarded as "self-barbarianization" (ibid: x). They have adapted to the geography of the hills through specific subsistence techniques and changes in their social structure (ibid.).

In his previous book "Weapons of the Weak," Scott (1985) outlined the everyday resistance strategies of subaltern peasants when interacting with the authorities "who seek to extract labour, food, taxes, rents, and interest from them" (ibid: xvi). The weapons of powerless groups Scott has in mind are "foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so on" (ibid.). These practices do not require elaborate planning or coordination; rather disenfranchised people and groups utilise already existing informal networks, based on mutual understanding and self-help. Scott contends that peasants' avoidance of direct confrontation with authorities is among their most significant and effective forms of resistance (ibid.).

⁸Zomia is a term for highlanders in several Tibeto-Burman languages in the Bangladesh-Burma border area (Scott 2009: 14). *Zo* means remote and carries the connotation of living in the hills. *Mi* means people. (ibid: 15). *Zo-mi* designates remote hill people, living in a geographical niche (ibid.). Zomia stretches across two and a half million square kilometres—roughly the size of Europe—and eight nation-states of South-East Asia. Scott points out that presently, Zomia would encompass a population of 80 to 100 million, hundreds of ethnic identities and at least five language families (ibid: 14).

Scott's theories enable us to put the practices of many subaltern communities around the globe in perspective. It returns agency to those subaltern actors whose actions are either disregarded or blatantly misinterpreted by hegemonic discourses. Many subalterns have not been simply "left back" by "modernity," as we are told. Instead of pursuing inclusion in hegemonic circuits, they have consciously decided to escape from the frustrating and exploitative interaction with state institutions and the capitalist system (cf. Gibson and Sillander 2011). Their partial political autonomy from exclusionary state structures implies that they apply modes of self-governance relying on small-scale, face-to-face, basic democratic and consensual forms of decision-making, which are often entwined with "traditional" forms of "sacred" kinship (cf. Shah 2010). Furthermore, to ensure their economic subsistence, many self-sufficient peasants, nomadic herders or hunter-gatherers have adhered to a mode of production that ensures their partial or complete subsistence as well as their independence from money and external supplies.

If some of these people are indeed "content" with their lives without necessarily participating in the system as claimed by Scott, how do we deal with Spivak's emphasis on the need to insert "the subaltern into the circuit of hegemony" (1992: 46)? I do not want to deny that Spivak's claim to create conditions for subaltern speech could mitigate unequal forms of distribution among many subalterns. Furthermore, Spivak's idea of opening up hegemonic communication structures would be congruent with basic democratic principles. Enabling equal conditions of speech across social, cultural and political boundaries would surely be conducive to subaltern communities around the world. It would essentially benefit landless poor in rural areas and urban squatters.

But what about those anarchist groups who, as argued previously, have consciously chosen strategies that ensure that they remain outside of hegemony, because an enclosure would also imply giving up their economic and cultural independence? Would it be conducive to enforce a hegemonic condition of speech on them in the name of desubalternisation? From this perspective, Spivak's demand may itself be understood to represent an imposition of a hegemonic view of the centre on the subaltern that proposes a teleological subaltern "evolution" aiming towards becoming a subject of hegemony.

I do not want to claim here that subalternity is necessarily a desirable positionality. My point is, rather, that subaltern exclusion from hegemonic communication structures is intertwined with the autonomy of anarchist groups. If subaltern inclusion into the circuits of hegemony brings with it the demand to adapt to the dominant economic and cultural system, I believe that many anarchist communities will prefer to stay away from it, because this would be unfavourable to people's ability to sustain and govern themselves. Therefore, unless a viable alternative emerges, a subaltern enclosure by hegemony needs to be carefully reflected upon.

Chotanagpuri Adivasis as Subaltern Migrant Labourers

To illustrate this tension more concretely, I now turn to an ethnographic example from the Andaman Islands, where I conducted fieldwork between 2006 and 2012.⁹ The focus will be on the anarchist history of the so-called Ranchis,¹⁰ indigenous migrant labourers from the Chotanagpur region in Central India. In order to embed the specific case study of the Ranchis into my larger argument about the dialectics between autonomy from and selective participation in the state, I will highlight three interlinked forms of subaltern history, which are entangled in the narrative of the Ranchis: Firstly, the history of people evading the state; secondly, the history of aboriginal labour migration from Middle India; thirdly, the history of Ranchi migration to the Andamans and their subsequent attempts of place-making.

For the sake of my argument, I propose to include the Andaman Islands into Zomia,¹¹ because their dense forests and creeks have functioned as zones of geographical and social retreat for the indigenous islanders¹² as well as certain migrant groups like the Ranchis, as I am going to elaborate below. Beyond that, I argue that the Zomia concept can be extended to the Middle Indian hill region, the so-called Chotanagpur plateau, from where the Ranchis originated. The history of Chotanagpur has remarkable parallels to the history that Scott (2009) narrates for Southeast Asia. For many centuries, the region and its people were never properly conquered by kingdoms in the Gangetic plains. During colonial times, administrative changes in the land tenure system caused massive migrations by lowlanders from the Gangetic

⁹As a colony of the British Empire and the ensuing Indian nation-state, the Andamans in the Bay of Bengal have been a destination of various migrations from different parts of South and South-East Asia. From 1858 onwards, a British penal colony was installed on the islands, to which subaltern convicts, soldiers and contracted labourers were transported (Anderson 2004; Sen 2000; Vaidik 2010). After Independence, refugees, repatriates, landless people and labour migrants settled on the islands. The Andaman society has been called “Mini-India” because the migrant population of more than 400,000 people represents a large variety of castes, linguistic and religious groups of the subcontinent (Zehmisch 2012).

¹⁰The term Ranchi does not indicate the “traditional” name of an ethnic group. It stands for a subaltern aboriginal labour force named after their place of recruitment, the town of Ranchi. Instead of enumerating and recognising a large variety of aboriginal labourers according to their affiliation to different ethnic groups, such as Oraon, Munda, and Kharia, all of them were subsumed under one category as “Ranchiwallahs” or Ranchis. The Ranchis came to be defined as diasporic “ethnic” community. This ascription was adopted by the Ranchis themselves as a means to define the boundaries of their “ethnic” group in the larger Andaman society.

¹¹Scott mentions that the idea of Zomia could be extended to other areas in South Asia (2009: 16).

¹²To an interested reader of the history of the indigenous Andaman islanders, I recommend Pandya (2009).

plains (Sundar 2007). This led to the partial institutionalisation of the state in the region. Until today, Chotanagpur has been shaped by continuous struggles between the state and so-called Adivasis, the aboriginal inhabitants of India.¹³

My reflections on Adivasi forms of self-governance and state evasion in the Chotanagpur region are inspired by Alpa Shah (2010), who did fieldwork in the Indian State of Jharkhand among the Adivasi community of the Munda between 1999 and 2008. Her work elucidates the constant attempts of state actors, NGOs, religious institutions and political parties to enclose largely self-governed Adivasis into larger frameworks of welfare and governance. Shah argues that most Mundas view the state “as a recent and outside invention” by non-Adivasis that has come to threaten Adivasi society (Shah 2010: 54). Shah was told that, in older times, many Mundas fled to the forests or hid somewhere when government officials came to their village. Shah traces this back to the oppressive and exploitative treatment meted out to them throughout history (*ibid.*).

Many Andaman Ranchis are Mundas too. They not only come from the same region that Shah researches, but they also share the same history: Since the end of the nineteenth century, millions of Adivasis from Chotanagpur have migrated across the subcontinent and overseas in search of employment, as their means of subsistence and livelihood, most often slash and burn cultivation, has been severely disturbed due to population pressure and agrarian transformations (Tinker 1974: 47).¹⁴ As a result of their emigration, Chotanagpuri Adivasis came to be known as a “coolie nation.” The British had classified these “pure aborigines” from Chotanagpur as “first-class coolies,” because they were assumed to be docile, hard-working and racially fit to endure adverse climatic and ecological conditions (Ghosh 1999: 29–32).

These stereotypes also influenced the recruitment of Chotanagpuri Adivasis to the Andaman Islands from 1918 onwards. The labourers’ task on Andaman was to clear forests for the timber industry, to make space for settlements and to expand the infrastructure for steadily growing numbers of migrants and settlers. Their recruiters and the Andaman authorities regarded them not as potential settlers but as mere aboriginal labour power that was expected to leave the islands as silently and invisibly as they had come. Contrary to that expectation, many Ranchi labourers dropped

¹³ Some parts of the region came under control of the Naxalites, a Maoist insurgent force. In 2000, two separate states of the Indian Union, Jharkhand and Chattisgarh, were formed as a result of political struggles strongly supported by Adivasi leaders demanding self-rule. This shift of political leadership, however, did not drastically change people’s practices of avoiding and evading state interaction.

¹⁴ Indentured labour in the British Empire partly relied on the systematic contracting of dhangar (hill) coolies from Chotanagpur (Ghosh 1999: 17, Tinker 1974: 47). Hugh Tinker estimates that between 1840 and 1850 two-fifths to one-half of the labourers migrating from the subcontinent to overseas destinations were dhangars (Tinker 1974: 49). The number of Chotanagpuri coolies recruited for tea plantations in Assam was, however, many times larger than those taken overseas. Between 1870 and 1900, approximately 250,000 labourers from the Chotanagpur area went to Assam (*ibid.*: 51).

out of contracts and settled down wherever they found “free” spaces in the periphery of settled zones, often near the spaces they had previously cleared. Taking recourse to practices in their homelands, where no concept of private land ownership had existed before it was colonised (Bates and Carter 1992), many former labourers “illegally” encroached forest land to construct houses and to cultivate gardens and paddy fields. Because the majority of subaltern Ranchis has been cut off from the lines of social mobility, they took recourse to subsistence practices. Frustrated with state interaction, their place-making in the margins can be interpreted as a form of evasion and a way to keep the state at a distance.

Between Participation and Autonomy

As a result of their migration, the Ranchis have established themselves over several generations as a diasporic community within the multi-ethnic Andaman society. Due to generous funds distributed by the central government, the Andaman society can be described as upwardly mobile and comparatively resourceful (Zehmisch 2012). This upward mobility does, however, not apply to most Ranchi labour migrants and their descendants, who have continued to live in political, social and geographical marginality. From a normative perspective on socio-economic development, their lives in the periphery of settled “civilisation” can be described as poor: Not much has been done for their welfare in encroached forest lands, schools function only partially, whereas primary health centres, electricity and infrastructure are largely absent (Raju 2010).

Despite being on the islands for more than 90 years, the Ranchi community remains mostly invisible and excluded from the public sphere (ibid.). There is a deep connection between the Ranchis’ meagre socio-economic mobility and their political invisibility. As the third-largest population group on the Andaman Islands, they rarely play a role in public debates or discourses. In the political field on the Andamans, a few Ranchi community leaders claim to represent the interests of the subaltern majority, however this is done without their active support. As the numerical strength of the Ranchis does not have a significant effect on their political participation and agency, several generations of Andaman residents have been cut-off from access to the lines of social mobility. Very few socio-economically successful community members have established themselves in the Andaman civil society as government servants or traders. Those that did, however, have either tried to conceal their “tribal past” or advocate to reform “tribal habits.”

During 20 months of fieldwork in the Andamans, I interviewed numerous government officials, NGO employees and members of the Andaman civil society, who belonged to diverse communities other than the Ranchis.¹⁵ Investigating the reasons

¹⁵The interviews aimed to explore the interdependence between subaltern disenfranchisement from means of production and their exclusion from hegemonic speech.

why most Ranchis' did not experience upward mobility, many of my interlocutors portrayed the Ranchis' social and geographical marginalisation as a "natural" consequence of their racial characteristics. Reinforcing everyday stereotypes, most of my interviewees opined that Ranchis are subservient, "simple" or even "dumb" tribals on a "lower stage of civilisation." They emphasised that these "tribal children of nature" have no aspirations to embrace "modernity" and that they "like to serve others" as one NGO employee put it. Reducing Ranchis to their labour power, to "hands" or bodies without dignity or rights, most bourgeois interlocutors do not speak of Ranchi individuals as personalities, but as a "race" of "coolies" or as illegal "encroachers" on forest land. Symptomatic of this derogatory discourse and its corresponding relations of production is the expression "gudna" (knee), which symbolises the entanglement of the racial division of labour with ethnic stereotypes. This frequently used term derogatorily reduces Ranchis to the status of subaltern labourers, who are only apt for work with their body and not with their intellect.

Some more sympathetic, but nonetheless paternalist interlocutors attributed the failure of the Ranchis' development to their lack of ambition and their laid-back attitude. Constructing Ranchis as being in need of support and guidance, employees of NGOs, government servants and Church officials attempted to find ways to control the Ranchi community. They repeatedly told me that they were frustrated by their continuous failure to "help" the Ranchis to get access to the state or the market. Many attempts to include them in welfare programmes, to enrol them in schools or to teach them to abandon dangerous "traditional" habits like drinking or hunting have proved to be unsuccessful. As bearers of hegemonic perspectives, my bourgeois interlocutors disregarded the everyday practices of the Ranchis, and projected their own views on them. They did not consider alternatives to the supposedly inevitable socio-economic and cultural "evolution," which implies enclosure by the state through so-called welfare and development policies.

When I did fieldwork in several Ranchi encroachment villages across Andaman,¹⁶ I found out that the hegemonic preoccupation with the Ranchis' "racial" and "cultural" adversity to "modernisation" has blurred the ability of elite actors to recognise what motivates these subalterns to strategically participate in the state system as well as to stay away from it. Most Ranchi villagers expressed their frustration on their systematic discrimination and disenfranchisement.¹⁷ They told me that what

¹⁶The data was generated between January 2011 and January 2012 in participant observation. The fieldwork explored how the Ranchis perceived their own disenfranchisement in contrast to the hegemonic views of bourgeois interlocutors. Furthermore, I focussed on the strategies the Ranchis employed to deal with state dominance.

¹⁷For example, several Ranchis complained about the arbitrariness they encountered in public institutions (cf. Gupta 2012). They narrated numerous instances in which they did not succeed to get something "official" done—e.g. the issuing of a ration card (one of the most important documents issued by the Indian government, which enables the poor to access the public distribution system, for drawing subsidized food and fuel)—because they were ignored or ill-treated. Often they were made to wait for an entire day only to be asked to pay a bribe, which they could not afford.

they urgently lack is the provision of essential services such as health, electricity and education.¹⁸ Because of the latter, they have to interact with state institutions to a certain extent. Otherwise, they would refrain from any contact with officials. Their lives are, therefore, shaped by a continuous dialectic between attempts of state incorporation and their will to govern themselves.

In relegating the Ranchis to the sphere of “primitivity” and “backwardness,” my bourgeois interlocutors have failed to take into account that the Ranchis resist the state by mobilizing multiple and silent “weapons of the weak” (Scott 1985). When Ranchis interact with outsiders, they often resort to discursive strategies of “self-barbarianization” (Scott 2009: x). The phenomenon of feigning different personas by indigenous people in their interaction with dominant majority populations is a well-established trope in anthropological literature. For example, the Mesquaki (Fox), stage themselves as lethargic and lazy alcoholics in order to resist their acculturation to the American way of life (Amborn 1993: 130). They intentionally accept the consequences of poverty and humiliation in order to protect their ethnic and cultural identity (*ibid.*). Along similar lines, I claim that one might understand the persistence of the stereotype that represents Ranchis as “primitive tribals” not only as a product of their continuous social marginalisation but also as a strategy that is consciously used by Ranchis who play with the stereotypes of being “dumb,” “primitive,” “shy” and “docile” in order to evade interaction with the state. I believe that strategic negotiations with such stereotypes provide subalterns the possibility of hiding behind stereotypical images in order to protect their life-worlds. It is a strategy of regulating and inhibiting access of and to the outside world, which serves to maintain the internal cohesion of a group as the most important aspect of their social, cultural and economic survival.

The conviction that they should govern themselves is prevalent among Ranchi villagers and leads them to actively or passively resist any form of rule not embedded in the community.¹⁹ Relevant decisions concerning the community are taken in a basic democratic procedure that consciously prohibits external interference. For example, in a village on South Andaman I had the opportunity to learn that the village community had consensually decided in advance who they were going to elect as their village representative in the panchayat (the communal council). When the panchayat elections were held “officially,” almost all villagers voted for the person, who had been elected and appointed in advance. The election was, therefore, just a superficial obedience of state regulations in order to fend off eventual problems with state authorities.

The Ranchis interpret practices of state evasion and self-marginalisation quite differently in contrast to the outside world, which constructs them as “backward” (cf. Raju 2010). Especially older migrants highlight that they are content with their

¹⁸ Especially youngsters, who desired to participate in the “modern” consumer society, expressed that they lacked efficient development and welfare policies in their areas.

¹⁹ Usually, the older members of the village, both female and male, are allowed to participate in community meetings.

forms of place-making in marginal forest areas. While they had no land rights on their illegally encroached plots of forest land and could be theoretically evicted, they had, at least, no obligation to pay any rent to a landowner. Living far away from the urban centres, my interlocutors appreciated not having noise and air pollution from heavy traffic. They emphasised that the Andaman environment provides them with sufficient resources to sustain themselves: They have safe and clean “sweet” water, “cool” air and wind as well as “natural” building material; they harvest crops from their own gardens, plantations and paddy fields; they own cows, buffaloes, pigs, chickens and goats; in the forests, they hunt and collect ferns and fruits; creeks and the seashore provide them with fish and seafood. In spite of being formally classified as “poor,” it can be argued that Ranchi villagers have sufficient resources of high quality, which—in comparison to most urban slum dwellers—enables them to live a modest, but decent and largely autonomous existence. As a matter of fact, villagers’ recourse to subsistence practices has led them to achieve a certain independence from external sources of income and the influence of bureaucrats.

Furthermore, most villages are remotely located and are far away from national highways and even paved roads. They are only reachable by walking through the jungle or by boat. Villagers proudly informed me about the freedom and peace they enjoy, because hardly any government officials or other outsiders—who in their view hassle them, extract services or bribes and molest women—come to these remote areas. I even learnt of a case in a village on Baratang Island, where the community consciously decided against the construction of a road to their village in order to discourage outsiders from coming and creating trouble.

Based on what I have outlined above, it is no exaggeration in claiming that many Ranchis have strategically taken refuge in the margins in order to evade state influence. Instead of relegating them to the passive status of victimhood, their agency in these processes must be recognised as necessary precondition for any discussion about the undoing of their subalternity. Furthermore, the Ranchis’ case demonstrates that a recognition of their anarchist strategies should not exclude considerations of improving their conditions through state intervention. The central problem is the way this help is offered and whose opinions and wishes are heard and considered. So far, most state interference in the lives of the Ranchis’ has not lifted them out of poverty, but rather produced and reproduced their subaltern position.

Conclusion: Speaking with the Subaltern

The dialectics between participation in and autonomy from the state throws a different light on Spivak’s efforts to undo subalternity: My central argument is that the inclusion of the subalterns in the circuits of hegemony would have ambivalent consequences. It would on the one hand benefit them in terms of getting access to the state and the economy, but on the other hand, it would also imply a loss of their partial autonomy from the outside world. Drawing on anarchist anthropological theories, I propose that the Ranchis as subalterns do not want to overcome the space

of difference vis-a-vis the larger society, because their experiences and negotiations with the elites have been historically shaped by violence and disillusionment. These tribal groups have not only migrated from one marginal area of the state to another, where they again settled in hilly, remote areas; they have also adopted a mode of production appropriate to the environment at the fringes of the forest and a way of life that can be interpreted as a strategy of evading or, at least minimising, state interaction. I argue that their choices reflect their preference for cultural autonomy and self-rule. If an inclusion into hegemonic frameworks would require them to become dependent subjects of the state, my research demonstrates that many would prefer to opt out.

To tackle this predicament, I propose another possibility: Those who are located in hegemonic structures must engage with subaltern perspectives of anarchist autonomy. During my fieldwork, I realised that most subalterns want to be listened to. Consequently, I claim that ethnographic field work in a vernacular language can be one adequate methodological tool to enable such a communication between subalterns and hegemonic groups. The purpose of listening to subaltern anarchism is to counter the omnipresence of state-centred narratives; there is a need to promote alternatives ways of thinking to the hegemonic, teleological master narrative that reinforces normative ideals of citizenship in nation-states as the one and only desirable form of existence.

I am aware that participant observation as a method does not undo unequal relations of power between the researcher and those being researched. During the fieldwork, one has to reflect on one's complicity in relations of power along the lines of race, gender, class, nationality, ethnicity, religion that re-produce subalternity in the very situation of social interaction that one is investigating (cf. Hale 2007: 122). Moreover, my awareness of power inequalities and my reflections on them does not alter the fact that by virtue of my position within the hegemonic system of academia, I have the power to represent the subaltern.²⁰ If, however, communication is conducted in a vernacular language, Andaman Hindustani in this case, and according to principles of mutual trust and reciprocity, it is my hope that a condition for speaking with and listening to the subaltern can emerge. Ethnographic field work is specifically suited for this endeavour, as it usually involves the establishment of long-term relationships, which, at times and in specific situations, can reconfigure hierarchical distinctions between subaltern and researcher. Nonetheless, speaking with subalterns does not automatically grant them political agency. However, in speaking to subalterns there is the possibility that we can learn about their desires and wishes. For instance, in the context of my fieldwork, I realised that not every subaltern necessarily desires inclusion into hegemony. Accordingly any discussion

²⁰ Despite numerous turns and interventions in the history of anthropology (cf. Hymes 1974; Clifford and Marcus 1986), this disciplinary bias has not been successfully resolved. The official acknowledgement of this problem demands engagement on our interlocutors' behalf (Hale 2007). Moreover, there is a disciplinary commitment to consider ethics in academic training and practice (Amborn 1993).

that aims to undo subalternity should address people's anarchist way of life. In my view, the question of undoing subalternity could be framed differently: How can we undo the rise of state intervention as well as the decrease in resources that threaten self-sustaining modes of subsistence?

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Part II
Postcolonial-Queer-Feminist
Appropriations and Contestations

The Re-colonization of South Asian Women's Bodies: Normalizing Off-Label Experiments in the Pharmaceuticalization of Homebirths

Fouzieyha Towghi

Introduction

The historic and transnational policies to move childbirth from the hands of the so-called traditional birth attendant (TBA) to the hands of biomedical practitioners has not succeeded everywhere in the 'global South,' despite the near hundred years of colonial and postcolonial state efforts to do so. Historians of colonial medicine have shown how the general reluctance of women in British India to enter hospitals had not greatly changed by World War II, even among the middle classes (Arnold 1993). The *Annual Reports on the Hospital and Dispensaries in Baluchistan* from 1921 to 1933, for example, show that during that period only a small number of women and men were attending the available medical facilities. This context has not shifted in Balochistan, where about 90 % of all deliveries occur at home, largely in the hands of *dinabogs* (midwives). Whether in Pakistan today, or historically in India and the Congo, state, missionary, and philanthropic efforts to biomedicalize and institutionalize childbirth has produced uneven results (Arnold 1993; Hunt 1999). Such policies have largely failed to convince Pakistani women to give birth in hospitals.

However, as I witnessed in Pakistan, women need not enter the hospital before their bodies are subjected to biomedical interventions. They need not actively pursue reproductive technologies (low-tech or high-tech) in order to experience the iatrogenic effects of biomedicine and the increasingly experimental nature of global public health interventions. In Panjgur district of Balochistan Province in Pakistan, where I conducted over 15 months of ethnographic research, the narratives about the declining Balochi nomadic life, and the simultaneous rise in injection use around childbirth are inseparable from women's and *dinabogs'* discourses about the

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problematic forces of the *sher* or city sedentary ways, dominated by the near exclusive availability, in the words of Panjuri women, of *Ingrezy dewa* (English medicine). For many Panjuris, the forced sedentary condition had not produced the imagined benefits of an urban life of paved roads, schools, employment, and regular, reliable, quality, and safe access to modern transportation, communication technologies, and biomedical care. Within this socio-economic context, women's and *dinabogs*' criticisms of the excessive and improper uses of pharmaceutical injections in clinics also includes concerns about the excesses of reproductive morbidities confronting women, and why Panjuri women are weaker now and their lives at greater risk around childbirth than they had ever witnessed in the past; expressed in statements such as: "Women go to the *lady*, get an injection for the pain, become a little better; then it is back to the same stomach and pain. Then they return to us for care." (A Panjuri *dinabog*, 2005) and "*Süch-chins jana kay jana, baaz süch-chin jana*; they inject and they inject, they inject too much" (A repeated refrain of women and *dinabogs*, 2005–2006).

Far removed from the backdrop of this ethnographic context, a global network of scientists, health activists, philanthropists, international and local non-governmental organizations and states are advocating the use of misoprostol for the prevention of postpartum hemorrhage (PPH) or heavy bleeding and maternal death in so-called "resource-poor" nations (Population Council 2004; WHO 2010). In the name of humanitarianism, misoprostol is viewed to be the best low-tech obstetric first-aid against maternal mortality, despite the evident risks of its use for women and the fetus (*ibid.*). Drawing on my fieldwork and analysis of policy and scientific literature, I examine the ramifications for Pakistani women's health and their lived experiences of the transnational discourse about the so-called "culture of homebirths" and the presumptive humanitarianism of misoprostol as the relative best solution to saving women's maternal bodies.

Misoprostol is the generic name for the drug cytotec, approved by the US Food and Drug Administration (FDA), and made by Pfizer, Inc. for G.D. Searle LLC for the prevention of gastric ulcers. Cytotec is registered in more than 80 countries but not for labour induction or other women's reproductive issues. Its uterotonic (uterine stimulant/uterus contracting) effects to terminate pregnancy were first reported in Brazil. Since then, and following reports of widespread self-administration worldwide and its "off-label" uses by medical doctors, the sexual and reproductive health-related uses of misoprostol have been researched in randomized trials in the hopes of introducing the technology for routine use in childbirth to prevent PPH, in contexts like Pakistan (Hofmeyr et al. 2009). Over three decades of transnational campaigns have produced little progress in bringing down maternal death rates in Pakistan; largely due to the forced structural adjustment policies (SAPs) that were fueled by the global neoliberal economic restructuring (Bhutta et al. 2004). In 2009 the UN Human Rights Council adopted a resolution recognizing maternal death and illness as a pressing human rights concern. International nongovernmental organizations (NGOs), philanthropic foundations, and pharmaceutical companies have collaborated to introduce misoprostol as a quick-fix women's health rights solution. They have, focusing particularly on the so-called "culture of homebirths,"

conducted large-scale community-based pilot projects to test misoprostol's social acceptability in service delivery projects in Asia, Africa and Latin America (Population Council 2004).

Anthropologists have asked if Michel Foucault's "governmentality" is being displaced by "experimentality" as the dominant mode of social ordering in our present modern era of medicine and public health (Foucault 1979; Petryna 2009; Nguyen 2009; Rottenburg 2009). In analyzing the transnational scientific and health policy claims about misoprostol in this paper, I suggest that international efforts to normalize the off-label use of misoprostol for all cases of childbirth as a humanitarian solution to reduce global maternal deaths rates is less due to new forms of experimentality than to the failures in governmental practice concerning public healthcare in Pakistan. These failures, I argue, render the universal administration of misoprostol as acceptable population-level experiment akin to the stratified healthcare of the colonized vs. colonizer's body in the era of "colonial governmentality" (Scott 1995). I discuss the relationship between homebirths and routine labour induction in Pakistan to examine the implications on Pakistani women's health of normalizing what I call the "un-enunciated experimental" off-label uses of misoprostol in nearly every case of childbirth, in homes and clinics, in the hopes of averting PPH, whether or not the woman is at risk for it. Engaging postcolonial feminist anthropological studies of science, medicine, technology and the anthropological articulations of experimentality and governmentality, I suggest that the rationale underlying the advocacy of misoprostol to presumably secure 'global South' women's lives, which may or may not be at risk of PPH, is an example of colonial governmentality and what I frame a form of risky medical relativism. Medical relativism is the expectation or actual application of a distinctly separate standard of medical treatment between populations. In this case, I am discussing a risky form of medical relativism that operates in the realm of the experimental, which is part of a historic trend of reproductive technologies administered to women worldwide.

Medical Relativism as Experiments of Colonial Governmentality

Experiments are not only central to the production of bio-scientific knowledge and social policies, but they are at the heart of what it means to be modern, moving beyond the biomedical laboratory and the clinic into everyday life through market expansion, and international human rights and development practices (Towghi and Vora 2014). As a technology of making 'truth,' or in scientific parlance, 'producing facts,' the experiment is a socially (both scientifically and legally) approved method for determining the efficacy and safety of something previously untried (*ibid.*). Although not a new technology, and contraindicated for such use by the manufacturer of the drug, misoprostol's off-label use worldwide makes it part of the emerging global "bio-economy" that is characterized by the outsourcing of organ collection

and transplantation (Waldby and Cooper 2008; Cohen 1999); pharmaceutical transfers (Ecks 2008; Towghi 2013) and clinical trials (Sunder Rajan 2006); and risky clinical labour (Vora 2009). The Population Council, USAID, Public Health Schools and Global Health programs in the United States, and private organizations such as Venture Strategies for Health Development, Gyunity all consider misoprostol to be a 'revolutionary' modern technology for women's health, because if women cannot come to the hospital, this non-injectable prostaglandin (a compound of hormone-like substances involved in a wide range of body functions) pill can be taken to them (Wells 2006).

Gayatri Spivak (1990: 129) has argued that the link between history and anthropology is crucial in understanding how colonialism shaped the ideal material situation from which national economic and social development planning and the regimes of development aid could emerge post-WWII. The extant global power relations enabling the exploitation of the 'Third World's' resources are supported by various regimes of postcolonial representation and interpretation that include the global health development regime involved in devising biotech centered health intervention programs for 'Third World' women. As Gyan Prakash (2000: 192) demonstrated, as in Europe, governmentality in British India also developed in response to the outbreak of epidemics, and famines, and represented an effort to act on the population, to nurture its health and cultivate its resources. But colonial governmentality developed in violation of the liberal conception of non-coercive pastoral and biopolitical care that were operative in Britain (*ibid.*). Partha Chatterjee (1993: 10) has called this displacement of liberal principles "the rule of colonial difference." In the Boasian tradition, cultural relativism has been a means to combat ethnocentrism and racism to delink cultural specificity and differences from the trope of biological determinism (Stocking 1982). The universal normative 'human' that has emerged from this antiracist anthropological intervention has included the construction and globalization of the universal normative biological body of 'Western' biomedicine in public health practice (Bashford 2006).

For instance, in contemporary development practice, all women worldwide are construed to potentially experience the same list of biological risk factors in childbirth that may follow a maternal death in the absence of a universal biomedical intervention (Population Council 2004). However, as evinced in the short history of post-colonial governance, 'experiments' to limit population growth toward securing a 'healthy' nation have exceeded the laboratory and clinical contexts, as well as the assumptions of biological sameness in order to rationalize differential medical approaches toward different populations, whereby the risk-benefit ratio of the reproductive technology is reconstituted for 'global South' women, on the unstated grounds of race or class. This suggests that medical and public health practices and ideas can produce different populations as experimental bodies without explicitly marking the subjects as objects of experimentation or the space of the experiment as a laboratory (Towghi and Vora 2014). Akin to historical and contemporary global deployments of contraceptive technologies, the experimental aspect of such socially constructed notions of the social good and the unacceptable risks associated with it

can become further disguised in the name of humanitarianism and the provision of a 'simple' pill, which then legitimizes variegated interpretations of medical need for different population groups.

Panjguri women's and *dinabogs*' narratives of their experiences index the troubling bodily impact of biomedicine, centered as it is on the use of pharmaceuticals, as the normative and exclusive approach to improving women's health. If as Hans-Jörg Rheinberger (1995) delineated, the unknown future is a crucial element of the experimental system, then the unmarked experimental social practices further mask the relations of power between the 'truth' producer and object/subject of experimentation that enables the production of the 'truth' at times at the expense of the subjects of the experimentation, thus veiling the exploitative aspects of experiments. As I address next, the introduction of misoprostol may increase the risks of maternal deaths in Pakistan rather than protect women from it. Panjguri women prefer home-births to hospitals births, but are not against seeking biomedical help in case of complications. But, when biomedicine and public health practices contribute to reproductive complications, where can women turn? It is precisely the pre-existing and extant structural inequalities that have helped to produce this failure that enables misoprostol to be framed a 'revolutionary' technology for the women of 'resource poor' nations.

Un-enunciated Experiments from the Clinic to the Home

The push to standardize and institutionalize the experimental off-label uses of misoprostol to prevent and treat a range of women's health conditions reflects the expanded role of pharmaceuticals in preventive medicine and international health programs (Petryna et al. 2006). In India, for example, epidemiological, clinical, and laboratory research is underway to identify efficient channels for Human Papillomavirus (HPV) vaccine delivery and marketing to the Indian population in public and private sectors. Yet, without proper clinical trials and safety tests within India, this blurs the distinction between service delivery and the experimental (Towghi and Randeria 2013). What is also novel in this trend is the increasing numbers of healthy girls and women targeted worldwide in programs to test drugs and new technologies. The hormonal contraceptive pill was the first drug tested and administered to healthy people, and that for a social purpose, namely to limit population growth (Oudshoorn 2002). Similarly, women who are not at definite risk of experiencing PPH or maternal death are subjected to misoprostol to test the efficacy of its delivery into their homes. The home, thus, has become an "un-enunciated and unmarked space of experimentation" and scientific knowledge production, thereby erasing the "distinction between the inside and the outside of the laboratory" (Latour 2001: 3).

The un-enunciated and experimental aspect of large-scale community-based public health projects that today involves advocating misoprostol distribution and

its utilization in homes is not entirely new. International development pilot projects are exemplar experimental practices that exceed clinical and laboratory contexts, particularly population control projects underway since the 1950s (Mamdani 1972). Designed, funded and implemented by international organizations, these programs represent mobile models that accompany policy mandates to replicate and scale-up community interventions into national programs. The development of, and clinical trials for, the oral hormonal birth control pill, for instance, saw the movement of scientists, their research technologies, and capital from the United States to Puerto Rico, a US territory with lax regulatory norms (Hartman 1987). Puerto Rican women in clinics and service outlets were used as experimental subjects in the trials to evaluate the safety and efficacy of a contraceptive pill developed at the time mainly for a white US market. From there, contraceptive technologies were transported to other continents, with India and Pakistan being the first countries in Asia where they were tried out on a large scale in government population control programs funded by foreign donors (Bandarage 1997). Communities in India and Pakistan, as in Puerto Rico, thus became unmarked laboratories. This conflation of experiments and service delivery projects continues with the promotion of misoprostol, as projects enabling its use in homebirths were initiated before fully testing its safety (WHO 2010). To produce evidence in the social laboratory for misoprostol's global potential as a 'women's health technology,' the focus (as with population control projects) has been on devising efficacious delivery mechanisms and the uptake of the misoprostol pill outside of the clinical context and inside women's homes.

The global health policy view of the 'home' as a necessary site of medico-technical intervention is due to the persistence of homebirths in Asia, Africa and Latin America. According to the Pakistan Ministry of Health, "The traditional culture of birthing, in most rural and urban areas of Pakistan, hinders utilization of available [biomedical] services" (Government of Pakistan 2005: 23), whereby for over a decade the government has actively provided "cash incentives to women to give birth in hospitals... And cash incentives to TBAs to bring the women to the hospital" (ibid.). However, Panjguri women's childbirth experiences contrast with such policy views of homebirths and their TBAs as the cause of the persistence of maternal deaths. From an epidemiological perspective, maternal mortality is a rare event that is difficult to track over time in a given community, and national statistics are not disaggregated by region. Efforts in Panjgur to track maternal deaths found no homebirth-related deaths in the hands of midwives over the 2-year period since the tracking system was instituted in 2004. Local narratives and my review of hospital records indicated that over the past two decades, complications experienced by women in pregnancy, childbirth, and postpartum had increased concurrently with the increased exposure to labour induction with synthetic drugs. While international debates continue about the "true" incidence, prevalence and social causes of maternal deaths, there is a global consensus regarding the biological causes: hemorrhage or heavy bleeding from the birth canal after the 24th week pregnancy (antepartum) or after childbirth (postpartum/PPH); infection following childbirth (puerperal sepsis);

hypertensive diseases, the sign of which is seizure during pregnancy (eclampsia); and prolonged or obstructed labour (Abou-Zhar and Wardlaw 2001). Of this list of medical causes, PPH is considered a direct medical cause of approximately 25 % of all maternal mortalities worldwide. Preventing it, therefore, should reduce maternal mortality rates. The exclusive focus on this biological cause of maternal death has also led to policy demands for the active management of the third-stage of labour (AMTSL) (the period after the birth of the child and before delivery of the placenta) with uterine contraction drugs, such as oxytocin, ergometrine, or (now) misoprostol. In other words, health practitioners are asked to administer one of these uterotonics for the AMTSL in all childbirth cases, whether or not there is an apparent risk of PPH (IJPS 2004).

Misoprostol is advocated as a promising solution to prevent PPH, based largely on the meta-analysis of studies of its off-label uses and a limited numbers of clinical trials (Hofmeyr et al. 2009). In Pakistan, the trials are being conducted post-approval of misoprostol use for PPH prevention in communities and clinics (Ebrahim 2010). Some Pakistani health activists share the international enthusiasm about misoprostol's life-saving potential as an abortifacient in the absence of RU-486 or 'the French abortion pill,' however, other policy-makers worry about the potential misuses in a context where it is readily available over the counter. In Pakistan, misoprostol would join a list of uterotonics already available in the hospitals: Methergine, part of the ergometrine family and an ergot derivative, is a common uterotonic administered in Panjgur. Akin to Pitocin and Oxytocin, it is injected to slow down bleeding by contracting the uterus and augmenting labour. Pitocin and Methergine can cause seizure and death. Induction with misoprostol significantly increases the risk of uterine rupture compared with oxytocin injection and spontaneous labour (Majoko et al. 2002). Thus, the Population Council (2004: 21) report on misoprostol reiterated the WHO (2010) recommendation that in hospitals where AMTSL is the norm and if oxytocin is available, it is safer to use oxytocin rather than misoprostol against PPH. Consonant with the concerns of some Pakistani health officials, the WHO (2010) recently clarified its position on misoprostol in community settings, stating that, "an application to include misoprostol for PPH prevention has been deferred until the publication of a large trial in Pakistan and review of its dose-related safety in the immediate post-partum period." However, the debates over its safety and efficacy in Pakistan and extant knowledge about the risks of its off-label uses based on the results of WHO (2010) clinical trials has done little to deter private international organizations from moving full throttle to make misoprostol available in Pakistan and elsewhere (Gülmezoglu et al. 2001).

But the touted benefits of misoprostol contrasts with vocalized concerns about the excessive uses of injections in Panjgur. Some women I spoke with said they had not asked for the *süch-chin* (injection) to induce labour the first time they received it. In contrast to findings in India (Jeffery et al. 2007), the interpartum artificial induction of labour was not the preferred way to deliver a baby in Panjgur, thus, contesting the normative or normalizing power of biomedical technology in their lives.

Pharmaceuticalizing the “Culture of Homebirth”: A New Humanitarianism?

Panjguri women also clearly preferred homebirths. For instance, whereas health officials in Panjgur placed great hopes on state-sponsored programs emphasizing hospital births for all childbirths in the district, in 2005 only three women had chosen to give birth in the district hospital, which had been fully equipped and staffed the year before. Moreover, at the time of my fieldwork no one was fully qualified to perform caesarean sections at the hospital. One lady medical officer (LMO) had just been trained in 2004 to perform the surgery, but her first and only attempt to conduct a caesarean section led to the woman's death. The cause of the death remained unclear, but no one explicitly blamed the LMO. Faulty equipment related to the transmission of anesthesia was indicated by several of the lady health visitors (LHVs) and LMOs as the reason for her death. In the same hospital, Hameed, a male medical technician working in the gynecological ward and in charge of the upkeep of the patient registers, equipment, and medicines for the gynecological unit, showed me that in the previous month, 16 women were admitted to the ward for cases of miscarriage. Biomedical practitioners referred to miscarriage as ‘abortion’ and local Panjguri women and *dinabogs* used the word *ishkand* (incomplete) or varying other vernacular terms depending on the month of the miscarriage. According to the *dinabogs*, not only are an increasing number of women experiencing *ishkand*, but they are also experiencing multiple miscarriages. Even the district head health officer noticed an unusually high number of ‘abortions’ over the previous 2 years. Contrary to the views of LMOs and LHVs that miscarriages are caused by lifting heavy loads, Hameed suspected the trend was linked to the increased use of ultrasound and injections. Hameed thus unknowingly echoed the general perceptions of Panjguri midwives who dismissed the “heavy load theory.” They pointed out that women have always lifted heavy loads and generally used to live a much more physically demanding life as *khana badosh* (nomads; literally: one who carries his/her house on his/her shoulders)—herding sheep and camel, roaming the mountains, setting up and breaking down their homes as demanded by the seasons and the need for food and water.

Women and *dinabogs* spoke with me about the damage to the uterus resulting from hormonal pills, injectable contraceptives and uterotonics. *Dinabogs* also spoke about the pressures placed on them by birthing women and their kin to accept administering labour induction with the *süch-chin* (injection). Many said that their local herbs, plants, and herbal formulas have similar functions to facilitate the labour process, but were not as harmful as the effects of the *süch-chin*. If needed and available they would use such herbs. Mostly, they refused administering injections, though they had access to it through the compounder. As they often told me, in refusing to artificially induce labour “before its time,” they also risked turning some women away to seek services of state sanctioned workers, the LMOs and LHVs, who would surely administer a uterotonic to ensure that the childbirth occurs on site in their private clinics. For, as it was understood by the LMOs and LHVs, when one

“catches the *live* baby” the condition for the demand of payments from the birthing woman’s family is fulfilled (my emphasis). A number of women stated that LMOs would frequently hold back the newborn until obtaining the demanded full cash payment. Ironically, such abuses by biomedical practitioners are largely overlooked as biomedicine’s authority over women’s bodies has the “signature of the state” (Das 2004) to govern and institutionalize technology-driven care in public hospitals and their private clinics—at times with grave consequences for women.

In Panjgur, uterotonic injections are administered to pregnant, labouring, and postpartum women largely in private clinics of LMOs and LHV’s. Sometimes these injections are administered in a homebirth by unauthorized LHV’s, who have received only 2 years of medical training, and at times by nursing orderlies or compounders guided by a local birth attendant. Established *dinabogs* also criticized other birth attendants who resorted to artificial labour induction. Although only medical doctors are authorized to administer uterotonics in Panjgur, some officials and doctors know that LHV’s routinely administer injections in their private clinical practice.

Upon observing a similar trend in Panjgur and in Quetta, I asked Dr. Samia, a well-respected gynaecologist, her thoughts about the use of uterotonic injection in every cases of childbirth managed by LMOs and LHV’s. She explained that the routine injections are necessary in order to prevent maternal deaths caused by PPH. It would appear then, in the absence of universal EmOC and transport, the normalizing of routine uterotonic injections operates as the next best medical intervention. But, in her words, “we have a big problem on our hands. The LHV’s injections are administered incorrectly, usually overdone, untimely, typically too soon.” Repeated injections are administered to the same woman, she explained, leading to complications whereby women end up in Quetta or Karachi hospitals. A caesarean section is often required to save these women’s lives. Dr. Samia is especially aware of this scenario having witnessed innumerable such cases in Quetta that required emergency care. Fetal deaths due to improper induction are common in rural and urban areas of Pakistan, a problem that I also learned about in national meetings in Peshawar. At the 2005 National Seminar on Maternal, Neonatal, and Child Health, among approximately 400 participants, LMOs explicitly held LHV’s responsible for the misuse of labour induction drugs, and consequently for obstructing the effective provision of care to women. Frustrated with this situation, they attributed to the malpractices of LHV’s in the impossibility of saving the lives of women who reach the public hospitals in the North West Frontier province in extremely severe conditions.

Back in Panjgur, the newly matriculated LMOs at the district hospital also complained about LHV’s performing diagnostic and treatment procedures reserved exclusively for LMOs. My observations in Panjgur validated this. For example, one LHV told me that she “puts one shot of cento [syntocin (synthetic oxytocin)] in the drip when the patient is fully dilated.” She administers methergine, though “not too much,” and does not inject “patients having high blood pressure or vomited too much.” This practice occurs regularly, despite the rule that LHV’s’ 2-year medical training allows them to provide glucose drips only. Despite this context of excessive uterotonic injections, it is the “culture of homebirth” and TBAs that are blamed for the high rates of maternal deaths in Pakistan.

Normalizing Misoprostol in the Medical Relativism of Humanitarianism

The “culture of homebirths” is a common refrain in policy documents constructing the home as an unhygienic and risk-laden space for the mother and the fetus requiring biomedical intervention that enables the suspension of certain norms of safety and regulations to which ‘Western’ biomedicine is bound. As I have emphasized, the state prohibits LHVs and TBAs from administering uterotonic injections, but the socio-economic medical care divide between “the West and the Rest” has forced the biomedical state to rely on them to actualize the revised policy for PPH prevention (Hall 1996). This revision, I argue, signals a form of risky medical relativism and population triage that also enable experimental interventions to stand for service delivery programs. Rather than institutionalizing the required financial and human resources for a functioning medical system, ‘global South’ women’s health is instead deemed best managed with ‘a simple pill.’ Construed as a simple technology, the training of low-tech health workers is rationalized to administer the misoprostol pill despite the known risks even when administered in hospitals by physicians in North America (Oden 2009). Misoprostol is advocated for PPH prevention as a normative medical practice, rather than an emergency option. As such, its introduction to preemptively arrest PPH renders every case of childbirth as an emergency requiring a humanitarian response, thus enacting population-level medical triage that would typically unfold for individual cases in a hospital setting. Just as medical interventions initially designed exclusively for emergency situations—such as caesarean sections and episiotomies (Davis-Floyd and Sargen 1997)—later become normalized preventive and treatment procedures due to routinization, medicating all women with uterotonics is construed as a necessary routine for the prevention of PPH. We must ask, however, what implication this has in a context where the overuse and misuses of artificial labour induction is on the rise, though not hegemonic, as in Panjgur.

Feminist anthropologists have underscored the centrality of childbearing to women’s identities and wellbeing and reproductive “disruptions” or reproduction “gone awry,” as reflected in women’s experience of infertility (Jolly 2001, Inhorn 2003). I suggest that we consider reproductive disruption beyond a problem of infertility alone, and instead locate it as one among a series of other morbidities experienced by women, some of which can be attributed to the failures of biomedicine and governmentality—failures that help to mask the “un-enunciated experiments” as service delivery projects. These morbidities are marked by risky and sometimes deadly iatrogenic effects resulting from health care practices that are enabled by global health policy mandates and the persistence of global economic structural inequalities. As Ginsburg and Rapp (1995) noted nearly two decades ago, women across ethnic, class, social and national location are differently exposed to reproductive risk, have varying access to reproductive technologies, and are unevenly subjected to state control over their fertility and body, depending on their social location in the body politic. While access to reproductive technologies is

central to a woman's capacity to control her body and reproductive health, we must equally be concerned about the disproportionate negative effects of inappropriate uses of seemingly simple cum beneficial medical technologies. Yet while the advocates of misoprostol agree that this pill should not be promoted as a 'magic bullet,' they also clearly believe that science can be interpreted differently for 'global South' women. According to the Population Council (2004: 42, emphasis added):

Policy discussions must be accompanied by research conclusions from rigorously conducted pharmacologic, clinical, and social science studies. *Science, however, must also be realistic about the real-world situations women face.* The potential public health importance of this drug in low-resource settings (it is inexpensive, easy to store, and readily available) should be taken into account when assessing the appropriate role of misoprostol in health service delivery. Similarly, research to specify optimal clinical protocols for the use of misoprostol should recognize the importance of simplicity and clarity. It is likely that such *protocols will have their most important public health roles in settings that lack sophisticated medical supervision or resources. Statistical significance should not be the only measure of clinical significance. It is important to disseminate information about the evidence-based uses of this medication.*

Evidence-based here refers to the acceptability of the pill and the associated risks that are constructed to be benign relative to a maternal death. In other words, it is argued that women should have the choice to determine if they prefer the side-effects of misoprostol over the risk of dying due to possible PPH, that which if it occurs *may* kill women. Ironically, the report also notes that it is difficult to find comprehensive, accurate information on misoprostol's effect on women's health (Population Council 2004: 21). In 2007, a group of WHO experts convened in Bellagio, Italy to establish guidelines because of ongoing confusion over optimal dosages for different indications. In Switzerland and Germany, the use of misoprostol for women's health indications is either entirely banned or banned outside of hospital settings. In the United States, although the FDA has not approved misoprostol for women's health indications, doctors routinely administer it for labour induction (Friedman 2001). The off-label use of misoprostol in US hospitals is under increasing criticism, where health activists have noted the side-effects of its use in clinics and hospitals—ranging from uterine rupture, fetal death, hemorrhage, and hysterectomy—all of which are consequences of the misoprostol's hyper-stimulation of the uterus (Oden 2009).

The WHO (2010) has also expressed concerns that advance provision of misoprostol to prevent PPH in communities may lead to inappropriate cases of induction, given the confusion regarding appropriate dose for different women's health indications, and variation in physiological effects if the pill is administered orally vs. vaginally. While since then WHO has included misoprostol in their essential list of medicines, it advocates its restricted use in clinical settings and only in the absence of oxytocin (WHO 2013). The 2013 WHO decision does not resolve the potential risks of the pill in homebirth use. Pakistani public health professionals who are critical of the side effects but support such usage for its benefits recommend that misoprostol should be used in hospital settings only under close supervision with a system to respond to emergencies. Other supporters claim that misoprostol use will

help decrease maternal mortality by 75 % by 2015, the timeline to achieve the UN Millennium Development Goals. But, if administering misoprostol requires close supervision in a hospital setting, then this subverts the core logic underlying the purported benefit of availing misoprostol in contexts where homebirths dominate and access to EmOC is limited or altogether absent. We might well wonder what could happen to women in an emergency caused by the misoprostol pill itself, evidently a problem witnessed in US hospital settings (Oden 2009). Based on scientific studies, the WHO (2010) took a clear position against the use and advance distribution of misoprostol to communities for the prevention of PPH, precisely because in their view the risks of misoprostol outweigh its benefits. It is well documented that both oxytocin and ergometrine, when first introduced in the ‘global South,’ caused many unnecessary deaths prior to delivery, due to inappropriate dosage amounts and methods of administration (Baskett 2004). Such practices are still prevalent in some parts of the world (Flandermeier et al. 2010). Moreover, the long-term effect of misoprostol on women’s reproductive organs is absent in reports discussing the potential benefits of misoprostol. Uterine scarring, for instance, is associated with infertility or future reproductive pain due to artificial labour induction, but is erased from the radar of what the Panjguri *dinabogs* might deduce as a product of unnecessary and inappropriate uses of *Ingrezy* medicine.

Misoprostol is thus one more example of the “reign of technology” promoted in hospital settings (Balsamo 1999: 235) that is now also transported to the private spaces of women’s homes. Anne Balsamo (ibid.) has described how in US hospitals the increasing monitoring of childbirth has not only brought the maternal body and fetus into a broader system of surveillance, but how it also functions to control and monitor the obstetricians themselves. Consequently, the exercise of professional judgments among doctors comes into conflict with the redefinition of obstetrics as a scientific and technological protocol. In other words, readings on monitors require the medical practitioners to put aside judgments that might necessitate a different or altogether contrary action for the healthiest outcome than the standardized institutionalized and legally approved response. Routine labour induction thus is largely viewed as a benign intervention that protects women and the fetus despite contrary evidence. Correspondingly, I suggest that international efforts to normalize the routine use of misoprostol for every childbirth case asks practitioners, including TBAs, to suspend experienced judgments about the risks and benefits of the drug. That is, even when the results of biomedical research are very clear about the risks involved and very unclear about the benefits, this ambiguity does not prevent the wholehearted advocacy of a pharmaceutical product in the grammar of the humanitarianism of saving women’s lives in resource-poor nations. Modern medical technologies and hospitals births are signs of modernity. So, if you cannot make them “as if modern” (Cohen 1999) by ensuring hospital births, you can make them “as if modern” by bringing the modern ‘life saving’ drugs to their homes. Evident in the Population Council statement above, the explicit rationale to normalize routine misoprostol use in the AMTSL outside of hospitals in the ‘global South’ assumes the immutability of ‘Southern’ women’s material conditions and their structural and socio-economic contexts.

Re-colonizing South Asian Women's Bodies

British medicine in India, as Arnold (1993) suggests, was not simply the practice of Western therapeutics in a non-Western location but a peculiarly colonial discursive formation. (Prakash 2000: 206)

Anthropologists have formulated the concept of experimentality following Foucault's (1979) idea of governmentality to draw attention to emerging transformations in the global biomedical and public health research enterprises. Adriana Petryna (2009: 187), for example, has highlighted how populations and global-local relations are reconfigured as "objects of governmentality" due to the rapid globalization of the biomedical clinical research enterprise. She views this process as a "distinct *modus operandi*" that she argues is best understood in terms of experimentality rather than governmentality. For her, experimentality as such supports the global drug market in a "decentralized" and "diffused manner," and evades the "prevailing" tools of accountability (ibid: 187). Therefore, she argues that increasingly, "the line between what counts as experimentation and what counts as medical care is in flux" (ibid: 188). But the history of population control and the associated research and global distribution of contraceptive technologies makes it clear that the line separating experimentation from medical care has never been clearly demarcated, the Puerto Rican experience being exemplary. The search for better methods to increase contraceptive uptake required the conflation of service delivery and epidemiological research, whereby what in reality is the testing of contraceptives is instead framed as providing women access. Adele Clarke (1998) has shown how this tends to be a normative aspect of medical research and the reproductive sciences.

I am highlighting the links between the global advocacy of misoprostol and the population control project, for the latter remains the largest and continuous unenunciated post-colonial public health experiment (Marks 1998, Connelly 2008). The regulation of public health, reproduction, and migration, what Matthew Connelly (2008) calls "politics of population," and for Foucault (1978) is biopolitics (the mutual constitution of power and knowledge to achieve control over individual and social behavior), has been central to European states' goals of securing national health and wealth. In the process, women's corporeal bodies have served as objects of population control, health improvement, and experimentation for scientific and economic ends in colonial and postcolonial contexts (Fausto-Sterling 1995; Marks 1997; Marks 1998). Women's bodies have been experimented upon to advance 'Western' science, medicine, medical technologies, and economic production, thus defining the borders between population groups and determining who can be placed at risk for the sake of others to live and thrive safely. As Michelle Murphy (2010: 71) notes, "The history of population control is replete with the experimental development of new practices to co-manage not only fertility but the economy as well, managing the individual for the sake of the aggregate and vice versa." We need only attend to the post World War II postcolonial project of international public health and population policies and the concomitant proliferation of contraceptive technologies to understand the global scale of this experimentation on women.

In this experiment, “Caribbean women entered this history as the guinea pigs of one of the *most revolutionary drugs in the history of medicine*” (Oudshoorn 2002: 128, emphasis added). The project of controlling their fertility confounded not only the division between experimentation and service delivery of the contraceptive pill, but also discarded the ethics of consent and full disclosure about risks of technology that are the acceptable and expected rules of clinical trials and medical care in the ‘West.’

A similar blurring of experimentation and service delivery is evident in the advocacy of misoprostol as a different ‘revolutionary’ drug. Framing misoprostol as a simple, easy to use, low-tech technology for a public health problem renders its side-effects benign, veiling simultaneously its morbid and deadly impact. Low-tech technology can thus become rationalized as humanitarian response despite the experimental nature of the technology. What I am arguing here is that advocating misoprostol as a normative population level ‘humanitarian’ technology—with full knowledge of its risks to women in the ‘global South’—is a liberal strategy of inclusion and exclusion that resembles what Uday Mehta (1999) has framed as the two faces of the Enlightenment ideology of nineteenth century colonial modernity in the wake of encounters with ‘unfamiliar’ bodies and customs. As in Puerto Rico, the colonial racialized history of experimentation in European colonies served as labs to test all kinds of unproven technologies (Rabinow 1989). We see similar postcolonial liberal strategies of inclusion and exclusion in contemporary development practices, whereby to justify differential technologies of care, the root causes of maternal death such as poverty, socio-structural and historical inequalities, malnutrition—attention to which requires more than a pill to avert—are rendered invisible and discursively effaced.

The colonial techniques of managing populations in British India were both alike and unlike practices of rule in Britain (Cohn 1996; Mehta 1999; Prakash 2000; Ram and Jolly 1998). Nikolas Rose (1999: 107) argues that colonial medicine’s uses of European scientific ideas and methods in the British colonies operated in terms of “orientalism” and racialized conceptions of local populations. Medicine was a major tool of control over the bodies of Indians deployed to regulate their life processes as well as to discipline their sexual lives. The accounts of colonial biomedical practices in India (Prakash 1999), Africa (Vaughan 1991), and Egypt (Mitchell 1991), for example, point to different practices of governmentality than in Europe, wherein ‘Western’ biomedicine had opposing readings of ‘native’ bodies than the ‘Europeans,’ which in turn shaped differential practices of science and health care in the colonies; though such a strategy often undermined biomedical hegemony over bodies and minds of the native people. For instance, although colonial medical operations did reach some Indian bodies, their subjectivity was hardly produced through biopower, but instead relied on the repressive power of the state to command hospital births (Arnold 1993). Foucault (1978) outlined how modern European states created normative as well as ‘abnormal’ subjects in order to police both. However, as Megan Vaughan (1991: 10) found in the context of Africa, “the need to objectify and distance” the African madman or leper from the British colonizers was less urgent in a situation in which each African was already collectively ‘Other.’

Indians were also subjected to colonial stereotyped discourses of filth, squalor, and illness, which rationalized colonial interventions through medicine and sanitation projects (Prakash 1999, 2000). As such, unlike the biopolitical normalizing regimes in Europe, the individuation of natives was denied in the colonies, whereby the line between persuasive and coercive techniques aimed to transform or modernize collective 'customs' was largely murky.

Colonial governmentality highlights the complicated relations between colonial states' responsibility for the care of the population, their need for the labour and cooperation of the natives and the security of the colonial economic interests in contexts where the colonial state is confronted with governing, in Mehta's (1999) words, "unfamiliar" though presumably collectively knowable people about whom they compiled knowledge that would be inflected with racialized and orientalist assumptions and interpretations (Cohn 1996). As the political and economic imperatives of colonial rule required the accumulation, classification, and propagation of racialized knowledge, today, the humanitarian grammar of global health development experts, invoked to now save the once unfamiliar, strange subjects, operates to further delink them from their historical and contemporary socio-economic contexts. The development experts arrive at their statistical knowledge of 'global South' women's healthcare behaviour and practices, eliding simultaneously the unequal global geopolitical power relations, thus producing the condition of possibility for misoprostol's construction as a potential life-saving reproductive technology that must be brought to their homes, despite the known risks and policies against its use in Europe and North America in hospital settings.

However, in the complex of the biopower of the biomedical state, in Panjgur the encounters of women and the so-called TBA with modern scientific techniques produced multiple, heterogeneous, and locally specific effects. That is, Panjguri *dinabogs* and women simultaneously resisted and selectively incorporated aspects of biomedicine. Panjguri midwives as "middle figures" to borrow from Hunt (1999: 2), who might also be assisting LHV and LMOs in clinical settings, performed mediating work less in the service of the biomedical establishment. Rather, through their self-constituted ethical norms, they would end-up as they often told me, "cleaning up the mess" resulting from certain biomedical therapies. Women returned to *dinabogs'* home practices to attain treatment for infertility, menstrual irregularities, and an array of other reproductive issues—after having visited a doctor in Panjgur, Quetta, or Karachi—despite attempts by the biomedical state officials forbidding them to do so. Such Panjguri women's disavowal and re-avowal of relations with *dinabogs* demonstrates biomedical dominance without hegemony *pace* Ranajit Guha (1997). Or, what we might otherwise also read as failure of (bio)medicalization (Towghi 2012).

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Motherhood, Mining and Modernity in the Peruvian Highlands from Corporate Development to Social Mobilization

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This chapter aims to discuss competing constructions of motherhood promoted by two projects of modernity currently confronting each other in Peruvian politics and society. The first of these projects, which I refer to as “mining modernity,” consists in promoting national social and economic development through the implementation of extractive activities, which are seen as generating income, infrastructure and services in rural areas of the country. The second project, which I refer to as “post-mining modernity,” aims to foster the same processes by optimizing traditional productive activities such as agriculture and cattle-raising. Current debates around mining bring to the fore the underlying tensions of modernity and coloniality. A driving force of the Spanish colonial conquest, since independence mining came to be identified by right and left-wing elites as the means to build an industrialized, civilized nation. Elements of this cultural project are still very present in current views of mining as a means to national development. Narratives of modernity, in Peru as elsewhere in the ‘global South,’ are both strongly racialized and gendered. My main claim is that, although these competing projects of modernity stem from opposite social forces and present themselves as antithetic to one another, they converge to a significant degree for that which concerns the ideology of motherhood and its underlying gender norms. While normative understandings of gender and motherhood may limit women’s space of action, they also provide an opportunity for subversive appropriation, contestation and transformation. In order to illustrate this argument, I will present two groups of women diversely affected by mining activities, on the basis of ethnographic research conducted between 2011 and 2013 in the northern region of Cajamarca, a main site of current mining investment in Peru.

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The Contested Modernity of Peruvian Mining

During the last 20 years, Peruvian mining activities have undergone great development, significantly boosting national economy while at the same time igniting social conflict. A combination of neo-liberal policies, extractive technology advancements and soaring metal prices on the international market underlie the mining-led Peruvian economic boom (Damonte 2007). Since Fujimori's presidency (1990–2000), resource extraction has been promoted by national governments as the main strategy for national development and been presented to the public as the sole road to achieving progress and modernity.

Representations of mining as development are also endorsed by mining corporations operating in the 'global South' mainly as a result of accountability and corporate social responsibility (CSR) strategies, which were mainstreamed since the 1980s (Utting 2005). Dominant political and corporate thinking equals development to large-scale extractive activities in rural and indigenous territories. This idea bears significant connections with nineteenth-century modernization discourses (Salas Carreño 2008), which saw extractive activities as promoting industrialization, and industrialization as promoting nation-building through the de-indianization of the population (Drinot 2011a). Such post-independence ideologies of progress have provided fertile ground for the rooting of contemporary neoliberal paradigms, which characterizes small-hold rural highlands and lowlands as "empty" or "unproductive" territories. The imposition of new mining projects and other large-scale extractive activities have indeed often been backed by a reasoning that opposes the allegedly "modern," rational and effective use of resources to "backward," irrational and ineffective ones by local populations. The best known and possibly most literal example of this line of thought in Peru is former President Alan Garcia Perez's "Dog in the Manger" article (2007), which compares Amazonian indigenous people protesting against the liberalization of their territories to the dog in Aesop's fable who, though unable to eat the goods he is guarding, will not let anybody else near them.¹ Accusations of backwardness and savagery have not impeded organizations and social movements across the country from mobilising against increasing socio-economic polarization and environmental pollution engendered by extractive activities. Since the democratic transition of 2000, Peru has witnessed growing social protest and environmental conflict. The burgeoning mining industry is increasingly contested by local populations, which mobilize to demand rights over territory and a sustainable development model. Andean and Amazonian social movements openly contest constructions of peasant and indigenous ways of life as "pre-modern" and of their traditional activities as "unproductive."

Although throughout Latin America the white or mestizo male has been constructed as the ideal subject of post-colonial modernity, the actual racial, ethnic and cultural composition of Latin American societies creates a constitutive tension between sameness and difference, inclusion and exclusion (Wade 2001). This

¹For an analysis of the inherent racialization of Alan Garcia's project of rule, see Drinot (2011b).

produces a regime of modern national identity of which the indigenous subject is both the “origin” and the constitutive “other,” a relationship which López Caballero has referred to as “Intimate Alterities” (2011). With the rise of indigenous movements and the spread of multiculturalist ideologies and policies, however, configurations of identity and alterity have come to interact with the quest for modernity in novel ways. In Peru, peasant and indigenous social movements opposed to mining demand a development model based on traditional, ecologically sustainable activities and the valorization of cultural and natural heritage. Undermining univocal associations of development with industrialization, these movements engage in the construction of new, positive identities as peasant/indigenous *and* modern (Gros 2000). Hence, they “take it up to transform “indigenous” from a category of modernizing policies in to a position through which citizenship can be obtained” (De La Cadena 2008: 345).

Family and namely motherhood, as the material and symbolic site of social reproduction, are central to projects of modernity, development and nation-building (Ram and Jolly 1998). The maternal body is the center of practices that concur in fashioning hegemonic social norms which define the appropriate way of being a person, a good citizen and a member of the nation. At the same time, maternalist ideologies naturalize women as family-bound, heterosexual mothers, and reinforce norms of acceptable social interaction on the basis of binary notions of male-female, public-private, etc. Social actors may disengage with these hegemonic norms, or choose to appropriate, contest or transform them. In order to illustrate these considerations, I will now present the cases of two groups of women diversely affected by mining activities. The first group is constituted by rural beneficiaries of a Corporate Social Responsibility (CSR) program of Minera Yanacocha S.A. (henceforth MYSA), the largest gold mine in Latin America, operating since 1992. They are the direct beneficiaries of the company’s social projects, as well as the indirect beneficiaries of revenue generated by the mining industry through the employment of men in the area. The second group is constituted by women who reside in regional urban centers and who have actively participated in protests against MYSA’s new mining project—Minas Conga—in 2011 and 2012. As we shall see, although there are significant differences between them, all these women face opportunities and constraints as the result of normative understandings of gender and maternity.

Mining as Modernity: “Teaching” Motherhood as Corporate Social Responsibility

Since the beginning of its operations in 1992, MYSA has developed Corporate Social Responsibility (CSR) interventions in its area of direct influence, a rural highland area located between 10 and 30 km from the regional capital, Cajamarca, where population is sparse and grouped together in peasant communities (*Caserios*). At the time when operations began, residents made a living off agriculture and

cattle-raising, Quechua was widely spoken,² educational levels were low, health services non-existent, maternal and child mortality very high. From the early 1990s, CSR consisted in providing communities in the area with access to health and educational services. Since the mid-2000s, faced with local protest over water pollution and “unfulfilled promises” of development, MYSA moved from a “basic necessity” approach towards more elaborate social interventions (Grieco 2007) and shifted its main objective to eradicating child malnutrition. Between 2008 and 2010, most of the houses in the area were provided with “*cocinas mejoradas*” (cooking stoves improved to decrease pulmonary disease amongst children and women), and between 2010 and 2012, the program moved on to its second phase, the *Programa de Seguridad Alimentaria* (Food Security Program—henceforth PSA). This program, managed by a national NGO specialized in rural health issues, promoted nutritional diversity (by donating small farm animals and seeds for a vegetable garden), “healthy houses” (compartmentalized and reorganized homes, construction of latrines, kitchen equipment, etc.) and “healthy habits” (personal hygiene and cooking techniques).

Although the project allegedly involved the family unit, operators worked almost exclusively with the women, understood as being the prime caretakers of households:

....and so as I told you here they value it a bit because it's a subject that concerns the family. [...] These are things that the woman values most, because she is there all day. And if the woman is happy the man is also happy. [...] There are also things (they need to know) such as how many times the child eats, your child must eat 5 times, how to balance foodstuffs, why we are planting vegetables, why we give this to your child... little things like this, which a mother needs to know.³ (Interview with CSR program executive, August 2011)

As emerges from this interview, the feminization of participation in the program is the intentional outcome of a heteronormative agenda which identifies the family as a unit composed by a woman, supposed to be the caretaker, and a man, supposed to be the breadwinner. Women of participant families are therefore expected, as wives and mothers, to appreciate the benefits of the program, implement its teachings and mainstream its benefits to the final beneficiaries: men and children.

The Public and the Private: Making “Modern Mothers”

Far from constituting an exception, this “feminization of responsibility and obligation” (Chant 2008) is common to most last-generation anti-poverty programs in Peru and elsewhere. Molyneux points to the fact that such programs are

² Quechua is not widely spoken in the Cajamarca region itself. But the particular area which MYSA operates in—the Valley of Porcón and its surroundings—hosts the descendants of *Mitmakuna Canaris*, quechua-speaking peoples relocated in the area at the time of Inca conquest as part of the ruling strategy.

³ All the quotes have been translated from Spanish to English by the author.

“premised on a gendered construction of social need” and therefore “have the effect of re-traditionalizing gendered roles and responsibilities,” which ultimately structure unequal gender relations (2007: iii). Interventions are premised on representations of mothers as “naturally” altruistic and self-sacrificing, assumptions which ultimately invisibilize the work demanded of women to pursue project objectives (ibid.). In the case of the PSA project, for instance, in order not to be excluded from the program, participants must perform a series of tasks, following practitioners’ teachings: the women must plant, water and keep up vegetable gardens, raise animals, keep the latrines “clean,” reorganize their house and keep it “tidy.” In addition, project participants are expected to attend community meetings, local health campaigns and other such events, alongside their other daily reproductive and productive activities, some of which have consistently increased since their menfolk have gained access to paid labor in the mine.⁴

While sharing Molyneux’s viewpoint on gendered power asymmetries, it is important to underline that “tradition,” like “modernity,” is merely a construct which refers to ways of “narrativising the past in the present” (Ram and Jolly 1998: 3). There is nothing “traditional” about the association between program beneficiaries and the enclosed space of the household. The idea of rural women “being home all day” corresponds much more to middle-class Peruvian practitioners’ ideas of womanhood than to the reality of rural Andean life. Women involved in the program are in fact continually on the move *outside* the home, performing agricultural activities, tending animals, going to town to sell their products, helping neighbors and family in collective tasks, etc. In this context, confining rural women to the realm of the household means enforcing a distinction between public and private space, which resembles more a liberal modernizing project than a return to tradition. Gendered projects of social organization are not new in post-colonial Latin America, where civilizing missions since Independence have generally consisted in attempts to “rationalize” what are perceived as disorderly societies, spaces and bodies (Stoler 1989). The social distinction between Peruvian elites and working classes described by De la Cadena (2000) rested on gendered norms of “decency” which opposed upper class women, “angels of the hearth,” to unruly *mestizas*⁵ working on the marketplace. Women’s presence in the public space was therefore prevalently associated with lower class and inferior racial status, while social elevation was represented as a discreet retreat from the public sphere (Stephenson 1999).

⁴Research on the gendered impacts of mining reveals a general tendency towards the “masculinization” of assets and the “feminization” of costs connected to mining, amongst others: a tendency to the exclusion of women from negotiation and sharing of indemnities; increased financial dependency for women, and risk of impoverishment for mono-parental families; increase in household and food-relates tasks (Oxfam 2009).

⁵In early twentieth century Cuzco, *mestizo/a* referred to urban working and middle classes, which local elites (self-defined as “*gente decente*”) took care to distinguish themselves from.

Fashioning Bodies and Homes

Women participating in the PSA were called upon to demonstrate what they had learned from the program during periodical control visits to their homes, as well as in “events” linked to the program. On the anniversary of the local Health Center, for instance, two small stands were set up to host an exhibition of miniature “healthy homes,” whose representation was quite far from the reality of local kitchens (Fig. 1).



Fig. 1 Model of “healthy kitchen” and actual kitchen in rural community of mining influence (© Kyra Grieco)

On the same occasion a “breastfeeding contest” was held. This involved five young women breastfeeding their children under the scrutiny of a team of female judges representing the mining company, the NGO and their public partners. The judges openly commented the technique and duration of each child’s feeding throughout the process, in order to highlight the mothers’ good or bad practices. The mother whose child nursed the longest was proclaimed to be the winner, and as a prize received some plastic household items. The judges then questioned the remaining participants as to good nutritional and hygienic practices, until each mother had answered at least one question and been awarded a household item as a prize.

Strikingly similar fashioning of modern spaces through the organization of the household and of women’s bodies though “hygiene” has been analyzed by Marcia Stephenson for mid-twentieth century Bolivia. Representations of the “organized” household, sporting a clear-cut public/private divide and deprived of human and animal presence, paralleled those of “clean” bodies, purified of their pre-modern Indian origin and conforming to gendered norms of spatial division. Both were central to the process of transformation of indigenous and working class *cholos*⁶ into modern citizens. *Cholas*, as illustrated earlier, were expected to reject their Indian origins in order to become “respectable” *mestizas*, fit to be the biological and

⁶In mid-twentieth century Bolivia *cholo/a* referred to urban working classes of rural origin (the equivalent of *mestizo/a* in Peru, as related to De la Cadena’s work) while *mestizo/a* referred to upper classes.

social mothers of the nation. Women who did not conform to this dominant ideology of femininity were represented as monstrous, undesirable, and lacking all maternal instinct (Stephenson 1999).

“Bad” Mothers: Dis-engaging with the Norm

Recent work on the Mexican social program *Oportunidades* by Sarah Bradshaw (2008) and Vania Smith-Oka (2013) shows how representations of indigenous women as incompetent mothers justify state interventions aimed at teaching women to be “good” mothers. The authors define these interventions “*social* structural adjustment programs” for, in order to receive benefits, women are required to partially change their way of life. These characteristics extend to most maternalist social programs, which are structured in such a way as to operate a distinction between “good” and “bad” mothers on the basis of adhesion to program guidelines.

I: I have seen a lot of change [since the beginning of the CSR program]. But there are also families that haven’t done much. For example we found a mother who had five children, the oldest must be 10–11 years old, the others are small... Nothing of what we left them [was properly cared for]. The kitchen was a mess, the children were dirty... the guinea pigs more of less taken care of but not the children. It’s a pity.

KG: And do you have any explanation, any justification from the mother?

I: No, we didn’t find her (at home). Because every time she sees somebody [from the project] she runs away in order not to assume any responsibility. We left the [communal] authorities in charge of informing her husband, in order to do something. Because it’s not like they don’t have anything...they aren’t motivated! That is why we informed the *teniente* [=male community authority], in order for him to try and make them understand at the [community] assembly (ibid.).

The uncaring, inattentive mother who takes better care (phrased as *cleanliness*) of her animals than of her offspring is presented here as one of the rare failures of the program. It is worth noting that, in the practitioners’ interpretation, the problem arises from the woman’s *incomprehension* of the importance of her misdeeds but rather than have it explained to her, she must be recalled to order by male authority impersonated by her husband and the (male) community leader: gender hierarchies are hence institutionalized and reinforced.

“Good” Mothers: Interpreting the Norm

A dim image of “modern” maternity associated with mining emerges from such encounters. Yet, the picture would not be complete without the acts of resistance, appropriation and interpretation which project participants perform on a daily basis. During an informal conversation, a social worker in charge of the program told me that a great sign of success was that almost all the families in the area now ate at

a table, which to her meant a great improvement in “hygiene” and “quality of life.” Yet in none of the kitchens I visited in the area during my fieldwork did people eat at the table: families sat on low benches or squatted on the ground around the stove, their plates in their laps. One of these families was that of Inés,⁷ a young woman who took great pride in her tidy, clean kitchen, and fully mastered the precepts of the “healthy home.” When I asked her how she felt about home controls on the part of program representatives she laughed and shrugged: “you just have to learn how to do things right for the control, then you do as you please.” Maria, whose house never had enough water for a vegetable garden, walked every other day two hours, her 1-year old son on her back, to cut fresh alfalfa for her guinea pigs from her sister-in-laws’ field. This was not in order to feed the animals to her child, but because she planned on getting them nice and plump to serve them to the child’s godparents, the day of his *Landaruto*.⁸

Inés and Maria cannot be envisioned as passive recipients of the social norms vectored by the program, especially when these are so far removed from their experience and characterize their way of life as being deficient. On the contrary, these women have their own ideas of what is desirable for the future of their families and children (as well as their own), and pursue these goals either by appropriating or interpreting the normative precepts directed at them.

Women and Anti-mining Modernity: “Good Motherhood” as Mobilisation

In June 2012, after almost a month of protests against the mining project Minas Conga,⁹ the *Marcha de Mujeres* (women’s march) took place in the city of Cajamarca. Women from all over the region, organized in local delegations, paraded through town, shouting slogans such as “*Agua con cianuro, mi hijo sin futuro!*” (“Water with cyanide, my son without a future!”). In a country like Peru, where feminist and women’s movements underwent a process of decline and institutional appropriation throughout the 1990s, the success of such a mobilization was a surprise for the national public as well as for local protesters. According to Marta, one of the organizers, the “women’s march” was also a response to critiques of a previous protest,

⁷In order to preserve my informants’ anonymity, all names have been substituted.

⁸*Landaruto*, or *Corte de pelo*, is an Andean ritual where chosen godparents give an infant its “first hair cut.” Guests and family members “pay for” each strand of hair with money, cattle or other goods. This creates a ritual parenthood between them and the child, as well as lasting bonds of alliance and patronage with its family (*compadrazgo/comadrazgo*). Godparents are often chosen amongst more socially elevated groups and served guinea pig in sign of honor.

⁹Copper and gold mining project owned by MYSA whose exploitation was announced in July 2011. News of the new mine sparked conflict in the region. In July 2012, clashes between protesters and police forces left five civilians killed. Given the government’s failure to contain protests, in August 2012 MYSA declared it would suspend the project for two years in order to regain local population’s trust.

organized by the National University's obstetrics students in April of the same year. The "pregnant women's march" (*marcha de las embarazadas*) featured a small number of pregnant women accompanied by women with cushions tied to their bellies to represent pregnancy, who paraded through town shouting slogans against the mine. The march provoked indignant reactions: while several articles in the national press denounced the women "simulating pregnancy," president Ollanta Humala Tasso stated that he did not agree with "using pregnant women in political protests" and current Prime Minister Oscar Valdés suggested the march clearly showed protesters "to be desperate." Ana Jara, at the time head of the Ministry of Women, went so far as to suggest pregnant participants were committing a crime punishable with three years of prison for exposing their unborn children to danger.¹⁰

Such comments and veiled threats did not discourage women—pregnant or not—from participating in protests against the mining project. Extractive activities in the Cajamarca region have increasingly raised concerns about decreasing water quality and quantity: in social movement slogans and claims, water is directly associated with life, especially that of the generations to come. Women in the "Conga No Va" movement explicitly point to their maternal "nature" and their material necessity of uncontaminated water for household tasks as the main reasons for their activism against mining.

Women Are "Less Political": Appropriating the Norm

Representations of women's protest activities as stemming from their "natural" mothering instincts go hand in hand with the idea that women are "less political"¹¹ than men, in other words less inclined to favor personal or party interest to the detriment of the collectivity. Normative femininity is appropriated by women protesters as a way to valorize their activism, all the more by those—as a nun's quote below shows—for whom mobilizing on the grounds of biological motherhood is impossible:

Women have an important role...they are behind the male leaders, they take care of the money and food. Women have another vision, they are more practical, less corrupt. We see further afield...that's why we are very much valued. (Sister Lili, 23/11/2013)

This "apolitical" aura confers women with a privileged role in social movements, regularly accused of having a hidden "political" agenda. Besides conferring a superior moral position on female participants, it bestows them with the responsibility of sustaining movement organization when male leaders are absent or

¹⁰ "Ollanta Humala condenó marcha de embarazadas en Cajamarca," *El Comercio*, 19/04/2012; "Madres embarazadas que participen en protestas incurrir en delito," *RPP Noticias*, 19/04/2012; "Cajamarca: gestantes y mujeres simulando embarazo marcharon contra Conga," *El Comercio*, 19/04/2012.

¹¹ On the use of "politics" as a discrediting mechanism in mining conflicts see Grieco and Salazar-Soler (2013).

delegitimized by accusations of political interest. Despairing at the internal divisions of the social movement and at the decrease in mobilization, Laura, the founder of a small environmentalist women's association says: "If the men want to do politics, let them do it. We women will raise the fight!" In a similar vein, Juana and Felipa, two young women who participated in protests with students of the National University, declared, "After a month on strike, people were tired. The 'women's march' was in order to ensure the protest did not die out."

Notions of women as "inherently apolitical" and engaging in protest only on the grounds of their natural maternal instincts lends itself to interpreting women's participation in mobilizations as "extemporaneous" and "impulsive." Such representations are often found in social movement narratives and analyses, which reproduce an androcentric bias by representing women's activism as "irrational," "instinctive"¹² and implicitly politically incompetent.¹³ Such representations do no justice to the political trajectory of most activists: almost all the women interviewed, even when participating "independently," attested to previous experiences of social organization and militancy such as liberation theology study groups, student or labor unions, *Rondas Campesinas*,¹⁴ feminist organizations, *comedores populares*,¹⁵ and local political groups.

Fashioning Public Spaces

Since the emergence of the "Conga No Va" social movement in November 2011, women of all ages and social backgrounds have participated in protests, whether as members of mixed-sex organizations (student or labor unions, irrigation-channel users, market sellers, political parties, neighborhood associations, peasant communities, etc.), or of gender-specific ones (*Rondas Campesinas Femininas*, religious orders, feminist organizations, etc.). During the strikes and occupations which

¹² Patricia Roux and Olivier Fillieule (2009) provide the example of the narratives of the Civil Rights Movements symbolically started by Rosa Parks refusing to leave her seat on the bus to a white person "because she was tired." Little or nothing is ever said about Rosa Parks' previous militancy in various organizations and campaigns regarding African-American people's rights and the bad conditions of bus transport.

¹³ Feminist scholars (Nussbaum 1996, 2003; Berlant 2004) and social movement theorists (Goodwin et al. 2009; Jasper 1998) have effectively argued against the a-political nature of feelings, highlighting the importance of emotions in social mobilizations and their outcomes.

¹⁴ *Rondas Campesinas* or Peasant Rounds are community-based organizations first born in the Province of Chota, in the Cajamarca region, during the aftermath of the 1969 Agrarian Reform. Community members initially started night patrols in order to stop thefts of cattle, but given the absence of state authorities, Peasant Rounds soon started acting as community judiciary systems and were legally recognized as such by the Fujimori government in 1993. For more information see Starn (1999).

¹⁵ Community kitchens initially started by organized groups of working class women in urban settings during the political and economic crisis of the late 1970s. They have since become a wide-spread and significantly institutionalized phenomenon. For more information see Boesten (2010).

paralyzed the regional capital Cajamarca in November 2011 and June 2012, women participated alongside male protesters as well as in gendered activities. The latter included *defensive* functions, when female protesters moved to the forefront of marches in order to protect male protesters from violence (on the grounds that “the police shows a little more respect [to women]”), and *care* functions, such as tending wounded protesters and preparing meals for hundreds of participants coming from far-away provinces and communities.

Meal preparation was performed at the heart of public space, namely in two of the main *plazas* (squares) of Cajamarca, where teams of women cooked enormous pots of rice and potatoes on improvised hearths. As Maria Teresa Arana pointed out to me in a personal communication, such an invasion of public space by seemingly “private” activities constitutes a politicization of traditionally gendered, female tasks. Such a reading is applicable for those who, as actors or witnesses, share a dichotomous divide between public and private space, gendered as masculine and feminine. I would like to suggest that, while this certainly applied to local and national urban upper and upper-middle classes, it was not the case for most of the protesters, who came from rural and urban lower class backgrounds where cooking collective meals in open, public spaces is quite common. Indeed, such practices generally accompany community-reinforcing events and rituals such as *corte de pelo*, house inaugurations, religious festivities, anniversaries, etc. The investment of the city center by rural “community” activities therefore constituted an affirmation of peasant and working class values and practices, at the heart of a regional capital which symbolizes local elites and their ways. Such an interpretation echoes perceptions of upper-class urban inhabitants who, even though they supported the protest, found the peasants’ occupation of the city center disquieting. Juan, a middle-aged local lawyer, stated that “It wasn’t Cajamarca anymore, it was another city” (Fig. 2).

Marisol de la Cadena (1995) has argued that in the second half of the twentieth century, with the re-configuration of Peruvian peasants’ relation to land, former ethnic hierarchies evolved into an ideology and practice of power which fictitiously distinguishes people as “rural” or “urban.” Ethnic categorization is applied both *with* and *within* the rural/urban dichotomy, in ways that reflect class and gender



Fig. 2 Women cooking in the Plaza de Armas during the strikes of November 2011 (© Sofía Lorena Gonzales Banda); family preparing for family meal on occasion of a *Corte de Pelo* (© Kyra Grieco)

difference. Therefore, while during the colonization process patriarchal structures led to the feminization of indigenous populations, modern patriarchy inverts the process and results in women being cast as “more Indian” than their menfolk. I consider this to be the main reason for which women protesters in the Cajamarca social movement enjoyed considerable visibility and attention. Women, and rural women especially, are best situated in racial, class and gender hierarchies to *embody and reproduce* the main aspects of the anti-mining modernity: tradition-as-modernity, community and communalism, care and sustainability for future generations. Representing themselves as “naturally altruistic mothers,” women appropriate the dominant social norms to legitimate their activism and articulate it “as part of a broader contemporary set of political ideas, practices and forms of resistance, rooted, at least partly, in a reclamation of ideas of indigeneity” (Jenkins 2014: 453).

Transgressing the Norm

Women therefore mobilize against mining mainly from a strategically essentialized identity as “good mothers.” Significantly, the majority of critiques, insults and threats addressed to women protesters qualify them as “bad mothers” or “barren women.” Laura recounts receiving insulting anonymous comments on Facebook, such as: “certainly you must be an old barren woman with no children soured by life to go around screaming like that [in protests].” A 30-year old unmarried and childless teacher, Laura responded: “I have three children, it must be your wife (who is barren) because surely you have mercury¹⁶ in your blood. My children are better off than yours because they are thinking about life while yours only have mercury in their brain.” Amelia tells about insulting and threatening anonymous phone calls: “Stop opening your mouth, we are going to kill you. You will see what happens to you...stop going to the fight, don’t you have children and a husband to cook for? Stop wandering here and there like a slacker.” Her husband also received anonymous calls to inform him that his wife joined the marches in order to meet a lover. Amelia laughs: “What they don’t know is that we go to all the marches together, how is he going to believe that I have a lover?”

Unfortunately, not all husbands are as supportive as Amelia’s. Nuria, a young *Rondera* recently elected President of her Provincial Unit, recounts being under considerable pressure from the father of her children, who works in Lima and sends money to help support the family. The father threatens to withdraw his financial aid if she does not stop “abandoning the children to attend meetings.” Since Nuria moved from her community to the provincial capital in order for the children to attend school, she has become more dependent on her companion’s cash income. At the same time, she says that he has become more “difficult” since they moved to

¹⁶Mercury is one of the by-products of mining. Historical cases of mercury spills and pollution (affecting both of miners and local inhabitants) lead to the idea that miners have high concentrations of mercury in their blood.

town, common knowledge being that in an urban setting, children, and especially daughters, require more control. In some cases, women's activism is also related to increased domestic violence. Such is the case of Juana, whose brother attacked her verbally and physically on the grounds that she was a "bad mother, who leaves her child to go yell in demonstrations." After a particularly violent physical aggression Juana decided to denounce her brother to the *Rondas Campesinas*, fellow protesters from the social movement, confiding in their solidarity. After brief evaluation, the Ronda committee decided to close the case, agreeing with the brother that, in fact, Juana was not a good mother.

The Triple Burden

The analysis of women's engagement with the Cajamarca social movement might suggest a somewhat optimistic picture of anti-mining modernity as furthering women's rights. Such a conclusion would be overly simplistic. Women involved in the social movement, while encountering an area of expression and political engagement in essentialized representations of motherhood, also confront significant, mostly unacknowledged hardships. The first is the difficulty of managing activism alongside their productive and reproductive tasks. Social activism adds a substantial load of unrecognized, unpaid labor to women's "double burden." This issue was clearly addressed in a photographic exhibition organized by a local women's organization in May 2013 for Mother's Day: the pictures and captions highlighted women's *triple role* as "mothers, workers, and social activists." Nonetheless, there is little or no recognition of the gendered cost of participation on the side of social movement organizations and leaders. On the contrary, women's multiple burdens appear to have excluded them from joining the decisional circles of the social movement, which after nearly two years of mobilization still did not include any female representative.

Strategically engaging as mothers does not mean that women's needs or rights—except for those claimed by the anti-mining movement—are afforded any particular attention. As Jules Falquet (2005) points out, progressive social movements' challenges to racial, class or ethnic inequalities often leave heteronormative, patriarchal forms of social organization unaddressed. As we have seen, while maternalist ideology allows women to mobilize against mining, it hardly affords for a critique of the deeper inequalities connected to economic dependency and household violence, on the grounds that these constitute "family matters". Women's representation as "good mothers" can easily be converted—by political opponents and allies alike—into that of "bad mothers" in order to justify unequal treatment, the marginalization of women's organizations and gendered violence. As Lynn Stephen has argued, there is no clear-cut distinction between "feminine" and "feminist" forms of protest: organizations mobilizing around essentialized feminine identities, while not espousing overtly feminist agendas, raise material and political concerns which are directly connected to women's rights (Stephen 1997). Such processes, however, take time

and continuous negotiation both within and without women's organizations. Anti-mining social movements might, in the long term, afford a more serious discussion of norms of gender and citizenship. For the moment, however, it is not only simplistic but may also prove counterproductive to presuppose a furthering of women's rights as a consequence of women's participation in anti-mining protests.

Conclusion: Mining, Motherhood and Contested Modernities

On the basis of the cases discussed, it is possible to draw some significant conclusions on the relationship between mining, motherhood and modernity in contemporary Peru. The first is that both mining and anti-mining modernity projects reinforce and perpetuate a "sense of rightness" (Berlant and Warner 1998) whereby women are represented and recognized uniquely as mothers and implicitly heterosexual wives or companions. Their various social, political and economic activities are obscured by their (social and biological) reproductive role, and motherhood comes to stand for the "essence" of womanhood. This reductionism heavily constrains women's agency, reducing the scope of appropriate actions, possible needs and legitimate aspirations: political, labor, sexual and reproductive rights, amongst others, find no space in the ideology of motherhood. The second point is that maternalist ideologies strictly define the limits of "appropriate" women's behavior, which as we have seen are sanctioned by male institutions. Women's participation is therefore required to implement processes of development and social change, but only constitute the means and never the ends of these processes, which privilege the needs of men and children. Those women who—by chance or by choice—do not fit into the norm of motherhood hence lose access to these processes, and to the rights which might otherwise be recognized.

At the same time the two cases present one crucial difference, namely the positionality from which women experience and engage with gender norms. The CSR beneficiaries are the recipients of a particular middle-class, developmental form of maternalism, which they can choose to disengage, appropriate or interpret according to sanctions and expectations. In the case of the social movement, instead, activists are the proponents of a more popular, resistant maternalist ideology, and must therefore negotiate different expectations and sanctions. Within each of these groups, norms are also experienced and contested differently depending on age, class, ethnicity, etc. Cooking in the plazas is perceived as contesting the norms of the public-private divide by some, but is in fact considered 'normal' by those who carry it out. Eating at the table is seen as 'normal' by some, and as unpractical and artificial by others.

Normative understandings of gender roles, while limiting in many ways, also afford space for appropriation and transformation. Such is the case of many women who, like Laura and Sister Lili, use normative understandings of women as "less corrupt" than men to justify and enhance their participation in the social movement. Maternalist ideologies provide them with a means to carve out spaces for participa-

tion in development projects and protest movements alike, something which may provide leverage for negotiating power relations at an individual or community level. While they may not be the intended ends of modernity, women are not passive recipients either: whether disengaging or contesting ideologies of “good motherhood,” or embracing or transforming them in order to meet their needs and aspirations, they create new spaces of action for themselves and make the best of existing ones. Furthering their future participation in debates over mining and development activities in Peru will prove crucial not only to the promotion of their rights as citizens, but also to dominant understandings of what modernity is, and for whom.

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Women's Rights in the Aftermath of Tunisia's Revolution: New Options and Constraints for Women's Activism in Processes of Transition

Tanja Scheiterbauer

Introduction

The strong presence and active participation of women in the revolutions and mass protests in 2011 in the North African and Middle Eastern countries were remarkable not only for the 'Western' media attention, but have also been discussed extensively in feminist scholarship. The visibility of protesting women has—for a short while—transformed the stereotypical image of Middle Eastern and North African societies in most of the 'Western' publics, wherein Islam or 'Islamic culture' is understood to determine society and politics and the role of women is reduced to passive victims of religious patriarchy.

Tunisia has been described as being “at the forefront of ‘women friendly’ legislative changes” (Charrad 2007) since its independence from French colonial rule in 1956. Reforms of women's rights and efforts towards women's emancipation have created a major normative framework that legitimized the postcolonial authoritarian regimes of Habib Bourguiba and his successor Zine el Abidine Ben Ali against traditional and Islamic social forces. This entanglement of authoritarianism with state-feminism raises many questions for the analysis of gender activism in the Tunisian context. The paper analyses how the current processes of transition as well as Tunisia's postcolonial legacy influence not only secular¹ women's activist practices to promote women's rights but also their discursive framing.

The aim of the paper is to understand how women's rights have been negotiated and reframed in the long-term structural processes of postcolonial state formation.

¹The paper concentrates on secular women's activism, their politics and their discourses. To write adequately about Islamic women's activism, which actually has expanded considerably since the Tunisian revolution of 2011, would require an analytical embedding in the Tunisian history of Islamism. This would be beyond the scope of this article.

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It will outline the struggles of the feminist re-appropriation of rights advocacy in the current context of transformation. In my view, the analysis of gender politics must also examine state-building processes and their transformations in relation to women's movements as part of the civil society. I will begin by exploring gender politics and the improvement of women's legal status in Tunisia following independence as part of a secular nationalist state project that defined itself in opposition to conservative and Islamic forces. The opportunities and constraints of autonomous women's activism in the context of economic and (limited) political liberalization in the 1980s and 1990s will be tackled in the second part of the paper. The processes of negotiation of women's rights by gender activists in the aftermath of the Tunisian revolution of 2011, and the highly polarized controversies surrounding the drafting of the new constitution, will be examined in the final section.

Women's Rights in the Processes of Postcolonial Nation-Building

On 13 August 2013, UN Women congratulated the Tunisian people and government "for the historic role Tunisia has played in the region as a pioneer for gender equality and women's rights" and called on them "to continue championing gender equality in the constitutional revision process." Annually,² 13 August is celebrated as National Women's Day since Tunisia gained independence from France in 1956. On this day the Tunisian Code of Personal Status (CPS) was promulgated under the first president of the Tunisian republic, Habib Bourguiba. The introduction of this code, which includes the country's family law and also regulates inheritance and custody, led to women in Tunisia gaining more legal rights than women in any other country in the Middle East and North Africa.³ It is widely considered the most progressive form of codified Islamic law.⁴ The reforms expanded women's rights by banning polygamy, making mutual consent to marriage obligatory, and introducing the right to divorce, reforming custody and to some extent inheritance laws (ibid.: 1520). According to Mounira Charrad, the CPS left "few, if any, aspects of family life untouched" (Charrad 2001: 219) and consequently made a great impact on the

²For details, see: <http://www.unwomen.org/en/news/stories/2012/8/on-national-women-s-day-un-women-congratulates-the-government-and-people-of-tunisia-on-their-leader>. Accessed 6 July 2015.

³Subsequently, the term MENA will be used as an abbreviation for the Middle East and North Africa.

⁴Processes of codification taken up during the establishment of nation-states in the Middle East often curbed the flexibility that typically characterized Shari'a courts that existed under colonial rule and before—with very mixed consequences for women. While in Tunisia women's legal status improved with codification, this was not the case in Morocco and Algeria. As Amira El Azhary Sonbol argues, the interpretations adopted and codified by modern nation states are designed to "favour the new hegemonic order coming to power as part of the nation-state structure." (Sonbol 1996: 10–11)

advancement of women within society. However, even as the revolutionary regime pursued politics on secular foundations, it did not seek to separate religion and politics. Rather, religion was subordinated to and controlled by politics (Jomier 2011: 3). The Tunisian family law did not break with religious law, instead it was an interpretation of Islamic law "in its broadest and most progressive sense" (Debuysere 2013: 28).

The Tunisian case not only offers insights into how gender (and sexuality) are entangled with nationalist modernization projects prevalent in the post-colonial era in the MENA-region; it also sheds light on the ways in which conceptions of modernity are built around gender and sexual identities. Since the 1980s, feminist scholars have controversially discussed the political impact of such state-led initiatives on gender politics and their potential for democratization. On the one hand, (especially middle class) women have benefited from the extensions of citizenship rights, which were set up by the postcolonial state to create "modern" citizens (Yuval-Davis and Anthias 1989; Joseph 2000; Kandiyoti 1991). They were—to put it in Ayse Gül Altınay's words—"invited into the nationalist project not just as mothers, but also as active participants in the public realm" (Altınay 2004: 49). Furthermore, the states' modernization processes also aimed at eradicating illiteracy as well as fostering women's education and their integration into the labour market (Al-Ali and Pratt 2009; Moghadam 2003). These politics were meant to integrate women as new citizens into the nation but also to counter Orientalist representations of the passive, veiled Muslim woman. However, by doing so, they simultaneously reproduced and reinforced colonial representations of the backwardness of Islamic culture(s) and traditions (Hatem 1998: 86). The image of the "modern" unveiled, educated and working Muslim woman was symbolically evoked as an icon of the nation and of modernity.

Feminist scholars criticized the problematic role of gender (and sexual) identities in the construction of national Islamic identity. They argued that the construction of national identity is closely linked to the construction of gendered, sexual and class identities, which framed middle-class women as symbols of the nation, as markers of cultural authenticity, or as new citizens. In these processes, the control of gender and sexual identities became central to nationalist politics. Women were constructed as "mothers of the nation" who, at the same time, reproduced the boundaries of ethnic or national groups (Yuval-Davis and Anthias 1989). Postcolonial queer critics have emphasized that postcolonial nation-building not only has created new forms of gendered citizenship but, at the same time, also promotes compulsory heterosexuality (Dhawan 2013: 205). These critics draw attention to the impact of state politics on the reproduction of gender inequalities, so that the uneven and ambiguous incorporation of women into modern nation-states can be read as historically specific forms of gender politics (Kandiyoti 1991: 1). Thus, they overcome ahistorical accounts of Islam and Islamic law determining Muslim societies and gender orders.

To explain the heterogeneity of gender regimes within the MENA region, Mounira Charrad suggests examining the role of women's rights in postcolonial struggles as well as during the consolidation of social relations after independence

(Charrad 2001). In her comparative work on Tunisia, Morocco and Algeria, she argues that postcolonial nation-building and state formation processes involved a contest for power between kin-based networks that were partly created by the colonial administration. Her analysis illustrates the struggles between different political actors within nationalist movements, who pursued disparate interests in the aftermath of colonial rule. She argues that after independence the nationalist elites in power relied on kin-based networks to consolidate state power in different ways. In Tunisia, for example, the secular nationalist elites in power rationalized political rule in opposition to kin-based communities.⁵ The state especially intervened in rural areas by institutionalizing new state agencies and programmes to weaken the autonomy of kin-based communities (Charrad 1997: 294). Furthermore, the power of the religious elites was contested by setting up civil courts to de-legitimize religious courts. The opposition between the secular and the religious elite was central for the codification of Islamic family law and women's rights. The CPS promulgated in 1956 was formulated in a way that fostered the model of a nuclear family, thus challenging the control over women by extended kin. Other postcolonial states, such as Algeria and Morocco, chose a different strategy: While the Tunisian Code of Personal Status strengthened the nuclear model of the family, they explicitly institutionalized a conservative form of Islamic law to promote extended patrilineage (Charrad 2001: 215). Women were once again subordinate to men through new national laws.

Compared to this the strengthening of women's rights and women's positioning in Tunisia were key factors in legitimizing Bourguiba's regime; they were meant to contest the religious establishment. Fittingly, Habib Bourguiba declared himself not only as the father of national liberation but also of women's liberation⁶ (Gilman 2007: 97). He asked Tunisian women to drop the veil, which he called an "odious rag" (Charrad 1997: 294). In the national media as well as on journeys to rural areas, he continuously performed the role of advocate for women's emancipation (Bessis 1999: 2). While it is often emphasized that the new family legislation was promulgated without the participation of feminist organisations, there is considerable research on women's struggles for their rights before independence and its influence on women's emancipation in Tunisia (Labidi and Zghal 1985; Bchir 1993; Marzouki 1993). With the establishment of the one-party regime, public and political space for autonomous feminist movements, women's organizations or other civil society organizations was restricted. Activists from the early women's movement joined the

⁵A similar argument is made by Suad Joseph, who highlights the close connection between elite strategies for nation-building and the role of women's rights and family law (Joseph 1991).

⁶The parallels to the Turkish revolutionary regime are remarkable: Mustafa Kemal was widely known as "Atatürk" as "Father of the Turks," as well as reformer of women's rights. Until the 1980s, it remained uncontested that Kemalist reforms had emancipated Turkish women. It is only recently that feminist scholars have begun to unravel the history of women's organizing for their rights in the period of the late Ottoman Empire to the early days of the republic. They show that women's rights were not conferred by the state but that women had long been fighting and mobilizing to gain them (Altınay 2004: 52–55).

nationalist *Union Nationale des Femmes Tunisiennes* (UNFT)—under the centralized control of the state (Moghadam 2011).

'State feminism' in Tunisia was not established to enhance the individual human rights of one half of the population or as a victory of progressive reformers. Rather it was part of a broader secularizing state project in order to consolidate state power in opposition to conservative social forces. While social and economic citizenship rights had not been part of the reforms and continued to reproduce gender inequalities, discourses on feminism and women's rights in postcolonial Tunisia have evolved in close proximity to national identity and the politics of modernity.

Creating Contentious Spaces and Authoritarian Rule

It was only as late as the 1980s, when autonomous women's organizations emerged in the wider context of neoliberal restructuring, that Bourguiba's state feminism as well as existing inequalities and injustices were challenged. From 1984 to 1991, Tunisia faced a severe economic crisis that led to social protests and demonstrations. The regime implemented structural adjustment programmes financed by the World Bank and the International Monetary Fund. As in other countries in the MENA region, the programmes aimed at the political and economic withdrawal of the state in sectors like social welfare and education as well as the privatization and liberalization of national economies to integrate them into the world market (Moghadam 2011). These processes are described as economic and political 'liberalization,' because the reforms involve not only an economic 'opening' but also the transition to formally more participatory systems (Brynen et al. 1995). In Tunisia, elections were held regularly and a limited number of political parties were allowed to participate, although the system favoured the ruling party, *Rassemblement constitutionnel démocratique*—RCD (Boubekeur 2009). After Zine el Abidine Ben Ali's coup of 7 November 1987, he promised to establish the rule of law, to respect human rights and to implement the democratic reforms that Habib Bourguiba had previously refused (Alexander 1997). With the liberalization initiatives at the beginning of his presidency, some spaces for civil society actors were created. Different women's organizations were established and a few of them could be institutionalized: The *Association des Femmes Tunisiennes Démocratiques* (AFTD) opted for an activist approach and the *Association des Femmes Tunisiennes pour la Recherche sur le Développement* (AFTURD) was founded as an activist research group (Labidi 2007: 15). Both became institutionalized in 1989 and had to work within a political space that was dominated by state-sponsored women's organisations (Gilman 2007: 100).

The short period of political reforms ceased with the forceful closure of the Islamist Ennahda Party in 1991. The main characteristics of the new regime were strict censorship, tight state control of political parties, oppositional forces and civil society as well as the suppression of dissident voices. The internal security apparatus was expanded, targeting Tunisia's most prominent opposition figures with

surveillance, threats against family members, passport confiscations, beatings and assassinations (Alexander 1997).

Despite the persistence of authoritarianism in Tunisia as well as in other parts of the MENA region, the rising number of civil society organizations had been considered an indicator for a possible transition towards democracy (Norton 2005). However, as repression and human rights violations continued in the 1990s, Middle Eastern scholarship concluded that most transitions had failed. The burgeoning civil society in the MENA region was (and is) interpreted as a mere expansion of associational life and as “a survival strategy of the regimes that did not go far beyond the introduction of a mechanism for venting popular political dissent” (Schlumberger 2000: 117).

For Tunisia’s autonomous women’s organizations, negotiating women’s rights meant operating in an authoritarian setting where the access to resources and political influence was limited to a small group of state-sponsored women’s organisations that lacked autonomy and were part of the corporatist-bureaucratic system (Moghadam 2011). In her study of the above mentioned AFTD, Sarah Gilman outlines how activists strove to maintain their “autonomy from and resist co-optation by a hegemonic state that has so far succeeded in stifling dissenting voices” (Gilman 2007: 101). When advocating reforms for women’s legal status, women’s organizations had to be careful not to be co-opted by a state that instrumentalized gender politics to legitimize repressions against religious oppositional forces and to establish an image on the international scene of being “modern.” For instance, the CPS’ reform in 1993, which concerns women’s citizenship rights, can be seen as a success because of the lobbying work of Tunisian autonomous women’s organizations. At the same time, it can also be read as a strategic instrumentalization of the women’s movement by the authoritarian state to counter rising Islamic activism and to legitimize power in times of crisis: “In using women’s rights to exclude the Islamists, the regime has dangerously politicized gender and guaranteed that it will be used in the future against secularist and feminist women” (Hatem 1995: 200).

Middle Eastern Studies tend to depict civil societies in the MENA region as either promising agents for democratization or as lacking any influence in shaping the political process under authoritarian regimes. In the latter case, they reinforce ahistorical and essentialist stereotypes that perceive Middle Eastern societies as unchangeable entities. Sheila Carapico goes further when she argues that “a certain element of Orientalist myopia may have prevented anthropologists, sociologists and economists from seeing the non-governmental sector as anything but the extension of the three ‘P’s’: patrimonialism, patriarchy and primordialism” (Carapico 2000). These perspectives disregard the complex ways in which norms are contested by social actors—even in coercive settings and also when they do not produce institutional change. To go beyond the dichotomous depiction of civil society actors, Frédéric Vairel suggests an analysis of “contentious spaces” created by civil society actors. The term designates politics and practices set up against but also in reference to the political field and to formal institutions (Vairel 2011). Thus, the struggles of Tunisia’s autonomous women’s movement may be viewed as contesting statist gender politics—while at the same time engaging with the state.

Negotiating Equality in Post-Revolutionary Tunisia

Women's active participation in the Tunisian revolution of 2011 was widely covered by both the national and international media as well as in social networks. Bloggers like Lina Ben Mhenni or Emna Ben Jemaa played a crucial role before and during the revolution, advocating for freedom and against repression. The participation of women in the uprisings in those rural areas where the protests actually started was less visible (Allal 2012).

Despite their participation and their visibility in the revolts and mass demonstrations, women were neither equally represented in the transitional governments, in the new political parties nor in the high commissions that were set up after the revolution. In contrast to the relatively high percentage of women in pre-revolutionary parliament (28 % in 2010), the two interim governments only had two female members out of 19 and 23 members, respectively (Khalil 2014). Of course, mere political representation does not guarantee overcoming multiple forms of female marginalization. For instance, the high percentage of women in parliament under Zine el Abidine Ben Ali only implied the integration of women in the hegemonic power structure.

At the very beginning of the transition process, Tunisian women's rights activists tried to raise public awareness about their demands for political participation. On 29 January 2011, shortly after Ben Ali had been sent to exile, a coalition of Tunisian women's organizations staged a march in the capital Tunis demanding equality and democracy and highlighting the key role that women played in the revolution. The march drew public attention to the contested nature of women's rights discourse, following the dissolution of the hegemonic power of state-feminism in the aftermath of the revolution.

The new constitution, which replaced the former constitution of 1959, was heavily influenced by religious conservative politics. The first release of the draft constitution evoked controversial public debates, especially over the following articles: Gender activists directed their attention to Article 28, which described women as "complementary to men" in family life and replaced the former term "equality." In response to the draft's release, gender activists organized demonstrations to defend the rights they enjoyed under the old constitution. Political rallies were held in which activists from different women's organizations such as AFTD, AFTURD and human rights organizations such as the Tunisian League for Human Rights participated. Slogans like "Rise up women for your rights to be enshrined in the constitution" were displayed to demonstrate their discontent with the draft (Karam 2012). The term "complementary" was denounced for defining men and women in relational terms and for turning women into secondary citizens (Debuyser 2013: 40). Furthermore, the draft was criticized for its heteronormative impact with its exclusive reference to heterosexual married women, while obscuring the different sexual and gender identities of Tunisian women (Ghanmi 2012). The online petition initiated by Selma Mabrouk aimed to claim rights for women as equal citizens (Diffalah 2012). An elected member of the National Constituent Assembly, Selma Mabrouk joined the oppositional party Al-Massar. She went public with her protest against

Article 28 in the form of an online petition entitled ‘Protégez les droits de citoyen-neté de la femme en Tunisie!’ that was able to gain over 30,000 signatures. Women citizenship rights are described as follows:

A woman is a citizen under the same title as that of a man. The state is about to vote on an article (28) of the constitution that limits the citizenship rights of women under the principle of complementarity to men and not under the principle of equality. If this article were to be adopted in the final version of the constitution, it would limit the principle of equality between men and women. A woman is not defined in terms of a man. We demand the repeal of Article 28 from the draft constitution and maintain Article 22, which guarantees freedom and equality to citizens regardless of their gender (Charrad and Zarrugh 2014: 238).

She directly requested the NCA to substitute Article 28 with Article 22, which guarantees all citizens the right to equality before the law without any discrimination. The petition contests that the notion of complementarity limits equality between men and women and rejects the definition of women only in relation to men. In the same vein, a coalition of women’s organizations, together with the Tunisian Defence League for Human rights, the General Workers Union (UGTT) Women’s Commission, the Tunisian section of Amnesty International and the National Council for Freedom in Tunisia rejected Article 28 as “a paternalistic approach that gives man absolute power while denying a woman’s right to be a full-fledged citizen” (ibid.: 239). As these examples show, the mobilizations against the draft of the constitution were framed in terms of equality and citizenship rights. There were also voices within the new women’s movement that defended women’s rights as necessary part of Tunisia’s national identity. Amira Yahyaoui, president of the organization Al Bawsala, which is dedicated to advancing democracy and fostering a robust civil society, expressed her concern with the draft as follows:

It [Article 28] was a major scandal. Tunisia has always liked to say it is a leader in women’s rights and all of a sudden we find ourselves more backward than other countries. We like to be the first—the first to have a revolution, the first to write a constitution, but also the first to have equality between the sexes. (Rowling and Boeglin 2012, cited in Charrad and Zarrugh 2014: 236)

Herein, Tunisia’s nationalist identity as a pioneer for women’s rights is invoked. The wording of the draft of Article 28 is seen as a step backward from the rights that women in Tunisia had enjoyed already. The framing of gender equality as part of Tunisia’s national identity is visually represented by the protesters in that they wear the national red flag as a cape to construct themselves as part of the nation. It also indicates the conflation of Tunisia’s national identity with progressive gender politics and politics of modernization that are considered worth safeguarding. If women’s rights are not granted, Tunisia’s national identity as a modern nation seems to be in danger as well, as expressed in the remark: “...we find ourselves more backward than other countries.” The post-independence discourses on the position of women in the new nation-state and their entanglement with the politics of modernity are reconfigured in contemporary struggles for women’s rights and are part of a modernist top-down state project. The ongoing reframing of women’s rights as a central element of national identity erases the difficult history of Tunisia’s authoritarian state-feminism.

The draft's publication was followed by advocacy work by gender activists to put forth their demands for gender equality. During the drafting of the constitution, civil society organizations were mobilized to advocate women's rights together with supranational institutions like UN Women until February 2014 when the new constitution was ratified. Tunisian women's organizations along with other civil society organizations discussed notions of equality and women's rights. Different strategies were identified to enable women's organizations to strengthen their participation in the drafting process (UN Women 2014).

Although Tunisian gender activists worked together with international organizations towards the integration of gender equality in the new constitution, references to international norms were seldom addressed in public debates. This may indicate that negotiations regarding women's rights operate in a highly contested field between a new religious elite and secular forces. Linking women's rights discourse to the notion of national citizenship seems less prone to being accused of reproducing the legacy of authoritarian state-feminism. Moreover, for a long time the relation of Tunisian women's organisations with international organisations has been problematic, as most civil society organisations have had to rely on international funding. This led to discussions about the dependence on foreign aid and its impact on possible choices in terms of strategies and politics but also on the significance of the support of these donors for authoritarian regimes (Gilman 2007: 116). The following statement by the president of AFTURD, Radia Ben Zekri, reflects these difficulties:

It is a very complex topic due to the fact that most European countries have sustained the regime of Ben Ali (especially regarding his policies against the Islamic wave and towards modernity). We are working with the European Union, as we are part of EUROMED platform, along with the most progressive experiences of European civil society. On the other hand, we have to continue with our own aims and projects, without losing our perspectives under the logic of external funding. (Interview with Radia Ben Zekri, Tunis, February 19, 2013, cited in Daniele 2014: 27)

The situation of Tunisian women's organizations highlights not only the continuing constraints for feminist modes of action and framing strategies, but also the existing power structures in North-South relations. It appears ironic that while European governments claim to promote democracy by funding civil society organizations in the 'global South,' they also sustain authoritarian regimes in consolidating existing hegemonic geopolitical power structures. Feminist politics negotiating women's rights with close reference to international norms still risk being accused as agents or instruments of Western-backed democracy promotion, which, in other parts of the MENA Region, still implies support for authoritarian rulers. Instead, Tunisia's feminist activists successfully translated the notion of equality between men and women as a national achievement of postcolonial state-building.

The reference to the notion of 'complementarity' in Article 28 was ultimately omitted after controversial debates during summer 2013. The constitution was finally voted on in February 2014 after a severe political crisis that led to the dissolution of the Ennahda government and to its replacement by a government of technocrats.

Conclusion

Analysing the negotiations of women's rights in postcolonial nation-building processes as well as in the post-revolutionary Tunisian context illustrates the ambiguous character of this discourse and the way it is implicated in geopolitical power struggles. The deep entanglements between gender and nationalist politics have been analysed when examining gender politics in the aftermath of colonialism. The nationalist project of freeing the Tunisian people from the French colonial domination transformed and initiated processes of gendering the nation that have impacted women, men and modern conceptions of heterosexuality. Women were integrated into the national collective, which provided legal advancement while denying them full legal equality. The women's rights discourse, on the other hand, was appropriated by the state and has been used to strengthen authoritarian rule by excluding conservative religious forces. While the so-called state feminism was used to foster the political project of modernization and development, it also served to hinder women's activism in the following decades.

The first possibilities to contest state feminism and to re-appropriate women's rights came (paradoxically) with the neoliberal restructuring of the Tunisian economy and politics. With the emergence of the new women's movement, limited and controlled forms of gender activism could develop, which questioned statist gender politics. At the same time, the authoritarian regime politicized gender politics to counter the rising Islamic activism as well as other oppositional forces. Repression and human rights violations were legitimated in order to protect women's rights. Acting in this authoritarian setting meant for gender activists not only restricted access to resources or political influence, but also the difficult negotiation of women's rights between contesting state feminism and engaging with it, as well as transforming the hegemonic notion of women's rights into more democratic practices and politics. The women's rights discourse can be analysed as a site of emerging political agency that enables activists to criticise and transform hegemonic practices and institutions while it is implicated in the exertion of power and oppression.

To shed light on the modes of appropriation, contestation and transformations of women's rights in post-revolutionary Tunisia, I looked at the different framings that emerged during the constitutional process. The controversies surrounding the new constitution are by no means the only site where we can observe different actors appropriating women's rights. Nevertheless, in the period of transition, it is one of the central political arenas to identify the various options and constraints for negotiating women's rights. Although mobilisations by gender activists for this process were accompanied by supranational institutions, women's rights were defended in public debates not as an international norm that has to be implemented or protected. In the activists' post-revolutionary framings, women's rights were rather referred to as an achievement attained through Tunisia's struggle for national independence, and as such they were appropriated as part of national citizenship rights and national identity.

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Contested Universal R/rights: The New Family Code in Mali

Lucia Artner and Gavaza Maluleke

Introduction

In the course of the 1990s we witnessed the transformation of women's rights into universal women's human rights. Many feminist scholars welcomed the "international consensus around particular norms regarding women's rights" (Tripp 2006: 51) and lauded the engagement of feminist and women's rights activists in international UN fora "as sites of cosmopolitan solidarity and citizen action" (Reilly 2007: 180). What was often disregarded or left unspoken in these celebratory acclamations was whether this transformation actually helps the majority of women who are absent from transnational networks and global politics in their everyday struggles against injustice. Pointing to the tension between the theory and politics of human rights, Brooke Ackerly (2008: 27) argues that an exhaustive account of human rights can never be attained, as it is always processual and contingent. She emphasizes the application of a 'destabilizing epistemology' that purports continual self-reflexivity, cautiousness and self-scrutinization of the actors involved, and, hence, envisions an exceptional "terrain for continued dispute" (ibid.: 212).

As we will show in this article, such a terrain is nothing but an ideal state as we often witness dialogue that does not take place on common grounds, in which people

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are unable or unwilling to be self-reflexive, considerate of differing positions or willing to question their own positions. This is all the more serious when contesting parties invoke or even appropriate normative ideas about religion, secularism and human rights to strengthen their positions. In our article we will describe and analyze the opposing viewpoints on the amendments of the Family Code and on women's status in society using the example of the Republic of Mali. The secular state of Mali, which has a long tradition of the parallel coexistence of religious and secular structures, is a case in point. For over 20 years, the country has had an ongoing dispute over the amendments of the Family Code and the improvement of women's status in society.

Beginning with a brief account of the historical background of the Malian Family Code, in the second part of our article, we analyze the documentary film "Family Code" by the British filmmaker Rebecca Stewart to illustrate how different participants appropriate certain (and often divergent) normative ideas in order to fortify their ideological positions. It aired on Al Jazeera English's "Witness," which was one of the first programs since the channel's inception in 2006. Its proclaimed aim is to inform its global audience about topical issues via the medium of "compelling human stories." It reflects Al Jazeera English's claims of being a globally-oriented media service that delivers unbiased news on the "diversity in human societies with all their races, cultures and beliefs and their values."

We mainly focus on the documentary not only because it captures the diverse and controversial perspectives on the debate about the Family Code in Mali, but also because it illustrates how the actors involved try to reinforce their viewpoint as the universally valid one, granting no space for negotiation or transformation. The documentary demonstrates very well how this results in an impasse, so that dialogue on common ground is made impossible. Furthermore, the documentary also helps us to demonstrate how 'benevolent' 'Western' feminists position themselves on this matter: Throughout the documentary, the filmmaker consolidates her own position on the universality of women's rights in the way she talks about and to the actors.

In the third part we then go on to elaborate the theoretical approaches to enable a dialogue on common ground. In order to do so, we draw insights from feminist scholarship, particularly on transnational debates between 'Southern' and 'Northern' feminists dealing with ideas on mutuality amongst women. In order to examine the relationship between secularism and religion, Islamic feminist approaches are employed. Additionally, postcolonial and transnational feminisms aid us in understanding the various factors important for starting a dialogue between 'ordinary' women, as well as addressing the controversies surrounding the idea of women's human rights. With regard to the latter, we discuss how the struggles that took place within feminist interventions in international politics led to grounded dialogue, such as transversal politics. Finally, we engage with the concept of "negofeminism," which in our view has been overlooked until now and which provides insightful ways of approaching negotiation.

The New Family Code in Mali

The West African country of Mali states in its constitution: “Mali is an independent, sovereign, indivisible, democratic, secular, social Republic” (Article 25). Though it is declared as being a secular state, major parts (approximately 90 %) of its population is of the Muslim faith, and Timbuktu, one of its major cities, is well known as an important spiritual and intellectual site of Islam. Even though sections of the Malian population have been practicing Islam for at least a millennium, it was only in the twentieth century that Islam gained momentum and became the religion of the majority (Soares 2004: 207). The Islamization process developed in part due to the establishment of the public sphere and the transformation of the political economy during French Colonial rule. The increased movement of people and commodities and the preaching of Islamic-themed sermons to the public outside the context of the Mosque facilitated the Islamization process during this period (ibid.: 208). Within the colonial public sphere, the Muslim preachers could flourish as long as their pronouncements were non-political and did not affect French secular rule (ibid.: 210). Likewise, the Muslim leaders did not interfere in political matters and decisions (Clark 1999: 16). The independence period of the 1960s saw Mali’s new political administration embarking on a secular, African socialist path with religious tolerance. Consequently, colonial policies towards Islam, which had proven effective during the colonial period, continued well after independence (ibid.: 18). After the military coup that ousted Modibo Keita, General Moussa Traore’s regime actively sought to win the support of the religious leaders by reinforcing Mali’s Muslim identity and encouraging adherence to Islamic principles (ibid.: 24).

Until the coup d’état in March 2012 that unseated President Amadou Toumani Touré and led to the military intervention by French armed forces in 2013, the country was seen as one of the most stable and peaceful democracies in the region (Soares 2012: 1). Nevertheless, it has had its fair share of discordance, the amendment of the 1962 Malian family law in 2009 being one of them. Since the political liberalization of the early 1990s, diverse actors both from within and outside of the country (i.a. members of the Malian government and civil servants, Malian (Muslim) women’s rights activists, secular NGOs, and international and bilateral donors) demanded changes of the Malian Family Code to drive forth ideas of women’s rights and gender equality (De Jorio 2009: 99). Proclaimed as a participatory democratic process of mutual agreement on how the Family Code can be amended, the newly installed Ministry of the Promotion of Women, Children, and the Family asserted the need for a pedagogical exercise to educate Malian citizens, “whom many Malian civil servants seem to have assumed would be pliant and docile” (Soares 2009: 418). Nevertheless, serious efforts to reform the law were not undertaken until 2002 and 2009, as during both incidents, massive uproars occurred. For almost 20 years the country remained undecided and unable to reach a consensus, despite the fact that all contesting parties recognized the need for amendments in the Family Code (ibid.: 427).

After the National Assembly adopted the New Family Code (NFC) on 3 August 2009, widespread protest ensued, forcing the President to send the bill back to Parliament for review. Declared by President Touré as a move towards a more secular and modern law (in terms of women's rights), the Family Code caused massive public uproar within Malian society and was deemed an insult to the Qur'an. These reactions attracted media attention, which highlighted that on both sides, both men and women were active participants (cf. King 2010).

As part of the wide media coverage, the documentary film *Family Code*, which specifically dealt with the impasse in 2009/2010, was aired on Al Jazeera. The filmmaker, Rebecca Stewart, a television and print journalist with a publication record on human rights and development for the BBC, PBS, The Guardian, etc., introduces herself in the film as having "long been interested in human rights in Africa." She takes the audience on a journey to understand why so many Malian people are against the NFC, and why there are so many women opposing it. Her description of the NFC as the main institution governing women's rights and being about gender equality is in line with many supporters of the NFC, who perceive it as being one of the most important instruments in improving women's status (cf. Schulz 2003). During her encounter with different actors, including religious leaders, 'ordinary' women and public figures, she often describes the amendment as enhancing the equality between women and men, thus provoking discussions about gender equality.

Nevertheless, according to some news resources, the protests occurred in response to the non-recognition of religious marriage and the general definition of marriage as a secular institution. There was also criticism that women were no longer required to obey their husbands and were to gain greater inheritance rights. In the next section we will discuss how in the documentary film different perspectives on the NFC, on the opposing and supporting sides, including the one of the filmmaker, were staged, and to what extent a dialogue on common ground could be envisioned.

Gender Roles Versus Gender Equality?

When talking to the filmmaker Rebecca Stewart about gender equality, the Imam of the Djingareyber mosque in Timbuktu, Abdramane ben Essayouti, stated: "Women and men can't be equal, it's impossible. We're either Muslim or we're not." Even though he concedes that women have rights and responsibilities, he emphasizes that none of them make them equal to men, and therefore marks a strong difference between women and men. Another respondent, Hadja Safiatou Dembele, the president of the National Union of Muslim Women's Associations (NUMWA), similarly argues against gender equality by saying that "women, when carrying out religious practice as Muslims, for example in prayer or when making their pilgrimage, are equal. But within the family the man is superior to the women."

In the documentary, references to distinct gender roles are made not only by opponents of the NFC but also by its proponents. While Imam ben Essayouti argues,

“Men are leaders, protectors and supporters of their wives,” the lawyer, human rights campaigner and supporter of the idea of gender equality, Fatimata M’baya, refers to gender roles herself: “The Qur’an never speaks about women in terms of inferiority. [...] It speaks about women in terms of vulnerability and as sensitive beings who need to be nurtured and supported.” The importance of the division of responsibilities, roles and functions within the family, which are mobilized as a justification for opposing gender equality, were equally utilized to object to the amendments of the NFC. It is on the basis of these gender roles that social order is maintained and an amendment to the 1962 family law is seen as a threat to normative gender relations. This is further reiterated by Hadja Safiatou Dembele’s argument: “Those women who support the Code are thinking about their own lives and not the whole of Mali.” Here it becomes apparent that this is a point of dissent between the NFC’s opponents and the filmmaker, who, at several points during her documentary, states that women are the most affected by the New Family Code. The nuances implied in the statements by Dembele and the filmmaker both point to the opposing relation between collectivity and individuality. References to society at large were brought up by opponents of the NFC as well.

A Normative Idea of the Muslim Collective

Evoking the normative idea of a good Muslim as a strategy to rebuff the NFC was employed by many opponents of the NFC. This can be exemplified by the following statement by Dembele: “I can’t say this applies to everyone but most people will never leave their religion for this Code. A minority amongst the intellectuals might but even some of them side with the Muslims.” And in a BBC online article she was quoted saying: “The poor and illiterate women of this country, the real Muslims, are against it.” For Dembele, the ‘real’ Muslim opposing the NFC seems to be the poor and illiterate Malian (women). Those that indeed support the NFC would have to give up their religion. In doing this, she exploits the idea of a Muslim collectivity.

The image of ‘the Muslims’ is also reinforced by the filmmaker when she visits a Touareg family in Northern Mali. Stewart says that she “did not expect” to hear that the women from an “educated family” did not know about the NFC. When she explains the NFC as an effort towards gender equality, one of her female interview partners responds that this would not be possible since “men are in charge, that’s true for all Muslims who believe.” Here it is important to bear in mind that women’s understanding of the NFC is filtered through the filmmaker’s perspective: That the NFC is primarily about gender equality. Their objection and explanation, “that’s true for all Muslims who believe,” further constitutes the idea of a Muslim collective. Likewise, the statement by Imam ben Essayouti that “we’re either Muslims or we’re not” conjures up a uniform entity of the Muslim, whose values and thoughts cohere. There seems to be no room to maneuver what might be in-between *either* and *or* extreme positions. Additionally, the Imam emphasizes that “[w]e Muslims already have a Code. The Qur’an is our Code, because the Qur’an is a book which

governs all of society.” This not only reinforces the identity of Muslims, but also that of Muslims having the Qur’an as their only code and nothing else. It also has the implication that this is not open for discussion and, hence, there is no need to change the Family Code because it is all written down in the Qur’an. His argument that the Qur’an governs all of society depends on a particular interpretation of the Qur’an that is conveniently effaced.

Secularism Versus Religion

What we also see in the above-mentioned statements by Dembele, the Touareg family and the Imam is a construction of an antagonism between the NFC and the Qur’an and at the same time the construction of a contradictory relationship between ‘modern’ secular law and religion. It seems as though the NFC and the Muslim faith and practice are incompatible. Even Stewart reinforces this image when asking the human rights lawyer M’baya “how Fatimah, herself a devout Muslim, reconciled her faith with her work.” M’baya as a promoter of women’s human rights has to legitimize her Muslim faith. Following this portrayal by the filmmaker, her engagement with women’s human rights seems incomprehensible.

This difficult relationship is further complicated by the image of the all-encompassing nature of faith. Even the Republic’s mediator, Matumbam Dialoh, the person charged with assisting the parties involved in the negotiation process in order to resolve the dispute and one of the strongest supports of the NFC, acknowledges:

I think that being a Muslim isn’t just about saying you are a Muslim. It’s not about wearing a turban, a boubou or a veil. It’s in here [we see her pointing to her heart]. It’s faith. It is the way you behave, the way you do things. It’s something personal.

This resonates with the central argument of one of the opponents of the NFC, namely Dembele, that it is “incompatible with the practice of Islam.”

Another line of argumentation constructs the image of two opposing sides between the Muslim populace and the ‘secular’ government in power: in one scene in the documentary, the Republic’s mediator Dialoh asks, “Does the High Islamic Council know that in the Malian constitution it says that Mali is a secular state? It’s not an Islamic republic. And because it is a secular state, they cannot force all Malian people to conform to the precepts of Islam.” In a countershot we see Dembele saying that in “Mali, 90–95 % of the people are Muslim. This majority needs to be considered. We can’t ignore the majority for a minority. That’s not democratic.” We then hear the mediator stating that while being a Muslim indeed governs your whole life, “[...] to want at any cost to impose those rules on others, that’s when things start to go wrong.” The last scene of this sequence shows Dembele again, remarking: “What we want is a Code that is adaptable to our customs, traditions and religion. That’s the problem. That’s our problem.”

These arguments show that their views on democracy and the question of who has (more) legitimate rights of determination diverge. Most of the protagonists who

are interviewed are actually addressing the controversial and conflicting norm of which kind of ‘demos’ counts more: the secular or the Muslim one? Whereas Dembele makes a strong case for not excluding citizens with a categorical religious affiliation from democratic processes, the mediator points to some important functions of democracy—namely, to protect minorities. This highlights how the protagonists in the documentary cement their own position, even as it outlines the complexities and difficulties in any attempt to find common ground. In the next section, we will elaborate on their views on exploring a way out of this impasse. As will be shown, their attempts mainly lead to a monopolization of their own standpoint as being ‘universally right’ (Bourdieu 2012).

Achieving Common Ground?

With regard to the discord surrounding the NFC, the aforementioned participants in the debates suggest different ways out. The filmmaker, the human rights lawyer and the Republic’s mediator all stress the need for persuasion: This implies awareness-raising and information about “what this code really means.” As the mediator points out: “We didn’t make enough effort to help people understand it. If you don’t do that there will always be people, not necessarily with bad intentions, who have a different view point to you.” The filmmaker concludes that

the problem is neither the law nor religion, but misunderstanding and lack of education and awareness. Mali is one of the poorest nations in the world. 80 % of the women here never went to school. Perhaps until those problems have been confronted it would be difficult for Malian women to make up their own minds about what this Code really means.

Throughout the documentary, Stewart repeatedly emphasizes the importance of education, which is not understood in terms of ‘religious’ knowledge or knowledge based on everyday experience, but institutionalized knowledge acquired at school that translates into knowledge about rights and ‘free will.’ Without this kind of education, women would not comprehend what the NFC (and women’s rights) “really means.” The solution is presented in terms of a pedagogical exercise to accomplish persuasion,¹ which helps to further consolidate this position as the universally right one. This (re-)establishes an asymmetrical relationship between the conflicting parties making negotiation amongst equals impossible. On the side of the opponents, Dembele is one of the few who seems to point a way out, and her solution is to make the code compatible with Muslim faith: “What we want is a Code that is adaptable to our customs, traditions and religion.” This implies that it is the NFC that has to conform to her position, which does not need to be reconsidered. Her solution seemingly defends the Muslim faith, practice and identity, thereby staging her position as universally right (at least for Muslims).

¹The idea of educating the opponents resonates with the standpoint of Malian civil servants that aim to persuade “docile” Malian citizens (Soares 2009: 418).

Throughout the documentary, different strategies are deployed by different actors to fortify their position and solution as the universally correct one, be it the reading of the Qur'an (like the Imam), or the ideas of the Muslim collectivity (Dembele, the Imam and the Touareg family), or requiring the interlocutors to explain and justify their position (which the filmmaker does with the opponents of the NFC), or by emphatically emphasizing the universal validity of women's rights (the filmmaker and Fatimata, who at no point question it).

Although they share a common topic of discussion, namely the NFC, all the involved actors are preoccupied with pushing their own agendas and therefore fail to acknowledge or perceive the other's differing point of view. This makes us wonder if the filmmaker's approach to the question of rights and those of her interlocutors overlap and how understanding can take place. Whereas the filmmaker focuses on individual women's rights and autonomy, Dembele and the Imam foreground the preservation of the Muslim collectivity and social order. Interestingly, both of their otherwise opposing agendas succeed in silencing other voices. While Dembele claims to speak for the Muslim collectivity, while creating a silenced collective, the filmmaker does not take into account the rest of the people affected by the NFC, such as men, elderly, children etc. This is an exemplary case of how instead of facilitating exchange, dialogue can buttress unyielding positions, making the task of finding common ground in order to come to a mutual agreement not only difficult, but even impossible (cf. Bourdieu 2012). The next section will engage with different feminist approaches to dialogue, which aim at reconciling antagonistic standpoints on the dynamics between women's rights, religious faith/practice and society at large.

Envisioning Dialogue on Common Ground: On Islamic Grounds

As Margot Badran states, "citizens in secular Muslim-majority states have for the most part achieved legal and practical equality in the secular public sphere of state and society while gender inequality reigns in the private sphere of the family, which is regulated by patriarchal laws" (Badran 2010: 10). The public/private distinction addressed here is reminiscent of Hannah Arendt's argument that the polis was different from the household in that the polis was a space of equals whilst the household remained strictly unequal (Arendt 1958: 33). In contrast to the opponents of the NFC in Mali, we would propose that the gender inequality that reigns in the private sphere of the family in many Muslim countries can largely be traced back to patriarchal norms and laws and is less about religion or Islam. However, there has been a gradual shift towards mobilizing religion as a tool to legitimize women's rights. Morocco is a case in point. The Moroccan family code known as Moudawana was amended in 2004 and redefined the "family in terms of a partnership between

two equal, modern Muslim citizens” (Eddouado 2010: 14). In his opening speech to the Parliament, King Mohammed VI stated:

[We] adopt the tolerant principles of Islam in advocating human dignity, and enhancing justice, equality and good amicable social relations, and with the cohesiveness of the Malekite School as well as *ijtihad* (juridical reasoning), which makes Islam valid for any time and place, to implement a modern Moudawana for the family, consistent with the spirit of our glorious religion. (Global Rights 2005: 6)

Furthermore, he argued that he does “not consider the Moudawana as a law for the woman only, but a Moudawana for the entire family—father, mother and children—and further ensures that this Moudawana eliminates discrimination against women, protects the rights of children and preserves men’s dignity” (ibid.: 6). This argument by King Mohammed VI manages to bring both standpoints expressed in the documentary by the supporters and opponents of the NFC together. As laid down by the Moroccan sovereign, the revised Moudawana is based on the principles of Islam and compatible with the religious normative order.

Another important aspect is the role of Islamic feminism in the reform of the Moudawana. Although many scholars attribute the success of the family law reform to the relentless hard work and activism of liberal feminists in Morocco (Eddouado 2010: 14), we see the link of Moudawana to Islamic feminism due to its strong emphasis on the compatibility of Islam with women’s rights. Badran defines Islamic feminism as a

feminist discourse and practice that derives its understanding and mandate from the Qur’an, seeking rights and justice within the framework of gender equality for women and men in the totality of their existence. Islamic feminism explicates the idea of gender equality as part and parcel of the Qur’anic notion of equality of all insan (human beings) and calls for the implementation of gender equality in the state, civil institutions, and everyday life. (Badran 2006: 1)²

The argument that Islam is compatible with human rights is also supported by feminist theologians, who argue that the Qur’an itself is not the problem, rather how it is interpreted is the bone of contention. As pointed out by Valentine Moghadam, “the rereading of the Islamic texts is a central project of Islamic feminists,” who by engaging in new interpretations of Islamic texts may challenge norms, laws and policies that are founded on orthodox, literalist, or misogynist interpretations (Moghadam 2002: 1155).

The strong accentuation of the compatibility of Islam with human rights by Islamic feminists flies in the face of the disparity drawn by and between Islamic and secular feminists. As Huma Ahmed-Ghosh explains,

[...] at its base, Islamic feminists use religion as a framework to define gender roles, structure of the family and community, and ultimately, its inclusion in the formation of the nation state in which the individual is subsumed. Secular feminists, on the other hand, base their rationale for women’s rights on a human rights discourse to enable and empower the individual in a secular democracy to create a civil society. (ibid.: 106)

²This does not imply that Islamic feminism is free of asymmetrical power relations, rather it is primarily concerned with reconciling religion with women’s rights.

One of the main critiques leveled against Islamic feminism is that its achievements in the reinterpretation of the Qur'an may obscure differences between Muslim women (see Moghadam 2002). In turn, Islamic feminists indict the normativity of secularism as "a Western imposition that belittles and marginalizes not just religions, but local cultural and moral values" (Ahmed-Ghosh 2008: 102). The antagonistic relationship outlined here between Islam and secularism is one that, as we have shown, is also evident in the documentary.

Ahmed-Ghosh proposes a way to deal with these divisions between Islamic and secular feminists. She argues that "one needs a comprehensive review of what local oppressions exist in specific countries and [...] what coalitional functions can occur in different communities which can bring together Islamic, secular, and womanist discourses in a hybridized form that attend better to women's lived lives and sense of personhood" (ibid.: 99). What this hybridity suggests is a bottom-up approach aiming at a deeper and more sensitive understanding of local contexts in order to bring the different feminist perspectives and discourses together for the sake of attending to the needs of specific contexts. However, this hybridized form only gives us part of the solution and is limited to what feminists ought to attempt to do when coming together to discuss women's rights vis-à-vis everyday social realities. What is missing in this account is what actually happens when different feminists engage with each other and with 'ordinary women.' In such encounters there is the risk of discrepancy between the normative ideas of feminist theories and the lived experiences of 'ordinary' women.

Different Visions for Grounded Dialogues

The starting point of any communication is to take into consideration the language and conceptual framing of the dialogue partner. In the face of the critique that feminist theories "fare worse when it comes to empowering women on the streets" especially in Muslim countries, Lama Abu Odeh underlines the importance of the interaction between academic feminists and 'ordinary women' taking place in their social cosmos (Abu-Odeh 1993: 31). This necessitates a careful consideration of their ways, of their perspectives and experiences: "In order to have a hearing with these women, she [the feminist] needs to 'hook up' with their conceptual system (rhetoric)." (ibid.: 36) To this end, academic feminists need to rethink possibilities of subverting and opening up this conceptual system, so that the "women on the street" may begin to perceive their lives differently (ibid.: 31). Along similar lines, Uma Narayan places a strong emphasis on tactical maneuvering that is nevertheless sensitive to the social context in which feminists pursue their 'humanitarian' agendas. In her view, 'Western' feminists in particular must be aware of the fact that "[f]eminism has a much narrower base in most nonwestern countries" and that women living in the 'third world' often live "in the context of a powerful tradition that, although it systematically oppresses women, also contains within itself a discourse that confers a high value on women's place in the general scheme of things"

(Narayan 2004: 215). When it comes to a dialogue between ‘Western’ and ‘non-Western’ feminists, Narayan sees two crucial issues that might impede understanding and political cooperation. On the one hand, ‘Western’ feminists often disavow their complicity in hegemonic structures and falsely “assume that their perspective has universal validity for all,” thereby once again perpetuating the dominance of ‘Western’ culture (ibid.). On the other hand, they are often confronted with the premature rejection of their agendas especially by ‘non-Western’ feminists who often treat their ‘Western’ sympathizers with suspicion. Narayan concludes that despite the ideological pitfalls on both ends, at least “*some understanding*” of the other’s experience and “*some sympathy*” might actually materialize (ibid.: 219f., italics in orig.). This coincides with Chandra Talpade Mohanty’s reflections on a relational transformative feminism and especially on her pedagogical strategies of the “*feminist solidarity or comparative feminist studies model*” that draws on antiglobalization critique (Mohanty 2002: 521, italics in orig.).³

Similarly, Aili Mari Tripp outlines a broader perspective on feminist politics that moves across national borders and explores the possibilities of a ‘transgressing dialogue.’ “Transnational feminism” facilitates interaction between women’s activists from the ‘global North’ and ‘global South’ to frame an “international women’s agenda” (Tripp 2006: 60). These international networks were especially successful in promoting the idea that ‘women’s rights are human rights.’ According to Tripp, there was acceptance of the fact that despite shared problems “*no one had a monopoly on the solutions*, thus laying a better basis for discussion” (ibid.: 62, italics by authors). For her, this “new universalism” culminated in the so-called rights-based approach that merged human rights issues and sustainable development concerns (ibid.: 63).⁴

But this universalism was challenged by those who defend distinct cultural practices and who perceive women’s rights as secondary to ethnic, religious, clan or other particularistic norms, practices and beliefs. Unfortunately, Tripp does not elaborate on this conflict, but merely indicates that it may be a matter of contention in “real-world political battles and accommodations” (ibid.: 64). She also remains silent on the question of how these reflections would be helpful in resolving the

³Mohanty describes her idea of feminist solidarity, which, in using a cross-cultural lens, focuses on mutuality, common interests, (dis-)connections and a sensitivity towards differences: “In knowing differences and particularities, we can better see the connections and commonalities because no border or boundary is ever complete or rigidly determining. The challenge is to see how differences allow us to explain the connections and border crossings better and more accurately, how specifying difference allows us to theorize universal concerns more fully.” (Mohanty 2002: 505)

⁴In a similar vein, Uta Ruppert states that the postulation “women’s rights are human rights” was conducive in consolidating transnational feminist politics. As a common denominator of women’s movements, the women’s rights approach was promising as a global approach which is simultaneously general and contextualized, valuing difference and the indivisibility of political, social and economic rights (Ruppert 2001). Hence, the macro-level of international politics could be linked with the micro-level of ‘everyday life,’ in spite of the continuing power asymmetries between ‘Southern’ and ‘Northern’ feminist activists as well as the adjustments to the ‘code of conduct’ of international forums (ibid., see also Antrobus 2004).

conflict of ‘universal’ women’s rights in a ‘particular’ context like the case of the NFC in Mali.

In the context of discussions regarding global feminist political activism, Nira Yuval-Davis negotiates the binarity of universalist ideas (like women’s rights) versus particularity (i.a. cultural or religious practice)⁵ and invokes the idea of ‘transversal politics’⁶ (Yuval-Davis 2006: 276) that is based on three principles: Firstly, there must be “a dialogical standpoint epistemology, a recognition that from each positioning the world is seen differently” and that “the only way to approach the truth is by a dialogue between people, and the wider the better.” Secondly, a “principle of encompassment of difference by equality” which means that the notion of equality should encompass the notion of difference and “assume a priori respect for other’s positionings, including acknowledgement of their differential social, economic, and political power.” Lastly, a differentiation between positioning, identity and values which are not always necessarily congruent (ibid.: 281). To avoid the peril of fixing and reifying bounded social categories and groups, transversal politics uses the techniques of ‘rooting’ (reflective knowledge on one’s positioning and identity) and ‘shifting’ (attempting to place oneself in the situation of the other). However, Yuval-Davis admits that the need for a shared value system could be a major drawback of the concept, as it requires a certain kind of epistemological community formed by members, even if they represent conflicting perspectives (ibid.: 284). Otherwise, the social positionings dominate, thereby hindering further dialogue—as we have demonstrated with regards to the debates in Mali.

In addition to the challenges that plague international struggles for ‘women’s rights as human rights’ and interventions offered by scholars like Abu Odeh, Narayan, Mohanty, Mari Tripp and Yuval-Davis, feminist activists (amongst others, see Hewitt 2011) and scholars (cf. Spivak 2001, 2005; Brown 2000; Grewal 2005a, b; Yuval-Davis 2006) are also concerned about the transnationalization of feminist agendas.⁷ The top-down nature of women’s human rights work through the ongoing professionalization and NGOization is a major point of concern (Ruppert 2001). In addition, the shift from concrete lived experiences to academic debates on abstract entitlements and the pluralization and diversification of social, economic and cultural rights is accused of overloading women’s human rights discourses and making

⁵Like many other scholars, Ann Phillips deliberates on these issues and develops the idea of a “politics of presence” (2001: 13) that considers questions of political representation and participation in the formulation of principles and policies which have to be carried out in form of a dialogue with the full involvement of all relevant groups as far as possible.

⁶This notion of ‘transversality’ was coined by Felix Guattari as a form of politics that involves the construction of a radical political group as a collectivity, “when there is a maximum communication among different levels and, above all, in different meanings” (Guattari 1984: 18).

⁷There are long-standing controversies over women’s rights which, due to reasons of space, we cannot elaborate in greater detail at this point. It is, however, important to state that the relationship between feminism and women’s rights discourse has always been a delicate one. First and foremost this is due to the fact that women’s rights—as human rights in general—were never self-evident or ‘natural’ forms of expressing claims and demands and, as Inderpal Grewal puts it, are subject to a “regime of truth” (Grewal 2005b: vii).

it too vague.⁸ Another serious accusation is that women's human rights discourses tend to victimize women, constructing them as being incapable of agency (see Spivak 2001).

Another aspect that needs to be discussed further and developed in greater detail is the importance of reaching out to other people, whose positionings are profoundly different to those of the main actors in dialogues, be it of class, nationality, ethnicity, gender, sex or age. Although there is a lot of discussion regarding the need to improve women's lives through better political participation, these discussions do not always consider the consequences of such changes on women's social environment, which include children, men, the elderly and society at large. Here the concept of 'negofeminism' by Obioma Nnaemeka is very instructive. For Nnaemeka, negofeminism can be characterized as follows:

First, *nego-feminism* is the feminism of negotiation; second, *nego-feminism* stands for "no ego" feminism. In the foundation of shared values in many African cultures are the principles of negotiation, give and take, compromise, and balance. Here, negotiation has the double meaning of "give and take/exchange" and "cope with successfully/go around." (Nnaemeka 2003: 377f., italics in orig.)

For Nnameka this implies that "African women do feminism; feminism is what they do for themselves *and for others*" (ibid.: 378, italics by authors), that they are more inclined to reach out and work with others in achieving set goals. Whereas 'Western' feminists and academics tend to emphasize challenge, disruption, deconstruction and tensions, "African feminism challenges through negotiation, accommodation, and compromise" (ibid.).

Conclusion

We hope to have demonstrated with the example of the documentary "Family Code" the form controversial discussions in Mali have taken over the past 20 years, wherein opposing standpoints are sustained and consolidated in the name of universality. We emphasize in contrast the importance of finding a common ground. In light of the public uproar, the former Malian president Touré did remark that "societal change is not ordered by decree" and that the "door of debate is still open." However, on 2 December 2011, the Malian parliament adopted the now modified text of the NFC (IRIN 2009), which states that "a woman must obey her husband" and that men are considered "head of the family" (FIDH 2011). We regret that a common ground was not achieved, but rather, the obvious differences in people's perspectives, based on their differing experiences and positionings, were disregarded. This demonstrates that when it comes to the universality of women's rights, particularity matters. In Mali, this universal norm found its limits, when many people opposed it on the

⁸Yuval-Davis warns against this tendency and cautions that feminist rights approaches may run the risk of being coopted by "neoliberal economist discourse of distributing microcredit to women as their road to salvation" (Yuval-Davis 2006: 291).

grounds that the NFC was a threat to their everyday social life and their Muslimness. Some of the promoters of the amendment, including the filmmaker, betrayed a narrow view on their assessment of the impact of the NFC, by solely focusing on women as individuals and not on society at large, which would equally be affected by changes to the family law. In contrast, in the case of Morocco, the family code was discussed as encompassing everyone in society and compatible with the Muslim faith. In the documentary, the already biased views of the actors on the NFC culminated in an impasse. Both opposing sides called on the universal but maintained their separate positions and were thus unable to find a common language.

Our deliberations on the idea of finding common ground by drawing on several theoretical approaches reveals the following: Firstly, when considering 'Islamic factors,' an openness to reinterpret the Qur'an and the specific experiences of oppression within a given context have to be acknowledged. Secondly, when it comes to interactions with 'ordinary women on the street,' those who promote women's rights need to aim for a dialogue that is cognizant of hierarchies of power and knowledge. Lastly, with regard to the general notion of dialogue that cuts across boundaries of different groups (of women, feminists, gender(s), religions etc.), any kind of negotiation must be respectful of differences as a starting point. We have shown that dialogue is made impossible when individuals monopolize universality to fortify their distinct standpoint. At the same time the different theoretical approaches show us that dialogue is an ongoing dynamic process that is never exhausted or completed but is part of the complex day-to-day negotiation of norms.

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“Cruelty Is Uncivilized”: Consent, BDSM, and Legal Regulation of the Civil(ized) Subject

Jordana Greenblatt

Introduction

While sexual consent is often understood as, at least at its most basic level, a common sense concept encapsulated by the 1970s feminist maxim “Yes means Yes and No means No,”¹ it is, rather, a volatily shifting social, legal, and theoretical construct. Who is deemed capable of saying “yes” or “no,” and to which acts, changes in accordance with normative—and always entangled—ideas of culture, the nation, and the legitimate social subject. As Pamela Haag (1999: xv) puts it in *Consent*, consent is “a social ... artifact,” which “is always an interpreted idea, not an idealized abstraction.” Producing a changing body of desires as outside of cultural intelligibility and incompatible with the acceptable social subject, ever-malleable legal and social concepts of consent are mobilized in the service of ‘civilized’ norms. Via its centrality to the social contract, consent is as important to civil identity as to sexuality. A particularly potent regulatory site, it is the node at which the metaphorical body of the nation and the corporeal bodies of its inhabitants in sexual relation are juxtaposed; consent is redeployed and redefined in legal contexts and in public discourse as a means through which the regulation of sexual desire and practices constructs national identity in accordance with normative ideas of ‘civilization’ and ‘barbarity.’ In cultural definitions of consent, ‘civilization,’ normative ‘Western’ models of family, and normative gender performances are mutually constitutive.

The normativizing function of legally defining ‘consent’ differentially in relation to marginal sexualities is particularly prominent in the UK’s *R. v. Brown et al.* (1993),

¹ Albeit with the caveat that there are still numerous problematic cultural discourses about “no” not *really* meaning no, notably the all-too-persistent belief that sometimes a person (almost always a woman) who says no is “just playing hard to get.”

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or “the Spanner Case.” Although certainly not the only legal case (or national court system) to do so,² the Spanner Case is the most famous to disregard the validity of participants’ consent to sadomasochism. The case involves a group of gay male sadomasochists who were successfully prosecuted for assault despite the objections of their willing sexual partners. In it, connections between regulating sexual and (‘Western,’ imperial) national borders through discourses of civilization and barbarity are explicit. In rejecting the Spanner defendants’ appeal, Lord Templeman (*R. v Brown* 1993) of the British House of Lords famously writes: “Pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilized.” Sexual normativity is legally produced as intrinsic to the civil order, marginal sexual tastes and performances as its cruel, barbaric ‘other.’

I draw on the Spanner Case to explore connections between legal definitions of consent and discourses of civilization and barbarity. I first discuss how the suturing of sexual and national norms, through paralleling the integrity of the citizen’s body and the body of the nation, defines consent to the social contract as inevitable and consent to bodily ‘violation’ as fundamentally anti-social. ‘Western’ nations, here specifically the UK, paradoxically couch ‘antisocial’ sexual dissidents within the same rhetoric of ‘barbarity’ that they use to criticize ‘non-Western’ nations for their treatment of sexual dissidents, as I next discuss. From there, I turn to considering how constructing the space of the home as producing ideal masculine citizens—a model of citizenship from which sexual dissidents are explicitly excluded in *Brown*—serves to excuse both the family and rough, but normative, homosocial activities as sites of productive, ‘civilized’ violence. I draw on this analysis to demonstrate how normative practices and citizens are legally and discursively produced as consenting and non-violent and sexual dissidents as unconsenting and barbarous. This rhetorical strategy also participates in the discursive legitimization of imperial impositions of ‘Western’ models of family and citizenship as not, themselves, violent.

Nevertheless, as I next discuss, England’s violent history of imposing its familial, sexual, and gender models internationally contributes to a colonial legacy of instrumentalizing sexual oppression to build national identity. This tactic now exists in both ‘Western’ and postcolonial contexts, as postcolonial nations themselves contend with England’s remaining legal and discursive traces. In turn, the construction of masculine citizenship through opposition to a barbarous and threatening ‘other’—apparent in the Spanner Case—continues to discursively justify ‘Western’ imperial violence as a legitimate response to threats to civilization itself. A commitment on the part of citizens to a shared concept of bodily integrity, I then contend, is necessary for legitimating imperial state violence. It is also necessary for maintaining the state’s monopoly on legitimate punitive violence, which is why the integrity of the borders of white male citizens’ bodies must be so vigorously juridically policed. Finally, I discuss how the conditional granting of rights serves as

²The United States, for example, also has a history of prosecuting BDSM as assault and denying the possibility of consent to assault, dating to a (still cited) 1967 California decision, *People v Samuels*.

disciplinary regime. Through the ever-present threat of losing the rights associated with citizenship, marginal bodies and subjects are coerced into conforming, as much as possible, with the familial, affective, social, and sexual structures of the white, 'Western,' masculine ideal citizen.

Consent, Sexual Normativization, and the Civil Subject

Regulating normative sexual identity in the service of producing national identity has an extensive history in both colonial and postcolonial contexts, as the suturing of sexual and national/cultural norms still extant in colonizer nations also has ongoing aftereffects in their former colonies, to which I will return. Through this suturing, consent becomes the locus at which establishing and regulating sexual norms also normalizes social roles and the production of individual-as-citizen. Writing with respect to American public discourses and legal regimes, Haag (1999: xviii) contends that "consent is the soul of liberalism's social practices, and figures prominently in the legitimation of its social roles." Presenting cultural definitions of 'consent' and 'violence' as central to modernity, Haag writes that

the historical process of moving from classical to modern liberalism has occurred in part through the mobilization of "violence" and "consent," particularly as they apply to sexual relations. Because the naming of an action as "violent" stipulates it as a trespass against a subject's integrity, it necessarily modifies a culture's concept of normal subjectivity. (ibid: xix)

This conjunction of social power, consent, social roles, and the legitimate subject/citizen operates and is of interest in contexts far exceeding Haag's American focus. In "Consent and the Body," Elaine Scarry (1990: 880) points to the more general "kinship between the boundaries of the nation-state and the body in consensual relation." This kinship means that the crossing of normative sexual boundaries has implications for a given individual or group's position as part of or excluded from the body of the nation. The threat to the integrity of the national body posed by sexual boundary crossing is often rhetorically deployed in legal decisions and in public discourse to justify curtailing sexual rights. The way in which 'consent' and 'violence' are defined in a given cultural moment is key to how normative subjects and citizens are perceived and produced within that culture; those who deviate from the subject-with-integrity are denied the capacity to give meaningful consent. Yet they are inevitably bound and punished by the rules of the social contract—to which consent is pre-emptively presumed.

The manner in which 'consent' and 'violence' are constructed differentially is particularly explicit in cases dealing with sadomasochism; however, these two concepts are inevitably embedded in structures of gender, governmentality, nation, and 'civilization' that may appear most overtly in regulation of certain kinds of dissident sexuality, but whose effects and discourses cut through all of them. Legal and public debates associating sexuality and national identity, particularly in the contemporary

era, have most broadly regarded homosexuality and sex work. However, historical governance and discourses of the family, which variously oppose queer sexualities to or subsume them within social norms, inevitably bear, through constructions of legal rights, cultural identity, and hierarchies of gender, on sexual dissidence more generally. If, as Scarry argues, the boundaries of the nation—and of ‘civilization’ and the citizen’s place within both—are metaphorical enlargements of the normative body and the crossing of its boundaries in consensual sexual interactions, then those who cross the wrong *bodily* boundaries—by extension, those of normativity itself—cannot be recognized civil subjects, ones capable of consenting to the very acts that they most desire. In case law pertaining to perverse sexuality and in public discourses surrounding it, those who willingly cross the wrong sexual boundaries metaphorically cross the boundaries of the state. Simultaneously, they ‘consent’ (no matter how unwillingly) to a social contract that excludes them from the civil and the very ability to give consent and they cement their own exile from it. As Monique Wittig writes in “On the Social Contract,” “*Outlaw* and *mad* are the names for those who refuse to go by the rules and conventions, as well as for those who refuse to or cannot speak the common language” (1992a: 40, italics in original). Those whose voluntary sexual encounters deviate from cultural norms thus demonstrate themselves to be bad and dangerous (“outlaws”) or lacking the capacity to determine their own desires and self-interest (“mad”). Crossing their own bodily boundaries in ‘uncivil’ ways, such sexual outliers leave (or are denied) the acceptable, legible categories of sociality.

Sexual Dissidence and the Rhetoric of ‘Barbarity’

Despite the tendency for ‘Western’ nations to disavow their own propensities for sexual regulation in favour of narratives in which they are progressive and tolerant and their former colonies are barbaric and repressive, the entanglement of sexual dissidence and the rhetoric of ‘barbarity’ is far more complex. When it is convenient for supporting imperialist ends, the repression of sexual minorities in ‘non-Western’ nations is easily couched as barbaric. At the same time, sexual dissidents in ‘Western’ nations are often still also delegitimized as barbarous. ‘Barbarity’ becomes a term both for foreign and domestic ‘others,’ often simultaneously. Indeed, the British legal framework within which the Spanner Case defendants were prosecuted and failed to win their appeals is itself a lasting trace that cuts through the existing laws of many of the countries that England formerly occupied and colonized; in them, laws criminalizing homosexuality are direct effects of Britain’s previous ‘civilizing’ projects.³ Contemporary British cultural discourses may promote

³ British imperial laws against homosexuality continue to exist in a much larger postcolonial context than can be discussed in the context of this paper even in passing, including a number of English-speaking Caribbean nations and Gaza, in which the position of queer people often features in international news, for the former, and public justifications of military repression, for the latter.

the decriminalization of sodomy in 1967, the equalization of the age of consent at 16 for gay male and heterosexual intercourse in 2000, the repeal of section 28 (which forbade local authorities to promote homosexuality and schools to teach the acceptability of homosexuality) in 2003, and more recent promises to institute same-sex marriage as signs of progressive, civilized values supposedly lacking in former colonies where queer sexuality is criminalized or under debate. However, as Carl Stychin (2003: 33–34) points out in *Governing Sexuality*, in the debates resulting in age of consent equalization and the repeal of section 28, “the traditional heterosexual family is recentred ... [W]ithin these narratives of family life, gays are placed, not within families of choice, but back from whence they came: in their families of birth. They are centred in the nuclear family home ... [B]igotry becomes an attack on the family as a unit.” Not only is the UK’s domestic system of laws and legal precedent responsible for the criminalization of sodomy in numerous locations around the world, it is, itself, still profoundly gendered and invested in very restrictive ideas of family. This gendering is notably continuous with historical and contemporary conservative positionings of queer bodies, lives, desires, and acts in opposition to culture and/or civilization.

Gendering Citizenship in *R v Brown*

Deploying gendered models of citizenship, subjectivity, and social value, the presiding Lords in *Brown* contrast ‘civilized,’ ‘manly’ pursuits, such as sports and horseplay, with ‘barbaric,’ ‘unmanly’ perversion. Gender is central to how the proper national citizen is constructed; as Wittig (1992a: 35) argues, “The question of the sexes, which itself delineated very narrowly the general design of society, if approached from a philosophical point of view, encompasses and embodies the general idea of social contract.” Gender and sexuality are overtly embedded in the production of citizens who adequately act their ‘consent’ to the social contract, as demonstrated by the presiding Lords in the *Spanner* Case, just as (normative) gender, per Wittig, functions as a social contract itself. Lord Lowry (*R. v. Brown* 1993) writes that “the practice of homosexual sado-masochism and the physical cruelty that it must involve ... can scarcely be regarded as a ‘manly diversion.’” Lord Jauncey (*ibid.*) contrasts sadomasochistic practice with exceptions to the rule that consent is not a defence when bodily harm occurs, “includ[ing] friendly contests with cudgels, foils or wrestling which were capable of causing bodily harm, rough and undisciplined sports or play where there was no anger and no intention to cause bodily harm and reasonable chastisement by a parent for [*sic*] a person in loco parentis.” Comments like Lowry’s and Jauncey’s, formally enshrined in the construction of British national identity through their status as binding legal decisions, closely associate the normalization and regulation of ‘Western’ masculinity with regulating the family and the space of the home as a central unit of social cohesion. They explicitly excuse both masculinity and the home as socially productive and ‘civilized’ sites of violence.

While Lord Templeman (*ibid.*) writes that “sex is no excuse for violence,” the male enactment of violence in socially legitimated formal and informal masculine contests and the discipline of children within the home serve to reinforce normative subjectivity, and Templeman and the other Lords thus treat them as legally valid. The chastisement of children, the Lords imply, encourages them to grow into the normative (implicitly male) citizen, whose normative gendering is reinforced through ‘manly diversions.’ Meanwhile, sadomasochism, no matter how consensual, “trespass[es] against a subject’s integrity,” to use Haag’s (1999: xix) terms. However, the integrity that is compromised in such interactions is not that of the *individual* subject, but that of the national ideal of the subject-citizen. As Carl Stychin (1995: 122) argues with respect to the Spanner Case in *Law’s Desire*, “the hurt [to which consent cannot be a defence] is inflicted both upon the individual body and upon the body politic.” Indeed, as Stychin notes, even situations in which roughhousing results in significant harm to the individual body are considered to do less harm to the body politic than consensual sadomasochistic activities in which bodily harm against the individual is carefully controlled. Considering *R. v. Aitken et al.*, a British case in which “horseplay” resulted in severe burns to a resisting “participant,” Stychin writes that

the use of [the] term [“horseplay”] demarcates a clear boundary between the homosexual practices of the defendants in *Brown* (which cannot be thought of a manly diversions) and the homosocial ... activities in *Aitken*. The term horseplay conjures up innocent school-boys—precisely the innocents who ... are in need of protection from the accused sadomasochists. (*ibid.*: 125)

Functionally, then, acts of violence against “innocents” that are neither wanted nor enjoyed, either in the course of out-of-control roughhousing or through the “lawful chastisement” of children, are considered to be non-violent and productive of a civilized body politic. On the other hand, the consent of participants to ‘barbaric’ non-normative sexuality, which is framed as doing great harm to the body politic, is considered definitionally “worthless.” Consent is both defined as only belonging to the normative subject and serves to define it.

Consent, (‘Non’)violence, and the Normative Family

Lord Templeman (*R. v. Brown* 1993) delineates the worthlessness of consent to harm for the sake of sexual pleasure in his assertion that “the practices of the appellants were unpredictably dangerous and degrading to body and mind and were developed with increasing barbarity and taught to persons whose consents were dubious or worthless.” Lord Lowry (*ibid.*, my emphasis) similarly devalues the capacity of sexual dissidents to give consent in referring, at the beginning of his decision, to “the consent of the victim, as I shall call the *willing* recipient of the sado-masochistic treatment.” Practices constitutive of normative ideas of citizenship and gender are thus defined as non-violent and consensual, while those that

deviate from them are defined as 'barbarous' and non-consensual, their participants "victims." The wantedness or pleasure of the activity is irrelevant, its very wantedness used as evidence that those who desire pain are incapable of given meaningful consent—and, by extension, incapable of being true citizens of 'civilized' nations. Indeed, "reasonable chastisement by a parent" is listed among practices for which *consent* constitutes a defence, despite the fact that, from the perspective of children so punished, such chastisement is generally neither wanted, enjoyed, nor voluntary, even implicitly. Consent, then, takes on meanings significantly divorced from its lay understanding as "that which separates wanted and unwanted interactions," functioning, rather, as that which separates that which is defined as strengthening the body politic and that which is defined as harming it. Thus, like the chastisement of "innocents," the imposition of 'Western' models of family and citizenship both domestically and internationally are not, themselves, framed as violent, despite their centrality to military colonial regimes. By contrast, models of family, relationships, and sexuality that fall outside of them are deemed irremediably violent and thus antisocial.

The regimentation of family life, and the gendered social roles that circulate around it, is itself central both to colonial projects and to national self-definition, as well as being a key site at which 'consent' and 'violence' are differentially defined. In the American context, Haag notes early twentieth century campaigns against (largely long-distance) arranged marriages among immigrant populations, which—resonating with contemporary debates about sex work—elide distinctions between human trafficking and consensual marriage and position immigrant women as fundamentally incapable of making their own choices. As Haag (1999: 95) writes in considering "the interarticulation of sexual and political modernity in two bourgeois discourses of citizenship, one that espouses a romantic-racial 'uplift' of the immigrant to citizenship and another that endorses the exclusion of 'savage' races not conversant in the protocols of modern heterosexual relations," such arguments were used to position minority populations as inimical to democracy. Normativizations of conventional, middle class, 'Western' familial models, with their associated affective and sexual structures, serve to justify both imperial colonial projects and the marginalization or exclusion of minority populations within imperial nations. Colonial movements outward enact 'uplift'; refusing and marginalizing minority populations domestically protects 'democratic' nationalist family values from 'savage' incursions.

And, like the early twentieth century American discourses about arranged marriage discussed by Haag, the arguments rejecting the Spanner defendants' appeal to the House of Lords uphold gendered models of family, sexuality, society, and public/private distinctions continuous with colonial social regimes and similarly serve both expansionist and protectionist ends. To expand Lord Jauncey's comment, above,

sado-masochistic homosexual activity cannot be regarded as conducive to the enhancement or enjoyment of family life or conducive to the welfare of society. A relaxation of the prohibitions ... can only encourage the practice of homosexual sado-masochism and physical cruelty that it must involve (which can scarcely be regarded as a "manly" diversion). (*R v Brown* 1993)

Here, manliness (“manly diversion”), the preservation of the normative family (“family life”), and the social good (“the welfare of society”) are linked and explicitly opposed to (specifically) homosexual sadomasochism. As Anne McClintock notes in her own discussion of *Brown* in “Maid to Order,”

activities such as boxing, football, rugby or cosmetic surgery apparently constitute, in the eyes of the law, well-recognized cases of licit, consensual bodily harm, for they are conducted for “good reason,” that is, for the profitable, public consumption of “natural” female vanity, “natural” male aggression and the law of male, market competition—for the proper maintenance, that is, of heterosexual difference. (2004: 246)

In the service of maintaining normative, interlinked structures of family, gender, and economy and forbidding the pleasures and choices that fall outside of them, ‘consent’ is legally and socially defined as the former and ‘violence’ as the latter, both domestically and in the context of colonial expansion.

England’s Colonial Legacy of Sexual-Oppression-as-Nationalist-Discourse

Unsurprisingly, then, rather than contrasting with sexual discourses and legal regimes in geographic locations associated with ‘barbarity’ in the ‘Western’ imaginary, the gendered framework of sexual regulation in the UK, elucidated by the Lords, strongly resembles conservative arguments for the legal restriction of sexuality in nations still affected by its colonial history. Such similarities reflect the lasting effect of imperial laws and social structural clusters on public discourses of sexuality transnationally; the deployment of sexual politics in constructing postcolonial national identities is inevitably marked by historical colonial impositions of gendered relations of power and sexual hierarchies. In considering a number of legal battles relating to sexuality in India (including sodomy laws,⁴ satellite broadcasting, and sex work), Ratna Kapur claims that “[i]n each of the controversies, the rallying cry is one of ‘Indian cultural values’ in which it seems that *all* sides of the debate stake their claim to being the ‘true’ protector and promoter of Indian cultural traditions” (1999: 354, emphasis in orig.). Jennifer R. Spruill (2001: 4) similarly positions the debate in South Africa “about homosexuality and colonialism [as one] between an ethno-nationalist perspective that sees homosexuality as foreign to Africa and one insisting on the presence of homosexuality throughout African history.” ‘Western’ discourses of sexual regulation hinge on normative ideas of ‘civilization’ and ‘barbarity,’ either, as with Lord Templeman, in the service of criminalizing dissident sexuality domestically or, through framing the persecution of homosexuality by targets of contemporary ‘Western’ invasion as ‘uncivilized,’ to provide moral justifications for what are really economically and politically motivated military decisions. Postcolonial discourses of sexual regulation, on the other hand, tend

⁴Which have been struck down and reinstated since the publication of Kapur’s article.

to hinge on the terminology of 'authentic,' 'traditional,' or pre-colonial 'culture.' As Spruill (ibid.: 5) puts it, "The search for a pre-colonial past produces inventions of authentic presents that serve to remedy colonial history as well as perceived political weaknesses of the present and future." Rather than representing binaristically foreign outsiders to British deployments of sexuality in constructing national identity, postcolonial legal and public debates about the legitimacy of sexual dissidence and its relationship to 'culture' and 'nation' necessarily contend with imposed British legal and social structures. These contentions can be discursively quite similar to contemporary British justifications of sexual regulation, despite efforts (on both parts) at disavowal.

In opposing a true or ideal domestic culture with an (in this case actually violent) national exterior in the form of colonial oppressor states, such postcolonial rhetoric draws on the same suturing of sexual threat and threat to the body politic evident in the British Lords' decision and the nationalist discourse in which it is embedded. Sexual oppression couched in nationalist discourse is England's colonial legacy, not its barbaric exterior. Kapur (1999: 356), for instance, points to the continued mobilization of colonial discourses of gender and power in conservative Indian nationalist arguments against the decriminalization of sex work, which cast "[t]he western white male ... as a sexual conqueror who is tearing through the cultural hymen and leaving fallen women and a fallen culture strewn in his wake." The same regulatory structures and discourses of family and gender that appear so prominently in the Spanner Case's strategic differential definitions of 'consent' and 'violence' are, themselves, historical colonial impositions that result in sometimes very similar consent/violence mobilizations elsewhere. Kapur (ibid.: 357) notes: "[s]tories about sex have been tethered to an essentialist understanding of culture [which] have been sutured together as a result of the nineteenth-century colonial encounter and nationalist resistance," where "women and the private sphere of family and home were recast as a space of pure Indian culture uncontaminated by the colonial encounter." The 'private' sphere of the home and family, purportedly uncontaminated by politics, yet central to cultural norms, is itself a core nineteenth century imperial ideal, one still evident in the House of Lords decision. And, like the idea of the home as a space free of violence, be it colonial violence or, as Lord Templeman (*R v Brown* 1993) puts it, the "evil thing" that is "pleasure derived from the infliction of pain," the construction of masculine homosocial roughhousing as a site of intrinsically licit and productive violence reflects and reproduces itself in nationalist discourses in England's postcolonial wake.

Masculinity, Citizenship, and the Legitimation of Western Imperial Violence

The discourses of manliness and masculinity that define the ideal British citizen/subject and justify his violence reflect broader gendered dynamics and discourses of empire and colonization with continuing centrality to postcolonial nationalist argu-

ments, as well as the regulation of national identity evident in cases such as *R v. Brown*. According to Patrick Hanafin (2001), conservative Irish nationalist discourses attempt to reverse relationships of colonial masculinity and colonized femininity by replicating the over-valuation of normative masculinity in defining the civil subject. Framing homosexuality as a colonial contaminant, “the colonized attempted to turn the tables on the colonizer by calling into question on the symbolic level the masculinity of the colonial power” (ibid.: 54). Hanafin (ibid.: 55) represents the Irish legal persecution of queer sexuality as “an attempt to repress the country’s past humiliation at the hands of the imperial power, and to reassert the nation’s manhood in the homosocial locker-room ambiance of interstate relations.” Defining the (postcolonial) nation as masculine and heterosexual and its antagonists as effeminate and queer becomes another form of ‘manly’ locker-room roughhousing, which, as in the UK, is framed as producing an intrinsically consenting, normative, implicitly male subject and citizen. International ‘friendship,’ then, is acceding to the rules of homosocial masculinist roughhousing. The ideal, normative, masculinist, ‘civilized’ subject is entitled to enact ‘licit’ violence; the unmanly pervert is not.

Such regulation acts, in part, to define the home and family as fundamentally nonviolent spaces of innocence and manly “locker-room” roughhousing as licit expression and affirmation of normative, masculine citizenship, which contrast with ‘barbaric,’ fundamentally violent spaces of sexual excess. It also acts to redefine colonial violence on the part of ‘Western’ nations either as essentially non-violent or as necessary and legitimate responses to threat. The ‘non-violent’ space of the home aims to incubate appropriate masculine subjects who know which borders their violence should cross in order to strengthen the imperialist body politic—and those borders are not those of each other’s bodies, but of the national body in response to external ‘threats.’ As Jasbir Puar points out in *Terrorist Assemblages*, there are strong parallels between the figure of the pathological and deadly homosexual and the pathological and deadly terrorist. She notes that

[José] Muñoz’s description of ... terrorist drag appropriately points to the historical convergences between queers and terror: homosexuals have been traitors to the nation, figures of espionage and double agents, associated with communists during the McCarthy era, and, as with suicide bombers, have brought on desired death through the AIDS pandemic (both suicide bomber and gay men always figure as already dying, a decaying or corroding masculinity). (Puar 2007: xxiii)

In the House of Lords decision regarding the Spanner Case, queer male sadomasochists are presented not so much as even ‘corroding’ masculinity, but as fundamentally unmanly. Nevertheless, the parallel between male same-sex acts and desire and external terrorist threats to the nation, which are framed as fundamentally deadly and violent both to themselves and to others, remains.

Indeed, the Lords’ decision enacts an insidious Catch-22 of dangerousness, one similar to that enacted against men whose skin tone renders them fundamentally suspect. For the latter, both resistance to and compliance with ‘Western’ security measures are read as proof of insidious terrorist intent, and no amount of strategic care can pre-empt the interest of border and airport security, among other national

security regimes. For the former, as Lord Templeman writes with respect to the activities of defendants in the *Spanner* Case, no amount of care, respect for the ongoing willingness of sexual partners, or health and safety precautions can remove the suspicion of danger and deadliness. Indeed, paradoxically, the very care taken by queer sadomasochists is read as proof of the threateningness of their activities, as Templeman (*R v Brown* 1993) writes: "The dangers involved in administering violence must have been appreciated by the appellants because ... each victim was given a code word which he could pronounce when excessive harm or pain was caused." Sexual care and responsibility are reappropriated as evidence of the fundamental violence and irresponsibility of queer bodies and lives, as emphasized by Templeman's (ibid.) argument that "[t]he assertion that the instruments employed by the sadists were clean and sterilized could not have removed the danger of infection, and the assertion that care was taken demonstrates the possibility of infection." Like the male bodies whose brown skin positions them as only ever at best not a threat *yet*, the queer male bodies in question in the *Spanner* Case are relentlessly positioned as threats in waiting, through assertions such as Templeman's (ibid.) that "[s]ado-masochistic participants have no way of foretelling the degree of bodily harm which will result from their encounters." Lowry (ibid.) similarly expresses confidence in "the probability that some sado-masochistic activity, under the powerful influence of the sexual instinct, will get out of hand and result in serious physical damage." Such discursive strategies represent both domestic and foreign dissident subjects as intrinsically barbarous, threats in waiting regardless of their current behaviour.

Bodily Integrity and the State's Monopoly on Punishment

The assertion of the integrity of the body politic and the defence of 'civilization' against the "cult of cruelty" represented by queer threats contributes not only to policing national borders but also to guarding the power of the state to arbitrate and enact violence. This power is defended, in part, through the regulation of white, 'Western' male bodies, desires, and acts. If the 'civilized' 'Western' nation must defend itself from those who refuse to submit to the rules of international, locker-room roughhousing, it must also defend itself from those who would reappropriate disciplinary regimes for the sake of consensual pleasure. Paradoxically, though the chastisement of children is listed as a 'consensually' defensible act of licit violence in the *Spanner* decision, the punishment of adults must retain its unwanted and unenjoyable status or risk deligitimation. As McClintock notes, "the scandal of S/M ... is that it borrows directly from the juridical model, while radically disarranging the right-to-punish. S/M stages the right-to-punish, not for the civic prevention of crime, but for pleasure, parading a scrupulous fidelity to the *scene* and costumery of the penal model while at the same time interfering directly with the rules of *agency*" (2004: 248, emphasis in original). Consensual sadomasochism 'steals' from the state the unitary control of punishment and its affective and sensory effects. The defence of the civilized subject's

integrity relies on the continued commitment on the part of citizens to a shared concept of subjective and bodily integrity. In rejecting the model of subjective integrity prescribed by the social contract, willing sadomasochists threaten state control over the sexual/national body, while simultaneously drawing attention to the violations intrinsic to state and juridical power to define the civil subject. As McClintock (ibid.: 249) puts it, “The ritual violations of S/M are less violations to the flesh than symbolic re-enactments of social violations of selfhood.” The specific threat posed by the Spanner defendants to the integral, civil body is particularly evident in the Lords’ attention to sadomasochistic acts involving the penis. In one example (among others), Lord Jauncey (*R v Brown* 1993) emphasizes, “fish-hooks ... inserted through the penis.” When the integral body of the civil subject, necessary both to maintaining the national body and state and juridical power, is a male and masculine one, then activities that involve willingly piercing the body part most culturally associated with maleness and masculinity must seem a particularly egregious threat, one to which no competent civil subject would consent.

“Rights” as a Normativizing Regime

Contemporary ‘Western’ legal regimes purport to enact progressive values of equality before the law. However, such protestations represent a profound disavowal of two core preconditions for rights: the degree to which legal constructions of a normative subject-with-rights depend, first, on opposing the civil subject to its ‘barbaric’ ‘other’ and, second, on maintaining strict normative boundaries of acts and desires within which such subjects must operate in order to retain rights-bearing status. As Wendy Brown argues with respect to the framework of women’s rights in “Suffering the Paradoxes of Rights,”

Rights secure our standing as individuals even as they obscure the treacherous ways that standing is achieved and regulated; they must be specific and concrete to reveal and redress women’s subordination, yet potentially entrench our subordination through that specificity; they promise increased individual sovereignty at the price of intensifying the fiction of sovereign subjects... (2002: 430)

Rights-seeking groups within ‘Western’ nations are, insofar as they are allowed access to citizenship and ‘civil’ identity, expected to conform as much as possible to the ideal, if inaccessible, model of white, ‘Western’ masculinity and the familial/affective structures in which it is embedded. They must perform their differences from it, insofar as they are different, as politely and unobtrusively as possible. Their sexual bodies must not pose threats to the integrity of the national body. As Puar (2007: xii) observes, “benevolence toward sexual ‘others’ is contingent upon ever-narrowing parameters of white racial privilege, consumption capabilities, gender and kinship normativity, and bodily integrity.” Rights are contingent on conformity, as is all too explicit in the Spanner defendants’ final appeal to the European Court of Human Rights (ECHR). The ECHR (*Laskey et. al. v. UK* 1997) dismisses their claim that “the behaviour in question formed part of private morality which is not

the State's business to regulate" because their activities "[i]nvolved a ... degree of injury or wounding [which] suffices to distinguish the present case from those applications which have previously been examined by the Court concerning consensual homosexual behaviour in private between adults."

The state's business, then, is to regulate its national body not only through defending its integrity from 'barbaric' exterior threats, but also through regulating the sexual and gendered bodies of its citizens. Rights do not offer the ability to redefine the civilization as much as they require the accession to normative ideas of 'civilization' in order not to be revoked or denied. Kenji Yoshino (2006: xi–xii), drawing on Irving Goffman, refers to this paradox of rights as a demand for "covering," whereby "contemporary civil rights law generally only protects traits that individuals cannot change, like their skin color, chromosomes, or innate sexual orientations. This means that current law will not protect us against most covering demands, because such demands direct themselves at the behavioral aspects of our personhood." Using such logic, the ECHR can deny the Spanner defendants' final appeal through relegating sadomasochism to the realm of behaviour, while couching homosexual desire as unchanging. Because not all gay men engage in sadomasochism, the logic of the decision goes, sadomasochism is not unchangeable and is not subject to privacy rights. It falls outside of the family and the private realm of the home, even broadly defined. And yet, as Wittig (1992b: 24–25) observes, "These discourses speak about us and claim to say the truth in an apolitical field ... These discourses of heterosexuality oppress us in the sense that they prevent us from speaking unless we speak in their terms." Ultimately, sexual 'barbarians' are subject to impositions of 'civilized' values similar to the colonial values England has imposed internationally throughout its imperial history. Accept 'civilization,' which means speaking in the terms of the heterosexual discourse and accepting its familial structures and 'manly diversions,' or be ejected, through the mechanism of more obvious state violence, from the body of the nation.

Conclusion

In cases regarding non-normative sexuality, the law's taxonomic function, through which different genres of people, acts, and social (non)subjects are differentiated and norms delineated, functions predominantly not to protect individuals from unwanted incursions into their lives and bodies, but to uphold the dividing lines between the civilized and the barbarous, the normative and the anomalous. As Lauren Berlant (2002: 125) notes in "The Subject of True Feeling," "The law's typical practice is to recognize kinds of subjects, acts, and identities: it is to taxonomize." Consent is essential to producing and enforcing the normative, civilized subject. Those of us who are uncivil cannot be allowed "worthwhile" consent, to paraphrase Lord Templeman. In particular, the desires, behaviours, and tastes of the white, male, 'Western' citizen must be carefully policed with respect to the use of and consent to violence to maintain the borders and centrality of 'civilized' norms.

‘Manly’ sports, such as boxing, and vocations, such as armed service, maintain the integrity of the masculine and national bodies, upholding and contributing to the boundary between ‘civilized’ nations and their ‘barbarous’ exteriors. Welcoming and enjoying the pain of ‘barbarous’ interactions for its own sake, however, is positioned in opposition to the healthy and integral body politic. Couched as a threat to the body of the nation, and, by extension, the maintenance of the social contract and state power, it is rejected as uncivilized, uncivil, and incompatible with the civilized subject able to give meaningful consent.

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Part III
Transformations of Development Politics

Negotiating ‘Development’: Constitution, Appropriation and Contestation

Aram Ziai

Let us start by examining the following quotes, which depict the asymmetrical relations between the ‘global North’ and the ‘global South’ at different points in time in the twentieth century. In 1901, President Theodore Roosevelt portrayed the relation of the USA to the rest of the world as follows:

this nation most earnestly desires sincere and cordial friendship with others. [...] Wars with barbarous or semi-barbarous peoples come in an entirely different category, being merely a most regrettable but necessary international police duty which must be performed for the sake of mankind.” (cited in Alcalde 1987: 4)

There could be no doubt that the ‘barbarous peoples’ he referred to were people of colour who lived outside of Europe and North America. Half a century later his successor Harry Truman struck a different note when envisioning future US foreign policy:

we must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas. More than half the people of the world are living in conditions approaching misery. [...] I believe that we should make available to peace-loving peoples the benefits of our store of technical knowledge in order to help them realize their aspirations for a better life. And, in cooperation with other nations, we should foster capital investment in areas needing development. [...] The old imperialism—exploitation for foreign profit—has no place in our plans. What we envisage is a program of development based on the concepts of democratic fair-dealing.” (cited in Rist 2008: 71)

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Comparing the above quotes, one cannot but wonder about the shift in the relation between the ‘global North’ and the ‘global South,’ or more precisely: the USA and certain ‘peoples’ in Africa, Asia and Latin America, has been conceived. Whereas in the beginning of the twentieth century the ‘non-Western’ world was seen by politicians in North America and Western Europe as racially “inferior,” whose populations could be killed with impunity, so that the relation between the ‘global North’ and the ‘global South’ was primarily framed in terms of security, since the middle of the twentieth century the aim of politics seems to be to help these people and improve their living conditions through a program of ‘development.’ Thus between 1900 and 1950, the dominant way of speaking and writing about the ‘global South’ from the perspective of the ‘global North’ underwent a significant change. A change which can be depicted as one from a discourse of colonialism to a discourse of ‘development,’ implying the norm of helping certain peoples in the sense of improving their material condition. This article is concerned with the constitution, appropriation and contestation of this new discourse and its corresponding norms.

On the theoretical level, the article is inspired by the Post-Development school (Sachs 1992; Escobar 1995; Rahnema 1997a), as well as different strands of post-colonial analysis. In contrast to the first wave of Post-Development theory, the emphasis here is not merely on the power of ‘Western’ discourses in constructing the reality of the ‘Other’ outside the ‘West,’ a strategy of analysis linked to Said’s (1978) analysis of orientalism, but also on the ways in which these discourses were modified, appropriated and transformed by ‘non-Western’ subjects and thus produced unintended effects, understood in terms of Bhabha’s (1994) concept of hybridization.

The Constitution of ‘Development’

In the literature, there is disagreement as to when the discourse of ‘development’ emerged. Gustavo Esteva (1992) claims it was in Truman’s inaugural address in 1949, other researchers situate the discourse in late colonialism¹: Robert Nisbet (1969) points to nineteenth century evolutionism (for example of Spencer and Marx), while Michael Cowen and Robert Shenton (1996) attribute responsibility to the Saint-Simonian doctrines (also of the nineteenth century). Reinhart Kößler (1998) and Philipp Lepenies (2014) point to its origins in Enlightenment philosophy.

In this article, discourse shall be briefly defined as a system of statements, which are produced according to certain rules of formation, certain regularities concerning their objects, concepts and subject positions (Foucault 1972: 31–76; Diaz-Bone

¹ See e.g. the research project on ‘Colonial Concepts of Development in Africa’ at the University of Vienna (<http://www.univie.ac.at/colonial-development/seiten/projekt.html>).

et al. 2007). This discourse allows for (and is influenced by) certain 'non-discursive'² practices, merging them to a strategic dispositive (Foucault 1980: 119–23).

Regarding the idea of 'development,' it is useful to distinguish between concepts of evolutionary social change (usually brought about by capitalist modes of production) and concepts designed to ameliorate negative effects of this change. Cowen and Shenton (1996: 3–5) refer to the first as 'immanent development,' to the second as 'intentional development.' The idea of a general pattern of social change in which some societies (in Western Europe and North America) are at a more 'advanced' and others at a 'backward' stage (what could be called the evolutionist legacy of 'development') was present already in eighteenth and nineteenth century thinking in social philosophy and political economy. And policies (based on expert knowledge and trustees) to reform societies and improve the lot of the poor to maintain social order (the trusteeship legacy) were applied in the nineteenth century as well—but predominantly in Europe (Cowen and Shenton 1996: 12). In the colonies, however, Europeans saw their task not merely as exploiting these areas, but also as uplifting and civilizing the 'barbarians' and 'savages' (what Rudyard Kipling described as the "White Man's Burden"), so at least in part they did perceive themselves as being entrusted and responsible for the native population. But this responsibility was usually understood in terms of 'civilizing' and Christianising and not in terms of raising their standard of living. The 'development' of these areas (as in the British Colonial Development Act of 1929) referred to the natural resources and the infrastructure, not to improving the material conditions of their inhabitants.

Thus the discourse of 'development' as we know it, a concept of international policies linked with practices aiming at the improvement of the material conditions of people living in Africa, Asia and Latin America, was in fact gradually constituted in the first half of the twentieth century. After World War I, in the Versailles Treaty and the League of Nations Covenant of 1919, the 'development' of the colonized populations was already an issue, but they were still treated as 'inferior':

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant. The best method of giving practical effect to this principle is that the *tutelage of such peoples should be entrusted to advanced nations* who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League. (League of Nations Covenant, Art. 22, italics by the author)

A careful reading of Truman's inaugural address reveals that the 'Western' claim to superiority has markedly diminished between 1919 and 1949: it is predominantly confined to the level of technical knowledge and material wealth, and the commonplace assumption that people in the 'global South' were unable to govern themselves

²These practices which Foucault refers to as non-discursive are non-verbal, physical practices, which are, however, mediated through discourses.

(which made the benign tutelage of the 'West' necessary) has disappeared. The 'old imperialism' based on this premise was rejected and instead a 'program of development' was announced to relieve the 'misery' of the formerly colonized, albeit one 'based on democratic fair-dealing,' namely, on a relationship which bears semblance to one between equal subjects (Truman 1949 cited in Rist 2008: 71).

The work of Javier Gonzalo Alcalde (1987) examines the factors that played an important role in the constitution of these discourses. To summarize briefly: as a consequence of World War I Britain had to initiate a new focus on the development of the colonial economies. The war had led to a wave of nationalism in the colonies, which Britain sought to appease with promises of material well-being. After the war, the League of Nations occasioned the first reflections on the relation between economic development and popular welfare, manifest later in the Colonial Development Act of 1929 and its replacement with the Colonial Development and Welfare Act of 1939. The Great Depression of 1929 had impoverishing effects which led to the first international comparisons of living standards and proposals of basic needs standards, and gave rise to the New Deal, whose reliance on government planning and welfare programs had international repercussions: it triggered plans to draw the advanced economies out of the recession through a world development program based on capital investment in the 'South.' World War II resulted in an end of US isolationism and saw first successful attempts to employ development assistance as a policy instrument, which persuaded governments of both industrialized and non-industrialized countries to rally behind the call for development of the 'global South.' Last but certainly not the least, anti-colonial struggles and the Russian Revolution (1917–1918) compelled the 'West' to promise the colonized peoples economic progress and technological advancement and to demonstrate that capitalism could bring welfare to the poor as well. The strategic concerns of the Cold War restored development assistance after a brief post-war interval, trying to secure prosperity by fighting poverty (or at least appearing to do so). By 1950, social and economic progress were merged in the idea of development whose "first and broadest function," according to Alcalde, was "to give economic activity, particularly foreign economic activity, a positive and essential meaning for the lives of less-developed peoples" (1987: 223).

However, one factor underestimated by Alcalde should be mentioned: one of the most, if not *the* central difference between the framing of 'North-South' Relations in 1919 and in 1949 was the disappearance of the racist claim that certain people were not capable of self-government. Several studies (e.g. Adorno et al. [1951] 1993) reveal that racist discourses were still very much prevalent in the US and Europe at this time, but the horrors of the Holocaust had discredited this type of thinking—or at least its unadorned exposure in international relations. After the Universal Declaration of Human Rights, racist ideas of white supremacy were increasingly frowned upon on the international stage, and this is reflected in the shift from colonial to development discourse.

Both discourses describe the 'Other' as deficient in relation to the 'Self' (civilized vs. uncivilised, developed vs. underdeveloped) and operate through similar dichotomies between 'superior' and 'inferior' (modern vs. traditional, advanced

technology vs. manual labour, prosperity vs. misery, assisting vs. assisted, etc.). Yet some marked differences can be observed. The objects of the discourse are now geographical regions, not (or hardly) any longer people: a shift from biology to economic geography. And although two different types of objects exist ('developed' and 'underdeveloped' countries), the difference is not qualitative and insurmountable any longer, but the latter can become like the former at some point in the future.³ Thus the trusteeship for the 'development' of the country, which can no longer be justified by theories of race, passes with independence from the colonial masters to the post-colonial elites who run these countries. As there still is an assumption of cultural inferiority, this trusteeship is often linked to expert knowledge from the 'West' ('Western' university degrees, 'Western' theories, etc.).

The Appropriation of 'Development'

Majid Rahnema (1997b: ix) points out that the new discourse on development was widely adopted by different groups for different reasons: by leaders of independence movements hoping to "transform their devastated countries into modern nation-states" (ibid.), by the 'masses' in the ex-colonies hoping for an end to subjugation and a better life, and by the 'former colonial masters' seeking a new 'system of domination' which allowed them to maintain their presence in these regions "to exploit their natural resources, ... use them as markets for their expanding economies or as bases for their geopolitical ambitions" (ibid.). Rahnema describes this adoption of the discourses of 'development' and its corresponding values as a "virus" which invaded and colonized 'Third World' subjects from within: "The 'power' of development, like that of the AIDS virus, lies in its internalization by the host" (1997c: 119).⁴ While he stresses the ideological aspirations of the discourse, he entirely neglects its progressive aspects and processes of appropriation—and thus portrays the 'infected' subjects as helpless victims of this 'power.' By appropriation I mean the practice of adopting and (possibly) simultaneously transforming a discourse to one's own ends—in contrast to denouncing the discourse as 'alien,' 'colonial' or 'Western' and rejecting it, which is the only alternative that Rahnema envisions.

Frederick Cooper has examined such processes of appropriation and concludes: "Development ideology was originally supposed to sustain empire, not facilitate the transfer of power. Yet developmentalist arguments—about labor policy as much as economic planning—were something trade union and political leaders could engage

³Of course the civilizing mission of colonialism had also included a diminishing of the difference, but its disappearance was inconceivable—the Other could be 'almost the same but not quite' (Bhabha 1994: 122).

⁴This analogy is of course highly problematic. Rahnema presents as 'natural' a certain way of life and as 'unnatural' any deviance. He engages in a biologization of social phenomena, which ignores their contingent nature and their political aspects.

with, appropriate, and turn back. This framework allowed them to pose demands in forms that could be understood in London or Paris, that could not be dismissed as 'primitive.' [...] Much as one can read the universalism of development discourse as a form of European particularism imposed abroad, it could also be read [...] as a rejection of the fundamental premises of colonial rule, a firm assertion of people of all races to participate in global politics and lay claim to a globally defined standard of living." (Cooper 1997: 84) Taking into account Cooper's arguments allows us to conceive the adoption of development discourse by actors in the 'South' not in Rahnama's terms as manipulation and infection, but as a strategic appropriation.

One of the reasons for the success of development discourse in the second half of the twentieth century is that the identity offered by this discourse (being 'less developed') proved to be far more attractive to the formerly colonized in comparison to the one provided by racist colonial discourses (being 'uncivilized'). The other reason lies in the appropriation of the discourses—primarily—by the postcolonial elites in a myriad number of ways. I would like to particularly focus on two significant aspects: the appropriation at the national level of the programs of National Development and the appropriation at the international level of the UN declarations of Development. Both processes shall be briefly sketched here, especially with respect to one crucial element of the discourse: trusteeship.

In the case of India, the appropriation of the discourse already began in 1938, when the Congress party set up a National Planning Committee (headed by Jawaharlal Nehru) whose task was to devise a program of national development (Bose 1997: 38). Post-independence, 'development' became for the Indian state "a primary source of its own self-justification" (ibid.: 53), even as the accumulation of capital and processes of industrialization were prioritized over improvement in the quality of life of the poor in concrete projects and programs. This was apparent in the building of massive dams, which were lauded by Nehru as "temples of modern India" (cited in Roy 1999). Since independence 3300 dams have been built in India, displacing an estimated 30–40 million people, the majority of them tribals and other marginalized communities (Roy 1999). Nehru said to the villagers displaced by the Hirakud dam in 1948: "If you are to suffer, you are to suffer in the interest of the country" (cited in Roy 1999). He might just as well have said: in the name of national development, because this is how the dams were usually justified.⁵

This sheds light on the fact that the trusteeship over the presumably 'ignorant' people, the ability to know what was good for them even if they themselves apparently did not (Cowen and Shenton 1996: 25–27), was taken over by the post-colonial elites from the former colonial masters without any qualms. In the case of the Sardar Sarovar dam, the World Bank had to withdraw its support after massive protest

⁵When protesters in Germany demanded a stay on the construction of the Sardar Sarovar dam in 1999 and rallied behind the slogan "No human sacrifices for development!", a high ranking official of the Indian embassy replied: "So you want our country to remain underdeveloped!" (personal experience). Of course, there had also been mass protests in India itself against the dam—which was to submerge the homes of hundreds of thousands of villagers (mostly indigenous peoples)—but they were usually beaten down by the police and the activists often ended up in jail (Mehta 1994; Roy 1999).

campaigns by civil society groups in national as well as international arenas—but the Indian state carried forward the project nevertheless. This trusteeship arrogated itself the right to exert violence if the people were obstinate enough to resist the well-meaning policies of those who knew better. Apffel-Marglin (1990: 118–120) documents how in the course of the Indian state's smallpox eradication campaign, vaccination squads 'raided' villages and forcefully vaccinated unwilling villagers (who employed 'traditional,' culturally embedded and in terms of disease prevention slightly less effective methods of inoculation)—all in the name of 'development' and based on scientific knowledge.⁶ Although this may seem an extreme case, similar instances can be found in other countries, too. In some regions in Tanzania in the 1960s, participation in development projects was mandatory, and refusal could be punished by six strokes (Potter 2000: 287). The list of violence exerted in the name of national development is long and the connection between violence and development is no coincidence (see Nandy 1995 and 2004). Thus we can conclude that at the national level, the principle of trusteeship has been reaffirmed through appropriation by national elites.

Looking at the appropriation of the norm at the international level, it is instructive to examine the UN declarations on 'development' and the corresponding policies. The representatives of the increasing number of former colonies, which had become independent states, have used the UN as a forum to articulate demands for financial transfers and special treatment in multilateral trade agreements—mobilizing their constituted identities as 'underdeveloped countries.' Moreover, they have vigorously rejected any international tutelage, often denouncing the policies of the International Financial Institutions. Their demands for a UN Fund for Economic Development and a UN Economic Development Agency in the early postwar period led—after long years of controversy with the World Bank—to the creation of a Special Fund for development assistance and to the establishment of the International Development Association, an offshoot of the World Bank that provided interest-free loans to the 'least developed countries' (UNIHP 2010: 2f). In 1961, the UN declared the first Development Decade calling upon its member states to pursue economic policies to achieve "self-sustaining economic development in the less developed countries" (UN 1961). This included pursuing stable and remunerative prices for primary commodities, an equitable share of earnings from extraction and marketing of natural resources and greater private investment on terms satisfactory for both importers and exporters of capital. The declaration was accompanied by resolutions 1522 and 1711, which "expresse[d] the hope" that the flow of assistance money to the 'less developed countries' should reach "as soon as possible approximately 1 % of the combined incomes of the economically advanced countries" (UN 1960).⁷

⁶With Spivak (1999: 82) we can refer to this as an 'enabling violation.' With this term she describes the legacy of colonialism and the ambivalence of violent interventions, which may have positive results for at least some of its victims in certain ways. However, this does not legitimate the violence.

⁷This figure was lowered to 0.7 % but seen as obligatory in the next Development Decade Declaration.

In the following years, the World Food Program, the UN Research Institute for Social Development, the UN Conference for Trade and Development and the UN Industrial Development Organization were established. More often than not, the recommendations of these organizations were incongruous with the agenda of the 'developed' states during the 1960s and 1970s.

In the 1970s, this was followed by the International Development Strategy for the second UN Development Decade (UN 1970). Here, the heads of state not only claimed that 'development' required the "elimination of colonialism, racial discrimination, apartheid and occupation of territories of any State" (Art. 5), but also "in the conviction that development is the essential path to peace and justice" reaffirmed in their "common and unswerving resolve to seek a better and more effective system of international co-operation whereby the prevailing disparities in the world may be banished and prosperity secured for all" (Art. 6). Because if "undue privileges, extremes of wealth and social injustices persist, then development fails in its essential purpose." Therefore, "a global development strategy based on joint and concentrated action by developing and developed countries in all spheres of economic and social life" was required, "in industry and agriculture, in trade and finance, in employment and education, in health and housing, in science and technology" (Art. 7). Thus, the discourse of 'development' is appropriated by the new majority of 'Third World' heads of state in the UN for three primary reasons: firstly to reject international trusteeship (bear in mind that just a few decades earlier the necessity of 'development' was employed to legitimize colonialism), secondly to demand social justice and equality and denounce "prevailing disparities," and thirdly to devise a comprehensive program of planned intervention which would include the global economy. The Declaration on the Establishment of a New International Economic Order (UN 1974) underlined the latter point unambiguously and could be seen as the concretization of such a program. Additionally, it claimed the right of states to adopt the economic or social system "most appropriate for its own development" without being subjected to discrimination (Art. 4d), to nationalize enterprises (Art. 4e) and regulate and supervise transnational corporations (Art. 4g). The declaration was followed by a more detailed 'programme of action' outlining the envisioned regulations of the economy.

It is obvious that, based on their classification as 'less developed,' the leaders of 'Third World' states were using the UN as a platform to launch demands for redistribution, justice and economic intervention in the name of 'development.' In other words, they were appropriating the discourse of 'development' in a way that was at odds with the imperialist objectives of the discourse of only a couple of decades earlier. This demonstrates what Foucault (1983: 122) has called the "tactical polyvalence of discourses": they can be used for different or even opposite political ends. Regarding the principle of trusteeship, one can conclude that while the appropriation of the discourse of 'development' by 'Third World' elites has led to a rejection of the principle on the international level, on the national level the principle has been reaffirmed.

The Contestation of 'Development'

Taking a closer look at the processes of appropriation reveals that while the discourse of 'development' has been appropriated by 'Third World' leaders in the 1960s and 1970s, it has not been fundamentally contested. Neither has the goal to transform the 'underdeveloped regions' into 'developed' ones (by means of economic growth, industrialization and modernization) been questioned, nor the underlying constructions of identity (developed vs. underdeveloped) and the central principle of trusteeship. However, since the 1980s, such contestations have occasionally taken place. Two of them will be briefly discussed here: the discourse of participation and ownership and the discourse of Post-Development. Both cases will be supplemented by practical examples from Bolivia, because here the clashes between different discourses can be observed easily.

Although the discourse of participation originates in the 1980s (Chambers 1983; Leal 2010) and ownership became a topic of development policy only in the late 1990s (Buiter 2010), both approaches are in unison in their rejection of top-down development approaches and their emphasis to "let the people decide what development is for them."⁸ However, if this statement were to be taken seriously, it would spell the end of the principle of trusteeship in development discourse, which assumes that experts are competent to decide for the people. Thus, the discourse of participation and ownership in development policy is fraught with ambiguity and contradictions.

The meaning of participation of course depends on the question of who participates in what. Early concepts and techniques of participation (like Participatory Rural Appraisal or Participatory Learning and Action) were linked to the idea of marginalized people taking control over their lives. However, the application of participation in the practice of development organizations was often more concerned with a more efficient implementation of projects. And if participation is restricted (on the level of actors) to male village elders or (on the level of decision-making) to the manner of project implementation, it will hardly lead to empowerment—at least if empowerment is understood in the sense of more self-determination of marginalized people and a change in the relations of power.⁹ On the other hand, its emancipatory potential must not be underestimated, as the discourse could be a useful tool for such an empowerment (Hickey and Mohan 2004).

In contrast to the concept of participation, which was directed against top-down decision-making in development projects, the concept of ownership had a similar thrust, but operated more on a macro-level (usually referring to the ownership of countries): it was directed against top-down decision-making in international development policy. Of particular concern was the trusteeship assumed by the International

⁸This sentence (or variations of it) was the one used most often by development experts of different development policy organizations to describe their views on 'development' in interviews I conducted for my PhD thesis (Ziai 2004a). The interviewees linked this attitude to the concepts of participation, ownership and partnership.

⁹For these and other criticisms see (Rahnema 1990; White 1996; Cooke and Kothari 2001).

Financial Institutions in the context of the Structural Adjustment Programs (SAP), but representatives of recipient countries complained about donor-driven development policy also in general. Since the late 1990s and especially since the Paris Declaration of 2005, documents and strategies of development policy usually have to be ‘owned’ by the recipient country, meaning that the latter’s government—and not the donor organizations—devised and drafted these papers. However, the case of the World Bank’s Poverty Reduction Strategy Papers (PRSPs) demonstrates that more often than not, the donors still exert considerable influence on these strategies (Spanger and Wolff 2003; WDM 2005; Siebold 2008). And even if there is ‘country ownership’ of a poverty reduction strategy, it often comes down to “this programme is supported by the people who own the country” (Buiter 2010: 228)—i.e. although officially civil society participation is mandatory in devising PRSPs, this participation is often confined to professional NGOs in the capital at best and usually excludes poorer sections of society.

Thus, while the discourse of participation in its dominant form questions the universal superiority of expert knowledge and suggests participation of project-affected people as a way to achieve more successful development projects, it does not do away with the role of experts and the development industry in general, nor with the fundamental assumptions concerning problems and identities it is based on. This could also be said about the discourse of country ownership, which, at least rhetorically, explicitly rejects the principle of international trusteeship and thus the influence of international or foreign actors like the World Bank, the IMF or Northern donor organizations on national development policy.

Numerous studies demonstrate that the structures of the ‘development industry’ certainly impose limits on the extent of participation and ownership—after all, experts and donor organizations still want to have a say in development policy and because of privileged speaker positions and financial leverage often exert crucial influence. However, there may also be another dimension, as shown by the development project ‘Towards an inclusive election process,’ launched in 2002 in Bolivia and funded by a number of European development agencies.¹⁰ Its objective was to improve political participation in the election process and the local promoters who had planned the project were organized in the ‘Pro Citizens’ Participation Consortium.’ The project aimed to tackle the problem of lack of participation of a large part of the indigenous population in the election process by explaining to these groups citizens’ rights and supporting their claims to an identity card. However, the Bolivian government was convinced that the problem was already dealt with through educational programs and that this was sufficient. The support and resources which the project intended to provide to grassroots organizations mobilizing people to vote was perceived as interference in internal political matters and maybe even an infringement on sovereignty. Thus the project was denounced as donor-driven and in violation of the principle of country ownership. This led to the withdrawal of two development agencies from the project, while the other two continued to fund it (Eyben and Leon 2005; Eyben and Ferguson 2004).

¹⁰ DFID (Great Britain), SIDA (Sweden), DANIDA (Denmark) and NEDA (Netherlands).

What becomes visible here is again the tactical polyvalence of discourses: the discourse of country ownership, which was originally directed against international trusteeship, is used here as an instrument to reaffirm the principle of trusteeship on a national scale and to prevent increased political participation. If the discourse of participation and ownership is seen as a unity, then this discourse is appropriated by 'Third World' elites and turned against First World donors who are reproached for not abiding by their principles and thus faced with a dilemma: either they renounce the principle of country ownership or the objective of increased political participation, but they cannot have both.

While in the case of participation and ownership the objective of transforming the 'underdeveloped' countries into 'developed' ones and the implicit constructions of superior and inferior identities were not contested and 'merely' the central element of trusteeship was challenged, the discourse of Post-Development (PD) acts as a more fundamental challenge to development discourse. The objective is often regarded as neither feasible nor desirable, and the construction of 'developed' and 'underdeveloped' countries is rejected as a narrow universalism based on Eurocentric criteria. Furthermore, the authority of the development experts is also contested.

As characteristic elements of PD, Arturo Escobar (1995: 214) identifies the rejection of the entire paradigm of development and its economic reductionism, an interest in local culture and knowledge, a critical stance towards established scientific discourses, and the promotion of pluralistic grassroots movements. A closer look reveals that it is useful to differentiate between two variants of PD: a neo-populist variant which rejects 'Western' modernity and seeks recourse to traditional cultures (e.g. Esteva and Prakash 1998), and a skeptical variant which similarly denounces cultural domination and Eurocentrism but refrains from outlining alternative models of society beyond supporting grassroots initiatives¹¹ and explicitly recognizes the right of local communities in the 'global South' to opt for a 'Western' model (Banuri 1990: 95f; Marglin 1990: 27).

Although at first glance we observe a radical repudiation of the discourse of development, a critical analysis yields that in some PD writings, the central element of trusteeship is brought in again through the backdoor: when Rahnema (1997d: 388f) suggests that the 'needs' of the people should not be ascertained by democratic processes, but by the "good and authoritative persons" of a community, this is an unambiguous reaffirmation of the principle. Thus PD discourse can serve both radical democratic as well as conservative political ends, and this constitutes its ambivalence (Ziai 2004b).

The concept of *Buen Vivir*, which enjoys enormous popularity in Bolivia and Ecuador (and increasingly other countries as well), can be seen as a manifestation of PD discourse. *Buen Vivir* ('Good Life') is the Spanish expression for *sumak kawsay* in Kichwa and *suma quamaña* in Aymara (Báez and Cortez 2012). Even though *Buen Vivir* may be a "plural endeavor" and may be used with different meanings, it is generally seen as "a replacement of the very idea of development" (Gudynas 2011: 445). Other characteristic features are that it is rooted in traditional indigenous

¹¹ This lead to the accusation of 'Pontius-Pilate-politics' (Kiely 1999: 45).

world-views and envisions the possibility of a good life only in one's social context and not as an individual good life, on the basis of the dissolution of the dichotomy between society and nature (renouncing the idea that nature should be dominated and controlled by mankind) and as part of a process of (mental) decolonization (ibid., Fatheuer 2011: 19f).

The ambivalence of PD is also visible in the debate around *Buen Vivir* in Bolivia: whether and to what extent it ignores processes of cultural transformation and hybridization, constructing a 'pure' and traditional indigenous identity; whether and to what extent it allows for emancipatory processes of decolonization and self-assertion, whether and to what extent it is used by national elites as a mobilizing ideology to evade class and gender conflicts—these are pertinent questions to be seriously examined (Ascarrunz 2011). And so is the question, whether and to what extent the counter-discourse of *Buen Vivir* and its related practices negotiate aspirations for a better life not entirely different from those that 'Third World' people have been expressing with the idea of 'development.'

It can be observed that even the counter-discourses to 'development' which contest and repudiate the concept, sometimes bear traces and patterns which are somewhat familiar. This, however, must not lead to homogenizing their differences, which are worthwhile being pointed out.

Conclusion

Although the discourse of 'development' was constituted in the first half of the twentieth century as a transformation of colonial discourse which legitimized the 'global North' to maintain economic domination and exert global influence, during the course of the next decades the discourse was appropriated by the newly independent countries of the 'global South' in ways not intended by the North, which included demands for financial transfers and even a more regulated global economic order. While these appropriations left the principle of trusteeship, a central component of the discourse, untouched at least on the national level, some of the more recent contestations of the discourse—linked to the concepts of participation and Post-Development—have challenged this principle. However, a closer look reveals that even a rejection of trusteeship can be used to reintroduce the principle through the back door. Politically speaking, there are no 'safe discourses.' This is—and here Foucault seems right—a consequence of the tactical polyvalence of discourses.

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Political Economy, Subjectivity and Agency: A Materialistic Governmentality Study of Microfinances

Dana Lüddemann

Introduction

Microfinances have been one of the most prominent forms of development aid for the past 20 years and are considered as *the* key measure to fight poverty.¹ The discourse of microfinances not only guarantees to overcome poverty by making the recipients financially independent, but microcredit programs also ensure empowerment—especially the empowerment of women in the ‘global South.’ Microcredits are increasingly perceived as a “magic-bullet” (Kabeer 2005)—not only integrating the poor into local, regional and global markets but also liberating them. Thus, poverty reduction becomes intertwined with discourses of freedom and (social) peace.

Despite the hype surrounding microfinance programs, severe critiques have been put forward in the recent years focusing on the impact of microcredit programs and their unfulfilled ideological and financial promises (cf. Fernando 2006; Kabeer 2001, 2005; Rankin 2001, 2006; Duvendack 2014). Furthermore, there is a wide array of critique array of critiques formulated that draws attention to not only the unfulfilled promises of microcredit programs, but to new relations of power

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¹People individually obtain a relatively small amount of money as credit and with that capital, and they are required to pursue a business. It is promised that the medium-term profits will not only enable them to repay the loan on a regular basis but also increase their income and that of their family.

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consolidated by it. On the one hand, postcolonial perspectives view microcredits as an intervention into the lives of subaltern women in the ‘global South’ by economic globalization (cf. Spivak 1999, 2003; Rishi 2009) and on the other hand, governmentality studies outline the link between neoliberal forms of power and micro-credit programs (cf. Aitken 2010; Brigg 2001).

Drawing on Michel Foucault’s concept of *governmentality* as a theoretical and analytical tool, the chapter departs from previous critiques on microfinances while offering a more systematic framework for understanding development politics in a postcolonial, capitalistic world order. The aim is to analyze forms of political government and their relation to subjectivities and technologies of the self, in order to examine how knowledge systems and discursive formations are interlinked to political fields and governmental regulations.

In the first part of the paper, the rationality of neoliberal governmentality, which develops its efficacy through structuring the spheres of the general public’s opportunities to act and inscribe itself into processes of subject formation, is presented, and one of its central figures, the *Enterprising Self*, is discussed. Instead of an ‘ordinary’ exclusion of the subalterns from the social order, one detects their specific integration into political and economic processes by formulating their agency as *entrepreneurs*. This is often disregarded in analyses of the ‘global South.’ The paper will show how a focus on governmentality through a postcolonial lens offers a more coherent picture of transnational power relations and global social orders.

Against this theoretical background, in the second part, this article will focus on a globalized Bangladeshi discourse on institutionalized microfinances as illustrative and exemplary. Microfinances are analysed as “paradigmatic governing programs” (cf. Kausch 2008), which rationalize new strategies that go beyond current programs, at least in the field of development politics. From this perspective, I am interested in the subjectivities the programs constitute and the technologies of the self and of government they enforce. In particular, the paper will draw attention to the explicitly gendered subjectivity of subaltern women in the ‘global South’ as (potential) receivers of microcredits. These women are targeted as primary *development agents* of their families and communities—thereby the possibility for improvement of the whole community rests on their economic success and they have to shoulder the promises of development. Social change is thereby re-formulated in terms of assimilation into capitalist structures: Subaltern women are incited to integrate themselves into the global market as entrepreneurs by taking loans from formal, financial markets. This kind of subject constitution not only influences the individual position of subaltern women, but one detects political and economic consequences for communities, markets and the state in the ‘global South’ as well as in the interdependent ‘global North.’

Governmentality as a Theory of State and Political Economy

Despite the important insights offered by governmentality studies in connecting analysis of power relations and formation of subjectivities, in the focus has primarily been on the ‘global North,’ thereby limiting its analytic potential. This paper attempts to overcome this shortcoming by turning attention at the position of the subaltern women in the global social order through an investigation of microfinance programs.

Foucault develops the concept of governmentality by using the term *government* in a broader sense. Government, as a modern form of governmentality, refers not only to state actions, political structures and formations; rather, as Foucault points out, “to govern, in this sense, is to structure the possible field of action of others” (Foucault 1982: 790). His analytical interest is to examine various forms of technologies and fields of practices that aim at the guidance and conduct of individuals and collectives (cf. Bröckling et al. 2000: 10ff.). Power, according to Foucault’s analysis, can only be seen in relational terms because it entails rule of individuals over other individuals, and thus these are social relations in “which certain actions may structure the field of other possible actions” (Foucault 1982: 791). Power relations are not separated from social relations; rather they are the conditions of possibility of society as such. In contrast to this, sovereignty is the institutionalized exercise of power administered through economic, political or military means. Government functions as an intermediate analytic term between enforced political structures and relations of power. It is the point where stabilization of power as well as resistance to it becomes visible and is negotiated under asymmetric conditions (cf. Lemke 2000).

Especially in the implementation of new programs and practices, relations of power become discernable, as we will see in the case of microfinances, where the subjectivation of the (potential) borrowers and clients is crucial for the operationalization of discourses of development. This is similar to the government of the modern state, which aims to govern the conduct of the population through means of technologies of the self and technologies of domination.² These strategies include campaigns and indirect techniques to de- or increase birth rates; channelling migration to particular regions; guiding people towards certain occupations like self-employment in the case of microcredits. The population is conceived as the subject of desires and efforts, as well as the object of governmental interventions. This also

²*Technologies of the self* is a set of governmental strategies, wherein the individuals are encouraged to take “care of themselves” (Foucault 1988) and in a neoliberal way govern themselves by understanding themselves as certain subjects, which should act and have agency in a certain manner and by practices of improvement self-govern in an enterprising and autonomous way (Rose 1999). In the case of microcredits this means that the subject has the freedom to take a loan, but in doing so the borrower is expected to earn more money to best of her capability by running a successful business. At the first sight she appears to be autonomous, however the aim of governmentality studies is to take a closer look and analyse how this strategy is imbued with technologies of power.

means that power does not work primarily through discipline—although discipline and coercion still play a role and are deployed—however the key element is *freedom*.

The subjects are directed to act in a set field of possibilities—agencies are enabled by subjectivities. Without freedom, there would be only one option to pursue without alternatives. In contrast to theoretical approaches like liberalism, in Foucault's view the category 'subject' is historically constituted: subjects do not exist autonomously and independently of social relations. Moreover their subjectivities—that is the way subjects understand themselves as subjects, as well as how they are approached—is connected to and an expression of power relations and state formations. Subjectivation is therefore a compelling process, where subject formation, its political representation under a specific rationale as well as its depiction by means of production of knowledge is conducted. The aim of governmentality studies is to analyse forms of political government and its relation to subjectivities and technologies of the self, in order to examine how knowledge systems and discursive formations are intertwined with political fields, governmental regulations and economic orders.

Although Foucault and his work are not customarily associated with the canon of materialistic and neo-Marxist theories of the state, we find an approach that is theoretically connected to these works (cf. Poulantzas 2000; Jessop 1990; Ludwig 2011). Focus on subject formation as an analytical starting-point offers further insights into how social-economic orders structure the conduct of individuals and thereby reinforce certain relations of power. In the case of microcredits, we will see that self-governance as part of the subjectivation of the borrowers play a key role in establishing an economic model.

The Enterprising Self and the Subaltern

In neoliberal governmentality, as a specific historic-materialistic form of governmentality, economic rationality has become the scale for state intervention in social politics. "The market is no longer a principle of government's self-limitation [...]. It is a sort of permanent economic tribunal confronting government" (Foucault 2008: 247). The state is seen to be founded on the freedom of the market. Social relations and practices, as well as the practices of government, are taken to a kind of economic tribunal ruled by the logics of the market. Intrinsically linked to this is the concept of 'human capital' as a key aspect of neoliberal theory. Herein, the salary earned from labour is an income of capital and capital is the source of further income. Human capital cannot be separated from its bearer. It is her inherent and acquired skills and competences that are a result of investments. The concept of *homo oeconomicus* marks a shift from someone who benefits from participating in an exchange economy to a risk-taking entrepreneur who increases capital stock. As Foucault puts it, "*Homo oeconomicus* is an entrepreneur, an *entrepreneur of himself*." (Foucault 2008: 226)

This reversed analytical pattern provides the rationale of politics for growth in the field of social, cultural and educational policies. Innovations and economic growth should be achieved through modifications of and investments in human capital. The concept of governmentality reinforces Foucault's insight that power relations not only have a repressive character, but also a productive aspect: they can yield knowledge and behaviour patterns. Foucault calls it the nexus of "knowledge-power." This political knowledge defines who qualifies as political subject and moreover who gains agency, and it is also embodied in cultural and normative routines and orientations.

The rationality of neoliberal governmentality develops its efficacy through structuring the field of possibilities to act and inscribing itself into processes of subjectivity. A central figure of neoliberal governmentality is the *Enterprising Self* that projects subjects as economically rational and efficient. The idea incites subjects to consider themselves as entrepreneurs of themselves and to employ technologies of the self to realize this (Bröckling 2002). Ulrich Bröckling states that

the enterprising self does not designate any empirically identifiable entity at all, but rather marks a direction for the way in which individuals are to change and be changed. It exists only in the gerund as something being produced and optimized. One is not an enterprising self, but is rather becoming one. (Bröckling 2005: 11)

An all-embracing economic social policy activates subjects, who are no longer coerced into action. This policy establishes conditions under which the subjects willingly behave in the "right" manner. That is the promise of using one's own freedom, a freedom that is structured in a certain way but that does not dictate certain behaviour. Thus, the individual motivation of the subject is the starting-point for governmental interventions, not "external" factors like social structure or classes. This is accompanied by an expansion of government, because no subjective or individual dimension is per se out of range of governmental interventions. More and more areas can be appropriated within the rationale and become governable.

Instead of an exclusion from the social, political and economic order, as we see in other forms of rule, all marginalized individuals including the subaltern and the poor, who were previously excluded, are now expected to take action and conduct their lives as enterprising selves to become capable subjects. This process creates specific forms of integration into political and economic processes, wherein the hierarchical categories of race, class, sexuality, gender relations, ability and (neo) colonial orders or, in short, the intersectionality of subjectivation, are not targeted structurally but rather individualized. The consolidated power relations and dominations within social orders—on economic, political and cultural levels are mobilized to conduct the conduct of subjects by certain governmental strategies. The following section that is devoted to the analysis of microfinances will illustrate this point in greater detail with special focus on subalternity, which within postcolonial approaches alludes to vulnerable subject constitutions that are targets of multiple and intersecting marginalisations and exclusions (cf. Castro Varela and Dhawan 2005: 67ff; Spivak 2008). What Spivak means by the term is "subsistence farmers, unorganized labor, the tribals, and the communities of zero workers on the street or

in the countryside,” particularly emphasizing the marginalization of the female members of these groups (Kapoor 2008: 153, Fn. 2).

Governmentality as an Analytical Tool

In an attempt to better understand emerging current social orders, *governmentality studies* have worked to broaden and enhance Foucault’s concept. In the context of the USA in the 1980s, Barbara Cruikshank shows how the critique of paternalistic welfare programs was instrumentalized to activate “the poor” through *empowerment*: the poor are no longer constructed as powerless subjects who need the support of welfare programs that end up keeping them helpless. It is argued that interventions should instead emphasise “self-help” for the poor: “Self-help is a technique that works to limit the need for state action—not by ‘depoliticizing’ class relations or excluding the poor from politics but by getting them to act” (Cruikshank 1999: 55). The sources of inequality and the reasons for social problems are projected onto the subjects—lack of self-esteem and their wrongful actions against their own (truthful) desires and interests. Empowerment strategies are emphasised as a way out:

The left uses the empowerment to generate political resistance; the right, to produce rational economic and entrepreneurial actors. ... [they] share a political strategy: to act upon others by getting them to act in their own interest. It is the content of powerless people’s interests over which the right and the left disagree. (ibid.: 68)³

Cruikshank states that poverty reduction programs, (1) constitute some people as powerless, who are in need to be empowered, (2) requires experts, who could help them to overcome their deficits of “power, hope, consciousness [and] self-esteem” (ibid.: 71), so there is a specific hierarchical knowledge production; and (3) make claims that this is an ongoing and never-ending process because one is never sufficiently empowered: There will always be “powerless” people, if power relations, domination and structures are not transformed and reconfigured. Thus “the will to empower” is not simply liberating or repressive, but a relation of power that is voluntary and coercive at the same time. Predominantly in the scholarship on governmentality studies, a global hegemony of neoliberalism is assumed and the primary focus is on ‘Western’ societies, which condemns subjects in the ‘global South’ as powerless objects: “The most important critique of this literature,⁴ perhaps, is that it sees subjects [in the ‘global South’], as having no freedom to act because objectifying regimes of knowledge and institutions constitute them,” remarks Pooja Rishi (2009: 16).

³The problem with this kind of genealogy of empowerment is that it has the potential to neglect the importance of *self*-empowerment. As power is a rule by people over people, people are incited to act.

⁴For further critiques of governmentality (studies): (Lemke 2000, 2008; Biebricher 2008).

The effort of this chapter is to overcome this shortcoming in governmentality studies by drawing on postcolonial perspectives and shifting exclusive focus from the ‘global North’ to the ‘global South.’ To this end, the emergence of microcredit programs in the ‘global South’ and the global discourse of microfinances⁵ will be analysed by employing the analytical tool of governmentality.

In the global discourse on microfinances, two important patterns of perception are constituted: which subjects should benefit from the program and what are their specific circumstances and problems. In this framing, problems are defined as well as strategies to overcome them, so that rationalities for intervention and governing emerge. Microcredits explicitly work with self and external technologies of conduct aimed at particular subjects. The subject’s ‘field of possible actions’ and its agency is framed by the programs and, although the models of lending are varied, they nonetheless share general patterns of technologies and practices. On the basis of this subjectivities within microcredit programs can be reconstructed and thereby, the political and economic effects of these power relations analysed.

Microfinances

Microfinances are one of the most prominent forms of development aid for the past decades and are considered as “the” key measure to fight poverty. Important actors in the field of development politics are increasingly focusing their efforts on this instrument. For instance, the United Nation declared 2005 as “International Year of Microcredit.” The founder of one of the largest microfinance institutes, Mohammed Yunus, and the Grameen Bank from Bangladesh were awarded the Nobel Peace Prize in 2006 “for advancing economic and social opportunities for the poor, especially women, through their pioneering microcredit work,” as the Nobel Prize Committee stated (2006).

In the past three decades, a global market for microfinance services has emerged, which not only offer credit, but also insurances. Thus, people who apply for a loan also have to insure themselves and open saving accounts at the same branch. Microfinance institutions (MFIs) specialize in providing services primarily to “poor” clients—these are either connected to development aid and NGOs or are independent economic actors or branches of commercial institutes such as banks and insurance companies. There is a wide range of programs all over the world with growing focus on clients in the ‘global South,’ especially poor women as demonstrated by the figures in the Table 1 below.

Bangladesh is considered the birthplace of institutionalized microcredits, and is a country where one can observe the widespread prevalence of microfinancial services as well as large allocations from international governmental and private promoters and investors. The international discourse on microfinance services (in the

⁵For a more detailed description, see (Lüddemann 2011; Kausch 2008; Nonhoff 2006).

Table 1 The regional pervasion of micro financial programs (Daley-Harris 2009: 29)

Region	Number of programs reporting	Number of total clients in 2007	Number of poorest clients in 2007	Number of poorest women clients in 2007
Sub-Saharan Africa	935	9,189,825	6,379,707	3,992,752
Asia and the Pacific	1727	129,438,919	96,514,127	82,186,663
Latin America & Caribbean	613	7,772,769	2,206,718	1,450,669
Middle East & North Africa	85	3,310,477	1,140,999	890,418
Developing World Totals	3360	149,711,990	106,241,551	88,520,502
North America & Western Europe	127	176,958	109,318	72,576
Eastern Europe and Central Asia	65	4,936,877	233,810	133,815
Industrialized World Totals	192	5,113,835	343,128	206,391
Global Totals	3552	154,825,825	106,584,679	88,726,893

‘global North’) is shaped by various publications⁶ by Yunus and the Grameen Bank, by the Consultative Group to Assist the Poor (CGAP)—an organization of leading global microfinance institutions—and the World Bank. Most of the literature draws on examples from Bangladesh to represent ideal-type situations and in doing so decontextualizes the discourse. This is why, in my view, the microfinance-discourse is a ‘globalized Bangladeshi discourse’ that is dominant or even hegemonic in the debate on institutionalized microfinances. My argument draws primarily on this body of literature, as well as on social and anthropological impact studies and critical reflections.⁷

The Demands of a Global Market and the Necessity of Credit

To justify a specific intervention, it becomes necessary to problematize social reality in a certain way so that solutions can be offered. In the case of microcredit, it is claimed that “the single obstacle facing the poor is that no institutions exist which will lend them money. The allocation of microcredits solves this problem in a

⁶These include books, studies, homepages and brochures that contain scientific research, reviews of and reflections on microfinance programs, advertisement for programs and personal stories of borrowers, as well as general reports on development aid.

⁷Important thinkers are: Rob Aitken, Maren Duvendack, Jude L. Fernando, Naila Kabeer, Ross Mallick, Aminur Rahman, Pooja Rishi, Kalyan Sanyal and Katherine Rankin.

Table 2 Emerging trends in the microfinance industry (Kanayi 2010)

Region	Market size (projection 2012)	Unbanked populace
LATAM & Caribbean	USD 22 billion	175 million
Africa	USD 25 billion	230 million
South Asia	USD 15 billion	264 million
Global Trends	USD 52 billion	664 million

sensible economic manner.” (Yunus 2008: 92, translation by the author). Or, as Marguerite Robinson of the World Bank puts it: “Among the economically active poor of the developing world, there is strong need for small-scale commercial financial services—for both credit and saving.” (Robinson 2001: 45).

Following this logic, the *problem* is not poverty or unequal distribution of resources, but that the individual has no access to capital to invest in their human capital. Hence an immense global demand for microfinance services and a global market is constructed and projected, as the following table, taken from the business consultant Infosys, exemplifies Table 2:

It is commonly assumed that the number of “poor people” in the world nearly equals the number of current and potential clients. But one could ask why it seems plausible to give credit, rather than dole out cash without interest rates or pursue other forms of social policy, such as infrastructural investments or even redistribution of wealth. By problematizing social reality in this manner way, microcredits programs are rationalized as legitimate intervention, so that claims for interest rates can be made. Ananya Roy remarks critically that “more recently, in the wake of the global financial crisis, microfinance is being celebrated as the strategy that may yet save capitalism, providing a way to create new markets out of those that business school guru C.K. Prahalad (2004) famously labelled the ‘bottom of the pyramid’” (Roy 2010: 23).

Two man approaches dominate the discourse on microfinances, namely, the “financial systems approach,” where commercial and profit interests of the financial markets are the man focus and the “poverty lending approach,” where the aim is to reduce poverty (Robinson 2001). Both approaches use the same rationality and tactics of subject-constitution to reason in favour of microfinances and their expansion. While several reasons are proffered for the efficacy of credits with interest rates, I will briefly outline three aspects that unpack the neoliberal and gendered governmentality of microfinance programs:

1. Microfinances are presented as means of intervention that function *without state or governmental interference*; in particular without the “developing” state in the ‘global South,’ which is constructed as a dysfunctional and failed social order. Social and political measures are rejected because they “simply did not work out” (Yunus 2008, translation by the author), meaning that they were not successful in mitigating the individual situation of poor people and inhibited their enterprising freedom. “The microfinance system is one of the few development instruments that can directly reduce poverty,” states Nancy Barry of the World

Women's Bank (Barry 2004: 17) thereby connecting microfinances directly to alleviation of poverty, setting it as the most important aim of development aid, while at the same time disqualifying other instruments. Yunus summarizes that microcredit “unfold[s the] creative energy [of the recipient]. This is why the Grameen bank offers poor not handouts or grants but credit—loans that they must repay, with interests, through their own productive work. This dynamic makes Grameen Bank sustainable” (Yunus 2009: 56). Here one detects the economic tribunal Foucault speaks of. By dismissing other forms of development and socio-political measure for failing to value the “productive work” of the poor, the intervention of microcredit programs is rationalized. Furthermore, sustainability, a dominant concept in development discourse (cf. Ziai 2006), functions as a strategic goal.

2. One of the most important reasons for charging interest rates is *financial sustainability*. It means that the MFI is able to cover all its present costs and the costs incurred in growth. The sustainability can be measured and monitored and is directly linked to the ratio of loans paid back. MFIs claim a ratio up to 90 %. However, research results, for example those by Naila Kabeer, show that “microcredit members are trapped in a circle of vicious debt” (Kabeer 2001) and new loans. Consequently, financial sustainability does not mean human sustainability. As Philip Mader emphasises, interest rates of up to more than 100 % are common, especially at economically successful MFIs. As he cynically observes, “microcredit borrowers execute more to pay their interests rates [of 19.6 billion USD] than the Greek state with 16.6 billion USD in the same year.” (Mader 2013a: 15, translation by the author).
3. In this way, microcredits are also seen as a *normatively better* development-aid instrument that is more suited to alleviate poverty than 'traditional' development projects. It is moreover argued that the gender blindness of earlier decades is overcome by focusing on subaltern women. Participatory elements of self-employment and self-organization in credit groups promise to resolve the authoritarian and universalizing bias of aid campaigns. The poor are no longer considered as passive recipients of aid but rather as activated and empowered subjects of their own development. This gender awareness ironically leads to an explicit targeting of subaltern women:

Women with a low income are at the heart of the microfinance system. In most countries, the majority of the customers of microfinance institutions are women. The institutions have recognized that women have better repayment behavior and use their additional income and wealth very efficiently to build up their families and communities. Microfinance institutions, cooperatives, and banks are becoming increasingly aware that women with little income are valuable customers. (Barry 2004: 17)

From a “Poor Nobody to an Enterprising Self”⁸

The discourse depicts the poor as entrepreneurs of themselves and as having entrepreneurial abilities that are proven by their strategies of survival. Yunus speaks of the poor as “bonsai people [...] with whom is nothing wrong [...] Simply, society never gave them the base to grow on. [...] Once the poor can unleash their energy and creativity, poverty will disappear very quickly.” (Yunus 2009: 247). As the Grameen Bank puts it, “The poor are resourceful managers” (Dowla and Barua 2006: xvi). Microcredit programs encourage this enterprising self. In the rationalisation of neoliberal governmentality, microfinances offer the subaltern a subject position and thereby agency.

The poor should be activated and empowered only through economic activities, thereby equating the category “poor” with missing capital to invest and no longer treating it as a structural position within society. The enterprising self is constructed as part of the subjectivity that the subalterns already have and their actions are viewed and judged from an economic lens. Subsequently, interventions into their lives structure their possible fields of actions in entrepreneurial and competitive ways—taking a microcredit is constructed as the most rational and viable option (Aitken 2010).

The subaltern is at once individualised as (potential) entrepreneur even as the diverse circumstances in which they live are homogenized and disregarded. Because every single person seems to have the opportunity to take a microcredit loan and be successful, risk and failure become the personal responsibility of the individual and not society or state. Although illness and death are part of life and natural disasters like flood and drought impact people’s lives, these are not addressed. Financial empowerment is the exclusive focus and is to be achieved through creating subjects as entrepreneurs. Other moments of empowerment, development and citizenship are subordinated and it is assumed that they will follow automatically although microcredit programs do not undertake measures to pursue these.

Valued *Female* Customers

Even though the “entrepreneurial ability is practically universal” (Yunus 2009: 54), microcredit programs specifically target subaltern women in the ‘global South,’ highlighting the enhancement of this capacity as a pronounced aspect of microcredits because the poor women are seen as disadvantaged and discriminated subjects of societies in the ‘global South.’ The underlying relations of power that constitute these specific social structures are not analysed, rather the subjectivation of poor women as enterprising selves is advocated irrespective of the contextual

⁸“‘The group makes it possible for a poor nobody to take the leap and become an enterprising somebody,’ says Mohammad Yunus” (Haider 1996: 145).

contingencies to overcome structural obstacles through individual empowerment. Women's World Banking points out, "We believe that when a woman is given the tools to develop a small business, build assets, and protect against catastrophic loss, she is empowered to change her life and that of her family." (Women's World Banking 2010). Men, however, are seen as irresponsible actors, who would "spend their money on themselves" (ibid.), while women have shown that they are "more disciplined and resourceful" (ibid.) and perform better in repaying their loans. Nancy Barrow of Women's World Banking reasons, "The focus on women with low income as estimated customers increases their loyalty as well as the value of financial services to this target groups" (Barry 2004: 17).

These women are primarily targeted as the *development agents* of their families and communities. The programs describe women as essentially mothers, (re-)enforcing and naturalizing the role of cultural and economic caretakers within a dichotomised, heterosexual hierarchy. Success stories about female borrowers as commendable examples to be emulated as well as idealised stories to illustrate the strengths of lending models circulate globally and often deal with poor women with children as primary protagonists. Four of the sixteen guidelines of the Grameen Bank,⁹ which every borrower is expected to follow concern family planning and childcare. These narratives not only reify a certain picture of poor women as (potential) borrowers, but also reinforce gender dichotomy and normative gender roles about subaltern women (and men) in the 'global South.' Although a critique of traditional approaches like "Women and Development" is voiced by these programs and the effort is to make women more 'visible' in economic processes and in the market, a new form of subjectivation is operationalized at the same time.

Critical studies bring to light how these narratives and the higher repayment rates are an expression of technologies and practices of the self and of practices of coercion and even physical violence. Morgan Brigg argues: "The [Grameen] bank practice of actually excluding men from the program and focusing on women has much more to do with women being more amenable to the discipline." (Brigg 2001: 250). Aminur Rahman similarly shows that MFIs target specific women who are considered docile and who tend to be shy or submissive (cf. Rahman 1999: 69ff.). He explains:

In an extreme case, peers may take the defaulter to the bank office. For a man, if he is locked inside the bank building for several days it would mean almost nothing to other people in the village. But if this happens to a woman then it will bring *durnam* [bad reputation] to her household, lineage and village. People in other villages will also gossip about it. (Rahman 1999: 70)

⁹"We shall plan to keep our families small. We shall minimize our expenditures. We shall look after our health"; "We shall educate our children and ensure that they can earn to pay for their education."; "We shall always keep our children and the environment clean."; We shall not take any dowry at our sons' weddings, neither shall we give any dowry at our daughters' weddings. We shall keep our centre free from the curse of dowry. We shall not practice child marriage." (Grameen Bank 2008)

The programs instrumentalize female “vulnerability as a means of enforcing repayment” (Mallick 2002: 154). Microfinance programs particularly target subaltern women whose experiences of exploitation, violence and coercion are not heard because of their disenfranchised social position.

The conviction that women, who are stereotyped as loving mothers, while men are represented as violent and irresponsible is misleading. There are documented cases of violence between women within credit groups, especially when they convene to ensure that individuals repay their loans. But this form of discipline is not anathema to the microcredit programs. This establishes “an environment of hostility and coercion that in practice atomizes rather than unites them” as Kathrine Rankin’s analysis shows (2006: 104), thereby ironically ensuring the success rate of repayments.

Coercing and Self-Governance in Microcredit Programs

The programs enforce their realization through technologies and practices that structure the possible actions of current as well as potential borrowers. They seek not only to conduct subjects as self-governed and economically sufficient through technologies of the self, but also by mobilizing disciplinary measures. Thus it employs an effective combination of consent and coercion.

The most common lending model of microcredit programs of the Grameen bank is the group model,¹⁰ which usually consists of five women. The members bear joint liability for the loan, in case there is no financial guarantee. This places the women in a hierarchical dependency to each other: Only if everyone repays the loan on a weekly basis can they all obtain further loans. Furthermore, the weekly repayments must be made in public in front of the entire village,¹¹ establishing a panoptical view. Rankin observes that “group members [...] vigorously monitor one another’s consumption and repayment patterns in accordance with program incentive structures” (2006: 104). Here the programs establish new power relations in the community amongst the group members, but also in the micro social environment of the women, like their families.

Surveillance and control is not only undertaken by the borrowers themselves, the group and the community, but also by the employees of the bank, who are often part of a franchise system: They receive capital in the form of a loan from the bank, which they then lend as microcredits. Within a certain time frame, they have to repay the money with interest and also earn their own income (c.f. Dowla and Barua

¹⁰ The model discussed here draws on the Grameen II model (cf. Dowla and Barua 2006). Different models exist of how and under what conditions people get loans.

¹¹ The village centre functions as the site of consolidation of the various credit groups. Six to eight groups have to convene at a venue, where they conduct their weekly meeting. The organization of these meetings is broadly defined within the programs including the seating arrangements with the group chairperson being responsible for the discipline.

2006: 19). The pressure thus trickles down to the single borrower. In his review of several impact studies, Mallick concludes that

there is empirical evidence that it also results in increased violence against women [...] There is no doubt that the Grameen Bank has tacitly allowed violence to be used as a means of coercing repayment, and, by funding it, the donors are complicit in this even though they are opposed to domestic abuse in principle. (Mallick 2002: 156)

The microcredit programs with its focus on poor women not only code emancipation in economic terms but also “influence the way people construct themselves, their conduct and their relations as free individuals” as Jude Fernando observes (2006: 5). Social change is thereby re-formulated in terms of economic success: subaltern women are incited to integrate themselves into the global market as entrepreneurs via self-employment.

This not only has discursive effects, but also material impact as it places “the poor” within normative economic orders. As the World Bank emphasises, “It can do so because the informal sector is the natural environment for rural people” (cited in Robinson 2001: 13). Kaylan Sanyal analyses the examples of the Grameen Bank and the Self Employed Women’s Association: “The borrower uses the loans to engage in various non-farm self-employment activities: such as weaving, garment stitching, block printing, tobacco processing and dairy to name a few” (Sanyal 2007: 234). Loans are also offered to rent machines, whereby the borrowers do not necessarily control the means of production, but depend on the sale of their products. Sanyal describes this as a “need economy” (Sanyal 2007, Chap. 5) where informal production is supplied by capital from global formal financial markets.

Conclusion

This article shows aspects of the neoliberal and gendered subjectivation by micro-financial programs. Drawing on Foucault’s concept of governmentality, the emergence of new geopolitical relations of power is analysed: The new paradigm of the enterprising self is contextualized within the field of development politics. As entrepreneurs of themselves as well as development agents of their families, subaltern women are being made responsible for freeing themselves from deep-rooted poverty. In a neoliberal, global governmentality, microcredit programs structure subjective and political fields of possible action. Herein, development aid as such is not questioned, and the critiques of the Association of African Women for Research and Development as well as of the Development Alternative with Women for a New Era on approaches like “Women in Development” and “Gender and Development” are still considered relevant. However, as pointed out by Gita Sen,

a development process that shrinks and poisons the pie available to poor people, and then leaves women scrambling for a larger relative share, is not in women’s interest. [...] Equality for women is impossible within the existing economic, political, and cultural processes that reserve resources, power, and control for small groups of people. But neither is development possible without greater equity for, and participation by, women. (Sen 1987: 20)

Furthermore, one can identify a financialisation as well as marketization of poverty (cf. Roy 2010; Aitken 2010). The livelihood of poor people and their economic survival is inextricably intertwined with global financial markets through microfinances. Meanwhile financial markets and private actors like banks and insurance companies could previously only indirectly access the poor, they are now able to make profits by providing them access to national and international capital. With microfinances becoming global investment business and NGOs increasingly turning into MFIs, the field of possible actions for poor and subaltern women is restricted to their integration within the global market. Other alternatives to gain economic independence and earn their livelihood are made impossible with private and governmental resources and investments being channeled into microfinances. In fact, private economic actors are being depicted as responsible helpers and financiers of development aid in the global discourse (cf. Mader 2013b) with the microfinance programs being connected to poverty reduction. This, despite contrary economic and empirical evidence (cf. Duvendack 2014) that proves that such transnational enterprises reinforce and stabilize international division of labor contributing to global inequality and endemic poverty.

The appeal of an enterprising self appears to be all-embracing. However, there are also ongoing political struggles, especially in the local implementations of microfinances. People have contested the high interest rates and the short periods of loan repayment (cf. Biswas 2010; Mallick 2002; Brigg 2001). Shared experiences of pressure from within the family and community have enabled poor women to build alliances and reject and resist these coercive regimes. At the same time, development aid and the investments in microcredit programs have come under scrutiny, especially in the context of suicides by the borrowers due to their inability to pay (cf. Kabeer 2005; Rankin 2006; Duvendack 2014; Mader 2014). One can hope in the future that these interrogations of new forms of postcolonial governmentality will consolidate the power of negotiation of vulnerable subjects so that they can contest the negative aspects while appropriating the enabling moments.

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Normative Conflicts in Bangladesh: Nature/Forest Conservation, Corporate Interests and the Politics of Co-management

Mohammad Tanzimuddin Khan

Introduction

The foundational ideas of present day co-management conservation have their origin in the territorial colonization and modern nation-state making efforts in the nineteenth century. Since then, nature/forest conservation projects in Asia, Africa and the Americas¹ have broadly gone through three waves of progression. The first wave of ‘fortress’ forestry was prompted by the normative values of pristine nature/wilderness, the scientific study of the natural world, and the prevention of the indiscriminate killing of wild species (Khan and Lynch 2013: 107). The British colonizers introduced the idea of establishing ‘protected’ areas (PAs) and ‘reserve’ forests in the colonies for hunting and later prohibited the access of the tribal and other local communities to natural resources. The second wave of nature/forest conservation, as it emerged in the 1970s in the aftermath of the decolonization process, linked conservation with development, livelihood, indigenous rights and knowledge. This provided the foundation for the contemporary third generation co-management nature/forest conservation, which received its organizational impetus from the United Nations Educational, Scientific and Cultural Organization (UNESCO)² and the International Union for Conservation of Nature

¹The employment of the German botanist Dietrich Brandis as a forester in the British Imperial Forestry Service in colonial India in 1856, the Forest and Harbiage Protection Act (1859) adopted by the Cape Colony of Southern Africa, and the publication of the influential book *Man and Nature: Or, Physical Geography as Modified by Human Action* (1864) by George Perkins Marsh, played a key role in centralizing scientific forest management (Guha 2000: 25–33).

²It was established in 1945 with the belief that humanity’s moral and intellectual solidarity provide the basis for international peace. It is known as the intellectual agency of the United Nations.

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(IUCN)³ through the International Biosphere Conference held in 1968. This linkage was formalized in the 1972 Stockholm Conference on the Human Environment. The developing ‘Southern’ countries were encouraged to take part with the avowed goal of recognizing the link between nature conservation and development (ibid.: 108).⁴ Similarly, the establishment of private wildlife parks in Africa in the 1970s reflected the amplifying influence of the American population biologist Gareth Hardin’s idea of the “*Tragedy of the Commons*”⁵ and the capitalist property relations that had originated in the eighteenth century’s *Enclosure Acts* adopted by the British Parliament to encircle open fields and common lands (MacDonald 2008: 31; Brockington et al. 2008: 182–184; Richards 1997: 2–3).

Still, whatever the discursively formulated normative reasons or normative values for nature/forest conservation are, the politico-economic motive of resource *use* (either exploitative or sustainable) was dominant in creating national forests, parks and other forms of public lands in the former colonies in Asia, Latin America and Africa (McCarthy 2005: 1000). In the context of the continuing expansion of PAs institutionalized within the IUCN’s categorization system, the change from highly centralized state-managed fortress conservation into more participatory conservation approaches has recently occurred through the idea of sustainable development.⁶ There are now around 122,000 officially declared PAs covering almost 12 % of the earth’s land territory and another 65 % of its ocean (Mascia and Pailler 2010: 1). This shift in nature/forest conservation method is now confirmed by the introduction of co-management practice in the former colonies in Asia, Africa, and elsewhere. This third wave of conservation practices received institutional support mainly from the IUCN for its global promotion and advocacy (Khan and Lynch 2013: 107).

The concept of co-management has provided the normative grounding for the implementation of the conservation project since it is elaborated as “a situation in which two or more social actors negotiate, define and guarantee amongst them-

³It was set up in 1948 for helping the world find ‘pragmatic solutions’ for tackling environmental and developmental challenges. It has 1300 government and NGO members and more than 15,000 volunteer experts representing 180 countries with a special observer status at United Nations General Assembly (for details see: <http://www.iucn.org/>).

⁴The oil and energy entrepreneur and president of the Power Corporation of Canada, Maurice Strong, who was secretary of the UN Conference on the Human Environment, convinced the developing ‘Southern’ countries to take part as it had the avowed goal of recognizing the link between nature, conservation and development (Khan and Lynch: 108).

⁵For discussion of Hardin’s assumptions and historical ignorance, see (Martinez 2007).

⁶In 1966, the IUCN classified protected areas into national parks, scientific reserves, and national monuments. Later, it expanded the categories to ten types of protected areas: (1) scientific reserves, (2) national parks, (3) natural monuments/national landmarks, (4) nature conservation reserves, (5) protected landscapes, (6) resource reserves, (7) anthropological reserves, (8) multiple use management areas, (9) biosphere reserves and (10) world heritage sites. The first five categories became part of the UN list of protected areas and the sixth one was added in IUCN’s 1994 categorization, which now includes both marine and territorial spaces to indicate the areas for sustainable resource use. The bottom five classifications of the protected areas introduced in 1978 fall within the sustainable-use category (Brockington et al. 2008: 21–23).

selves a fair sharing of the management functions, entitlements and responsibilities for a given territory, area or set of natural resources” (Borrini-Feyerabend et al. 2000: 1). The normative framework of co-management opens up such nature/forest conservation projects for the participation of both state and non-state actors ranging from local communities and NGOs to local and multinational companies. This normative co-management is often described by both scholars and practitioners in terms of ‘public-private partnership’ or in light of ‘learning by doing’ approach.

However as the co-management approach proliferated and progressed, its promoters quickly came to admit the functional complexity of socio-ecological systems and the importance of reflecting on power relations and responsibility-sharing among stake-holding actors (Khan and Lynch 2013: 108). This admission of socio-ecological complexity has led to integrated development and conservation projects (ICDPs) being explained *neo-institutionally*: either from the rational choice-based ‘common pool resource management’ perspective (CPR),⁷ or from a governance perspective with its origin in sociological institutionalism.⁸ Both approaches concentrate highly on participation, power, and process, but their handling of this is often ambiguous and inconsistent (ibid.). The ambiguous definition of *participation* in particular has implications in pioneering the other two elements. For some, participation means a *communication process*, while for others it indicates *partnership* (ibid.).

Moreover, both approaches treat actors and power relations in a locally place-based way, or in a nation-state centric way. As a result — intentionally or unintentionally — they tend not to reflect on the external/global policy dynamics of nature/forest conservation, largely ignoring the power relations constitutive of, and playing out within, the resource-accumulation regimes of capital itself. As a consequence, their analyses overlook the linkages between contemporary nature/forest conservation and resource-accumulation regimes which are very much transnational, and which seem determined to ensure that everything in the nature/capital nexus is available for commodification. Market-based solutions to nature/forest conservation problems (eco-tourism, sustainable tourism, carbon emission trading, commercialisation of Non-Timber Forest Products, product value chains, etc.) constitute neoliberalism’s legitimating institutional ideology for the management of forest areas and nature conservation, and its way of denying or defusing conflicts, tensions, and contradictions between nature-based and social and economic motives and values. It seems that capitalism and the expansion of capitalist activities pose no threat to nature or social justice, but is *rather the medium of their realization*. In this

⁷CPR is founded on the assumption that actors are utility maximizers. It defines participation in a narrow sense, and treats users with long-term tenure rights as stakeholders (Sandstrom 2009: 231–232). Elinor Ostrom pioneered CPR for resource governance (see Ostrom 1990).

⁸This perspective borrows heavily from constructivism to argue that institutions are independent variables offering a political and cultural and strategic environment. It treats actors as part of a whole and assumes they progress simultaneously with the surroundings. Participation is defined from a broader perspective. The co-management approach is an arena for “deliberative problem solving” which requires participation of all actors affected by the resource management decision (Sandstrom 2009: 232–233).

commodification process, 'co-management' provides an institutional framework for place-based conservation as it embraces 'self-governing,' 'cross-sectoral partnership' ventures, involving the state, local communities, civil society organizations, and business enterprises.

It is also the case that participatory conservation approaches typically define nature and natural resources as over-ground forest resources and wildlife, popularly admired as 'biodiversity.' They do not look at, or reflect on, the importance of underground mining and genetic resources (e.g. hydrocarbon, seeds, and medicinal plants) that may exist in forest areas. This means that the interest(s) of exogenous or non-local actors (donor organizations, INGOs, national, transnational business companies, etc.) and their relations with each other are left out of their analyses.

Against this theoretical backdrop, this chapter seeks to investigate how a particular set of endogenous/local and exogenous/non-local corporate and environmental actors practically lock into interplay with each other when they confront an ecologically harmful event. The objective is to understand the efficacy of co-management practices for operating a biodiversity conservation project and look into the role of different players in terms of their respective conservation and corporate interests. To do so, this chapter draws on a case study involving a seismic survey done by Chevron Bangladesh⁹ in 2007–2008 in the legally protected forest area called Lawachara National Park located at Srimangal of Moulvibazar district of Bangladesh.

The analysis focuses on the collaboration between IUCN Bangladesh and Chevron Bangladesh in the context of the seismic survey, which is important for certain reasons. Firstly, IUCN champions the cause of environment and nature conservation and is a global hybrid environmental and conservation organization that implements conservation programs and formulates environmental policies. It is a hybrid organization in the sense that states, NGOs, and corporate actors are represented in its institutional structure. Secondly, in the case of Bangladesh, its country office was an official stakeholder and consultant of the Nishorgo Support Project, a forest conservation venture being implemented in the Lawachara forest area, close to which Chevron Bangladesh also operates a gas field. Moreover, several NGOs and a Ministry of the Bangladesh Government (Environment and Forests) are involved in the NSP under the rubric of co-management and they are also the members of the national committee of the IUCN Bangladesh.¹⁰ All this makes it

⁹Chevron Bangladesh is the subsidiary of the California-based multinational energy company, Chevron Corporation. Chevron Corporation is operating in more than 180 countries to explore and produce hydrocarbon resources. It originally started its business in 1876 under the name Pico Canyon, later became Standard Oil Company, and finally Chevron. In Bangladesh, it is the largest natural gas producer. It supplies 50 % of the gas produced for overall consumption, operating the Bibiyana, Jalalabad and Moulavi Bazar gas fields under production-sharing contracts signed with PetroBangla, a state-owned Energy Company in Bangladesh.

¹⁰The Washington-based International Resources Group (IRG) was the main implementing and consulting agency for the project. Winrock International has currently replaced them. The other local and national NGOs that took part in the various stages of its operation include Nature Conservation and Management, Wildlife Trust Bangladesh (WTB), Community Development Centre (CODEC), Center for Natural Resources Studies (CNRS), Bangladesh Environmental Lawyers Association (BELA).

imperative to reflect further on the role of the IUCN Bangladesh in relation to the seismic survey and related activities and operation of the co-management practice-based NSP at the Lawachara National Park. IUCN Bangladesh also had the official responsibility of preparing a biodiversity monitoring report to assess the environmental impact of the 3-D seismic survey¹¹ conducted by Chevron Bangladesh at the Lawachara National Park.

This chapter also questions whether this operational framework offers an opportunity for the transformation of transnational co-operations under the rubric of corporate social responsibility (CSR)¹² or does it simply facilitate certain influential actors to appropriate the conservation project for pursuing their own business interests? Is this form of co-management a “win-win” for all involved or is it neo-colonial extractive politics in the name of the normative agendas of sustainable development, social responsibility, and democratic participation?

The chapter will argue that the business partnership prospects were dominant and conservation needs subordinate in the collaboration between IUCN and Chevron with regard to the seismic survey at Lawachara National Park in Bangladesh.

For doing so, this chapter explains the origins of the conservation project and the seismic survey and examines how the IUCN-Chevron business partnership evolved and Chevron managed to get the site and environmental clearance certificates from the Department of Environment for conducting it in an ecologically sensitive rainforest area of Bangladesh. Simultaneously it reflects on how and why the West Bhanugach reserve forest located in the North of the Lawachara National Park was brought under the co-management-based Nishorgo project ‘coinciding’ with the 3-D seismic survey.

The Background of the Co-management Project

In 2003 in Bangladesh, the United States Agency for International Development (USAID) financed and initiated a biodiversity conservation venture under the name *Nishorgo* [nature, cosmos] Support Project (NSP), which began in Lawachara

¹¹ A seismic survey is performed by producing acoustic pulses through explosions from a source on or beneath the surface for the measurement of acoustic waves reflected off the boundaries between rock strata using specialized recording devices (geophones) situated at various positions on the surface. The initial shots and subsequent return signals are recorded onto magnetic tape for detailed analysis at a later date and allow the surveyor to pinpoint gas and oil reserves beneath the surface depending on the physical nature of the surface strata (Bakht et al. 2010: 4–5). Access roads are required for heavy equipment, survey lines, and drilling sites. The technique can cause physical damage to the habitat, including deforestation, de-vegetation, erosion and watercourse siltation, and disrupted drainage patterns.

¹² It refers to self-regulatory initiatives undertaken by the corporation to measure and take responsibility for its impact of activities on environmental and social well-being. This concept of CSR came into being in the 1960s. Some business enterprises, for implementing CSR, prefer “actions that appear to further some social good, beyond the interests of the firm and that which is required by law” (McWilliams and Donald 2001: 117).

National Park.¹³ During the Nishorgo phase, the project was implemented in five protected sites of the Forest Department (FD) including the Lawachara National Park of Srimangal, Moulvibazar district.¹⁴ These were actually the pilot sites of the project that overlapped with the area that the US Geological Survey and Geological Survey of Bangladesh (GSB) had jointly identified as the most prospective gas reserve zone in Bangladesh in 2001. This geological zone falls within the Chittagong-Tripura Fold Belt connecting northeastern and southeastern parts of Bangladesh (Khan 2010: 69).

The idea of having a co-management practice-based biodiversity conservation project in Bangladesh can be traced back to the visit of Bill Clinton, the then President of the USA. During his visit in 2000, the President pledged to assist Bangladesh in its water and forest sectors, and specifically promised that — if things were done in a way amenable to the US — he would waive a portion of Bangladesh's outstanding concessional loans, which it had taken out with the objective of supporting its environmentally threatened tropical forest ecosystems (Chemonics International 2001: B-I, Annex: B). Clinton's intervention saw Bangladesh become the first country eligible for debt reduction (of USD 6 million) by creating a Tropical Forest Conservation Fund under the USA's Tropical Forest Conservation Act (TFCA) 1998 (*ibid.*).¹⁵ Accordingly, two agreements — the Debt Reduction Agreement, and the Forest Agreement to establish the Bangladesh Tropical Forest Conservation Fund (BTFCF) — were signed between the US and Bangladesh Governments in September 2000 (Chemonics International 2002: 1; Chemonics International 2001). The Forest Agreement was based on the TFCA, and provided for gradual payments of around USD 7 million over 19 years (Chemonics International 2001: iv).

USAID took the responsibility of establishing the said conservation fund, and to this end they contracted Chemonics International Inc., a Washington-based private service provider, to undertake consultancy activities in two phases (Chemonics

¹³The United States Assistance for International Development (USAID) has been financing and the Forest Department (FD) of Bangladesh 'administering' the project from the days of its inception. Chemonics International originally designed the 18-year-long project and recommended the incorporation of a co-management approach for its implementation in their consultancy reports prepared for USAID (Chemonics International 2001; USAID 2003). Apart from the Nishorgo phase (2003–2008), this project went through two more phases afterwards in its operational cycle: Integrated Protected Areas Co-management (IPAC) (2008–2012) and Climate-Resilient Ecosystems and Livelihoods (CREL) (2013–2018).

¹⁴Other sites were Satchari National Park and Rema-Kalenga Wildlife Sanctuary of Habiganj, Chunati Wildlife Sanctuary of Chittagong, Teknaf Wildlife Sanctuary (once called Teknaf Game Reserve) of Teknaf.

¹⁵It provides for writing off outstanding USAID and Public Law (PL)-480 debts of the countries, worth of USD 13 billion. PL-480, also known as Agricultural Trade Development and Assistance Act (1954), provides a solution for food-deficient, financially insolvent countries. It allows them to import food from the USA in their own national currencies. The Tropical Forest Conservation Act, signed by President Clinton in 1998, has three ways of doing it: buy-backs, third-party swaps, and reductions. All these three mechanisms require the creation of local currency funds for tropical forest conservation (Chemonics International 2001: H-2, Annex-H).

International 2002: 1). Finally in accordance with the specific design and suggestions offered by Chemonics International, USAID's mission director and the finance secretary of the Bangladesh government signed a Strategic Objective Grant Agreement (SOAG) on 15 February 2003, which saw the commencement of NSP under the auspices of the FD with the technical and financial support from the former (Nishorgo Support Project and IRG 2004: 12). The agreement had the strategic objective of improving the management of open water and tropic forest resources, and a Steering Committee¹⁶ was accordingly formed in the same year. According to the official publication (ibid.: 11):

The [Forest] Department formalized and launched a Protected Areas (PA) Management Program aiming to conserve the [...] Protected Areas, which [...] would require a comprehensive strategy focusing on co-management [...] also including other aspects [...] PA financing, institutional strengthening, policies. [emphasis added]

The USAID Environmental team originally worked up the *Program Design* "in consultation" with the FD wherein it suggested replicating "co-management" elsewhere in Bangladesh for biodiversity conservation with the long-term objective of an "improved capacity for 'self-help'" of the local communities. It advocated "the sustainable use and management of the resource base (whether aquatic or terrestrial)" as one of the first components of the co-management concept (USAID 2003: 13 & 15). The *Program Design* named Lawachara National Park, Rema-Kalenga Game Sanctuary, Satchari Reserve Forest from the northeast, and Taknaf Game Reserve from the southeast of Bangladesh, as *potential* sites for the project; though the *actual* sites would be selected on the "basis of agreed site selection criteria" (ibid.: 17). Chunati Wildlife Sanctuary was not in the initial list but was later on incorporated in the project. The reason for bringing Chunati within the operational orbit of the project was not clear. Eventually the project officially got underway at Bhawal National Park, Gazipur on 24 February 2004 with the slogan: "Let us save nature for our future generation" (Mahbub 2004: vi). Ironically, the FD submitted the 'project concept paper' and 'project proposal' for biodiversity conservation to the Planning Commission of the Government of Bangladesh after *the project had already made its official debut*.

The operation of the co-management conservation project in Bangladesh as elsewhere has paved the way for the participation of the local communities along with other state and non-state actors. More interestingly, Chemonics International, the Washington-based consulting agency in the pre-NSP phase, was officially responsible for running the USAID's public-private franchise called *Shurjer Hashi* [Smiling Sun] health clinics in the areas under Moulvibazar district where Chevron

¹⁶ The Steering Committee consists of fifteen members: A secretary and joint secretary represent the MoEF in the committee. The secretary is to chair the Committee while the deputy chief (planning) is to act as member secretary and project director. The government notification for the formation of the Committee was signed and circulated by the deputy secretary on 1 September 2003. Other members include representatives (not below the ranks of joint secretary, director general and joint chief) from other relevant ministries and departments of the government.

was operating in blocs 13 and 14 for gas exploration. Several multinational companies operating in Bangladesh, including Cemex Cement, Grameen Phone and British America Tobacco Company (BATC) as well as Chevron Bangladesh, financed this health service project for performing the so-called CSR project of *Shurjer Hashi*.

Given this scenario of corporate linkage, Chevron Bangladesh conducted a 3-D seismic survey in 2008 at the legally protected Lawachara Park and its adjacent reserve forest located at West Bhanugach to assess the prospective gas reserve underneath it in violation of the existing forest laws of the country (Khan 2010: 68). The survey was originally done in Moulvibazar and Srimangal districts, covering 150 km² including Bhanugach Reserve Forest, the extended part of the Lawachara Park. It is important to note here that reserve forests are highly protected compared to other protected areas.¹⁷ More importantly, the ecologically sensitive 3-D survey offered a further opportunity to IUCN Bangladesh to engage with Chevron in a two-stage business partnership. In the first pre-seismic survey stage (2007), IUCN was not in direct contact with the mining and exploration company. They were the sub-contracted partner of the Australia-based Snowy Mountains Engineering Corporation (SMEC) for reviewing the Environmental Impact Assessment (EIA) required for getting official approval of the Department of Environment (DoE) to conduct the seismic survey. SMEC originally prepared the EIA for Chevron. After submitting this EIA to the DoE, Chevron received an environmental clearance certificate with the requirement of meeting some specific conditions for conducting the survey at the Lawachara forest. One of the conditions was that Chevron Bangladesh *should employ a biodiversity monitoring team to be led by the IUCN* during the seismic survey. So in the second stage of conducting the survey stage, IUCN interacted openly with Chevron Bangladesh for monitoring the impact of the survey on the biodiversity of the forest. IUCN Bangladesh, while making the biodiversity monitoring report public in a press conference, confirmed that no damage had been done to the Lawachara National Park during the seismic survey (The Daily Star 2009). Indeed in the last paragraph of the executive summary of the monitoring report, IUCN makes the observation that “*no significant changes*” took place in the population status of the wildlife and no trees or threatened plants experienced damage (IUCN Bangladesh 2008: 3).

Analysis of the historical backdrop of the NSP confirms that, from the beginning, there was a lack of transparency in admitting that this project was solely the brain-child of USAID, not of the FD as officially advertised in the country. Chemonics International had only officially played its consultancy role in the aftermath of President Clinton’s visit for providing the necessary blueprints for the co-

¹⁷ In a reserve forest, according to Article 26 (1) of the 1927 Forest Act (Amended) promulgated during the British colonial period, a number of human activities are prohibited. Some of those are: kindling or carrying fire, trespassing or pasturing cattle, making fresh clear felling, hunting, shooting, fishing, poisoning water or setting traps. However, in protected forests, certain activities are permitted. For example, the government issues licenses to the local inhabitants and the traders to fell trees or timber and other forest resources for their own use and for the purpose of trading.

management-based biodiversity project in the five pilot sites, one of which falls within the area where Chevron Bangladesh operates. More so, the same Chemonics International's and USAID's corporate partnership with Chevron in the Moulvibazar district under the aegis of the *Shurjer Hashi* clinics also bears evidence of how they were interlocked into a patron-client relationship. This patron-client relationship puts the USAID-financed NSP project in doubt. It remains to be seen how genuine their effort is to protect the biodiversity of the Lawachara forest when it involves a 3-D seismic survey of Chevron. The same goes for the role of IUCN Bangladesh as one of the official stakeholders of the project. The seismic survey obviously offered them a similar opportunity for its corporate engagement with Chevron Bangladesh. USAID even selected the five pilot sites for co-management conservation behind the scenes. The West Bhanugach Reserve Forest, where no human activity is legally allowed, was also brought under the NSP project.

The analysis of the way USAID selected the pilot sites and of the process of IUCN's corporate engagement with the multinational energy company actually makes clear how co-management functions as an alibi for corporate interests and provides legitimacy in the name of nature/forest conservation. The official process of the corporate engagement of IUCN advanced the way Chevron managed to get the Clearance Certificate for conducting the seismic survey in the ecologically sensitive Lawachara forest.

Site Selection and the Inclusion of the West Bhanugach Reserve Forest

While on a field trip for selecting the five pilot sites for the NSP, the Chemonics team felt that Rema-Kalenga, Chunati, and Teknaf "would not be a first good choice for on the ground activities" (Chemonics International 2002: 31–33). Given the nature of difficulties at each site,¹⁸ they suggested short-term interventions: for Rema-Kalenga, the inclusion of adjacent tea-estate areas, imitating the programs in Lawachara and Satchari, and verifying the condition of the forest which was reported to be better in its southern part; for Chunati, the expansion of the Sanctuary to the North, South and East to include an elephant movement corridor (ibid.: 31); and for Teknaf, changing its status from Game Reserve to Wildlife Sanctuary, and the extension of the Reserve to include the remaining portion of the Whykhong Range and parts of *Ukhia* and *Inani* Range/Reserve Forests (ibid.: 33–34).

The recommendations of the Chemonics team with regard to bringing further areas within the jurisdiction of the proposed project were not confined only to the

¹⁸For Rema-Kalenga, these were difficulties in the resolution of settlement problems, limited tourism potential, and problems of open access (Chemonics International 2002: 21). For Chunati and the Teknaf Game Reserve, these were the uncontrolled harvesting of forest resources, extensive live-stock grazing, and the absence of any specific management activities by the FD (ibid.: 30–31 & 33).

“second-good” sites. They did the same for Lawachara and Satchari. The team advised the FD to include 281 hectares located at West Bhanugach Reserve Forest, north of Lawachara Park, *within the operational area of the National Park* for the implementation of the project, and to upgrade the status of *Satchari* from a *Reserve Forest* to a *National Park* (ibid.: 12–13 & 17).

The territorial expansion and change of legal status of the protected areas particularly for Lawachara and West Bhanugach Reserve Forest carried implications for the future operation of the project paving the way for conducting the seismic survey, for such change and expansion meant amending measures that protected the forest areas, and the resource use model in legal terms. This is because when it comes to National Parks and Wildlife Sanctuaries, article 23 (3) of the Bangladesh Wildlife Preservation (Amendment) Act 1974 allows the easement of all the prohibitions for “scientific purposes or for betterment of the national park or for aesthetic enjoyment of the scenery, or for any other exceptional reasons.” Again, article 23 (4) provides for the planned construction of certain infrastructures like access roads, rest houses, hotels etc. in National Parks, while in the case of Reserve Forests, the Forest Act 1927 forbids such exceptions entirely. The FD failed in conserving the highly protected reserve forests: Their production-oriented approach encouraged rampant corruption, ill-conceived plans etc. and led the team to suggest ‘sustainable use.’ Instead of rampant exploitation of the natural resources by the local community and other stakeholders, the co-management framework was supposed to ensure sustainable use.

Later Bangladesh Environmental Lawyers Association (BELA), the consultant NGO of the project, prepared a draft modification of the Wildlife Preservation (amendment) Act 1974 in 2007 and knowingly or unknowingly accommodated the proposed legal changes necessary for the operation of co-management conservation in the PAs.¹⁹ The main objective of such modification was to include the issue of ‘sustainable use of wildlife resources and habitat’ in the protected areas.²⁰ All the forest-related laws and their subsequent amendments reflect the post-colonial continuation of conservation discourses and resource exploitation by the independent state of Bangladesh as well as other international actors. During the colonial era, colonial powers would do this directly and now some of the NGOs have become the

¹⁹ Articles 7 and 9 of the draft proposal allowed the hunting of wild animals for, among other reasons, scientific research and when it is “necessary in the interest of scientific or any public purpose.” Article 18 of the draft also authorizes access to and setting up residence in a sanctuary in the name of “scientific research,” “ecotourism,” and for public purposes, among other things without offering any definition of those terms.

²⁰ Article 19 (1) of the draft proposal legally permits the Chief Wildlife Warden to construct any infrastructure necessary for the better management of sanctuaries. S/he can even undertake commercial ventures like commercial tourist lodges, hotels, zoos, eco-parks and safari parks inside a sanctuary when given consent from the local community and approval of the wildlife board and conducting an Environmental Impact Assessment (EIA). It further authorizes the government to promote collaborative management for which it can issue relevant rules and form collaborative management councils/committees through gazette notifications.

proxy actors on behalf of international donor agencies or multinational business corporations. Whether it is “scientific forestry” or “co-management conservation,” the former colonies are still at the receiving end in terms of implementing biodiversity conservation projects and adopting global forestry discourse produced by ‘Northern’ scholars and institutions, as these projects are financed by the agencies of international donors. Given this post-colonial legacy of forest law-making and green imperialism, it would be interesting to explore the collaboration between state actors and multinational businesses.

Seismic Survey and the Clearance Certificates for Chevron

The 3-D survey of Chevron Bangladesh was for assessing “under-utilised” parts of the gas reservoir with the aim of increasing extraction in the future and getting a more accurate assessment of the geological structure of the gas reservoir of the Moulvibazar Gas Field area (IUCN Bangladesh 2008: 16; Bakht et al. 2010: 4). The center of the area is situated in the northeast of the town of Srimangal, to be specific, in the Lawachara Park and its adjacent West Bhanugach Reserve Forest.²¹

The FD of Bangladesh did not publicly react to the seismic survey at Moulvibazar until news of it appeared in a Srimangal-based local weekly in January 2008 (Porikroma 2008). However, this was not actually the case. The process, which eventually led to the 3-D seismic survey, originally began in August 2007 after Chevron had submitted its application to the Department of Environment (DoE) for two certificates: *Site Clearance*²² and *Environmental Clearance*. The submission of the application led to several meetings with the Ministry of Energy and its presentation of an Initial Environmental Examination (IEE) report at the DoE.²³ The DoE accordingly issued the *Site Clearance Certificate*, authorizing Chevron to develop the physical infrastructure for the survey in the Moulvibazar Gas Field Area.²⁴

²¹ In the Lawachara Park and its adjacent West Bhanugach reserve forest, a total of 700 shot holes were drilled in 11 survey lines (IUCN Bangladesh 2008: 42). The seismic survey started in January 2008 and ended in June 2008. The seismic survey in the Lawachara and Bhanughach parts began in March of the same year and was completed in May.

²² Memo No. DoE/Clearance/2763/2007/2793. This memo is not publicly available. In fact several key-informants at the concerned departments and organizations provided the certificates and other seismic survey related documents for research conducted for this chapter.

²³ The DoE Environment issued the invitation letter for the presentation bearing reference no. DOE/Clearance Committee/2763/2007/2698 dated 8 October 2008 for the meeting. Among others, the chief conservator of forest (CCF) of the FD, the chairman of Petro-Bangla (Bangladesh Oil, Gas and Mineral Corporation), the country representative of the IUCN Bangladesh, the president and managing director of Chevron Bangladesh Blocks Thirteen and Fourteen Ltd., were invited to attend the session.

²⁴ Paragraph 1 of the *Site Clearance Certificate*.

Subsequently, Chevron met with the FD to confirm the survey details,²⁵ as was stipulated in the *Site Clearance Certificate* by the DoE, for “minimizing the environmental effect on the flora and fauna in the Lawachara forest to the maximum possible extent.”²⁶ The *Site Clearance Certificate* also required the submission of a “comprehensive Environmental Impact Assessment (EIA) report” from Chevron with the “agreed survey plan”²⁷ for the seismic survey in block-14. It further required that Chevron form an *environmental monitoring team with members from the DoE, the FD, and the IUCN* as part of the Environmental Management Plan (EMP) to be incorporated in the EIA report.²⁸

After getting the *Site Clearance Certificate*, Chevron Bangladesh confirmed “its willingness to carry out the proposed seismic survey with good care and regard for the biodiversity of *Lawachara National Park* and the *West Bhanugach Reserve Forest*” (emphasis added).²⁹ Despite these events at the head-office level, the divisional forest officer (DFO) of Sylhet claimed that they had been in “the dark about the seismic survey” at Lawachara park, which covered 20 % of the total survey area (The Correspondent 2008).

The growing negative media coverage of the seismic survey at Moulvibazar and the environmental activism of NGOs like Ain-o Salish Kendra, BELA compelled the FD to send a letter to the Ministry of Environment and Forests (MoEF) expressing its “concern” over the planned seismic survey in Lawachara Park and the West Bhanugach Reserve Forest. The MoEF ignored the letter and issued a gazette notification in consultation with the Ministry of Law for suspending the applicability of article 23(3) of the Wildlife Preservation (amendment) Act 1974 that prohibits such survey at Lawachara National Park (Gain 2008). Prior to issuing this gazette notification, the secretary for the Ministry of Energy publicly assured that the survey would not go against the “national interest of the country”, nor violate the existing legal regime of forest conservation. This statement was published in a Srimangal-based local weekly (Chaer Desh 2008).

The MoEF issued the gazette taking refuge in article 45 of the Act,³⁰ allowing Chevron’s seismic activity in the National Park on the grounds of “public interest.” The gazette notification by the government, and the submission of the EIA report³¹

²⁵ The president of Chevron Bangladesh Blocks Thirteen and Fourteen Ltd confirmed the holding of this meeting in his letter of thanks sent to the director general of the Department of Environment dated 15 November 2007.

²⁶ Paragraph 3 of the *Site Clearance Certificate*.

²⁷ Paragraphs 2 and 3 of the *Site Clearance Certificate*.

²⁸ Paragraph 4 of the *Site Clearance Certificate*.

²⁹ It was signed by the president of the Company dated 15 November 2007.

³⁰ It reads: “Notwithstanding anything contained in this Act, the Government may, in the interest of scientific or any *public purpose*, allow, by notification in the official Gazette, killing or capturing of any wild animal in such place and by such means as may be specified in the notification” [emphasis added].

³¹ Chevron submitted the report on 7 December 2007. It was mentioned in an e-mail exchange between an official of the Snowy Mountains Engineering Corporation (SMEC) International Pty. Ltd. Australia and an officer of the IUCN on 7 December 2007. SMEC was the contractor for providing services for the Initial Environmental Examination (IEE), EIA and Environmental Social and Health Impact Assessment (ESHIA) Study for the 3-D Seismic Survey in Moulvibazar Gas Field.

by Chevron, cleared the way for the DoE to finally issue the *Environmental Clearance Certificate*.³² The Convener of the Environmental Clearance Committee of DoE issued the *Environmental Clearance Certificate* to Chevron in February, 2008. However, at the request of the FD,³³ the DoE inserted a condition in the *Environmental Clearance Certificate* requiring the formation of a third-party environmental monitoring team to be comprised of representatives from the DoE, FD, and *IUCN Bangladesh* along with the “monitoring personnel” and *financial assistance from Chevron Bangladesh*.³⁴

Public denial of the seismic survey of Chevron by the FD seems to have been a face-saving attempt, while unofficially everything was going smoothly. All the relevant state actors acted in the interest of Chevron allowing them to operate in the Lawachara forest area. They even justified the issuance of the *Environmental Clearance Certificate* on the ground of ‘public interest’ in gas production of a US-based multinational enterprise. This idea of ‘public interest,’ like ‘national interest’ in the public arena, offers the necessary rationality to allay public concerns about forest conservation and drum up public support for exploiting nature in the name of a greater common good. More importantly, Chevron Bangladesh managed to insert IUCN’s name as ‘a neutral third party’ along with a team leader for biodiversity monitoring in the environmental clearance certificate and get IUCN officially involved in a business relationship. Since any business relationship between the profit-driven Chevron and the ‘non-profit’ IUCN involves monetary exchange for the latter’s contracted services, and given IUCN’s dependence on private capital from the MNCs for its organizational survival, there is room for skepticism about the role of the IUCN in the ‘biodiversity monitoring report.’

Conclusion

One can conclude that IUCN Bangladesh did not engage in a transparent business partnership with Chevron Bangladesh. Initially, it entered into an agreement with the Dhaka Office of the SMEC, an Australia-based development and consulting firm. SMEC was the original business agent of Chevron Bangladesh with the contractual obligation to conduct IEE, EIA, and an Economic, Social & Health Impact Assessment (ESHIA) Study for the Lawachara seismic survey project.³⁵ The success of the sub-consultancy services of the IUCN Bangladesh in reviewing the EIA

³² Memo No. DoE/Clearance/2763/2007/545, dated 24 February 2008.

³³ A concerned IUCN officer disclosed this on 23 February 2008 in his e-mail correspondence with an officer working at the regional office of the IUCN at Bangkok, Thailand. He did so two days before the formal issuance of the Environmental Clearance Certificate by the FD.

³⁴ According to Paragraph 5M2.1 of the Environmental Clearance Certificate.

³⁵ SMEC and Chevron signed the business contract on 1 May 2007.

report on SMEC's behalf led to the establishment of a direct business partnership with Chevron Bangladesh. It became the leading organization for the Biodiversity Monitoring Team that Chevron had formed to monitor the pre- and post-seismic survey.

The involvement of IUCN Bangladesh and other national NGOs in the NSP with regard to the seismic survey provides evidence that business partnership prospects are dominant and conservation needs subordinate when it involves the forests in Bangladesh. In such business partnerships — whether with a conservation organization like the IUCN, or with business organizations like the hydrocarbon-resources-extracting multinational Chevron — the co-management framework of 'sustainable development' is exploited by an interconnected network of state and non-state actors, whose fundamental aim is profit, not the long-term conservation and biodiversity implications of such development. This is what is revealed in this chapter when — against the purported conservation and biodiversity values embedded in the co-adaptive framework — Chevron conducted its seismic survey. So the resource exploitation by 'Northern' countries continues in the post-colonial era, albeit in a different form. The only difference is that new actors like NGOs and civil society have replaced the colonial states with the advent of new discourses of forest management. During the colonial era, multinational enterprises (e.g. the British or Dutch East India Companies) were subordinated to the colonial states, while the situation is different in the current neoliberal capitalist system.

In the case of the seismic survey at the Lawachara forest area, Chevron appropriated the co-management structure in connivance with state and non-state actors. For example, Chemonics International's suggestion that Bhanugach Reserve Forest be included in the sustainable-use framework of Lawachara National Park helped Chevron overcome legal, administrative as well as social constraints in conducting its seismic survey in the previously prohibited forest zone.

More than this, Chemonics International's plan for integrating the tea-estate areas adjacent to Lawachara Park in the NSP also paid off for Chevron: In 2010, the deputy commissioner (DC) of Moulvibazar had no difficulty in allocating Chevron large acres of land that were previously tea gardens.³⁶ The DC gave this land to Chevron in response to PetroBangla's (a Bangladesh oil, gas and mineral corporation) letter sent on Chevron's behalf.³⁷ It is not clear whether the owner or the tea garden workers were compensated for the land acquisition. Chevron needed this land for constructing pads and wells for extracting gas from the Lawachara forest area. The gas extraction project map, which accompanied the letter of PetroBangla, does not indicate optimal prospects for the survival of the Lawachara forest area in the future.

³⁶ It was done in a meeting of the District Land Allocation Committee, held on 29 July 2010. Other members of the committee are *upazilla nirbahi* (sub-district executive) officers of Srimangal and Kamalganj; divisional forest officer (DFO), Wildlife and Nature Conservation Circle, Moulvibazar; deputy director, Department of Environment, Sylhet; assistant conservator of forest, Srimangal; representative of Petro-Bangla; officers in Charge of Srimangal and Kamalganj police stations.

³⁷ The letter was issued 22 June 2010; with a reference no. (১২৪.১০.২৫)অংশ-১/৩২৩[(124.10.25) part-1/323].

The collaboration between IUCN and its national committee members in the context of the seismic survey outlined in this chapter demonstrates how they were driven either by the 'energy interest' of the state or by the financial benefits available to those NGO actors who facilitated Chevron's operations in areas under the NSP. Two further questions remain crucial for future investigation. Firstly, whether this is a Bangladesh-specific syndrome or a global syndrome. Secondly, despite the avowed goals of sustainable development, social responsibility, and democratic participation in co-management practice, the local communities were not involved in the decision-making processes, nor did they directly benefit from these initiatives. Thus, could this be seen as an example of extractive neocolonial politics? One must admit that a single case study of seismic survey cannot confirm this claim and further research on the co-management practice-based projects taking place around the globe must be conducted.

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“We Want You to Ask Us First”: Development, International Aid and the Politics of Indebtedness

Jini Kim Watson

Many recent works in political theory and social sciences have focused on postcolonial indebtedness. These range from genealogies of the ‘Third World’ debt crises of the 1980s, to the Washington Consensus-enforced structural adjustment programs of the 1990s, to today’s ongoing recession following the debt-fuelled 2008–2009 global financial crisis.¹ This essay, however, argues for a turn to literary representations of a foundational moment in the configuration of postcolonial indebtedness with the goal of scrutinizing its ideological forms and effects. The focus of this essay is not the empirical investigation of quantitative debt levels or development metrics such as consumption, literacy or GDP, but rather the textual and signifying logic of such phenomena that render them representable in discourse and culture. While the field of postcolonial studies has necessarily been interdisciplinary from its inception, it has been centrally concerned with the analysis of cultural and textual representations.² Although literary analyses do not address material concerns empirically, they are nevertheless important for exposing the ideological regimes that legitimise developmental policies, in particular “its gaps, disavowals, and discontinuities; its production and naturalization of hierarchies; and its institutional tendency towards reproducing or extending power” (Kapoor 2007: 21). As many scholars have noted, such power derives from “control over ideas” as much as control over resources (Kabeer 1994: 70). Furthermore, literary and cultural texts offer a unique window onto the rich worldviews of postcolonial subjects, too often constructed as mere objects of reform.

¹ Just a few examples include Jacque Gelinas, *Freedom From Debt* (1998), Akin Olaloku’s *Debt, Development and the Third World*, (1990) and Kenneth Surin, *Freedom Not Yet: Liberation and the Next World Order* (2008).

² The foundational work that emphasizes a textual approach, or the analysis of discourse, for postcolonial studies is of course Edward Said’s 1978 *Orientalism*.

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In this essay I draw from the insights of anthropology, gender studies and legal scholarship to examine an intriguing text of the decolonizing Pacific region, *Tales of the Tikongs*, a 1983 short story collection by the Tongan-Fijian novelist and academic Epeli Hau'ofa. Raised in Papua New Guinea (a German, British and then Australian colonial territory) by Tongan parents, Hau'ofa was educated in Australia and Canada, receiving a PhD in Social Anthropology from the Australian National University in Canberra. Before his death in 2009 he was Director of the Oceania Center for Arts and Culture at the University of the South Pacific in Fiji, where he had taught since the early 1980s. His biography is a testament to a complex regional identity and specific neocolonial influences, two central concerns of his work. Hau'ofa's stories are not an attempt to realistically represent the heady decade of development reforms that swept Pacific island nations in the 1970s. Rather, they are valuable for revealing the way development and international aid practices work to restructure and recode relationships between Pacific Islands and their former colonizers, as well as between islanders themselves. I am interested in how his short fictions parse the grammar of developmental aid in ways that allow for a more capacious understanding of 'Third World' indebtedness. The essay is therefore guided by the following questions: how may fictional works like Hau'ofa's *Tales of the Tikongs* intervene in and contest normative global discourses of debt and development? How have mainstream understandings of debt obfuscated the historical production of hierarchies in the Pacific, both at the inter-state and inter-subjective levels? How might we think their moral relationality differently, and what other versions of indebtedness then become available for thought?

We Want You to Ask Us First

Set in the fictional island of Tiko, Hau'ofa's stories are satirical vignettes of life in the development-crazed Pacific region. In Rob Wilson's words, they serve to "counter and mock this capitalizing ocean with fables of anti-development and satires of failed development, as the protestant work ethic flips over into a Pacific ethos of mockery, play, leisure, prayer, joke and dream" (2009: 137). While *Tikongs*' immediate focus is the plight of just one island nation, it delights in sending up the assumed hierarchies of the broader Asia Pacific, which too often contrast Pacific island nations both with their "dynamic" and capitalistic Asian neighbors like Japan and Taiwan, and frustrated subimperial neighbors Australia and New Zealand.

The transition from colonial territories to postcolonial developing nations in the Pacific is marked by several distinct features. Anthony Anghie has described how the dominion powers in the Pacific—Australia and New Zealand—rose to subimperial status by being appointed mandate and trustee powers for the decolonizing Pacific region. He notes, "The paradox ... was that colonial peoples were striving toward the ever more real goal of independence at precisely the time when their

economic value and their significance for the metropolis were becoming increasingly evident" (2004: 144). Hau'ofa notes in a non-fiction essay that, "unlike other colonial regions of the world, our political independence ... was largely imposed on us. It also came in packages that tied us firmly to the West" (*Ocean* 47–48). The South Pacific Commission, founded in Canberra in 1947, simultaneously coordinated both the region's decolonization *and* its development ties within treaty frameworks as well as special trade and development agreements (Matsuda 2012: 303–304). Tonga's independence from Britain in 1970, for example, saw the "second coming" (to use one of Hau'ofa's titles) of British and Australian administrative power, in "a malformed version of Anglo-globalism-cum-neocolonial dependency" (Wilson 2009: 135). By 1977, when the Colombo Plan for Cooperative Economic Development in South and Southeast Asia finally included the Pacific Islands, many individual states had already become deeply dependent upon Western funding and aid programs (Haas 1989: 8). They earned themselves the moniker of "MIRAB" states for being beset by migration, remittances, aid and bureaucracy. What we see especially clearly in the Pacific region, then, is the substitution of one set of boundary markers—civilized/uncivilized; European/native—with another—developed/undeveloped; modern/traditional; aid donor/recipient. Of interest in this essay is how the ideological work of this substitution is partly achieved through the moral codes of indebtedness and dependency.

Within the collection, the story that most clearly mocks the moral righteousness of development aid is "The Glorious Pacific Way." In it, we meet Ole Pacifikiwei and follow his journey into the elite world of international aid organizations. As he descends further and further into the life of a professional aid-recipient, we see how development aid both relies on and reproduces the conceptual divisions of advanced and backwards nations. The story begins when Harold Minte, a 'Western' diplomat visiting Tiko "on a project identification and funding mission" encourages Ole to apply for funding for his oral history collection. Ole is keen to obtain a typewriter to organize his handwritten collection of histories, but quickly learns that development money is embedded in a complex system of codes and protocols. Mr. Minte explains:

"We have money set aside for the promotion of culture preservation projects in the Pacific. Our aim is to preserve the Pacific Way. We want to help you."

"Very generous of you sir. When can I have some money?"

"After you've written me a letter asking for assistance."

"Do I have to? Can't you just send some?"

"Obviously you haven't dealt with us before."

"No."

"Things are never quite that simple, you know. We have the money to distribute, but we can't just give it away just like that. We want you to ask us first. Tell us what you want; we don't wish to tell you what you should do." (1983: 84)

Ole can only ponder at this logic and wonder, "If Mr. Minte had money to give, as he said he did, why did not he not just give it?" (ibid: 84). Forcing him to ask for the money, Ole realizes, produces a very specific kind of dependency relationship;

it makes him into a voluntary debtor whose status confirms his people as backwards, undeveloped natives in need of help. Pushing aside his pride at having to play the “beggar,” Ole quickly learns how to write applications in the manner the foreigner desires. He sets up an Oral Tradition Committee (appointing all his friends as officers) and agrees to publish a newsletter, but is not allowed to directly request a typewriter: “What’s a civilised typewriter to do with native cultures?” asks Mr. Minte (ibid: 85). Not only does the funding mission require Ole’s subordination, but it also dictates what counts as indigenous culture. The title of Hau’ofa’s story satirizes the widely promoted notion of the “Pacific Way.” Coined in the 1970s by Fijian Prime Minister Ratu Sir Kamisese Mara, this locally based movement arose with decolonization to encourage “native communal and familial values ... indigenous arts, and inter-island cooperation and unity” (DeLoughrey 2007: 128). What the Pacific Way devolves into here, of course, is an international game where the “not-yet” developed must dance to the tunes dictated by the funding organizations. Moreover, Pacific “culture” is funded and defined by outsiders.

Complaining about his hurt pride to his friend Emi Bagarap, a local civil servant, Ole is further schooled in the ethics of development aid. Amongst other advice, including that he lose six stone to appear appropriately “starved and needy” (1983: 87), Emi explains to him:

“Self-respect is a luxury we can’t afford; we have no choice but to shelve it for a while. When we’re developed, then we will do something about dignity and self-respect”

“What if we are never developed?”

“We will develop! There’s not a speck of doubt about that. You must cultivate the power of positive thinking,” said Emi Bagarap looking wise, experienced and positive.

“You must keep in mind, Ole, that we’re playing international games in which the others have money and we don’t. Simple as that. They set the rules and we play along trying to bend them for our benefit.” (ibid: 86)

Hau’ofa’s pithy tale serves several functions. First, it unmasks the *moral* implications by which the system of aid works—where those who are aided must “shelve” all self-respect and follow the rules of others—and second, it shows that the aid recipients understand all too well the injustice of a system in which they are assigned a subordinate role. In this manner, Emi’s hint at “bend[ing] [the rules] for our own benefit” is not at all a confession of a few corruptible individuals. Rather, it reveals how such behavior is pre-determined by the very system of international aid, which purports to be morally neutral. When Emi suggests that Ole use the aid money for his own purposes, he explains: “I’m not suggesting that this is what you do; that would be dishonest you see. I’m only pointing out one of the many possible moves in this game” (ibid: 87). Hau’ofa’s story thus demonstrates how in this (fictional) case, as in many other instances, the discourse and practice of foreign aid hypocritically “symbolizes aid as a gift ... [and] also constructs and positions both donor and recipient” (Kapoor 2007: 79). Social and political scientists have well documented the problematic results for both parties. Yet Hau’ofa’s story goes further by scrutinising the very ethical and moral bases of economic discourses that continue to monopolise definitions of aid and development.

The Absurdity of Equivalence

Nowhere do we see the effects of the dependency-debt mechanism (Slaughter 2007: 207) better than in the story “The Tower of Babel.” After the Tikong export fishing industry fails despite the donation of a retired Japanese fishing vessel, the development of a “Nation with a Fish Cannery” is left to “one Alvin (Sharkey) Lowe of Alice Springs, Australia” (1983: 20–21). Sharkey is

a Great Expert with lifelong experience in handling natives in New Guinea, Thursday Island, and in Alice Springs. He had developed a good feel for the Grassroots, demonstrating it by grabbing every frightened, small-time, part-time fisherman on the beaches of Tulisi and forcing him ever so gently to accept \$4000 in Development Loans from the Appropriate Authorities. And, like the Great Shepherd of Nazareth, Sharky converted many frightened fellows into fishermen. (ibid: 21)

The story follows the misfortunes of one “frightened, small-time, part-time fisherman,” Ika Levu, who is pressured into taking a fishing loan by Sharkey’s pigeon paraphrase of developmental logic: “Now is duty belong you to help Tiko come up rich fela country” (ibid: 22). Since Sharkey represents the Japanese and Australian fishing companies, his loans of thousands of boats, nets, motors and equipment actually means that “[i]n helping the development of Tiko, Sharkey had helped the development of himself and his companies most generously” (ibid: 23). Let us recall that “development aid” is a generic term for various kinds of loans, lines of credits, donations or investments that come from abroad, frequently resulting in profits for those positioned as donors (Gelinas 1998: 33). Ika, meanwhile, is told little about how to manage his debt payments. When he musters the courage to visit the office of the “Appropriate Authorities” to seek help, he finds every officer is on a “training” trip to Geneva, Sydney or Jakarta (Hau’ofa 1983: 24). Falling further and further behind on his payments, Ika decides to end his predicament: he takes out his imported boat and equipment to sea, “pulled out an axe and hacked a huge hole in the bottom of the boat. Then he swam slowly ashore, cool and relaxed for the first time in months and months” (ibid: 25).

Hau’ofa’s dense narrative deserves unpacking. Sharkey deftly recycles his skills in “handling natives” across Alice Springs and the Pacific. He thereby reflects the history of Australian colonial relations toward its domestic indigenous population, the annexed islands off the coast of Queensland, as well as New Guinea, which merged with the Territory of Papua and was administered by Australia until its independence in 1975. Sharkey’s ability to coerce Ika into taking the development loan is thus explicitly narrated as a function of White Australia’s imperialist undertakings in the Pacific. But neither does Hau’ofa hesitate to indict the elite class of Tikongs who benefit from the international loan apparatus. The loans office Director and Assistant Secretary enjoy their government sinecures and junket trips abroad—“their pockets won’t be big enough to hold their travel allowances” quips the receptionist (ibid: 24)—while the local fishermen flounder with debt repayments. Most trenchantly, we see how the loan arrangement produces a distinct *moral economy*

between Sharkey and Ika and, metonymically, between Australia and Tiko. Such arrangements render Sharkey the altruistic bearer of technology transfer necessary to Tiko's development, and Ika the grateful native who must take up the opportunity (and debt) to make his country "come up rich fela country." Yet, within the international loan system Ika—and by extension the Tikongs—become just another name "added to a long list of unreliable persons not worth aiding in the future" (ibid: 25). Compared with donor countries like Australia and Japan, Tiko will remain hopelessly "underdeveloped" and, moreover, indebted.

"The Tower of Babel" well illustrates the problem that anthropologist David Graeber has analyzed in his expansive study on debt. The unquestioned morality of "one must pay one's debts" renders invisible the history of unequal political and economic relations under which such debts were taken out in the first place. His study is significant for historicizing debt as a structuring factor of modernity; he writes that denaturalizing the concept can, and indeed, should lead us to "a profound moral confusion" (2011: 8). In other words, while we don't usually think of foreign aid programs or the IMF as our ethical interlocutors, their ideas of debt obligations carry with them powerful normative moral charges and epistemologies.

Graeber shows how our modern notions of debt and exchange are both relatively unusual—just one particular form of social obligation that has arisen from many—and relatively recent. Unlike other basic economic principles such as "baseline communism" (giving and receiving according to need, which we use with our friends and family) or hierarchy (relations of patronage or tribute, also used in daily life), the essence of modern exchange and debt is *equivalence and separation*. Both parties have at least formal equality and are acting—as in the fantasy of the self-regulating market—in self-interest. What is most peculiar about money debts, Graeber notes, is that they are not (in theory) reliant on social or personal relations of trust; they assume a level of impersonality and calculation and are therefore transferable. Unlike social relationships of obligation and mutuality, when the debt is paid back, the two parties may conclude their relationship, part ways and resume their respective autonomy (ibid: 122). And yet,

During the time that the debt remains unpaid, the logic of hierarchy takes hold. There is no reciprocity. As anyone who has ever been in jail knows, the first thing the jailors communicate is that nothing that happens in jail has anything to do with justice. Similarly, debtor and creditor confront each other like a peasant before a feudal lord. (ibid: 121)

He concludes that a debt "is just an exchange that has not been brought to completion" (ibid: 121) and, consequently, "the two parties cannot yet walk away from each other because they are not yet equal" (ibid: 122). Indeed, it is the period during which they *cannot* walk away from each other that "just about everything interesting happens" (ibid: 122)—the very moment that, I suggest, Hau'ofa's stories open up for inspection.

If monetary debt implies an equivalence that will obtain only when the debt is paid and the exchange completed, we might say that in Pacific development aid the

anticipated equality between donor and recipient can have no particular maturity date. The very processes meant to create an independent, modern postcolonial national state tie the Islanders ever more tightly into a dependency-debtor relationship with their creditors. Hau’ofa points out in an essay, “The New South Pacific Society,” that development aid has as its premise a fundamentally flawed logic: “it purportedly aims to help the Pacific Islands to become self-reliant so that there will be no need for further aid” (2008: 20). Yet, in the history of Oceania—exploited as colonial territories, used in Cold War security alignments, viewed as resource providers in a regional capitalist economy and most recently as offshore detention sites for unwanted refugees—“aid” has in fact “achieved the complete opposite of its stated aims” and, in that sense, “it is no longer aid” (ibid: 20–21). It is instead the richer, developed countries that are being “helped.” Therefore, the “gift” of aid is “first and foremost the donor’s gift to itself” (Kapoor 2007: 85). As Hau’ofa elaborates:

The point is that when the flows of resources within the region are added up, Australia and New Zealand still come out well ahead. For what they give out in aid they receive in return a great deal more in the forms of export earnings and repatriation of profits on investments. It may be said that as far as the regional relationships are concerned, if the words “aid” and “help” are to be used at all, they should more correctly be used in terms of the small islands “aiding” the two big neighbours. (2008: 20)

If the “burden” of aid can never be paid back by the Pacific Islanders—since they remain the subordinated party ever in need of assistance—what we see in *Tales of the Tikongs* is the stalled reversion to Graeber’s “logic of hierarchy” without the possibility of reciprocity. As such, aid mechanisms become more about *restructuring* ‘First World’ and ‘Third World’ hierarchies in the wake of formal colonialism, producing a new reckoning of guilt, debt and burden for the postcolonial era.

One way out of this conundrum is to unfetter our own thinking and practices from the normative moral codes of exchange-based notions of indebtedness. As Graeber warns, one of the effects of modern capitalism and the dominance of market relations is that we imagine *financial* reciprocity as the ultimate means of achieving justice. Our mistake is in thinking that, because we live in a market system, “our economic system is one vast network of reciprocal [financial] relations in which, in the end, the accounts balance and all debts are paid” (2011: 115). This is the dangerous positivism of debt: the untidy realms of history, ethics and affect are eclipsed by a desire for the neatness and neutrality of numbers. If the civilizing mission was the defining principle of an earlier age of imperialism, international loans and aid mechanisms rewrite that imperative into one where the developed world “aids” the underdeveloped, creating endless indebtedness. Larger questions of the incalculable role colonial territories played in the development of imperial nations, and other possible ethical relations between donors and recipients, are written out of the equation. The quest for justice is eclipsed by the necessity for solvency. It is to literary analysis that we turn again for a deeper examination of the construction of recipient subjectivity.

Subjects of Transformation

It has been well acknowledged that “Economics texts are surprisingly similar to literary texts—in their styles of persuasion, [...] the role of the narrator, and even the dynamics of the plot” (Milberg 1991: 95). This assertion certainly applies to a 1989 USAID publication, “Western Aid Reforms Can Strengthen Africa’s Economies,” a text that touts the benefits of foreign loans and structural adjustment programs to developing nations in the typical language of deficit reductions, monetary supply, import rates and private sector controls. Yet, in a subsection titled “The Effects of Policy Reform,” the statistics-laden language abruptly gives way to an unexpected human narrative:

When Mali’s Mohammad Amin raises the steel shutters to his kiosk (a small sidewalk shop) along the dusty avenue across from Bamako’s market place, he remembers the years he used to sit, drinking tea, doing almost nothing at his job in the ministry.

When he could, Mohammad would even slip away early and drive a rented taxi to make extra money. When he couldn’t get away from his government job, he drove the taxi at night.... His hours were long. He rarely saw his family.

Then, the Mali government, as part of its overall program of economic reform, offered Mohammad and many other government employees incentives for early retirement. He left his poorly paid government job and used the retirement fund to help him secure a loan that he used to buy a kiosk near the market where the farmers come to sell their produce. The partially guaranteed loan program was yet another facet of the Mali Economic Policy Reform Program. (1991: 120)

This one-page tale recounts Mr. Amin’s dramatic change of fortune from under-worked government employee—“the years he used to sit, drinking tea”—to an entrepreneurial small business-owner. He sells goods to farmers who now, thanks to deregulation, “are free to sell their goods at whatever price the market will bear.” Despite his friends skeptically telling him “he was crazy to leave the security of government” since “[e]veryone knew farmers were too poor to buy anything,” the story ends with Mr. Amin feeling that “things are finally getting better—slowly to be sure—but better just the same” (ibid: 120). In essence, this is a classic tale of development, merging the development of the nation—Mali’s structural reforms—with the development of an individual—Mr. Amin’s discovery of himself as a rational, entrepreneurial economic agent. According to the logic of development economics described by Arturo Escobar (1995) and others, both transformations are activated by the simple application of outside technical solutions onto the “underdeveloped” society in the form of deregulation and loans. Local society and its particular histories and practices are rendered irrelevant, while the loans plot initiates change, both external and internal.

Subjected to literary analysis, this minor narrative reveals the way the grammar of development economics determines who or what is to count as actors. It narrates not merely the effects of structural reform in terms of measurable income or market prices, but the inner conversion of the subjects themselves. A closer look reveals that there is little actual evidence of Mr. Amin’s improved circumstances; it is less a tale of concrete material changes than the transformation of the subject’s

epistemological framework. The story’s progression is related such that even the skeptics must recognize the correctness of structural reforms, and that “things are finally getting better.” Never mind that the section concludes with an unsettling disclaimer, asserting the narrative is both true *and* fictional: “Though Mohammad Amin is a composite of 210 people the USAID staff assisted in Mali’s early retirement program, the story is based solidly in fact ...” (ibid: 121). It is precisely against such narratives of the obvious “truth” of market rationality that Hau’ofa’s fiction provides its most withering critique. In Tiko, the lives of everyday people are to be equally transformed by the interventions of outside aid and reforms. Yet, instead of discovering their inner entrepreneurs and a set of new values aligned with enlightened, market-oriented development, the Ikas of Tiko show the radical incompatibility of “rational” market behavior in their existing social and economic landscape.

In another of Hau’ofa’s *Tikong* stories, Pulu Makau is a budding cattle breeder who gratefully receives livestock via a New Zealand aid scheme: “Pulu thanked God for the people of New Zealand, asking Him to make [him] the biggest cattle-man in Saisaie and beyond” (1983: 60). Yet, after receiving condescending technical instruction from the New Zealand Livestock Advisor, Pulu loses his precious stock one by one. The task of turning Tiko into “a regular pastureland” in New Zealand’s image is rendered impossible first by the intricacies of social obligations and then by Christian propriety: he must slaughter some animals for a funeral feast following which his attempts to find a mate for his bull are received as obscene propositions. Manu, the one stubborn voice of anti-development amongst the islanders, sums up the outcome at the end of the story with a placard reading, “DEVELOPMENT IS A LIE.” Meanwhile Pulu is forced to sell his remaining bull and “with the proceeds bought chickens and pigs to launch the beginning of another biggest collection of scrawny small animals in the whole of Saisaie” (ibid: 67). If Mr. Amin’s story is told as the inexorable progression of self-discovery and self-improvement, Hau’ofa’s tales linger on the unconvertible, the irrational, and the unimproved. The USAID report dramatises the Malian entrepreneur in a prosaic narrative of simple cause and effects typical of economic thought, which posits “determinate outcomes based on a linear and hierarchical sequence” (Kabeer 1994: 72–73). In contrast, Tiko’s (un)development can only be told through satire, hyperbole and superlatives. Hau’ofa’s stories build “on oral narrative modes of storytelling and outdoing, as well as biblical forms of sermonizing and allegorizing” (Wilson 2009: 129) precisely because such “outsized” narrative forms are the most appropriate for depicting the “inflated rhetorics of humanitarianism, developmentalism, postcolonialism, and internationalism” (Slaughter 2007: 206).

If Hau’ofa’s male protagonists fail in their conversion to rational economic beings, what of the women of Tiko? Until recent decades, aid and loan programs largely overlooked women as agents of development, either treating them as invisible or seeing them only as objects to be reformed (Kabeer 1994). Development schemes that applied to (male) individuals were not only supposed to initiate their internal transformation, but indirectly reform the less visible spheres of reproduction and domesticity. We might conjecture that if Hau’ofa’s failed developmental

narratives focus mainly on men, this is because men are the primary targets of most development schemes. Representations of women in his tales reflect the gender bias of development policies, even as they mock them. “The Seventh and Other Days,” for example, revolves around Sione, a 300-pound parody of a “true Polynesian chief, a practising Christian and a self-confessed sinner” (1983: 4). He has “sired sixteen children with more yet to come” (ibid: 3) and his family is the bane of the local Family Planning Association (FPA). Sione’s wife herself makes no appearance in the story, while their family size is a point of personal pride for Sione: “When the Association talked of the population explosion, Sione retorted that there aren’t any explosions in Tiko except from behinds of members of the FPA” (ibid: 3). In the story, typical questions of women and development—family planning and domestic patriarchy—appear as mere background to Sione’s outsized personality and as one more occasion for lampooning misguided developmentalist policies. Yet Hau’ofa’s more subtle point, I suggest, is to reveal how gender hierarchies are often recomposed and exacerbated with the imposition of development schemes.

Let us return to Ole and “The Glorious Pacific Way” with which we began. By the end of the story, Ole has created 18 national committees and councils, become a well-known figure “in certain influential circles in Brussels, The Hague, Bonn, Geneva, Paris, London, New York, Washington, Wellington, Canberra” (ibid: 92) and applied for a total of \$14 million worth of aid for his organizations. He has travelled to Manila for a training program where he enjoyed the “throbbing night-life” so much that “on the third week he received a shot of penicillin and some friendly counsel from an understanding physician” (ibid: 89). In the process, his original oral history collection, a stack of old exercise books, has been used as toilet paper by a thrifty aunt (ibid: 91). For Ole, the applications of international aid do not result in his transformation into a rational, entrepreneurial subject, modelling a development that will be paralleled by the nation’s uplift. Rather, we see him devolve into an obsequious aid recipient and consumer of sex tourism who neglects his impoverished female relatives at home. We can further note that when women do appear in Tikongs they are not a homogenous group, nor do they represent some enduring native Polynesian essence: they too are affected by development reforms in a mostly negative manner. As spouses, mothers and lovers, they contend with assorted versions of patriarchal Christianity and corrupted Polynesian masculinities that are the real target of *Tales of the Tikongs*’ social critique.

Using a resolutely anti-realist narrative style, Hau’ofa’s stories depict the real, and often hilarious, impediments to the ideal inner transformation of the “underdeveloped” individual, showing instead that Tikongs are embedded in complex, gendered social and economic worlds that do not respond evenly or predictably to development applications. Constructed as non-modern peoples in need of aid and loans to progress, there can be no reciprocity between men and women, just as there can be no reciprocity between the larger and smaller Pacific nations. “The Glorious Pacific Way” satirizes the conditions produced by foreign aid mechanisms and institutions to their absurd endpoint, revealing both donors and recipients to be trapped in a game of dependency that limits the thinking of other political futures.

Dependency and Reciprocity

In Frantz Fanon's 1961 manifesto of decolonization, *The Wretched of the Earth*, he famously claimed, "Europe is literally the creation of the Third World" (1963: 102). Regarding debt between the imperial powers and the postcolonial world, he argued unequivocally that the imperialists should be indicted as debtors. Any talk of aid or reparations must be accompanied by the "realization by the colonized peoples that *it is their due*, and the realization of the capitalist powers that in fact *they must pay*" (ibid: 102–103, italics in original). Fanon goes on to condemn the way that demands for economic justice get derailed into charitable aid for "poor undeveloped peoples," whom he notes, "do not tremble with gratitude" (ibid: 102). But what if we responded to neocolonial debt relations in yet another way? How might we recast the concept of indebtedness altogether, and escape what Graeber calls the "positivism" of debt as mere financial reciprocity?

Hau'ofa's 1993 essay "Our Sea of Islands" proposes a radical new regional imaginary for the Pacific Islands. He rejects outright the belittling notion of small island nations "too small, too poorly endowed with resources, and too isolated" to escape their conditions as "pitiful microstates condemned forever to depend on migration, remittances, aid and bureaucracy" (2008: 29). Instead, he invokes a return to the traditional oceanic migration routes of Pacific islanders, positing the concept of Oceania to denote a capacious "sea of islands with their inhabitants" (ibid: 32) rather than isolated islands as mere "dry surfaces in a vast ocean" (ibid: 31). Globalisation, he argues, has provided a way for such inhabitants to reclaim the spatial mobility of their ancestors, "expanding kinship networks through which they circulate themselves, their relatives, their material goods, and their stories all across their ocean, and the ocean is theirs because it has always been their home" (ibid: 34). He continues:

Islanders in their homelands are not the parasites on their relatives abroad that misinterpreters of "remittances" would have us believe. Economists do not take account of the social centrality of the ancient practice of reciprocity—the core of all oceanic cultures. They overlook the fact that for everything homeland relatives receive, they reciprocate with goods they themselves produce, by maintaining ancestral roots and lands for everyone, homes with warmed hearths for travellers to return to permanently or to strengthen their bonds, their souls, and their identities before they move on again. This is not dependence but interdependence—purportedly the essence of the global system. (ibid: 36)

Hau'ofa powerfully articulates a challenge to development economics' monopoly on definitions of debt and reciprocity. Foreign remittances sent home by Pacific emigrants, and upon which island economies depend, need not be part of a calculus of dependency and underdevelopment. They rather function to reciprocate affective relations, kinship ties, social and material labor, binding diasporic communities to one another across vast distances.

Anghie has suggested that the practices of the Mandate and Trusteeship systems, which superintended decolonization, have continued to the present through the Bretton Woods institutions (2004: 193). Like colonial administrations, these

institutions are burdened with “the task of normalization, of creating the universe against which the native will be found wanting,” thereby effectively recoding the subordination of colonialism with one of indebtedness and underdevelopment. *Tales of the Tikongs*, we have seen, works precisely to reverse this normalisation: it constructs a universe against which the development reforms themselves are found wanting—and indeed ludicrous. Together, Hau’ofa’s stories and essays enable us to meet the challenge posed by other critics: to help us move beyond the “aporia of foreign aid as gift” (Kapoor 2007: 78) and to reconsider the moral but also historical valances of debt and (inter)dependency. Specifically, *Tikongs* questions the seamless transition from decolonization to dependency in a region dominated by economic discourses of rational self-determination and aided development. By this logic, former colonized subjects are compelled to emerge free from their traditional particularities and non-modern cultures via the financial principles of equivalency, separation and solvency, principles that then become the *only* imaginable moral codes by which the world works. By using parody, fable and satire, however, Hau’ofa’s stories stubbornly refuse to subtract affect, colonial histories and social reproduction from the calculus of “debtor” in global development discourses. By loosening stories of debt against the tyranny of the creditor’s balance sheet, we begin to see indebtedness as a whole social fact,³ embedded within enduring histories, mutual relations and an ocean of narratives.

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³I am of course paraphrasing the well-known work of Marcel Mauss (*The Gift*, 1925) and his characterization of the gift as “total social phenomenon.”

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