

# UN-VEILING WOMEN'S RIGHTS IN THE 'WAR ON TERRORISM'

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Only the terrorists and the Taliban threaten to pull out women's fingernails for wearing nail polish. The plight of women and children in Afghanistan is a matter of deliberate human cruelty, carried out by those who seek to intimidate and control. . . . Because of our recent military gains in much of Afghanistan, women are no longer imprisoned in their homes. They can listen to music and teach their daughters without fear of punishment.

First Lady Laura W. Bush<sup>1</sup>

The bombings have increased the suffering of the people in Afghanistan. They must stop it at once.

Sabira Mateen<sup>2</sup>

Attention, noble Afghan people. As you know, the coalition countries have been air-dropping daily humanitarian rations for you. The food ration is enclosed in yellow plastic bags. They come in the shape of rectangular or long squares. The food inside the bags is Halal and very nutritional. . . . In areas away from where food has been dropped, cluster bombs will also be dropped. The color of these bombs is also yellow. . . . Do not confuse the cylinder-shaped bomb with the rectangular food bag.

U.S. Psychological Operations Radio, Sunday, October 28, 2001.<sup>3</sup>

## I. INTRODUCTION

On the morning of the September 11<sup>th</sup> attacks, I was delivering a lecture in New York to law school students about post-colonialism. More specifically, we were discussing a passage from *The Poisonwood Bible*,<sup>4</sup> as well as a recently released film, *Lumumba*.<sup>5</sup> Both the text and the film relate the story of the Congo's

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1. *CNN Saturday Morning News: Laura Bush Delivers Radio Address* (CNN television broadcast, Nov. 17, 2001).

2. *Afghan Women's Group Calls for an End to Military Strikes*, at <http://rawa.fancymarketing.net/irna.htm> (last visited Feb. 23, 2002).

3. BBC News, *Radio Warns Afghans over Food Parcels* (Oct. 28, 2001), at [http://news.bbc.co.uk/hi/english/world/monitoring/media\\_reports/newsid\\_1624000/1624787.stm](http://news.bbc.co.uk/hi/english/world/monitoring/media_reports/newsid_1624000/1624787.stm).

4. BARBARA KINGSOLVER, *THE POISONWOOD BIBLE* (1999).

5. *LUMUMBA* (JBA Productions 2001).

turbulent moment of independence from Belgium. *The Poisonwood Bible* is set in the Congo in the late 1950's and early 1960's and critical of the American involvement in the assassination of the democratically-elected Prime Minister Patrice Lumumba and the subsequent installation of the military dictator, Joseph Mobutu. The story is related through the experiences of an American missionary family who arrive in the Congo from the State of Georgia. It is narrated in turn through the experiences of five women—the wife and four daughters of Nathan Price, a Christian minister who moves his family to the Congo in 1959 and sacrifices their health and safety in order to further his missionary dream of “civilizing” Africans. The source of inspiration for pursuing his civilizing mission is the Bible.

Ruth May is the youngest daughter, a prescient five-year old, and Rachel, the eldest, is a self-centered, somewhat petulant teenager. The other two daughters, Leah and Adah, are twins, but Adah suffers from hemiplegia, which leaves her limping and nearly speechless. Orleanna, Nathan's wife, tells the story of her experiences in the Congo in retrospect, from her later years on Sanderling Island, off the coast of Georgia. The girls, however, tell their story from the Congo as it happens, on the precipice of events. Nathan Price narrates nothing. He represents the patronizing attitude of white colonialists towards Africa, and the tragic legacy of violence they bequeathed to countries such as the Congo.

Most of the Price women discover the ability of the Congolese to adapt to the harsh conditions of their existence, and this realization brings with it the recognition of the Prices' own profound ignorance. Through some comical and tragic moments of colliding cultures, Leah observes that “Everything you're sure is right can be wrong in another place. Especially here.”<sup>6</sup>

The Congo permeates the book, but it is a book that is just as much about America—a portrait of the nation that sent the Prices to save the souls of a people for whom it felt only contempt. As the Price women discover, the Congolese are not savages who need saving, and there is nothing passive in their tolerance of missionaries. The Congolese are exposed to and literally take on board the Americans' message—elections are good, Jesus too—and they expose the message's contradictions by holding an election in church to decide whether or not Jesus shall be the personal god of Kilanga. Jesus loses.<sup>7</sup>

The Congo forces the Price women to turn their gaze back upon their own lives and location. They weave their personal stories into public events as they witness the Congo's struggle for independence, Lumumba's vision of a united Africa, the paternalistic desires of the Belgian authorities to control their former colony, and the CIA's support of Lumumba's former friend and chief of the military, Joseph Mobutu, in order to protect U.S. business interests in the Congo's vast resources, and retain an upper hand in the Cold War balance of power.

The moment the planes ripped through the skin of the World Trade Towers, a profound emotional, historical and political event shattered American security. It was a moment when the world was united and brought together, al-

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6. KINGSOLVER, *supra* note 4, at 505.

7. *Id.* at 334.

beit momentarily, in grief. But it was also a moment when the world was severed and polarized through the rhetoric of “good” and “evil,” the “civilized” and the “barbaric,” and of “us” and “them.” *The Poisonwood Bible* serves as a social allegory for understanding such moments. In the book, such lack of complexity is expressed through the single-mindedness of Nathan Price who is fixated on converting the “savage.” The complexity, however, is unraveled through the narratives of the five women who engage with the tensions of culture, colonialism, and race, forcing them to question the ways in which they intervene in the lives of the “natives.”

Not only did the *Poisonwood Bible* etch the moment of September 11<sup>th</sup> in my post-colonial imagination, it has served as a poignant text to discuss through fictive disguise the meaning of September 11<sup>th</sup> and the events that have subsequently taken place. For several days in the middle of November, the “liberation” of the women of Afghanistan became headline news.<sup>8</sup> The print media around the Western world flashed pictures of Afghan women, with veils cast aside, smiling for the cameras after the Taliban were forced out of Kabul.<sup>9</sup> The message seemed simple enough—the military intervention in Afghanistan had liberated the Afghan women from the tyrannical rule of the Taliban. In subsequent days, following the entry of the Northern Alliance into Kabul, CNN and other satellite broadcasters remained intrigued and puzzled—many women *still* wore the veil.<sup>10</sup> Now that the liberators had arrived in the guise of U.S. B-52 bombers and bunker blasters, and the triumphant Northern Alliance men, surely there was nothing to fear. The “civilized” had come to rescue the women from the “uncivilized;” “good” had triumphed over “evil.” Yet days passed and the women roamed the streets of Kabul still wearing the veil.

If only women's rights could be so easily won and the world summed up in the Bush rhetoric of “good” versus “evil.” As in the case of the Congo, the recipe of freedom also seemed simple enough—a civilizing mission that could be won through the abrogation of sovereignty to secure sovereignty, the abrogation of peace to secure peace, and the abrogation of democracy to secure democracy.

There has been considerable skepticism over the sudden concern of the Bush administration for women's rights, particularly since the administration was only too willing to reward the Taliban regime with \$43 million in May 2001

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8. See *Liberating the Women of Afghanistan*, N.Y. TIMES, Nov. 24, 2001, at A26; *The Face of Liberation, Unshrouded*, L.A. TIMES, Nov. 21, 2001, at A12; *NBC Nightly News* (NBC television broadcast, Nov. 16, 2001).

9. See Scott Peterson, *For Many Afghan Women, Bare Faces and Lives Resumed*, CHRISTIAN SCI. MONITOR, Nov. 16, 2001, at 1; *Kabul Revives*, N. Y. TIMES, Nov. 15, 2001, at A1; David Rhode, *A Nation Challenged: Northern Alliance*, N.Y. TIMES, Nov. 14, 2001, at A1.

10. See, e.g., Mona Eltahawy, *When Women Cannot Choose*, WASH. POST, Feb. 5, 2002, at A15; Alice Thomson, *Lifting the Veil on What Afghan Women Really Want*, THE DAILY TELEGRAPH, Nov. 23, 2001, available at <http://www.telegraph.co.uk/opinion/main.jhtml?xml=%2Fopinion%2F2001%2F11%2F23%2Fdo2302.xml> (last visited June 21, 2002); CNN: *Afghan Women Fearful Over Rights* (CNN television broadcast, Nov. 26, 2001), available at <http://www.cnn.com/video/world/2001/11/26/hw.afghan.women.cnn.med.exclude.html> (last visited Nov. 26, 2001); Kate Clark, *Kabul Women Keep the Veil*, BBC NEWS (Nov. 21, 2001), available at [http://news.bbc.co.uk/hi/english/world/south\\_asia/newsid\\_1674000/1674146.stm](http://news.bbc.co.uk/hi/english/world/south_asia/newsid_1674000/1674146.stm) (displaying photo of veiled women with the caption, “Many women in Kabul will continue to wear the burqa”).

as part of its “War on Drugs.”<sup>11</sup> The event that changed everything was September 11<sup>th</sup>. Yet it is an event that has not necessarily produced a deeper introspection of American foreign policy, nor has it engaged an effort to understand why such an attack occurred in the first place. Instead, the “War on Drugs” has, perhaps momentarily, been replaced by the “War on Terrorism,” and the country’s primary concern is now security. Security has become the overarching framework through which women’s rights and the conflict in the Middle East and between India and Pakistan are being addressed today. At one level, nothing changed after September 11<sup>th</sup>. Positions became more entrenched rather than increasingly flexible and reflective. The security of the American people, the Western way of life and the threat to freedom and justice framed the “War on Terrorism,” and the way in which the U.S. and its allies have come to intervene in the affairs of Afghanistan.

The three quotes with which I introduced this commentary reflect the complexity of addressing the issue of women’s rights under Taliban rule, and the effect that the U.S bombing of Afghanistan has had on women and women’s rights. This commentary discusses how the “War on Terrorism” and its secondary goal of protecting women has been addressed largely within the rhetoric of religion, civilization, and “a just war,” rather than a concern for women’s human rights. The focus on women’s concerns through the prism of religion and culture not only serves to cast Muslim women as “Other,” it also serves to justify the liberating impulse of military intervention, defending such interventions as humane rescue operations. The rhetoric of civilization justifies any intervention to rescue women from barbarism and the tyranny of evil. And the rhetoric of “a just war” serves as a justification for the abrogation of the rules of law and of war, which are cast aside to serve the greater good of (Western) civilization and preserving “our” (American) way of life. I unpack the various assumptions that underlie the ostensible liberation of the women of Afghanistan and the problematic assumptions that are being made about religion, civilization, and women’s rights.

In the following sections of this essay, I examine at least three assumptions that have characterized the representation of gender issues in the “War on Terrorism.” The first is the assumption that religion and the rhetoric of religion continuously underlie any interest about the treatment of women in Afghanistan. The second is the assumption that the culture of the “Other,” in this case Islam, is static, a notion that is specifically evident in the discussion of the veil and Afghan women. Thirdly, I argue that the ways in which women’s rights are raised in the context of the “War on Terrorism” tend to obscure more than they reveal.

## II. “IN GOD WE TRUST”

Religion has come out of the closet and been invoked by all sides in the “War on Terrorism” post-September 11<sup>th</sup>. The Taliban, Al-Qaeda and their sympathizers have made continuous appeals to Islam, *jihad* and a holy war against the infidels. Leaders of the Middle East, and Islamic scholars and clerics have

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11. *Bush’s Faustian Deal with the Taliban*, L.A. TIMES, May 26, 2001, at 15.

dissociated themselves and their religion from the attack, stating that the acts of September 11<sup>th</sup> were in breach of Islamic beliefs and practices. Christianity has also been invoked by the West and some Western leaders ever since the September 11<sup>th</sup> attacks. President Bush spoke about the victory of good over evil, invoking Psalm 23:1 in his address to the nation on the evening of September 11<sup>th</sup>.<sup>12</sup> Jerry Falwell, Prime Minister Bersculoni, and Dick Cheney have all invoked the language of God, Christianity, the Bible and the barbaric "Other" during the course of this conflict.<sup>13</sup> Even a cross, shaped from iron beams found in the rubble of the World Trade Center, was erected at the disaster site during the initial clean up operations.<sup>14</sup>

Religion has also become the primary, overarching frame through which the "Islamic" world has come to be viewed. And leaders in America and elsewhere have frequently engaged with Islam in ways that are reductionist and simplistic, often casting it as authoritarian and in opposition to the West and Western values. Not only does this obscure the eclecticism of the Islamic world and the "Other's" tradition, it also deflects attention from some of the authoritarianism of the "Christian West" that has manifested itself most recently in the rhetoric deployed since the attacks took place on September 11<sup>th</sup>.<sup>15</sup> Some Western leaders attempted to offset these assumptions by asserting the "correct" position of Islam: President Bush while speaking at mosques in the U.S., and Prime Minister Tony Blair while visiting the mosques in Britain. Both engaged in pointing out the benevolent aspects of the faith, while they simultaneously developed criteria to distinguish the good Muslim from the bad Muslim.<sup>16</sup> Such

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12. In his address to the nation on September 11<sup>th</sup>, President Bush concluded that the U.S. had been attacked by "evil" because "we're the brightest beacon for freedom and opportunity in the world." *A Day of Terror: Bush's Remarks to the Nation on the Terrorist Attacks*, N.Y. TIMES, Sept. 12, 2001, at A4. The President also stated that "[t]his will be a monumental struggle of good versus evil . . . [b]ut good will prevail." *After the Attacks: Bush's Remarks to Cabinet and Advisors*, N.Y. TIMES, Sept. 13, 2001, at A16.

13. See John F. Harris, *God Gave U.S. "What We Deserve," Falwell Says*, WASH. POST, Sept. 14, 2001, at C03, where Jerry Falwell is reported as stating that "liberal civil liberties groups, feminists, homosexuals and abortion rights supporters bear partial responsibility for Tuesday's terrorist attacks because their actions have turned God's anger against America." *Id.* The Italian Prime Minister Silvio Berlusconi is reported to have "praised Western civilization. . . as superior to that of the Islamic world and urged Europe to reconstitute itself on the basis of its Christian roots." Steven Erlanger, *Italy's Premier Calls West Superior to Islamic World*, N.Y. TIMES, Sept. 27, 2001, at A8. And Dick Cheney in his remarks on Meet the Press stated,

I think the world increasingly will understand that what we have here are a group of barbarians. . . . So it's an attack not just upon the United States but upon, you know, civilized society. . . . We also have to work, though, sort of the dark side, if you will. . . . That's the world these folks operate in, and so it's going to be vital for us to use any means at our disposal, basically to achieve our objective. And I think we have to recognize we are the strongest, most powerful nation on Earth."

*Meet The Press* (NBC television broadcast, Sept. 16, 2001).

14. A photograph of Father Brian Jordan blessing a cross shaped out of the rubble two days after the World Trade Center disaster is available at <http://www.washingtonpost.com/wp-srv/photo/attack/aftermath/011004/3.htm>.

15. When asked by the host of Meet the Press, "You wouldn't mind having [Bin Laden's] head on a platter," Cheney responded, "I would take it today." *Meet The Press*, *supra* note 13.

16. See Mahmood Mamdani, *Good Muslim, Bad Muslim: A Political Perspective on Culture and Terrorism*, 45:2 DEV. 1 (2002), available at <http://www.sidint.org/journal/TOCdev452.htm>.

criteria include ethnic and racial profiling, detention without warrant, and fingerprinting of young (Muslim) visitors at U.S. borders. These efforts continue to foreground religion as the primary identity of people in the Islamic world and further subdivide that identity through criteria designed to distinguish the good Muslim from the evil Muslim, and the civilized Muslim from the barbaric Muslim.<sup>17</sup>

The appeal to religion has served as one of the ways in which to assert the civilization argument. And one form this “crusade” against the “evil ones” has taken is an evaluation of a culture’s treatment of its women. The West has almost obsessively focused on the veil as a symbol of the Taliban’s discriminatory treatment of women. To “Westerners” the *burqa* is a “kind of body bag for the living.”<sup>18</sup> This practice is being evaluated against the rhetoric of (Western, Christian) civilization, respect for women as defined by first wives Laura Bush and Cherie Blair, and feminist claims to “rescue” Muslim women from their “barbaric” culture.<sup>19</sup> The result is to reinforce the “us and them” divide, and the polarization of the world along the lines of intolerance and prejudice.<sup>20</sup>

Three consequences flow from these assumptions about culture and religious identity. The first is the idea that culture in the non-Western world exists through habit, a kind of instinctive activity, where the rules are inscribed in early founding texts, usually religious, and where the rules create a museumized people. The people just conform. There is no history, no politics, and no debate.

Second, this stagnant understanding of culture as well as the criteria being developed to distinguish the “good” Muslim from the “bad” Muslim does not acknowledge the dissents, pluralisms or contests over the meaning of culture and religions. It does not provide space for the recognition that an individual can be heterodox or esoteric and still be a Muslim.<sup>21</sup> It is a position that does not reflect the complexity of culture within Islam and the Islamic world.

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17. See Military Order of November 13, 2001, 66 Fed. Reg. 57833 (Nov. 16, 2001) (addressing the “Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism”); Jim Rutenberg, *Torture Seeps into Discussion*, NEWS MEDIA, Nov. 5, 2001, at C1; Jason L. Riley, *Racial Profiling and Terrorism*, WALL ST. J., Oct. 24, 2001, at A22; *Preserving Liberty and Security: Handling Foreign Visitors*, N.Y. TIMES, June 6, at A30.

18. Richard Lacaya, *Lifting the Veil*, TIME, Dec. 3, 2001, at 36.

19. For example, The Feminist Majority is selling *burqa* swatches on their website, [www.feminist.org/store/productgift.asp](http://www.feminist.org/store/productgift.asp), which they claim “represent the obstructed view of the world for an entire nation of women who were once free.” See also Mona Eltahawy, *supra* note 10, at A15 (arguing that strategies that seek to support women’s rights in Afghanistan should not focus on the *burqa*, but on choice and that “[w]hen it becomes about what women wear rather than what they choose to wear then we infantilize women as much as the Taliban did”).

20. Jan Goodwin & Jessica Neuwirth, *The Rifle and the Veil*, N.Y. TIMES, Oct. 19, 2001, at A19. Although this article states that the repression of women in Afghanistan is not about religion, it continuously makes references to Islam in ways that detract from this initial proposition. Such as, “[W]hen radical Muslim movements are on the rise, women are the canaries in the mines.” *Id.* Or, “In the same way that many Islamic extremist crusades use the oppression of women to help them gain control over wider populations, the Taliban and Osama Bin Laden are now employing the tactics of terrorism to gain control.” *Id.* Such statements conflate radicalism, extremism and terrorism in ways that fail to historically and politically situate such movements or address the participation of Muslim women and their political agency in these movements.

21. See Amartya Sen, *A World Not Neatly Divided*, N.Y. TIMES, Nov. 23, 2001, at A39.

Finally, when the overarching identity of a people becomes religion, or their entire world is constructed or viewed exclusively through the lens of religion, it ultimately privileges and magnifies the voice of religious authority. In this case, the focus on Islam and Muslim identity has amplified the voice of the mullahs, clerics and priests, despite their relative lack of political power and persuasive influence over vast populations of Muslims.<sup>22</sup>

### III. THE SPECTER OF CULTURAL MONOLITHS

The way religion is invoked, primarily along the lines of civilization and exclusive cultural representations, is based on a view that culture is static and immutable, that it is fixed and cabined. It is a perception based on a monolithic understanding of culture and closes off the pluralisms, contests and dissent that exist within the tradition.

The erasure of multiplicity is evident in the way women have been addressed and represented in the "War on Terrorism." At the time of writing this essay, the images projected on screen by *Al Jazeera* or CNN, or in the trenches, are overflowing with images of men. Where are the women? When we hear about them, they are primarily represented as victims of the Taliban. The most striking recurring image is of these women in the veil. What is not made clear is that it is not the veil per se that is the problem, but the coercive circumstances under which women are not only compelled to wear it, but are also denied their full spectrum of human rights.

The image of the veiled woman has been displaced onto a cultural divide along which many global conversations about women's rights take place, and where culture is something invariably associated with the "native" other. It is a displacement that not only operates along an "us and them" divide, but lays a foundation for the view that the veil is an exclusively oppressive symbol. The complexity and multiple meanings of the veil are erased. The image of the veiled woman has come to inhabit our imaginations in ways that are totalizing of the culture and its treatment of women. This image is nearly always simplistic as well as a misrepresentation of the practice as a subordinating practice that typifies Islam and its degrading treatment of women. It is invoked as a cultural artifact to distinguish us from them, to justify military or feminist interventions that could further aggravate rather than alleviate the situation of women.

The multiple meanings of the veil, through different cultural and historical contexts, get subsumed in this representation. It is read in a uniform, linear manner as an oppressive practice, because it erases women's physical and sexual identity, and is symbolic of the subjugation of women in Islam. In the flurry of media articles on the situation of women in Afghanistan under Taliban rule, the veil, or *burqa*, is the central edifice of the argument that (Muslim) women are oppressed by a barbaric (Muslim) regime and culture. There is little attempt to unpack the historical ingredients that have gone into the creation of the Taliban, as well as the fact that Afghan women are not a monolithic community, nor the veil a purely oppressive symbol.<sup>23</sup> There is no universal opinion amongst those

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22. Examples include countries such as India, Bangladesh, Indonesia, and even Pakistan, which together constitute more than one-half of the world's population of Muslims.

23. Eltahawy, *supra* note 10, at A15.

Muslim women who wear the veil (and not all do) as to its function.<sup>24</sup> For some, it does represent honor. But more significantly, the veil has also been a very empowering symbol for Muslim women in some countries. In Iran, it was the sign of rebellion and rejection of the Shah and Western imperialism. Amongst immigrant communities in Western countries, it is the symbol of an exclusive cultural space and a rejection of assimilation.<sup>25</sup>

In other contexts, the veil is considered a private space, one in which no one can intrude. The veil also disrupts the public space, where women are often marginalized. The sheer symbolism of the veil brings the woman visibly into the public sphere—she simply cannot walk by unnoticed. However, in the assumptions about the veil that inform the current public discourse, these multiple readings and functions of the veil are erased and only one stands out—the veil as a tool of oppression and barbarism—read Islamic barbarism—against women.

One must read the imposition of the veil in the context of the Taliban in the broader context of the denial of rights to women and men under an oppressive non-democratic regime. Conformity is a matter of survival in a political context where dissent means death. This is not an unfamiliar story. At the same time we know that there is dissent, a dissent that comes not only from the Muslim women in Afghanistan, such as the Revolutionary Afghan Women's Association, who have organized against these oppressive edicts and the denial of human rights. It also comes from Muslim women outside of Afghanistan, who protest against the denial of rights to women, without centering their critiques on the veil.<sup>26</sup> These voices are emerging from Pakistan, Indonesia and Bangladesh as well as other countries. All three of these countries presently have, or have historically had, a woman serve as their head of state. Non-governmental organizations such as the Sisters of Islam in Malaysia, and the Women Living under Muslim Law, an international network, are also joining the debate.<sup>27</sup>

The critique of the veil by Muslim women is very clear and vocal, but it does not slip into the rhetoric of opposition between the West and the "Rest,"

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24. See generally Fatima Mernissi, *THE VEIL AND THE MALE ELITE: A FEMINIST INTERPRETATION OF WOMEN'S RIGHTS IN ISLAM* (Mary Jo Lakeland trans., 1991) (arguing that the elite supports an interpretation of the Qur'an and other Islamic texts about the veil which make women second-class citizens. Through a revisionist interpretation of these texts, Mernissi shows that Islam actually invites political equality between the sexes.).

25. The controversies that erupted in the late 1980s and early 1990s in France over the prohibition imposed on Muslim schoolgirls against wearing the veil is a case in point. See Joseph H. Carens & Melissa S. Williams, *Muslim Minorities in Liberal Democracies: The Politics of Misrecognition*, in *SECULARISM AND ITS CRITICS* (Rajeev Bhargava ed., 1998); *400 Girls Defy French Headscarf Ban*, REUTERS WORLD SERVICE, Jan. 24, 1995, LEXIS, News Library; *Iranian Women Protest French Ban on Headscarves*, AGENCE FRANCE PRESSE, Oct. 31, 1994; available at LEXIS, News Library, AFP file; see also Norma Claire Moruzzi, *A Problem with Head Scarves: Contemporary Complexities of Political and Social Identity*, in 22 *POL. THEORY* 653, 653-72 (1994); Miriam Feldblum, *Paradoxes of Ethnic Politics: The Case of Franco-Maghrebis in France*, 16 *ETHNIC & RACIAL STUDIES* 52, 52-74 (1993).

26. See Beena Sarwar, *Afghan Women Demand Right to Speak*, MIDDLE EAST TIMES (Nov. 9, 2001), at [http://www.metimes.com/1K!/issue2001-44/afghan\\_women\\_demand.htm](http://www.metimes.com/1K!/issue2001-44/afghan_women_demand.htm).

27. See Feminist Majority Foundation, *AFGHANISTAN: DECLARATION OF THE ESSENTIAL RIGHTS OF AFGHAN WOMEN* (June 28, 2000), at [www.feminist.org/afghan/declarationtext.asp](http://www.feminist.org/afghan/declarationtext.asp). (Nov. 16, 2000) (written and promulgated by several hundred Afghan women from all segments of the Afghan nation who assembled in Dushanbe, Tajikistan).

the highly divisive strategy which forces one to choose sides. Muslim women are not just Muslims, and they are not just women—they are Muslim women and many resist a strategy that forces a choice between community and gender identity.<sup>28</sup> Moreover, a recent survey by the Physicians for Human Rights suggests that the rights to freedom of speech and expression, the instituting of legal protections for women, and issues surrounding peace and de-mining are amongst the most pressing concerns for women in Afghanistan. The issue of the *burqa* and punishment for infractions of the dress code were regarded as the least important issues.<sup>29</sup> I do not mean to suggest that the violence against women who do not conform to a strict dress code is unimportant. It is egregious that such severe punishments should be inflicted on women who transgress the Taliban's edicts. However, the issue needs to be reframed as one of the consequences that flow from the dissent to an authoritarian, arbitrary regime, and not through the lens of culture. It must also be viewed against the broader canvass of human rights, which have been denied quite specifically by the Taliban, but that have resulted from years of war, drought and the role of foreign powers in aggravating, rather than alleviating, the situation of women in Afghanistan.<sup>30</sup>

#### IV. WHAT LIES BENEATH?

In this section, I discuss how the emphasis on religion in the post-September 11<sup>th</sup> scenario obscures and obfuscates other significant issues that challenge the simple binaries along which the current "War on Terrorism" is being waged. The focus on the veil and culture narrows the parameters of our vision, thus we lose sight of the other international law issues that demand our attention as far as women's rights are concerned. I focus on two issues in this section.

The first is the need to provide a justification for the bombing of Afghanistan, the civilian casualties, and the compromises on international law that are being made by the U.S. and its allies. In November, the State Department issued a sketchy report about the situation of women in Afghanistan, timed to coincide with a radio address by United States First Lady Laura Bush, who praised the

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28. See Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, in *FEMINIST LEGAL THEORY: FOUNDATION* 383-95, (D. Kelly Weisberg ed., 1993) (citing the implications of a strategy that forces a woman to choose between her rights to equality and her racial and/or religious identity); see also RATNA KAPUR & BRENDA COSSMAN, *SUBVERSIVE SITES: FEMINIST ENGAGEMENTS WITH LAW IN INDIA* 63-65, 256-57, 310-12 (1996).

29. See PHYSICIANS FOR HUMAN RIGHTS, *WOMEN'S HEALTH AND HUMAN RIGHTS IN AFGHANISTAN: A POPULATION-BASED ASSESSMENT* 59 (2001).

30. Demining is but one example. The United States is amongst the handful of countries that has refused to sign onto the 1997 Ottawa convention on the Prohibition, Use, Manufacture, Stockpile and the Destruction of Anti-Personnel Landmines. See INTERNATIONAL CAMPAIGN TO BAN LANDMINES, *LANDMINE MONITOR REPORT 2001* 497-518 (2001) (stating the extraordinarily high number of casualties that have resulted from landmines in Afghanistan since 1990). Similarly, the primary concern of the U.S. during the Taliban rule was to pursue the "War on Drugs" rather than the human rights record of the Taliban. See Rahul Bedi, *The Assassins and Drug Dealers Now Helping Us*, *THE DAILY TELEGRAPH*, Sept. 26, 2001, at 10, available at <http://www.telegraph.co.uk/news/main.jhtml?xml=%2Fnews%2F2001%2F09%2F26%2Fwdrug26.xml>.

U.S. military intervention in Afghanistan that served as the liberating force releasing women from the oppressive edicts of the Taliban.<sup>31</sup>

In her address, Laura Bush attempted to separate the practices of the Taliban from the rest of Islam and the true practices of the faith and the faithful. She repeatedly referred to the liberation and freedom women in Afghanistan experienced as a result of the U.S. military intervention. The speech was framed against the backdrop of cultural essentialism, civilization and the correct position of Islam. Yet such declarations obscure the history and context in which the Taliban emerged as a significant force in Afghanistan. The Taliban swept across Afghanistan in 1996 not simply as a religious force determined to set up an Islamic state. It was a force born in the crucible of the Cold War, schooled in the Madrasas and whose members were raised in refugee camps.<sup>32</sup> It was a force whose very way of life was war and which imposed its way of life on an entire country through brute force and violence. To view the Taliban as a force that is exclusively the outcome of religion does not create space for the fact that the current conflict is neither ancient nor archaic. It did not emerge from the passages of ancient religious texts. It is a contemporary movement that emerged from equally contemporary conditions, relations and conflicts. The more we excavate the Koran or other religious texts to unearth the passage that enlightens us about the beliefs and practices of these groups, the further we drift from the real issues, from the ones that humans, not God, have an ability and responsibility to address.

At one level, the attacks of September 11<sup>th</sup> must be examined through the prism of religion because all the parties are invoking it in their discussions. But it is not the only prism through which to understand the full complexity of what is occurring. Centering culture and religion blunts our analysis. Similarly, the treatment of women cannot be exclusively explained either through culture or a focus on the veil. The veil has become a battleground for justifying the U.S. bombing of Afghanistan, the breaches of international law and the enormous civilian casualties that have resulted.<sup>33</sup>

The major focus of Muslim women's concerns, including their situation in the refugee camps, food aid and the humanitarian crisis aggravated by the bombing of Afghanistan, remain inadequately addressed. Some Muslim women's groups requested that the U.S. not initiate military retaliation against

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31. See BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, REPORT ON THE TALIBAN'S WAR AGAINST WOMEN (Nov. 17, 2001), available at <http://www.state.gov/g/drl/rls/index.cfm?docid=6185>; Elaine Monaghan, *U.S. Urges Future Afghan Rulers to Include Women*, REUTERS, Nov. 27, 2001; see also Olivier Knox, *US Calls for Diverse Afghan Government*, AGENCE FRANCE PRESSE, Nov. 27, 2001.

32. See Anthony Davis, *How the Taliban Became a Military Force*, in FUNDAMENTALISM REBORN? AFGHANISTAN AND THE TALIBAN 43 (William Maley ed., 1998); Ahmed Rashid, *Pakistan and the Taliban*, in FUNDAMENTALISM REBORN? AFGHANISTAN AND THE TALIBAN 72-73 (William Maley ed., 1998); BARNETT R. RUBIN, THE SEARCH FOR PEACE IN AFGHANISTAN: FROM BUFFER STATE TO FAILED STATE 139 (1995) (stating that the Taliban crossed the border into Afghanistan after organizing in Pakistan).

33. Human Rights Watch, *Anti-Terror Campaign Cloaking Human Rights Abuse* (Jan. 16, 2002), at <http://www.hrw.org/press/2002/01/wr2002.htm>; *Is this Really a "Just War"?* THE NATION, Nov. 26, 2001, at 2, 57-58, 60-61; Helen Duffy, *Responding to September 11: The Framework of International Law*, in INTERRIGHTS (Oct. 2001), available at <http://www.interrights.org>; see also Katha Pollitt, *After the Taliban*, THE NATION, Dec. 17, 2001, at 10; Rina Amiri, *Muslim Women as Symbols—and Pawns*, NY TIMES, Nov. 27, 2001, at A19.

Afghanistan, as that would aggravate the situation of the women and people of Afghanistan.<sup>34</sup> The bombing intensified the refugee crisis in Pakistan, which was already severe and inadequately addressed by the international community prior to September 11<sup>th</sup>—and these refugee camps consist primarily of women. The men are either at war, have been killed during the course of twenty years of war, or migrated in search of a better economic opportunity to support the family. The airdrop of food parcels by the United States as a gesture of humanitarian support has been severely condemned by aid groups.<sup>35</sup> They argue that the airdrop of food parcels into Afghanistan is a misguided (and seemingly outdated) approach to aid.<sup>36</sup> The airdrop politicizes the aid gesture. Moreover, “[f]ood drops divert attention from the real crisis and devalue the very concept of humanitarian aid. There is no guarantee that those most in need will get this food. Indeed, there is a significant risk that it will be accessed by soldiers and others involved in the conflict.”<sup>37</sup> Ground and air transport and access are crucial to an effective humanitarian effort.

In the meantime, it is women who are sustaining lives in Afghanistan, between the bombs and the bullets.<sup>38</sup> For years they have been finding the means to pay border guards in order to cross over into Pakistan.<sup>39</sup> The refugee camps are also controlled by different factions, and women have been attacked, particularly those unaccompanied by men. There is evidence of women being forced to perform sexual favors in order to get access to vital rations.<sup>40</sup>

A second and related issue is that of migration. Women began migrating from Afghanistan and many other countries in droves, even before the advent of September 11th. Traditional, as well as ongoing, male emigration for employment, together with increasing insecurity of food and sustainable livelihoods, has pushed women and girls into assuming key roles as income-earners for their families. Thus, increasingly larger numbers of women have been migrating to labor markets in urban centers of their own or foreign countries in search of gainful employment.<sup>41</sup>

Yet regular, legal and safe migration possibilities have decreased the world over due to restrictive, and at times even harsh, migration and immigration

34. Women Living Under Muslim Laws, *Statement on Attacks on the USA* (Sept. 21, 2001), available at <http://www.wluml.org/english/new-archives/wtc/wluml-statements.htm>.

35. Christian Aid, *After the start of the bombing of Afghanistan: A Christian Aid perspective* (Oct. 10, 2001), available at <http://www.christian-aid.org.uk/afghanistan/0110food.htm>.

36. *Id.*

37. *Id.*

38. See generally Amnesty International, *WOMEN IN AFGHANISTAN: A HUMAN RIGHTS CATASTROPHE* (1995), available at <http://www.amnesty.org/ailib/intcam/afgan/afgtoc.htm>.

39. *Id.* § 8.

40. *Id.*

41. See generally Graeme Hugo, *Gender and Migration in Asian Countries*, IUSP GENDER IN POPULATION STUDIES SERIES (1999) (International Union for the Scientific Study of Population occasional paper looking at the relationship between development theory and migration theory, paying special attention to the issue of gender in the context of Asian countries, and examining some of the push factors that influence the gendered aspects of migration); REFUGEE AND FORCED MIGRATION STUDIES, Vol. 5: ENGENDERING FORCED MIGRATION: THEORY AND PRACTICE (Doreen Indra, ed., 1998) (the collection of essays takes an interdisciplinary perspective on the highly gendered forces that affect the experiences of men, women and children who cross borders).

policies of countries of transit and destination, especially in the industrialized world.<sup>42</sup> The recent impact of September 11th has made Europe and the U.S. wary of opening their doors to immigrants.<sup>43</sup> France already has an uneasy relationship with its Muslims emigrating from former North African colonies. In Austria, the far-right populist politician, Jurg Haider, has stated that only European asylum seekers should be allowed to reside in the European Union while awaiting a decision on their applications. Others should be sent to safe third countries on their own continents. In Italy, one minister advocated that the country close its borders to Muslims.<sup>44</sup>

Such policies will intensify the growth of a market for irregular migration services, and for women, this means increased vulnerability and exposure to violence, abuse, coercion and deception. The situation of women in Afghanistan and on the borders of Pakistan is much more complex than any cultural explanations reveal. Discussions about the rights of migrants, refugees and asylum policies that were so crucial before September 11<sup>th</sup> are now being addressed in a context where anti-terrorist efforts take priority.<sup>45</sup> Few doubt that the conservative voice has been given more strength in arguing against liberal immigration and refugee policies. And women, who will continue to move, will remain vulnerable to violence and exploitation.

A considerable amount of information and documentation about the situation of women in Afghanistan was available well before September 11<sup>th</sup>. However, scholars have tended to focus on the situation of women primarily under the Taliban, and their narratives tend to glorify the situation of women prior to Taliban rule.<sup>46</sup> Yet there is a counter-narrative which relates the story of women's rights in Afghanistan as an uneven one, determined by encounters

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42. For example, in an interview by Larry King, Pakistani President Pervez Musharraf contrasted the willingness of Pakistan to accommodate over 2.5 million refugees prior to September 11<sup>th</sup> with Australia's unwillingness to take even 200 refugees. Available at <http://asia.cnn.com/TRANSCRIPTS/0110/22/kl.00.html>, Oct. 10, (2001); see also Patrick Barkham, *Australia votes on how tightly to close the door*, GUARDIAN UNLIMITED, (Nov. 10, 2001), available at [http://www.guardian.co.uk/Refugees\\_in\\_Britain/Story/0,2763,591026,00.html](http://www.guardian.co.uk/Refugees_in_Britain/Story/0,2763,591026,00.html); Becky Gaylord, *Protests by Refugees Spread, Putting Pressure on Australia to Act*, N.Y. TIMES, Jan. 24, 2002, at A6 (discussing how the inhumane treatment of Afghan refugees leads some children to sew their mouths shut to draw attention to their situation). These protests are the result of Australia's extremely harsh policy of putting unlawful migrants into mandatory detention centers as soon as they arrive on Australian soil. The government's policy and appalling conditions of these centers have been criticized by human rights groups, the international community, and the United Nations High Commission for Refugees.

43. Suzanne Daley, *Europe Wary of Wider Doors for Immigrants*, N.Y. TIMES, Oct. 20, 2001, at A3.

44. *Id.*

45. See, e.g., Seth Mydans, *Which Australian Candidate Has the Harder Heart?* N.Y. TIMES, Nov. 9, 2001, at A3 (describing that in recent national elections in Australia John Howard was able to partly justify his almost racist anti-immigrant policies by proclaiming, "[y]ou don't know who's coming and you don't know whether they do have terrorist links or not").

46. See generally Meri Melissi Hartley-Blecic, Note, *The Invisible Women: The Taliban's Oppression of Women in Afghanistan*, 7 ILSA J. INT'L & COMP. L. 553 (2001); Purva Desphande, Note, *The Role of Women in Two Islamic Fundamentalist Countries: Afghanistan and Saudi Arabia*, 22 WOMEN'S RTS. L. REP. 193 (2001); Talya Friedman, Comment, *Cures to the Enigmatic Taliban Plague: Legal and Social Remedies Addressing Gender Apartheid in Afghanistan*, 23 LOY. L.A. INT'L & COMP. L. REV. 81 (2001); Alicia Galea, *No Freedom for Afghan Women: The Taliban Hides Behind Religion to Control its People*, 78 U. DET. MERCY L. REV. 341 (2001). In some of these articles the role of the Soviets is also implicated in perpetrating gross human rights violations. However, the role of the United States is not interrogated.

between the former "Superpowers", conflicts between ethnic groups, landmines, unexploded ordnances, oil interests, the role of intelligence networks, and the history of imperialist interventions in the region.<sup>47</sup> My concern is that serious engagement with women's rights in Afghanistan cannot be based on a narrative that assumes the U.S.-led War on Terrorism will restore women to the situation they enjoyed prior to the Taliban. The constant refrain that the situation of women was better prior to the Taliban does not speak to the violence and the disruptions that took place during the Cold War, nor does it implicate the role of the "Superpowers," who pursued this war in and through the lives of people in Afghanistan during the 1980's.

A narrative that politically and historically situates women's human rights issues in Afghanistan helps to complicate our analysis and response to the contemporary moment. It is a response that cannot be restricted to justifying military intervention or economic sanctions based on the Taliban's practice of "gender apartheid" or to merely referencing all the violations committed against women under human rights law during the Taliban rule.<sup>48</sup> A narrative produced through the fractures, fissures and encounters between the West and its "Other," spotlights the role and responsibility of those currently pursuing the "War on Terrorism" in contributing to the creation of the contemporary situation of women in Afghanistan.

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47. See PETER HOPKIRK, *THE GREAT GAME: THE STRUGGLE FOR EMPIRE IN CENTRAL ASIA* (1994) (This work is a stunning narrative of the struggle by two superpowers, Czarist Russia and Imperial Britain, for supremacy of an area stretching from the Caucasus to China, including present day Afghanistan in the 19<sup>th</sup> century.)

48. For an elaboration of the emergence of the campaign against gender-apartheid in Afghanistan under the Taliban, see Nancy Gallagher, *The International Campaign Against Gender Apartheid in Afghanistan*, 5 *UCLA J. INT'L L. & FOREIGN AFF.* 367 (2000). Gallagher discusses how the deeply controversial strategy of deploying stereotyped media images of Muslim militants and veiled women in the 1990's helped to draw attention to the situation of women in Afghanistan. She states:

The Afghan women's oppressors appeared to be wild-eyed bearded terrorists, just the image received from Hollywood films and television. Western oriental images of fierce mountain warriors, exotic veiled women, and picturesque atrocities, all very far away, may have motivated many of those who joined the anti-gender apartheid campaign. Women in many parts of the world are victims of massive human rights violations, but their oppressors are often allied with Western governments or multinational corporations or have constituents in the West. It was safe and even fashionable to jump on the bandwagon to save Afghan women because the Taliban had few friends in the West. The Western feminist, human rights, and even the Afghan women's groups unwittingly played to Western stereotypic images of Islam and Afghanistan in pressing their cases. Many of those sympathetic to Afghan culture and to Islam worried about the sensationalism surrounding the campaigns, despite their frequent assurances that the problem was not Islam or Islamic law. In public forums, Afghanis and other Muslims often raised the issue that the anti-gender apartheid campaign itself was more harmful than beneficial because it was contributing to widespread negative stereotypes. The consensus, however, was that even if in the short run the campaign benefited from the negative stereotypes and even intensified them, in the long run, it would correct them.

*Id.* at 379-80. The article also refers to the recognition by Mavis Leno, chair of the Feminist Majority's Campaign to Stop Gender Apartheid in Afghanistan, that the U.S. bore some responsibility for the conditions of women in Afghanistan, as it supplied weapons to the Mujaheddin groups to fight the Soviets. *Id.* at 387-88. However, the focus of the campaign has been on the Taliban's treatment of Afghan women. *Id.* at 388.

## V. CONCLUSION

My comments have been an attempt to dislodge our focus on religion and cultural explanations when discussing the issue of women's rights in the context of the recent "War on Terrorism," and widen the lens and address the real issues, even if they may uncomfortably implicate the very people who are waging the War.

The renewed attention given to women in the War on Terrorism leaves me questioning the position from which such interests emerge. First, the current interest in the issues of women in Afghanistan has been largely framed within the parameters of religion and the rhetoric of civilization. Second, culture is being invoked not only to justify military and some feminist interventions, but also in ways that are universalizing and unreflective of the complexity and diversity of the traditions and practices that operate in the region. At the same time such interventions obscure the unstated cultural positions from which they operate—which are largely Western, Christian and protectionist.

My argument has been to unpack some of the assumptions operating in the recent focus on women in Afghanistan and the extent to which they obscure more than they reveal. There is a need to expand the lens of inquiry and understanding in order to develop intervention strategies that work with the complexities, rather than continuing to use those that exaggerate the polarizations and paternalisms. Feminists in particular must pay heed to a history where such interventions have reinforced the assumptions of women in the post-colonial world as backward and as victims of a barbaric practice.

Finally, intervention strategies that abdicate the responsibility of the West, in the creation of the "evil" it now struggles to cast as so completely and utterly "other," will only continue to produce attitudes of arrogance and superiority—the very tools that have alienated so much of the world from the West. There is a false assumption that the "liquidation" of the Taliban will result in the liberation of the Afghan women. The falsity of this assumption is borne out in the *New York Times* visual, which captured in a photograph women smiling on the front page with their veils cast aside.<sup>49</sup> Yet in a subsequent section on the same day, women are represented as washing clothes in a river—without their veils.<sup>50</sup> Women's labor, health concerns, and poverty are all issues that implicate more than the veil. They are affected by the impact of the sexual division of labor, military regimes, and global processes that are not addressed in the myopic analysis that views the situation of women in Afghanistan as exclusively the product of the Taliban.

The conditions under which the Al-Qaeda and Taliban emerged and operated were not simply the ravings of a lunatic fringe of Islam, but were also a product of the end of the Cold War, U.S foreign policy in Saudi Arabia and

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49. N.Y. TIMES at A1 (November 15, 2001).

50. According to the caption of the second photograph, "Afghan women were washing clothes in Kabu River yesterday. . .[u]nder Taliban rule, they were forbidden to work or study and forced to cover themselves head to toe." N. Y. TIMES at B1 (November 15, 2001).

Egypt,<sup>51</sup> and subsequent political and economic events. These influences cannot find their explanations and origins exclusively within the tenets of Islam. The globalized trade in arms, the backing of non-democratic regimes, and the history of the Cold War are deeply implicated in the creation of those turbaned men, all Afghans, all leaders of the *Mujaheddin* or freedom fighters, who were invited to the White House in 1985 by then-U.S. President Ronald Reagan. On the lawns of the White House they were introduced to the media with the words, "[T]hese gentlemen are the moral equivalents of America's founding fathers."<sup>52</sup> The resentment against the West did not develop from a clash of civilization or envy, but rather from the West's complicity in the subversion of democracy in different parts of the world, in failing to account for the diversity within cultures and the global interconnections between them. Women's rights in Afghanistan cannot be bartered across definitions of tradition and culture. They cannot be selectively determined and applied in pursuit of the "War on Terrorism," but instead must be pursued against the broader canvas of human rights.

Engaging women's rights in Afghanistan is as revealing about the "liberators" as it is about the Afghan women. Currently, it superficially appears to be a battle between good and evil. Yet, at another level there is a tension between culture, politics, history and faith. The engagement with the rights of women in Afghanistan should reflect this complexity, rather than a top-down patronizing approach. It must reflect the spirit of learning and not just liberation, and of turning the gaze back on ourselves. The women in Afghanistan are not passive recipients of American intervention and the bombing. They are already demanding rights to free expression, equality, and political participation, even while they remain veiled, as incomprehensible as it may seem to those whose mission and civilizational strategy was based on un-veiling the Afghan woman. The failure to recognize that the situation of Afghan women is not purely the outcome of the Taliban regime or of a brutal culture is to continue to adhere to a politics based on the idea of liberating the "Other." It is an attitude that will ultimately meet a fate similar to that of *The Poisonwood Bible's* Nathan Price. In the single-minded pursuit of his civilizing mission, the missionary tried to baptize a boatload of Congolese children. The boat capsized, the children drowned, and Price, who continued to preach "hell and brimstone over his shoulder while he ran," met a violent, unwept death.<sup>53</sup>

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51. See *PBS Frontline Documentary, Looking for Answers* (PBS television broadcast, Oct. 9, 2001), at <http://www.pbs.org/wgbh/pages/frontline/shows/terrorism> (transcript available at [www.discuss.washingtonpost.com/zforum/01/tv\\_frontline101101.html](http://www.discuss.washingtonpost.com/zforum/01/tv_frontline101101.html)).

52. Mamdani, *supra* note 16, at 5.

53. KINGSOLVER, *supra* note 4, at 486.