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## Ross, *Women's Human Rights: The International and Comparative Law Casebook*

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## Global Feminism and the Human Rights Discourse

WOMEN'S HUMAN RIGHTS: THE INTERNATIONAL AND COMPARATIVE LAW CASEBOOK. By Susan Deller Ross. Philadelphia: University of Pennsylvania Press. 2008. Pp. xxix, 665. \$135.00.

*By Mary Pat Treuthart\**

Article I of the Universal Declaration of Human Rights states unequivocally that “all human beings are . . . equal in dignity and rights.”<sup>1</sup> Despite this pronouncement and other similarly emphatic statements in prominent international conventions, global feminists recognize that such calls for equality will not, by themselves, bring about substantive change in the lives of most women.

In some cases, the problems facing women have been caused by the convergence of culture, religion, and tradition, which represses meaningful legal reform. In other cases, legislative and litigation efforts simply have not kept pace with the forces that oppose the drive for equality. It is easy, then, to forget that several significant advances for women have been achieved in such wide-ranging areas as marriage laws, property and inheritance schemes, employment regulations, educational access, reproductive and health rights, and protection from violence.

The need to remind law students, if not the mainstream culture, of such advances is one reason for the creation of specialized international and comparative women's rights courses.

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\* Professor of Law, Gonzaga University School of Law. I am most grateful to my research assistant, Rosalie Matthews, who, in addition to her assigned research duties, reviewed the entire book and provided commentary about it from a student perspective. I appreciate Gonzaga Law School's support for faculty scholarship. Finally, thank you to the Pace Law Review staff for its helpful assistance throughout the editing process.

1. G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc A/810 (Dec. 12, 1948), available at <http://un.org/Overview/rights.html>.

Such courses, and the development of suitable teaching materials, provide the opportunity for all of us to identify, examine, and celebrate these gender justice achievements while still strategizing about ways to accomplish the work that remains.

I taught Comparative Women's Rights for the first time in 1993.<sup>2</sup> After looking for a suitable casebook without success, I concluded it would be necessary for me to assemble my own course materials.<sup>3</sup> It was a beneficial learning exercise, because I began to appreciate the difficult task facing casebook authors. This was underscored more recently when I had the occasion to co-author an international mental disability rights course book, an experience that I would characterize as one of my most challenging professional endeavors.<sup>4</sup>

During the past fifteen years, while teaching Comparative Women's Rights courses at both the undergraduate and the law school levels in the United States and as a Fulbright lecturer in Poland, I continued my search for an appropriate text.<sup>5</sup> I was familiar with a number of women's human rights books that I

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2. I taught this course as part of the University of San Diego Institute on International and Comparative Law Summer Program in Dublin, Ireland. By only a year, I ended up missing the opportunity to use the outstanding book titled *HUMAN RIGHTS OF WOMEN* (Rebecca Cook ed., 1994).

3. This is not something that I would recommend to anyone who is teaching a course for the first time, especially in the international law field. Professor David Bederman, in his review of the most widely-used international law casebooks, observed, "I am aware of only a handful of colleagues who use their own unpublished materials instead of a regularly published casebook." David J. Bederman, *International Law Casebook: Tradition, Revision, and Pedagogy*, 98 *AM. J. INT'L L.* 200, 201 (2004).

4. MICHAEL PERLIN, ARLENE KANTER, MARY PAT TREUTHART, EVA SZELI & KRIS GLEDHILL, *INTERNATIONAL HUMAN RIGHTS AND COMPARATIVE MENTAL DISABILITY LAW* (2006).

5. For the undergraduate course I taught three times, which was cross-listed in political science, international relations, and women's studies, I chose KATE CONWAY-TURNER & SUZANNE CHERRIN, *WOMEN, FAMILIES, AND FEMINIST POLITICS* (1998) as the primary text. The book covered the subject areas I found desirable; however, its presentation style was rather succinct, and I was compelled to supplement the text's offerings with outside materials. The topic areas we covered in the course corresponded, more or less, to the book chapters and included: 1) marriage and family laws, traditions, and rituals; 2) work and education; 3) health and reproduction; 4) war and peace; and 5) violence against women (rape, domestic violence, prostitution, and sex trafficking).

considered to be excellent resource materials.<sup>6</sup> But the user-friendly, single course book was a mirage.

So, as usual, it was back to square one in terms of teaching materials as I began planning for my most recent go-around in 2007 with the Comparative Women's Rights law school course. This time, I decided to adopt two recently published books. The first was a collection of essays authored by Catharine MacKinnon,<sup>7</sup> and the second was a collection of articles edited by Bert Lockwood.<sup>8</sup> Despite the breadth of topics covered in these books, I still found a need to add to the material.<sup>9</sup>

A theme was developing with respect to the type of text I was seeking. Most important, I wanted a book that was "a

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6. The nonpareil three-volume series *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW* is indispensable to women's human rights cognoscenti; however, its offerings are too mammoth to use for classroom purposes. See 1 *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW* (Kelly D. Askin & Dorean M. Koenig eds., 1999); 2 *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW* (Kelly D. Askin & Dorean M. Koenig eds., 2000); 3 *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW* (Kelly D. Askin & Dorean M. Koenig eds., 2001). Two offerings from Ashgate Publishing, *GENDER AND RIGHTS* (Carol Sanger & Deborah L. Rhode eds., 2005), and *GENDER AND JUSTICE* (Ngaire Naffine ed., 2002), were cost-prohibitive for law students. For the 2002 course I taught at Maria Curie Skłodowska University in Lublin, I collected my own materials. When I taught the law school course in summer 2003, I used *WOMEN'S RIGHTS, HUMAN RIGHTS* (Julie Peters & Andrea Wolper eds., 1995), and *WOMEN, GENDER, AND HUMAN RIGHTS* (Marjorie Agosin ed., 2001), which I augmented as a result of the additional topics selected for discussion by the course participants.

7. CATHARINE A. MACKINNON, *ARE WOMEN HUMAN?* (2006).

8. *WOMEN'S RIGHTS* (Burt B. Lockwood ed., 2006).

9. I allowed the students to collaborate with me in designing the course content. I believe this collaborative approach comports with feminist pedagogical techniques; however, it is not an original idea. See Gerald F. Hess, *Collaborative Course Design: Not My Course, Not Their Course, But Our Course*, 47 *WASHBURN L.J.* 367 (2008). I insisted that students co-facilitate an in-class, brief presentation on a subject area that was different from their final paper topic. I required students to complete a service-learning experience with an organization that provided services to women and/or girls, with a preference for placements that included clients who were immigrants, refugees, or English-as-foreign-language speakers. More than a decade earlier, I incorporated a service-learning component into my domestic Women and the Law course. See Mary Pat Treuthart, *Weaving a Tapestry: Providing Context Through Service-Learning*, 38 *GONZ. L. REV.* 215 (2003). Finally, I chose to use some film excerpts and visual imagery to try to capture the affective quality of the lives of the women we studied. Excellent resources can be found at the websites for Women Make Movies, <http://www.wmm.com/> (last visited Apr. 21, 2009), and the Open Society Institute's International Women's Program, [http://www.soros.org/initiatives/women/news/gendermontage\\_20060302](http://www.soros.org/initiatives/women/news/gendermontage_20060302) (last visited Apr. 21, 2009).

[g]ood [f]it [w]ith [my] [t]eaching [g]oals and [p]hilosophies.”<sup>10</sup> My primary teaching goal was to expose my students to the actual experiences of real women worldwide. I was interested in familiarizing students with the policy choices that perpetuate or alleviate sex discrimination. I hoped students would appreciate that the law is a powerful tool but with its own shortcomings as well. Finally, I wanted us to explore ways to bring about transformation using a range of approaches, including grassroots activism and collaboration, along with legislation and litigation.

But finding the one book that contained the information I hoped to convey in my Comparative Women’s Rights course remained an elusive quest.<sup>11</sup> The project of constructing a women’s human rights text that could accomplish multiple goals and engage a range of readers seemed unmanageable. Should its focus be on discrete topic areas of particular importance to women across the globe? Should it use the experiences of women in specific regions or countries as examples? What should be the mix of international law principles and domestic solutions? How much background information on feminist theory should be provided? How much exposure to basic international human rights law should be presented? So, it was with equal measures of excitement and trepidation that I ordered a copy of *Women’s Human Rights: The International and Comparative Law Casebook* (“*Women’s Human Rights*”) by Susan Deller Ross<sup>12</sup> to consider for adoption as my course book.

Professor Ross has been a faculty member for twenty-five years at the Georgetown University Law Center, where she

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10. My colleague, Professor Lynn Daggett, made this observation in her review of the torts text she uses. See Lynn M. Daggett, *Teaching Torts by Integrating Ethical, Skills, Policy and Real-World Issues, and Using Varied Pedagogical Techniques: Reflections on Using the Henderson, Pearson and Siciliano Casebook*, 25 SEATTLE U. L. REV. 63, 65 (2001).

11. Apparently, other experienced teachers feel similarly. David Bederman, who teaches international law, states, “If many international law instructors are like myself, the trend is toward selecting one casebook, using this publication’s document supplement, assigning extra materials as necessary, and (perhaps) recommending an introductory reader or treatise on the subject.” Bederman, *supra* note 3, at 201.

12. SUSAN DELLER ROSS, *WOMEN’S HUMAN RIGHTS: THE INTERNATIONAL AND COMPARATIVE LAW CASEBOOK* (2008).

founded the International Women's Rights Law Clinic.<sup>13</sup> Her interest in international legal issues is a natural progression from her Peace Corps experience in Cote d'Ivoire in the late 1960s.<sup>14</sup> She has written numerous books, scholarly articles, and amicus briefs on women's rights issues.<sup>15</sup> Ross is a frequent presenter worldwide on women's human rights issues.<sup>16</sup> As an activist litigator, she has been involved in a number of landmark cases.<sup>17</sup> Her impressive credentials and lengthy commitment to women's rights issues make her an ideal candidate to author a text on international human rights issues.

According to Ross, the first purpose of *Women's Human Rights* is "to introduce law students to the realities of women's lives and an understanding of how states deny women their most fundamental human rights and freedoms."<sup>18</sup> The book's "second purpose is to give future lawyers the legal tools to change that reality."<sup>19</sup> I was gratified to learn that her goals seemed very much in sync with mine. In addition to law students, Ross anticipates a wider audience for the book including professors, students, and scholars from the United States and other countries in disciplines such as political science, sociology, and anthropology,<sup>20</sup> as well as "lawyers, judges, legislators, and executive branch officials" in Anglophone countries.<sup>21</sup>

Such an expansive mandate would be daunting to any author and demands a logical organizing principle. Although Ross does not reveal her organizing principle to us directly, it seems she has found one, at least initially, by using the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW")<sup>22</sup> as a touchstone and evaluative mechanism.<sup>23</sup> Al-

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13. Georgetown Law, Full Time Faculty, Susan Deller Ross, [http://www.law.georgetown.edu/faculty/facinfo/tab\\_faculty.cfm?Status=FullTime&ID=317](http://www.law.georgetown.edu/faculty/facinfo/tab_faculty.cfm?Status=FullTime&ID=317) (last visited Apr. 21, 2009).

14. Georgetown University, Life Changing Experience, <http://explore.georgetown.edu/documents/?DocumentID=13260> (last visited Apr. 21, 2009).

15. See Georgetown Law, *supra* note 13.

16. *Id.*

17. ACLU, Women's Rights Project, Susan Deller Ross, <http://www.aclu.org/womensrights/tribute/3.html> (last visited Apr. 21, 2009).

18. Ross, *supra* note 12, at xxx.

19. *Id.*

20. *Id.* at xxx.

21. *Id.* at xxxi.

22. Dec. 18, 1979, 1249 U.N.T.S. 13.

though CEDAW is an excellent vehicle for examining the impact of *international* law on human rights issues affecting women, it may not be the most useful tool for *comparative* purposes. To remedy this potential deficiency, Ross includes case studies throughout the book that focus on situations in selected countries or on regional approaches to the specific topic areas covered in each chapter.

The book's companion RossRights website is an invaluable tool that allows the author to provide supplemental information to readers.<sup>24</sup> To attain maximum usefulness, course book websites should be ongoing projects that are updated regularly.<sup>25</sup> The area of human rights is a dynamic field of study, and the opportunity to enhance the basic preprinted course materials with references to new articles and cases seems indispensable.<sup>26</sup> Casebook websites can use password protection to provide a teacher's manual and sample exams. Also, the existence of a website allows virtually instant contact between the author and readers; it could be designed to incorporate features that allow communication among a global readership.<sup>27</sup> This would be a distinctive contribution to the global feminist human rights discourse.

The first of the book's fourteen chapters highlights women's status and CEDAW.<sup>28</sup> It begins with a brief introduction to women's human rights and then presents factual data on the sta-

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23. See Ross, *supra* note 12, at 11-24.

24. The RossRights website, an online documentary supplement, is available at <http://www.law.georgetown.edu/rossrights/> [hereinafter RossRights]. A chapter-by-chapter bibliography of other pertinent readings would be a helpful resource not only for new teachers, but also for students and researchers. The trend of providing a teacher's manual to accompany the textbook has been characterized as "nothing short of miraculous" for new teachers. Eric L. Muller, *A New Law Teacher's Guide to Choosing a Casebook*, 45 J. LEGAL EDUC. 557, 564 (1995).

25. See, e.g., Matthew Bodie, *The Future of the Casebook: An Argument for an Open-Source Approach*, 57 J. LEGAL EDUC. 10, 10 (2007) ("[T]he casebook as we know it is probably on its way to extinction. . . . Casebooks can only be updated every so often. They are out of date the moment they are printed.").

26. For a good example of a user-friendly and up-to-date website in the international and comparative law context, see Loyola University Chicago School of Law, *The Global Workplace*, <http://www.luc.edu/law/faculty/globalwork/index.html> (companion website for ROGER BLANPAIN ET AL., *THE GLOBAL WORKPLACE* (2007)).

27. An asynchronous chat room setup or a discussion board posting feature would be useful interactive tools.

28. See Ross, *supra* note 12, at 1-53.

tus of women at the beginning of the twenty-first century.<sup>29</sup> The information is culled from a report conducted in 1997-1998,<sup>30</sup> which required Ross to provide an update in the notes following this selection.<sup>31</sup> Since the report contains much useful historical information dating back to the ancient world,<sup>32</sup> it might have been beneficial to excerpt that section of the materials and delete the supposed current look at women, since the report is more than a decade old.<sup>33</sup>

The provisions of CEDAW are set forth right in the text, which is helpful because it is such a critical part of the chapter.<sup>34</sup> The trend in casebooks is to provide extra materials that are in the public domain via online links rather than to include that information in the text itself or in an additional, costly printed supplement.<sup>35</sup> In keeping with this trend, the Ross-Rights website that accompanies this book allows easy access to the plethora of other pertinent documents.<sup>36</sup>

A real dilemma for Ross is the “mixed audience” situation. One group of readers will come to this material lacking famili-

29. *See id.* at 1-11.

30. *See* NAOMI NEFT & ANNE D. LEVINE, *WHERE WOMEN STAND: AN INTERNATIONAL REPORT ON THE STATUS OF WOMEN IN 140 COUNTRIES, 1997-1998* (1998), reprinted in ROSS, *supra* note 12, at 2-10.

31. *See* ROSS, *supra* note 12, at 10-11.

32. *See id.* at 5-6.

33. College and graduate students, including some law students, would have been in middle school or its foreign equivalent when this 1997-1998 report was issued. My experience has been that course materials lose credibility when they are perceived by students, however unfairly, to be out-of-date. Apparently, there is a very brief “shelf life” for information among millennial-generation students.

34. Rosalie Matthews, my law student research assistant, observes that Ross does not tell the reader much about CEDAW other than what it states in the actual text of the document. *See* Rosalie Matthews, Written Comments (Oct. 31, 2008) (unpublished memorandum, on file with its author and Professor Treuthart). As she notes, students struggling to understand CEDAW might like to know beforehand: 1) “Why do states enter into a treaty such as CEDAW since some of the grossest violators of women’s rights are parties to it?” 2) “Who has the authority to enter into treaties?” 3) “What sanctions, if any, are available against a state that violates, or withdraws from a treaty?” 4) “How do I, as a legal advocate, enforce the provisions of CEDAW against a violation of women’s human rights?” *Id.* Answers to these questions would allow a better analysis of all conventions and treaties that could apply to women—not just CEDAW.

35. *See, e.g.*, HENRY STEINER, PHILIP ALSTON & RYAN GOODMAN, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT*, at viii (3d ed. 2008) (referencing web based documents supplement available at [www.oxfordtextbooks.co.uk/orc/ihr3e/](http://www.oxfordtextbooks.co.uk/orc/ihr3e/)).

36. RossRights, *supra* note 24.

arity with basic principles of international law, having been interested in this book primarily due to its focus on women's rights. Another group may be drawn by its international and comparative perspective as part of a broader study of human rights. Thus, Ross must provide sufficient background information to give a cogent overview to those in the first group while not alienating those with greater knowledge.<sup>37</sup>

Some exposure to feminist legal theory would benefit a women's studies novice.<sup>38</sup> At the same time, a synopsis of basic human rights law should be included among the introductory materials for those new to the international field.<sup>39</sup> Following the text of CEDAW, Ross supplies an excellent primer on terms and treaty protocols.<sup>40</sup> A reader with international law expertise could easily skip over this material and proceed to the final section in the chapter, a case study on Afghanistan that involves a role play that could be conducted during class or used as a written take-home assignment.<sup>41</sup>

Chapter 2 explores equality doctrines and gender discrimination through the jurisprudence of the UN Human Rights

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37. One challenge this text poses for the reader is immediately apparent and can be attributed to the publisher. Due to the similar style typefaces used, it is nearly impossible to differentiate between the textual excerpted material and the author's notes and questions. I found myself flipping back and forth on a regular basis to try to determine whose writing I was reading. I did not rely exclusively on my failing eyesight for this observation. Rosalie, who is twenty-something, also mentioned to me, unprompted, that she had difficulty distinguishing between author-generated materials and outside source material. See Matthews, *supra* note 34.

38. This could take the form of a summary by excerpting material from established sources such as MARTHA CHAMALLAS, *INTRODUCTION TO FEMINIST LEGAL THEORY* (2d ed. 2003), or NANCY LEVIT & ROBERT R. M. VERCHICK, *FEMINIST LEGAL THEORY* (2006). For a more recent law review article that was recommended by students who had taken my spring 2008 Women and the Law course, see Rosalind Dixon, *Feminist Disagreement (Comparatively) Recast*, 31 *HARV. J.L. & GENDER* 277 (2008). See also HILARY CHARLESWORTH & CHRISTINE CHINKIN, *THE BOUNDARIES OF INTERNATIONAL LAW* 38-61 (2000) (examining whether feminist theoretical approaches add to an understanding of international law).

39. For a good example of this type of overview, see Berta Esperanza Hernandez-Truyol, *Human Rights Through a Gendered Lens*, in 1 *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW*, *supra* note 6, at 3.

40. Ross, *supra* note 12, at 22-23. Although she makes this point later in Chapter 4, it would have been helpful to emphasize the binding nature of international treaties here. See *id.* at 145.

41. *Id.* at 24-53.

Committee and the U.S. Supreme Court.<sup>42</sup> Ross describes the UN Charter,<sup>43</sup> the Universal Declaration of Human Rights (“UDHR”),<sup>44</sup> and the International Covenant on Civil and Political Rights (“ICCPR”).<sup>45</sup> Next, Ross provides a section about the operation of the UN Human Rights Committee<sup>46</sup> and presents two of the Committee’s written decisions.<sup>47</sup> This is immediately followed by a lengthy excerpt from the majority opinion in *United States v. Virginia*,<sup>48</sup> where the U.S. Supreme Court determined that the state funded Virginia Military Institute’s (“VMI”) exclusion of female students violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.<sup>49</sup>

This seems to be one of the more problematic chapters in the book. I lost track of any semblance of an organizational scheme that explained the disparate topics selected for review (marital property distribution, gender-based nationality laws, and single-sex education). More important, the VMI case is demanding even for U.S. law students, who typically encounter this case as part of a required constitutional law course. Without an in-depth explanation upfront, this case would likely be incomprehensible to many non-U.S. readers. In the notes following the case, Ross explains the levels of scrutiny used by U.S. courts in reviewing discriminatory classification schemes.<sup>50</sup> It might have been beneficial to situate this information before the case. Regardless of its placement, a neophyte would undoubtedly be compelled to read these notes several times to get a grasp of the doctrinal significance of these levels

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42. *See id.* at 54-90.

43. *See id.* at 55.

44. G.A. Res. 217A, *supra* note 1; Ross, *supra* note 12, at 55-56.

45. Dec. 19, 1966, 999 U.N.T.S. 171; Ross, *supra* note 12, at 56-57. The author refers readers to the RossRights website for additional information on the text of ICCPR. *See* RossRights, *supra* note 24.

46. *See* Ross, *supra* note 12, at 56-57.

47. *See* Ato del Avellanal v. Peru, Commc’n. No. 202/1986, Report of the Human Rights Committee, U.N. GAOR, 44th Sess., Supp. No. 40, U.N. Doc. A/44/40 (1988), *reprinted in* Ross, *supra* note 12, at 57-59; Aumeeruddy-Cziffra v. Mauritius, Commc’n. No. 35/1978, Report of the Human Rights Committee, U.N. GAOR, 36th Sess., Supp. No. 40, U.N. Doc. A/36/40 (1984), *reprinted in* Ross, *supra* note 12, at 60-65.

48. 518 U.S. 515 (1996), *reprinted in* Ross, *supra* note 12, at 67-88.

49. *See* 518 U.S. at 519, 557-58.

50. *See id.* at 88-90.

of scrutiny. Moreover, a greater explanation of the workings of the U.S. Supreme Court would be essential background reading for those lacking familiarity with U.S. federal constitutional jurisprudence and interpretative methodology.

Law professors, including those who author casebooks, seem to fall into two camps when it comes to the length of case excerpts: 1) those who prefer longer versions; and 2) those who favor more succinct presentations. The inclusion of lengthier case selections allows the book to be more self-contained, permits greater appreciation for the court's language, and provides a more thorough examination of the legal principles at issue. Ross falls into the "more is more" group, although at twenty-plus pages, the VMI case is longer than most of the others in the book.<sup>51</sup> I typically prefer shorter excerpts, because it is relatively easy for me as the professor to request law students who have internet access to read the whole case if I believe it is advisable for them to do so.<sup>52</sup> In fact, I would have edited most of the cases in this book more heavily and included lengthier introductory sections, more transitional material, and additional author-generated analyses after the readings.

Chapter 2 concludes with a suggestion that human rights advocates urge judicial adoption of heightened standards of review when "they prepare equal protection lawsuits in different countries."<sup>53</sup> This is excellent general advice, since constitutional litigators must be willing to take risks and extrapolate from existing law. A concrete example where this approach has been used successfully outside Anglophone legal systems would have been instructive here.

Chapter 3 contains a highly useful introduction that highlights the similarities, differences, and interrelationship between the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the ICCPR.<sup>54</sup> To provide additional context for the narrative information in this section, Ross reminds the reader that the RossRights website has links to

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51. *See id.* at 67-88.

52. It is more difficult to request that students read only parts of a case, when they have a larger segment in front of them.

53. Ross, *supra* note 12, at 90.

54. *See id.* at 91-93.

pertinent documents.<sup>55</sup> This is an ideal way to take advantage of the website accompanying the course book. Additional references to RossRights appear throughout Chapter 3.<sup>56</sup>

Ross's review of sex discriminatory social insurance regulations designed to provide income security is a creative way to examine the different economic statuses of men and women. Ross chooses two cases originating in the Netherlands to make this point, which she does effectively.<sup>57</sup> The cases selected here also demonstrate the connection between the two major U.N. Covenants—the ICESCR and the ICCPR—as well as the connection between domestic law and the protections provided by international law.<sup>58</sup>

Ross intends for the other cases in Chapter 3 to be used to evaluate the “Human Rights Committee’s Evolving Equal Protection Doctrine.”<sup>59</sup> Some transitional material might have explained the topic areas she chooses—women’s exclusion from jury service in Mauritius<sup>60</sup> and exemption from taxation schemes in the Netherlands<sup>61</sup>—to serve as examples of the Committee’s shifting approach. Since a number of countries do not use a lay jury system, Ross’s reference to the discriminatory use of gender-based peremptory challenges in the United States seems a tad obscure without more information.<sup>62</sup>

The notes and questions in this section vacillate between provocative, richly textured inquiries and very basic “conversation-starter” type overtures. An example of the latter is set forth after the first Netherlands case,<sup>63</sup> which involved a presumption that men were “breadwinners” and automatically en-

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55. *See id.* at 91.

56. *See, e.g., id.* at 93, 103, 107.

57. *See* Broeks v. The Netherlands, Commc’n. No. 172/1984, Report of the Human Rights Committee, U.N. GAOR, 42nd Sess., Supp. No. 40, at 139, U.N. Doc. A/42/40 (1987), *reprinted in* Ross, *supra* note 12, at 93-101; Vos v. The Netherlands, Commc’n. No. 218/1986, Report of the Human Rights Committee, U.N. GAOR, 44th Sess., Supp. No. 40, at U.N. Doc. A/44/40 (1989), *reprinted in* Ross, *supra* note 12, at 103-07.

58. *See id.* at 93-107.

59. *Id.* at 91.

60. *Id.* at 107.

61. *Id.* at 110.

62. *See id.* at 109-10.

63. *See id.* at 101-03.

titled to unemployment benefits whereas women were not.<sup>64</sup> The notes pose the questions: “Do you earn more than 75% of family income? Does your spouse?”<sup>65</sup> Although these inquiries could be taken to the next level and include a discussion of personal perspective or even bias in the courts or in legislative pronouncements, the author lays it out without indicating how answering these questions might be used pedagogically. However, the chapter ends with an intriguing case study from the Philippines that connects the various themes set forth earlier.<sup>66</sup>

The conflict between freedom of religion and women’s right to equality under the law is the subject of Chapter 4.<sup>67</sup> The initial article excerpt by Courtney W. Howland examines the tenets of five major world religions (Buddhism, Christianity, Hinduism, Islam, and Judaism) and explores the fundamentalist beliefs surrounding women’s duty of submission and obedience to men.<sup>68</sup> Ross intersperses text from international instruments throughout excerpts from the Howland piece.<sup>69</sup> In her article, Howland draws a comparison between slavery, which was accepted by the international religious community for centuries but finally rejected, and the subordination of women, which is seemingly still acceptable.<sup>70</sup> Ross also presents a case study from France concerning the restriction on wearing religious clothing, including head coverings, to school.<sup>71</sup> The chapter closes by noting the Supreme Court case that introduces the First Amendment’s guarantee of the free exercise of religion, a complex subject to cover in a page and a half.<sup>72</sup> Overall, the questions posed in Chapter 4 are far more probing than those in the previous chapter and should provide ample opportunity for a stimulating class discussion.

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64. *See id.* at 93-101.

65. *Id.* at 102.

66. *Id.* at 112.

67. *See id.* at 115-52.

68. Courtney W. Howland, *The Challenge of Religious Fundamentalism to the Liberty and Equality Rights of Women: An Analysis Under the United Nations Charter*, 35 COLUM. J. TRANSNAT’L L. 271, 274-79, 282-324, 327-32, 349, 358-65 (1997), reprinted in ROSS, *supra* note 12, at 115.

69. *See e.g., id.* at 134-36 (discussing the UN Charter and the UDHR).

70. *See* Howland, *supra* note 68, at 362, reprinted in Ross, *supra* note 12, at 138-39.

71. *See* Ross, *supra* note 12, at 144-45.

72. *Id.* at 151-52 (citing *Employment Div. v. Smith*, 494 U.S. 872 (1990)).

Chapters 5 and 6 both deal with regional human rights systems.<sup>73</sup> Chapter 5 examines two different schemes, one in the Americas<sup>74</sup> and the other in Africa.<sup>75</sup> The section on Africa includes cases about land rights, which women may obtain through marriage, divorce, inheritance, state allocation, and purchase.<sup>76</sup> Since the passage of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa<sup>77</sup> in 2005, the African system has real potential to implement changes that have a positive effect on women's lives.<sup>78</sup> The vitality of the American Convention on Human Rights<sup>79</sup> is less clear; neither Canada nor the United States has ratified this treaty.<sup>80</sup> This would have been an appropriate place to discuss the United States' attitude toward the Inter-American Commission and the Inter-American Court, which seem at odds with Ross's more positive overall assessment.<sup>81</sup> If major players

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73. *See id.* at 153-97, 198-243.

74. *Id.* at 153-66.

75. *Id.* at 167-97.

76. *Id.* at 187-91.

77. Sept. 13, 2000, OAU Doc. No. CAB/LEG/66.6 (entered into force Nov. 25, 2005).

78. *Id.* at 196-97. *See also* Adrien Katherine Wing & Tyler Murray Smith, *The New African Union and Women's Rights*, 13 *TRANSNAT'L L. & CONTEMP. PROBS.* 33, 78 (2003) ("The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa . . . is perhaps the most promising vehicle at the AU's disposal for promoting and protecting African women's rights.").

79. Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123.

80. *See* Victor Rodriguez Rescia & Marc David Seitles, *The Development of the Inter-American Human Rights System: A Historical Perspective and a Modern-Day Critique*, 16 *N.Y.L. SCH. J. HUM. RTS.* 593, 621 (2000).

81. *See* ROSS, *supra* note 12, at 154 (characterizing the Inter-American Commission and the Inter-American Court as a framework that is powerful, although "women's rights advocates have rarely used it."). Canada and the United States do not recognize the jurisdiction of the Inter-American Court or the competence of the Inter-American Commission. Inter-American Commission on Human Rights, B-32: American Convention on Human Rights, <http://www.cidh.org/Basicos/English/Basic4.Amer.Conv.Ratif.htm> (last visited Apr. 21, 2009). *See also* Michelle S. Friedman, *The Uneasy U.S. Relationship With Human Rights Treaties: The Constitutional Treaty System And Nonself-Execution Declarations*, 17 *FLA. J. INT'L L.* 187, 255 (2005) ("The U.S. policy on human rights treaties threatens to undermine over fifty years of effort to establish international human rights standards as international law."). David Golove, *Human Rights Treaties and the U.S. Constitution*, 52 *DEPAUL L. REV.* 579, 606 (2002) (arguing that U.S. participation in human rights treaties is necessary to promote global respect and adherence of human rights and that the influence of the United States would encourage other states to join).

in the region, such as the United States, are equivocal or somewhat hostile toward the human rights structure, this has an impact on the area's other countries as well.

The focus of Chapter 6 is Europe,<sup>82</sup> which has the oldest and most sophisticated regional human rights structure.<sup>83</sup> Since the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>84</sup> is the premier regional human rights system, it deserves to be presented first and placed front and center in the preceding chapter. The European Convention has provided the basis for more than ten thousand decisions by the European Court of Human Rights since it began full-time operations in 1998.<sup>85</sup> Ross acknowledges that this court has "significantly expanded women's rights."<sup>86</sup>

Ross has a myriad of European legal issues to choose from, and she initially selects gender-based immigration laws in the United Kingdom<sup>87</sup> and divorce laws in Ireland for her discussion.<sup>88</sup> Nestled between these two topics is a useful drafting exercise on gender-neutral legislation.<sup>89</sup> The legal issues in the other cases she selects in this chapter—the imposition of a fire service tax levy on German men but not on women<sup>90</sup> and sur-

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82. See ROSS, *supra* note 12, at 198-243.

83. See RHONA K. M. SMITH, TEXTBOOK ON INTERNATIONAL HUMAN RIGHTS 2 (3d ed. 2007) ("[T]he most developed, oldest, and arguably the most effective [human rights] regional system, is that of the Council of Europe."); DAVID WEISSBRODT & CONNIE DE LA VEGA, INTERNATIONAL HUMAN RIGHTS LAW 313 (2007) (noting the European Court of Human Rights as the oldest and most respected human rights tribunal in the world).

84. Nov. 4, 1950, 213 U.N.T.S. 221.

85. For statistical information on the court, see The European Court of Human Rights: Some Facts and Figures, 1998-2008, <http://www.echr.coe.int/NR/rdonlyres/65172EB7-DE1C-4BB8-93B1-B28676C2C844/0/FactsAndFiguresENG10ansNov.pdf> (last visited Apr. 21, 2009).

86. Ross, *supra* note 12, at 202. Ross also notes that Europe "lagged behind the world on equal rights for women, both in marriage and in general." *Id.* at 232. Equal marriage rights in Europe came to fruition in 1988. *Id.* An end to sex-based discrimination otherwise was the result of an optional protocol that was entered into force in 2005. *Id.*

87. See *Abdulaziz v. United Kingdom*, 7 Eur. H.R. Rep. 471, *reprinted in* Ross, *supra* note 12, at 203-10.

88. See *Airey v. Ireland*, 2 Eur. H.R. Rep. 305 (1979), *reprinted in* Ross, *supra* note 12, at 210-19.

89. See *id.* at 210.

90. See *Schmidt v. Germany*, 18 Eur. H.R. Rep. 513 (1994), *reprinted in* Ross, *supra* note 12, at 219-24.

name options in Switzerland<sup>91</sup> and the United States<sup>92</sup>—seem less significant than other possible gender concerns. More detailed prefatory material to introduce each new subject area would shed more light on the text’s organizing principle. It might be that Ross is highlighting a range of different topics to show the breadth of human rights concerns that may affect women worldwide, in which case she accomplishes her goal.

Chapters 7 and 8 are concerned with economic and employment issues that may have a disparate impact on women.<sup>93</sup> In introducing Chapter 7, Ross presents the reality of most women’s lives in the workplace—being situated in the lowest paying jobs, rarely attaining management positions, and forming a disproportionate share of part-time workers.<sup>94</sup> To remedy the situation, Ross proposes that countries adopt anti-discrimination laws that would “help lift women from poverty.”<sup>95</sup> As a common theme throughout the book, Ross believes that if advocates strive for adequate laws to protect women, represented in this chapter as workers, they can “make giant strides towards women’s economic empowerment.”<sup>96</sup> The U.S. experience suggests that her trust is sometimes misplaced.<sup>97</sup> Even with legislation, actual implementation is a privilege that many women in the world do not have.

As both of these chapters concentrate primarily on paid employment in the labor force, this material might have been

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91. See *Burghartz v. Switzerland*, 18 Eur. H.R. Rep. 101 (1994), reprinted in Ross, *supra* note 12, at 225-32.

92. See *Gubernat v. Deremer*, 657 A.2d 856 (N.J. 1995), reprinted in Ross, *supra* note 12, at 233-43.

93. See *id.* at 244-84, 285-325.

94. See *id.* at 244-45.

95. *Id.* at 244.

96. *Id.* at 245.

97. Despite all the legal protections provided to workers in the United States such as the Fair Labor Standards Act, the National Labor Relations Act, and Title VII of the Civil Rights Act, it is still possible to find accounts in the mainstream press of abysmal working conditions in the United States. See Leslie D. Alexander, *Fashioning a New Approach: The Role of International Human Rights Law in Enforcing Rights of Women Garment Workers in Los Angeles*, 10 GEO. J. ON POVERTY L. & POL’Y 81, 81 n.3 (2003) (citing Bill Wallace, *70 Immigrants Found In Raid on Sweatshop: Thai Workers Tell Horror Stories of Captivity*, S.F. CHRON., Aug. 4, 1995, at A12). Broad-based state and federal legislative regulation has not eliminated sweatshops in Los Angeles, where workers report violence, demands of sexual favors, and arbitrary firings. *Id.* at 86.

culled, combined, and condensed.<sup>98</sup> Greater focus could have been placed on *maquiladoras* or work as domestics.<sup>99</sup> This would also allow room for a separate section on women's economic development, which is a more current topic affecting a growing number of women across the globe.<sup>100</sup>

Throughout the discussion on women and the workplace, there was a missed opportunity to pay greater attention to the fact that women's human rights concerns in the North are different and distinct from those of women in the South.<sup>101</sup> It has been observed that as more women in the North participate in the wage labor market, women in southern countries bear the burden.<sup>102</sup> For example, many affluent women who work outside the home are still expected to shoulder most domestic

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98. The opening sections of Chapter 7 concern the United Kingdom's prohibitions on males practicing midwifery and females holding jobs with guns. *See* Comm'n of the European Comms. v. United Kingdom, 1983 E.C.R. 3431 (1983), *reprinted in* Ross, *supra* note 12, at 247-50; Johnston v. Chief Constable, 1986 E.C.R. 1651, 1676-89 (1986), *reprinted in* Ross, *supra* note 12, at 252-61. Employment discrimination based on gender is a human rights issue; however, there may be more compelling examples to introduce the topic. For example, there used to be "help wanted" ads in Russian newspapers that "openly demanded that all female applicants be tall with long legs, blond hair, blue eyes, and included the phrase 'bez kompleksa' which means without complexes. Without complexes roughly translates into 'willing to sleep with the boss.'" Roundtable Discussion, *Markets and Women's International Human Rights*, 25 BROOK. J. INT'L L. 141, 148 (1999) (remarks of Martina Vandenberg, Europe Researcher, Women's Rights Division, Human Rights Watch).

99. Human Rights Watch has documented a pattern of abuses against domestic workers all over the world, with the majority of these countries having protective legislation in place. *See* VIRGINIA N. SHERRY, HUMAN RIGHTS WATCH, BAD DREAMS: WORK EXPLOITATION AND ABUSE OF MIGRANT WORKERS IN SAUDI ARABIA (2004), *available at* <http://www.hrw.org/sites/default/files/reports/saudi0704.pdf>. In Saudi Arabia for example, workers are often forced to work sixteen-hour days, forbidden to leave the house without their employer, and without legal status since their employers confiscate all passports and visas. *See id.* at 2, 47, 51.

100. *See, e.g.,* Nadia Youssef, *Women's Access to Productive Resources: The Need for Legal Instruments to Protect Women's Development Rights*, in WOMEN'S RIGHTS, HUMAN RIGHTS, *supra* note 6, at 279.

101. This so-called North-South divide is not strictly geographic but refers to the differences between developed and developing countries. In feminist parlance, the terms Western Feminism and Third World Feminism are sometimes used, although the former might be synonymous with "white, middle class," while the latter would be sufficiently broad to encompass women of color in the United States. *See* CHANDRA TALPADE MOHANTY, FEMINISM WITHOUT BORDERS 44-47 (2003).

102. *See* Hope Lewis, *Universal Mother: Transnational Migration and the Human Rights of Black Women in the Americas*, 5 J. GENDER RACE & JUST. 197, 219 (2001).

duties in the home, which results in “Northern women’s reproductive labor [being] transferred to women migrants working as domestics, whose reproductive labor is in turn shifted to family members or poor women at home.”<sup>103</sup> How might Ross handle the promotion of *women’s* human rights if one group of women suffers for the betterment of the other?

Chapter 8 also addresses the tension between the responsibility of caring for children and the demands of the workplace.<sup>104</sup> Ross fittingly chooses to center on the “Equal Treatment Versus Special Treatment” theoretical debate.<sup>105</sup> Using the United States as a point of reference in this area is perplexing because other countries have more generous parental leave policies, at least on paper.<sup>106</sup> It might be more helpful to focus on so-called “best practices” rather than on “failed practices” or “compromised practices,” which describe the American experience with attempts to pass the Family and Medical Leave Act.<sup>107</sup> Ross brings the discussion to a close by including a case study set in Poland to examine and critique proposed legislation from the vantage point of a national women’s rights organization.<sup>108</sup> The bill promotes childbirth and assists working

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103. Margaret L. Satterthwaite, *Crossing Borders, Claiming Rights: Using Human Rights Law to Empower Women Migrant Workers*, 8 YALE HUM. RTS. & DEV. L.J. 1, 6 (2005).

104. See Ross, *supra* note 12, at 285-325.

105. See *id.*

106. Saul Levmore, *Parental Leave and American Exceptionalism*, 58 CASE W. RES. L. REV. 203, 204 (2007) (observing that most U.S. employees on parental leave will have their job “protected,” but leave is unpaid and only for a single twelve-week period that must be taken within twelve months of an adoption, birth, or other serious matter). In Sweden, on the other hand, employees’ jobs are not only protected, but paid for up to “390 days at 80% pay (up to a ceiling) for birth parents.” *Id.* at 204-05. “Norway offers the parent-employee a choice of forty-four weeks at 100% pay or fifty-four weeks at 80% pay.” *Id.* at 205. “Italy offers 80% pay for five months.” *Id.* “In the United Kingdom, there are six weeks of 90% paid leave . . .” *Id.*

107. 29 U.S.C. §§ 2601-2654 (2000). The bill was first introduced in 1985 to provide for “18 weeks of parental leave in any two-year period and 26 weeks of maternal disability leave in a one-year period.” Arielle Horman Grill, *The Myth of Unpaid Family Leave: Can the United States Implement A Paid Leave Policy Based on the Swedish Model?* 17 COMP. LAB. L.J. 373, 373 n.3 (1996). “The bill was reintroduced numerous times; a version providing 12 weeks of unpaid leave finally passed Congress in 1990 but was vetoed by President Bush.” *Id.* “[I]t was not until the Clinton Administration that the need for a parental leave policy was recognized by both the legislative and executive branches.” *Id.* at 373.

108. See Ross, *supra* note 12, at 324-25.

mothers by granting paid leave, pension adjustments, and subsidized child care.<sup>109</sup> The specific questions posed by Ross should permit respondents to examine the ramifications of this legislation from multi-layered perspectives.<sup>110</sup>

In Chapter 9, Ross returns to the CEDAW framing device that she used successfully earlier.<sup>111</sup> Here, she begins the chapter, titled *CEDAW in Practice*, by presenting a case study from Egypt on women's subordination in marriage and the intersection of Shari'a (Islamic religious law) and civil law.<sup>112</sup> Ross uses cases, article excerpts, and reports to the CEDAW Committee as a means to assess Egypt's compliance with CEDAW.<sup>113</sup> The chronological sequence of events works nicely to demonstrate the challenges of reporting countries and the CEDAW Committee. Throughout this section, Ross points out the difficulties and delays in the CEDAW reporting and monitoring process.<sup>114</sup> The chapter ends on a strong note by examining ways that CEDAW can be used in domestic litigation and legislation.<sup>115</sup>

This final section creates a bridge to Chapter 10, which continues these themes.<sup>116</sup> Chapter 10 investigates the interpretive methodology of domestic courts in different legal systems and examines the incorporation of international law precepts into decision making—in keeping with the Bangalore principles' hierarchy of law applicable to common-law countries.<sup>117</sup>

The question whether it is proper for American judges to refer to international law principles and comparative foreign legal experiences has produced markedly different responses

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109. *Id.* at 325.

110. *See id.*

111. *See id.* at 326-68. *See also supra* notes 22-23, 28-34 and accompanying text.

112. *See id.* at 326-51.

113. *See id.*

114. *See, e.g., id.* at 343.

115. *Id.* at 357-68.

116. *See id.* at 369-408.

117. *Id.* at 376-78. Justice Ruth Bader Ginsburg, then a Court of Appeals Judge, attended the 1988 Bangalore Conference. Tai-Heng Cheng, *The Universal Declaration of Human Rights: Is it Still Right for the United States?*, 41 CORNELL INT'L L.J. 251, 296 (2008). Cheng further observes that "[i]t may be more than coincidence that Justice Ginsberg subsequently authored Supreme Court opinions that looked to international sources to interpret ambiguous federal law. *Id.*

among the Justices on the U.S. Supreme Court.<sup>118</sup> Ross does not get mired in this U.S. controversy; instead, she chooses to examine the varying approaches taken by other jurisdictions in dealing with principles of international law in legal argumentation and judicial decisions.<sup>119</sup> A case study set in Ghana at the end of this chapter allows students to explore possible options to challenge gender discriminatory practices such as bride price, widow inheritance, child marriage, and female religious bondage.<sup>120</sup>

Chapters 11 through 14 examine four different issues that are of particular concern to global feminists: 1) domestic violence including “honor” crimes;<sup>121</sup> 2) female genital mutilation and foot binding;<sup>122</sup> 3) polygyny;<sup>123</sup> and 4) reproductive rights.<sup>124</sup> In the context of these discrete subject areas, Ross takes the opportunity to explore other matters that have a bearing on the specific topic. For example, in Chapter 11, Ross looks at the theoretical and practical aspects of holding the state responsible under international law for the actions of private parties who are directly responsible for inflicting violence.<sup>125</sup> She also includes international and regional instruments that condemn domestic violence,<sup>126</sup> and she uses the RossRights website to provide additional information, such as the agonizing tale of a Hungarian woman whose attempts to stop the violence inflicted

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118. See, e.g., *The Relevance of Foreign Legal Materials in U.S. Constitutional Cases: A Conversation between Justice Antonin Scalia and Justice Stephen Breyer*, 3 INT'L J. CONST. L. 519 (2005). Justice Breyer contended that foreign law may be relevant, although not binding, on U.S. Supreme Court decisions. See *id.* at 523-24. Justice Scalia, on the other hand, argues that it is inappropriate to use foreign legal materials in interpreting U.S. constitutional law issues. See *id.* at 521, 525.

119. See Ross, *supra* note 12, at 369-408.

120. See *id.* at 406-08.

121. See *id.* at 409-60.

122. See *id.* at 461-511.

123. See *id.* at 512-70.

124. See *id.* at 571-637.

125. See *id.* at 426-49.

126. See Declaration on the Elimination of Violence Against Women, G.A. Res. 104, U.N. GAOR, 48th Sess., U.N. Doc. 1/49/104 (1993), reprinted in Ross, *supra* note 12, at 444-45; Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, June 9, 1994, 33 I.L.M. 1534 (entered into force Mar. 5, 1995), reprinted in Ross, *supra* note 12, at 445-49.

by her husband were repeatedly rebuffed by the Hungarian courts.<sup>127</sup>

In Chapter 12, Ross presents the specific issues of female genital mutilation (“FGM”) and foot binding against the backdrop of the larger question of the universality of women’s human rights and cultural relativism.<sup>128</sup> She draws upon the early twentieth century movement to eliminate the foot binding of young girls in China to ascertain whether there is applicability to more recent activism against the practice of FGM.<sup>129</sup> After reviewing the attempts to use the force of law to prohibit FGM, Ross offers the 1990s Ghanaian experience as an example of the enactment of specific laws banning the practice of FGM.<sup>130</sup> Heightened awareness of the dangers of these practices, other options for rites of passage, and advocacy by women from the region who have undergone the procedure themselves have the greatest potential to eradicate FGM.<sup>131</sup>

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127. See RossRights, *supra* note 24.

128. See ROSS, *supra* note 12, at 461-511. The newspaper story featuring Waris Dirie is a horrific tale of a real-life FGM procedure. See Lorna Martin, *Waris Dirie is the Desert Flower Who Rebelled Against the Might of Somalian Ritual. And for This Beautiful Warrior, the Fight is Just Beginning*, THE HERALD (Glasgow), June 29, 2002, at 22.

129. See Kathryn Sikkink, *Historical Precursors to Modern Campaigns for Women’s Human Rights: Campaigns Against Footbinding and Female Circumcision*, in 3 WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW, *supra* note 6, at 797, 798-807, reprinted in ROSS, *supra* note 12, at 482-86.

130. *Id.* at 504-05. A 1997 Ghana Law Reform Commission report suggests that enforcement against FGM, with its deep roots in culture and tradition, often proves elusive, despite the mandate. See GHANA LAW REFORM COMM’N, ABOLISHING DEHUMANIZING CUSTOMARY PRACTICES: FEMALE GENITAL MUTILATION, REP. NO. 2 (1997), reprinted in ROSS, *supra* note 12, at 504-05.

131. See Julie Dimauro, *Toward A More Effective Guarantee of Women’s Human Rights: A Multicultural Dialogue in International Law*, 17 WOMEN’S RTS. L. REP. 333, 340 (1996) (“These regional associations are in the best position to educate the women and men, community leaders, health workers, traditional birth attendants, students, and policy makers who either participate in FGM, perpetuate the practice, or have the means to create or enforce local laws against it. Local advocates can inform their communities about the complications of FGM, educate their fellow citizens about female sexuality and reproduction, and hold people accountable for violating local (and often long-ignored) legislation prohibiting the practice.”); Jennifer J. Rasmussen, *Innocence Lost: The Evolution of a Successful Anti-Female Genital Mutilation Program*, 41 VAL. U. L. REV. 919, 953 (2006) (highlighting two successful anti-FGM programs: “Care International . . . which focuses on informal workshops and training sessions on health issues . . . [and] [t]hrough the use of participatory educational approaches . . . avoided alienating those they are attempting to reach, leading to such concepts as uncircumcised weddings, and

Polygyny, a form of polygamy where the husband has multiple wives, is investigated in Chapter 13<sup>132</sup> and, according to Ross, “raises the most intractable of conflicts—that between women’s right to equality in marriage and the rights to freedom of religion and culture.”<sup>133</sup> In many respects, this is a well-constructed chapter with interesting cases and gripping article excerpts, such as the Meekers and Franklin article on perceptions of tribal women in Tanzania about the issue of multiple wives<sup>134</sup> and the piece taken from Judge Richard Posner’s book, *Sex and Reason*.<sup>135</sup>

The clash between women’s equality issues and religion was explored previously in Chapter 4.<sup>136</sup> Women’s subordination in marriage was addressed, in part, already in Chapter 9.<sup>137</sup> Although Ross is making different points in all of these chapters, it might have been preferable to have one chapter focused on women’s equality issues as affected by religious practices and another on women’s equality issues in terms of marriage or intimate relationships. Chapter 13’s polygyny materials could have been placed in either of these two new chapters.<sup>138</sup> Given the range of potential topics to be covered in a women’s human rights text, the theme of religion, however important, seems to have been given undue attention.<sup>139</sup>

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alternative rights [sic] of passage emphasizing positive cultural rituals. . . . [and] Tostan. . . [through which] villagers set goals and determine which obstacles to overcome, thus allowing them to decide that the practice of FGM is no longer required.”) *But see* Mike Crawley, *Africa Spurns Female Circumcision*, CHRISTIAN SCI. MONITOR, Apr. 5, 2005, World, at 6, available at <http://www.csmonitor.com/2005/0405/p06s01-woaf.html> (“Campaigners have tried for decades to bring an end to FGM. But their tactics of providing alternative employment to the circumcisers, introducing alternative rites of passage for girls, or demanding legislation to outlaw the practice have all failed to make a dent . . .”).

132. *See* Ross, *supra* note 12, at 512-70.

133. *Id.* at 512.

134. *See* Dominique Meekers & Nadra Franklin, *Women’s Perceptions of Polygyny Among the Kaguru of Tanzania*, 34 ETHNOLOGY 315, 315-27 (1995), reprinted in Ross, *supra* note 12, at 514-25.

135. *See* RICHARD A. POSNER, *SEX AND REASON* 253-60 (1992), reprinted in Ross *supra* note 12, at 550-55.

136. *See* discussion *supra* notes 67-72 and accompanying text.

137. *See* discussion *supra* notes 111-15 and accompanying text.

138. A separate chapter on marriage and family could also address the child marriage issue set forth in Chapter 14. *See* Ross *supra* note 12, at 630.

139. Another dispute I have with Chapter 13 concerns the note questions regarding the impact of *Lawrence v. Texas*, 539 U.S. 558 (2003), on laws prohibiting

Chapter 14 is the final chapter, and it covers reproductive rights,<sup>140</sup> which Ross describes as “the most controversial of all women’s rights.”<sup>141</sup> Under any circumstances, reproductive rights are viewed by many feminists as the quintessence of sex equality.<sup>142</sup> Ross notes that “[n]o international treaty specifically mentions abortion.”<sup>143</sup> Anti-abortion groups have seized CEDAW’s mention of a right to family planning to advocate against U.S. ratification of that treaty.<sup>144</sup> Ross does an excellent job looking at various aspects of the abortion debate,<sup>145</sup> and she again makes good use of the RossRights website in this area.<sup>146</sup> Greater emphasis on developments in locales that have changed their abortion policies to make them either more restrictive—Poland<sup>147</sup>—or less restrictive—Mexico City<sup>148</sup>—would have been a welcome addition.

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polygamy. See Ross *supra* note 12, at 531-32. In *Lawrence*, the U.S. Supreme Court overturned the criminal sodomy convictions of two gay men. 539 U.S. at 579. Justice Scalia, in his dissenting opinion, draws a connection between the result in *Lawrence* and society’s future inability to engage in line-drawing on legal issues that have some sort of moral implications. *Id.* at 589-90, 603-05 (Scalia, J., dissenting). His view may not be widely shared in the U.S. legal community. It would be challenging pedagogically to place the *Lawrence* decision in a context where it could be fully appreciated by those lacking familiarity with complex Fourteenth Amendment substantive due process issues. It does not necessarily facilitate matters to link this question back to the VMI case, *United States v. Virginia*, 518 U.S. 515 (1996), or forward to *Bhewa v. Mauritius*, [1991] LRC (Const) 298, as Ross attempts to do. See Ross, *supra* note 12, at 532. As a result, these note questions should probably be deleted entirely.

140. See Ross, *supra* note 12, at 571-637.

141. *Id.* at 571.

142. See, e.g., Reva B. Siegel, *Sex Equality Arguments for Reproductive Rights: Their Critical Basis and Evolving Constitutional Expression*, 56 EMORY L.J. 815 (2007).

143. Ross, *supra* note 12, at 589.

144. Letter from Douglas Johnson, Legislative Director-National Right to Life Committee to members of the U.S. Senate (Feb. 1, 2007), available at <http://www.nrlc.org/Federal/ForeignAid/SenateCEDAWletter020107.html> (stating, with regard to CEDAW, that “a vote in favor of a ratification resolution is a vote in favor of all of these sweeping pro-abortion policies . . .”).

145. See Ross, *supra* note 12, at 573-621.

146. See RossRights, *supra* note 24.

147. Poland has severely restricted access to abortion; however, underground private abortion services are flourishing along with so-called “tourism” abortion, whereby Polish women travel to nearby countries to obtain services. See Janessa L. Bernstein, *The Underground Railroad to Reproductive Freedom: Restrictive Abortion Laws and the Resulting Backlash*, 73 BROOK. L. REV. 1463, 1504 (2008).

Reproductive rights and health concerns unique to a woman's ability to bear children make this a broader topic area than abortion.<sup>149</sup> An exploration of related problems such as maternal mortality rates, access to contraception, and HIV/AIDS transmission would have enhanced this section.<sup>150</sup> Finally, Ross finishes with a look at child marriage and the risks of early pregnancy and childbirth, which are unacknowledged human rights issues.<sup>151</sup> In concluding her discussion of this issue, Ross provides an excerpt from a UNICEF article that poignantly and aptly captures the denial of self development that results from adolescent pregnancy.<sup>152</sup>

The book ends rather abruptly. After making the commitment to read and study 650-plus pages, readers expect a few conclusory remarks that would have tied together the various themes in the book or, at least, those themes in this final chapter.

Ross, like any author covering a voluminous area, was required to pick and choose from a plethora of possible subjects. Are there any glaring omissions? A couple of topics immediately come to mind: sex trafficking and the impact of armed conflict on women and girls.<sup>153</sup>

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148. James C. McKinley, Jr., *Mexico City Legalizes Abortion Early in Term*, N.Y. TIMES, Apr. 25, 2007, at A8, available at <http://www.nytimes.com/2007/04/25/world/americas/25mexico.html>.

149. See Dina Bogecho, *Putting It To Good Use: The International Covenant on Civil and Political Rights and Women's Right to Reproductive Health*, 13 S. CAL. REV. L. & WOMEN'S STUD. 229 (2004).

150. Ross does mention prenatal sex-selection, an issue that has important longer-term ramifications for men and women, especially in China. See Ross, *supra* note 12, at 620-29. The potential impact of assisted reproductive technology (ART) is attracting attention in the United States as well. See Monica Sharma, *Twenty-First Century Pink or Blue: How Sex Selection Technology Facilitates Gendercide and What We Can Do About It*, 46 FAM. CT. REV. 198, 198 (2008) ("But many women are now turning to ART not just to circumvent infertility, but consciously to shape their families by determining the sex of their children. . . . [S]ex selection has led to a significant and growing gender imbalance in the world population.").

151. See Ross, *supra* note 12, at 630-37.

152. See UNICEF INNOCENTI RESEARCH CTR., EARLY MARRIAGE: CHILD SPOUSES, INNOCENTI DIGEST NO. 7, at 2-3, 4, 6-7, 9-11, 12-15 (2001), reprinted in Ross, *supra* note 12, at 630-35.

153. Rosalie observed: "While Ross does an excellent job of attempting to cover a wide-range of rights, many of which have been overlooked as human rights (i.e., right for a woman to keep her surname), she unfortunately leaves out some of

Trafficking for the purpose of enslaving women in sex work is characterized as “one of the oldest and most heinous violations of women’s rights.”<sup>154</sup> Perhaps Ross believes that issues such as sex trafficking are beyond the reach of the law. Sex trafficking is the “second fastest growing criminal activity in the world,”<sup>155</sup> generates an estimated profit of nine billion dollars a year, and involves women from all socioeconomic and national backgrounds.<sup>156</sup> Even those women who are unlikely to be victims of sex trafficking should be informed of its prevalence. Exposure to the inefficacy of international and domestic anti-trafficking laws teaches an important lesson about the inability of the legal system to address human rights violations in every case.

The impact of armed conflict affects men and women differently. Women are increasingly the civilian casualties of war.<sup>157</sup> Throughout history, women have been raped 1) in the aftermath of war because it was a privilege belonging to the male victors; 2) by individual soldiers committing random acts of sexual violence; and 3) as part of an organized tactic of terrorism.<sup>158</sup> Examining the issue of sexual violence during armed conflict would also provide the chance to examine the efficacy of *ad hoc* criminal tribunals.<sup>159</sup>

So, did Ross achieve her stated goals of 1) introducing law students to the realities of women’s lives; 2) providing an understanding of how states deny women their most fundamental human rights and freedoms; and 3) giving future lawyers the legal tools to change that reality?<sup>160</sup>

Ross’s goal to bring to life the stories, struggles, and successes of real women corresponds to one of my primary teaching

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the most violent and destructive violations of women’s rights.” Matthews, *supra* note 34.

154. Susan Tiefenbrun, *The Cultural, Political, and Legal Climate Behind the Fight to Stop Trafficking in Women: William J. Clinton’s Legacy to Women’s Rights*, 12 *CARDOZO J.L. & GENDER* 855, 855 (2006) (discussing the history and implementation of FMLA and VAWA).

155. *Id.* at 876.

156. *See id.* at 855, 876.

157. ROSS, *supra* note 12, at 9.

158. Karen Parker, *Human Rights of Women During Armed Conflict*, in 3 *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW*, *supra* note 6, at 283, 283-85.

159. *See* MACKINNON, *supra* note 7.

160. ROSS, *supra* note 12, at xxx.

objectives. The realities of women's lives vary dramatically, so this aim is a complicated one and should take into account the circumstances of the students in the course whose characteristics and experiences, while more similar to those of their classroom colleagues, are not identical either. Ross has created a unique opportunity here to use technology to enhance the teaching and learning environment; however, she needs to embrace it further.<sup>161</sup> With the breadth of coverage she provides, though, Ross certainly allows the reader to understand the countless ways that women are deprived of their basic human rights by governments across the globe.

Does the book give law students the legal tools to effectuate change? Perhaps an actual law student's perspective would prove useful here:

Ross's book presents a challenge for readers—you have to really work to read through complex statutes, articles and lengthy cases. But when a student accomplishes this task, not only is she learning how the law affects women on a general (or at least mainstream) level, she learns how to pull the law from more than just one source, and apply the approach, or argument, or holding that will be most helpful in the particular situation. Ross presents a “no nonsense” guide to women's international law; she does not hold her reader's hand throughout the book. Instead, for a student serious about international law, Ross does this person a favor because the text is presented in much the same way as international law itself: viewed against the background of culture, complex and always evolving, and measured by a series of treaties, conventions, and domestic laws—while in reality, the effectiveness of the law to promote women's human rights is often not easy to document; it often takes

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161. For example, one of the highlights of the RossRights website is a transcript of an interview with a Muslim scholar. See RossRights, *supra* note 24. See also Interview by Bill Moyers with Azizah al-Hibri, Professor, Richmond School of Law, *NOW with Bill Moyers* (PBS television broadcast Feb. 15, 2002). RossRights could easily provide photos, video clips, links to podcasts, and more richly, textured and lengthier role plays and case studies. A bibliography and filmography could also be developed to correspond to the various topic areas.

place behind the scenes and away from formal legal discourse and study.<sup>162</sup>

It is intriguing that Ross's final goal concentrates so exclusively on the development of *legal* tools for transformation. Yes, she is a lawyer, but her target audience is not only those who are legally trained. As the above student commentary suggests, even law students will quickly recognize that legal change alone is not enough. They should also appreciate "that women's human rights issues need to be addressed through multiple avenues in order to challenge and change legal institutions, political and economic practices, and social, cultural, and religious norms."<sup>163</sup> Although legal change is an essential aspect of global feminist activism, it must operate in conjunction with other strategies that have proven successful such as training, support, education, networking, and integration.<sup>164</sup> It is this collaborative approach to women's human rights advocacy that has the greatest probability of success in the twenty-first century. And lawyers can, and should, be an integral part of that movement.

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162. Matthews, *supra* note 34.

163. BROOKE A. ACKERLY, UNIVERSAL HUMAN RIGHTS IN A WORLD OF DIFFERENCE 279 (2008).

164. *Id.* at 278.