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TAKE BACK THE FUTURE: GLOBAL FEMINISMS AND THE COMING CRISIS OF THE BEIJING SETTLEMENT

Yasmine Ergas

TOWARD A NEW GEOPOLITICS OF GENDER?

In April 2019, the United States threatened to use its veto in the UN Security Council (UNSC).¹ That was not an unusual move: the Permanent Five members of the UNSC often exercise their right to block a United Nations Security Council Resolution (UNSCR). But what was striking in this case was the content of the resolution against which the US felt both compelled and legitimated to invoke what is, in effect, the Council's "nuclear option." Did the draft Resolution introduced by Germany—a US ally—threaten U.S. national security? Did it undermine a friendly nation? In fact, Germany proposed to do neither. Rather, it sought to establish a working group within the UNSC on sexual violence in conflict, and generally strengthen the Council's monitoring of related processes. Why, then, did the US object? As importantly, why did feminist groups also voice concern about the German initiative?

While further research is needed to answer these questions, this essay views the U.S. position on Germany's draft resolution as an expression of the stance taken by the U.S. administration and other states toward what one could term the "Beijing Settlement," the general, albeit always contested, consensus rhetorically encapsulated in the slogan that "women's rights are human rights, and human rights are women's rights," which emerged from the fourth world conference on women in 1995.² The U.S. administration's stance is reflective of a broad backlash against gender-related rights, including both women's rights generally and all persons' rights related to sexual orientation, gender identity or expression, and sexual characteristics.

The Beijing conference centered on women's rights, as does the Beijing Settlement. Women's rights pertaining to sexuality were given relatively short shrift at the conference; and connections between women's rights generally and

Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) rights more broadly understood were not explicitly drawn in the conference's concluding documents, despite repeated references to "gender."^{i,3} But the discrimination and oppression of women is a result of the multiple ways in which gender structures and is structured by social and political organization, as are the forms of discrimination and oppression specifically experienced by LGBTIQ individuals, whether male or female or situated outside of this dichotomic scheme. Thus, the Beijing Settlement is fundamentally about gender; the backlash against it is aimed directly at policies and practices promoting gender equality. Unsurprisingly, it targets both LGBTIQ rights and women's rights, even as it sometimes plays the former against the latter.ⁱⁱ The Beijing Settlement's demise, should it occur, would entail a fundamental reordering of the geopolitics of gender.

It is unclear whether the backlash will succeed in upending the basic understandings on which the Settlement rests. Nonetheless, it has accelerated over the past decade, concomitantly with the rise of sovereigntist/nationalist movements and governments, and profoundly reshapes the context of today's global feminisms.ⁱⁱⁱ Originally synthesized in the Beijing Declaration and Platform for Action after much debate and contestation among and between states and advocates, the Beijing Settlement rested *inter alia* on the Convention for the Elimination of All Forms of Discrimination against Women, and the work of three preceding world conferences on women.⁴ The Beijing Settlement resonated with the General Assembly's Declaration on Violence against Women (1993), the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (1993), and the International Conference on Population and Development Programme of Action (1994), among others. Today, it incorporates subsequent international resolutions such as those comprising the Women, Peace, and Security agenda and the mandates and reports of several special procedures, such as the Special Rapporteur on Violence Against Women, and those of other dedicated functions within the international system, as well as the findings of the Committee on the Elimination

ⁱ However, see Beijing Platform for Action, paragraph 96, which addresses women's sexuality but links it to heterosexuality. That paragraph reads: "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences." Moreover, a suggestion to insert sexual orientation in a list of prohibited bases of discrimination against women reportedly foundered on the opposition of the Holy See, delegations from Islamic states, and other countries, despite having garnered significant support.

ⁱⁱ Thus, for example, the Trump Administration has sought to eliminate references to "gender" and focus exclusively on women and girls, suggesting that they are the only categories to be protected. But, on the consequences of this unmooring of the rights of women and girls from the societal relations in which they are embedded, see n. 25 and accompanying text.

ⁱⁱⁱ For a recent analysis of the causes underlying the current backlash, see Anne-Marie Goetz, "The Politics of Preserving Gender Inequality: De-Institutionalization and Re-Privatization," Oxford Development Studies, forthcoming.

of All Forms of Discrimination against Women (and several other human rights treaty bodies) and echoes throughout the Sustainable Development Goals.^{iv} It is also central to the constitution of UN Women, the United Nations entity for gender equality and women's empowerment established in 2010.⁵

Fundamental aspects of the Beijing Settlement are explicated in the Beijing Declaration, which asserted that “women’s rights are human rights,” avowed governments’ commitment to the “equal rights and inherent human dignity of women and men” and to ensuring “the full implementation of the human rights of women and the girl child as an inalienable, integral and indivisible part of all human rights,” explicitly recognized and reaffirmed “the right of all women to control all aspects of their health, in particular their fertility” and identified the prevention and elimination of all forms of violence against women and girls as a priority action.⁶ Moreover, the Declaration—and even more so, the Platform for Action—used the terminology of “gender.” By way of example, the Platform’s Mission Statement noted “the common goal of gender equality,” and the Declaration called for gender-sensitive policies and programs.⁷ Issues pertaining to the rights of women were thus framed in relation to gender as a fundamental dimension of social and political organization.

The Declaration paired affirmations of women’s right to have rights with expressions of faith that women’s advancement would redound to the general good and with mentions of world peace and global disarmament.⁸ It also explicitly recognized that the Declaration entailed costly and difficult programmatic and financial commitments on the part of states and international organizations. In addition to requiring them to mainstream gender in their policies,⁹ the Declaration noted:

“The success of the [Beijing] Platform for Action...will require a strong commitment on the part of Governments, international organizations and institutions at all levels...[and] adequate mobilization of resources at the national and international levels as well as new and additional resources to the developing countries from all available funding mechanisms...financial resources to strengthen the capacity of national, sub regional and international institutions...a commitment to the equal rights, equal responsibilities and equal opportunities and to the equal participation of women and men in all national, regional and international bodies and policy-making processes; and the establishment or strengthening of mechanisms at all levels for accountability to the world’s women.”¹⁰

^{iv} See, for example, the mandates of the Special Representative of the Secretary-General on Sexual Violence in Conflict and of the Special Rapporteur on Violence against Women. On the Sustainable Development Goals, see especially Goal 5 on Gender Equality and Women’s Empowerment and related targets at www.un.org/sustainabledevelopment/gender-equality/. For analytic perspectives on the nexus between the goals and the promotion of equality, see Gender & Development, *The Sustainable Development Goals* 24, no 1 (March 2016).

The Declaration was signed by governments. But it stressed international cooperation and the role and responsibilities of international organizations, and recognized the importance of civil society organizations (CSOs). “[I]n cooperation with governments” but “in full respect of their autonomy,” CSOs—and, especially, “women’s groups and networks”—were to ensure the “effective implementation and follow-up of the Beijing Platform.” Indeed, the accords established at Beijing emerged out of two conferences: the 1995 NGO Forum on Women (reportedly attended by 31,000 women from around the globe) led into the official UN Conference (over 12,000 attendees, including 4,030 representatives of NGOs).^{11,12} Women’s civil society organizations formed a key part of the proceedings. Thus the Declaration and the platform on which the Beijing Settlement was based established a tripartite, informal, unequally weighted and uneasy partnership among states, international organizations, and women’s rights advocates.^v Governments maintained their dominant role, followed by international organizations, and then CSOs; but the legitimate claim of CSOs, in particular of those representing women’s rights, to a voice in the realization of the goals and actions stipulated at Beijing was established. When that tripartite partnership, and the basic commitments around which it was constructed, is called into question, the Beijing Settlement is at risk.

THE POLITICS OF SEXUAL AND REPRODUCTIVE RIGHTS: DISSENT, THE BEIJING SETTLEMENT, AND UNSCR 2467

There has always been intra-feminist dissent to the Beijing Settlement. Some feminists have long critiqued other feminists’ rights agendas as a neo-colonialist product of the West, forcibly, and often failingly, imposed on the global south.¹³ They have emphasized the discriminatory assimilation of all women into a unifying category of “womanhood” that ignores the role intersectional factors play in creating profoundly different, and hierarchically situated, experiences of being a woman, depicts some women as victims and others as their saviors, and minimizes emancipatory claims based on class, race and nationhood.¹⁴ They have disagreed over the turn to criminal justice, seeing in recourse to courts a reductionist and punitive approach to complex social issues, such as those raised by the debate regarding prostitution/sex work. And they have seen in the institutionalism associated with “governance feminists,” and their emphasis on achieving change through legal reform and administrative action, a technocratic tendency to cleanse policy of politics and reduce transformative movement agendas into incremental interventions fitted to,

^v Indeed, the Platform for Action detailed the actions to be taken by Governments and other partners, including international organizations and NGOs.

rather than disruptive of, existing modes of governance.^{vi,15} Debates around these and similar issues continue to engage feminist scholars and advocates. But the most forceful opposition to the Beijing Settlement today comes from sovereigntist states and social movements, at times bolstered by – or responsive to—religiously inspired organizations, including the Holy See (whose Permanent Observer status enables it to intervene directly in many official United Nations fora).

Numerous states have long seen in human rights—often, especially in women’s and LGBTIQ rights—the negation of their “traditional values.” Today, the circle of dissent has expanded as sovereigntist/nationalist movements have emerged globally ascendant. . Despite notable divergences in each state’s approach to women’s rights, and to its international commitments, a new set of alliances may therefore be on the horizon, connecting Poland with Brazil, the United States with Hungary, Italy with Russia, and The Philippines with Bulgaria.^{vii} For states already hostile to the Beijing Settlement, or to some of its central components, such as those associated with sexual and reproductive rights or women’s claims to nationality and citizenship, the emergence of new potential allies may provide added strength.

Supporters of the Beijing Settlement have noted this impending danger for several years: in 2015, progressive states and feminist advocacy groups determined that celebrating the 20th anniversary of the Beijing Conference with a Fifth Conference on Women risked reopening the Beijing Platform for Action to discussion, inviting regression. Similar concerns seem to be coloring the plans that are being made today to mark the Beijing Conference’s 25th anniversary.¹⁶ Indeed, to return to the German initiative and the U.S. veto threat referred to at the beginning of this article, the NGO Working Group on Women, Peace and Security sharply critiqued the German Government when it presented its draft resolution.¹⁷ The major problem today, the NGO Working Group argued, is the lack of implementation of already-existing resolutions. The Security Council should ensure follow through on commitments already made. Launching yet another resolution, thereby opening up debate, could lead to retrogression.

The NGO Working Group was correct to issue its warning. The United States does not object *per se* to the Women, Peace, and Security agenda that Germany’s

^{vi} Although the term “governance feminism” was initially used to describe “efforts feminists have made to become incorporated *into state, state-like and state-affiliated* power,” it has more recently been expanded to include “governance without a state: for instance, sprawling governance networks managed by law-like and private international organizations....”

^{vii} The Center for Family & Human Rights (C-Fam) recently upbraided European states for failing to mobilize against the EU’s policies regarding abortion, noting that “they have quietly hid behind the EU bureaucratic machinery ... and they have refused repeatedly to support U.S. efforts to advance the pro-life cause at the United Nations.” Stefano Gennarini, “European Nationalists Complacent When it Comes to Abortion,” (Blog) C-Fam, 23 May 2019, https://c-fam.org/friday_fax/european-nationalists-complacent-comes-abortion/. See also, Goetz, (forthcoming); Sonia Correa, David Pater-notte and Roman Kuhar, “The Globalisation of Anti-Gender Campaigns,” *International Politics and Society*, 31 May 2018, <https://www.ips-journal.eu/topics/human-rights/article/show/the-globalisation-of-anti-gender-campaigns-2761>.

draft resolution purported to strengthen. On the contrary, the United States strongly supported the agenda's launch when, almost two decades ago, the UNSC approved Resolution 1325, which called for women's "equal participation and full involvement in all efforts for the maintenance and promotion of peace and security and the need to increase their role in decision-making with regard to conflict prevention and resolution," mandated gender mainstreaming, and urged the UN and member states to protect the rights of women and girls in conflict.^{viii} And the US has continued to approve the successive Security Council Resolutions that have expanded UNSCR 1325's initial instruction to the international community, including by recognizing sexual violence in conflict as central, and not incidental, to conflict. It also approved when, in 2013, UNSCR 2106 urged that women be ensured access to "non-discriminatory and comprehensive health services, including sexual and reproductive health."¹⁸

"Sexual and reproductive health" is a broad term that covers many aspects of individual wellbeing, including, pre- and post-childbirth care for pregnant women.^{ix} Today it also encompasses abortion, speaking directly to the needs of women in conflict zones (which is at the center of the WPS agenda), for sexual violence, and hence unwanted pregnancy, is a structural feature of the conduct of war. Indeed, rape and forced pregnancy figure among the elements of three of the four crimes that may be prosecuted before the International Criminal Court: crimes against humanity, war crimes, and genocide, signaling the tight nexus between sexual violence and conflict.¹⁹ The United States does not consider itself bound by the provisions of the

^{viii} United Nations Security Council Resolution 1325 (2000), S/RES/1325 (2000). Moreover, the United States Congress adopted the Women, Peace and Security Act of 2017, making it the first country to promulgate such legislation. The Act is focused on promoting the "meaningful participation of women in conflict prevention, peacebuilding, transitional processes and peacebuilding." It enjoins the government to promote "the physical safety, economic security, and dignity of women and girls" but is notably silent about sexual and reproductive health. Women, Peace and Security Act of 2017 (S. 1141, United States Congress), sections 3 and 4.

^{ix} Paragraph 94 of the Beijing Platform for Action defined "reproductive health" as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so." The Platform recognized the right of states to limit access to abortion and contraception, noting the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility *which are not against the law*," (Id., emphasis added. See also, para. 106 (k)). Nonetheless, the Platform affirmed "the basic right of all couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so." Moreover, the Platform repeatedly called on governments to address the problem of unsafe abortions as a public health concern and required that—whether or not abortion was illegal— "women should have access to quality services for the management of complications arising from abortion. Post-abortion counselling, education, and family-planning services should be offered promptly" and urged states to "consider reviewing laws containing punitive measures against women who have undergone illegal abortions." Beijing Platform for Action, para. 106 (k). For a summary statement of the right to abortion under international human rights law, see Office of the High Commissioner for Human Rights, *Abortion, Information Series on Sexual and Reproductive Health and Rights*, at: https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB.pdf.

Court's statute. But, in approving previous references to "sexual and reproductive health" in the Women, Peace, and Security agenda, and recognizing sexual violence as part of the repertoire of conflict, the United States acknowledged that unwanted pregnancy is a toll that women ought not be made to pay for war. So too did the other permanent members of the Council, none of which deployed their veto power to prevent the approval of previous resolutions.

Despite many limitations when viewed from the perspective of feminist advocates, the resolution Germany proposed seemed to build on these precedents.^x It called for a "survivor-centered approach in preventing and responding to conflict-related sexual violence," reiterated that "survivors must receive non-discriminatory medical care to the fullest extent practicable," and contained an operative paragraph related to children born of rape that specifically noted "the gendered, different and additional need of women and girls who become pregnant as a result of sexual violence in conflict..."^{xi} But the draft resolution also urged "all Member States to ensure that survivors of sexual violence...receive the care required by their specific needs...and note[d] with concern the funding shortfalls for sexual and gender-based violence programs in conflict-affected settings, including for the delivery of quality... multisectoral services for all survivors of sexual violence...including comprehensive sexual and reproductive health care such as access to emergency contraception [and] safe termination of pregnancy..."²⁰ It was precisely to this that the United States objected, threatening to veto the resolution were the term "sexual and reproductive health" even mentioned.²¹ As a result, Resolution 2467 contains only two references to health, and neither is explicitly linked to reproduction.^{xii}

That the US administration would oppose abortion is not surprising. Abortion has long been contentious in the United States: since *Roe v. Wade* was decided by the Supreme Court in 1973, it has been hard to count a period in which abortion was not somewhere near the center of national politics. It has equally been a matter of foreign policy: in 1984 President Reagan issued an executive order blocking support

^x For feminist critiques of the resolution as proposed, see, Kaavya Asoka, "Letter to Ambassador Heusgen" (NGO Working Group on Women, Peace and Security, 1 March 2019) and Noor Sheikh, "Will the US Stand with Victims of Rape in War," *PassBlue*, 20 April 2019, <https://www.passblue.com/2019/04/20/will-the-us-stand-with-victims-of-rape-in-war-2/>.

^{xi} SVC Resolution Zero Draft, Preamble, OP 17 (2 April 2019) on file with the author ("Zero Draft"), emphasis added. The reference to "responding" implies that the measures must take into account damage that has already been inflicted, including unwanted pregnancy. The operative paragraph regarding children born of rape reads: "the gendered, different, and additional need of women and girls who become pregnant as a result of sexual violence in conflict, including those who become mothers..." It thus implicitly recognizes that not all will, or will want, to bear their pregnancies to term. Indeed, the final version of the resolution refers to "those who *choose to* become mothers." UNSCR 2467, OP.

^{xii} For a critique of UNSCR 2467 as adopted by the UN Security Council, see Zarin Hamid and Sarah Werner, "Open Debate: Sexual Violence in Conflict, April 2019," PeaceWomen, Women's International League for Peace and Freedom, Security Council, 23 April 2019, <https://www.peacewomen.org/security-council/security-council-open-debate-sexual-violence-conflict-april-2019>; Allen and Shepherd (2019).

for NGOs that either performed or “promoted” abortion. That executive order, known as the Mexico City Policy (and, referred to by its opponents as the “global gag rule”) was repealed by President Clinton, reinstated by President George W. Bush, repealed by President Obama, and reinstated—and broadened—by President Trump.

Like the Republican administrations of which it is an expression, the Mexico City Policy has been in force for 19 of the past 34 years. Generally emanated at the beginning of a president’s mandate, the executive orders instituting or repealing the global gag rule have used abortion to signal the erasure of the previous president’s tenure and, with it, of his stance towards women’s rights. President Trump is no exception to this rule: there is a perfect coherence between the approach his administration has taken on the right to abortion of women outside and inside the United States.^{xiii} But today the Administration’s muscular use of its powers in the Security Council to assert its view on reproductive rights assumes heightened significance, for it directly connects with the long-standing opposition to women’s and gender rights, generating an increasingly powerful backlash.

GLOBAL INSTITUTIONS AND GLOBAL ADVOCACY

This backlash is rooted in national politics and the current surge of nationalist and sovereigntist parties. Such governments and movements adopt an anti-globalist posture, in particular in reference to human rights, which they see as an encroachment on domestic jurisdiction. China, for example, abstained on UNSCR 2467 not because it objects to abortion but to emphasize “respect for national sovereignty, [and] that Governments bear primary responsibility for preventing sexual and gender-based violence.”²² Perhaps paradoxically, rather than simply ignoring global institutions, sovereigntist/nationalist governments and movements spend a great deal of energy seeking to refashion their policies—often directly countering the agendas advanced by advocates of women’s rights and their institutional allies.

Despite a record that includes failures and half-hearted attempts, UN institutions are bound by the Beijing Settlement to promote gender equality, mainstream gender through their operations and realize gender parity within their own organizational structures.^{xiv} Women’s rights activists have turned, often critically, to these

^{xiii} Moreover, as of this writing, several US states have approved highly restrictive abortion legislation that seems to flatly contradict the main holding of *Roe v. Wade*. Missouri’s newly-minted legislation, for instance, limits legal abortion to the first eight weeks of pregnancy, allows no exception for either the health/life of the mother or cases of rape or incest, and criminalizes physicians violating these strictures. This stands in stark contrast to *Roe*’s determination about privacy for the woman and her physician and to subsequent rulings. Reportedly emboldened by the appointment of Justice Kavanaugh to the Court, legislators in these states may be seeking the nullification of *Roe*, enacting legislation that cannot but lead to a new hearing and the possible reversal of *Roe*.

^{xiv} For a recent statement of UN system-wide processes regarding mainstreaming and generally up-grading gender equality policies, see UN SWAP 2.0, “Accountability Framework For Mainstreaming Gender Equality And The Empowerment Of Women In United Nations Entities,” (United Nations,

institutions of global governance, pushing for the realization of promises made and seeking to advance women's rights.²³ Submitting shadow reports and bringing complaints to the bodies associated with human rights treaties, participating in Arria-formula meetings and open discussions with the Security Council, engaging the Economic and Social Council, the International Law Commission, and the Human Rights Council, directly lobbying member states' representatives to the General Assembly; interacting directly with UN agencies, the financial institutions, and the International Criminal Court, women's rights activists have leveraged the many documents and understandings pertaining to the Beijing Settlement to advance their positions internationally and within their own domestic jurisdictions.²⁴ It is in part around these institutions that densely interconnected issue networks of women's rights advocates focused on peace and security, or health and reproduction, or development, or the environment have taken shape, sometimes coalescing into umbrella organizations, such as the NGO Commission on the Status of Women (CSW) or the NGO Working Group on Women, Peace and Security. Often these issue networks have connected with offices and professionals from various international organizations, producing a dialogue between women's rights activists that is not only external but also internal to such organizations.²⁵ The participation of women's rights advocates has transformed annual meetings of international organizations into peak events: the meeting of the CSW, for example, yearly draws thousands of activists who participate in official and unofficial side events.

In recent years, critics of the Beijing Settlement have grown more visible within these institutions and summits, insistently questioning global commitments to women's rights.^{xv} At the 2019 CSW, the U.S. administration reportedly led an attempt to dilute the commitment of states to the Beijing Platform for Action, seeking to have them "take note of" rather than "reaffirm" their commitment to the accord in official documents.²⁶ Also at the 2019 CSW, concerted action targeted the facilitator of the negotiations over the official outcome document, flooding her cell phone with over 1,000 messages.²⁷ CitizenGo, an anti-abortion organization based in Spain, subsequently apologized, taking some responsibility for the onslaught of emails.²⁸ And the Center for Family & Human Rights (C-Fam) recently announced that, after the debate in the Security Council regarding UNSCR 2467, the "debate about abortion in humanitarian settings has now shifted to the Economic and Social Council," thereby signaling to advocates the importance of influencing that

November 2018). For a critical assessment, see Teresa Casale et al., *Progress Under Threat: A Report Card on the Secretary-General's Second Year From the Feminist U.N. Campaign* (International Center for Research on Women, Washington, DC: 2019).

^{xv} See, the Center for Family and Human Rights, an organization dedicated to "reestablishing a proper understanding of international law, protecting national sovereignty and the dignity of the human person," whose current campaigns include "Keep abortion out of UN development goals" and a petition on the right to life in international law.

Council's deliberations.

Critics of the Beijing Settlement draw on UN documents, including human rights treaties, to support their positions. In particular, family-centered organizations reference the affirmations in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other texts, to “the family” as the “natural and fundamental group unit of society,” which, as such, is “entitled to protection by the society and the state.”²⁹ Such references help legitimate the alliance politics pursued by states that seek to undermine the capacity of women's rights advocates and their allies to mobilize the international institutions in support of the Beijing Settlement and its realization, and to reset the stage on which today's global feminisms must act.^{xvi}

UNDOING THE BEIJING SETTLEMENT

Clamorous statements by leading politicians have returned machismo and its misogynistic animus to a prominence it once appeared destined to lose.^{xvii} Last year, President Duterte of The Philippines defended his use of “sarcasm” to encourage the shooting of rebel women in their vaginas.³⁰ President Bolsonaro of Brazil, accused of insulting a fellow lawmaker by deriding her looks, issued a similarly sardonic statement.³¹ And, U.S. President Trump—while still a candidate—brushed aside a comment caught on video years earlier in which he referred to the ease with which he could grab women's private parts.^{xviii} Such episodes attest to the astonishing straightforwardness with which these heads of governments have acknowledged their treatment of women as sexual objects.^{xix} But the current backlash is not only propelled by individual leaders pursuing their personal inclinations; it is promoted by governments and social movements pursuing policies that deliberately aim to claw back previously established rights and policies and reset the international agenda regarding gender.

^{xvi} For an analysis of Russia's alliance politics with respect to the promotion of “traditional values,” see Melissa Hooper, “Russia's ‘Traditional Values’ Leadership,” Adam Hug, ed., *Sharing Worst Practices: How Countries and Institutions in the Former Soviet Union Help Create Legal Tools of Repression*, (London: Foreign Policy Centre, 2016), <https://fpc.org.uk/wp-content/uploads/2016/05/1749.pdf>.

^{xvii} On the importance of recognizing misogyny as a factor in the failure of states to implement women's rights policies, see, Nahla Valji and Pablo Catillo Diaz, “Symbiosis of Misogyny and Violent Extremism: New Understandings and Policy Implications,” *Journal of International Affairs*, 72 no. 2 (Summer 2019). And on everyday misogyny in social media, see Olga Jurasz and Kim Barker, “Online Misogyny: A challenge for digital feminism?” *Journal of International Affairs*, 72 no. 2 (Summer 2019).

^{xviii} Alexander Burns, Maggie Haberman and Jonathan Martin, “Donald Trump Apology Caps Day of Outrage Over Lewd Tape,” *New York Times*, 7 October 2016, <https://www.nytimes.com/2016/10/08/us/politics/donald-trump-women.html>.

^{xix} To quote Virginia Woolf's acute description of what we now term misogyny: “That is why Napoleon and Mussolini both insist so emphatically upon the inferiority of women, for if they were not inferior, they would cease to enlarge...they say to themselves as they go into the room, I am the superior of half the people here, and it is thus they speak with that self-confidence, that self-assurance, which have such profound consequences in public life and lead to such curious notes in the margin of the private mind.” Virginia Woolf, *A Room of One's Own* (London: Hogarth Press, 1929).

Commentators have noted that for rising sovereigntist/nationalist movements and governments, the backlash against gender rights serves as a “symbolic glue” signifying “the rejection of the (neo)liberal order.”^{32,xx} Indeed, there is an elective affinity among such measures as Russia’s reduction of penalties for domestic violence against women and children;³³ the Italian Government’s proposed decree mandating divorcing couples to seek mediation, even where domestic violence has occurred;³⁴ Poland’s ruling Law and Justice Party’s repeated attempts to roll back abortion rights, including in cases of irreversible damage to the fetus, despite the fact that the country already has among the most restrictive legislations in the European Union;³⁵ and President Orbán’s Fidesz Party in Hungary reputed decision, after numerous failed attempts to limit access to abortions, to simply pay hospitals not to perform them.³⁶

These affinities are highlighted by a study published in 2018 by the European Parliament, which tracked the strategies adopted by governments in six countries in which sovereigntist nationalism had then gained ascendancy—Austria, Hungary, Italy, Poland, Romania, and Slovakia.³⁷ Despite variations in both the intensity of the anti-gender backlash in these states and the policies they have implemented, a few frequently adopted measures stand out. The countries surveyed had variously restricted the space for civil society mobilizations (including but not limited to those focused on gender); defunded or otherwise marginalized gender equality institutions; redirected policies and institutions addressing women to focus on “the family;” and, tacitly or overtly, supported frontal campaigns that construct and elevate “the theory of gender” into a *casus belli*.³⁸ Other recurrent features included support for “men’s rights” movements, and critiquing the Istanbul Convention on violence against women, including by threatening withdrawal.³⁹ Cumulatively, such measures tended to reframe women’s rights and undermine their institutional foundations in ways that directly contradicted the Beijing Settlement with respect to the role of CSOs, the importance of national equality institutions, the framing of women’s rights in relation to gender, and the commitment to social transformation that gender equality entails.

Equality policies are undermined when the space for civil society is curtailed: research shows that the mobilization of civil society is critical to their implementation.⁴⁰ Additionally, restrictions on civil society conflicts with the informal, tripartite relations that the Beijing Settlement allowed. The Beijing Platform for Action specifically refers to national women’s rights machineries as key partners in the realization of the Platform’s goals. However, institutional support

^{xx} However, as discussed below, some sovereigntist/nationalist movements also comprise a “national/feminist” component that invokes nationalism as a defense of gender equality. Embracing anti-immigration stances in the name of women’s rights, they critique the traditional—patriarchal—values they see enshrined in immigrants’ cultures of origins.

for equality policies is weakened, and the legitimacy of focusing on women's rights is eroded, when the agencies deputized to advance them are dissolved or otherwise merged into institutions that center other actors, such as "the family." The Beijing Platform for Action envisaged men as allies but women are forced into a competitive contest with men over the severity of their relative deprivations and the justice of their claims, when "men's movements" are highlighted and a gender framework, which might explain when, why, and with what consequences men and women—and those whose personal identities do not align with this dichotomic scheme—may be more or less disadvantaged, is not invoked.

Indeed, when references to "gender" are erased, so too is the basic idea that the term designates: that the unequal life-chances associated with socially constituted identities that are related to the perception of individuals as being either male or female or neither are the products of underlying social processes.^{xxi} As a result, when references to gender cede to repetitive invocations of women and girls, issues regarding women are cut loose from their social moorings and the transformative agenda that equality implies is elided. It is precisely the connection between particular manifestations of inequality and their structural underpinnings in gender relations that the Istanbul Convention highlights in relation to violence against women. The critique of the Convention thus has a double valence. On one hand, it targets the interpretative framework that the Convention's repeated references to "gender" denote and the transformative agenda that the Convention entails. On the other hand, it undermines what may be women's most fundamental claim: to be safe in their own bodies—otherwise stated, their right to *habeas corpus*. In sum, key elements of the Beijing Settlement are undermined.

Will these and analogous measures be taken by more governments? Will the approach to women's rights that they imply inform a new international consensus? We cannot know now the result of the ongoing disputation of the Beijing Settlement, and whether it will yield to a new accord that reshapes the terrain of global feminisms, leading to a very different future from that which could once be envisaged. Sovereignist/nationalist governments and politicians have lost elections, as well as winning them.^{xxii} Moreover, an ongoing contradiction *within* sovereignist/

^{xxi} The term "gender" has increasingly become an element of contention. Reports note that the U.S. administration has systematically sought to substitute references "gender" with references to "women [and girls]" in documents of national government and international organizations. The attempt to restrict the meaning of "gender" simply to indicate "male and female" has a long history in international negotiations, including in the Beijing Conference and in the discussions leading to the Statute of the International Criminal Court. Indeed, that Statute, somewhat elliptically, limits the meaning of gender to "the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above." Statute of the International Criminal Court (ICC), footnote 3. In counter-position to recent attempts to erase "gender" from the vocabulary of international (and national) institutions, the International Law Commission decided this spring to erase the ICC's restrictive definition from the draft of a possible new treaty on Crimes against Humanity.

^{xxii} See, e.g., the victory of Zuzana Caputova in Slovakia's 2018 presidential elections, Radoslav Tomek, "Slovakia Elects First Woman President to Rebuke Nationalism," Bloomberg News, 30

nationalist movements is that they have given rise to nationalist feminisms: feminisms that conjugate women's rights in a xenophobic key, highlighting what they see as the retrograde patriarchal attitudes of immigrants' cultures of origin and asserting women's freedoms as markers of their own national and ethnic identities. Indeed, several leaders of the sovereigntist/nationalists are women, and several lead lives that do not neatly square with conventionally defined "traditional values."⁴¹

It is just as possible that attempts to roll back women's rights in favor of conventional views of the family, women's exposure to male prerogatives over their bodies, and women's discrimination in the labor force, may sometimes encounter resistance from within sovereigntist/nationalist movements. If they do so, they may implicitly make common cause—sporadically and on specific issues only—with burgeoning non-nationalist oppositions that have mobilized to protest attempts to restrict women's rights. But the opposition to the backlash is broad, and has already had a notable impact. Poland's government, for example, had to withdraw proposed legislation to narrow abortion rights as a result of widespread mobilization. And in Italy, Deputy Prime Minister Matteo Salvini has had to declare that the law legalizing abortion, which dates from 1978, would not be modified despite a proposal to do so put forth by a member of his own party.

The structures on which resistance to the current backlash is grounded have been built up over the course of decades: they are the legacy of successive waves of women's movements and of their sedimentation in institutions that range from governments to universities, from international organizations to NGOs, from private corporations to the media. The mobilizations and organizations implicated in the "backlash to the backlash" are certainly not unified, and they elicit dissent from feminists as well as non-feminists. But they include established and emerging transnational networks that can simultaneously bring pressure to bear on national governments and international organizations as well as on private actors all over the globe. The women's marches that followed the 2016 election in the United States; the spread of the #MeToo movement; the burgeoning Latin American movement against gender-based violence, NiUnaMenos, all exemplify a remarkable transnational capacity for mobilization, and a determination not to cede the future to those who would roll back women's rights. They are accompanied by, and challenge the limits of, institutional policies. Antonio Guterres, the United Nations Secretary-General, appealed to civil society to "push back against the pushback" that targets women's rights, and called for and called for an alliance between the UN itself, CSOs, grassroots movements, and the general public.⁴² The governments of Sweden, Canada, and France have all declared that they do or will pursue

March 2019, <https://www.bloomberg.com/news/articles/2019-03-30/anti-graft-activist-set-to-be-slovakia-s-first-woman-president>.

“feminist foreign policies.”⁴³ More governmental and intergovernmental actions that explicitly name and oppose the backlash, and seek to establish collaborative relations with feminist organizations, may be forthcoming. The context of today’s global feminisms has changed: they can no longer take the Beijing Settlement as the relatively established background against which they operate. Nonetheless, it may not be overly optimistic to conclude: *les jeux ne sont pas fait*. They have perhaps only just begun. ♣

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NOTES

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- ⁴ UN World Conference of the International Women’s Year (Mexico City: 19 June to 2 July 1975); UN World Conference of the United Nations Decade for Women: Equality, Development and Peace (Copenhagen: 14 to 30 July 1980); World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, (Nairobi: 15 to 26 July 1985). See, UN World Conferences on Women, at: <https://www.unsystem.org/content/un-world-conferences-women>.
- ⁵ See, General Assembly, “Comprehensive Proposal for the Composite Entity for Gender Equality and the Empowerment of Women,” Report of the Secretary General, A/64/588. 6 January 2010.
- ⁶ “The Beijing Declaration,” (Fourth World Conference on Women Beijing Declaration), paragraphs. 8, 9, 14, 17, 29, and 21, www.un.org/womenwatch/daw/beijing/platform/declar.htm<https://www.un.org/womenwatch/daw/beijing/platform/declar.htm>.
- ⁷ “Mission Statement,” Beijing Platform for Action, para. 3.
- ⁸ “We are convinced that...eradication of poverty...requires the involvement of women and men” (Beijing Declaration, para. 16).
- ⁹ Beijing Declaration, paragraphs 19 and 38.
- ¹⁰ Beijing Declaration, article 36.
- ¹¹ *Ibid.*
- ¹² “Why Was the Beijing Conference for Women Groundbreaking? Read a First-Hand Account,” American Association of University Women, 20 August 2014, www.aauw.org/2014/08/20/1995-beijing/.
- ¹³ Chandra Talpade Mohanty, “Under Western Eyes,” *Feminist Review* 30 (Autumn 1988); Chandra Talpade Mohanty, “Under Western Eyes Revisited: Feminist Solidarity through Anti-Capitalist Struggles,” *Signs: Journal of Women in Culture and Society* 28, no. 2 (2002).
- ¹⁴ Kimberle Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics and Violence against Women of Color,” *Stanford Law Review* 43 (1990-91).
- ¹⁵ Janet Halley et al., eds., “Preface,” *Governance Feminism: Notes from the Field* (Minneapolis and London: University of Minnesota Press, 2019), xii. In addition to the essays in this collection, see Janet Halley et al., *Governance Feminism: An Introduction* (Minneapolis and London: University of Minnesota Press, 2018); Kate Cronin-Furman, Nimmi Gowrinatham, and Rafia Zakaria, “Emissaries of Empowerment” (2017), <http://www.deviarchy.com/wp/wp-content/uploads/2017/09/EMISSARIES-OF-EMPOWERMENT-2017.pdf>. In this issue, see, Victoria Scheyer and Marina Kumskova, “Feminist Foreign Policy: A Fine Line Between Merely ‘Adding Women’ and Pursuing a Feminist Agenda,” *Journal of International Affairs* 72, no. 2 (Summer 2019).
- ¹⁶ Stephanie Fillion, “Calling All Women’s Groups: Help to Shape the Beijing + 25 Agenda,” *PassBlue*, 10 June 2019.
- ¹⁷ Louise Allen and Laura Shepherd, “In Pursuing a New resolution on Sexual Violence Security Council Significantly Undermines Women’s Reproductive Rights,” (Blog) London School of Economics Center for Women, Peace and Security, 25 April 2019, <https://blogs.lse.ac.uk/wps/2019/04/25/in-pursuing-a-new-resolution-on-sexual-violence-security-council-significantly-undermines-womens-reproductive-rights/>.
- ¹⁸ UNSCR 2106 (2013); S/RES/2106 (2013).
- ¹⁹ “Elements of Crimes,” International Criminal Court, paragraphs 7(1) (g-1), 7 (1) (g-4); 8 (2) (b-xxii) -1; 8 (2) (b-xxii) - 4; 8(2) (e) (vi) -1; 8(2) (e) (vi)-4, <https://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf>.

²⁰ Zero Draft, OP 15. See also, “Conflict-Related Sexual Violence, Report of the Secretary-General,” (S/2019/280, United Nations, 29 March 2019), para. 136(b).

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²³ See, inter alia, Robert O’Brien, Anne-Marie Goetz, Jan Art Scholte (eds.), *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* (Cambridge: Cambridge University Press, 2000).

²⁴ Yasmine Ergas, “Placing Gender on the Agenda of International Affairs: Changing Conceptual and Institutional Landscapes,” *Journal of International Affairs* 67, no. 1 (Fall/Winter 2013), 1-23; for a discussion on feminist uses of human rights treaties, see Mala Htun and S. Laurel Weldon (n. 43 below). For critical perspectives, see also n. 18 and accompanying text.

²⁵ Ergas (2013).

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²⁸ *Ibid.*

²⁹ Universal Declaration of Human Rights, article 16.

³⁰ “Duterte Defends ‘Sarcastic’ Remark on Shooting Women in Genitals,” *Reuters*, 27 February 2018, <https://news.abs-cbn.com/news/02/27/18/duterte-defends-sarcastic-remark-on-shooting-women-in-genitals>.

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³³ See n. 23. The United States has also limited the legal scope of domestic violence. See, Goetz, O’Brien and Schulte, *Contesting Global Governance*.

³⁴ Norme in materia di affido condiviso, mantenimento diretto e garanzia di bigenitorialità, Decreto di Legge 735 (2018). See, Marilisa D’Amico and Costanza Nardocci, Riflessioni a prima lettura sul DDL n. 735 Norme in materia di affido condiviso, mantenimento diretto e garanzia di bigenitorialità, n.d.

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³⁹ Mieke Verloo, ed., *Varieties of Opposition to Gender Equality in Europe* (London: Taylor & Francis, 2018); Sonia Correa, David Paternotte, and Roman Kuhar, “The Globalisation of Anti-Gender Campaigns, International Politics and Society,” 31 May 2018, www.ips-journal.eu/topics/human-rights/article/show/the-globalisation-of-anti-gender-campaigns-2761/.

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