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ARTICLE: Difficult Straits: Economic Interdependence and Women's Labor in Taiwan

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SUMMARY:

... The traditional, yet unstated, assumption in most scholarship discussing international human rights is that economic development will lead to an improvement in human rights, or, if not actually improve human rights, that economic development is at least a neutral force. ... Taiwan has a highly developed economy with a skilled and educated labor force. ... During the early phase of the "economic miracle" in Taiwan, women worked primarily in manufacturing, comprising two-fifths of the labor force in both 1978 and 1991. ... "During Taiwan's successful economic development, the gender earnings differential remained unchanged, with women continuing to earn 65% of what men earned." ... On the other hand, it may be that the economic interdependence "hollows out" Taiwan's independent industrial strength, leaving it vulnerable to political manipulation by the mainland. Ironically, it is cheap female labor on both sides of the Strait which creates a major policy challenge to the governments of both Taiwan and mainland China, as the question of who gains or loses particular advantages from economic interdependence begins the process of replacing the older strategies of stockpiling expensive military weapons. ... In all the discussions about the increasing cross-strait economic interdependence, however, I found not one analyst or commentator who mentions, even in passing, the significance of the role of female labor upon which all this economic development is based. ...

"Women workers have played an essential role in the course of economic and social development in the Republic of China during the last decade. The rapid rate of economic growth has increased the demand for manpower. It is imperative, therefore, that good use be made of women in order to meet the labor requirement of firms and farms."

— Minister of the Interior (1974) n1

TEXT-1:

[\*779] Too often discussion of women's human rights is viewed as separate, a diversion from the important business of debating serious political, economic, and military issues in international law. Yet, the role of women is integral to the discussion of all three topics.

The significance of the women's perspective in American foreign policy sometimes comes as a surprise to men from other cultures. As the current generation of Americans take power, our men (both conservatives and liberals) expect to include women's issues — not just as an old fashioned ladies' auxiliary — but as substantive partners. The inclusion of women reflects not only the generosity of spirit of many American men, but also the political realities of American electoral returns. The "Gender Gap" n2 in American elections (women vote disproportionately for progressive Democratic candidates supportive of [\*780] women's rights, while men vote disproportionately for conservative Republicans opposed to women's rights) has focused the attention of our political leaders on women's issues. The current President owes his election to the women's vote, and has established his administrative policy accordingly. n3 The U.S. currently has two women on the Supreme Court, a female Secretary of State, Attorney General, Secretary of Labor, and so forth. The First Lady is a powerful substantive player, and women are involved in the serious business of government at all levels.

President Clinton's first executive order upon being sworn in was to reverse the infamous Reagan/Bush Mexico City Policy that withdrew U.S. funds from international family planning organizations. n4 The President's first major substantive legislation was the Family and Medical Leave Act, which brings workers in the U.S. up to minimal international standards for job security in the event of serious family illness or the birth of a child. n5

It is especially appropriate to include women's issues in this conference, taking place at the New England School of Law, which was founded in 1908 as the first law school for the education of women on the planet. In discussing the question of how best to "bridge the strait" regarding the future of relationships between the People's Republic of China and the Republic of China, their importance to the entire world is obvious. Approximately one out of every four humans is Chinese. [\*781] Half of the human population, however, is female.

The traditional, yet unstated, assumption in most scholarship discussing international human rights is that economic development will lead to an improvement in human rights, or, if not actually improve human rights, that economic development is at least a neutral force. Where economic development is combined with democracy, then surely human rights will flourish. The human rights of women, usually assumed to be the same as human rights for men, will also benefit from economic development and democracy. n6

Increasingly, however, evidence is mounting that economic development may not in fact be neutral with respect to women. It appears women suffer higher levels of violence, rape, and forced prostitution as some economies modernize and develop. The association of modernization and economic development with increased violence against women has been noted by the United Nations Special Rapporteur on Violence Against Women in her preliminary report. n7 Although the Special Rapporteur does not cite economic development policies as the cause of, or a major contributor to, violence against women, data from several quarters seems to raise the question. The experience of Russia under the free market system seems to clearly point to significant problems in the rise of violence against women as economic development has proceeded. n8 The rise of consumer culture in India over the last twenty-five [\*782] years has been linked directly to the rising violence against Indian women. n9 "The most brutal forms of violence and of sexist terror are to be found in areas where agriculture has been rapidly 'developed' in recent years, where new forms of wealth appeared, where cinemas, alcohol, television and other new consumer goods were introduced as indicators of 'modernization.'" n10

The economic development of free markets is seen as "a system that generates and intensifies [pre-existing gender] inequalities, making use of existing gender hierarchies to place women in subordinate positions at each different level of interaction between class and gender." n11

The problem of gender and economic development has generated extensive academic literature. Exclusion of women from the development process results in women forming the new disadvantaged class. As far back as 1970, Ester Boserup documented this pattern in a multi-country study which demonstrated that women attain low levels of participation in the early, industrial stages of economic development. n12 Men are typically privileged in the types of jobs and monetary economies favored by free market capitalism, while most women are forced into non-cash or low-cash activity in which their labor has limited market values, such as unwaged agriculture, animal husbandry, domestic work, and home industries. In several African cultures, for example, the emphasis in economic development is on producing cash crops to generate hard foreign currency to repay international loans. n13 Water, fertilizer, [\*783] and labor is diverted from the subsistence crops that feed the local people to increase cash crop productivity. Cash crops are typically male controlled, while subsistence crops tend to be female controlled.

This, of course, is how capitalism works. In order to create profits, labor must be used as cheaply as possible. Using pre-existing dominance hierarchies, such as gender, religious, racial, tribal, or clan hierarchies, enables the free marketeer to efficiently develop a cheap and compliant labor force. In many development sagas, one major source of cheap labor, fueling the profits of capitalism, is female. During industrialization in the United States, for example, the earliest textile factories located in Lowell, Massachusetts, were "manned" primarily by young unmarried women. Presently, largely female workers in "Maquiladora" factories in Mexico work for extremely low wages, which generate large profits. n14

The economic surplus created by cheap female labor in developing economies can then be used to buy consumer goods and luxuries, the watches, cars, and televisions which play such an important role in stimulating greed in rural India or modern Russia. Another possibility is to use the surplus profits of cheap female labor to repay loans obtained from Western lending institutions used to purchase elaborate and expensive military equipment. Both the consumer goods and the military equipment are primarily manufactured in developed economies where the lending banks are also located.

A third strategy is to use the profits from cheap female labor both domestically and through foreign investment to

build more sophisticated, higher level industrial production facilities, which is a primary strategy followed by many free market entrepreneurs of Taiwan. Following the pattern which brought economic success to Taiwan in the 1970s and early 1980s, Taiwanese capitalists of the late 1980s and 1990s now invest "across the strait" into mainland China, again taking advantage of cheap, docile, rural female labor.

And thus I say to you quite sincerely, considering the "Woman Question" is in no way peripheral to the serious business of discussing international economic, military, and political matters. Women form the very fuel which powers these forces. Consideration of both the economic [\*784] status as well as the human rights of women are inextricably intertwined.

I do not mean to suggest here that free market capitalism is entirely detrimental to women, nor do I mean to suggest that women in developing economies on the whole oppose modernization. Women in many economies have benefited from development, as the grueling, back-breaking drudgery which dominated their lives is often relieved by technology, as well as the possibility of access to greater wealth through a benevolent male relative for those women lucky enough to have such a man. But for many women, the necessity of supporting themselves, children, and elderly parents is the reality of their lives. For others, equality of wages and employment opportunities are expected as a matter of fundamental fairness, a fair return for work honestly performed.

Taiwan has a highly developed economy with a skilled and educated labor force. The relationship between the "private" world of the family and the "public" world of paid labor in a market economy is particularly blurred in the context of Taiwan. n15 In Taiwan, male authority over the family is reflected in the Confucian values of traditional orderly society. n16 Although the succession codes adopted in Taiwan "were a compromise between western values and Confucian tradition," they reinforced male authority over the family. n17 "The older values of the Chinese family system can be found on the island significantly unaltered." n18 [\*785] The female's traditionally subordinate position within the family reflect Confucius' "Four Virtues of Womanhood, namely: modeled demeanor, proper expression neat appearance and diligence in housework." n19

The Constitution of the Nationalist Government of 1947, however, departed from Confucian tradition in many significant respects. n20 "Women [in Taiwan now] have the right to vote, run for public office, inherit property, obtain education, and to enter into contracts." n21 However, money earned by married Taiwanese women "can be 'managed, invested or spent' by their husbands." n22 Women can also now initiate divorce. A landmark court decision in 1995 permits Taiwanese women the possibility of retaining custody of their children following a divorce. n23 Following the court decision, the legislature amended the Civil Code to eliminate paternal preferences in custody cases, and providing for equal distribution of assets in divorce cases. n24

Despite gains for women in the divorce laws, and the constitutional amendments adopted in 1997 requiring the government to take concrete steps to eradicate gender discrimination and protect the dignity and physical safety of all women, n25 domestic violence remains a major problem in Taiwan. A 1994 survey by the Taiwan Provincial Social Affairs Department disclosed that 17.8% of married women had been beaten by their husbands, while the DPP Women's Development Committee [\*786] put the figure at 35%. n26 The annual survey of the Chinese Association for Human Rights (CAHR) in 1996 "found that womens' rights were the least protected among six major areas of human rights concerns," and that "the physical safety of women ranks as the most neglected area among all human rights issues in Taiwan." n27 Strong social pressure discourages women from reporting abuse to avoid disgracing their families, and prosecutors have no legal authority to investigate domestic violence cases unless the spouse files a formal lawsuit. n28 Seven thousand rapes are reported to the police annually, but social stigmatization of the victim contributes to serious underreporting. n29

Massive demonstrations protesting violence against women occurred in Taipei in May of 1997, n30 which "led to the resignations of several senior officials, including the Minister of the Interior." n31 A supraministerial commission to assist women was established the same month. n32

Until recently, prostitution has provoked little public concern where adults are involved. n33 Under "'Prostitute Management Regulations," [\*787] registered houses of prostitution operate in specific urban areas. n34 According to Liu Chung-tung, a professor of medical sociology, "prostitutes are available in almost every restaurant and barber's shop. . . . There is nothing shameful about going to a prostitute. . . . I know a pharmaceutical firm who gave all the doctors an evening out — food, drink and sex. If businessmen celebrate a deal, they offer the same package." n35 The tolerance for prostitution may be related to the Confucian traditions which emphasized a daughter's duty to her family. A daughter sent to work as a prostitute was not condemned by traditional society in pre-industrial times. "For women the most extreme

expression of filial piety perhaps can be seen in the daughters who enter prostitution in order to support their parents. . . . "Villagers are not inclined to see these girls as martyrs since Chinese children are expected to make great sacrifices for their parents." n36

The Taipei municipal government ended legal prostitution in September, 1997. n37 Licensed prostitutes in Taipei received about \$22 per customer, while the madame of the licensed brothel received \$9.40. n38 On the average, one licensed prostitute said she earned about \$3125 per month, and that the work was very safe compared to the unlicensed prostitutes who work in hotels and bars. n39 Kuan Hsui-chin, the newly unemployed licensed prostitute, now depends on the unemployment benefits of \$470 per month. n40 She does not read well, and, at forty-eight years old, believes she will not be able to find another job. n41 She [\*788] is supporting three children. n42

Women work throughout their life cycles in the waged economy in relatively high numbers in Taiwan, and "the proportion of women aged 15 to 64 that is employed has increased from 33% in 1966, . . . to 42% in 1991." n43 Women have delayed marriage and increased their educational levels significantly since the 1970s. n44 In recent decades, married women have remained in the labor force in larger numbers. n45 Few women in the Republic of China now marry before their twentieth birthday, most wait until after age twenty-five. n46 The birth rate has also dropped significantly. n47 "In 1979, women . . . bore an average of 3.7 children. By 1990, the number fell to 2.7 children." n48

During the early phase of the "economic miracle" in Taiwan, women worked primarily in manufacturing, comprising two-fifths of the labor force in both 1978 and 1991. n49 But the importance of manufacturing is declining. n50 Between 1978 and 1991, the proportion of professional, administrative, clerical, sales, and service workers rose from one-third to one-half. n51 Very few women in Taiwan are employed in agriculture and even this small number is declining. n52

[\*789] Although one might expect that participation in the paid labor force would increase women's ability to influence their own lives independently of the wishes of their families, this did not appear to be the case at least in the early stages of industrialization. Writing in 1974, Lydia Kung observed:

The wage-earning ability of factory women and the economic independence this would theoretically confer on young women demonstrate convincingly that new and old forms need not be in conflict; wage-earning has simply provided Taiwanese daughters with a new way of repaying their debt and fulfilling obligations to parents. Factory employment is a new activity that permits the achievement of traditional goals, and filial piety continues to be a motivating force. n53

The economic miracle of Taiwan's booming economy is by now legendary. "Per capita national income rose from \$186 in 1952 to \$4825 in 1987." n54 "The spectacular growth of Taiwan's export-oriented industries was premised on the availability of cheap labour," n55 combined with a strategy of price stabilization, and government policies to attract investment. n56 The success of this formula was predicated on the availability of docile, n57 unskilled female labor ages fifteen to twenty-four with only primary school education. n58 The factory jobs were, for the most part, dead end positions with little or no prospect of advancing [\*790] to clerical work, much less management. n59 "The idea that a woman could seek out union representatives is inconceivable to most women," who perceive the union as an arm of management. n60

Government adoption of nine years of compulsory education, combined with the greater prestige that higher education confers in traditional Chinese culture caused many young women to extend their education, contributing to a shortage of cheap, primary school educated young female labor in the late 1970s. n61 "Labour-intensive manufacturing industries such as textiles and clothing began to lose their competitive advantage" by the 1980s, and the emphasis in Taiwan "shifted to service industries and to capital- and skill-intensive industries such as computers, electronics and petrochemicals." n62

Despite the rapid growth of the economy and the generation of wealth due to the rapid and successful industrialization of Taiwan, the inequality in wages between males and females did not significantly narrow between 1978 and 1992. n63 "During Taiwan's successful economic development, the gender earnings differential remained unchanged, with women continuing to earn 65% of what men earned." n64 "Rapid structural change does not necessarily entail a closing of the gender gap. In Taiwan, the aggregate gender earnings ratio remained fairly flat between 1978 and 1992, with less-educated women experiencing dramatic losses and better-educated women experiencing small [\*791] gains." n65

Traditional neoclassical economists attribute gender gaps in wages to male/female differentials in commitment to working in the waged labor force and/or to educational differences. n66 However, these neoclassical explanations do not seem to account for the differential in the Taiwanese context. While higher education has significantly reduced the gender wage gap for non-Chinese women in another booming Asian "tiger economy" — Malaysia — the positive impact

of higher education and increased labor force commitment for women on earnings has not significantly narrowed the gender earnings gap in Taiwan. n67 "Because we find no conclusive evidence of a widening gender gap in labor force commitment or in unobserved skills, we suspect that wage discrimination against female workers increased over time." n68

"There is no equal employment rights law." n69 Taiwan addresses discrimination in the Employment Services Act of 1992, which "calls for the opening of new labor markets for the handicapped, aborigines, members of families on welfare, female heads of household, potential workers between 45 and 65 years of age, and those who are recently unemployed." n70 Establishment of employment discrimination evaluation committees in large labor markets occurred in 1997. n71 No legislation specifically prohibits sexual harassment or unfavorable treatment (dismissal) [\*792] of married, pregnant, or older women. n72 Drafts of Equal Opportunity employment statutes have been submitted to the legislature, one by the feminist organization Awakenings and supported by thirty-nine members of parliament in 1990. n73 An alternative draft was submitted the following year by the government's labor department. n74 As of 1995, neither version had passed. n75 However, general equality provisions found in the Constitution, Article 7, may contribute to developing anti-discrimination employment laws. n76 Article 7 provides "equality before the law regardless of 'sex, religion, race, class or party affiliation.'" n77

Although one might expect that the ongoing labor shortage combined with increased educational levels and higher labor force commitment would lead to an increase in women's wages, it has not. Instead, Taiwanese labor intensive industries have increasingly moved their operations to the mainland, often operating through Hong Kong or other off-shore subsidiaries. n78 "In the late 1980s, the first industries to move to China were the labor intensive 'sunset' export industries" manufacturing toys, garments, and shoes. n79 These industries employed large numbers of females in Taiwan. Taiwan investment in China grew from U.S. \$220 million in 1990, to approximately U.S. \$3.4 billion in 1994. n80 "By the end of 1992, Taiwan had . . . overtaken Japan to rank second as a source of FDI [Foreign Development Investment]" in China. n81 Official reports indicate that Taiwanese companies invested U.S. \$1.6 billion in China during 1997, an increase of thirty-one percent [\*793] from 1996. n82 Chinese assessments of indirect Taiwanese investment between 1978 and 1995 is an actual value of U.S. \$11.44 billion. n83 In 1997, shipping links were finally established across the Straits of Taiwan, anticipating the termination of Hong Kong as the conduit for indirect trade, n84 which should cut shipping costs twenty to fifty percent for exporters. n85

Taiwanese investment in China has been concentrated primarily in the Pearl River delta. n86 Following many of the same labor practices fueling the phenomenal profits during the 1970s and early 1980s in Taiwan, Taiwanese firms in China are focusing on low-wage, rural, unskilled females with rapid turnover to provide the cheap, compliant labor force necessary for such large profits. n87 Foreign economic development in the Pearl River delta has brought the familiar scenario of rising prostitution, violence against women, and a resurgence of feudal practices subordinating women such as the abduction and sale of women as second class wives. n88

The availability of cheap, docile female labor in China has created an interesting situation for the government in Taiwan. It may be that cross-strait economic ties increase political stability and reduce the like-lihood of military action between Taiwan and China. n89 On the other hand, it may be that the economic interdependence "'hollows out'" Taiwan's independent industrial strength, leaving it vulnerable to political manipulation by the mainland. n90 Ironically, it is cheap female labor on both sides of the Strait which creates a major policy challenge to the governments of both Taiwan and mainland China, as the question of who gains or loses particular advantages from economic interdependence [\*794] begins the process of replacing the older strategies of stockpiling expensive military weapons.

In all the discussions about the increasing cross-strait economic interdependence, however, I found not one analyst or commentator who mentions, even in passing, the significance of the role of female labor upon which all this economic development is based. The assumption seems to be that seeking, using, and discarding cheap female labor is a natural part of global economic activity. Yet, until the gender factor is included in the discussion, the picture remains fundamentally incomplete. The role of gender in fueling globalization of the economy is crucial, yet currently invisible. Human rights are still too often seen as distinct from economic activity, and unrelated to the subordination of women.

Bringing women to the forefront of these discussions is critical. Yet, to think that women's rights will be granted as a matter of chivalry or good manners when we are addressing the very core of economic profits is naive. The aging henchmen of Wall Street will continue to attempt to dismiss women's issues as peripheral, feminists as fruitcakes unless and until we find ways to force our issues to the front burner.

Happily we have several tools with which to work. Women are the primary consumers in the economically developed cultures of the U.S., Canada, and Europe, which are the primary markets for the cheap export oriented products of low wage female labor. There is a large, sophisticated, and educated feminist population in these consumer cultures with fairly good media access. My modest proposal is that we focus attention on developing workable, monitored corporate social responsibility codes which explicitly address the issues of women workers.

This approach would involve pressuring American corporations doing business with corporations in Asia, including but certainly not limited to Taiwanese and other Chinese companies, to include gender wage equality, anti-discrimination (including protections for married and older women workers), and sexual exploitation clauses in their work contracts as part of their overall corporate social responsibility policies. n91 Many American corporations doing business or purchasing from suppliers in mainland China have already adopted extensive social responsibility codes. In 1992, Sears, Roebuck and Co. announced a ban on importing products of prison labor in China and established a monitoring procedure [\*795] to ensure compliance. n92 Also in 1992, Reebok International Ltd. adopted a human rights code of conduct governing all of its workplaces including China. n93 Phillips-Van Heusen threatens to terminate orders from suppliers violating its human rights ethical code. n94

The laudable efforts of these corporations should be encouraged and rewarded with consumer loyalty in the marketplace. It is my hope that further dialogue and discussion will develop even more sophisticated and effective approaches to encouraging higher value for women's labor on both sides of the Strait.

#### FOOTNOTES:

n1 LYDIA KUNG, *FACTORY WOMEN IN TAIWAN* 50 (1994) (quoting CHINA POST, Sept. 17, 1974).

n2 The phrase "Gender Gap" was first coined by Feminist Majority Foundation leader, and former National Organization for Women president Eleanor Smeal, to describe the phenomena of women leaving the Republican Party to vote for Democratic candidates more favorable to women's rights.

n3 The women's vote, overwhelmingly pro-choice, is significant enough to the Democrats that President Clinton is resisting Republican efforts to attach an anti-abortion restriction to a bill providing \$18 billion for the International Monetary Fund and \$1 billion past due to the UN. See Eric Schmitt, *House G.O.P. Puts Brakes on I.M.F. Funds: Abortion Restriction Threatens Clinton Veto and Another Standoff*, N.Y. TIMES, Mar. 12, 1998, at A10. In rejecting the Republican proposal, "the White House and its Democratic allies . . . suggested that President Clinton would veto the [all important] spending bill, despite furious lobbying by his foreign policy advisors . . . , rather than buckle to Republican [anti-choice] demands." *Id.*

n4 See Elizabeth Spahn, *Feeling Grounded: A Gendered View of Population Control*, 27 ENVTL. L. 1295, 1317-18; see also Rebecca J. Cook, *U.S. Population Policy, Sex Discrimination, and Principles of Equality Under International Law*, 20 N.Y.U. J. INT'L L. & POL. 93, 95-102 (1987); Barbara B. Crane & Stephen L. Isaacs, *The Cairo Programme of Action: A New Framework for International Cooperation on Population and Development Issues*, 36 HARV. INT'L L.J. 295, 306 n.10 (1995).

n5 See 29 U.S.C. §§ 2601-54 (1994). "The United States is virtually the last industrialized country to address worker-family policy and lags behind the policies of numerous third world countries as well." Nancy E. Dowd, *Envisioning Work and Family: A Critical Perspective on International Models*, 26 HARV. J. ON LEGIS. 311, 311-12 (1989).

n6 See Elizabeth K. Spahn, *Shattered Jade, Broken Shoe: Foreign Economic Development and the Sexual Exploitation of Women in the People's Republic of China*, 50 ME. L. REV. (forthcoming July 1998).

n7 See RADHIKA COOMARASWAMY, PRELIMINARY REPORT SUBMITTED BY THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS 53, 55, E/CN.4/1995/42 (Nov. 22, 1994), (visited Mar. 1998) <gopher://gopher.un.org/00/esc/cn4/1995/42.

n8 Sixty-seven percent of Russia's unemployed were women in 1993 according to official statistics. See HUMAN RIGHTS WATCH, WOMEN'S RIGHTS PROJECT, RUSSIA: NEITHER JOBS NOR JUSTICE, STATE DISCRIMINATION AGAINST WOMEN IN RUSSIA 7 (1995) [hereinafter HR WATCH: RUSSIA]. The actual percentage of female unemployed may exceed 80% in some parts of Russia. See *id.* Women in post-communist Russia are consistently paid less for equal work than men, and are the last hired and first fired from desirable jobs. See Shannon Keniry, *Proletariat to Pauper:*

*An Analysis of International Law and the Implications of Imperialism for Equality in Post-Communist Russia*, 11 *AM. U. J. INT'L L. & POLY* 475, 480-81 (1996).

Violence against women in Russia is rising. Russian culture accepts low levels of violence inflicted on women by boyfriends or husbands, police are unresponsive, and the housing shortage forces wives to continue living with abusive husbands even following divorce. Under Russian law, a spouse may not deny the other access to the home. See HR WATCH: RUSSIA, *supra*, at 20-23. In 1994, 15,000 women were killed by their husbands. See Helen Womack, *15,000 Women Killed by Husbands; Russian Wives Fight Back Against Domestic Violence*, Independent (London), July 16, 1995, available in LEXIS, News Library, Arcnws File.

n9 See Maria Mies, *Class Struggles and Women's Struggles in Rural India*, in *WOMEN: THE LAST COLONY* 133, 137 (Maria Mies et al. eds., 1988).

n10 *Id.* Dowry murder is a particularly egregious form of sexist consumerism, as a wife is killed (often, for example, by dousing her with cooking oil and setting her on fire) in order for the son to remarry and acquire a new dowry payment.

n11 Ann D. Jordan, *Human Rights, Violence Against Women, and Economic Development (The People's Republic of China Experience)*, 5 *COLUM. J. GENDER & L.* 216, 237 (1996) (quoting Lourdes Beneria & Amartya Sen, *Accumulation, Reproduction, and Women's Role in Economic Development: Boserup Revisited*, 7 *SIGNS* 279, 290 (1981)).

n12 See generally ESTER BOSERUP, *WOMAN'S ROLE IN ECONOMIC DEVELOPMENT* (1970).

n13 See Catherine Besteman, *Income Generation: Cash Cropping*, in *GENDER & AGRICULTURAL DEVELOPMENT: SURVEYING THE FIELD* 26-30 (Helen Kreider Henderson ed., 1995); see also *MORTGAGING WOMEN'S LIVES: FEMINIST CRITIQUES OF STRUCTURAL ADJUSTMENT* 15-19 (Pamela Sparr ed., 1994).

n14 See Zillah Eisenstein, *Stop Stomping on the Rest of Us: Retrieving Publicness from the Privatization of the Globe*, 4 *IND. J. GLOBAL LEGAL STUD.* 59, 87 (1996); Jennie M. McCarthy, *NAFTA Opens the Door for Free Trade, But Remains Closed to the Women of the Maquiladora Factories* (Apr. 28, 1998) (unpublished manuscript, on file with the *New England Law Review*).

n15 For a general discussion of the "public/private" dichotomy central to contemporary feminist analysis in the context of international human rights, see Elizabeth K. Spahn, *Waiting for Credentials: Feminist Theories of Enforcement of International Human Rights*, 44 *AM. U. L. REV.* 1053 (1995).

n16 See Janice A. Lee, Note, *Family Law of the Two Chinas: A Comparative Look at the Rights of Married Women in the People's Republic of China and the Republic of China*, 5 *CARDOZO J. INT'L & COMP. L.* 217, 242 (1997). "The attack on traditional family values was brought about by radicals who ironically were male feminists. These radicals called for the equality of women and the idea of nationalism to replace Confucian family values." *Id.* at 230 (footnotes omitted).

"The 1930 Civil Code, famous for being the first codified laws on domestic relations in Chinese history, broke away from Confucian thought by omitting ancestor worship and disregarding the belief that a male heir was a necessity to the promulgation of the family." *Id.* at 231 (footnote omitted). Nevertheless, in order to divorce on the grounds of physical abuse, a woman in the Republican China of the 1930s had to show that her actions were those of an ideal wife, and, therefore, the physical abuse by the husband was not justified. See *id.* at 232. In abandonment cases, the desertion had to be both physical and financial. See *id.* "There seemed to be very little social change for the women of Republican China." *Id.* at 233.

n17 *Id.* at 242.

n18 *Id.* (footnote omitted).

n19 *Id.* at 243-44 (footnote omitted).

n20 See *id.* at 242-43.

n21 *Id.* at 243 (footnote omitted).

n22 Lee, *supra* note 16, at 244 (quoting Madeline Bunting, *In the Shadow of the Tiger: There Might Have Been a Revolution in Taiwan's Economy But Its Treatment of Women is Still Stuck in the Dark Ages*, *GUARDIAN* (London), Oct. 27, 1994, at T12). Although the statutes "contain[] a small provision that permits a wife to take control of the family assets," the code provides that the person taking control has full authority, including over the non-dominant partner's

earnings. *Id.* at 245 n.189. According to one attorney, "what is the husband's is the husband's and what is the wife's is the husband's." *Id.* at 245 n.191 (citation omitted).

n23 *See id.* at 245; *see also* U.S. DEP'T. OF STATE, HUMAN RIGHTS COUNTRY REPORTS, TAIWAN COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 1997 (1998) (visited Mar. 24, 1998) <[http://www.state.gov/www/global/human\\_righ](http://www.state.gov/www/global/human_righ) [hereinafter TAIWAN REPORT].

n24 *See* TAIWAN REPORT, *supra* note 23.

n25 *See* Sofia Wu, *President Lee Meets Zonta International Head*, Central News Agency, Nov. 13, 1997, available in LEXIS, News Library, Curnws File ("We have enacted new laws and amended obsolete regulations in order to substantiate gender equality." (quoting President Lee Teng-hui)).

n26 *See* TAIWAN REPORT, *supra* note 23.

n27 Debbie Kuo, *Women's Rights Lowest Among Human Rights Categories: Poll*, Central News Agency, Dec. 9, 1996, available in LEXIS, News Library, Curnws File. "The level of human rights protection afforded women within the society received a 2.3 rating on a five-point scale by the panel of experts. . . . Physical safety for females received the lowest rating in the women's rights category, with a 1.9 rating." *Id.* "The other five categories [of human rights] surveyed were political, economic, civil, cultural and education, and judicial rights." *Id.* Within the women's category, the issues monitored "included women's education, freedom, marriage and family status, employment, and social participation." *Id.*

n28 *See* TAIWAN REPORT, *supra* note 23.

n29 *See id.* One expert believes that only about 10% of actual rapes are reported to the police. *See id.*

n30 *See* Lawrence Chung, *Protests Mar Opening of Taiwan's National Assembly*, Reuters, May 5, 1997, available in LEXIS, News Library, Curnws File. Fifty thousand "people demonstrated . . . and staged an all-night vigil outside Taipei's Chiang Kai-shek Memorial Hall to protest against . . . worsening crime levels." *Id.* On April 28, 1997, the naked body of the 17 year old daughter of a popular television star was found floating in a river. *See id.* "One week later, women's rights activist Peng Wan-ju was raped and stabbed [35 times] to death in southern Kaohsiung." *Id.* The previous November, a magistrate and seven others were murdered at his home. *See id.*

n31 TAIWAN REPORT, *supra* note 23.

n32 *See id.*

n33 *See id.* However, "child prostitution is a serious problem involving between 40,000 and 60,000 children," most between the ages of 12 and 16. *Id.* Brothel owners are reported to use violence, drug addiction, and other forms of coercion to prevent the children from escaping. *See id.* About five percent of the child prostitutes are Aboriginal Malayo-Polynesians, mainly Christians. *See id.* Cultural customs permit the parents to sell the girls as children into prostitution. *See id.*

Intensive government efforts to combat child prostitution have focused on the Aboriginal practices, which seems to be working to drop the rate of child prostitution. *See id.* Legislation enacted in 1995 provides for up to "2 years' incarceration for customers of prostitutes under the age of 18," and for "publication of the names of violators in the newspapers," resulting in several hundred arrests, 146 indictments, but no convictions as of 1997. *Id.*

n34 *Id.*

n35 Bunting, *supra* note 22, at T12 (quoting Liu Chung-tung).

n36 KUNG, *supra* note 1, at 13 (quoting MARGERY WOLF, *THE HOUSE OF LIM* 103 (1968)).

n37 *See* TAIWAN REPORT, *supra* note 23.

n38 *See* Edward A. Gargan, *The Mayor Won't Abide Licensed Licentiousness*, N.Y. TIMES, Mar. 30, 1998, at A4.

n39 *See id.*

n40 *See id.*

n41 *See id.*

n42 *See id.*

n43 Janet W. Salaff, *Foreward* to KUNG, *supra* note 1, at xi, xvi (citation omitted).

n44 *See id.* at xvi-xvii. "In 1979, 41% of women aged 20-24 had married." *Id.* at xvi. By 1990, only 23% of the comparable age group had married. *See id.* Of women aged 25-29 in 1979, 83% were married; by 1990 the percentage was 68. *See id.* Nearly all women in Taiwan eventually marry however. *See id.* By ages 35-39, 98% had married in 1979, while 95% were married in 1990. *See id.* The trend toward later marriage seems directly correlated to rising levels of education for women. *See id.* at xvi-xvii. Women with primary school education marry earlier than those with vocational schooling, followed by those with junior college education, and finally those with college level education. *See id.* at xvii.

n45 *See id.* at xvii. "In 1978, less than one-third of currently married women worked for a wage, but by 1991 more than two-fifths did." *Id.* (citation omitted). Marital status is closely related to labor force participation, however, with single, divorced, separated, and widowed women more likely to work than currently married women living with their partners. *See id.*

n46 *See id.* at xviii.

n47 *See id.*

n48 *Id.*

n49 *See* Salaff, *supra* note 43, at xvii. Women employed in manufacturing rose from 17% in 1966, to 38% in 1978, to a high of 40% in 1986, then declining to 34% in 1991. *See id.*

n50 *See id.*

n51 *See id.*

n52 *See id.* Seven percent of the agricultural labor force was female in 1978, dropping to four percent by 1991. *See id.*

n53 KUNG, *supra* note 1, at 203.

n54 Sean Cooney, *The New Taiwan and Its Old Labour Law: Authoritarian Legislation in a Democratised Society*, 18 *COMP. LAB. L.J.* 1, 11 (1996) (footnote omitted).

n55 *Id.* at 13-14.

n56 *See* KUNG, *supra* note 1, at 38. One of the most attractive features of Taiwan's economy in the 1970s was the availability of a low-wage, relatively docile labor force that was well-disciplined and did not strike. *See id.* at 39.

n57 *See id.* at 92. The timidity of the ROC's female labor force in the 1970s was attributed by Professor Kung to the "rigid authority structure of schools." *Id.* Young, rural girls are often reluctant to speak up, even if injured on the job, for fear of being dismissed. *See id.* Male workers, by contrast, present a variety of disciplinary problems. Theft of materials and supplies, formation of gangs, higher turnover rates, and absenteeism plagued the predominately male third shift at one factory during the 1970s. *See id.* at 63. A favorable recommendation by a school principal or teacher of one factory over another can influence the decision of which factory to work in especially in rural areas, because neither the female students nor their protective parents are knowledgeable about factories in other geographical regions. *See id.* at 64. Once on the job, the consensus of factory workers is that their opinions do not count for much. *See id.* at 107. "The attitude of a majority is one of resignation," a combination of "cynicism and passiveness." *Id.*

n58 *See id.* at 41.

n59 *See id.* at 100. The relatively low status of group leader was the best an assembler could hope for, a relatively thankless job constantly acting as the intermediary between the (male) foreman and the (female) workers. *See id.* at 101-04.

n60 *Id.* at 108. For an excellent discussion of the development of labor relations laws in Taiwan, see Cooney, *supra* note 54, at 1-15. Cooney traced the origins of the labor laws from the suppression of organized labor, to the creation of a politically subordinate official union structure. *See id.* at 7-8. The officially-endorsed union enabled the ruling party to strengthen anti-communist sentiment, prevent formation of independent unions, and mobilize workers to vote. *See id.* at 8. "Between 1949 and 1987, the KMT-established union movement in Taiwan was essentially an instrument of party-state policy." *Id.* at 9. "Taiwan's labour laws evolved little during the almost forty years of martial law." *Id.* at 10.

Following the end of martial law, union membership and industrial actions saw a significant increase. *See id.* at 12. Union membership rose from 23% of employees in 1984, to 49% in 1994. *See id.* "In 1989, over 60,000 workers participated in strike actions, more than twice the previous record." *Id.* (footnote omitted).

n61 *See* Cooney, *supra* note 54, at 13–14.

n62 *Id.* at 14 (footnotes omitted).

n63 *See* Joseph E. Zveglic, Jr. et al., *The Persistence of Gender Earnings Inequality in Taiwan, 1978–1992*, 50 *INDUS. & LAB. REL. REV.* 594, 594 (1997).

n64 *Id.*

n65 *Id.* at 608.

n66 *See id.*

n67 *See* RUKMINI BANERJI ET AL., GENDER WAGE GAP IN MALAYSIA AND TAIWAN 11 (1993) (on file with the *New England Law Review*). The experience of Chinese women in Malaysia with respect to the relationship between education and earnings is closer to the Taiwanese, with little narrowing of the gap despite near parity in educational levels. *See id.* While this may reflect the Confucian influence of the traditional Chinese patriarchal family, it may also reflect the increased affirmative action opportunities for ethnic Malays in public sector employment in Malaysia. *See id.* at 18–19.

However, public sector policies fail to explain why Malaysian women and men are equally as likely to develop their own businesses and become employers, while among the more affluent Chinese in Malaysia, women are significantly less likely to become employers than Chinese men. *See id.* at 19. "One can deduce, that although Chinese families do not discriminate much in the human capital investment of their children [education], there continues to be unequal access by gender to resources needed for starting up or sharing in the ownership of enterprises." *Id.* (footnote omitted).

n68 Zveglic, *supra* note 63, at 608.

n69 TAIWAN REPORT, *supra* note 23.

n70 Labor Rights, Legal Framework (last modified Nov. 10, 1997) (visited Mar. 1998) <[http://www.gio.gov.tw/info/yb97/html/ch20\\_](http://www.gio.gov.tw/info/yb97/html/ch20_)

n71 *See id.*

n72 *See* Cooney, *supra* note 54, at 45. For a collection of resources in both Chinese and English providing an overview of the gendered aspects of Taiwan's labor laws, see *id.* at 2 n.6; *see also* TAIWAN REPORT, *supra* note 23.

n73 *See* Cooney, *supra* note 54, at 47–48.

n74 *See id.* at 48.

n75 *See id.*

n76 *See id.* at 52–53.

n77 *Id.* at 52 (quoting XIANFA [Constitution] art. 7).

n78 *See* Robert F. Ash & Y. Y. Kueh, *Economic Integration within Greater China: Trade and Investment Flows Between China, Hong Kong and Taiwan*, 136 *CHINA Q.* 711, 735 (1993) ("There is no doubt that a significant part of FDI [Foreign Direct Investment] flows to China from Hong Kong, Japan, the United States and South-east Asia reflect the activities of Taiwanese firms in disguise.").

N79 Salaff, *supra* note 43, at xv.

n80 *See* WAYNE M. MORRISON & WILLIAM COOPER, CHINA-U.S.-TAIWAN ECONOMIC RELATIONS, CONGRESSIONAL RESEARCH SERVICE: REPORT FOR CONGRESS, 96-498 E (June 3, 1996) (visited Mar. 26, 1998) <<http://www.gwjapan.com/ftp/pub/policy/crs/1996/96-498e.txt>>.

n81 Ash & Kueh, *supra* note 78, at 734.

n82 *See* *Taiwanese Investment in China Up 31 Percent*, China News, Feb. 7, 1998, available in LEXIS, News Library, Curnws File. Investments are increasing in the interior provinces, with electronics topping the categories of products. *See*

*id.* The figures include about U.S. \$500 million from the Virgin Islands, "where many Taiwanese investors remit their profits generated from China." *Id.*

n83 See MORRISON & COOPER, *supra* note 80, at 42 & tbl. 14.

n84 See Willem van Kemenade, *China, Hong Kong, Taiwan: Dynamics of a New Empire*, 21 Wash. Q. 105 (1998), available in LEXIS, News Library, Curnws File. Technically, the link is still only "indirect" according to Taiwan, because mainland cargos are processed through an "offshore transshipment center." *Id.*

n85 See MORRISON & COOPER, *supra* note 80, at 45.

n86 See Ash & Kueh, *supra* note 78, at 727.

n87 For an extensive discussion of the conditions of women workers in China, see Spahn, *supra* note 6.

n88 See *id.*

n89 See MORRISON & COOPER, *supra* note 80, at 46.

n90 Ash & Kueh, *supra* note 78, at 738.

n91 See Diane F. Orentlicher & Timothy A. Gelatt, *Public Law, Private Actors: The Impact of Human Rights on Business Investors in China*, 14 NW. J. INT'L L. & BUS. 66, 67 (1993).

n92 See *id.*

n93 See *id.*

n94 See *id.*

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