

# ARTICLES

## ENGENDERING DEVELOPMENT/MARKETING EQUALITY

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### INTRODUCTION

In a recent policy research report, *Engendering Development: Through Gender Equality in Rights, Resources, and Voice*,<sup>1</sup> the World Bank lays out a new “market-centered” approach to gender equality. *Engendering Development* is important for at least two reasons. First, it represents the most ambitious and comprehensive attempt by the Bank to date to explore and resolve the relationship between two goals that have often been in tension, gender equality and the pursuit of economic growth. Second, it represents a significant departure from established international norms and strategies surrounding gender equality.

*Engendering Development* is a project that faces in two directions. On the one hand, it makes a “gender” intervention in debates over market reform and development: it seeks to persuade those who may have no independent interest in gender equality that it is important to the objective of economic growth, and it makes the case for attention to gender equality in market-centered reform agendas. On the other hand, it represents a “market” intervention in the international debates over gender equality: it seeks to inject those debates with a new consciousness of imperatives of efficiency and to reframe both the analysis of gender equality and the strategies used to promote it in market-friendly ways.

This paper describes in broad contours the vision of gender

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<sup>1</sup> WORLD BANK, *ENGENDERING DEVELOPMENT: THROUGH GENDER EQUALITY IN RIGHTS, RESOURCES, AND VOICE* (2001) [hereinafter *ENGENDERING DEVELOPMENT*].

equality in *Engendering Development* and profiles the ways in which that vision diverges from the mainstream gender equality project on the international plane. It traces some of the connections between the arguments in *Engendering Development* and the larger institutional and governance projects in which the Bank is immersed. And it suggests why *Engendering Development* represents both a cultural intervention and a cultural project of its own.

*Engendering Development* simultaneously challenges the mainstream international gender equality paradigm, incorporates some of its arguments and strategies, and reflects back its blind spots and omissions. *Engendering Development* is fascinating and important in its own right. But because it reveals elements of the mainstream paradigm that otherwise tend to be less visible—among them its connection to institutional and regulatory regimes that are now being seriously questioned—it is useful as a basis upon which to think about what is the same and what is different in the way we now pursue gender equality.

### I. LOCATING *ENGENDERING DEVELOPMENT*

At first glance, *Engendering Development* looks like a victory for gender equality activists and scholars. Even if motivated by the conclusion that it is instrumentally important to development too, the attempt to integrate gender equality into the development agenda is at least partly a response to the gender critiques leveled against the development agenda organized around the “Washington consensus.”<sup>2</sup> If nothing else, *Engendering Development* confirms that it has become difficult to simply ignore calls for attention to gender equality: gender equality is sufficiently entrenched as an international norm—if not necessarily at the level of institutions and practice—that to oppose it is to risk delegitimation.

Yet *Engendering Development* is a curious account of gender equality. To begin, *Engendering Development* represents no simple adoption or incorporation of the existing gender equality agenda at international law. It is new at the level of vision and institutional practice, and it challenges at a fundamental level visions of gender equality rooted in the use of the state to ensure a broad array of women’s rights.

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<sup>2</sup> The elements of this consensus, as well as an account of what is not included, are described in John Williamson, *Democracy and the Washington Consensus*, 21 *WORLD DEV.* 1329 (1993).

It is difficult, if not impossible, to make sense of *Engendering Development* without placing it within the larger transformations in the realm of governance now underway.<sup>3</sup> *Engendering Development* is very much a project of its time. It bears many of the hallmarks of the dominant “third way” regulatory and policy proposals of the globalized era.<sup>4</sup> It draws in a deep way on narratives currently circulating about the constraints on regulatory action in an era of globally interlinked polities and economies. Enthusiasm for many standard legal and institutional remedies for gender equality in the Keynesian or New Deal mode, such as labor market institutions or social protection schemes, runs from lukewarm to cold.

While it identifies a limited role for legal entitlements, public policies and state institutions, *Engendering Development* demotes the role of the state in the achievement of gender equality, seeking to pursue it instead within the paradigm of limited government that now dominates contemporary policy debates. And if it reflects resistance to the use of the state and skepticism about its capacity to generate greater gender equality, such resistance and skepticism are inversely related to its enthusiasm for the possibilities of markets at precisely the same task.

*Engendering Development* moves the gender equality project in a new direction. It figures the state’s role as “enabling” gender inequality in a variety of ways rather than directly ensuring it, and it relies principally upon the force of market incentives to advance gender equality. *Engendering Development* also locates a role for civil society in gender equality initiatives, on the theory that the state may be a weak instrument to change cultural norms and social practices that embody or support gender inequality.<sup>5</sup> The net result is a significantly “privatized” model of gender justice, one in which furthering gender equality becomes co-extensive with, and in some ways subordinated to, the demands of growth and efficiency.

*Engendering Development* can also be read as part of the emergence of “second generation” reforms and the attempt to assimilate human rights, equality concerns, and social objectives into the field of development. Although the relationship between such objectives and traditional economic concerns remains

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<sup>3</sup> There is a vast literature on the institutional determinants of growth. For recent statements of the Bank’s position on this question, see WORLD BANK, WORLD DEVELOPMENT REPORT 2002: BUILDING INSTITUTIONS FOR MARKETS (2002); WORLD BANK, DOING BUSINESS IN 2004: UNDERSTANDING REGULATION (2003).

<sup>4</sup> See ANTHONY GIDDENS, THE THIRD WAY: THE RENEWAL OF SOCIAL DEMOCRACY (1998); THE GLOBAL THIRD WAY DEBATE (Anthony Giddens ed., 2001).

<sup>5</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 103.

unsettled, the Bank no longer avoids responsibility for social concerns on the theory that they are simply outside the domain of development.<sup>6</sup> According to the new orthodoxy, first outlined in 1999 in Bank President James Wolfensohn's *Comprehensive Development Framework*, development should now be conceived as a project or balance sheet with two sides.<sup>7</sup> While the Bank and the International Monetary Fund must continue to attend to their traditional economic concerns, added to them is a series of "social, structural, and human" issues that previously received short shrift. Development has been reconceived by the promotion of human freedom:<sup>8</sup> as a result, it now includes human rights<sup>9</sup> and related goals such as the protection of core worker rights and gender equality.

Whether, and to what extent, these discursive shifts portend changes in the institutional commitments and priorities of the international financial institutions, and greater attention to the social and distributive dimensions of development in particular, is now the question. While not official Bank policy, *Engendering Development* illustrates what it might mean to pay greater attention to the "social, structural, and human" side of development. *Engendering Development* elaborates on the institutional, regulatory, and policy implications of a development agenda reinvented to incorporate concerns around gender equality. However, it also reflects trends and developments that extend well beyond the issue of gender equality. The priorities in *Engendering Development* reflect the importance of human capital in the new economy, a theme that pervades development discourse in general.<sup>10</sup> They also reflect the overarching importance granted to concerns of competitiveness, market participation and economic growth in matters of public policy and market design.<sup>11</sup> Because *Engendering*

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<sup>6</sup> For a discussion, see IBRAHIM SHIHATA, *THE WORLD BANK IN A CHANGING WORLD: SELECTED ESSAYS* 97-134 (1991).

<sup>7</sup> James D. Wolfensohn, *A Proposal for a Comprehensive Development Framework (A Discussion Draft)* (January 1999), <http://www.worldbank.org/cdf/cdf-text.htm> [hereinafter *Comprehensive Development Framework*].

<sup>8</sup> The classic text on this concept is AMARTYA SEN, *DEVELOPMENT AS FREEDOM* (1999). The idea has been broadly embraced within the international institutions: see WORLD BANK, *WORLD DEVELOPMENT REPORT 2000/2001: ATTACKING POVERTY* (2000); UNITED NATIONS DEVELOPMENT PROGRAMME, *HUMAN DEVELOPMENT REPORT 2000: HUMAN RIGHTS AND DEVELOPMENT* (2000).

<sup>9</sup> WORLD BANK, *THE WORLD BANK AND HUMAN RIGHTS* (1998).

<sup>10</sup> See WORLD BANK, *WORLD DEVELOPMENT REPORT 1999-2000: KNOWLEDGE FOR DEVELOPMENT* (1999).

<sup>11</sup> For an illustration, see WORLD BANK, *DOING BUSINESS IN 2004: UNDERSTANDING REGULATION*, *supra* note 3.

*Development* shifts both the weight of particular factors in the gender equality agenda and the strategies by which gender equality is pursued, it indicates how social goals might themselves be transformed in the encounter with broader regulatory and institutional imperatives. Thus it provides useful clues about the nature of the general move to incorporate social issues into the development agenda.

The Bank is a relative newcomer, perhaps even an interloper, to the international conversation around gender equality: a few short years ago, the Bank and those promoting women's rights were typically on opposite sides of the table when questions of gender equality were at issue. *Engendering Development* represents a serious challenge to the existing models of gender equality nonetheless, if only because it reframes the challenge of gender equality in ways that are likely to be attractive to contemporary policy makers. *Engendering Development* presents a model of gender equality that conforms to, rather than challenges, current governance norms. And it accommodates the demands of gender equality relatively painlessly and seamlessly with the imperatives of growth and participation in markets, by limiting the demands that it places on state resources.

While it is impossible to foresee precisely how the encounter between the competing normative and institutional visions around gender justice will play out, *Engendering Development* destabilizes any assumption that the acceptance of gender equality represents agreement *about* gender justice, and still less the strategies by which it is achieved. It is also unclear whether, even if *Engendering Development* does represent the "mainstreaming" of gender equality in development, the result will be a strengthening, rather than weakening, of the effort to promote gender equality. The paradox is this: while the calls for greater attention to gender equality and other social values and interests<sup>12</sup> have now generated a response, one of the results is that the Bank has now emerged as an arbiter of gender equality—an authority by which other models and visions of gender equality can be challenged and displaced. Because *Engendering Development* locates gender equality as much inside as outside development dogma and practice, in the future, we should expect important battles and debates over gender equality to be conducted in the discourse of economic development and to be

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<sup>12</sup> For a formal statement on the issue, see UNITED NATIONS, THE COPENHAGEN DECLARATION AND PROGRAMME OF ACTION: WORLD SUMMIT FOR SOCIAL DEVELOPMENT, March 12, 1995, U.N. Doc. A/CONF.166/9 (1995).

framed in terms of the demands of markets and efficiency.

## II. *ENGENDERING DEVELOPMENT*: EXPLAINING GENDER EQUALITY

*Engendering Development* rests upon two mutually reinforcing theses. The first is that gender equality is good for growth.<sup>13</sup> This claim has now achieved "motherhood" status, in virtue of the accumulating evidence confirming what has long been available at an intuitive level, which is that "investing in women," especially in the areas of health and education, is likely to generate payoffs or "positive externalities" for the well-being of children, the household, and the economy as a whole.<sup>14</sup> Indeed, the proposition that growth and gender equality are complementary objectives has become so uncontroversial that the two can easily slide into the idea that they involve fundamentally the same things.

This leads us to the second, more controversial, claim. While acknowledging that economic development does not inevitably promote gender equality,<sup>15</sup> *Engendering Development* also maintains that growth is good for gender equality.<sup>16</sup> The basic argument is that "[e]conomic development introduces incentives and opportunities that can break down entrenched gender roles in the economy;"<sup>17</sup> thus, growth operates to support gender equality in three ways. First, growth generates jobs, and women and girls benefit relatively more from the expansion of employment than men, as it may lead to the opening of new labor market opportunities for women where none have previously existed.<sup>18</sup> Note that here feminist claims are turned back on themselves: if economic crises, and the macroeconomic adjustment programs that have followed in their wake *harm* women in particular, as gender activists and scholars have long claimed<sup>19</sup> and as the report itself acknowledges,<sup>20</sup> then it is also the case that economic growth is

<sup>13</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 73–106.

<sup>14</sup> These arguments began to appear regularly in Bank literature after the Beijing Conference. See WORLD BANK, *MAINSTREAMING GENDER AND DEVELOPMENT IN THE WORLD BANK: PROGRESS AND RECOMMENDATIONS* (1998).

<sup>15</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 181.

<sup>16</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1. See in particular the discussion in chapter 5, "Is Economic Development Good for Gender Equality?", at 181–230.

<sup>17</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 183.

<sup>18</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 182.

<sup>19</sup> See GITA SEN & CAREN GROWN, *DEVELOPMENT, CRISES, AND ALTERNATIVE VISIONS: THIRD WORLD WOMEN'S PERSPECTIVES* (1987); Nilufer Catagay, Diane Elson & Caren Grown, *Introduction*, 23 *WORLD DEV.* 1827 (1995); Caren Grown, Diane Elson & Nilufer Catagay, *Introduction*, 28 *WORLD DEV.* 1145 (2000).

<sup>20</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 196.

likely to *benefit* women more too. Second, growth and a stronger economy provide incentives to invest in the “human capital”, through education and training, of women and girls.<sup>21</sup> Third, greater labor market participation on the part of women can break down the gendered division of labor within the household and lead to the substitution of paid for unpaid work.<sup>22</sup>

However theoretically attractive, at the purely factual level, these claims are controversial. For example, it is clear that particular social groups may fail to benefit, or benefit to any significant or commensurate degree, from growth during good times *and* suffer disproportionate harm during bad: this is one of the lessons of the last economic boom that saw increased economic inequality along with increased economic growth in both national<sup>23</sup> and international contexts.<sup>24</sup> And however much market participation is likely to be an integral component of contemporary gender equality strategies, it is unsafe to equate the increased presence of women in markets or the feminization of labor markets *per se* with progress on the gender equality front.<sup>25</sup> For example, the gendered division of labor around unpaid work remains entrenched,<sup>26</sup> notwithstanding the massive entry of women into the labor market in both developing and industrialized states over the last generation, with significant effects on women’s income and market mobility. Such complexities, however, do not detain the analysis, at least for long: according to *Engendering Development*, there is a basic equation between more growth, more jobs, and greater gender equality.

Whatever its predictive value about the effect of markets on gender equality, *Engendering Development* poses a challenge in still more fundamental ways.

The first challenge concerns the idea of equality. Rather than simply replicate the vision of gender equality already mapped out in international human rights instruments or platforms of action,

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<sup>21</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 192.

<sup>22</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 183–84.

<sup>23</sup> For an example in the Canadian context, see Centre for Social Justice, *When Markets Fail People: Exploring the Widening Gap Between Rich and Poor in Canada* (October 30, 2001).

<sup>24</sup> Ravi Kanbur & Nora Lustig, *Why is Inequality Back on the Agenda?*, (prepared for Annual Bank Conference on Development Economics, World Bank, Washington, D.C., April, 1999, <http://www.worldbank.org/poverty/wdrpoverty/kanbur499.pdf> (canvassing the contribution of equality to economic growth and the potential effects of ignoring it).

<sup>25</sup> See Guy Standing, *Global Feminization Through Flexible Labor: A Theme Revisited*, 27 WORLD DEV. 583 (1999) (exploring, *inter alia*, the ambivalent effects of the women’s labor market participation on gender equality).

<sup>26</sup> See the discussion in UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 1999 (1999), chapter 4, “Care and the Global Economy”.

*Engendering Development* constructs its own. The result is a gender equality agenda that, compared to the transformative projects envisioned at the United Nations Fourth World Conference on Women<sup>27</sup> or those plausibly housed under the *Convention on the Elimination of All Forms of Discrimination Against Women* ("CEDAW"),<sup>28</sup> is conceived and measured in limited and even peculiar ways. At the outset, *Engendering Development* explicitly rejects substantive equality, or equality of outcomes, as the appropriate measure of gender equality. In its stead it substitutes an opportunity model: this is justified in the name of protecting both women's choices and social choices.<sup>29</sup> And rather than rely upon the broad array of indicators for gender equality used elsewhere, *Engendering Development* attempts to establish its thesis about the contribution of income growth to gender equality by measuring gender progress along just three axes: levels of secondary education, mortality rates, and the extent of political participation.<sup>30</sup> But because *Engendering Development* does not directly attend to the matter of women's economic disadvantage, the paradoxical result is a market-centered equality paradigm from an international financial institution that appears *not* to assess progress in gender equality in the most obvious (and for such institutions, standard) of ways: via economic indicators such as wages, income, wealth, and poverty levels.

The second difference lies at the level of strategy. *Engendering Development* proposes a three-part strategy for promoting gender equality based on attention to equal rights, resources and voice.<sup>31</sup> But although it uses the language of rights, and even invokes the vision of gender equality in CEDAW,<sup>32</sup> it would be an error to imagine that *Engendering Development* rests upon the same idea about the roles of rights and state responsibility in the promotion of gender equality. In contrast to international law norms that hold the state directly responsible for securing gender equality, *Engendering Development* relies in large part upon the use of

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<sup>27</sup> *Beijing Declaration and Platform for Action of the United Nations Fourth World Conference on Women*, October 17, 1995, U.N. Doc. A/CONF. 177/20 (1995) [hereinafter *Beijing Platform*].

<sup>28</sup> *Convention on the Elimination of All Forms of Discrimination Against Women*, U.N. Doc. No. A/34/180 (1979); 1249 U.N.T.S. 13; 19 I.L.M. 33 [hereinafter CEDAW].

<sup>29</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 34–35.

<sup>30</sup> *Id.* at 202.

<sup>31</sup> ENGENDERING DEVELOPMENT, *supra* note 1. See in particular chapter 6, "A Three-Part Strategy to Promote Gender Equality", at 231–75.

<sup>32</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 114 (referring to CEDAW as the "international bill of rights for women").



incentives to discourage gender discrimination. Despite acknowledging the limits of Becker's argument about the capacity of markets to eliminate discrimination,<sup>33</sup> *Engendering Development* proceeds on the assumption that, once a basic "enabling framework" for gender justice is in place, those incentives can plausibly and predictably be expected to operate as engines of gender equality. As a result, there is neither a comprehensive effort to explore the role of the state and state institutions in furthering gender equality, nor an analysis of the ways in which state rules, institutions, and policies might themselves contribute to gender inequality. For example, gender inequality is not imagined as something that might be partly endogenous to markets, linked to the rules, institutions, and practices through which they operate.

Although it could just as easily go in the other direction, the fundamental equation asserted in *Engendering Development* between economic growth and gender equality leads to the conclusion that, apart from the reforms that are necessary to promote growth generally, gender equality can be substantially delinked from legal and institutional reform. Even though the report concludes that institutions "are at the heart of the problems of—and the solutions to—gender equality,"<sup>34</sup> aside from law reforms in four areas—violence against women, the family, property law, and political participation<sup>35</sup>—gender equality turns out to have almost no *necessary* institutional and resource implications. Gender equality initiatives that touch on economics, moreover, become a matter of policy, not a matter of "right".<sup>36</sup> They do not necessarily trump other goals; they are a matter of cost/benefit analysis. And because promoting market-centered growth is largely co-extensive with promoting gender equality in this vision, it turns out that the same things that promote efficient market transactions tend to be good for gender equality.

*Engendering Development* attempts to present a coherent, if flexible, vision of gender equality, one that is organized around ensuring "basic" rights and enhancing women's market skills and promoting greater voice. Yet there are multiple lacunae and instabilities in the vision of equality it advances, and numerous

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<sup>33</sup> GARY BECKER, *THE ECONOMICS OF DISCRIMINATION* (1971).

<sup>34</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 107.

<sup>35</sup> *Id.* at 115–24.

<sup>36</sup> The economic institutions relevant to gender equality, for example, are categorized separately from those rules and institutions identified as foundational rights. See ENGENDERING DEVELOPMENT, *supra* note 1, at 124–39.

possible points of engagement with its claims.

For example, despite the explicit rejection of substantive equality as the normative goal of gender equality projects, *Engendering Development* is full of ambivalence about whether the goal is mere formal equality or equality of opportunity or whether the objective is actually something more robust. As a result, there is no consistency in the occasion, logic, or degree of state intervention and institutional change. Because of fears about “government failure”, *Engendering Development* queries legal and institutional strategies that might otherwise be indicated to advance gender equality.<sup>37</sup> Similarly, rather than simply endorse labor market interventions to enhance gender equality, *Engendering Development* warns that they are often double-edged swords, generating costs as well as benefits for women<sup>38</sup> and suggests that such “redistributive action” is intrinsically difficult.<sup>39</sup> Following Hirschman, they may produce perverse results, harming rather than helping women because they cost jobs in general and make employers disinclined to hire women in particular; they may jeopardize the goose that lays the golden egg, economic growth; and they may be futile anyway in the face of powerful cultural or market forces.<sup>40</sup> Yet, while it may be inappropriate to pursue substantive economic equality because women might make choices—they are unidentified, but think of mothering—rather than market work that would render them economically less well off, in the political sphere, more seems to be contemplated. Here, it is not enough that women should merely have the opportunity to vote or the chance to run for public office. Instead, it is *actual* political voice that counts: the goal appears to be changes in the *outcomes*, increased numbers of women in the legislatures and executives around the world.<sup>41</sup>

As the subtitle indicates, *Engendering Development* holds that gender equality requires equality of rights, resources, and voice. Yet the list of essential rights—protection against violence, property, family, and political participation<sup>42</sup>—seems curious: with the exception of political rights, they do not relate to the three axes used to measure progress in gender equality—education, mortality, and political participation—in any obvious way. The reference to

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<sup>37</sup> See for example the discussion in *ENGENDERING DEVELOPMENT*, *supra* note 1, at 140–42.

<sup>38</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 263.

<sup>39</sup> *Id.* at 102.

<sup>40</sup> ALBERT O. HIRSCHMAN, *THE RHETORIC OF REACTION: PERVERSITY, FUTILITY, JEOPARDY* (1991) (identifying a characteristic set of conservative responses to progressive arguments).

<sup>41</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 57–59.

<sup>42</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 115–24.

violence against women in particular is difficult to explain except as a reflection of the degree to which mainstream international norms have been accepted and internalized: it may now be impossible for anything to qualify as a gender equality initiative without some reference to violence against women. But if these rights are independently important, that is, simply necessary to advance gender equality, then the list begins to look arbitrary: if these, then why not others?

*Engendering Development* places great stress on the capacity of women to achieve gender equality by deploying enhanced human capital in the market. However, apart from rules mandating non-discrimination in access to education and labor and credit markets, *Engendering Development* pays little attention to the structural elements of women's economic inequality. This seems particularly important for an agenda that makes markets the engine of equality. The tentative approach to economic entitlements—for example, labor and employment rights and social protection—and the lack of gender analysis in respect of market institutions, norms, and practices as a whole begs for an explanation in light of the centrality of markets to the overall strategy for gender equality.

In a nod to the work of gender and development scholars,<sup>43</sup> *Engendering Development* devotes a significant, even remarkable, amount of attention to the question of gender equality in the household.<sup>44</sup> Yet, while power disparities between men and women are identified as a source of women's disadvantage in both the household and the political realms, they are strangely absent in the market. And although it notes the gender division around unpaid work, *Engendering Development* fails to probe how this might affect the pursuit of gender equality through markets, proposing instead that as wealth increases, women's work hours will decline.<sup>45</sup>

*Engendering Development* asserts that economic institutions should be organized so that productivity, rather than gender, governs compensation.<sup>46</sup> But it does not consider, let alone analyze, how—because of the ways that household and market norms and activities are articulated—the move to productivity-based compensation, without more, might actually be regressive from the standpoint of gender equality. *Engendering Development* observes

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<sup>43</sup> See, e.g., Amartya K. Sen, *Gender and Cooperative Conflicts*, in PERSISTENT INEQUALITIES: WOMEN AND WORLD DEVELOPMENT 123 (Irene Tinker ed., 1990).

<sup>44</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 147–80.

<sup>45</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 184.

<sup>46</sup> ENGENDERING DEVELOPMENT, *supra* note 1, at 108.

that women's economic contribution tends to be undervalued.<sup>47</sup> But it does not explore the ways that productivity gains and superior performance inside the market might be connected to unpaid labor by women outside. Proposals that the personal costs to women of household obligations be reduced trail off, amidst worries about the possible negative effects upon efficiency and growth of strategies that do so. Thus, *Engendering Development* fails to come to grips with the fact that any model for gender equality that brackets the connection between market and non-market work is destined to trade on, rather than eliminate, gender inequality.<sup>48</sup>

### III. *ENGENDERING DEVELOPMENT*: LOCATING CULTURE

Much of the argument in *Engendering Development* might be framed as an encounter between market forces and discriminatory cultural norms. Nonetheless, culture is an elusive and problematic subject, one that seems difficult to grasp at the analytic level. As a result, culture threads its way through *Engendering Development*, both present and absent in the discussion in a variety of divergent, conflicting, and revealing ways.

On the one hand, culture is figured as crucially important to the problem of gender inequality. For example, it explains why girls have limited educational opportunities as compared to their brothers; it is the reason why women may have limited access to markets or to economic resources.<sup>49</sup> Indeed, a reading of *Engendering Development* suggests that the presence of such norms may be the fundamental reason for women's disadvantaged social status as well as the source of women's legal inequality.

At the same time, *Engendering Development* figures cultural norms as relatively *weak* forces in the face of the market. A primary message of *Engendering Development*, the very reason for reliance upon economic incentives to promote gender equality, is the belief that the cultural norms that impede gender equality are either remnants of backwardness that are destined to be weakened or discarded in the course of development or problematic "prejudices" that can be eroded, if not eliminated, through market

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<sup>47</sup> *Id.* at 153. Here the report cites Diane Elson, *Male Bias in Structural Adjustment*, in *WOMEN AND ADJUSTMENT POLICIES IN THE THIRD WORLD* (H. Afshar and C. Dennis, eds., 1992).

<sup>48</sup> For one discussion of the manner in which apparently neutral, efficiency enhancing reforms can exacerbate gender equality, see KERRY RITTICH, *RECHARACTERIZING RESTRUCTURING: LAW, DISTRIBUTION AND GENDER IN MARKET REFORM* (2002).

<sup>49</sup> *ENGENDERING DEVELOPMENT*, *supra* note 1, at 111.

forces.

While *Engendering Development* holds culture up as a major source of women's inequality, there is no serious engagement with how cultural, racial, or other norms, divisions, and differences might complexify any "universal" analysis of gender inequality or complicate the market-based strategies intended to address it. This omission stands out, for a variety of reasons. Questions of difference among women and the intersectionality of different forms of discrimination and disadvantage have been central to feminist debates in the Anglo-American world in recent years.<sup>50</sup> Debates over culture and its relation to gender equality and human rights have preoccupied both women's rights and human rights scholars in the international arena during virtually the same time period.<sup>51</sup> Far from irrelevant, there are reasons to think that these issues are also central to development and global economic integration. For example, production and labor market participation are not only increasingly transnationalized and feminized processes<sup>52</sup>—they are also often fragmented along regional, racial, and ethnic lines.<sup>53</sup> Transnational migration driven by market forces intensifies the extent of cross-cultural contact, and seems likely to increase the incidence of practical and legal challenges that arise at the interface of cultural norms and gender equality.

In *Engendering Development*, culture appears as a context of development, a source of countervailing norms, and a site of gender conflict: it is at different moments a matter of legal (in)equality, largely beyond the reach of law and public policy, and relatively insignificant in the face of market forces. But throughout, culture remains largely separate from markets, and cultural analysis is outside rather than inside the analysis of market processes.

Because culture and markets are treated as separate spheres,<sup>54</sup>

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<sup>50</sup> See, e.g., Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, in AFTER IDENTITY: A READER IN LAW AND CULTURE 332 (Dan Danielsen & Karen Engle eds., 1995).

<sup>51</sup> See for example Lama Abu-Odeh, *Post-Colonial Feminism and the Veil: Considering the Differences*, 26 NEW ENG. L. REV. 1527 (1992); Karen Engle, *Female Subjects of Public International Law: Human Rights and the Exotic Other Female*, 26 NEW ENG. L. REV. 1509 (1992).

<sup>52</sup> Standing, *supra* note 25.

<sup>53</sup> For a classic discussion of the uses of race and culture to fragment the workforce, as well as women's subversion of these categories, see Karen J. Hossfeld, *"Their Logic Against Them": Contradictions in Sex, Race, and Class in Silicon Valley*, in WOMEN WORKERS AND GLOBAL RESTRUCTURING 149 (Kathryn Ward ed., 1990).

<sup>54</sup> A very different idea of the relationship between culture, or social norms, and markets appears in the most recent Bank economic analyses. See, e.g., WORLD BANK, WORLD DEVELOPMENT REPORT 2002: BUILDING INSTITUTIONS FOR MARKETS (2001); WORLD BANK,

*Engendering Development* contains no sustained analysis of the ways in which culture might continue to operate inside the market, although social norms—gender, racial, sexual, and other—continue to structure women's access to and position in markets and at work long after formal equality has been achieved. Nor is there any attempt to explain why market participation might produce radically uneven outcomes and benefits for different groups of women, although systemic differences in market status along cultural, racial, or ethnic grounds are routine rather than aberrational.<sup>55</sup> Increased market participation for women might actually intensify the relative disadvantage of women to men, or some groups of women vis-à-vis others. Because these possibilities are never entertained, neither are the responses. In short, while culture is all over *Engendering Development* at one level, explaining a large part of the disadvantage of women, cultural analysis is also missing where it is most needed in a market-centered gender equality initiative: as an integral part of explaining the operation of market forces and market institutions.

At another level, *Engendering Development* can itself be approached as a cultural project, one that is designed to produce a particular gender order. While culture makes no visible mark on its surface, *Engendering Development* is not merely a plan for greater gender equality: it is a self-conscious effort to promote gender equality within a particular institutional frame and according to particular governance norms. While not actually operationalized in any jurisdiction, those institutions and norms bear a strong family resemblance to those which prevail in the United States.<sup>56</sup> Thus for many societies, *Engendering Development* represents more than simply a path to greater gender equality: it also represents the acceptance of a particular social/economic order, one in which both risks and rewards are substantially privatized and citizens are oriented to accept particular roles and responsibilities. *Engendering Development* is centrally engaged in the normalization of market participation for women. It figures women as, above all,

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WORLD DEVELOPMENT REPORT 2003: SUSTAINABLE DEVELOPMENT IN A DYNAMIC WORLD (2003) (identifying social norms as relatively independent forces operating within markets, often as a substitute for formal legal norms and institutions).

<sup>55</sup> For an historical exploration of the role of race in positioning women in U.S. labor market, see Evelyn Nakano Glenn, *From Servitude to Service Work: Historical Continuities in the Racial Division of Paid Reproductive Labor*, 18 SIGNS 1 (1992). For a graphic illustration of the operation of racism/sexism on the factory floor, see HIMANI BANNERJI, THINKING THROUGH: ESSAYS ON FEMINISM, MARXISM AND ANTI-RACISM 121–58 (1995).

<sup>56</sup> Guy Standing, *Brave New Words? A Critique of Stiglitz's World Bank Rethink*, 31 DEV. & CHANGE 737 (2000).

entrepreneurial market actors. This makes it at the same time transformative and conservative in respect of women's work and gender roles. *Engendering Development* challenges the (increasingly unstable) Western nuclear family ideal organized around a male breadwinner and female caregiver at home by figuring women principally as market workers. However, as described next, it also supports the continued norm of unpaid female labour. In these respects, *Engendering Development* moves societies toward Western, and more specifically American, cultural norms and forms of social life.

*Engendering Development* also presumes a fundamental division between public and private spheres and responsibilities. Although this division is fundamentally contingent,<sup>57</sup> *Engendering Development* takes as normal or given a situation in which firms and employers are largely free of the costs of reproductive activities, and the state, for its part, assumes very few of them. For this reason, it operates with a baseline or default set of rules, institutions, and policies which allocate a wide range of social and economic costs and responsibilities to individuals and households. As has now been quite exhaustively documented,<sup>58</sup> the labor and costs of such privatized models of care and social welfare tend to devolve to women, with a variety of detrimental effects on women's labor market position,<sup>59</sup> earnings, income security, leisure time, political influence, and household power. Viewed from this perspective, *Engendering Development* can be seen to further not only gender equality, but a culturally and politically dominant model of gender *inequality*. But whether it promotes or impedes gender equality, or does both, *Engendering Development* represents a deep intervention into culture and society: the image of gender equality it projects and the route to gender equality that it fixes is destined to be profoundly transformative, even disruptive, in many contexts. At both the discursive and institutional levels, *Engendering Development* might be regarded as a new civilizing

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<sup>57</sup> RITTICH, *supra* note 48.

<sup>58</sup> See for example the discussion in UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 1995 (1995); UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 1999 (1999). NANCY FOLBRE, WHO PAYS FOR THE KIDS? GENDER AND THE STRUCTURE OF CONSTRAINT (1996).

<sup>59</sup> For two analyses of this issue, see Joanne Conaghan, *Women, Work, and Family: A British Revolution?*, in LABOUR LAW IN AN ERA OF GLOBALIZATION: TRANSFORMATIVE PRACTICES AND POSSIBILITIES 53 (Joanne Conaghan et al. eds., 2002) and Kerry Rittich, *Feminization and Contingency: Regulating the Stakes of Work for Women*, in LABOUR LAW IN AN ERA OF GLOBALIZATION: TRANSFORMATIVE PRACTICES AND POSSIBILITIES 117 (Joanne Conaghan et al. eds., 2002).

mission, if one with little consciousness of its own history.<sup>60</sup> If it differs from its antecedents, perhaps it is because it is rooted in an institutional frame that is capable of disciplining “developed” states too.

#### IV. REVISITING GENDER EQUALITY<sup>61</sup>

*Engendering Development* is not unique in furthering a particular vision of feminism: despite its “universal” frame, the mainstream international gender equality agenda is arguably culturally and institutionally specific too. It has been powerfully influenced by the women who stood closest to the levers of political and institutional power when the project to promote gender equality gained international visibility, and it remains marked at the level of content and strategy by their concerns and decisions.

The global feminist movement early on became organized around the promotion of human rights internationally and equal rights domestically.<sup>62</sup> One effect was to turn gender equality into a legal project; another was to tie its fate almost entirely to the state. And although the normative commitments connected to gender equality at the international level are quite broad in scope,<sup>63</sup> in practice, the promotion of women’s human *rights* became congealed around a limited number of issues. Violence against women was identified as the signal violation of women’s rights; indeed, so central did it become that the international gender equality agenda is often literally identified with the question of violence against women.<sup>64</sup>

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<sup>60</sup> For a discussion of the continuities between current development efforts and earlier eras of colonial control, see Antony Anghie, *Colonialism and the Birth of International Institutions: Sovereignty, Economy, and the Mandate System of the League of Nations*, 34 N.Y.U. J. INT’L L. & POL. 513 (2002).

<sup>61</sup> This section is drawn from a larger manuscript in progress, entitled “*Engendering Development: A new international paradigm for gender justice?*”

<sup>62</sup> For a history of its evolution, see Felice D. Gaer, *And Never the Twain Shall Meet? The Struggle to Establish Women’s Rights as International Human Rights*, in THE INTERNATIONAL HUMAN RIGHTS OF WOMEN: INSTRUMENTS OF CHANGE 1 (Carol E. Lockwood et al., 1998).

<sup>63</sup> See for example the broad range of commitments reflected in CEDAW, *supra* note 18; *Beijing Platform*, *supra* note 17.

<sup>64</sup> A review of international women’s rights scholarship from the 1980s, for example, reveals a deep preoccupation with the intersection of human rights and culture, and a focus on what was then referred to as female genital mutilation, sex trafficking, as well as the generalized problem of violence against women. The importance of violence as a gender equality issue is also visible in the international institutions. For example, it is the only gender issue so far to attract a declaration in its own right and the appointment of a special rapporteur. See United Nations General Assembly, *Declaration on the Elimination of Violence Against Women*, G.A. Res. 48/104, U.N. GAOR, 48th Sess., at arat. 4, U.N.Doc. A/48/49 (1994). It was also the subject of an unusually detailed general comment by the CEDAW Committee. See United Nations, Committee on the Elimination of Discrimination Against



In practice, issues of economic justice never achieved a secure foothold inside the international women's rights project, even though the deeply disadvantaged place of women in the economic order was one of the original rallying cries of global feminism,<sup>65</sup> even though economic issues were often central concerns for women outside of the North,<sup>66</sup> and even though such issues were almost certainly connected in intimate ways to issues that *were* identified as violations of women's rights—namely, violence against women and sexual exploitation.<sup>67</sup> This meant that the agenda failed to serve, and sometimes even to speak to, the concerns of large numbers of women. If the absence of economic justice issues did not fragment the movement, it at least undermined the central argument, which was that human rights both could and did form an overarching framework in which to pursue women's equality on a global level.<sup>68</sup>

This was not simply a matter of choice on the part of those involved in the global women's rights movement—there were structural issues at work too. In part, the absence of attention to economic institutions and economic power reflected a division at both the conceptual and institutional levels between human rights and development—one that has persisted until very recently.<sup>69</sup> There *was* an enormous amount of attention to economic concerns among women and development, and later gender and development, scholars; moreover, they were recognized as issues of equality as well as development. But at the same time, there was entrenched resistance within influential constituencies to recognizing such issues as legitimate human rights concerns.

The international women's rights agenda also reflected a

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Women, General Recommendation no. 19, January 29, 1992, CEDAW, 11th Sess., Agenda Item 7, U.N. Doc. CEDAW/C/1992/L.1/Add.15 (1992).

<sup>65</sup> SISTERHOOD IS GLOBAL: THE INTERNATIONAL WOMEN'S MOVEMENT ANTHOLOGY (Robin Morgan ed., 1984).

<sup>66</sup> See, e.g., Florence Butegwa, *Using the African Charter on Human and Peoples' Rights to Secure Women's Access to Land in Africa*, in HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 495 (Rebecca J. Cook ed., 1994); Akua Kuenyehia, *The Impact of Structural Adjustment Programs on Women's International Human Rights: The Example of Ghana*, in HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 422 (Rebecca J. Cook ed., 1994).

<sup>67</sup> For a powerful, if preliminary, exploration of the legal connections between sexuality, violence and economic power, see Mary Joe Frug, *A Postmodern Feminist Legal Manifesto*, in POSTMODERN LEGAL FEMINISM 125 (1992).

<sup>68</sup> This separation was visible in very concrete terms at the NGO Forum of the Fourth World Conference in Beijing in 1995, where the activities of the human rights caucus were almost entirely separated from those of the economic justice caucus.

<sup>69</sup> On this, see Shihata, *supra* note 6.

particular view of what legal reform for gender equality looked like. Not only was there heavy reliance upon the state, a necessary feature of rights-based reform strategies, the state's role in advancing gender equality was imagined in a particular way. The state had a role to play in regulating deviant conduct in community and society, protecting those who were vulnerable, and redistributing resources to those unable to meet basic needs. But its role in enabling private action, distributing power and constituting a gendered economic order through the enforcement of the background social and economic rules was not on the radar screen of the international women's rights community. As a result, international women's rights scholars failed to interrogate the legal and institutional underpinnings of poverty, economic exclusion, and labor market disadvantage with the same degree of rigor they applied to violence and sexuality. This has left those operating within the women's rights paradigm relatively ill-prepared to respond to a market-centered model of gender equality such as *Engendering Development* and, by extension, to many of the central political and regulatory arguments of our time.

While important gains were made, the limits of this path are becoming clear. For a variety of reasons, the mainstream model of gender equality is now ripe for displacement. With the "merger" of human rights and development goals and the efforts to elevate property rights to parallel status with human rights,<sup>70</sup> the range and force of countervailing rights claims has increased: rights claims can be, and are being, deployed in every possible direction. The "regulatory" and redistributive role of the state is under sustained attack both domestically and internationally. But as *Engendering Development* illustrates so well, the role of the state in facilitating market processes and enabling progress on social justice issues such as gender equality is very much at the front of the agenda.

## CONCLUSION

There are many reasons to think that gender equality is inseparable from broader developments in the political economy, both for better and for worse, in ways that have yet to be fully explored. *Engendering Development* provides one view of this relationship. However, *Engendering Development* fails to address

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<sup>70</sup> See, e.g., *Comprehensive Development Framework*, *supra* note 7.

the effects of the most central organizing premises of contemporary development and market reform agendas—the desirability of a limited state and the merits of “deregulated” markets—upon women. In its optimism for the market as an engine of equality, it almost certainly understates the degree of resistance and disadvantage women can expect to encounter as they either enter such markets or try to change the terms of their participation within it. And it fails to consider how and why market rules and institutions remote from questions of gender can have gendered consequences.

But if “engendering development” requires more than simply adding human rights and women’s rights to the laundry list of development objectives, pursuing gender equality in the current era requires more than simply adding economic concerns to the list of women’s human rights. Promoting gender equality through markets requires reconsidering the operation and effects of market norms, rules, and institutions in the most fundamental of ways. But advancing gender equality through law too requires new levels of theoretical sophistication, greater structural analysis of rights claims, and deeper engagement with background legal rules and norms, their modes of operation and relation to state power. If *Engendering Development* provokes a productive engagement along such lines, it may further the analysis of gender equality, if in unexpected ways.

