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Shattered Jade, Broken Shoe: Foreign Economic Development and the Sexual Exploitation of Women in China

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Predicting the ways in which feminisms might develop in the next century is unfortunately well beyond my own capabilities. In the next decade or two, however, one thing I believe we might want to think about are the relationships between feminisms and global free market capitalisms. This is still a dauntingly large question, one for which I don’t have any universal answers, but I do have some thoughts about this topic and a couple of stories I’d like to share, one from Russia and one from China.

Lena, twenty years old, was arrested for prostitution in Saratov, Russia, a city of about one million with over eighty illegal “escort” services. The economics of her situation are revealing. Escort services charge about $25 per hour. The prostitute keeps about $10; the rest is divided between the driver, the pimp, the escort service owner, and whichever racketeers, mobsters, and corrupt police the service pays for protection.

Efforts to crack down on prostitution in Russia have proved ineffective; current maximum criminal fines are $14. The regional governor of Saratov has called for the legalization of prostitution. But some prostitutes see this as simply adding a second layer of “kasha,” the Russian word for roof which describes either racketeers or corrupt police officers.

At the police station being booked for her first arrest for prostitution, twenty-year-old Lena was scared and dejected. “If I could work as a nurse and be paid decently, then believe me, I wouldn’t work as a prostitute,” she said grimly. Before turning to prostitution, Lena had

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1. Using the term feminisms in the plural, I mean to emphasize the notion that there are many different ways of doing and being “feminist,” and that the diversity and differences of approaches adds color, texture, strength, flexibility, and beauty to our worlds.


3. See id.

4. See id.

5. See id. The main argument in favor of legalization seems to be based on health issues. Syphilis rates are four times higher in Saratov than they were three years ago. See id. AIDS and tuberculosis are rising at a staggering rate. See id. Dr. Olga Pron, deputy director of the regional skin and venereal disease clinic in Saratov, favors legalization to facilitate regular medical examinations and treatment. See id. A tremendously odd pair of bedfellows, both the Communist Party and the Russian Orthodox Church are strongly opposed to legalization. See id.

6. Id.
in fact worked as a nurse, earning $30 a month.7 Wages for women rarely top $40 per month, and low wages have driven hundreds of local women—teachers, nurses, single mothers, and even schoolgirls—to work as prostitutes.8 One twelve-year-old girl arrested for prostitution said she was trying to raise money to buy a Barbie doll.9

In the second story, this one from China, Tang Shengli, a twenty-three-year-old rural woman, left her village to travel to Chengdu, the provincial capital of Sichuan.10 She thought she would be working as a waitress at a nightclub whose name is translated as “Borders of Heaven” or “End of the World.” The owner, Hui Shuiyuan, locked her into a room with other young women. Guards at the door prevented the women from leaving. Hui Shuiyuan played pornographic videotapes, tried to force Tang to drink, dance, and have sexual intercourse with him in preparation for making her work as a prostitute. But Tang escaped by jumping from the second story room’s window, falling twenty feet, snapping her spine, leaving her paralyzed from the waist down. “‘[I] would rather be shattered jade than intact mud tile,’” Tang said, paraphrasing an ancient Chinese saying.11

Lionized by the official Chinese Communist Party’s flagship newspaper, Tang has become a national hero. Her story, with a three picture spread, appeared on the left front page of the paper, in a space normally reserved for serious political news. “‘I would like to tell all of society with my own blood that women’s spirit cannot be humiliated,’”

7. See id.
8. See id. I remember how shocked I was when, in 1969, I met a prostitute for the first time. We were both speakers on a panel about women’s issues. She was from San Francisco, one of the founders of Coyote (the feminist organization of prostitutes). I was just about twenty and proud of my radicalism. But meeting a real life prostitute shocked my Midwestern small town Protestant soul to the core. “Well, haven’t you heard of girls going to college to catch a rich husband?” she asked me. Of course I had. “Marrying a man for money or screwing him for money, the only real difference is the duration of the contract,” she instructed me.
Since then I’ve met other prostitutes who take quite a different view. I had a law student who told me about her youth working as a prostitute in Boston.

At first I thought I was way cool, in control. All those stupid men, paying all that money for a blow job. It was nothing. But then I realized how much the service was taking off the top, and how little I had to show for it. And I saw the older women, making less and less. Then I got beat up really badly one night, and I decided, that’s it, I’m out of here. I was lucky to get out. Prostitution is not good for women.


she was quoted as saying with tears in her eyes.\textsuperscript{12} The pictures showed her in a hospital bed being spoon-fed by a friend.\textsuperscript{13}

All China Women's Federation Vice Chairwoman Lei Hairong visited Tang in the Beijing hospital to which Tang was transferred. Tang "showed us the Chinese woman's virtue of self-esteem, independence and personal strength," according to Lei.\textsuperscript{14} Tang's saga echoes ancient Chinese myths of women who have chosen death or disability rather than sexual humiliation—the polite Chinese phrase for rape.\textsuperscript{15}

Despite the publicity Tang's case received, the brothel owner, Hu Shuiyuan, received a sentence of only one year in a labor camp and revocation of his business license. Tang's comrades from her village donated $4,800 (the average monthly wage in Sichuan is about $28), and her father has hired a lawyer to sue the brothel owner.\textsuperscript{16} Although China has extensive labor laws protecting women, there is no specific law banning sexual harassment.

One traditional American way of viewing the global free market is to tout economic development as a panacea for the problems facing the world's poorest and most violated group, women. In the words of Ann Jordan of Hong Kong:

\begin{quote}
[E]conomic development, modernization, and democracy emerge as an atheistic trinity. According to the trinity theory adherents, economic reform is the key to transforming authoritarian governments in developing countries into free-market, rights-based democracies. Mainstream development models, trinity adherents assure us, inevitably lead to (Western) modernity, which consists of an educated population with a civic consciousness that demands democratic political reforms.\textsuperscript{17}
\end{quote}

The basic ideas of trinity theory are intuitively appealing to many Americans. Economic development leads to greater wealth; greater wealth brings about modernization (TV, newspapers, computers); modernization reduces the ability of authoritarian governments to

\textsuperscript{12} Chinese Press Lionises Girl, supra note 10.
\textsuperscript{13} See id.
\textsuperscript{14} Tempest, supra note 10, at A4.
\textsuperscript{15} See id.
\textsuperscript{16} See Schoof, supra note 10 at A18.

An unstated assumption in these instruments [human rights treaties and conventions], and in most scholarship, is that economic development is a neutral, even a positive, force for change.... [P]olicymakers typically define the developmental process in terms of Western rationality and scientific knowledge, which are culturally limited and yet have been presented as universally valid.

\textit{Id.} at 216 (internal quotations omitted).
control their populations into rigid patterns. As modernization occurs, people will increasingly demand liberty and equality, greater political democratization, and higher levels of human rights protections.

Three hundred seventy American companies and business associations, lobbying the Clinton Administration to continue Most-Favored-Nation trade status for China, articulated the traditional view that economic development assists in the protection of human rights. "[C]ontinued commercial interaction fuels positive elements for change in Chinese society. The expansion of trade and free market reforms has strengthened the pro-democratic forces in China."19

The "woman question" in this traditional trinity is often addressed by explaining that it is necessary to focus first on economic development. As some degree of development is achieved, the human rights situation for women will eventually improve, the theory goes. Wait your turn until the time is riper for women, is a theme agreed upon by a wide spectrum of leaders,20 capitalists and socialists alike. In addition to counseling patience, trinity advocates deflect the pressures building from women’s advocacy organizations worldwide (NGOs).22

Economic development has not actually caused women’s subordination, according to the trinity view. Typically pointing the blaming finger at cultural relativists or fundamentalist religious influences (usually opponents of modernization and therefore potential opponents of development), trinity advocates point out that women were abused

18. Those who attempt to control women through coercive population policies (often promulgated by Western liberal environmentalists as well as the more obvious abuses in China or India) are dubbed controlists by many feminists. See generally Elizabeth K. Spahn, Feeling Grounded: A Gendered View of Population Control, 27 ENVTL. L.J. 1295 (1998).


20. See generally Elizabeth K. Spahn, Waiting for Credentials: Feminist Theories of Enforcement of International Human Rights, 44 AM. U. L. REV. 1053 (1995). My favorite section of this article is toward the end, where the story of feminist women and men in the Republic of Ireland who managed to modify significantly Ireland’s deeply rooted, culturally, and religiously based ban on abortion speech and travel can be found. See id. at 1070-81.

21. Since the economic reforms in China, beginning in 1979, gender equality issues have been given a lower priority than economic development. See Margaret Y.K. Woo, Biology and Equality: Challenge for Feminism in the Socialist and the Liberal State, 42 EMORY L.J. 143, 161 (1993).

While there has been a resurgence of laws and a proliferation of economic regulations, only limited attention has been given to the problems facing women in the workforce. Today, the [Chinese] government maintains that women’s liberation is both restricted by the level of economic development and closely related to non-economic factors . . . .

Id. (internal quotation omitted).

22. NGO stands for non-governmental organization, a United Nations term for advocacy groups working on behalf of women, the environment, energy, indigenous peoples, and other issues. NGOs have been increasingly effective in influencing various U.N. Conference documents in recent years.
and exploited in these cultures long before Western-style free-market capitalism arrived. Side with us, trinity advocates implicitly promise, and we'll help you struggle against the religious and cultural subordination of women. Economic development is at least neutral on the woman question, they promise. With luck, you'll all have dishwashers soon, and maybe you can even learn to drive a car (if the morality police will let you). You can have microenterprise loans to start up small businesses at home (if the local religious authorities or customary laws permit women to own property and enter into contracts in their own names).

Deflecting attention away from the actual effects of economic development on women, trinity advocates encourage feminists to focus their anger and opposition on local religious and cultural traditions while at the same time encouraging religious and cultural opponents of modernization to blame the breakdown of traditional values on Western feminist imperialism. This divide-and-conquer tactic maintains the economic development trinity advocates in a neutral position, above the fray, playing both sides against the middle.

This Article examines the assumption underlying the trinity with respect to the woman question. The question I am asking, simply stated, is the extent to which economic development (free-market global capitalism) advances, is neutral toward, or harms women.

The answers to this question are not so simple. What does it mean to "advance" women? What does it mean to "harm" women? In whose opinion? "Advance" or "harm" compared to what? More importantly, the category woman itself raises obvious problems. Some women may "advance" while others may be left in the same position (neutral), while still others may be "harmed," depending on their class, race, ethnic or tribal background, religious status, rural origins, and so forth. Women themselves within a particular culture may well disagree about whether they are advancing or being harmed. Individual women may feel they are advancing in some areas while being harmed in others, or that they advance or are harmed at different points in their life cycles. Or they may feel that they are advancing and being harmed simultaneously. Ambiguity abounds here.

Let's start with the former Soviet Union. This is a very tough topic for Western feminists.

The curious phenomenon of Russian women reclaiming the home, manifestations of a "cult of domesticity" in which many women aspire to self-fulfillment within the family, is borne out by women's abandonment of the public sphere for the private. It is in the private sphere that Russian women aspire to self-realization and self-fulfillment. It is the private sphere in which woman, in her "natural role" is mother, religious adherent and patient nurturer that was
celebrated by those few Soviet feminists whose work is the spiritual, if not the real, inspiration for current Russian women activists.\textsuperscript{23}

As Zillah Eisenstein has observed: "We seem to be moving beyond the public/private divide, but in inconsistent and contradictory ways... . Because privacy always exists in relation to publicness, and because they shift and conflict with each other simultaneously, the privatization of the public realm has created a crisis for both... ."\textsuperscript{24}

The notion of women reclaiming the spiritually based, domestic nature of woman is deeply counterintuitive to many American feminists. While Western feminism focuses on women's capacity to work and be equal in the paid labor force, Russian women often view liberty as the right not to work.\textsuperscript{25}

Equality, and most particularly sexual equality, had a bad name with women living in statist communist regimes. Sexual equality was identified with forced work, low pay, abortion as the method of contraception, and triple days of labor: home, job, and shopping. It was also associated with a series of expected entitlements like state day care, pregnancy leaves, child subsidies, etc., which were sporadic and contradictory in their effect. Even though few women are happy about losing their jobs and their state entitlements to global capital, fewer yet, at least up to this point, would want to return to the old regimes.\textsuperscript{26}

"Russian liberation" is how some of us as young American feminists in the 1960s used to sneeringly refer to the old Soviet system. Work like


In post-communist Russia, the private sphere, the realm of hearth and the family, has retained for many Russian women the qualities of protectorate and haven with which it was constructed through popular resistance to ubiquitous government in Soviet times.


\textsuperscript{25} See Larissa Lissyutkina, \textit{Soviet Women at the Crossroads of Perestroika}, in GENDER POLITICS AND POST-COMMUNISM 274 (Nanette Funk & Magda Mueller eds., 1993). Many Russian women reject unfeminine behavior and dress as part of rejecting communism and associate feminism with hostility toward men, which can be dangerous given the violent transformation in Russia. Conditions there are often described as similar to the old American "Wild West."

\textsuperscript{26} Eisenstein, supra note 24, at 80.

Statist communism's rhetoric bespoke a sexual equality that overburdened women with multiple responsibilities as wage earner, mother, and domestic drudge... . Zarana Papic says that yugoslav [sic] women were so overworked and humiliated that they were effectively silenced by the rigors of everyday life. Marina Blagojevic calls this drudgery of the everyday the "tyranny of triviality" and "self-sacrifice."

\textit{Id.} at 81.
a man at a job all day, and then work like a woman at home all night. (I
don't think we knew about the third job of Soviet women then, standing
daily for hours in endless lines for scarce, poor quality food and
consumer goods.) American feminists fought our battles on the home
front first, with tense negotiations between men and women about
domestic chores, doing dishes, mopping floors, scrubbing toilets,
changing diapers, and deciding whose turn it was to fix dinner or go to
the grocery store. The personal was indeed political then. (If the
Communists in old Soviet Russia had really been interested in equality
for women they would have socialized housework and shopping.)

I'm not so quick to reject the cult of domesticity currently popular
with many Russian women as a form of false consciousness or inher-
ently anti-feminist. Women are not, on the whole, stupid, nor do we
willingly victimize ourselves. We do become tired, deeply, deeply tired,
and discouraged with difficult, demeaning, and demoralizing dead end
jobs. Of course, home life looks like a refuge.

No wonder lots of russian [sic] women have been quite vocal in that
they are not interested in being treated like men any longer, and that
they are not interested in western feminism if it is limited to this
equality rhetoric. They are tired of their triple day of labor. They
have yet to experience the enforced domesticity of the 1950s that
white, western, middle-class feminists critique. Their wariness is
quite similar to the position of women-of-color feminists in the west
during the 1970s. These women, already in the labor force and
experiencing its racialized/gender ghettos, imagine beyond likeness
to an equality rich in diversity.27

Although the attraction of domestic life seems quite plausible after the
grueling exploitation of Russian women under the old regime, I'm also
not so willing to accept at face value the notion that most Russian
women have wholeheartedly "abandoned" work in the paid labor market
voluntarily or willingly. The Russian government has declared that all
new jobs created in the state sector by the democratic change in Russia
are reserved for men.28

The movement toward "efficiency" in the state sector is often
achieved through lay-offs and reductions in working hours that target
female employees first.29 The Russian female's average wage is thirty
percent less than the Russian male's average wage,30 which is not all that
different than the discrimination experienced here in the United States.

27. Eisenstein, supra note 24, at 86.
28. See Victoria Pope, To Be Young and Pretty in Moscow—Careers Often Depend on
29. See Messud, supra note 23, at 101.
30. See Shannon Keniry, Comment, Proletariat to Pauper: An Analysis of International
Law and the Implications of Imperialism for Equality in Post-Communist Russia, 11 Am. U. Int'l
L. & Pol'Y 475, 480 n.28 (1996).
But seventy-three percent of Russia's unemployed are women, half of whom have higher educations and more than forty percent of the unemployed women are under the age of thirty.\textsuperscript{31} When asked about the problems Russian women faced in the labor market, Gennady Melikyan, Russia's Labor Minister, said: "Why should we employ women when men are unemployed? It's better that men work and women take care of children and do the housework."\textsuperscript{32}

With the state sector discriminating openly and officially against women, the private sector has virtually no limits. Private-sector jobs for women are mostly low-paying secretarial jobs which require that the women be young, pretty, scantily dressed, and willing to engage in sexual intercourse with the boss and business clients.\textsuperscript{33} Job advertisements openly advertise for these characteristics. "No Neurosis" is the catch-phrase. Working as a secretary, including sexual services, is seen as prestigious by some Russian women because it is perceived as better than working as prostitutes.\textsuperscript{34}

As is often the case where some men have accumulated surplus wealth and there are large numbers of unemployed women, prostitution is rampant. Economic development and modernization have brought to Russia widespread pornography, beauty contests, and an emphasis on glitzy, tacky femininity, Hollywood-style. Cosmetics, plastic surgery, and Slim-Fast (the American diet product) are now much sought after in Eastern Europe.\textsuperscript{35} This consumerism and emphasis on Hollywood beauty seems like a vulgar and dangerous trap to many American feminists, sadly experienced in the ways that the culture of femininity can distort and destroy women through eating disorders, credit-breaking shopping sprees, constantly gnawing at our self esteem from not being beautiful enough, perfect enough. The insatiable appetite for bigger,
better, faster, more, in a never-ending attempt to please males brainwashed by media-driven images of Barbie-doll bodies is no joy.

Yet, having visited Eastern Germany nearly thirty years ago, my first trip to a communist country, I still vividly recall how gray everything was. The clothes, the buildings, the people. An unrelenting sea of grayness. My eyes, my soul craved color, texture, even after just a short visit. I can only imagine how some Russian women now thirst for beauty and comfort.

Commercial commodification of the female body is central to the transition into a market economy. The new consumer markets redeploy female sexuality, profiting in three ways. First, housewifization, stressing that women should return to their “natural” domestic role, enables women to be cast as marginal workers in the mainstream economic markets, giving capitalists access to a cheap, flexible, temporary labor force. Second, emphasizing women’s Hollywood-style glitzy femininity creates new demands for products and services, and stimulates the consumer culture so necessary to creating new markets. Third, selling women’s sexuality to men, either as prostitutes or as business prerequisites for bosses and customers, provides a powerful, cheap incentive to stimulate and reward male labor and to discipline females into socially more acceptable, traditionally feminine gender roles.

The three ways female sexuality are redeployed in developing economies have an interactive, synergistic quality. Women quickly learn that feminine appearance means being employable and spending money on clothes and beauty products; thus the “commodity” is also a consumer. The clothes and beauty products themselves are often manufactured by women in low-paying, substandard jobs generating huge profits for corporations in the fashion and beauty industries. A triple treat—as

36. See Eisenstein, supra note 24, at 83.
37. See id. at 67-68. “Reebok and Nike hire women in Indonesia for sixteen cents an hour and women in China for ten to fourteen cents an hour.... Two-thirds of all part-time workers and sixty percent of all temporary workers are women.” Id. (citing BARBARA EHRENFREICH & ANNETTE RUENTES, WOMEN IN THE GLOBAL FACTORY (1984); JEREMY BRECHER & TED COSTELLO, GLOBAL VILLAGE OR GLOBAL PLAGUE 23 (1994); Cynthia Enloe, The Globetrotting Sneaker, Ms., Mar.-Apr. 1995, at 10, 12).
38. See, e.g., Vicki Schultz, Reconceptualizing Sexual Harassment, 107 YALE L.J. 1683, 1755-1805 (1998). Professor Schultz develops an alternative account of sexual harassment which she terms a “competence-centered” paradigm, in contrast to the current sexual desire/dominance model. Competence-centered analysis, according to Professor Schultz, focuses on “harassment as a means to reclaim favored lines of work and work competence as masculine-identified turf—in the face of a threat posed by the presence of women (or lesser men) who seek to claim these customary prerogatives as their own.” Id. at 1755. “Motivated by both material considerations and equally powerful psychological ones, harassment provides a means for men to mark their jobs as male territory, and to discourage any women who seek to enter. By keeping women in their place in the workplace, men secure superior status in the home, in the polity and in the larger culture as well.” Id. at 1760.
39. See Jordan, supra note 17, at 246.
workers, consumers, and trophies—women’s sexual bodies are the very fuel that makes the free market world go round. Commercial commodification of female bodies is a win-win-win situation for free market capitalism.

If the Russian experience of transition to free market capitalism has proved chaotic and very difficult for women, the Chinese experience is often touted as an Asian cultural model for enjoying the benefits of an expanding economy without the social chaos of rampant individualism. China is making the transition from a command economy to a market economy more slowly, and has kept the political structures of the Chinese Communist Party (CCP) as the major center of political power while loosening the economic controls to allow more competition. There is an officially recognized national organization that advocates for women in China, the All-China Women’s Federation, which, although politically subordinate to the CCP and lacking in resources, is able to exercise some influence.

With respect to the triple impact of economic development on women, China differs significantly from Russia. The attempt to domesticate female labor through the housewifization process is occurring in China through the official “return home” policy, buttressed by widespread rejection of the “Iron Girl” ideology of the Cultural Revolution, which promulgated the notion that “anything a man can do, a woman can do.” Yet, the return home policy is also meeting substantial resistance from many Chinese women, and from the All-China Women’s Federation. Return home policies are also tempered by the need for cheap female labor.

40. Among the countries which originally had planned economies on the Soviet model, China has been unique in its ability to make the transition to a mixed economy while still sustaining a high rate of growth. This phenomenon is well worth investigation even if it is largely due to specific local factors which cannot readily be imitated by other countries.


41. See TAMARA JACKA, WOMEN’S WORK IN RURAL CHINA 89-100. Political subordination of the Women’s Federation appears to be less intrusive at the lower levels, although grass-roots women’s cadres are constrained by dependency on funding from local government rather than through the national Women’s Federation organization. See id. at 90-92. Women’s cadres are often less trained than their male counterparts, and there have been calls for “training in the theory of the women’s movement, legal education and technical skills useful for developing the commodity economy.” Id. at 92.

The Women’s Federation, despite poor funding, has been more active in protecting the particular interests of women than at any time in the past except the early 1950s period of land and marriage reform campaigns. See id. at 93. During the 1980s, the Women’s Federation focused extensively on the protection of the legal rights of women and children, conducting massive education campaigns. See id. at 93.

The Women’s Federation’s efforts at improving women’s legal rights and combating discrimination culminated in the 1992 Women’s Rights Protection Law, which unfortunately “simply reiterates principles and laws already laid out elsewhere.” Id. at 94.
labor in the foreign-owned joint venture factories and the "courtyard economics" in which women worked at home in microenterprises.

The creation of women as conspicuous consumers through the marketing of Hollywood-style glamour and the subordination of women through the beauty myth is at the heart of Hong Kong's booming commercialism, but at least when I was last there (in 1995), it was not prevalent in China. The recent literature does not seem to focus on this as a major influence, perhaps in part because China has been successful in keeping out the excesses of Western style mass media with its relentless advertising and promoting of consumerism.42

Prostitution is nevertheless booming in China, just as it is in Russia. The official Chinese response has been harsh though largely ineffective criminal-crackdowns on prostitution and third-party sales of women as second-class wives, accompanied by an ambivalent tolerance for the sale of women as wives if done by their own families, and a lack of official attention toward the use of "PR ladies" for business "entertainment."

Like the experience in Russia, China has moved toward greater efficiency in its economy through massive layoffs in the state owned enterprises. Like Russia, the primary targets of the layoffs have been women. These have been accompanied in China by the "Return Home" policy, designed to encourage women to leave the market workforce and return to unwaged domestic labor. This "housewifization" of the workforce, however, has met resistance from Chinese women working primarily through the Women's Federation.43 It appears that women in China are somewhat more resistant to returning to unwaged domestic labor than their Russian counterparts. Although in the model village of Da Qui, eighty-four percent of the women returned home willingly, a survey by the All-China Women's Federation indicated that ninety percent of the women "refuse to return to the kitchen."44 A more recent survey estimates that although sixty-seven percent reject the return home policy, thirty-three percent indicated they would stay home if their husbands' wages could support the family.45

The Women's Federation is opposed to the return home policy, differing from the official party line on this very significant issue. The issue was the subject of a year long debate including letters and articles in the official women's magazine.

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42. See Seth Faison, China Keeps Murdoch and His TV on Hiatus, N.Y. TIMES, Mar. 13, 1998, at 13. "China's media market is still so tightly closed to foreign companies, and the authorities are so suspicious of international media companies like Mr. [Rupert] Murdoch's News Corporation, that 10 years of wooing and genuflection has yielded almost nothing so far." Id. There are already more than 300 million television sets in China, id., making it the world's largest potential market. See id.

43. The return home policy was the subject of a year long debate in the official women's magazine Zhongguo Fanmu in 1988. See Woo, supra note 21, at 164 & n.116.

44. See id. at 168 n.135.

45. See id. This survey included only 500 women.
One of the most vigorous and effective campaigns run by the Women’s Federation to date has been the one aimed at combating discrimination against women in the recruitment of workers into industry, the disproportionate retrenchment of women workers, and calls for women to withdraw from employment and “return to the kitchen.”

Workforce participation rates for women remain high in China.

Prior to the Revolution in 1949, women were concentrated in textile and other “light” industries, working for very low wages, while others were “sold” to factory owners to work for a number of years without pay. Chinese women working in these imperialist sweatshop factories, under such miserable conditions, were said to occupy the status of a “broken shoe,” a term used to describe prostitutes and other disreputable women.

After the Revolution, women were encouraged to enter the paid workforce or remain at home in unpaid domestic labor depending on the economic development agenda of the particular era. During the 1950s period, women were asked to be “socialist housewives,” supporting their husbands and neighborhoods. During the Great Leap Forward, from 1958-1960, mass mobilization of the workforce was the key to economic development. By 1963, women comprised twenty-five percent of the workforce. Encouraging women to work, the state devoted considerable resources to socializing housework through providing facilities such as collective dining rooms, nurseries, and laundries, with the intention of relieving women of their double burden of paid labor and unpaid domestic labor. The chaos of the Cultural Revolution saw a substantial increase in the number of women in the workforce. Women were integrated into formerly male professions such as truck drivers, coal miners and construction workers, with the prevailing image being the “iron woman.” “Anything a man can do, a woman can do also” was the operative slogan during the Cultural Revolution.

46. JACKA, supra note 41, at 93.
47. See Woo, supra note 21, at 148.
48. See id.
49. See id. at 161.
50. See id. In 1949 about 7.5% of the urban labor force was female. See id. at 148-49. By 1957, this number had risen only to 13.4%, because the state focused primarily on developing heavy industry. See id. at 149.
51. See id. at 149.
52. See id.
53. See id.
54. See id.
55. See id. at 150.
56. See id. at 161.
of female participation in the labor force showed about forty-eight percent during the Cultural Revolution.\footnote{See id. at 149. Professor Woo notes that “this figure was based on a limited study... and appears to be unusually high.” Id. at n.28.}

During the economic reforms of the 1980s, thirty-eight percent of the paid labor force was female.\footnote{See id. at 151 & n.38.} Like Russia, the brunt of economic reform has fallen on women. Reductions in the workforce have focused first on women. Unemployment of women has become a major problem. The majority of those laid off in the more lucrative state sector jobs have been women,\footnote{See Jordan, supra note 17, at 239-40.} while the poorly paid factory jobs in the special economic zones (where foreign investment is especially encouraged) have profited from the surplus of cheap, mostly female labor.\footnote{See Woo, supra note 21, at 165.} The controversial “Return Home” policy is selectively deployed depending on the region’s need for female labor.

The “return to the kitchen” policy is used selectively in two significant ways, depending on the needs of the particular region for large numbers of cheap (female) labor. First, those women who have indeed returned home are encouraged to participate in the “courtyard economy” of home-based microenterprises. Second, at the same time that women are encouraged to leave better paid, more secure state-sector jobs to “return home,” other women are recruited, particularly from impoverished rural areas, to travel to the factories springing up through foreign investment in the Special Economic Zones.

Home-based work in the “domestic sidelines” or “courtyard economy” were disfavored by the CCP under Chairman Mao Zedong; they were viewed as “hotbeds of capitalism” because they functioned as part of a private market economy that detracted from the communal economy, and they were vigorously suppressed during the Cultural Revolution. Since the mid-1980s the official media now discusses the “courtyard economy” in a favorable light.\footnote{See id. at 146-47.}

[T]he courtyard economy is important to the state not only as a transitional stage on the way toward more capitalized development. It is also valued in its own right, as a set of subsidiary occupations existing in between primary agriculture and industry, that requires little capital investment and that can make use of “surplus” or “auxiliary” labour, time and resources, to produce goods at very low cost.\footnote{JACKA, supra note 41, at 146. The importance of the “courtyard economy” is stressed by officials who encourage it for women. See id. at 146-47.}

The “surplus” or “auxiliary” labor is, not surprisingly, predominately female.
Although the state has a substantial interest in promoting women's work in the "courtyard economy" as a way of accessing the labor of domesticated women, the women themselves see important benefits to this sector. It appears that the particular "courtyard economy" often develops at the initiative of one particularly enterprising woman who then employs or passes her skills along to other women in the village. Older women may choose to work in the courtyard to supplement their income from agriculture. Younger women are attracted to "courtyard economy" work because the more flexible work schedule enables them to combine such work more easily with unwaged domestic labor.

Despite a few success stories of women earning very high incomes from courtyard work, most women find that although the income is a welcome supplement to the family's earnings, it is still well below the average rural income. The work, moreover, is "monotonous, isolated, undercapitalized, and, even by Chinese standards, poorly remunerated." The likelihood of even very successful courtyard enterprises remaining highly profitable appears dim as the larger market forces catch up and surpass any small enterprises that discover a lucrative niche. The contribution of the women to the family's economy may be rendered invisible due to its close association with other domestic labor which is not counted or valued. The work itself increases the isolation of women; interactions with outsiders to negotiate the business deals are often conducted by male household members even if the work itself is performed by the women.

Although encouraging women to develop courtyard economies may be an expedient way of providing women with some income and therefore a chance of improving their status and self-respect, it may also serve to sidetrack women from mainstream economic development opportunities. Professor Tamara Jacka, who has extensively studied the work of rural women in contemporary China, is concerned about this sidetracking effect:

Yet women are being encouraged to develop the courtyard economy, not just in the poorer, less developed parts of rural China where there are few alternatives for employment, but also in the most economically developed regions. The question here becomes, does work in the courtyard economy enhance women's opportunities for income generation, personal development and status improvement, in a way

62. See id. at 150. Younger women sometimes also prefer "courtyard economy" work to industrial employment because of the freedom to set their own work schedules. See id. at 151.
63. See id. at 152.
64. See id. at 151. A national survey of rural household income covering 22,700 rural households found the average per capita net income from domestic sidelines reached 102.8 yuan, about one-third of the average per capita net income at that time. See id.
65. JACKA, supra note 41, at 151 (internal quotations omitted).
66. See id. at 160.
67. See id. at 152-53.
that is comparable with work in other areas of the economy, or is the
encouragement of women in this sector merely supporting a
marginalisation and exploitation of women in a "dead-end" part of the
economy?68

Thus the situation for Chinese women is not a clear-cut, bright-line
distinction between "public" work in the paid labor force and "private"
work in the unwaged domestic sector. The courtyard economy provides
an example of the ambivalent spaces between public and private, waged
and unwaged, spaces which create both opportunities and perils for the
women who find themselves there. The official return home policy is
mediated by the availability of the "courtyard economy," which in turn
might mediate the "return to work" of women in the next phase of
economic development. Maximizing the ability of rural women to move
freely between these alternatives could well be an important focus for
Western aid and development efforts. The All-China Women's Federa-
tion currently supports women in the "courtyard economy" through
short-term classes in specialized technical skills, interfacing with local
government, banks, and contractors on women's behalf. In addition,
Professor Jacka suggests, assisting women in defending themselves from
exploitation by subcontractors would be helpful. To that end, improving
basic education, especially numeracy and skills in accounting and
management, would be most productive.69 Improving basic numeracy,
accounting, and management skills would also facilitate free movement
between the courtyard and the regular economies for these women.

The second major influence operating to undermine the effects of the
official return home policy in China is the need for cheap female labor
by foreign investors in the factories of the Special Economic Zones
(SEZs). Women constitute the majority of the total labor force in the
SEZs, usually employed as temporary or contract workers without the
benefits normally guaranteed by state sector enterprises. Conditions in
the SEZs' foreign-funded joint ventures are abysmal, and strikes,
although illegal, are not unusual.70 Officially recognized trade unions in
China are relatively weak,71 while independent trade unions are illegal

68. Id. at 159.
69. See id. at 160.
70. See Woo, supra note 21, at 166. One foreign-funded, joint venture factory in Shenzhen
city employed 90% female workers, paid exceeding low wages and forced four-hour to eight-hour
mandatory overtime shifts (all in violation of official labor laws). The female workers struck for
56 days. See id.
71. See Vai Lo, Labor and Employment in the People's Republic of China: From a
[A]rticle 80 of the Labor Law provides that the trade union's representative will chair
dispute mediation committees. Therefore, the role of the trade union is more neutral, not
advocating the interests of workers. However, article 81 also suggests that the trade
under current Chinese labor laws. Neither the official nor the independent trade unions have taken any significant action on women's issues.

Conditions in the foreign-funded enterprises are brutal even when compared to the relatively harsh conditions prevailing in other sectors of China's economy. The "exploitation and abuse to which peasants working in private and foreign-funded firms" are subjected to, with "slave-like conditions, unpaid overtime, abuse and disrespect—hear back to the miseries of imperialist-run factories of the 1930s, whose 'bullying and assaulting of workers' a foreign observer attributed to 'pervasive racism.'"

China has a huge internal domestic migrant population, poetically designated the "floating population," estimated at 80 to 100 million people. Most, like Tang Shengli, the virtuous waitress, are young peasants, fleeing rural poverty to seek economic opportunity in the cities and the SEZs. Sixty percent of the population below the poverty line in 1994 were women and children. The women of the floating population, on the whole younger than their male counterparts, more poorly educated, and far from their native rural villages, are especially vulnerable.

Conditions are most abusive in the foreign-owned private sector.

union's representative will represent the worker in the arbitration committee. These provisions have certainly generated confusion.

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72. See Josephs, supra note 40, at 559.
73. See Jacka, supra note 41, at 10 (citations omitted). See generally id. at 178-79 (surveys and horror stories about the mistreatment of rural workers in the foreign-funded factories).
74. See id. at 165. The large-scale survey conducted in 1989-1990 by the Chinese Academy of Social Scientists revealed that the floating population comprised about 22% of Beijing's permanent non-agricultural residents. See id. In Chengdu, the capital of Sichuan, where Tang migrated to find work, the floating population is about 25% of the population, and in Hangzhou, the floating population reached about 46%. See id.

Floating populations do not have the all-important urban household registration, and therefore do not receive any government subsidized rice or grain. Peasants are able to come into the cities now because they can buy food on the open market. However, if they do not have any money, there is no food. See id.

Most of the floating population is male. About 72% is male and 59% came from the rural areas. See id. Roughly half are between 18 and 35. See id. Sixty-two percent stayed in the city for more than one month, and 29% stayed for a year or more. See id.

75. See Jordan, supra note 17, at 255.
76. See Jacka, supra note 41, at 73-84. The problem of illiteracy remains significant in China, with the highest incidence of illiteracy among rural girls. In 1990, about 70% of China's 182 million illiterates aged 15 and over were female. Eighty-four percent of these were rural. See id. at 73.

Although literacy is a serious problem, numeracy, the ability to read and write numbers and to perform simple addition and subtraction, is even more crucial for people attempting to participate in the paid labor market.

77. During the 1950s, the four status groups, in descending order of privilege were: 1) permanent workers in state enterprises, 2) workers in urban collective industry, 3) temporary (contract) workers in urban enterprises, and 4) rural workers in collective township or village
Many private sector foreign-owned businesses use young women as “public relations ladies” or “private secretaries.” Like their Russian counterparts, these women are salaried, full-time workers at respectable businesses, but are used as “entertainment services” to attract and close business deals through providing sexual intercourse for customers and bosses.

Other female workers employed in more traditional jobs such as factory workers in foreign enterprises are coerced into sexual intercourse with supervisors or clients in order to obtain jobs, promotions, exit visas, or housing in situations where a male worker would obtain the desired objective by simply paying a bribe. One study in Beijing reported that twenty-five percent of the women between the ages of sixteen and thirty lost their virginity through these practices. Another study in Shenzhen found that eighteen percent had experienced “sexual actions” at work. Until the Clarence Thomas hearings, there was no word in Chinese for sexual harassment.

Low wage, low status urban jobs shunned by urban registrants are filled by rural people.

In Hangzhou in 1995, for example... the vast majority of restaurant waitresses were young rural women. Most worked more than eight hours a day without any days off except at New Year. They had no contracts or other form of job security, and turnover was high. Many said that their bosses looked down on them, and were rude and abusive.

Female workers experience other forms of serious violence at the workplace as well. Worker safety conditions are generally very low in China, and conditions are most appalling in the foreign-owned enterprises. In Tianjin, for example, thirty women workers in a foreign-owned enterprise lived in one room twenty meters square and had no beds. “All the windows in the workshop were sealed by welding, and the window glass was painted over.” In another example, eighty-four workers, mostly rural women migrants, were trapped and died in a fire in a foreign-owned toy factory. The newly promulgated Labor Law, ...

industries. Since the transition to a mixed economy, the status of the latter two groups have expanded significantly, especially in the dynamic coastal provinces. See Josephs, supra note 40, at 565 n.26.

78. Jordan, supra note 17, at 261. The women are recruited from remote provinces, particularly from the north where women are considered “more beautiful, more naïve and hence more feminine.” Id. Sexually explicit games and erotic parties are common business practices in South Korea as well. See id. at 260.

79. See id. at 262.
80. JACKA, supra note 41, at 176.
81. Vai Lo, supra note 71, at 377 n.270. Many other incidents involving women workers at foreign-owned businesses involved serious injuries and even death. See id.
finally adopted in 1994 after nearly four decades of debate, contains extensive protections for workers, including minimum wage, maximum hour, and worker safety regulations. Most importantly, the Labor Law now explicitly covers all workers, including those in foreign-owned enterprises.  

Under the older laws, the remedies for violations of workplace rules involved administrative sanctions. The new law still permits the administrative sanctions route, but according to Chinese labor law expert Professor Hilary K. Josephs, subtly shifts the emphasis toward actions for civil liability. There are, however, only a handful of reported court decisions from the highest court, none of which involved women’s issues.  

The 1994 Labor Law retains from the 1983 draft the special protections for women workers. Article 13 of the new Labor Law provides:

Women shall enjoy the right of employment equal to that of men. In the recruitment of staff and workers, women may not be refused employment because of their sex and recruitment standards may not be raised for women, except for posts and jobs whose nature has been determined unsuitable for women by the State.  

This language is more explicit and stronger than the proposed 1983 draft, largely as a result of the campaign by the All-China Women’s Federation to strengthen the protection of women in the labor laws. The labor law model regarding women workers remains primarily protectionist, with only a minor focus on the anti-discrimination approach. The state has deemed it unsuitable for women to work in mines, and for menstruating women to work in high altitudes, under low temperatures or in cool water, and prohibits overtime and night work for women who are over seven months pregnant or nursing babies less than

83. See Vai Io Lo, supra note 71, at 392-95. Minimum wage rates are set locally, with some oversight by the national government. See id. at 392 n.367. Rates vary from a low of 120 yuan per month in Guizhou to 380 yuan per month in the Zhuhai Special Economic Zone (excluding overtime and bonuses, and not including food and housing allowances). See id. 392 n.366. One observer commented that the cost of labor in China is effectively zero on an industrial balance sheet. See Josephs, supra note 40, at 565 n.27.  

Workers cannot be required to work more than eight hours per day plus one hour of overtime, except in special circumstances when employers may ask workers to perform a maximum of three hours of overtime per day up to thirty-six hours per month. See Vai Io Lo, supra note 71, at 394.  

84. See Vai Io Lo, supra note 71, at 400-06 nn.429-32 for an extensive translation and detailed discussion of the complex sanctions provisions.  

85. See Josephs, supra note 40, at 569. A fairly recent compendium of administrative regulations governing labor and employment issues is nearly 3000 pages long. See id. at 566 n.31.  

86. See id. at 574 nn.71-72.  

87. See id. at 568 n.40. The 1983 Draft, art. 10, simply provided “women shall enjoy the right of employment equal to that of men.” Id.
a year old. Extensive protections are given to pregnant workers and nursing mothers, including a mandatory ninety-day maternity leave, breast-feeding breaks for nursing mothers, and if a large number of women are employed the company or work unit must provide health clinics, restrooms, breast-feeding rooms, child care centers, and kindergartens. The government-mandated “one child allowance” is also paid solely by the women’s work unit in most situations. These protective laws are biologically based, emphasizing the biological differences between men and women, according to Professor Margaret Y.K. Woo. The protective laws extend not only to menstruating, pregnant, and lactating women but affect menopausal women as well. Female laborers are required to retire at age 50 while male laborers work until age 60; female cadres work until 55 while males work until 60; female teachers, doctors, and scientific or technical personnel work until 60, while their male counterparts work until 65. The sex-based retirement differential means that work units pay pensions for a longer period to female than to male workers, making it more expensive to employ women.

The protective laws for women are cited as one major reason why most work units prefer to hire or retain only male workers if possible. Other reasons include the idea that women are not as strong as men, and that women are burdened with housework. Given the emphasis of the Labor Law’s protection of women based on biological functions, and the high cultural value that the Chinese place upon female virginity and chastity, it is surprising that there is no specific provision of the Labor Law addressing sexual exploitation of women. 

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88. See Vai Io Lo, supra note 71, at 399 & n.420.
89. See id. at n.420.
91. See id. at 63 & n.63.
92. Professor Woo attributes the biological focus on women’s differences to three factors: first, the Confucian tradition, which emphasizes the “natural role” for women based on their reproductive capacities, see Woo, supra note 21, at 177-80; second, the paternalistic tradition of positive, collective, social, and economic rights under socialism in which the state’s obligation is to protect workers from exploitation, see id. at 181-85; third, conservative interpretations of traditional Chinese medicine in which menstruation is viewed as creating an imbalance in the woman’s body that weakens her, see id. at 180.
93. See Vai Io Lo, supra note 71, at 378. See also JACKA, supra note 41, at 186-87, for detailed data about maternity leave conditions in particular township enterprises.
94. See Woo, supra note 21, at 162 n.103. In one worker exchange meeting in 1987 in Beijing, for example, “80 to 90% of the enterprises expressed a need for only male employees.” Id. at 162. A Shandong factory classified 120 of its 121 female workers as redundant. See id. 163.
95. See id. at 157. “Focusing on biological characteristics of men and women, these two regulations, under the headings of health care and labor protection, imposed a set of limits and rules explicitly structured around women’s reproductive cycles.” Id.
workers. Until recently, "there was not even a word in Chinese to describe the phenomenon." 96

One possible approach to fill this gap in the laws would be to negotiate clauses prohibiting sexual harassment and sexual exploitation of workers in the collective and individual work contracts. This will be of limited effectiveness even if it could be accomplished because so many of the most vulnerable workers, female rural migrants in foreign-owned enterprises, work without any contracts whatsoever. However, the Chinese government is stepping up efforts to ensure these workers are protected with work contracts. Such an approach would have the advantage of being enforceable directly through the courts without the need to resort to administrative remedies first.

Pressuring foreign companies doing business in China to include such sexual harassment and exploitation clauses in their work contracts as part of their overall corporate social responsibility policies97 is a concrete, constructive, and practical response that Western feminists could undertake. I do not feel such an effort could fairly be construed as Western feminist imperialism, because the ultimate power of whether to invoke the clause and pursue a remedy at all is left directly in the hands of the individual Chinese women affected. This way merely opens a possibility, while allowing flexible, local, contingent, strategic decisions to be made by the women themselves.98 Nor do I feel this approach imposes Western feminist values in a way that interferes with Chinese cultural traditions.99 The role of Western-feminist pressure

96. Jordan, supra note 17, at 262 n.146. It was apparently Anita Hill's testimony against Clarence Thomas that occasioned the development of Chinese language to describe sexual harassment. See id.

97. See Orentlicher & Gelatt, supra note 19, at 67. Many American corporations doing business in China have already adopted extensive social responsibility codes. In 1992, Sears, Roebuck and Co. announced a ban on importing Chinese prison-labor products and "established a monitoring procedure to ensure compliance." Id. Also in 1992, Reebok International, Ltd. adopted a human rights code of conduct governing all of its workplaces, including China. See id. Phillips-Van Heusen "threatens to terminate orders from suppliers that violate its human rights" ethical code. Id.

98. See generally Spahn, supra note 20, at 1070-81, for an account of how Irish feminists strategically struggled to negotiate through European Community law and domestic Irish law to open up the freedom to speak and travel in matters relating to abortion. The central concept is that international institutions should open spaces through which local activists can move, with the power to target particular issues (choosing and framing the issues) based on contingent, flexible, local, strategic decision making. See id. at 1070.

It is particularly important in my view that the feminist activities be directed from as local a base as possible, recognizing that any interventions alter the current political, economic, and cultural dynamics of that particular ecosphere, and that local women are the successful survivors in that particular environment. They do indeed know the local terrain best, and it is they who will bear the direct brunt of any shifts in the climate. For a discussion of ecofeminist theory, see generally Spahn, supra note 18.

99. Unlike the Irish abortion question, which does involve a very basic challenge to deeply rooted religious and cultural values, the question of sexual exploitation of Chinese women does not, as far as I understand, directly conflict with feudal Confucian values in the context of foreign-
would be focused on Western-style multinational corporations and their suppliers to take responsibility for some of the worst exploitations of Chinese female labor, which global capitalism has exacerbated.

The consequences of sexual exploitation of Chinese women are particularly tragic for the women involved: “Rape is a successful tactic of subordination in Chinese society because women who lose their virginity have very little chance” of a freely-chosen marriage.100

Prostitution, along with foot binding and the sale of women, had been virtually eliminated from China since the revolution in 1949. The transition to freer economic markets, however, has caused a sharp resurgence of prostitution and concubinage. Unlike the Russian provincial governor’s position calling for legalization of prostitution, the official Chinese government’s position is to oppose pornography and prostitution “sao huang”—sweeping away the yellow.101 But like Russia there is little success decreasing prostitution in China’s transition economy. Between 600,000 and 800,000 people were employed in the prostitution industry in China according to one 1993 estimate. Other estimates put the number well above a million. Official figures from 1991-1995 show police arrested more than 1.5 million prostitutes.102 Most prostitution is located in the SEZs and large cities of the coastal provinces, where the economic development process is most “advanced.”103

Chinese government efforts to date have framed prostitution as a legal problem suitable for criminal law enforcement, and there have been a series of unsuccessful crackdowns on prostitution.104 Originally the criminal law punished only those who forced women into prostitution (three-year to ten-year sentences).105 As that proved ineffective, the penalty was increased and now includes the death penalty for those who lure, shelter, or force women into prostitution under especially serious circumstances.106 Actual penalties assessed were very light.107

Prostitutes themselves are blamed and shamed by media and government. The praise and attention heaped upon Tang Shengli carries a double message. Praising her courage for taking the desperate leap to funded workplace relations. (It might conflict with Confucianism insofar as it addresses the question of the sale of women by their own families.) Opening spaces to challenge the sexual exploitation of women in foreign-funded enterprises certainly does not conflict with the core values of the socialist state.

100. Jordan, supra note 17, at 256.
102. See Chinese Press Lionises Girl, supra note 10. In 1979, by contrast, only 49 commercial sex workers were arrested. By 1987, that number had risen to 12,000; by 1993, 240,000 prostitutes had been arrested. See Jordan, supra note 17, at 258-59.
103. See Jacka, supra note 41, at 242 n.27 (citing research sources on prostitution available in Chinese).
104. See Jordan, supra note 90, at 84.
105. See id. at 84 n.170.
106. See id. at 84.
107. See id. at 84-85.
protect her virtue sets her up as a model, a hero. But the sub-text implies that others also recruited or tricked into prostitution could probably escape. The implication is that the problem of prostitution is one of individual character and courage. Prostitution is seen as a phenomenon of individual wrong actions by the brothel owners and by the individual prostitutes. Prostitutes are often portrayed in the media as lazy, greedy women who leave their rural villages to live the easy life in the rich cities; prostitution is "the result of the resurfacing the dregs after loosening of social control." The official approach is to "rehabilitate" prostitutes through labor re-education camps. In 1991, 560,000 prostitutes had been confined to work in prison labor camps; no figures are readily available for whether any customers have been sentenced.

Prostitutes are also blamed for the increase in venereal diseases. The Prostitution Decision provides for a five-year maximum sentence for any person who, knowing he or she is infected with a serious venereal disease, engages in or patronizes prostitutes. The Decision appears to be gender-neutral. The first arrest under the new Decision, however, was of a nineteen-year-old portrayed as using her venereal disease as a weapon to revenge her rape at age fourteen. Furthermore, it will be very difficult for a prostitute to prove she was disease-free prior to a particular john infecting her; thus, as a practical matter, the onus of the law will fall on the prostitutes.

Focusing on prostitution as a criminal law problem detaches it from the economic and social context in which it is flourishing, according to Professor Ann Jordan, who is an expert on the issue. Most prostitutes are rural women, with very low levels of formal education, who are far from their native villages. Many are unemployed or underemployed. Many women working as prostitutes are supporting parents, brothers, and sisters back home in poverty-stricken rural areas who depend on the woman’s income for survival. Others, like Tang, have been tricked by sex traffickers and con artists into believing that they will receive legitimate jobs in the cities.

109. See Jordan, supra note 90, at 84.
110. See id. at 85.
111. See id. at 85 n.176.
112. See id. at 86. That the law is aimed at the prostitutes is also clear from the fact that a man who infects his wife or girlfriend cannot be charged under the law. Deliberate or knowing infection is only a criminal act if done in the context of prostitution. See id.
113. Ninety-one and one-half percent of all commercial sex workers arrested in Guangdong Province were from outside the province. See Jordan, supra note 17, at 259.
114. During a five-year period, 85.9% of the women arrested for prostitution in Shenzhen were out of work or waiting for work. See id.
115. See id. at 260.
The bright line between the "public" market employment of women as prostitutes selling sex in the monetary economy and the "private" world of women as domestic housewives laboring for love, the ideology which Russia currently employs as a method of reducing surplus labor, is especially blurred in the contemporary Chinese context. Not only has the official encouragement of the courtyard economy blurred the lines between public employment and private domesticity, but the ancient Chinese practice of selling women as unofficial or second-class wives is also resurfacing as a burgeoning practice. Thus, domesticity is no longer an arena reserved for freely chosen "love" matches. The effects of the global marketplace, especially the stimulation of greed and consumerism, combined with a free-market system that does not currently provide pensions or social security for the elderly, have contributed to a rising black and gray-market economy of domesticating female sexual, reproductive, agricultural, and household labor as second-class wives.

The sale of women, a practice legally permitted until 1906, was eradicated altogether in one of the major accomplishments of the Communist revolution. 116 Over seventy-nine percent of the women in China under the age of forty have made their own marriage decisions, while only twenty-four percent of the women over the age of forty had freely chosen their marriage partners. 117 However, an estimated twenty percent of women under forty are in forced, unregistered marriages. 118

Economic reform, combined with the one-couple one-birth policy, 119 has created a massive modern resurgence in the sale of women and children. The decrease in the number of females available as potential wives has caused a rapid increase in the bride price, or caili (traditionally paid by the groom's family to compensate the bride's family for their investment in her upbringing). 120 Between 1980 and 1985, according to

116. See Jordan, supra note 90, at 77. The numbers are huge: 32,679 abducted women living in one county in Anhui Province alone between 1980 and 1990. Most had been trafficked from other provinces. See id. at 77 n.128.

117. See id. at 70-71.

118. See id. at 71.

119. There is a statistically significant disparity between the number of males and females in China at every stage. The world average is 106 boys born per 100 girls, while the 1987 One Percent Survey conducted by the State Statistical Bureau showed China's rate at 113 boys born per 100 girls. See HUMAN RIGHTS IN CHINA, supra note 82, at 297. This may be the result of a number of factors, including female infanticide, foetal sex selection, and underreporting or under registering of female births. Id. at 297-98.

A recent Chinese report estimates that "by the year 2000, there will be approximately 70 million more men than women of marriageable age." Jordan, supra note 90, at 94.

For one feminist's reflections on China's one-couple one-birth policy in the context of Western environmentalist pressures to control non-Caucasian female sexuality and reproduction, see generally Spahn, supra note 18.

120. See JACKA, supra note 41, at 62-63. Most peasants save for five or six years for a wedding and also must borrow money from friends or relatives. See id. The increased bride price payment reinforces the view of women as commodities for purchase and sale and increases the expectation of the groom and his family that the expensive new bride will do their bidding. See id.
one national survey, the bride price increased tenfold, from ten to forty percent of the average net income of a rural family (100-300 yuan) to sixty-three to one hundred eighty-nine percent of the average net family income (1000-3000 yuan). In addition, the groom’s family must provide housing for the new couple and hold a large wedding feast. Unlike feudal times, few brides’ families sell their daughters to avoid starvation. Today the sale finances the new consumerism.

For the groom’s family, pressure to produce the all-important male heir is a vital economic necessity in a system that currently depends on children and grandchildren to support elderly parents. In the absence of systems of social security or private pension, and with expensive bride prices, the groom’s family may turn to rape as an answer: “Chinese women are under tremendous pressure to prove their virginity on their wedding night and so any woman who is raped by her [‘boyfriend’] prior to marriage is bound to do anything to convince him to marry her . . . .” Furthermore, the man may be encouraged to rape the woman prior to the wedding “in order to reduce the costs to his parents for a wedding banquet, as large and elaborate banquets are only necessary when the bride is a virgin.”

The formal legal framework has serious gaps that contribute to this problem. Although abduction and sale of women is criminal when committed by a third party, when the sale is by the woman’s family directly to the purchaser, it is not currently illegal. In addition,
although the 1991 Abduction Decision criminalizes both the abduction and the sale of women and children, it exempts the ultimate purchaser even if the seller is a third party “if they do not prevent the women from returning to their original domicile . . . and do not mistreat the children they have bought or prevent their rescue.”

This latter exemption, notes Professor Ann Jordan, “is a license for men to purchase women, try them out and return them if they change their mind or fear being reported to the authorities. It treats women as commodities, much like goods purchased in a store that are returnable if defective.”

The formal legal rights of the women, whether “returned” or kept are inadequate. Women who are returned by the purchaser may find that no criminal charges are brought against the ultimate purchaser, and that the exemption strips women of their legal rights to sue the purchaser for damages. Women who remain with the purchaser are also legally vulnerable. According to Professor Jordan, “[n]one of the thousands of marriages forced upon abducted and kidnapped women are recognized [under the current marriage] law[s].” “Unregistered” marriages are unlawful even if both parties freely consent to the union. Women in unregistered marriages are especially vulnerable because of the patrilocal marriage customs under which wives typically live in the man’s village or town. His claims will more likely be supported by the local government and his own natal villagers in the event of a subsequent attempt to divide up the couple’s assets, seek custody of children past breast-feeding age, or have access to housing. Reforms in the inheritance laws that are very helpful to widows will not benefit women in unregistered marriages, nor will the very favorable Women’s Protection Law of 1991 (which protects widows’ and divorcees’ inheritance) apply to widows of unlawful, unregistered marriages.

Incidents

127. Jordan, supra note 90, at 80 (quoting Abduction Decision, supra note 126, at art. 3).
128. Id. at 81.
129. See id. “By stating that the man’s actions are not criminal, the exemption could be interpreted to mean that the woman’s rights have not been violated.” Id.
130. Id. at 83.
131. See id. at 71. Once raped, the woman is no longer marriageable and so may “consent” to remain with the rapist to avoid life as a prostitute or migrant worker. Rural areas experience the highest levels of unregistered marriages, up to 57% in one region according to the Chinese Legal Daily. See id. at n.96. Even in urban regions, there are substantial numbers of unregistered marriages. See id.
132. See id. at 71-72.
133. See id. at 74-75. The Inheritance Law gives women and men the same rights to dispose of their property, to inherit as sons and daughters, and to inherit from each other as widows and widowers. Especially helpful to women is the right to keep property inherited from the deceased husband in the event the widow remarries. See id. at 74. See also Louis B. Schwartz, The Inheritance Law of the People’s Republic of China, 28 HARV. INT’L L.J. 433 (1987).

The Women’s Protection Law has clarified the formal legal right of rural women to own property in the husband’s village, which assists both divorced and widowed women. However, women in unlawful unions (unregistered marriages) have no legal rights in the land. See Jordan, supra note 90, at 76.
of domestic violence in China are high.

The role of Western feminisms in addressing these problems must be very respectful of the complicated situation Chinese women face today. They are sold as wives, to support other women as mothers-in-law, with varying degrees of acquiescence by their own mothers; the question is not simple. Some women seek rescue from the sales, others "consent" to remain in the "marriage." Blaming, judgmental, simplistic condemnation is not the way I would propose for Western feminisms to approach these types of situations.

Instead, I would like to suggest that we as Western feminists focus on using our vast influence, economic power, high levels of knowledge, education, and skills\textsuperscript{134} to pressure the Western multinational corporations and multilateral financial institutions to take responsibility for the consequences of their free market activities. My modest proposal is that we as Western feminists, who understand the falseness of the dichotomy between "public" and "private," act strategically in ways that recognize the complex interrelationships between human rights and economic development. Human rights for women should be placed in the context of the Western economic forces that exacerbate the conditions in which women live and work.

I have three specific suggestions which I hope others, more skilled in the specific fields, might take up and consider. First, the staggering profits available in China that so attract Western corporations are due in large part to the very cheap, exploitable labor—much of it female. Withdrawal from the Chinese economy, a tactic favored by many American unions in what is too often a thinly cloaked protectionist strategy, will not alleviate the problems of Chinese female laborers. Pressure on the American, Canadian, and European multinational corporations and their local suppliers (Taiwanese, Japanese, South Korean subcontractors who often actually run the factories in China) to actually comply with Chinese laws regarding minimum wages and maximum hours with independent monitoring inspections, as well as adding sexual exploitation provisions to the collective and individual contracts, would go a long way to helping the situation of Chinese women. It is my hope that American feminists, veteran consumers par excellence, will lead the

\textsuperscript{134} Many American feminists are unaccustomed to thinking of themselves as powerful people. Compared to American multinational corporations, of course, we are not usually. (Although most corporations seek to keep on the good side of the public relations ledger when it comes to American women's issues, if nothing else out of respect for our status as the world's most powerful consumers.) However, when compared to most rural Chinese women, we are tremendously influential. Any one of us can write to the Government of the United States, not be arrested, and probably get some sort of at least polite response. The poorest American woman has vast wealth compared to most rural Chinese women, even adjusting for the differences in cost of living. We are educated, trained in law, economics, computers, accounting, management, feminist organization, and theory. We have experience surviving under corporate free market capitalism. We know that the personal is political and that sisterhood is powerful.
way in developing ways to evaluate the labor conditions of women in sweatshops around the world, and that they will not forget the Chinese women.

Second, the support given by multilateral lending agencies such as the World Bank and International Monetary Fund should not be limited to small, microenterprises such as “courtyard economy” projects that are tangential to the main thrusts of capitalist development. Multilateral lenders already assist economic development through funding infrastructure such as electricity, water, and sewage projects that are required for the “free” market to function. They should now be pressured to recognize the gendered impact of economic development in the absence of financially viable pension or social security programs to care for retired and disabled workers. The absence of viable systems within the market economies to support retired or disabled workers shifts those costs from the employers, distributors, and consumers who profit from the goods produced onto the unwaged work of domesticated females. The development of an effective social security system for the rural elderly will do much to relieve the economic pressures that contribute to wife purchases. Effective social security for the rural elderly will also reduce the pressure to produce sons, which is undermining the one-couple one-birth policy and inciting violence against female infants and against women who fail to produce the needed son. Encouraging courtyard enterprises, without the corollary rural pension system, ensures that many Chinese women will be doubly and triply exploited for generations to come.

Third, Western governments’ aid programs should target the education of rural poor women as a priority, particularly stressing the importance of numeracy, accounting and management skills, as well as other basic education so that women will have some chance of protecting themselves from exploitation in economic transactions in the new market economies. This will also facilitate the movement of women into the market economies.

White, middle-class, American feminists like me have borne the brunt of some stinging criticisms of racism, classism, and cultural imperialism. Much of that criticism in my opinion is well deserved. I believe that the frankness of the dialogues between women of color and white feminists in particular has greatly benefited the feminisms we now have available. It has not always been pleasant, but it has been deeply educational.

The danger I fear is that some white, American feminists may react by effectively withdrawing from engagement with women in other cultures. Isolationism is a danger for feminisms along with the dangers of racist imperialism. In my forays into foreign feminisms, listening to men and women deeply concerned and committed to the empowerment of women globally, I have learned to listen carefully and to try to drop my preconceptions. What I have heard from those concerned people is not a desire for white American feminists to stay home and mind their own business. Instead, I have most often encountered a great generosity
of spirit, a genuine enthusiasm to share their experiences and understandings of the various ways in which the oppression of women operates in their societies, combined with an urgent request that I help Americans understand the crushing burdens economic development and the structural adjustment programs place on the most vulnerable people on the planet, rural poor women.