Lionheart Gals** Facing the Dragon: The Human Rights of Inter/national Black Women in the United States

[T]o survive in the mouth of this dragon we call America, we have had to learn this first and most vital lesson—that we were never meant to survive.

—Audre Lorde

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**In Jamaican dialect, “lionheart gals” refers to “courageous women.” Sistren, a women’s theater, arts, and political action group based in Kingston, Jamaica, tells the stories of many such women in its performances and publications. See Honor Ford-Smith & Sistren, Lionheart Gal: Life Stories of Jamaican Women (1986). See also Robert Wasserstrom & Elayair MacIntosh, Women’s Theatre in Jamaica: The Sistren Theatre Collective, in Women in the Rebel Tradition: The English-Speaking Caribbean (1987); Honor Ford-Smith, Sistren Women’s Theatre, Organizing and Conscientization, in Women of the Caribbean 122 (Pat Ellis ed., 1986). Honor Ford-Smith, one of the collective’s organizers notes the following: “The voices in Lionheart Gal echo across the last forty years of Jamaica’s history, reverberating with the impact of so-called ‘development’ on women. The stories chart the terms of resistance in women’s daily lives and illustrate ways in which women can move from the apparent powerlessness of exploitation to the creative power of rebel consciousness.” Ford-Smith, supra, at viii.

1 Audre Lorde, Sister Outsider 42 (1984).
By the rivers of Babylon, there we sat down, yea, we wept, when we remembered Zion . . . . For there they that carried us away captive required of us a song . . . . How shall we sing the Lord’s song in a strange land?

—Psalm 137:1

“Home Cooking”

My grandmother’s garden and kitchen in East Flatbush, Brooklyn, represented to me the abundance of Jamaica in miniature. My grandmother expertly wielded a machete in the ten-foot square of dirt behind the Trump bungalow to produce calaloo, tomatoes, mint, and pumpkins. Medicinal herbs and vegetables dried on the kitchen counters or at the window: ginger root, mint leaves, cerassee, and cho cho, which were believed to be effective in the treatment of everything from an upset stomach to high blood pressure and diabetes. What she could not grow on her own she bought from corner stores that served the growing Caribbean population of Brooklyn. They sold products from Puerto Rico that were also common in other parts of the Caribbean, including plantains, cassava root, coconut oil, canned ackee,

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2 Psalm 137:1, 3, 4 (King James). See also Melodians, Rivers of Babylon, on Tougher Than Tough: The Story of Jamaican Music (Island Records, Ltd. 1993); Sweet Honey in the Rock, Waters of Babylon, on Feel Something Drawing Me On (Flying Fish Records, Inc. 1985) (reggae versions of psalm).

3 According to sociologist Philip Kasinitz, real estate magnate Fred Trump, the father of Donald Trump, built rows of small attached one- and two-family brick houses in East Flatbush in the late 1930s. Houses built in that style came to be known as “Trump bungalows.” Philip Kasinitz, Caribbean New York: Black Immigrants and the Politics of Race 64 (1992).

4 See Diane Robertson, Jamaican Herbs: Nutritional and Medicinal Values (1988) (describing traditional Jamaican remedies that use herbs, fruits, and vegetables indigenous to the island).

5 Cassava is a staple starch in many parts of the Caribbean, Africa, and Latin America. It grows well even in bad soil and is therefore an essential food for many poor people. Some forms are poisonous in their natural state. It is usually the job of women to grate, soak, and cook out the traces of poison. Where there are particularly devastating food shortages, those who are driven to eat cassava that is not fully prepared may suffer permanent paralysis. See Misha Lobban, Jamaica-Agriculture: Big Breakthrough for Livestock Industry, Inter Press Service, May 9, 1996 (discussing the use of cassava as animal feed to replace higher cost imported corn); Sam Pragg, Jamaica-Development: The Wheatless Bread Solution, Inter Press Service, May 20, 1997 (noting that cassava was a staple crop among Arawak Indians in Jamaica prior to Cristopher Columbus’ landing on the island in 1494). The United Nations Food and Agriculture Organization has worked with governments in Jamaica and Nigeria to develop cassava as a substitute for wheat-based breads. Id.; Research of Cassava in Nigeria Yields Dividend, Xinhua News Agency, Mar. 3, 1997.
“saltfish” to go with it, and gungoo (pigeon) peas. When we wanted the Jamaican version of fast food, my mother would take us to one of the local bakeries that sold beef “patties” (turnovers) special breads and spiced buns, as well as “curry” goat and ox-tail.

The abundance of traditional Jamaican foods in Brooklyn contrasts with the reverse flow of food, clothing, and other necessities back to Jamaica. As in many Caribbean-American homes, there was always an empty shipping barrel in our kitchen ready to be packed with rice, cooking oil, flour, sugar, coffee, clothing, and other staples to be shared among relatives in Jamaica. It was not that American food was better than Jamaican food; it was simply that such items had become so scarce on the shelves of Jamaican stores, or so outrageously expensive, that neither poor nor middle-class Jamaicans could easily afford them. It was particularly ironic to send refined sugar and ground coffee to a country known for producing sugar cane and some of the finest coffee in the

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6 “Saltfish” refers to dried salted codfish imported from Canada or Norway. Along with ackee, a fruit grown in Jamaica, it is a staple of many Jamaican breakfasts. For a history of the significance of dried salted codfish, including its use during the slave trade, see generally, Mark Kurlansky, Cod: A Biography of The Fish That Changed The World (1997).

7 Like African-American traditional “soul food”, Jamaican food traditions are based on a variety of influences: the conditions of slavery (under which only meat from small livestock and animal parts that were considered undesirable by slaveowners were allowed to Blacks), African traditional foods (items such as yams and cassava were grown in the small plots of land allocated to slaves for this purpose), imported items for which a taste had been developed under colonial influence (such as imported fish), and the spices and herbs of various East and South Asian cultures. See Barbara Bush, Slave Women in Caribbean Society: 1650-1838, at 46-50 (1990) (discussing the raising of crops on “provision grounds” and other small plots set aside for the use of slaves); Orlando Patterson, The Sociology of Slavery 216-21 (1969); Bea Lewis, Jamaican Immigrants Cook Tropical Foods on Long Island, Where Quiet Streets and Leafy Backyards Remind Them of Home, NewDay, Apr. 20, 1994 (discussing the continuation of Jamaican cooking and other traditions in Jamaican-American middle-class enclaves on Long Island).

8 Barrels of Hope for Jamaicans, Chi. Trib., May 24, 1992, at 7B (discussing the practice, common among Jamaican migrants, of sending barrels home from the United States and Canada to poor relatives and friends in Jamaica).

9 In her study of the effects of structural adjustment policies (“SAPs”) on Jamaican women, Joan French noted that “devaluations caused the value of the Jamaican dollar to fall from US $1.00 = J$1.78 in 1977 to US $1.00 = J$6.40 in 1985 . . . . Devaluations inevitably meant price increases, especially in an economy dependent on imports at the best of times, but positively flooded with them under SAPs as part of the free market philosophy.” Joan French, Hitting Where It Hurts Most: Jamaican Women’s Livelihoods in Crisis, in Mortgaging Women’s Lives 165, 167 (Pamela Sparr ed., 1994).
world. By the late 1970s, export items like sugar and coffee had been priced above the ability of most people on the island to pay. It was considered the height of bad manners for a Jamaican-American who planned to return home for a visit not to fill his or her baggage to the allowed weight limits (and sometimes beyond) with basic grocery items. He or she would then be expected to return to the United States with overproof white rum (used as a rubbing alcohol as well as a beverage), mangoes, bammy (a pancake made from cassava), and letters from "home" for Jamaican-American family and friends.

After my grandmother became too elderly to cook for herself, she insisted that the home health aides, who were usually recent immigrants from the Caribbean, cook a "little food" for her. Food meant yams and plantains, which she believed would be better for her health than American starches. As I write, she has just celebrated her ninety-fifth birthday.

Where is "home" for Jamaican women? In my experience, it was East Flatbush, Brooklyn, as well as Kingston, Jamaica. The onward march of globalization is as much responsible for this reality as is the tradition of migrancy among Caribbean peoples.

10 Jamaican Blue Mountain coffee is a highly-prized, but difficult to obtain, commodity. Most of the coffee plantations in the Jamaican mountains have been purchased by Japanese corporations for export purposes. In yet another ironic example of the impact of globalization, a Jamaican immigrant in New York may purchase expensive Blue Mountain coffee that had been grown in Jamaica, exported to Japan, and then re-exported to the United States. Howard W. French, Jamaica's Coffee Makes Japan a Jealous Lover, N.Y. TIMES, Dec. 25, 1992, at A8.

11 Structural adjustment policies were intended to encourage export-led growth, including in the agricultural sector, where large-scale cash-cropping replaced small subsistence farms.

12 This reality sometimes led to scenes at the airport that were embarrassing to my American-bred teenage sensibilities. At times, my grandmother would have to unpack items from her luggage to meet weight requirements or would argue with airline personnel about the size of her carry-on bags. See Canute James, Underground Economies Supplied By Air, THE FINANCIAL TIMES, Jan. 3, 1986 § I, at 3 (discussing the importance of the informal economy in the Caribbean and attempts by traders and other migrants to transport goods in personal baggage).

13 Kasinitz notes that "[f]ew societies on earth have been as shaped by the movement of their people as those of the Caribbean. Subject to the chronic overpopulation, scarce resources, seclusion, and limited opportunities of small island nations, West Indians have utilized migration as a survival strategy whenever they were free to do so." KASINITZ, supra note 3, at 19. See also Peggy Antrobus, Women in the Caribbean: The Quadruple Burden of Gender, Race, Class and Imperialism, in CONNECTING ACROSS CULTURES AND CONTINENTS: BLACK WOMEN SPEAK OUT ON IDENTITY, RACE AND DEVELOPMENT 53, 57 (Achola O. Pala ed., 1995) (discussing
New imperial powers—transnational corporations, international economic agencies, and the governments that buttress those powers—are increasingly responsible, but not accountable, for the well-being of the millions who move from the South to the North and back again. Transnational corporations move freely from country to country to find low-cost labor and less-restrictive government regulation and encourage migrant laborers to follow.16 International and regional trade agreements and the structural-adjustment policies of international aid agencies threaten to destabilize the security of both workers and governments.17 The economic devastation of the South leads desperate migration of Caribbean women as a survival strategy); Elsa M. Chaney, The Context of Caribbean Migration, in CARIBBEAN LIFE IN NEW YORK CITY: SOCIO CULTURAL DIMENSIONS 8-9 (Constance R. Sutton & Elsa M. Chaney eds., 1992) (noting high rates of emigration from the entire Caribbean to Europe and North America and that the rate reached sixteen percent of the population of Jamaica in the mid-1970s). Rates of migrancy in the Caribbean are the highest in the world. Id. See also Corinne Barnes, Caribbean Women Find It’s Fertilizer that Makes the Grass Green, INTER PRESS SERVICE, Aug. 18, 1995 (noting that “Jamaica . . . lost 50 percent of university graduates in the country between 1980 and 1986”); Howard W. French, Caribbean Exodus: U.S. is Constant Magnet, N.Y. TIMES, May 6, 1992, at A1 (noting that Jamaica had the highest rate of emigration in the world during the 1980s and noting the Jamaican government’s concern about “exporting” trained professionals to the United States).


15 Countries in developing regions have challenged the domination of international trade and lending agencies by developed countries. See, e.g., LOUIS HENKIN ET AL., INTERNATIONAL LAW: CASES AND MATERIALS 1186-88 (2d ed. 1987) (discussing the internal structure of the International Monetary Fund, weighted voting, and criticisms of the voting structure by developing countries).


17 Structural adjustment programs (SAPs) generally result, at least in the short term, in rising prices for basic goods and higher unemployment rates. The ensuing unrest among those hurt most by the policies may lead to violent crackdowns by insecure government authorities and to further violations of human rights. For a discussion of the political impact of SAPs on Jamaican politics, see MICHAEL MANLEY, THE POLITICS OF CHANGE: A JAMAICAN TESTAMENT 219-255 (2d ed. 1990) (epilogue, written in 1989, discussing changes in Jamaican political economy since
workers to flee to the North, where they provide the agricultural, assembly, and domestic labor that supports northern economies. Many of those laborers then share “the bottom of the well” with the poor people of color and women who make up the hard-core underclass. In a pattern full of ironies and contradictions, those at the top of northern economies then fashion international aid and lending policies that perpetuate the process.

Increasingly, poor women of color from the Global South are among those who attempt to make their way amid the remnants of gutted social-welfare supports at home and abroad. Unable to find adequate wages or other necessities to support themselves and their families, these women follow opportunities to work across geographic borders. In doing so, they cross legal, political, cultural, and economic borders as well. What are the implications of making the passage of Black women back and forth across these “inter/national” boundaries visible? Can legal scholarship fully engage their experiences of the spaces they oc-

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18 See, supra note 16.
19 See Derrick Bell, Faces At the Bottom of the Well: The Permanence of Racism (1992).
20 See Chandra T. Mohanty, Introduction: Cartographies of Struggle: Third World Women and the Politics of Feminism, in Third World Women and the Politics of Feminism 7 (Chandra T. Mohanty et al. eds., 1991) (noting her preferred use of the term “women of color” as “a political constituency, not a biological or even sociological one”).
22 I use the term “inter/national” to suggest that these women not only have dual...
cupy? How do these Black women escape or resist the centers of power they encounter in their inter/national struggle to survive? Indeed, can legal scholarship contribute to a deeper understanding of the conditions under which they live? Without such an understanding, it will be impossible to develop policies that would help to alleviate those abusive conditions.

Feminist human rights scholarship and critical race scholarship offer important insights into such questions but have not fully addressed their complexities. This Symposium, "Citizenship and It’s Discontents: Centering the Immigrant in the Inter/national Imagination," has created an opportunity to propose a research agenda that would focus on the women I have described. My suggestions complement and broaden existing work on the international human rights of women in the context of race, class, gender, and nationality politics in the United States.

national and cultural identities, but also identities that are intranational, transnational, and beyond nationality.

23 See, e.g., Regina Austin, Sapphire Bound!, in CRITICAL RACE THEORY: THE KEY WRITINGS THAT FOUNDED THE MOVEMENT 426 (Kimberlé Williams Crenshaw et al. eds., 1995) (discussing the need for scholarship that focuses on the specific ways in which legal rules impact Black women); Kimberlé Williams Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, in KEY WRITINGS, supra, at 357 (discussing the intersection of race, gender, and class issues for legal responses to domestic violence). See also, Regina Austin, Black Women, Sisterhood, and the Difference/Deviance Divide, in CRITICAL RACE FEMINISM: A READER 237 (Adrien Katherine Wing ed., 1997) (challenging the limits of distinctions between “normal” and “deviant” Black women for legal and political purposes).

Although most Jamaican women identify themselves as Black, they are still regarded as "other" by some Americans, including some African Americans. Conversely, the particularity of their experience is often subsumed under an externally imposed essential definition of "Black." Moreover, while many refugees, migrants, displaced persons, and "voluntary" immigrants are female, the gender-specific aspects of their experiences remain largely invisible.


25 Although people of African descent predominate in Jamaica, some Jamaicans are of mixed Asian, Middle Eastern, and European ancestry as well as of Caribbean descent. See, e.g., KASINITZ, supra note 3, at 3 n.2; Committee on the Elimination Of All Forms of Discrimination Against Women, Consideration of Reports Submitted by States Parties Under Article 18 of the Convention: Initial Reports Of States Parties: Jamaica (7 October 1986) CEDAW/C/JM/Add. 38. Jamaica's official motto is "Out of Many, One People." Id.


27 Some of the significant sociological studies of Black immigrants to the United States focus on men, noting the relative lack of data on women. See, e.g., Kristin F. Butcher, Black Immigrants in the United States: A Comparison with Native Blacks and Other Immigrants, 47 INDUS. & LAB. REL. REV. 265 (1994); KASINITZ, supra note 3, at 13. See also IRA REID, THE NEGRO IMMIGRANT 81-82 (1939) (discussing Black immigration to the United States in the early twentieth century and noting the low numbers of female immigrants). There are, however, a growing number of significant studies on women who migrate from the Caribbean to the United States. See, e.g., FEMALE IMMIGRANTS TO THE UNITED STATES: CARIBBEAN, LATIN AMERICAN, AND AFRICAN EXPERIENCES (Delores M. Mortimer & Roy S. Bryce-Laporte eds., 1981); Aubrey W. Bonnett, The New Female West Indian Immigrant: Dilemmas of Coping in the Host Society, in IN SEARCH OF A BETTER LIFE, PERSPECTIVES ON MIGRATION FROM THE CARIBBEAN 139 (Ransford W. Palmer ed., 1990); Monica H. Gordon, Dependents or Independent Workers?: The Status of Caribbean Immigrant Women in the United States in IN SEARCH OF A BETTER LIFE, supra at 115; Monica Gordon, Gender in the Selection of Immigrants and the Impact on Caribbean Women
Such women do not easily fit on one side or the other of the Western and Third World divides associated with the international feminist human rights movement. The specifics of their lives are overlooked when they are treated as universal "women," or their multiple identities as geographic and cultural travelers are essentialized as "alien" or "exotic other."28

This Article calls for a more explicit engagement of critical race scholarship with feminist international human rights strategies.29 I argue that the expansion of the nascent interaction of


29 I do not intend to imply, however, that no such work exists in the legal literature. For example, scholars of international and comparative law have used feminist critical race theory to draw parallels between the status of women in Eastern Europe and Southern Africa with that of African-American women. See Adrien Katherine Wing & Eunice P. de Carvalho, Black South African Women: Toward Equal Rights, 8 HARV. HUM. RTS. J. 57 (1995); Adrien Katherine Wing & Sylke Merchon, Rape, Ethnicity and Culture: Spirit Injury from Bosnia to Black America, 25 COLUM. HUM. RTS. L. REV. 1 (1993). Others have worked with international human rights issues in multicultural perspective or have analyzed the implications of U.S. immigration laws under international human rights standards. See Margaret Y.K. Woo, Unfracturing Images: Positioning Chinese Diaspora in Law and Culture, in CHINESE WOMEN TRANSMIGRATING DIASPORA; INTERNATIONAL BIOGRAPHIES AND MEMOIRS (Sharon Hom ed., forthcoming 1997) (discussing images of Chinese Americans and the impact on U.S. law); Isabelle R. Gunning, Female Genital Surgeries and Multicultural Feminism: The Ties that Bind, The Differences that Distance, 1994-95 THIRD WORLD LEGAL STUD. 17; Berta Esperanza Hernández-Truyol, Reconciling Rights in Collision: An International Human Rights Strategy, in IMMIGRANTS OUT!: THE NEW NATIVISM AND THE ANTI IMMIGRANT IMPULSE IN THE UNITED STATES 254 (Juan F. Perea, ed. 1997); Ho, supra note 21; Hope Lewis, Women (Under) Development: The Relevance of "the Right to Development" to Poor Women of Color in the United States, 18 LAW & POL'Y 281 (1996). Some have called
critical race feminist approaches with international human rights is essential under current conditions of multiculturalism and globalization. I suggest that a significant gap in the literature on critical, identity-conscious approaches\(^ {30} \) to problems of law and policy must be addressed—the analysis of inter/national identity issues within the communities self-identified as Black.\(^ {31} \)

An Article of this length cannot fill this gap. Rather, I begin the larger project by raising important issues for further exploration by identifying areas in which the human rights of inter/national Black women slip through the cracks of international human rights law and domestic critical race theory. The failure to focus on inter/national Black women robs legal scholarship of rich veins of material for progressive analysis. That analysis could contribute to the building of stronger coalitions for inter/national social justice.

This Article focuses on Jamaican-American women, who contribute to the largest population of migrants from the English-speaking Caribbean\(^ {32} \) to the United States. Part I discusses key

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\(^{30}\) For examples of scholarship in the critical race feminist mode, see generally, CRITICAL RACE FEMINISM, supra note 23; KEY WRITINGS, supra note 23, at 357-440; CUTTING EDGE, supra note 24, at 477-540; Angela P. Harris, Race and Essentialism in Feminist Legal Theory, in CRITICAL RACE FEMINISM, supra note 23, at 348.


\(^{32}\) Unless otherwise indicated, I use the terms “Caribbean” and “West Indian” interchangeably to include people from the English-speaking, Spanish-speaking, and Francophone Caribbean. The focus of this Article, however, is on women from only one of the English-speaking islands: Jamaica. I do not intend to suggest that the experiences of all Caribbean women are the same. There is a great need, for example, for additional legal scholarship on Haitian immigrants, Latina/o immigrants from the Caribbean, and immigrants from other parts of the Caribbean with respect to the impact of globalization and the control of U.S. borders. For a discussion on the legal issues that faced Haitian refugees, see Harold Hongju Koh, Reflections on
aspects of the historical and sociological context in which the migration of Jamaican women to the New York City area has occurred. Because the migratory patterns of Jamaican women are strongly linked to their employment opportunities, Part I also discusses trends in their participation in the paid labor force. Part II describes and analyzes significant survival strategies used by working-class Jamaican-American women to escape from, reshape, or resist the exploitative conditions they face. The strategies they adopt out of necessity illustrate not only the shape-shifting, inter/national nature of the sources of their oppression, but also the creativity of their responses to them.

Part III discusses the limitations of one important feminist human rights instrument, the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW" or the "Women’s Convention"). CEDAW has been ratified by Jamaica and may soon be ratified by the United States as well. Part III also questions whether CEDAW would allow Jamaican-American women to fully address the violations they experience.

Next, Part IV identifies opportunities for critical race feminist scholarship to shed light on the race- and ethnicity-based subordination of Black women immigrants in the United States. In doing so, Part IV also elaborates certain divisions within Black communities that must be addressed.

The Article concludes by arguing that identity-conscious feminist human rights analyses must extend beyond state boundaries if they are to take full account of the needs of inter/national Black women. Both international human rights and critical race feminist movements must identify and expose the similarities as well as the differences in the oppression of Black women and place those oppressions in a global context. Such coalitions are essential in resisting inter/national forms of domination and would contribute to the creation of diverse coalitions for social

Refoulement and Haitian Centers Council, 35 Harv. Int’l L.J. 1 (1994). On the rising number of female migrants, see Kasinitz, supra note 3, at 13, 30; Sassen-Koob, supra note 21, at 1149 (discussing high rates of female migration from the Third World to the United States).

33 It is not possible to provide a comprehensive history of the migration of Jamaicans to the United States in an Article of this length. For a detailed analysis, Carribean New York by Philip Kasinitz is the most comprehensive modern study. Kasinitz, supra note 3, at 19-37. Ira Reid’s 1939 study, The Negro Immigrant, is an early study most often referenced. Reid, supra note 27.
Those coalitions will include "lionheart gals" who face the dragon on its own territory.

I

"COLONISATION IN REVERSE": NI, NANNIES, AND NURSES

Wat a joyful news, Miss Mattie,
I feel like me heart gwine burs'
Jamaica people colonizin
England in reverse... .
What a island! What a people!
Man an woman, old an young
Jusa pack dem bag an baggage
An tun history upside dung!...

—Louise Bennett

Ni, they say, was the possessor of magical religious powers, a tactician, a stern general, a herbalist, a cultivator. She bounced bullets off her bottom or she caught them and threw them back...

—Honor Ford-Smith

The story of Ni, the great female leader of Jamaica's Maroons, is prominent in both anti-colonialist and feminist Caribbean literature. Ni, or Nanny as she is also known, was reputed to be both a caretaker of her people and a fierce defender of them against the British. She fed her starving troops by planting magical seeds which sprang immediately into large pumpkins. She was physi-

34 Louise Bennett, Colonisation in Reverse, in Jamaica Labrish 179 (1966). The poem is critical of the post-World War II migration of Jamaicans to the British metropole. Louise Bennett (known popularly as "Miss Lou") is Jamaica's best known traditional storyteller and poet. See Toronto: Miss Lou is Recognized, Carib News, July 15, 1997, at 7.

35 Honor Ford-Smith & Sistren, Lionheart Gal: Life Stories of Jamaican Women XV (1986). Ford-Smith discusses the mixture of truth and myth associated with stories of "Ni" (otherwise called "Nanny"). Ni was said to be a great leader of the Maroons, former slaves who established settlements in the mountains of Jamaica. See Kenneth Bilby & Filomina Chioma Steady, Black Women and Survival: A Maroon Case, in The Black Woman Cross-Culturally 451 (Filomina Chioma Steady ed., 1981). Ford-Smith notes that “[t]hese tales encode what is overtly threatening to the powerful into covert images of resistance so that they can live on in times when overt struggles are impossible or build courage in moments when it is.” Ford-Smith, supra at 3.

36 Maroons were escaped African slaves who settled in rural areas of the Caribbean, Latin America, and the United States. On the role of women among Jamaica's maroons, see Bilby & Steady, supra note 35.

37 See Ford-Smith, supra note 35, at xiii-xv.

38 Id.

39 Id. at xv.
cally impervious to bullets. She ordered the execution of the British soldiers who brought messages demanding her surrender.\textsuperscript{40} The stories are many and correspond to the rebel woman stories traditionally told about Black women in the Caribbean during slavery and subsequently. But the story of Ni is also the story of the kidnapping and enslavement that she and her people escaped and fought against.

With her British passport in hand, my grandmother emigrated from Jamaica to the United States in the mid-1940s.\textsuperscript{41} She took evening classes at the local YWCA\textsuperscript{42} to become a licensed practical nurse while she worked as a domestic worker during the day. After becoming a citizen in 1952,\textsuperscript{43} she sent for various relatives,\textsuperscript{44} including my mother in 1956. They lived near other West Indian

\textsuperscript{40} Id.

\textsuperscript{41} Migration from the Caribbean to the United States and Britain after World War II was spurred by labor shortages in those host countries following the war. See Dawn I. Marshall, Toward an Understanding of Caribbean Migration, in U.S. Immigration and Refugee Policy 120-21 (Mary M. Kritz ed., 1983).

\textsuperscript{42} Dame Nita Barrow, a native of Barbados, worked with the regional YWCA and with public health services in Jamaica to improve access to health care and to increase nurse training opportunities for Black women. See Francis 'Woodie' Blackman, Dame Nita: Caribbean Woman, World Citizen 37-64 (1995). She later became Coordinator of Forum '85, the Non-Governmental Forum at the End of Decade United Nations World Conference on Women in Nairobi, Kenya, in 1985. Id. at 92-109.

\textsuperscript{43} The McCarran-Walter Act was enacted in 1952 after a congressional override of President Truman's veto. Immigration and Nationality Act (McCarran-Walter Act), Pub. L. No. 414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8 U.S.C.) (1996). In his veto message, Truman praised the codification of the immigration and naturalization laws and the removal of racial barriers to naturalization. E.P. Hutchinson, Legislative History of American Immigration Policy: 1798-1965, at 307 (1981). However, he criticized the retention of a national origins quota system as being generally too restrictive of immigration and especially discriminatory against Asians in applying a racial rather than a national origins criterion for quota allocation. Id. While the Act repealed a racial ban on citizenship, the "Asian Triangle provision" maintained racial discrimination. This provision stipulated that persons of Asian ancestry were charged to the Asian quota despite country of birth. Michael C. Lemay, From Open Door to Dutch Door: An Analysis of U.S. Immigration Policy Since 1820, at 106 (1987). Thus, vast numbers of people of Asian descent in the Western Hemisphere could not come to the United States as non-quota immigrants. Id. at 106-107.

The McCarran-Walter Act also sharply reduced immigration from the West Indies by limiting West Indians to a quota of 100 per year. Previously, West Indians had been able to enter under the generous British quota. Id. This change particularly affected Black West Indians. Id. See also Maldwyn Allen Jones, American Immigration 251-53 (2d ed. 1992) (discussing West Indian immigration patterns in the early part of the century and the impact of the McCarran-Walter Act).

My grandmother does not remember whether her decision to become a citizen was based in part on concerns about changes in U.S. immigration law. Since many
immigrants in Bedford-Stuyvesant, and then moved to East Flatbush a few years after I was born.

Recently, I learned from my mother that my grandmother applied to enter the United States without my grandfather’s knowledge or permission. Apparently, he was not told until she was already on her way. This knowledge came as a shock to me. I had long treasured a grainy black and white photograph, taken shortly before my grandmother left for America. The photograph showed my grandmother, dressed in her Sunday best, my mother standing alongside her in ankle socks and ribbons. It had never occurred to me to ask why my grandfather, who was well-loved by both of them, was not in the photograph. Although I have always known my grandmother to be iron-willed, she also seemed to place men in a privileged position in the social order. I wonder what had motivated her, then in her mid-forties, to reject a traditional deferral to the wishes of her husband by applying for a visa without his permission. Why would she choose the United States when Britain was still the preferred destination for Jamaican migrants?

44 Twentieth century U.S. immigration laws generally have provided for family sponsorship of certain specified relatives by permanent residents and citizens. The underlying policy purpose was the reunification of families. Recent legislation has made both employer and family sponsorship more difficult by requiring the sponsor to prepare legally-enforceable affidavits of support to prevent new immigrants from becoming “wards of the state.” Charles C. Foster, 1996 Immigration Act: Its Impact on U.S. Legal Residents and Undocumented Aliens, 34 Hous. Law. ALB, 38 (1997).

45 See, e.g., Janet M. Calvo, Spouse-Based Immigration Law: The Legacy of Covernce, in CRITICAL RACE FEMINISM, supra note 23, at 380 (discussing historical doctrine of “covernce” in which the husband of a female immigrant was presumed to be financially responsible for her and therefore responsible for her immigration status as well). This made it easier for the abusive spouses of female immigrants to threaten their wives with deportation. Id.

The right of women to travel without discriminatory restrictions is protected, in theory, under Articles 9 and 15(4) of the Commission on the Elimination of All Forms of Discrimination Against Women, infra note 164. Article 12 of the International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, entered into force Mar. 23, 1976, G.A. Res. 2200A (XXI), UN Doc. A/6316 (1966), 999 UNTS 171, reprinted in 6 ILM 368, 372 (1967). In practice, however, the ability of many women to travel freely without the permission of their husbands is restricted by law or by circumstance. See Asma Mohamed Abdel Halim, Challenges to Women’s International Human Rights in the Sudan, in HUMAN RIGHTS OF WOMEN 397, 413-14, 417 (Rebecca J. Cook ed., 1994) (discussing conflicts between interpretations of Islamic law that would restrict women’s freedom of movement across borders and international human rights norms).

46 Devon Carbado’s description of his own mother’s migration from the Caribbean to Britain also notes that it was unusual for women to migrate alone: “As a
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did she believe that she would find here? Was she following the rebel woman tradition of Ni? Or was she just trying to survive? Is that the same thing?

A. A Brief Overview of Jamaican Migration to the United States

Many people think of the migration of West Indians to the United States as part of the influx of “new immigrants” that followed changes in U.S. immigration law in 1965 and again in the mid-1980s. Nevertheless, Afro-creole peoples have been a significant part of Black-American communities for more than a general matter, men went first and subsequently ‘sent’ for their families.” Deven W. Carbado, Motherhood and Work in Cultural Context: One Woman’s Patriarchal Bargain, in CRITICAL RACE FEMINISM, supra note 23, at 309, 341 (noting increase in flow of non-white immigration to England after World War II and the resulting racist backlash in immigration policy). Kasinitz notes that the flow of Caribbean immigrants to Britain after World War II was related to post-war labor shortages. Kasinitz, supra note 3, at 26. Anti-immigration fervor in Britain resulted in severely restrictive legislation in 1962. Id.


49 “Afro-creole” refers to those people of African descent who were born in the Caribbean. See ORLANDO PATTERSON, THE SOCIOLOGY OF SLAVERY (1969).
Of course, the islands of the Caribbean, particularly Jamaica, were major trans-shipment points in the infamous Triangular Trade of slaves, sugar, and other "commodities" among Great Britain and the American colonies. The sugar plantations of the Caribbean were important seasoning grounds for kidnapped African peoples—it was there that many were to be prepared for lives as property, whether in mainland American colonies, or in the Caribbean itself. Many were beaten, raped, separated from family and ethnic groups, or killed outright. As in the United States, female slaves in Jamaica worked with male slaves to resist. They organized rebellions, poisoned the meals of slaveowners, and refused to bear children. Some Blacks, known as Maroons, escaped to remote regions in the mountains of Jamaica and engaged in armed resistance.

For many African slaves, their "migration in chains" to the American mainland involved relatively brief stays in the Caribbean. Soon, however, the population of Blacks born in the Caribbean began to grow. A few individual free Blacks, usually male, were able to migrate voluntarily from the Caribbean to the

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52 Many did not survive the Middle Passage—the horrendous journey to the West on overcrowded slave ships. They committed suicide, died of exposure to unfamiliar environmental pathogens, or were tortured or killed outright by slave traders. Id. at 35. Maroonage also occurred in the southern United States and Latin America. See Patterson, supra note 49, at 262-64, 267; Bilby & Steady, supra note 36, at 451.
53 Patterson, supra note 49, at 264-283.
54 See generally, id. (discussing various means of resistance to slavery in Jamaica). On the specific strategies used by Black women, see Women of the Caribbean (Pat Ellis ed., 1986); Barbara Bush, Slave Women in Caribbean Society: 1650-1838 147-48 (1990) (discussing the incidence of infanticide among slaves). Cf. Toni Morrison, Beloved (1987) for a moving fictional account of the conditions that led to this phenomenon, and its impact on Black people who were slaves in the United States.
55 Periodic battles between Maroons and British soldiers sent to reclaim them eventually ended in ill-advised and infamous peace treaties providing for the return of more recently escaped slaves. Descendants of these Maroon communities still live in isolated enclaves in contemporary Jamaica. However, the communities are dying out as young people migrate from the interior in search of work. See Bilby & Steady, supra note 35, at 462; Howard W. French, British Repulsed, but Tourists Are Another Story, N.Y. Times, Dec. 21, 1992, at A4; Katie Hickman, Magic and Miracles in a Land of Marvels, The Times, July 2, 1994; cf. Frederick Dennis Greene, Immigrants in Chains: Afrophobia in American Legal History—The Harlem Debates-Part 3, 76 Or. L. Rev. 537 (1997).
United States in the eighteenth and nineteenth centuries.\textsuperscript{56}

The first significant cohort of West Indian immigrants to the United States arrived in the early twentieth century.\textsuperscript{57} Most settled in Harlem, New York, which had become a mecca where Blacks lived and worked in relative autonomy from the forms of racism prevalent in the South.\textsuperscript{58} Migrants from the Caribbean also came to escape harsh conditions. Sociologist Nancy Foner notes a number of historical and modern catalysts for the migration of Jamaicans to the United States:

Since the end of the nineteenth century, there have simply been too many Jamaicans on the island with too few opportunities to earn what they consider a decent living. Small farmers, victims of unequal land distribution patterns, do not have enough land. When Jamaicans look to other or additional ways to make a living (and increasing numbers of young people have left the rural parishes for Kingston in recent years), they are very often disappointed. The big growth industries of the post-World War II period in the nonagricultural sector—bauxite, manufacturing, construction, and tourism—have not created many new jobs. . . . Even though most migrants had jobs before they left the island, employment was many times not steady or only part time. And all too frequently, earnings were very low and prospects for advancement dim . . . .\textsuperscript{59}

Among the early migrants also were Caribbean Americans—particularly those with skilled trades or professions—who believed that the newly constituted critical mass of Blacks in the North would create new work opportunities.\textsuperscript{60} Others found Harlem to be a promising site for organizing people around racial and economic justice issues.\textsuperscript{61} One scholar summarized the prevail-


\textsuperscript{57} See Kasinitz, supra note 3, at 23-25; Reid, supra note 27, at 42-43.

\textsuperscript{58} Kasinitz, supra note 3, at 42-44; Reid, supra note 27, at 86.

\textsuperscript{59} Foner, supra note 27, at 136.

\textsuperscript{60} Kasinitz, supra note 3, at 93-96.

\textsuperscript{61} The most influential of such early activists is Marcus Garvey. Garvey generated support for his Back-to-Africa movement, the Universal Negro Improvement Asso-
ing images of male West Indian immigrants of the period as follows:

Legend has it that the West Indian came to Harlem to “teach, open a church, or start trouble.” . . . The development of left wing organizations among Negroes is largely attributed to him, to the extent that the typical Negro Radical was described as “an overeducated West Indian without a job.”

While Black immigrants and native-born Blacks often worked together amicably in Harlem, there were also significant tensions among them. These tensions were fostered by conscious and subconscious efforts of some in native-born and Caribbean-born groups to differentiate themselves from the “other” for cultural, economic, or political reasons.

Garvey's UNIA and his pan-Africanist philosophy were to have wide-ranging effects on Black political and intellectual movements in the United States, the Caribbean, and Britain. See, e.g., Malcolm X, The Autobiography of Malcolm X 1-7 (1964) (noting that his father had been a UNIA activist and that his mother was born in Grenada). Kasinitz, supra note 3, at 114-15. See also Domingo, supra note 50, at 649. Garveyism remains popular among Jamaican Blacks who follow Rastafarian religious or political practices. Garvey is believed to have been a prophet by many Rastafarians. See Leonard E. Barrett, The Rastafarians: The Dreadlocks of Jamaica 78 (1977); Joseph Owens, Dread: The Rastafarians of Jamaica 18 (1976). Other important pan-Africanist, pan-Caribbean scholars and activists include George Padmore, W.A. Domingo, C.L.R. James, and Walter Rodney. See also C.L.R. James, From Toussaint L'Ouverture to Fidel Castro, in The Black Jacobins 396-99 (1963) (discussing the work of Garvey and Padmore in the United States); Walter Rodney, How Europe Underdeveloped Africa (1981). See generally Manning Marable, African and Caribbean Politics: From Kwame Nkrumah to the Grenada Revolution 177-82 (1987) (discussing Rodney's activism in Guyanese radical politics and subsequent political murder).

Current tensions among native-born and Caribbean-born Blacks had their precursors in early twentieth-century Harlem competition for work, social standing, and political leadership among the newly arrived Caribbean immigrants, African-American immigrants from the South, and African Americans who had lived in Harlem for longer periods. See Kasinitz, supra note 3, at 44-53. Kasinitz has noted that Caribbean-Americans who were politically active tended to adopt one of two approaches to these tensions. They either downplayed their Caribbean heritage and joined American civil rights and communist movements, or they supported pan-Africanist approaches to the liberation of Blacks, around which both immigrants and native-born Blacks could organize. Id. at 207-11.

See Kasinitz, supra note 3, at 47-49. See also Harold Cruse, The Crisis of the Negro Intellectual 420-48 (1967) (discussing the contradictions and conflicts inherent in attempts to form a Black nationalist political agenda among Blacks in
Female immigrants from the Caribbean arrived in much smaller numbers than men during this period.65 A few prominent individuals, such as Amy Ashwood Garvey and Amy Jacques Garvey, were active in both pan-Africanist and feminist movements.66 Most of the working-class women who migrated to the United States, however, did so to rejoin male relatives who had preceded them.67 Many worked in garment industry sweatshops alongside immigrants from Eastern Europe and Asia.68 Still, few Caribbean women were able to cross legal and cultural barriers to migration. While there was no deep-rooted cultural barrier to Jamaican women working outside the home, males were still considered the primary breadwinners both in Jamaica and by U.S. immigration authorities. Most Black immigrants were males, who either sought temporary work abroad to support families in the Caribbean, or were permanent immigrants who married Americans or sent for their wives and children after finding stable work.69

For many women who remained in the Caribbean, however, the benefits of the emigration of male partners and relatives they hoped for were not forthcoming. Women were left to manage children and households on the sometimes meager remittances male relatives could afford to send; others were abandoned once the relative arrived in the United States.70

Caribbean immigration to the United States remained relatively stable and light until the mid-1960s. Only a small number of people per year had been allowed to enter the United States after the McCarran-Walter legislation of 1952. Those Jamaicans

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65 See Kasinitz, supra note 3, at 49; Reid, supra note 28, at 81-82; Foner, supra note 28, at 138.


67 See Reid, supra note 27, at 81; Leon Stein, The Triangle Fire (1962) (discussing garment workers in early twentieth century New York and a tragic fire that exposed the sweatshop conditions under which they worked).

68 The multiethnic mix of workers was encouraged by employers. They hoped that language and interethnic barriers would retard unionization. Stein, supra note 67. I thank James Rowan for reminding me of that phenomenon.

69 Kasinitz, supra note 3, at 31; Reid, supra note 27, at 81.

who had British passports could migrate more easily to Britain to fill labor shortages in that country after World War II.\textsuperscript{71}

By the mid-1960s, there were some 56,000 Caribbean-American immigrants in New York City alone.\textsuperscript{72} After 1965, that number rose dramatically due to changes in immigration policy in both the United States and Britain. In Britain, anti-immigrant fervor underpinned laws which severely limited the number of people of color from former British colonies allowed to enter England.\textsuperscript{73} In the United States, however, the 1965 Immigration Act removed country-specific limitations on the number of immigrants who could enter the United States from the Americas.\textsuperscript{74} Between 1965 and 1974, 156,920 Caribbean immigrants migrated to New York City, 52,620 of whom were Jamaican. By 1980, foreign-born Blacks represented 3.1\% of the U.S. Black population and 19.3\% of the Blacks in the New York City area.\textsuperscript{75} Those numbers rose significantly after 1980, following the declaration of amnesty windows for undocumented immigrants who could then send for close relatives.

Rather than settle in Harlem, many of the new Caribbean immigrants moved to other parts of New York where housing for Blacks became available as a result of the U.S. civil rights movement.\textsuperscript{76} They formed communities in Brooklyn and Queens that now sustain large West Indian populations: East Flatbush, Crown Heights,\textsuperscript{77} Bedford-Stuyvesant, and Jamaica (Queens). Those


\textsuperscript{72} KASINITZ, supra note 3, at 54 (citing U.S. Census data). Caribbean Americans have been active political leaders in U.S. civil rights and Black power movements. See generally, CRUSE, supra note 64, at 420-48. See also James, supra note 61. Such political leaders include people with politics as different as Stokely Carmichael (Kwame Toure), Shirley Chisholm, Louis Farrakhan, and Colin Powell. See, e.g., COLIN L. POWELL, MY AMERICAN JOURNEY, 22-23 (1995).

\textsuperscript{73} See Carbado, supra note 46. See, e.g., CERI PEACH, WEST INDIAN MIGRATION TO BRITAIN: A SOCIAL GEOGRAPHY 51-61 (1968); JAMES WALVIN, PASSAGE TO BRITAIN: IMMIGRATION IN BRITISH HISTORY AND POLITICS 117-131 (1984).

\textsuperscript{74} KASINITZ, supra note 3, at 27.

\textsuperscript{75} Id. at 55 (citing U.S. Census data).

\textsuperscript{76} See DERRICK A. BELL, JR., RACE, RACISM AND AMERICAN LAW 475-588 (2d ed. 1980) (discussing the history of restrictions on Black ownership of property, access to housing, and civil rights legislation, and judicial decisions in response).

\textsuperscript{77} Crown Heights has been a symbol both of Caribbean-American heritage (it is the site of one of the largest annual Caribbean festival parades in North America) and of racial conflict between Blacks and Jews. See Joseph P. Fried, 2 Guilty in Fatal Crown Heights Violence, N.Y. TIMES, Feb. 11, 1997, at A1; Andrew W. Cooper, The
who were able to achieve relatively stable middle-class status often moved to literally greener pastures in Long Island communities such as Hempstead and Uniondale.\textsuperscript{78}

\section*{B. Constructing "Jamaican Women Immigrants"}

Unlike previous Caribbean migrations, women predominated among the post-1965 immigrant groups.\textsuperscript{79} The demand for low-wage female labor had increased both in the healthcare industry and in private homes. In the new cohort of immigrants, women often arrived first, then sent for husbands and children.\textsuperscript{80} Like Black women in the United States, Jamaican women had a long history of work outside their own homes (dating back to slavery) and had participated in whatever limited paid labor opportunities were available in Jamaica:

Since emancipation, Jamaican women have been actively involved in occupations outside the home. Indeed, in the 1970s, women constituted about 40 percent of the labor force, although they suffered more than twice the rate of male unemployment, with female unemployment running as high as 36 percent in 1976.\textsuperscript{81}

As of 1996, there were approximately 296,000 Jamaican-born women living in the United States.\textsuperscript{82} Of that number, 198,000 are non-citizens.\textsuperscript{83} Most working-class Jamaican women immigrants are concentrated in the light manufacturing and service sectors.

\textit{Two Nations of Crown Heights}, N.Y. TIMES, Jan. 6, 1993, at A21. There were violent uprisings in the neighborhood following the death of Gavin Cato, a Black child; the uprisings led to the slaying of Yankel Rosenbaum, a Hasidic rabbinical student in 1991. \textit{Id.} Two suspects in the Rosenbaum killing were convicted of federal civil rights violations after one defendant had previously been acquitted of murder charges under state law. \textit{Id.}


\textsuperscript{79} See Foner, \textit{supra} note 27, at 138-39; \textit{Kasinitz, supra} note 3, at 104.

\textsuperscript{80} Foner also notes that some women intentionally refused to send for abusive spouses. Foner, \textit{supra} note 27, at 139.

\textsuperscript{81} Foner, \textit{supra} note 27, at 136 (citation omitted). \textit{See also} Reddock & Ford-Smith, \textit{supra} note 70, at 3.

\textsuperscript{82} U.S. Bureau of the Census, Table 5, Selected Characteristics of the Foreign-Born Population by Citizenship and Selected Countries of Birth: 1996 (release date April 8, 1997). This number does not include the female children of Jamaican-American immigrants, who may also consider themselves Jamaican American.

\textsuperscript{83} \textit{Id.}
of the paid labor force.84 According to Foner, "[f]emale Jamaican migrants in New York are overwhelmingly concentrated in the lower ranks of nursing and healthcare occupations and in private household work as domestics, childcare workers, and companions or aides to the elderly."85

The concentration of Jamaican-American working-class women in these occupations is a result of racial and gender politics in Jamaica, the United States, and the global economy as well as of the reflection of preferences of the women themselves.86 Changes in U.S. immigration policy in response to the increased demand for low-wage female labor, combined with dismal socioeconomic conditions in Jamaica to account for the increasing migration of working-class Jamaican women.87 For most, the work they found in the United States constituted what Foner calls "industrialized housework":

[T]he wages of Jamaican migrant women are, for various reasons, generally lower than those of men. They are limited in the choice of work due to sexual divisions in the labor market—often confined to menial, low prestige, and poorly paying jobs . . . . In New York, in fact, many Jamaican women live in private homes as domestic workers where they face arbitrary working conditions, low pay, isolation, and lack of autonomy.88

Those with primary responsibility for their own small children must work only part-time, remain unemployed, leave their children in the care of relatives and friends in Jamaica, or find a way to sponsor a female relative with whom they could share childcare responsibilities.

84 See Foner, supra note 27, at 139-40.
85 Id. at 140. See also Kasinitz, supra note 3, at 104.
86 Saskia Sassen has identified the importance of transnational linkages in explaining recent migratory flows of young women:

The migrations of young women into the new industrial zones are linked with basic economic transformations in the world economy that assume concrete forms in particular locations. Some aspects of this articulation are quite evident, such as the massive redeployment of labor-intensive segments of production to Third World locations, which has generated a large demand for workers.
Sassen-Koob, supra note 21, at 1149.

88 Foner, supra note 27, at 142.
1. Health Industry Workers

The dominant popular image of Jamaican women immigrants as workers is that of a nurse, nurse's aide, or home health aide. As of 1979, thirty-two percent of Caribbean women in New York City worked as a nurse or nurse's aide. In some inner city hospitals in Brooklyn, Caribbean immigrants comprise an extremely high proportion of the non-physician healthcare staff. Nursing was particularly attractive as a career for those women who could meet the educational requirements. In Jamaica itself, nursing was considered a high status field for women. Some immigrant nurses were recruited from Caribbean nursing schools to satisfy nursing shortages in the United States during the 1970s and 1980s. By the mid to late 1990s, waves of hospital mergers, downsizing, and managed care resulted in cutbacks in the number of professional nurses in U.S. hospitals and to corre-

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89 Kasinitz, supra note 3, at 104. See also Mary Elizabeth Carnegie, The Path We Tread: Blacks in Nursing Worldwide, 1854-1994 (3d ed. 1995).

90 See Foner, supra note 27, at 140 (citing a study by Elizabeth MacLean Petras, which noted the employment of 2000 Jamaicans at Brookdale Hospital, a mid-sized hospital in East Flatbush). There is also a strong Caribbean presence among the members of the 1199 hospital workers union, whose membership includes nurses' aides and housekeepers. See Steven Greenhouse, Horse-Trading by a Hospital Union is Sidestepping the Brunt of Downsizing, N.Y. Times, Aug. 22, 1996, at B3. See also Richard Levine, Health Jobs Defy Recession in New York, N.Y. Times, June 22, 1991, at 1; Bob Herbert, Managed Care Turf War, N.Y. Times, Dec. 23, 1996, at A15.

91 See Blackman, supra note 42 (discussing the influence of Dame Nita Barrow, a prominent Barbadian, on nursing in the Caribbean, including her work with the Jamaica Public Health Service). Despite the relatively high status of nursing as a profession for women on the island, Jamaica is currently experiencing a severe nursing shortage. See, e.g., Rhoma Tomlinson, Jamaica—Population: Capital City Bursting At Its Seams, Inter Press Service, May 29, 1996 (noting that in 1994, only forty-nine percent of the total number of nurses needed in the public health system were available, "many having left because of poor working conditions and low wages"). On health care conditions on the island, see Corinne Barnes, Our Health Care System?: Surely You Jest!, Inter Press Service, Jan. 17, 1996 (noting that a report by the World Health Organization ranked Jamaica fifth among developing countries in the provision of preventative health care, but argued that many Jamaicans experience inadequate access to health care).

92 Immigration laws also provided for less restrictive immigration for those categorized as professionals. Foner notes that "nearly 50 percent of legal Jamaican immigrants classified as professionals between 1962 and 1972 were nurses." Foner, supra note 27, at 138-39. Nurses from the Philippines were also heavily recruited. Ronald Sullivan, Nurse Scarcity Forces Cut in Care in New York Municipal Hospitals, N.Y. Times, Aug. 6, 1981, at A1; Roberto Suro, Employers Are Looking Abroad for the Skilled and the Energetic, N.Y. Times, July 16, 1989, at 4. Recruitment has declined due to "downsizing" in many sectors of the health care industry.
sponding cutbacks in recruitment overseas.93

While registered nurses, especially those with advanced degrees, are generally better off financially than most working-class immigrant women, their status may be more precarious than it would seem at first glance. Nursing is a female-dominated profession. Feminist scholars have noted that wage scales, benefits, and working conditions are lower than that of men in comparable professions.94 Many nurses of color experience gender, racial, and ethnic discrimination in hiring and promotion. Those few who reach senior ranks (with the accompanying improvements in wages and benefits) increasingly experience layoffs related to age discrimination and cost-cutting measures.95 Many are financially responsible for their children, whether in the United States or in Jamaica, as well as for the well-being of members of their extended family. In the New York City area, Jamaican-American nurses and much lower-paid aides, work in greatest numbers in the hospitals and nursing homes that serve inner-city communities. The patients in many of these institutions are people of color who are poor, elderly, or victims of violence and lack access to preventative health care and appropriate nutrition. The jobs of those who care for them, therefore, are often stressful, dirty, and even physically dangerous.

Home health aides bridge the gap between those who work as nurses or aides in hospitals or nursing homes and those who work in private homes as domestics or nannies. For better or worse, in recent years home health care has increasingly been emphasized. Changes in national health programs such as Medi-


94 See Foner, supra note 27, at 139. While there is a great deal of rhetorical support for professional nurses as contributors to the health care system, that rhetoric does not generally translate into action. See Mary C. Corley & Hans O. Mauksch, Registered Nurses, Gender, and Commitment, in THE WORTH OF WOMEN'S WORK: A QUALITATIVE SYNTHESIS 135-49 (Anne Statham et al. eds., 1988); cf. Dee Ann Spencer, Public Schoolteaching: A Suitable Job for a Woman? in WOMEN'S WORK, supra, at 167 (discussing similar issues with regard to education and female public school teachers).

95 Rosenthal, supra note 93, at B1; Gordon & Baer, supra note 93, at A23.
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caid and Medicare have encouraged this shift.96 Further, despite the increasing participation of middle-class women in the non-household labor force, they are still expected to take primary responsibility for elderly relatives and children.97 This dilemma increased demand for low-wage labor in the home. These fundamental shifts have led to the mushrooming of home healthcare agencies. The agencies employ low-wage workers, the vast majority of whom are women immigrants from the Caribbean and Latin America. The women care for elderly patients and others who have short or long term illnesses, assisting them with personal care, cooking, cleaning, and visits to doctors. Like other forms of domestic work, the quality of working conditions can vary enormously. The work requires long hours as well as physical strength. Because of the rapidity of growth in home healthcare, the low overhead required to open an agency, and relatively little regulatory oversight, the industry has been ripe for incidents of patient-abuse and exploitation of workers.98

2. Nannies and Domestic Workers

Another well-known image of working-class Jamaican women immigrants is as household workers and "nannies."99 According to U.S. Census data, of the approximately 64,000 Caribbean-American women who were employed in 1979 in New York City, 7,460 were classified as "servant, cleaner, maids or housekeepers."100 The current number of domestic workers from the Caribbean in New York City is probably much higher because many such workers are undocumented or women who overstay tourist visas.101

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96 There have been recent reports alleging widespread Medicare fraud in the home health industry. See, e.g., Robert Pear, Citing Fraud in Home Care, Clinton Halts New Permits, N.Y. Times, Sept. 16, 1997, at A27.


100 Kasinitz, supra note 3, at 104.

101 Foner, supra note 27, at 140.
As was the case in healthcare, female immigrants filled the need for childcare in middle-class American homes. As a result of the feminist movements of the 1960s and 1970s, middle-class white women were encouraged to work outside the home, but little structural provision was made for the home-based tasks that they had traditionally performed (or which African-American, Asian-American, Latina or Irish-American working-class women had performed for the wealthy). In addition, changes in the U.S. economy made it necessary for many families to generate a dual income in order to maintain a middle-class standard of living. Yet middle-class women were still expected to be responsible for cooking, cleaning, childcare, and elder care tasks.

These economic and social pressures are reflected in U.S. immigration law, which has effectively encouraged the migration of undocumented, “unskilled” women. The law allows employers to hire undocumented workers if they attest that no documented workers or U.S. citizens can be found to fill the job “at the prevailing wage.” In 1985, this “was considered to be $200 for a forty-four hour work week.” Employers can then sponsor an undocumented worker in her application for a green card and permanent resident status. In the New York area, this system has usually resulted in the employment of women who enter the United States on tourist visas and stay beyond the expiration of their visas to work as domestics or childcare workers. Recent reports indicate that the waiting period for transition to permanent status under this method has risen from about two years in the early 1990s to current estimates of ten to twenty years.

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102 “Skilled” workers (those who have worked in professions requiring at least two years of professional education) are subject to less stringent immigration requirements than “unskilled” workers. 8 U.S.C. § 1153(b)(3)(A)(i) (1991). “Unskilled” workers are limited to 10,000 visas per year. 8 U.S.C. § 1153(b)(3)(B) (1996). Of course, it is ironic to categorize those who care for our children, our parents and grandparents, and our homes as “unskilled.”

103 KASINZTZ, supra note 3, at 105.

104 For media reports on the immigration problems and working conditions faced by Caribbean-American household workers, see Cathy Singer, Immigrants Wait Years for Legal Status, N.Y. TIMES, Feb. 23, 1992, § 12 at 4 (Long Island Weekly) (Noting that Nassau County in Long Island “has the greatest number of Caribbean housekeepers in the New York region because of its affluence and the fact that the Caribbean community is concentrated in Brooklyn and Queens, a train ride away from relatives and friends.” The 1992 article also notes an estimated eight to ten year wait for domestic workers to obtain employment visas for unskilled workers). See also Corinne Barnes, Caribbean: Women Find It’s Fertilizer that Makes the Grass Green, INTER PRESS SERVICE, Aug. 18, 1995; Laura Muha, The Nanny’s Life, NEWS-DAY, Mar. 3, 1993, Part II, at 52. One advocacy group, The Center for Immigrants
The opportunities for exploitation of these women are numerous, ranging from underpayment of agreed-upon wages and the refusal of time off, to physical abuse or rape.105 In addition, many women suffer heart-rending separations from their children and other family members. In some cases, their own children may no longer be minors by the time their mothers see them again. In addition, the prospect of working for only one family has diminished. The waiting period for legalization has grown longer than the time that the original employing family would need childcare. If the women return to their home islands, even for brief periods, they may have to begin the legalization waiting period all over again, or they may risk deportation upon their return to the United States.

II

WHEN "BAD" TALKING IS GOOD AND GOOD TALKING IS BAD (AND BACK AGAIN):
INTER/NATIONAL STRATEGIES OF SURVIVAL, ADAPTATION, AND RESISTANCE

And as they bound him with thongs, Paul said unto the centurion that stood by, Is it lawful for you to scourge a man that is a Roman, and uncondemned? When the centurion heard that he went and told the chief captain saying, Take heed what thou doest, for this man is a Roman.


Most sources on West Indian life in pre-War New York note the supposedly common cry of the West Indian confronted by racial discrimination: "I am a British subject, I will report this to my consulate!"

—Philip Kasinitz107

Rights, has estimated a waiting period of over twenty years for those attempting to obtain unskilled worker employment visas. CENTER FOR IMMIGRANT RIGHTS, INC., WAYS TO BECOME A LEGAL PERMANENT RESIDENT UNDER THE IMMIGRATION LAWS 6. See also, Aliens For Better Immigration Laws v. United States, 871 F. Supp. 182, 184 (S.D.N.Y. 1994).

105 Cf. HUMAN RIGHTS WATCH WOMEN'S RIGHTS PROJECT, HUMAN RIGHTS WATCH GLOBAL REPORT ON WOMEN'S RIGHTS (1995) (discussing the physical and mental abuses often suffered in Saudi Arabia and other parts of the Middle East by domestic workers from the Philippines).


107 KASINITZ, supra note 3, at 48.
Ain’t I a woman?\textsuperscript{108} —Sojourner Truth

One of the many stories my mother and my aunt, who are great storytellers, told me is about the class and colonial significance of dialect, accent, and language in Jamaica. In the story, a somewhat pretentious Jamaican hears a child say in patois, “Walk yah so an’ go a yahd” (meaning, roughly, “Take this path and go home”). The adult chides him, “Ah wey king bad talkin’ dat? Yuh nuffee seh ‘Walk yah so an’ go a yahd’; yuh fe seh, (with exaggerated British enunciation) ‘Walk here so, and go a yaaarrrrd.’”

The complex social and political meanings surrounding dialect and accent did not escape Jamaican immigrants to the United States. As an American-born girl raised by Jamaican-Americans, my “West Indian accent” was barely detectable to my own ear or to those of most other Americans. However, my pronunciation of certain words often would alert strangers from the Caribbean or Africa who I encountered on the train or bus in New York. They would ask “where you from?” both as a means of creating solidarity and as a way of finding a home in a strange land. Sometimes home meant Africa as well as the Caribbean; foreignness in the United States seemed momentarily to overcome inter-island, ethnic, and national prejudices.

I was teased mercilessly by my cousins when I spent summers in Jamaica because of my “Yankee” accent even when I tried to speak patois. But in the United States, if my grandmother heard me imitating dialect in conversation, she would mildly reprove me for “bad talkin’.” She knew the class consequences of speaking in working-class Jamaican dialect and the benefits of speaking the “Queen’s English” in both Jamaican and American educational and employment situations. For some Anglophile Americans, the combination of an island lilt with the perceived precision of British upper-class usage symbolized “highly educated” and opened doors for some Caribbean immigrants.\textsuperscript{109} Whether consciously or subconsciously, my grandmother used a variety of language forms on any given day—one when speaking with family, another when answering the telephone, another when working with her patients,

\textsuperscript{108} Sojourner Truth, Ain’t I a Woman? in Daughters of Africa 38 (Margaret Busby ed., 1992) (speech at the second National Woman’s Suffrage Convention in Akron, Ohio in 1852 (adapted to poetry by Erlene Stetson)).

\textsuperscript{109} See, e.g., Kasinitz, supra note 3, at 103-104 (noting that Caribbean accents were considered “superior” by many New Yorkers).
and yet another when reciting the long religious poems she performed for church members well into her nineties.\(^{110}\)

Yet I also learned that "bad talkin'" was "good" in some situations. In the mid-1980s, my mother and I stayed in a Jamaican tourist hotel in Ocho Rios, instead of following our usual practice of staying with relatives in Kingston. My mother was treated as a long lost sister by the "higglers,"\(^{111}\) who worked the beaches near the hotel, but only after she demonstrated that she could speak fluent patois and was from "yard." My American "twang" was tolerated for her sake. But the soldiers and police officers, who regulated the borders of the tourist beaches, and the customs officials, who regulated our ability to cross Jamaican and American borders, responded to different accents and modes of discourse.\(^{112}\)

Those first- or second-generation Caribbean Americans who do not have a recognizable Caribbean accent (or who appear not to have one) may find themselves in situations in which they could "pass" as non-Caribbean unless they chose to explicitly acknowledge their background. The dilemmas of this phenomenon are well-known to light-skinned Blacks, who find themselves in situations in which Whites discuss Blacks negatively without being

\(^{110}\) Of course, this phenomenon is not unique to Caribbean Americans, or even to members of immigrant communities. While several scholars have discussed the complications of speaking multiple languages in the United States, linguists have long studied the variety of language forms each of us uses subconsciously on a day-to-day basis. Nevertheless, the use of dialect and languages other than English by people of color can carry significant economic, social, and political consequences. See, e.g., Margaret E. Montoya, Mascaras Trenzas, y Greñas: Un/masking the Self While Un/braiding Latina Stories and Legal Discourse in CRIT1cAL RACE FEMINISM, supra note 23, at 57-59 (using bilingual narrative to discuss the masks which many people of color use to engage the mainstream society). See also Mari J. Matsuda, Looking to the Bottom: Critical Legal Studies and Reparations, in KEY WRIT-\(^{111}\)INGS, supra note 23, at 63, 64-65 (discussing the use of dialect and language by subordinated groups, including "standard" English texts such as the King James Version of the Holy Bible and the U.S. Constitution as tools of resistance and transformation).

\(^{111}\) "Higglers" are traders of small goods in the informal sector of the Jamaican economy. The term traditionally had been used to describe market women from rural areas who came to town or set up roadside stands to sell the agricultural goods that they or their husbands had farmed. As small farms are increasingly consolidated for export, crop or tourist-related activities, many such women have been forced to sell small imported items instead. French, supra note 10, at 174-78.

\(^{112}\) Variations in dialect or accent may be of little help to some Jamaican women who encounter U.S. customs officials, however. Recent media reports claim that some Jamaican women are being detained as suspected drug smugglers, or asked to submit to body cavity searches, merely because they fit a certain profile by being a single Jamaican woman traveling alone. See Patrick Smikle, More Jamaican Women in Florida Prisons For Drug Trafficking, CARIB NEWS, July 24, 1997, at 14.
aware that a Black person is present.\textsuperscript{113}

Just as accent and dialect can serve different strategic purposes in context,\textsuperscript{114} working class Jamaican women immigrants have used various strategies to engage national and inter/national challenges to their survival. As Louise Bennett’s humorous poem (quoted at the beginning of Part I) indicates, Jamaicans learned to “colonise in reverse” long ago. As Frantz Fanon has argued, some aspects of these migrations to colonial and neocolonial metropoles are dysfunctional and counterproductive. They evidence a yearning to reject familiar cultural forms in exchange for a wholehearted, but ultimately disappointing, adoption of those of the colonizer.\textsuperscript{115}

Nevertheless, some aspects of the migratory urge can also reflect a deliberate desire to retake or redistribute resources at an inter/national level. Jamaican-American women, for example, have attempted to survive and combat sources of oppression that stem, not only from nation-states, but also from global economic and cultural forces.

\section{A. Migration and the American Dream}

The pursuit of the American Dream through the attainment of formal citizenship or permanent status can be viewed either as a form of escape or as a form of resistance. The majority of Jamaican women who choose this course must leave their relatives and friends behind, work under difficult and exploitative conditions, navigate the complicated U.S. immigration system, and then learn enough about American history and politics to pass U.S. citizenship exams. Some women hope to escape physically abusive partners; others hope to leave behind the street violence that has plagued Kingston in recent decades.\textsuperscript{116} Some were “middle class” teachers or civil servants in Jamaica and were unable to sustain their families on shrinking incomes; they saw years of

\textsuperscript{113} See generally Cheryl I. Harris, Whiteness as Property, 106 Harv. L. Rev. 1709 (1993); Judy Scales-Trent, Notes of a White-Black Woman: Race, Color, Community (1995).

\textsuperscript{114} See, e.g., Matsuda, supra note 110, at 65; Montoya, supra note 110, at 57-59.

\textsuperscript{115} Frantz Fanon, Black Skin, White Masks (Charles Lam Markmann trans., Grove Press, 1967) (1952) (citation added).

\textsuperscript{116} There were more than 900 murders on the island in 1996. Most occurred in the urban ghettos of Kingston and had their roots in political conflict, the international trade in guns and drugs, and widespread poverty. See Lloyd D’Aguilar, Jamaica-Crime: Killing Frenzy Draws Fear and Concern, Inter Press Service, Mar. 19, 1997.
work in the United States as a domestic or a companion as a necessary evil.\textsuperscript{117} Many hope that migration to America will liberate them from economic or social restrictions. While the cultural barriers to work outside the home may not be as strong in Jamaica as in some other countries, social and cultural restrictions on the public behavior of women still exist.

Like other immigrants before them, some Jamaican-American women see assimilation as their best survival strategy. They view conditions in Jamaica as the result of "backwardness" and hope to take advantage of the land of opportunity they believe the United States to be. Others are not at all naive about the limits of the American Dream for poor Black immigrant women but believe that they have no choice when compared with the conditions they face in Jamaica. Some women learn that migration is not solely a geographic concept: rural women may find themselves in garment assembly plants or private homes in Kingston\textsuperscript{118} or New York City more as a result of regional trade agreements than their own preference for one site over another.\textsuperscript{119}

Like members of all other voluntary immigrant groups, many

\textsuperscript{117} See Foner, supra note 27, at 144 (discussing former teacher who worked as a companion in the hope of putting her daughter through school).

\textsuperscript{118} Saskia Sassen notes the following:

What emerges clearly is that a large share of women migrants constitute a certain kind of labor. Singer argues that the employment of women migrants in domestic service in the Third World represents a vehicle for the reproduction of a labor reserve that can be seen as the equivalent of the welfare state in highly industrialized societies.

Sassen-Koob, supra note 21, at 1148. Sassen goes on to note that changes in the export manufacturing sector, then, may impact the size of the labor reserve of domestic workers within Third World countries.

\textsuperscript{119} See id. at 1149. NAFTA has resulted in preferential access to U.S. markets for Mexican garment assembly operations. The resulting competition has decimated the previously growing garment assembly sector in Jamaica and in other parts of the Caribbean. Most garment assembly plant workers are female. Larry Rohter, \textit{Blows From NAFTA Batter the Caribbean Economy}, \textit{N.Y. Times}, Jan. 30, 1997, at A1. President Clinton's visit to the Caribbean in May of 1997 focused the attention of the U.S. media, however briefly, on the concerns of Caribbean nations about the trade, immigration, and drug enforcement policies of the United States. Among the most pressing concerns were the following: (1) the detrimental impact of the failure to extend NAFTA to the Caribbean; (2) Jamaica's initial objections to U.S. interventions in Jamaican drug enforcement efforts as violative of the island's sovereignty; and (3) U.S. support for a World Trade Organization decision which would have a devastating impact on banana production and export in the Eastern Caribbean. See, \textit{e.g.}, \textit{U.S. and the Caribbean} (NPR, Talk of the Nation, May 8, 1997). \textit{See also Caribbean Leaders Lobby in D.C. Over Banana Trade} (NPR, Morning Edition, June 11, 1996).
make the calculation that their sacrifices will result eventually in a better life for themselves or for their children. Others see this strategy as part of a larger picture. Those who are politically active participate in U.S. elections in the hope that they will be able to change abusive policies. Still others use the relative security of citizenship status as a platform from which to organize among Caribbean and African-American Blacks. Many women participate in local hospital worker unions. Some have fought back against the abuses of the home health care system by forming worker cooperatives and have greater control over their income and working conditions.

120 These efforts to achieve political influence are most often successful with regard to issues of local concern. See, e.g., Michael D. Roberts, Van Victory: Caribbean Community With Clout, CARIB NEWS, Aug. 19, 1997, at 6. Because Caribbean-American communities in New York are perceived to be relatively cohesive, local politicians see those Caribbean-Americans with citizenship status as an important voting bloc. See generally KASINITZ, supra note 3, at 207-50 (discussing involvement of Caribbean-Americans in New York electoral politics).

The politics of race, ethnicity, and police violence were illustrated in a recent case of police brutality in Brooklyn, New York. A Haitian immigrant, Abner Louima, was beaten and tortured while in police custody. The officers accused of beating him were alleged to have taunted him that “This is Giuliani time, not Dinkins time.” Rudolph Giuliani, the current mayor of New York City, has fostered a “tough on crime” image and is said to have been insensitive to charges of police brutality. David Dinkins was Giuliani’s predecessor, and the first African-American mayor of New York. Garry Pierre-Pierre, In Hospital, Immigrant Gives Views on Brutality, N.Y. TIMES, Aug. 22, 1997, at B1. The assault occurred in the midst of Giuliani’s campaign for re-election. Although he acted quickly to transfer or suspend officers suspected of participating in or condoning the beating, many Haitian-Americans and other observers saw his actions as too little, too late. See Richard Goldstein, Jean Jean Pierre, Day of Outrage, VILLAGE VOICE, Sept. 9, 1997, at 44; Randy Kennedy, Haitians Press Mayor on Issue of Brutality By the Police, N.Y. TIMES, Sept. 1, 1997, at B2; John Kifner, Thousands Call on City Hall to Confront Police Brutality, N.Y. TIMES, Aug. 30, 1997, at A3; Garry Pierre-Pierre, New York Haitians Sensing Betrayal in a Land of Refuge, Aug. 18, 1997, at A1.

A Haitian-American nurse at the hospital where Louima was treated played a major role in exposing the beating and torture. See John Kifner, Nurse Says Some Hospital Supervisors Tried to Cover up Facts in Police Beating Case, N.Y. TIMES, Aug. 26, 1997, at B3.

The Louima case is not the first instance of conflict between New York City Police and the Caribbean-American community. See, e.g., Michael D. Roberts, Police Memo Targets West Indians and Jamaicans, CARIB NEWS, Jan. 28, 1997, at 3 (discussing charges that New York police were directed to gather information targeting alleged criminal activity among Caribbean immigrants).

121 Caribbean-American politicians such as former Congresswoman Shirley Chisholm and Brooklyn politician Una Clarke have attempted to build on a base of support among Caribbean-born and native-born African Americans to influence the mainstream U.S. political system. See KASINITZ, supra note 3, at 220-21, 223 (discussing Chisholm’s efforts).

122 See Douglas Martin, Hiring Welfare Recipients and Making Them Manage-
B. Remittances

Most working-class Jamaican women see their legal status in the United States as an opportunity directly or indirectly to address resource inequities in Jamaica itself. In addition to tourism, garment assembly, and the export of sugar and bauxite, the Jamaican economy depends a great deal on the remittances, both cash and in goods, that Jamaican women send home to support family and friends. In a country with high inflation and unemployment rates (unemployment reached as high as fifty percent in 1980), the food, clothing, medicine, and money sent home by these women workers are essential.

The United States has played an integral role in connection to the severe economic dislocation caused by structural adjustment policies. One could think of the remittance process as an attempt to retransfer wealth from the North back to the South. At best, this means of transfer has been inefficient. The wealth transfers are not in forms that promote the sustainable development and economic diversification needed in Jamaica and other parts of the Caribbean.

C. Recreating Home

Today, it is not uncommon in East Flatbush to hear accents
from Jamaica, Trinidad, Haiti, Korea, Grenada, Puerto Rico, Nigeria, and the Philippines. Flatbush Avenue, a main Brooklyn thoroughfare, is almost impassable on foot or by car seven days a week as shoppers throng the many small businesses on the avenue. Almost every kind of food that could have been purchased at home is available on the street—including stalks of sugar cane. The sounds of reggae and soca music blend with the choral music of the West Indian Pentecostal storefront churches. Yellow taxis are still nowhere to be seen, but licensed and unlicensed Haitian-American cab and van drivers beep their horns hopefully at harried shoppers. Those seeking health care in East Puerto Ricans are citizens of the United States, but are "raced" as immigrants when they enter the mainland United States. But see Enid Trucios-Haynes, The Legacy of Racially Restrictive Immigration Laws and Policies and the Construction of the American National Identity, 76 OR. L. REV. 369, 415 n.214 (1997) (discussing her mother's assertive claim of "American-ness" as a Puerto Rican American).

The scarcity of yellow cabs in the poorer and predominantly minority urban communities is legendary. One Black-owned cab company used as its motto, "We're not yellow, we go anywhere!" Kasinitz, supra note 3, at 106 (also citing this legend on "gypsy" cabs). See also David Gonzalez, About New York; Not Yellow, And No Longer Alone, N.Y. TIMES, Oct. 19, 1994, at B3; Mary B. W. Tabor, Black Police Group is Seeking More Security for Gypsy Cabs, N.Y. TIMES, Dec. 6, 1993, at B5. The anti-Asian racist connotations of the color "yellow" with "lack of courage" seem to have been inadvertent on the part of the cab companies, as are the ethnicist connotations of the term "gypsy" in reference to the Romany peoples of Europe. Or maybe not.

Driving a licensed or unlicensed cab is an important source of employment for many male (and a few female) immigrants from Europe, Asia, Africa, the Caribbean, and Latin America. See Kasinitz, supra note 3, at 105-106. The failure of some cab drivers to pick up Black and Latina/o men and women has been a source of constant anger and debate within communities of color. While the work is clearly dangerous, critics point out that race and gender alone are not accurate indicators of potential for violence. The debate has also further exacerbated tensions between immigrants and native-born Blacks. See, e.g., Hope Lewis, The Long Ride Home, BOSTON SUNDAY GLOBE, Mar. 26, 1995, Focus section, at 79 (discussing the ironic impact of race bias when men and women of color attempt to hail cabs in urban areas). See also Richard Perez-Pena, For 53, the Promise of America Fits on a Taxi-cab, N.Y. TIMES, May 11, 1996, § 1, at 1. See also Judith Olan Brown, et al., The Mythologenesis of Gender: Judicial Images of Women in Paid and Unpaid Labor, 6 UCLA WOMEN'S L.J. 457 (1996) (discussing similar incidents recounted by prominent African-American scholars such as Henry Louis Gates and Cornel West).

City authorities occasionally cracked down on the unlicensed van drivers, who had begun to provide more reliable service than authorized bus service. They recently won the right to apply for licenses. See Michael D. Roberts, Van Victory: Caribbean Community With Clout, CARIB NEWS, Aug. 19, 1997, at 6 (discussing history of efforts to legitimize use of alternative transportation and noting that the vans enabled domestic workers to travel at off-peak hours in dangerous neighborhoods despite inadequate city-run mass transit services).
Flatbush are certain to encounter nurses’ aides, orderlies, and nurses from all parts of the Caribbean. This frenetic cultural and economic activity takes place in neighborhoods that experience the problems of many other American urban communities, including high crime rates, poor access to public services, and redlining of housing stock. Both petty and more serious crimes have been associated with the advent of crack cocaine and battles among the Jamaican-American “posses” said to control its distribution in those neighborhoods.¹³⁰

Among those women who are cut off from the benefits of the diminishing American social safety net, forms of resistance and survival that originated in Africa and Asia have resurfaced. While much has been made of the lower rates of reliance on public benefits among Caribbean immigrants,¹³¹ those who would use this to divide Black communities fail to examine how it is that these immigrants and their families survive at all.

For example, while many Jamaican-American women are single mothers,¹³² many of those who enter the United States to take care of other people’s children and parents leave their children in the care of grandmothers or other relatives in Jamaica. The money and goods they send home for the support of their children stretches much further in Jamaica than it could in the United States.¹³³ Those who have children here often send for other female relatives to share childcare and housekeeping bur-


¹³³ Joan French notes that “[f]ollowing Jamaica’s first agreement with the IMF, the government effected a total devaluation of 45 per cent in a single year. . . . By 1990 the Jamaican dollar’s value had fallen further to US $1.00 = J $8.05. In 1992 the rate went to US $1.00 = J $26.00. . . . Never before in the history of the country had
dens. Those who are undocumented and too poor to gain credit from established banking or other credit institutions join susus, where they pool small amounts of money for consecutive lending. These lending circles, and economic pooling within extended-family networks, can sometimes raise sufficient funds to provide start-up capital for a small business or for the purchase of a home. Unable to find affordable housing through mainstream sources, Jamaican-American women rely on family and church networks to locate rooms or apartments to rent. But even these means of transferring home to a strange land are insufficient to adjust for the fundamental international inequities that necessitate migration, remittances, and immigrant enclave-building.

III

WHERE ARE THE HUMAN RIGHTS OF JAMAICAN-AMERICAN WOMEN?

A. Beyond Beijing: Far From Home

The United Nations Fourth World Conference on Women and the accompanying Non-governmental Forum alternated between two overarching, yet contradictory, narratives about the human rights of women. In one scenario, the Beijing Conference reflected the culmination, or at least the beginning, of a new era of global solidarity. With one voice, women from the far corners of the earth called for the recognition and implementation of gender-specific human rights standards such as those condemning violence against women. In a highly publicized speech to the

there been such a phenomenal rise in the price of basic needs in such a short time.” French, supra note 10, at 167.

SUPRA, supra note 10, at 167.

134 See Nicole Gaouette, Mini Loans Help Welfare Mothers to Create Their Own Jobs, CHRISTIAN SCI. MONITOR, Jan. 31, 1997, at 4 (discussing the World Summit on Microenterprise held in Washington, D.C. in January of 1997). See also Money Go Round: The Importance of Rotating Savings and Credit Associations for Women (Shirley Ardener & Sandra Burman eds., 1995). See also Lewis, supra note 25 (discussing the use of traditional “susu” lending circles).

135 In Central Brooklyn, many purchase small, owner-occupied two-family homes which they then rent to other immigrants.

136 See Women’s Conference Adopts Beijing Declaration and Platform for Action, UN CHRONICLE, Dec. 1995, at 29. Organizing around the concept of “violence against women” has been one of the most well-received tools of the universal/cross-cultural feminist human rights movement. It grew out of strategies developed by women’s non-governmental organizations and used at the Vienna World Conference on Human Rights. See, e.g., HUMAN RIGHTS WATCH, WOMEN’S RIGHTS PROJECT, HUMAN RIGHTS WATCH GLOBAL REPORT ON WOMEN’S HUMAN RIGHTS xvii-xix
assembled delegates, Hillary Rodham Clinton announced that the concept of "women's rights as human rights" had finally come into its own.\(^\text{137}\) Feminist human rights scholars and activists had begun to blur the distinction between public and private spheres with respect to the application of standards under international human rights law. For example, using this approach, feminists have argued that a government violates the human rights of women if it fails to take measures to deter and punish domestic violence.\(^\text{138}\) Correspondingly, feminist human rights ac-

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Such interpretations are increasingly accepted by human rights monitors. See, e.g., *United States Department of State, Jamaica Human Rights Practices for 1996* (1997) (discussing government responses (or lack thereof) to domestic violence and police violence against women). A number of feminist scholars have argued that the "privacy" that often surrounds the battering of women works to extend the subordination of women. See, e.g., Elizabeth M. Schneider, *The Violence*
tivists in the United States also argued successfully that a woman should be granted asylum in the United States if she has a well-founded fear of gender-based violence in her country of origin.\textsuperscript{139}

But simultaneously and equally prevalent, a counternarrative of discord arose from differences in culture, race, ethnicity, and economic status among women. This discord took several forms, including the much-debated cultural divide among those taking universalist approaches to human rights and those taking relativist approaches. Many Third World feminists rejected the characterization by Western feminists of some traditional\textsuperscript{140} practices


\textsuperscript{139} See \textit{In re Fauziya Kasinga [sic]}, File # A73 476 695, 1996 BIA LEXIS 15, (Board of Immigration Appeals, June 13, 1996) in which Kasindja was granted gender asylum based on a well-founded fear that she would be subject to persecution in the form of forced female genital cutting on account of her membership in the Tchamba Kinsuntu ethnic group in Togo). See also Celia W. Dugger, \textit{U.S. Grants Asylum to Woman Fleeing Genital Mutilation Rite}, \textit{N.Y. TIMES}, June 14, 1996, at A1. Cf., Sharon Lebrun, \textit{Woman Who Fears Death in Jamaica Must Go Back}, \textit{OTTAWA CITIZEN}, Nov. 11, 1994, at A4 (discussing rejection by Canadian immigration authorities of Jamaican woman’s request for asylum based on her fear that she would not be protected from her abusive former partner by the police if she returned to Jamaica). \textit{See also In re D.V.}, Board of Immigration Appeals, 1993 BIA LEXIS 15, May 25, 1993 (in which a Haitian woman who had been gang raped by soldiers for her pro Aristide activism was granted political asylum in the United States).


\textsuperscript{140} Africanist Gwendolyn Mikell notes that she uses the term “traditional” to “refer to African cultural practices and mores while ‘customary’ is often used to refer to the colonial and elite legal constructs that generalized and blurred traditional categories.” Gwendolyn Mikell, \textit{African Structural Adjustment: Women and Legal Challenges}, 69 \textit{ST. JOHN'S L. REV.} 7 (1995).
as evidence that Third World cultures are uniquely abusive to the interests of women. They argued that human rights norms should be elaborated and implemented in a cultural context, stressing that pretenses of universalism in the human rights system may mask Western parochialism and imperialism. Other forms of discord have included clashes over the exclusion of feminists of color from national, regional, and global human rights agendas, and conflicts over the relative prioritization of civil and political rights over economic, social, and cultural rights in the West. These conflicts, however, generally are positioned


For discussions of the controversy among feminists over the treatment of ritual female genital cutting, see, e.g., Karen Engle, Female Subjects of Public International Law: Human Rights and the Exotic Other Female, 26 New Eng. L. Rev. 1509 (1992) (analyzing ways in which Western feminists have engaged the controversy surrounding female genital surgeries); Isabelle R. Gunning, Arrogant Perception, World-Travelling and Multicultural Feminism: The Case of Female Genital Surgeries, 23 Colum. Hum. Rts. L. Rev. 189 (1992) (suggesting a “world-traveling” framework by which outsiders can attempt to engage culturally sensitive practices); Hope Lewis, Between Irua and “Female Genital Mutilation”: Feminist Human Rights Discourse and the Cultural Divide, 8 Harv. Hum. Rts. J. 1 (1995) (discussing competing discourse surrounding female genital cutting among feminists in the human rights movement and the special implications for African-American feminists); Leslye Amede Obiora, Bridges and Barricades: Rethinking Polemics and Intransigence in the Campaign Against Female Circumcision, 47 Case W. Res. L. Rev. 275 (1997) (critiquing the manner in which some western feminists have engaged traditional practices in Africa). For an excellent summary of the health and sociopolitical issues surrounding the various practices associated with the traditional cutting of the genitals of girls and women, see Nahid Toubl, Female Genital Mutilation: A Call To Global Action (1993).

142 See Third World Women, supra note 21, at 51-80 (critiquing western approaches to feminist analysis); Oloka-Onyango & Tamale, supra note 138, at 705-13; Nesiah, supra note 138, at 191-93 (critiquing imperialist aspects of Western feminist approaches to human rights in the Global South).

143 See International Human Rights in Context: Law, Politics, Morals 256-328 (Henry J. Steiner & Philip Alston eds., 1995) [hereinafter Steiner & Alston] (discussing the elaboration and implementation of economic, social, and cultural rights).
as occurring between two identifiable, geographically defined entities: women from the North versus women from the South.

Yet a third story emerges from Beijing—that of South in North and East in West. This story involves women who cross geographic and cultural borders, carry those borders with them, and recreate their meanings. This less noticed story is that of women with a transnational or inter/national perspective.¹⁴⁴

Female refugees, displaced persons, migrants, and asylum-seekers often are not full or exclusive members of a single national community. They constantly negotiate borders associated with geography, legal citizenship, racial or ethnic identity, culture, gender roles, or class.¹⁴⁵ The experiences of Jamaican women immigrants, for example, are shaped by more than the interaction of an easily defined “Jamaican culture” with an equally homogenous “American culture.” Rather, they are affected in innumerable ways by African, American, and British cultures (including African-American and Afro-British cultures), tourism,¹⁴⁶ transnational corporations, militarism,¹⁴⁷ the global drug trade, and by other international trade and aid policies¹⁴⁸ before they ever leave the island. “Jamaican” cultural fashions precede them to North America: the dreadlocks¹⁴⁹ and reggae¹⁵⁰

¹⁴⁷ Cynthia Enloe, Bananas, Beaches and Bases: Making Feminist Sense of International Politics 65-92 (1989) (discussing the impact of militarism on women in the Third World). There continues to be a strong U.S. and British military presence in the Caribbean and Bermuda.
¹⁴⁹ Kathryn Flewellen, Whose America Is This?, ESSENCE, Feb. 1, 1996, at 154 (describing an encounter with school officials when attempting to register her child). Because Flewellen wore her hair in “dreadlocks” she was assumed to be “foreign” and asked to provide proof of citizenship. See also Paulette Caldwell, A Hair Piece: Perspectives on the Intersection of Race and Gender, in The Cutting Edge, supra note 24, at 267 (analyzing cases in which African-American women were discriminated against in employment because of their braided hair).
¹⁵⁰ Jamaican reggae has crossed and recrossed cultural borders as part of the growing “world” music movement. The popularity of reggae in different cultural contexts illustrates that “globalization” may not play itself out entirely through Northern hegemony over the Global South—at least where culture is concerned. Reggae has influenced, and been influenced by, African-American “blues” and
adopted by Jamaican Rastafarian sects can be found in the hair salons and dance clubs of Harlem, Los Angeles, and Toronto as well as in West Kingston. Those who have access to television or radio on the island in turn absorb American cultural images. The identities these Black women hold sometimes relate to political citizenship but more often have to do with power relationships that exceed or make state boundaries invisible. Neither an un-critical universalism nor an insular or exoticized relativism would protect the human rights of women in this context.

B. Human Rights and Int/ernational Jamaican Women

As subjects of explicit international human rights focus, Jamaican and Jamaican-American women are all but invisible. At the national level, this invisibility stems, in part from Jamaica’s status as a “stable parliamentary democracy.” In the United States, human rights violations are masked by the irony that while the United States has contributed to the creation of many human rights norms, it has also rejected their internal application.151

The U.S. Department of State has identified a number of human rights violations in its reports on human rights practices in Jamaica. Among them are arbitrary arrest and detention, extrajudicial killings, police brutality, and overcrowded prisons.152

151 Some U.S. government representatives have argued that domestic U.S. law provides full and effective protection of human rights, therefore making internal application of human rights treaties unnecessary. Others have argued that the international standards are overbroad and would subject the United States to undue criticism by its political enemies and competitors. See, e.g., MEIKLEJOHN CIVIL LIBERTIES INSTITUTE, HUMAN RIGHTS PROTECTION: A GUIDE TO UNITED NATIONS TREATIES AND THEIR APPLICATION IN THE UNITED STATES (1995); FRANK C. NEWMAN & DAVID S. WEISSBRODT, INTERNATIONAL HUMAN RIGHTS: LAW, POLICY, AND PROCESS (2d ed. 1996).

152 These forms of state-sponsored violence had their origins in the political violence which ravaged Kingston in the late 1970s and early 1980s. In the year before the elections in 1980, more than 800 people were killed in politically charged street violence. See Michael Becker, Jamaica Struggles with Crime Wave, REUTERS N. AM. WIRE, Nov. 10, 1996; Lloyd D’Aguilar, Jamaica-Crime: Killing Frenzy Draws Fear and Concern, INTER PRESS SERVICE, Mar. 19, 1997. Following declines in overtly political violence in the 1980s, some street gangs (which had been allied with political parties) turned to violence over drug territory. Id. There are fears that recent U.S. legislation facilitating the deportation of immigrants with criminal records, will result in an increase in “deportee violence” once hardened criminals return to the island. See Michael Becker, Jamaica Struggles with Crime Wave, REUTERS N. AM.
The primary focus of U.S. attention to human rights in Jamaica has been on civil and political rights rather than on the economic, social, and cultural violations with which they co-exist. The existence of widespread domestic violence is noted, but so vaguely described as to be true of most countries in the world: "Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent." Ironically, police...

WIRE, Nov. 10, 1996 ("Police officials said another contributor to the current crime wave was the deportation from foreign countries of Jamaican immigrants who committed crimes abroad, as well as the parole of prisoners from grossly overcrowded prisons.").

While the murders leading up to the 1980 national elections set a record for the island, that record has recently been broken. In 1996, 925 people were murdered on the island. Lloyd D’Aguilar, Jamaica-Crime: Killing Frenzy Draws Fear and Concern, INTER PRESS SERVICE, Mar. 19, 1997 (the article also cites a World Bank report which places the murder rate in Jamaica “second only to Colombia”). See also Back to the Bad Old Days? Sectarian Violence Rears its Head as Elections Approach, LATIN AMERICAN REGIONAL REPORTS: CARIBBEAN AND CENTRAL AMERICA REPORT, June 10, 1997, at 6-7 (attributing part of the rise in violence to tensions relating to the December 1997 elections).

U.S. permanent residents with criminal records who travel abroad may not be permitted to re-enter the United States. Such persons may be detained and placed in deportation proceedings. CENTER FOR IMMIGRATION RIGHTS, INC., IMMIGRATION CONSEQUENCES OF CRIMINAL CONVictions 2. Permanent and nonpermanent residents can be deported for “serious” crimes—i.e. “aggravated felonies” or lesser crimes involving “moral turpitude.” Id. at 3-4.

153 A notable exception was Jamaica’s reinstatement of the death penalty, which was the subject of humanitarian inquiries by the U.N. Secretary General. The high rates of violent crime in certain urban areas of the Caribbean led many to support the imposition of the death penalty. However, the Privy Council, the highest tribunal in the Commonwealth system, has ruled that a prisoner sentenced to death should not spend more than five years on death row. A longer period constitutes inhuman or degrading punishment. Some Caribbean governments have considered leaving the Commonwealth over the issue. See Larry Rohter, Death-Row Rule Sours Caribbean on Britain, N.Y. TIMES, July 7, 1997, at A1; Jamaica Attacks ‘Too Soft’ Judges, MAIL ON SUNDAY, July 13, 1997, at 21. See also Owen Bowcott, Executives Signal Return of Jamaican Death Penalty, THE GUARDIAN, May 24, 1997, 20. See AMERICA’S WATCH, HUMAN RIGHTS IN JAMAICA: DEATH PENALTY, PRISON CONDITIONS AND POLICE VIOLENCE (Apr. 1993).


In 1991, a special unit of the Jamaica Special Constabulary Force, staffed by women, was established to investigate reports of rape. U.S. DEP’T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1991, at 661.

The State Department report for 1992 noted that “complaints filed with the JCHR (Jamaica Council for Human Rights) alleging police attacks on women increased dramatically ... leading the organization to focus formally on women’s issues for the first time since its creation in 1968. The Women’s Crisis Center and Sistren ... both reported increases in the number of, and level of violence involved in, attacks..."
officials have attempted to calm the fears of potential tourists, by blaming the high murder rates in Jamaica on domestic violence.\footnote{155}

The primary nongovernmental human rights organization in the country, the Jamaica Council on Human Rights, is under constant threat of closure due to lack of resources and political harassment. At the same time, both private and government interests in the United States and Jamaica find it essential to maintain the island's image as a tourist playground.\footnote{156} A 1992 human rights report on Jamaica by the Lawyers Committee for Human Rights noted the following:

Although tourists in the resort areas are generally insulated from violent crime, the extraordinary incidence of extrajudicial killings and police abuse appears to be directly linked to efforts to protect the $740 million per year tourist industry... Further, the State Department report does not address the underlying socioeconomic conditions associated with an increase in crime. High unemployment rates, overcrowding in urban areas due to migration from agricultural areas, devalued currency, and skyrocketing prices for even basic food items, all contribute to crime.\footnote{157}

The failure to focus on economic and social violations and the desire to maintain a tourist-friendly image has masked violations against women.” U.S. DEP’T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1992, 439 (Feb. 1993). For example, the JCHR reported the brutal beating by police of a Jamaican fisherwoman in 1992. Id. at 436.

In 1995, the Jamaican government passed legislation intended to provide alternative approaches to the prevention and punishment of domestic violence. The legislation provided for the imposition of restraining orders and other forms of noncustodial sentencing. U.S. DEP’T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: JAMAICA FOR 1995, at 461 (Apr. 1996) (Department of State Dispatch).

The State Department reports note that the Jamaican government “established a steering committee, charged with creating a Commission on Gender and Social Equity by the end of [1996].” U.S. DEP’T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICE: JAMAICA 1996, at 493 (Feb. 1997).

\footnote{155} While those observations may have been intended to quiet the fears of foreign tourists about their exposure to violence, women and men in poorer areas of the island seem caught up in a cycle of killing with many origins. One observer noted that in 1996, “gang-related shootings accounted for 368 of the 925 murders, or 42 percent, while domestic killings accounted for 188.” D’Aguilar, supra note 157.

\footnote{156} Larry Rohter, The Real Caribbean: Paradise Stops at the Beach’s Edge, N.Y. TIMES, Feb. 16, 1997, § 4 at 1.

of women's rights in Jamaica. The declining availability of land for subsistence farming has forced many rural women to migrate to already overcrowded urban centers in search of work.\textsuperscript{158} Those who work in export processing trade zone apparel assembly plants are subject to low wages, dangerous working conditions, and reprisals for attempting to organize among themselves.\textsuperscript{159} “Higglers,” who once primarily traded in crops from small subsistence farms which they, or their husbands, now trade in small imported items for retail sale on the street. They can be forced off the street if they set up too close to a formal business or made to pay licensing fees or payoffs to local police. Domestic violence continues to be viewed as a private matter which is often ignored by the police, given the already overcrowded prisons and the greater publicity surrounding gang-related crimes.\textsuperscript{160}

The majority of Jamaican women who emigrate to the United States do so for economic reasons. Therefore, they generally do not appeal to U.S. legal protections for refuge and asylum. While they may find economic conditions somewhat better than at home, life for them is by no means easy. Those who are “unskilled” must find work with an employer willing to sponsor them. They must then endure the wait for permanent residency status. Some may experience sexual violence or other abuses in the homes of their employers, but many fear that reporting such violations risks deportation or lengthened waiting periods for legalization. For similar reasons, undocumented women who believe that marriage to an American citizen will protect them from deportation sometimes find themselves afraid to leave an abusive husband.\textsuperscript{161} Often of questionable immigration status, some

\textsuperscript{158} See Sassen-Koob, \textit{supra} note 21, at 1149 (discussing the migration of working-class young women to industrialized zones in the Third World and urban centers in the First World).


\textsuperscript{160} \textsc{Lawyers Committee For Human Rights}, \textsc{Critique: Review of the Department of State Country Reports on Human Rights Practices for 1992}, at 201 (July 1993).

\textsuperscript{161} The Violence Against Women Act provides for exceptions to the immigration laws that would allow women who are battered to stay deportation proceedings, but the standard of proof is extremely high. See Calvo, \textit{supra} note 45, at 383. See also \textsc{Center for Immigrants Rights}, \textsc{The Rights of Battered Immigrant Women and Children} (1997) (discussing rights of battered women who are undocumented under current immigration law).
working-class Jamaican-American women are denied access to everything from health care to bank loans. While some of these women may be favored over native-born Blacks by employers who know them to be Caribbean American, they are not immune from race, gender, and class discrimination.

Given the range of harms facing Jamaican and Jamaican-American women, one may well ask whether a feminist human rights framework such as that of the Women’s Convention, is helpful to them. Jamaica, along with 154 other countries, has ratified the Women’s Convention and protects against sex discrimination in its constitution. Although U.S. ratification has been long in coming, there is support for it under the current administration. While CEDAW is considered one of the most progressive international human rights instruments, and its ratification in the United States likely would be hailed as a positive step, it still would embody significant limitations in addressing the conditions under which many working-class Jamaican-American women exist.

CEDAW, which uses an antidiscrimination framework to address the subordination of women, is indeed revolutionary in its approach. It requires recognition of economic and social, as well as civil and political, rights. It further calls on state parties to take “appropriate” measures to eliminate sex discrimina-

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163 See STEINER & ALSTON, supra note 143, at 922-924; Todd S. Púrdum, Clinton Chides Senate for Not Approving Women’s Rights Treaty, N.Y. TIMES, Dec. 11, 1996, at A7; Loretta Ross, Stop Talking and Finish Women’s Treaty, USA TODAY, Sept. 27, 1996, at 11A.
165 See Article 1, defining “discrimination against women” as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” CEDAW, supra note 164.
tion in both public and private settings.\textsuperscript{166} It also provides for a specific focus on the needs of rural women.\textsuperscript{167} Finally, it recognizes the roles of women in both political and family life.\textsuperscript{168} The Committee charged with its implementation has been noted for the seriousness with which it takes the analysis of reports by state parties and for the feminist sensibilities of its members.\textsuperscript{169}

Nevertheless, CEDAW also has well-known structural limitations.\textsuperscript{170} The most important of these, the lack of an optional protocol for individual complaints, is under review by a special working group at the time of this writing.\textsuperscript{171} However, enhancing the relevance of CEDAW for Jamaican women immigrants in the

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\textsuperscript{166} Article 2 requires, in pertinent part, that states parties undertake “(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise . . . .” CEDAW, supra note 164.

\textsuperscript{167} Article 14 requires States to “take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families . . . .” CEDAW, supra note 164.

\textsuperscript{168} See CEDAW, supra note 164, at Arts. 7, 8, & 16.

\textsuperscript{169} See Andrew Byrnes, The ‘Other’ Human Rights Treaty Body: The Work of the Committee on the Elimination of Discrimination Against Women, in Steiner & Alston, supra note 143, at 911, 912-13 (discussing the composition of the CEDAW Committee). The CEDAW Committee is noteworthy among United Nations human rights bodies for the fact that the majority of its members have been feminist women who reflect diverse professional backgrounds and expertise. The Committee has taken an active role in fulfilling its responsibilities under the Women’s Convention by issuing useful “General Recommendations” and by taking seriously its role of examining and critiquing periodic reports by States Parties. Id.

\textsuperscript{170} Among the structural limitations facing CEDAW are the following: (1) the Committee meets for only two weeks annually; (2) it has little power to ensure the timely and complete submission of reports by States Parties; (3) many States Parties have made substantial reservations to their ratification of the treaty; and (4) the convention does not include an individual complaint mechanism. See Byrnes, supra note 169, at 913-14. See also Theodor Meron, Enhancing the Effectiveness of the Prohibition of Discrimination Against Women, 84 Am. J. Int’l L. 213 (1990) (suggesting, among other things, the creation of an optional protocol to the Women’s Convention for individual complaints). For a general discussion of the Women’s Convention and the CEDAW Committee, see Steiner & Alston, supra note 143, at 902-26.

\end{footnotesize}
United States would require more than the addition of an individual complaint procedure or other traditional structural reforms.

Although CEDAW does address the behavior of private actors, it does so by obligating state parties to implement human rights protections. In the case of Jamaican women, however, responsibility for rights violations may be difficult to place. Who should be accountable, for example, when a woman is driven to work in the informal sector for her subsistence? She may have been forced to leave land on which she had engaged in subsistence farming in favor of its use for cash crop or tourist activities. One could argue that a government that allowed or encourages transnational corporations to purchase her land for less than fair compensation might have violated CEDAW. Under feminist approaches to human rights, the state also would be considered responsible if it allowed that woman to be brutalized by police as they clear the streets for traditional retailers.

However, Jamaica, like other Caribbean nations, is not an autonomous actor, particularly with respect to economic policy. The responsibility under human rights laws of entities like the World Trade Organization, the World Bank, and the International Monetary Fund and that of transnational corporations themselves, has not yet been fully developed.

Similarly, in the United States, even the long hoped-for ratification of CEDAW would leave many questions unanswered with respect to the human rights of inter/national Black women.

172 See Initial Reports of the States: Jamaica, supra note 162.
173 Klak, supra note 159.
174 Steiner and Alston note that the CEDAW Committee has begun to address the human rights implications of structural adjustment policies: “The Committee has expressed concern that structural adjustment programs, if they continue to ignore their effects on women, risk exacerbating historical disadvantages. It has taken the view that women and issues of concern to women must be integrally involved in any economic restructuring or development plan.” Steiner & Alston, supra note 143, at 918. See also Oloka-Onyango and Tamale, supra note 142, at 701-02 (discussing concerns about the extent to which African governments can act autonomously with regard to certain human rights issues given international economic pressures such as structural adjustment policies); Mikell, supra note 140 at 7, 10.
175 See Steiner & Alston, supra note 143, at 922-24. In addition to the structural limitations of CEDAW discussed in note 164 above, CEDAW’s ratification would occur with the “reservations, understandings, and declarations” the U.S. Executive and Congressional branches have historically attached to human rights treaties ratified by the United States. Id. at 922. For example, the United States has traditionally taken the position that human rights treaties are not self executing. Id. at 924. See also id. at 750-79 (discussing U.S. ratification of (and reservations to) the Inter-
Which nation-state—the host country or the sending country—bears responsibility when women are forced to migrate to survive? Of which article is it a violation to be forced to leave children behind in search of a living wage? Does “domestic violence as a human rights violation” include violence against the “domestic”? Can an instrument intended to protect against discrimination against women on the basis of sex adequately address discrimination on the basis of both race and gender? Because the violations they experience do not bear an easy relationship to traditional controls on state power, Jamaican women immigrants have had to find innovative ways of resisting the violation of their rights and redeploying power.

CEDAW, and similar liberal feminist approaches to human rights, do not lack value for the women in question. Arguably, the contributions of feminist approaches, whether liberal or progressive, have led to some of the most exciting and innovative changes in the international human rights system. Instruments

national Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination).

176 See generally, CEDAW, supra note 164, at art. 11 (requiring States Parties to take measures to eliminate discrimination in employment and to provide for fair conditions of employment).


179 These changes have occurred after a long history of marginalization of women
such as CEDAW have explicitly required state parties to adopt effective measures, both legislative and otherwise, to combat public and private discrimination against women. After Vienna and Beijing, it now seems commonplace for official UN meetings to be accompanied by large gatherings of nongovernmental organizations. ¹⁸⁰ Perhaps most importantly, these efforts have led to the kind of consciousness raising that encourages worldwide debate on which policies and actions constitute violations of women’s human rights and what should be done to end them.

Undermining these promising developments, however, is the reality that, in post-Cold War context, even the familiar roles of states as sources either of oppression or of protection have been...
replaced by new actors and influences. Regional trade entities and transnational corporations have a great deal to do with the human rights of women and men. Yet these organizations often claim that they are nonpolitical and deem themselves outside the international human rights framework. Thus, U.S. and Jamaican government, for international human rights, is largely contingent on their transnational economic priorities.

IV

JAMAICAN-AMERICAN WOMEN AND CRITICAL RACE FEMINISM

Critical race theorists have critiqued the tendency to view non-Black peoples of color through the lenses of essentialized immigration status or "foreignness." Their work wrestles with the implications of U.S. immigration policy and the renewal of old debates about the roles and status of immigrants in American society. However, even critical race scholarship that focuses

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181 See Karl Klare, Legal Theory and Democratic Reconstruction, in Steiner & Alston, supra note 143, at 177-79.

182 See Sigrun I. Skogly, Structural Adjustment and Development: Human Rights—An Agenda for Change, 15 Hum. RTS. Q. 751, 760-762 (1993) (discussing the view that human rights policy is beyond the mandate of the World Bank and the International Monetary Fund and arguing that these agencies should be accountable under human rights standards).


185 For an analysis of the international human rights implications of Proposition
on immigration status so far has paid little attention to the implications of the presence in the United States of Blacks from other parts of the African Diaspora. The complex realities facing Jamaican-American women, therefore, remain largely unexamined.

As a branch of critical race scholarship, critical race feminist scholarship identifies the dangers of essentialism in American anti-racist and anti-sexist law and politics. It analyzes how race-based and gender-based discrimination can combine to form more than the sum of their parts. In addition, many have demonstrated how discrimination against immigrants, sexual minorities, and people with disabilities, also intersect to intensify race and gender-based oppression. Further, critical race feminist scholarship has elaborated ways in which the urge to essentialize makes the particular experiences of women of color invisible within broader communities.

The insights of critical race feminist studies with regard to the multiple impacts of race, gender, class, and language could have

186 See Trucios-Haynes, supra note 126, at 415-17 (discussing her identity as a Latina of Caribbean descent); Devon W. Carbado, Motherhood and Work in Cultural Context: One Woman's Patriarchal Bargain, in CRITICAL RACE FEMINISM, supra note 23, at 339 (discussing Black immigrant experience in Britain). See also Berta Esperanza Hernández Truyol, Building Bridges- Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacements, 25 COLUM. HUM. RTS. L. REV. 369, 391-93 (1994) (discussing social and political positioning of White Cubans in domestic identity politics). In part, the failure to focus on Black immigrants stems from the small numbers and geographical concentration of Black immigrants to the United States. The largest Caribbean-American communities are located in Florida, New York, and Connecticut. More significantly, however, it also stems from the controversial history and politics of identifying Afro-Caribbean-Americans as a group separate from other Blacks.

An important exception is the analysis of refugee and asylum issues surrounding the migration of Haitians to the United States in recent decades. See Koh, supra note 32, at 1 (discussing the use of transnational litigation strategies with regard to U.S. efforts to deport, turn back, or detain Haitian refugees); see also Cathy Powell, "Life" at Guantanamo: The Wrongful Detention of Haitian Refugees, 2 RECONSTRUCTION NO. 2 58 (1993). On African Diaspora studies, see RUTH SIMMS HAMILTON, CREATING A PARADIGM AND RESEARCH AGENDA FOR COMPARATIVE STUDIES OF THE WORLDWIDE DISPERSION OF AFRICAN PEOPLES (1990).

particular resonance for Black women immigrants given that they encounter multiple identity discrimination.

For example, critical race feminist scholarship challenges the notion that U.S. citizenship immunizes Black women from the violation of their human rights. It also challenges negative images and stereotypes of Black women. Both approaches have relevance for the analysis of the status of Black Jamaican-American women.

A. U.S. “Citizenship” and Jamaican-American Women

The participation of Jamaican-American women in the prospective benefits of residence in the United States is limited by the labels attached to their immigration status—“undocumented aliens,” visa “overstays,” “permanent residents,” or “naturalized” citizens. Women immigrants must make their way through a complex and abusive maze of federal and state regulations that target immigrants, whether “legal” or “illegal.”

Whatever form of legal citizenship status Jamaican women immigrants “choose,” as Black women, their full participation in American society is limited by discrimination and by the narrowing scope of legal responses to white supremacist and patriarchal agendas. Since the nation’s founding, those in power have worked to exclude one group or another from full citizenship in the United States. Native Americans, African Americans, Asian Americans, ethnic and religious minorities from Europe, Puerto Ricans, and Haitian Americans—all have been denied the privileges of full citizenship at one time or another.

For African Americans, this exclusion from the benefits of citizenship originated in the history of Black enslavement in the

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United States. The denial of the citizenship rights of chattel slaves was enshrined by constitutional provision and by judicial interpretation.\textsuperscript{190} The impact of that history, along with the related histories of global imperialism and neo-colonialism, continues to plague modern-day Blacks whether they are descended from slaves in the United States, Latin America, or the Caribbean, or whether their ancestors were never enslaved at all.

Jamaican-American women share a legacy of slavery. Still, many people who enter the United States from predominantly Black countries,\textsuperscript{191} experience the unique aspects of American race and gender politics in ways that are new to them. Critical race feminism has contributed to the analysis of the legal enshrinement of sub-human, non-citizen status to Blacks in the United States by analyzing the particular historical and modern implications for Black women.\textsuperscript{192} Critical race feminist scholarship could profitably expand its exploration of the implications of the problematic nature of U.S. citizenship status for native-born Black women to Black immigrant women. To challenge the second-class nature of U.S. citizenship for Black women, however, native-born and immigrant Black women must overcome divisions within our own communities.

B. Crossing Barriers: Addressing Stereotypes

Much has been made in the writings of conservative sociologists and political economists, of the relative economic success, as measured by employment levels, home ownership rates, and non-reliance on public assistance, of Caribbean-American Blacks as

\textsuperscript{190} See Dred Scott v. Sandford, 60 U.S. (19 How) 393 (1856) (concluding that Blacks were not intended to be included in the definition of “citizen” in the U.S. constitution). See also Bell, supra note 19, at 15-20 (discussing the Dred Scott decision and its impact).

\textsuperscript{191} The fact that many Caribbean nations, for example, are predominantly Black in population, does not mean that race-based oppression does not exist. In some islands, the vast majority of economic resources are held by White or light-skinned elites. Further, many grassroots activists and Caribbean scholars have noted the racial content of colonialist and neo-colonialist oppression. See, e.g., James, supra note 12; Amy Jacques-Garvey, supra note 66. Cf. Stokely Carmichael & Charles V. Hamilton, Black Power: The Politics of Liberation in America (1967) (discussing racial politics in the United States).

\textsuperscript{192} See, e.g., Margaret A. Burnham, An Impossible Marriage: Slave Law and Family Law, 5 LAW & INEQ. J. 187 (1987) (discussing the impact of U.S. slave law on the familial relationships of Blacks); Harris, Race and Essentialism, supra note 30, at 15-16 (discussing the complex implications of rape for Black women and men under slavery and subsequently).
compared to native-born Blacks.\textsuperscript{193} Those social scientists argue that this difference is due primarily to a unique "Caribbean culture." They use this conclusion to suggest that race discrimination in the United States would be overcome if native-born Blacks would merely adopt such cultural practices.\textsuperscript{194} Other economists and sociologists have suggested that those statistical differences, if accurate, are due to a variety of factors including: (1) class and educational differences among those able to migrate in different time periods,\textsuperscript{195} (2) the high motivation of those individuals who are willing to migrate, whether they move from the Caribbean to the United States or from one part of the United States to another,\textsuperscript{196} (3) the racist search by some employers for a "better Black" who is perceived to be a more docile or reliable


\textsuperscript{194} Philip Kasinitz, Kristin Butcher, and other sociologists and economists have strongly challenged those interpretations of the data. See Kasinitz, supra note 3, at 91-93 (critiquing Thomas Sowell's analysis); Kristin F. Butcher, \textit{Black Immigrants in the United States: A Comparison with Native Blacks and Other Immigrants}, 47 \textit{Indus. \& Lab. Rel. Rev.} 265 (1994) (reinterpreting the data on which Sowell relied and arguing that migrancy, whether international or within the United States, may be a larger factor in accounting for differences in economic status among Black males). Of course, the conservative argument seems to imply that Blacks do not experience racism in the Caribbean and that their migration to the United States is not influenced by racist international policies.

\textsuperscript{195} See Kasinitz, supra note 3, at 92 (discussing the work of sociologist Reynolds Farley). As in other contexts, "middle class" may refer either to social or economic status and is a relative term. A "working-class" income in the United States, Canada, or Britain may translate into a middle class lifestyle in Jamaica.

\textsuperscript{196} Butcher, supra note 194. See also Matthijs Kalmijn, \textit{The Socioeconomic Assimilation of Caribbean American Blacks}, \textit{Soc. Forces}, Mar. 1, 1996, at 913; Suzanne Model, \textit{West Indian Prosperity: Fact or Fiction?}, \textit{Soc. Probs.}, Nov. 1, 1995, at 535; Mary Waters, \textit{Ethnic Options: Choosing Identities in America} (1990); Immigration and Ethnicity: American Society—"Melting Pot" or "Salad Bowl?" (Michael D'Innocenzio & Joseph P. Sirfman eds., 1992); William Dorrity, Jr., \textit{et al.}, \textit{Explaining Differences in Economic Performance among Racial and Ethnic Groups in the USA: the Data Examined}, \textit{Am. J. Econ. \& Soc'y}, Oct. 1, 1996, at 411; Foner, supra note 71, at 708; Establishing New Lives: Selected Reading on Caribbean Immigrants in New York City (Velta J. Clark \& Emmanuel Riviere eds., 1989); New Immigrants in New York (Nancy Foner ed., 1987). One argument is that those who are willing to migrate large distances in search of work may end up relatively better off financially than those who do not. In addition, relatively well-off and educated middle class Blacks may have more resources to enable their migration. If they work in low wage jobs upon arrival in the United States, they might well be expected to have higher rates of literacy and work experience than would be expected of others who share their job status. Finally, the fact of immigrant status itself, with correspondingly little in the way of public supports may force them to take even dangerous, low-wage jobs.
and (4) the use of new immigrant groups as a middle tier between native-born Blacks and Whites. To the extent that economic success can be attributed to both male and female immigrants, Kasinitz points out that the majority of Blacks are still worse off than the majority of native-born Whites.

Nevertheless, the actual or perceived differences among native-born and immigrant Black communities create special challenges for critical race feminist analysis. The goal of promoting social justice among those at the intersections of identity-based oppressions is made more difficult as those identities appear to be more complex. American politicians and business managers have found it convenient to essentialize Blacks as a monolithic group or to overemphasize dissimilarities between West Indians and Black Americans when it suits their purposes. Even more troubling, however, is that both native-born and Caribbean-born Blacks internalize these constructions in ways that undermine projects of social change, including efforts to apply international human rights strategies to the United States.

Some Caribbean Americans may not only incorporate positive stereotypes in their self-image, but also interweave them with prevailing negative stereotypes of native-born Blacks, including Black women. In both domestic and international popular media, native-born American Black women are portrayed as lazy, overly reliant on welfare, baby factories, and criminals. Critical race feminist scholarship has exposed and attacked the racism and sexism underpinnings of such stereotypes. How-

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197 See Kasinitz, supra note 3.
198 See id.
199 Both Foner and Kasinitz note that the “new” Black female immigrants are concentrated at the bottom of the economic ladder. Foner, supra note 27; Kasinitz, supra note 3. Saskia Sassen notes that many “new” immigrants are young women who have had little previous paid work experience and who accept very low wage jobs. Sassen, supra note 16.
200 Kasinitz, supra note 3, at 91.
201 See, e.g., Patricia Hill Collins, Black Feminist Thought (1990); Williams, supra note 51.
202 They also have addressed stereotypes that have elements both external and internal to Black communities with respect to differences of class, skin color, and hair texture. See Angela Y. Davis, Women, Race and Class (1981); Taunya Lovell Banks, Two Life Stories: Reflections of One Black Woman Law Professor, in Key Writings, supra note 23, at 329; Odeana R. Neal, The Making of a Law Teacher, 6 Berkeley Women’s L.J. 128 (1990-91); Cheryl L. Harris, Whiteness as Property, in Key Writings, supra note 23, at 276; Paulette M. Caldwell, A Hair Piece: Perspectives on the Intersection of Race and Gender, in Cutting Edge, supra note 24, at 267. Regina Austin has challenged as well the desire to separate out
ever, work remains to be done in deconstructing the artificial images that divide native-born and foreign-born Black communities. Ironically, stereotypes that have similar origins are applied to Black women in international contexts. For example, Black women in the Caribbean, like many in the Third World, are also stereotyped by Westerners as having too many children. Coercive population policies and experimental birth control methods often make their way to poor minority communities in the United States after being tried on Third World women first. Those women who desire to escape poverty at home by migrating are viewed as potential drains on the American economy.

By contrast, once they arrive in the United States, casting Jamaican-American women immigrants as hard workers is central to their image as members of a “model minority.” But they soon find that model-minority status is a double-edged sword. To some employers, the “better Black” is merely a young woman who will work for low wages because she fears deportation. The notion that Jamaican-American women are strong, yet nurturing, also may mean that they are considered impervious to harm and “deviant” Blacks who violate formal legal rules from the rest of “the Black community.” Austin, supra note 23, at 426.


Critical race theorists have pointed out the contradictions in the portrayal of immigrants simultaneously as too “lazy” to make it in their home countries and so hardworking that they are willing to “steal” low-wage jobs from native-born Americans.

therefore more likely to perform unattractive work for inadequate compensation. The accents of some Jamaican-American women may give them a “leg-up” in certain employment contexts. In others, an identifiably non-American accent may expose them to hostility in an environment that rejects multiculturalism and multilingualism in the United States.205

The failure to challenge and deconstruct stereotypes can lead to almost comical contradictions in popular imagery of Jamaican-American women. In the popular imagination, they are simultaneously hardworking, industrious homeowners and “mules” for ultraviolent “drug posses.”206 They are said to be conservative in their religious beliefs, yet ready to respond to sexual harassment with ribald back talk.207 They are nurturing and supportive caregivers as nurses and nannies, but they are also bad mothers


207 The damage done by the stereotyping of Black women occurs in ironic ways. During the controversy surrounding the charges of sexual harassment made by native-born African-American law professor Anita Hill against Supreme Court nominee Clarence Thomas, one commentator argued that Jamaican women would have handled harassment differently. See Orlando Patterson, Race, Gender and Liberal Fallacies, N.Y. TIMES, Oct. 20, 1991, § 4, at 15 (suggesting that, by making her charges public, Hill may have broken cultural norms among men and women in the Black community). When his opinion was criticized by another Black female law professor, Patterson suggested that his error may have lain in ascribing cultural norms of Jamaican men and women to Black American men and women. See The Ongoing Struggle Over Clarence Thomas, 1 RECONSTRUCTION 58, 75 (1992) (exchange of correspondence between Patterson and Rhonda Datcher in which Patterson suggested “my Jamaican background may have unduly colored my interpretation of Clarence and Anita’s relationship”). Many women of Jamaican background, including me, objected to Patterson’s insinuation that we would have reacted differently to Thomas’ alleged behavior.
who have too many children. They are simultaneously over-educated elites and a ready labor reserve for low-wage work.

Such contradictory stereotyping is familiar to many native-born Blacks as well. When convenient, Black women in the United States have been stereotyped as strong-willed and independent or as abusive to the self-esteem of Black men. They are targeted as lazy and yet are relied on to serve as a vast resource for low-wage labor. Their images adorn the covers of magazines discussing welfare reform, even though the majority of recipients of welfare are White.208 Even the involvement of a Black female law professor in a national political controversy had to be filtered through competing stereotypes of Black women.209 An important task facing critical race feminist scholarship, therefore, is to reveal how the images of native-born and immigrant women of color are manipulated and how the women themselves are moved around like chess pieces to suit hidden political agendas.210

The apparent security provided by U.S. citizenship status and immigrant community cohesiveness ultimately will be of limited value to Jamaican-American women. As Black women, their citizenship is stunted by the intersection of racism and sexism in this society. As workers, they are subject to the limited ability of formal labor standards to ensure that they are paid a living wage, work under safe conditions, and have adequate benefits.221 Fur-

208 See Jason DeParle, It Takes a Village to Reform Welfare, N.Y. TIMES MAGAZINE, Aug. 24, 1997, § 6, cover (depicting a Black welfare recipient and her three daughters, posed with various public officials responsible for implementing welfare reform).


210 This is also true with regard to the manipulation of Black men. For example, the replacement of one set of Blacks with another for exploitative purposes is not new to the United States. ALEC WILKINSON, BIG SUGAR: SEASONS IN THE CANE FIELDS OF FLORIDA 5-6 (1989) (noting that Jamaican cane cutters replaced Black Americans who had migrated North or were soldiers in World War II). “West Indians have cut the sugar cane crop in South Florida for more than forty-five years. They appeared in the fields in the fall of 1943, the year after the United States Sugar Corporation, which then held eighty-six percent of the acreage, was indicted by a federal grand jury in Tampa for carrying out a conspiracy to commit slavery.” Id.

211 For discussions of efforts to raise labor standards internationally, see Steven Greenhouse, Voluntary Rules on Apparel Labor Prove Hard to Set, N.Y. TIMES, Feb. 1, 1997, at A1; Steven Greenhouse, Accord to Combat Sweatshop Labor Faces Obstacles, N.Y. TIMES, Apr. 13, 1997, at A1 (discussing efforts by Clinton Administra-
ther, as immigrants or the descendants of immigrants, their ability to work in solidarity with the U.S. Black community also may be threatened by hostility from other Blacks or by their own desire to separate.

Critical race feminist scholarship has previously demonstrated how Black women are discriminated against in ways that layer and enhance both racial and gender discrimination. I have argued that this approach can also address the racial politics of their U.S. immigration status. Nevertheless, even adding the axis of immigration status to the analysis is not sufficient. Depending on the context, Black women immigrants from Haiti may be treated differently (or the same) as those from Jamaica. Black women immigrants from Brazil may be treated differently (or the same) as those from Cuba. All of them may be treated differently (or the same) as those from Nigeria or Cape Verde. The particularities of their experiences, however, must be recognized in order to build coalitions on solid ground. Equally as important, however, critical race feminism also must address the inter/national connections among the violations of the human rights of Black women.

The final challenge facing critical race feminist scholars, therefore, is to reinterrogate both the essentialization and the false dichotomization of Black women. One useful means of doing so is to test the limits of the international human rights framework by taking it places where it has, so far, been reluctant to go—simultaneously toward identifying violations of human rights within the United States212 and beyond state-centered geo-

tion, private industry, labor, and human rights groups to establish international codes of conduct to eliminate sweatshops).

On the participation of Jamaican working women in the global phenomenon of garment-production sweatshops, see OLIVE SENIOR, WORKING MIRACLES 121-23 (1991) (discussing working conditions in export processing zones); A. Lynn Bolles, IMF Destabilization: The Impact on Working-Class Jamaican Women, 2 TRANS-
AFRICA F. (No.1) 63 (1983); Joan French, Hitting Where it Hurts Most: Jamaican Women's Livelihoods in Crisis, in MORTGAGING WOMEN'S LIVES: FEMINIST CRITI-
QUES OF STRUCTURAL ADJUSTMENT 165 (Pamela Sparr ed., 1994). See also LEON
STEIN, THE TRIANGLE FIRE 122, 131 (Carroll & Graf/Quicksilver Book 1986) (1962) (noting that Jamaican women immigrants were among the 146 people (mostly young immigrant women) who died in the infamous Triangle Shirtwaist Factory fire in 1911 because of overcrowded and unsafe working conditions). See also Ho et al., supra note 21.

212 The United States has been notoriously resistant to the ratification of international human rights instruments and to the recognition that violations of the rights enumerated in the Universal Declaration of Human Rights occur in the United States as well as in the former Soviet Union, China, and the “Third World.” It has
graphic and political boundaries.\textsuperscript{213}

**Conclusion**

I remember the rustle of starched uniforms and the smell of white shoe polish as my mother and grandmother prepared for work early in the morning.\textsuperscript{214} I remember that during emergencies like blackouts, the accompanying riots, and winter storms, the radio would advise that nonessential workers should stay home. It seemed that they almost always went—my grandmother to the home of her patients, who were elderly White women who sometimes were younger than she, and my mother to a hospital in Bedford-Stuyvesant. They were both essential.


Many of the western-based human rights non-governmental organizations (NGOs), while beginning to focus on violations of civil and political rights in the United States, have not focused on violations of economic, social, or cultural rights. See Henry Steiner, \textit{Diverse Partners: Non-Governmental Organizations in the Human Rights Movement}, in Steiner & Alston, \textit{supra} note 143, at 462-66 (discussing differences in approach to civil and political versus economic, social, and cultural rights among Third World and First World NGOs). For a discussion of the “ideology” of western human rights NGOs, see Makau wa Mutua, \textit{The Ideology of Human Rights}, 36 V.A. J. INT’L L. 589 (1996).


\textsuperscript{213} The elaboration of a set of “universal” international human rights norms was, itself, a fundamental challenge to classic international legal norms of state sovereignty. See Steiner & Alston, \textit{supra} note 143. Feminist human rights scholars have challenged as well the state-centered approach of international human rights instruments.

\textsuperscript{214} My mother was one of three Black women in her nursing school during the late 1950s. She later obtained her Masters Degree in Community Health Nursing and became Associate Director of Nursing at a hospital in Bedford-Stuyvesant.
This Article has analyzed how the status of working-class Jamaican-American women can slip through the cracks of two analytical frameworks. It has argued that both frameworks could be applied in ways that would be of greater benefit to one group of Black immigrants. Feminist human rights approaches must take greater account of the influence of race and ethnicity on the human rights of women. Critical race feminism must address the role of Black immigrant women in American society. Greater attention to the violations of political and economic rights in the United States is one way of doing so.

Most significantly, however, both the human rights framework and the critical race feminist framework must shed light on the non-state and interstate actors that influence the conditions under which the majority of women of color live.

The hypocritical failure to fully address violations of the rights of subordinated groups within the United States has been criticized at least since the Cold War. Similarly, concerns about the role of Western imperialism in the application of international human rights standards to the Third World have been expressed even prior to the drafting of the Universal Declaration of Human Rights. However, violations of the human rights of subordinated groups even within the United States are perpetrated by forces that do not emanate from fixed geographic locations. To be effective, responses to those abuses of power, therefore, must occur in constantly shifting forms.

Critical race scholars recently have begun to make efforts to internationalize the impact of the critical race movement. In doing so, they have begun to work with human rights and post-colonial theorists on ways to cultivate a deeper understanding of domestic identity politics. Still, those efforts primarily analyze issues of identity and social justice from the perspective of tradi-

215 Dudziak, supra note 24, at 110-22; Lockwood, supra note 24, at 948; Rights Group Slams Atlanta on eve of Games, Reuters, July 11, 1996; Loretta Ross, Stop Talking and Finish Women’s Treaty, USA Today, Sept. 27, 1996; Seth Faison, China Turns the Tables, Faulting U.S. on Rights, Mar. 5, 1997, N.Y. Times, at A8; HUMAN RIGHTS WATCH, HUMAN RIGHTS VIOLATIONS IN THE UNITED STATES; Dutt, supra note 24.

216 American Anthropological Association, Statement on Human Rights, in Steiner & Alston, supra note 143, at 198 (commenting on the drafting of Universal Declaration of Human Rights, questioning whether such a document could be truly universal).

217 See CRITICAL RACE FEMINISM, supra note 23, at 335-96 (chapters on global issues).
tional geopolitical divides. They raise questions about the relevance of the experiences and political strategies of subordinated groups in the North (the United States) for those in the South (South Africa). They also investigate, in comparative perspective, the relevance of post-colonial contradictions for marginalized groups in the United States. Both pursuits involve important and useful agendas for legal scholarship.

This Article calls for the addition of another, complementary, approach. It recognizes the continued importance of identity categories despite the complexity of their construction, but it also calls for increased attention to the changing nature of the forces that subordinate those identity groups.

Recent attacks on the human rights of the poor, women, immigrants, and people of color in the United States, for example, have taken on an inter/national flavor. “Welfare reform” legislation, which targeted poor women of color, included provisions to deny poor immigrants, including the elderly and disabled, access to public benefits. Anti-terrorism legislation seemed to stem

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from the same nativist roots as anti-immigrant legislation. \(^{220}\) The specter of the deportation of real or imagined "criminals" from the U.S. to Jamaica raised questions about local crime control policies in Jamaica as well as about reductions in remittances. \(^{221}\) U.S. and European trade policy toward the Caribbean intersected with questions about U.S. campaign finance reform. \(^{222}\)

The implications of these interconnections remain to be explored for inter/national women. The human rights of both native born and immigrant women of color are violated when the denial of public entitlements is justified by reference to the stereotype of the "undeserving welfare mother." \(^{223}\) When Third World governments make cuts in public sector supports ingr-
sponse to structural adjustment policies, how are the rights of workers in the United States affected? Does the positioning of Jamaican-American women as superhuman rebel women, make them less in need of the human rights protections against gender violence? How should Jamaican-American women engage questions of economic and social rights as members of a model minority in the United States when their families and friends in Jamaica suffer under the effects of structural adjustment policies? How should the “success” of some Jamaican

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224 On the impact of structural adjustment policies on Jamaican women, see Joan French, supra note 9; Bolles, supra note 211;Senior, supra note 211; Ford-Smith & Sistren, supra note 35. On the impact of international economic policies in general, see Saskia Sassen, Economic Globalization: A New Geography, Composition and Institutional Framework, in Global Visions: Beyond the New World Order 61 (Jeremy Brecher et al., eds., 1993); Gita Sen & Caren Grown, Development, Crises, and Alternative Visions: Third World Women’s Perspectives (1987); Ho, supra note 21; Sparr, supra note 9; Wright, supra note 21; Nesiah, supra note 144. On the possibility of adopting and implementing social welfare human rights in the United States, see Alston, supra note 212; Stark, supra note 212. See also International Covenant on Economic, Social, and Cultural Rights, supra note 212.


226 French, supra note 9; Bolles, supra note 211. See also Cahn, supra note 16 (discussing the increasing influence of the World Bank in domestic and international human rights legal contexts). “Structural adjustment” policies, promoted by the Bretton Woods Institutions such as the International Monetary Fund and the World Bank, adopt a “trickle-down” approach to “development” in the Global South. Generally, those institutions require Third World governments to reduce the size of the public sector, focus on cash crop and other forms of production for export, and the removal of currency supports and the reduction of various forms of public benefits. Among the particular impacts on women are the loss of jobs, the selling off of lands for large-scale agri-business that were previously used for subsistence farming, and cuts in public assistance for health care, child care and education. See Women Pay the Price: Structural Adjustment in Africa and the Caribbean (Gloria Thomas-Emeagwali ed., 1995); Sigrun I. Skogly, Structural Adjustment and Development: Human Rights—An Agenda for Change, 15 Hum. Rts. Q. 751 (1993); Center for Women’s Global Leadership, From Vienna to Beijing: The Copenhagen Hearing on Economic Justice and Women’s Human Rights at the United Nations World Summit on Social Development, Copenhagen, March 1995 14-20 (1995); Reilly, Without Reservation 59-68 (1996) (testimony of women who have suffered the effects of structural adjustment programs and other forms of economic human rights violations). Structural adjustment-like
women immigrants be analyzed when that success comes at the cost of long hours of backbreaking work for low wages and at the cost of separation from their families? These questions illustrate the cross-boundary nature of the problem: not merely how to account for the presence of Black immigrant women in feminist human rights and critical race approaches, but also how to extend the analysis to address inter/national sources of human rights violations.

Legal scholarship by and about Black women and other women of color only recently has come into its own; there are still rich veins of knowledge about women of color that remain to be mined. One of those areas of inquiry is the effects of globalization on women of color in inter/national contexts. Globalization in its current forms makes the old constructs of “domestic” and “foreign” less relevant than the task of identifying common patterns of oppression. This task requires that subordinated groups look up long enough from fighting over the scraps from the table to see the abundance of food being wasted just above our heads. It means seeing ourselves in the other and the other in ourselves. Finally, we must recognize both how “we” (Black women) are not as cohesive and monolithic as we thought and how “they” (Black immigrant women) are not so easily distinguished from “us.”

policies are not limited to the geographical South however. See Rebecca Johnson, Do We Kill Ourselves on Purpose: Thinking About Structural Adjustment, SoJOURNER: THE WOMEN’S FORUM, Vol. 19 No. 8, Apr. 19, 1994, at 14.


See, e.g., Angela P. Harris, Foreword: The Jurisprudence of Reconstruction, supra note 189; Adrien Wing, Introduction, in CRITICAL RACE FEMINISM, supra note 23, at 1; Kimberle W. Crenshaw, Mapping the Margins, supra note 23; Regina Austin, Sapphire Bound!, supra note 23.


James Baldwin, Just Above My Head (1979).
I began this discussion from the perspective of Jamaican women immigrants because it has special resonance for me. However, it might have been equally useful to start the discussion from the perspectives of Blacks, women, the inter/national, the poor, Jamaicans, immigrants, victims of human rights violations, or a number of other identities common to this artificially constructed group.

It is crucial, therefore, to overcome barriers to the formation of strategic progressive coalitions among subordinated groups. Such efforts to build and recreate coalitions around common concerns are among the most important forms of resistance to oppression available to us. At a time when the poor, women, and people of color are under attack on all fronts, it is more important than ever to bridge old gaps and fissures in the path to social change.