CHAPTER ONE

Introduction: Culture and Transnationalism

The transnational circulation of people and ideas is transforming the world we live in, but grasping its full complexity is extraordinarily difficult. To do so, it is essential to focus on specific places where transnational flows are happening. The international human rights movement against violence to women provides a valuable site for understanding how new categories of meaning emerge and are applied to social practices around the world. These meanings are often enthusiastically appropriated by regional, national, and local social movements and used to criticize everyday practices of violence. In order for human rights ideas to be effective, however, they need to be translated into local terms and situated within local contexts of power and meaning. They need, in other words, to be remade in the vernacular. How does this happen? Do people in local communities reframe human rights ideas to fit into their system of cultural meanings? Do they resist ideas that seem unfamiliar? Examining this process is crucial to understanding the way human rights act in the contemporary world.

Remaking human rights in the vernacular is difficult. Local communities often conceive of social justice in quite different terms from human rights activists. They generally lack knowledge of relevant documents and provisions of the human rights system. Global human rights reformers, on the other hand, are typically rooted in a transnational legal culture remote from the myriad local social situations in which human rights are violated. Nevertheless, global human rights law has become an important resource for local social movements.
CHAPTER ONE

This book explores how global law is translated into the vernacular, highlighting the role of activists who serve as intermediaries between different sets of cultural understandings of gender, violence, and justice.

Gender violence provides an ideal issue for examining this process. As a human rights violation, gender violence is a relative newcomer, but since the 1990s it has become the centerpiece of women's human rights. Strenuous activism by nongovernmental organizations (NGOs) along with a series of major world conferences on women in the 1980s and 1990s defined violence against women as a human rights violation. But establishing women's rights as human rights is still an uphill struggle. Because violence against women refers to bodily injury as do other human rights violations such as torture, it is a relatively straightforward violation. Like torture, it is about injury, pain, and death. But in many parts of the world it appears to be an everyday, normal problem rather than a violation of human rights. Moreover, because gender violence is deeply embedded in systems of kinship, religion, warfare, and nationalism, its prevention requires major social changes in communities, families, and nations. Powerful local groups often resist these changes.

The relevance of human rights for the campaign against violence toward women has taken on new importance as human rights have become the major global approach to social justice. Since the 1980s, human rights concepts have gained increasing international credibility and support at the same time as a growing body of treaties and resolutions have strengthened their international legal basis. The global human rights system is now deeply transnational, no longer rooted exclusively in the West. It takes place in global settings with representatives from nations and NGOs around the world. Activists from many countries enthusiastically adopt this language and translate it for grassroots people. Vulnerable people take up human rights ideas in a wide variety of local contexts because they offer hope to subordinated groups. An Indo-Fijian lawyer told me, for example, that she had experienced racism and discrimination in Fiji and in New Zealand and only the international human rights system gave her the tools and consciousness to fight back. In the New Territories of Hong Kong, women were denied the right to inherit property under a law passed by the British colonial government and legitimated as ancient Chinese custom. The international human rights language of women's rights and sex discrimination proved critical to overturning this legislation.

Yet the idea that everyday violence against women is a human rights violation has not been easy to establish, nor has it moved readily from transnational to local settings. There are fissures between the global settings where human rights ideas are codified into documents and the local communities where the subjects of these rights live and work. Human rights ideas, embedded in cultural assumptions about the nature of the person, the community, and the state, do not translate easily from one setting to another. If human rights ideas are to have an impact, they need to become part of the consciousness of ordinary people around the world. Considerable research on law and everyday social life shows that law's power to shape society depends not on punishment alone but on becoming embedded in everyday social practices, shaping the rules people carry in their heads (e.g., Merry 1990; Sarat and Kearns 1993; Ewick and Silbey 1998). Yet, there is a great distance between the global sites where these ideas are formulated and the specific situations in which they are deployed. We know relatively little about how individuals in various social and cultural contexts come to see themselves in terms of human rights.

Nor do ideas and approaches move readily the other way, from local to global settings. Global sites are a bricolage of issues and ideas brought to the table by national actors. But transnational actors, and even some national elites, are often uninterested in local social practices or too busy to understand them in their complicated contexts. Discussions in transnational settings rarely deal with local situations in context. There is an inevitable tension between general principles and particular situations. Transnational reformers must adhere to a set of standards that apply to all societies if they are to gain legitimacy. Moreover, they have neither the time nor the desire to tailor these standards to the particularities of each individual country, ethnic group, or regional situation. National and local actors often feel frustrated at the lack of attention to their individual situations.

The division between transnational elites and local actors is based less on culture or tradition than on tensions between a transnational community that envisions a unified modernity and national and local actors for whom particular histories and contexts are important. Intermediaries such as NGO and social movement activists play a critical role in interpreting the cultural world of transnational modernity for local claimants. They appropriate, translate, and remake transnational discourses into the vernacular. At the same time, they take local stories and frame them in national and international human rights language. Activists often participate in two cultural spheres at the same time, translating between them with a kind of double consciousness.

This book examines the interface between global and local activism, showing how ideas about violence against women as a human rights violation are produced in global conferences in New York and Geneva and appropriated in local community centers in Hawai'i, Delhi, Beijing, Fiji, and Hong Kong. It
shows the power of human rights ideas for transnational and local social movements and their contribution to gradually rethinking gender inequality around the world. It explains how human rights create a political space for reform using a language legitimated by a global consensus on standards. But this political space comes with a price. Human rights promote ideas of individual autonomy, equality, choice, and secularism even when these ideas differ from prevailing cultural norms and practices. Human rights ideas displace alternative visions of social justice that are less individualistic and more focused on communities and responsibilities, possibly contributing to the cultural homogenization of local communities. The localization of human rights is part of the vastly unequal global distribution of power and resources that channels how ideas develop in global settings and are picked up or rejected in local places.

I thought about these questions as I sat in the grand conference room of the United Nations in New York listening to the delegation from Fiji present its first report to the committee monitoring the Convention on the Elimination of All Forms of Discrimination against Women, or CEDAW. Government and NGO representatives had flown halfway around the world for this hearing. It was January 2002 and they found it chilly. As the government delegation presented its report to the CEDAW monitoring committee, made up of 23 experts on gender issues from around the world, some tension developed over a Fijian practice called bulbulu, a traditional village custom for reconciling differences. The conflict illustrated for me the challenges of communicating across the fault line separating the transnational human rights community from local and national spaces. The Fiji country report noted that bulbulu was being used to take rape cases out of court. The committee asked the government delegation when they were going to eliminate this custom. The government minister told me later that bulbulu was essential to Fijian village life and could not be given up. At first I was startled by this defense of bulbulu, but after reading the report again and doing some research in Fiji, I realized that the concern expressed in the report was not about the custom itself but about how its use undermined the legal process. The problem suddenly seemed more complicated than just eliminating the custom. Why did the experts assume that the custom itself was the problem rather than its application to court cases? And why did they focus on culture and religion rather than economic or political conditions that might affect the way the custom functions?

After watching many CEDAW hearings, I decided that the experts concluded that the custom was the problem because they see "customs" as harmful practices rooted in traditional culture. The experts do not have the time to investigate when and how customs such as bulbulu are better able to protect women from rape than the courts or how these customs intersect with state legal systems in new ways. Their task is to apply the law of the Convention. There is a general assumption that problems such as violence against women are the responsibility of the state and that local culture is an excuse for noncompliance. The divide between transnational, national, and local activists is exacerbated by the various ways culture is defined.

There are several conundrums in applying human rights to local places. First, human rights law is committed to setting universal standards using legal rationality, yet this stance impedes adapting those standards to the particulars of local context. This perspective explains why local conditions often seem irrelevant to global debates. Second, human rights ideas are more readily adopted if they are packaged in familiar terms, but they are more transformative if they challenge existing assumptions about power and relationships. Activists who use human rights for local social movements face a paradox. Rights need to be presented in local cultural terms in order to be persuasive, but they must challenge existing relations of power in order to be effective. Third, to have local impact, human rights ideas need to be framed in terms of local values and images, but in order to receive funding, a wider audience, and international legitimacy, they have to be framed in terms of transnational rights principles. Fourth, to promote individual rights-consciousness, institutions have to implement rights effectively. However, if there is little rights consciousness, there will be less pressure on institutions to take rights seriously.

Fifth, the human rights system challenges states' authority over their citizens at the same time as it reinforces states' power. In some ways, the emergence of the human rights system has weakened state sovereignty. In the aftermath of the Holocaust, states are no longer trusted by the international community to govern their own citizens without international oversight. On the other hand, the focus of much human rights activism is the state. Sometimes the state is the human rights violator, when it subjects its citizens to torture or extrajudicial killings, for example. Ironically it is also the agent for carrying out human rights reforms in many cases. Social and economic rights, such as the right to development or the right to adequate housing, require state action, as does the provision of many civil and political rights. Campaigns against sex trafficking encourage increasing policing of borders and control of immigration. Thus, human rights activism ends up demanding more state regulation and services.

The first part of this book examines UN deliberations and the way the texts of human rights law are formed. It describes how a global set of cultural understandings about gender, violence, and the family emerge from major world
conferences, UN Commission meetings, special inquiry procedures, and the work of treaty bodies that supervise human rights conventions. The second part explores the extent to which this international discourse is appropriated in a variety of national contexts. The countries I examine differ enormously in size and in many other features. All participate in the UN system in some way; all but the United States have ratified CEDAW; and all have local feminist movements demanding change. But differences in history, colonial experience, NGO activism, governmental structure, and resources have an enormous impact on how international ideas and regulations are adopted. I examine how programs and laws dealing with violence against women are transplanted from one society to another and how international documents concerning violence against women are localized. This is a comparative study of a transnational movement and its legal basis rather than an in-depth examination of a single country. There are good ethnographic studies of the local adoption of global human rights (e.g., Speed and Collier 2000; Goodale 2002; Tate 2005); here I trace the links between global production and local appropriation. It examines how human rights law works in practice.

Theorizing the Global-Local Interface

The global-local divide is often conceptualized as the opposition between rights and culture, or even civilization and culture. Those who resist human rights often claim to be defending culture. For example, male lineage heads in the rural New Territories of Hong Kong claimed that giving women rights to inherit land would destroy the social fabric. Fijian politicians worried that restricting the use of bulbulbul might undermine Fijian culture. However, as considerable work within anthropology and sociology has demonstrated, these arguments depend on a very narrow understanding of culture and the political misuse of this concept (see especially Wilson 1996; Cowan, Dembour, and Wilson 2001: 6–7; An-Na’im and Hammond 2002: 13–14). Amartya Sen provides an eloquent critique of this notion of culture in his advocacy of a human rights approach to development (1999: 240–46). As Cowan, Dembour, and Wilson point out, a more flexible and contested model of culture provides a better way of understanding the practice of human rights both in global sites such as international meetings and local sites where these ideas are picked up and used by social movements and nongovernmental organizations (2001: 13–14).

Even as anthropologists and others have repudiated the idea of culture as a consensual, interconnected system of beliefs and values, the idea has taken on new life in the public sphere, particularly with reference to the global South.

For example, in 2002, I was interviewed by a local radio station about an incident in Pakistan that resulted in the gang rape of a young woman, an assault apparently authorized by a local tribal council. The interviewer, who was looking for someone to speak on the radio show, wanted to know if I was willing to defend the council’s actions. I explained that I considered this an inexcusable act, that many Pakistani women’s rights and human rights groups and the Pakistani press had condemned the rape, and that it was connected to local political struggles. The woman was of a subordinate group in the village and attacked by members of the dominant landowning group. I said it should not be seen as an expression of Pakistani “culture.” Indeed, it was the local imam, an Islamic religious leader, who talked about the incident in his Friday sermon and made it known to the world, condemning the actions as unfitting for a panchayat (tribal council) and for Islam.

The interviewer was distressed. She wanted me to defend the value of respecting Pakistani culture at all costs, despite the sentence of rape. When I told her that I could not do that, she wanted to know if I knew of any other anthropologists who would. I could think of none, but I began to wonder what she thought about anthropologists and their views of culture. She apparently assumed that anthropologists made no moral judgments about “cultures” and failed to recognize the contestation and changes taking place within contemporary local communities around the world. Apparently cultures have no contact with the expansion of capitalism, the arming of various groups by transnational superpowers using them for proxy wars, or the cultural possibilities of human rights as an emancipatory discourse. I found this interviewer’s view of culture wrong-headed and her opinion of anthropology discouraging.

But she was clearly reflecting a wider public opinion. Her view was echoed by US and UK news coverage of the event. The Omaha World Herald editorialized that “Pakistan may be an ally of the United States in the fight against terrorism, but Americans should have no illusions about how deeply into rural and backward portions of the nation the veneer of civilized law and order extends. . . . This abhorrent action may make it easier to understand how Islamic militants, even terrorists, can sprout and grow in some parts of the country” (2002: 68). A journalist in London pointed out that the UK press did not report any surprise in Pakistan over the event, in contrast to the outrage it described in Belgium when 19 men raped or abused an 11-year-old child (Shamsie 2002: 7). She also reports being asked to discuss the case on a radio show and explain “the culture behind it.” She rejected the idea that Pakistan is a nation with a culture of rape that does nothing until international human rights groups take up the case. Instead, she sees Pakistan as a country in which there is a grim struggle
eager to seize their land and resources. One legacy of this view that a culture must be accepted in total is a reluctance to challenge any practices. Within anthropology, Nancy Scheper-Hughes worries about the troubling passivity of anthropologists in the face of human rights violations and abuses based on a cultural relativism that slides into moral relativism (1995: 410).

Seeing culture as contested and as a mode of legitimating claims to power and authority dramatically shifts the way we understand the universalism-relativism debate (see further Cowan, Dembour, and Wilson 2001: 4-15). It undermines those who resist changes that would benefit weaker groups in the name of preserving “culture,” and it encourages human rights activists to pay attention to local cultural practices. This view of culture emphasizes that culture is hybrid and porous and that the pervasive struggles over cultural values within local communities are competitions over power. More recent anthropological scholarship explores processes by which human rights ideas are mobilized locally, adapted, and transformed and, in turn, how they shape local political struggles. As Cowan, Dembour, and Wilson point out, “Rather than seeing universalism and cultural relativism as alternatives which one must choose, once and for all, one should see the tension between the positions as part of the continuous process of negotiating ever-changing and interrelated global and local norms” (2001: 6). Culture in this sense does not serve as a barrier to human rights mobilization but as a context that defines relationships and meanings and constructs the possibilities of action.

Seeing culture as open to change emphasizes struggles over cultural values within local communities and encourages attention to local cultural practices as resources for change. An example from Australia illustrates this complex understanding of culture. At a conference on culture and violence against women held in Sydney, Australia in 2002, representatives from an Australian Aboriginal group dealing with violence against women displayed a brochure they had developed for battered women that was richly decorated with the swirls and spots of Aboriginal art. They drew on the artistic traditions of Aboriginal peoples to tailor information about how to seek help for battering in a way that might appeal to other Aboriginal women. But this is not the only way to localize imported practices. Representatives from another Aboriginal group described their efforts to protect young Aboriginal men from harassment in shopping malls in Sydney. They had developed a tee shirt. The back of the tee shirt listed the legal rights of people in public spaces while the front displayed several stylized faces, some apparently Aboriginal, and the phrase, “It’s public space, Get Outta My Face” (presentation from Wirrunga Baiya/Tranby Aboriginal Cooperative College, Feb. 22, 2002, Sydney). As the Aboriginal presenter pointed

...
out, “get outta my face” is a phrase commonly used by young Aboriginal people and therefore the one they use most for the t-shirt. It was a form of resistance against colonialism. They localized their claims to rights through transnational images. This example shows the creativity and flexibility of culture in its mobilization by local activists. Appropriating signs and sentiments is fundamental to the way culture works within contemporary globalization.

Moreover, local cultural practices are far more fluid and open to change than the essentialized model suggests. For example, Nyamu-Musembi shows how local norms and practices in Kenya offer opportunities as well as barriers to gender equality and that the production of local custom is a dynamic and changing process, even when it specifies inheritance practices (2002: 133–34). She concludes, “a genuine engagement with practice at the local level is powerful in dislodging both the abolitionist imagination of the local as the repository of unchanging patriarchal values and the defensive relativist portrayal of local norms as bounded, immutable, and well settled” (2002: 143). Abdullah’s analysis of women’s groups in Nigeria shows how over time they change their approaches to women’s rights, including their willingness to invoke human rights, depending on the shift from military to civilian government, economic crises, and the growth of religious fundamentalism (2002). These studies present a complex and fluid understanding of culture.

Deconstructing Culture

Although culture is a term on everyone’s lips, people rarely talk about what they mean by it. The term has many meanings in the contemporary world. It is often seen as the basis of national, ethnic, or religious identities. Culture is sometimes romanticized as the opposite of globalization, resolutely local and distinct. It sometimes refers to rural villages and minority communities where life is understood to be governed by fixed traditions. Within white settler states such as the United States and Canada, it offers an apparently benign way of describing immigrant minorities, racializing these populations while appearing to describe differences in terms of values and beliefs (Razack 1998, 2004; Volpp 2000). In international human rights meetings, culture often refers to traditions and customs: ways of doing things that are justified by their roots in the past. There is a whiff of the notion of the primitive about this usage of the term culture. It is not what modern urbanites do but what governs life in the countryside. As I observed UN meetings, I found that transnational elites often located culture “out there” in villages and rural areas rather than “in here” in their offices and conference rooms. Culture more often describes the developing world than the developed one. Culture was often juxtaposed to civilization during the civilizing mission of imperialism, and this history has left a legacy in contemporary thinking.

Culture is also celebrated as heritage. A report from a meeting of the Regional Office of South Asia of UNICEF in 1999 reflects this complicated set of meanings. The report says that South Asia has a vibrant women’s movement with networks and a considerable body of knowledge. But there is a need to change belief systems and modes of interaction and to recognize and promote basic rights. “Often cultural traditions provide justifications to preserve discriminatory practices. UNICEF must always review and challenge such practices that reinforce inequity based on gender, class and caste. Such a position should not be construed as a rejection of the richness and diversity of age-old cultural heritage in the region” (UNICEF 1999: 5–6). There is a dual voice that runs through this document as well as others: violence against women is a product of traditional cultural practices, which must be changed, but cultural heritage is something to treasure.

There is a critical need for conceptual clarification of culture in human rights practice. Insofar as human rights relies on an essentialized model of culture, it does not take advantage of the potential of local cultural practices for change. Practices labeled harmful and traditional are rarely viewed as part of larger systems of kinship and community, yet they are deeply embedded in patterns of family and religion. A more dynamic understanding of culture foregrounds the importance of translators to the human rights process and the possibilities for change in local cultural practices.

Anthropologists have spent the past century theorizing culture and how it changes. This framework defines culture as historically produced in particular locations under the influence of local, national, and global forces and events. Cultures consist of repertoires of ideas and practices that are not homogeneous but continually changing because of contradictions among them or because new ideas and institutions are adopted by members. They typically incorporate contested values and practices. Cultures are not contained within stable borders but are open to new ideas and permeable to influences from other cultural systems, although not all borders are equally porous. Cultural discourses legitimate or challenge authority and justify relations of power.

Of the myriad ways culture is imagined in transnational human rights discussions, two of the most common ones reflect an essentialized concept of culture. After describing these views, I show how an anthropological conception
of culture offers a valuable framework for understanding the historical and contextual features of specific social arrangements and the possibilities for change within local communities.

**CULTURE AS TRADITION**

Within the discourse of human rights activism, culture is often used as a synonym for tradition. Labeling a culture as traditional evokes an evolutionary vision of change from a primitive form to something like civilization. In the evolutionary model, all cultures are positioned on a continuum from primitive to modern. Variations are exclusively temporal. So-called traditional societies are at an earlier evolutionary stage than modern ones, which are more evolved and more civilized. Culture in this sense is not used to describe the affluent countries of the global North but the poor countries of the global South, particularly isolated and rural areas. When it does appear in discussions of European or North American countries, it refers to the ways of life of immigrant communities and/or racial minorities (see Razack 1998; Volpp 2000). In the colonial era, this definition of culture was used to describe backward peoples who were to be educated and civilized by Christianity, wage labor, and formal education.

Although some human rights activists refer to “good” cultural practices and “harmful” cultural practices and a few feminist scholars examine cultural practices that protect women from violence (Green 1999), many who write about women’s right to protection from violence identify culture and tradition as the source of the problem (Bunch 1990, 1997; Cook 1993, 1994a). A concern about traditional harmful practices and the role of culture in subordinating women is enshrined in the major documents concerning women’s rights, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Using these documents, the human rights process seeks to replace cultural practices that are discriminatory with other cultural practices rooted in modern ideas of gender equality. Thus, like the colonial state, they seek to move ethnically defined subjects into the realm of rights-bearing modernity (see Comaroff and Comaroff 1997; Comaroff 1998). This effort sometimes demonizes culture as it seeks to save individuals from its oppressive effects.

Female genital cutting (also called female genital mutilation) is the poster child for this understanding of culture. There has been an enormous international effort to eliminate this practice over the last two decades (see Gunning 1991–92, 1999; Walley 1997; Cerna and Wallace 1999; Boyle 2002). At least since 1958, when the World Health Organization at the request of the UN Economic and Social Council carried out a study of ritual operations, this practice has been the subject of international scrutiny. It is typically described as a “harmful traditional practice” or a “harmful cultural practice.”

Traditions, however, are often newly created for political purposes or borrowed from others, as Hobsbawm and Ranger showed in their study of the elaboration of British royal ceremonies in colonial Africa (1983). They may take on symbolic roles of defining identity and community, particularly in modern societies. Especially in postcolonial societies, what is called tradition is located within modernity and created by it (Menon 2000: 76). Modernity defines what counts as tradition. Although the language of civilization is rarely articulated in human rights discussions or documents, notions of what it means to be a civilized nation linger, particularly in the field of international law. Nineteenth-century narratives of evolution and concepts of racial difference have been smuggled into prevailing theoretical models by maintaining the binary distinction between tradition and modernity. These terms subtly juxtapose modernity and savagery and locate culture in the domain of the latter and civilization in the former.

**CULTURE AS NATIONAL ESSENCE**

A second common understanding of culture is as national essence or identity. This concept of culture grows out of the German romantic tradition of the nineteenth century. Confronted with the claims to universal civilization of England and France, Germans began to draw a distinction between the external trappings of civilization and the inward, spiritual reality of culture (Kuper 1999b: 25–26). German romantics asserted the importance of a distinct culture, or Kultur, which formed the spiritual essence of their society. Each people, or Volk, has its own history and culture that expresses its genius. This includes its language, its laws, and its religion. The cosmopolitan elite corrupts it, while foreign technological and material values undermine it. The peasantry holds the purest Volksgeist, or culture. The German conception reflected a nationalist movement seeking to unite the Germans as a culturally and ethnically similar people (Kuper 1999b: 8). Norbert Elias traces the source of the Germanic concept of Kultur to Germany’s nineteenth-century opposition to the civilizational claims of England and France (1978 [1939]: 3–9). France and England thought that their distinctive social and cultural patterns should be broadcast globally, to become the standard for the world. While Kultur emphasizes national distinctiveness, civilization emphasizes what is common to all human beings: “It expresses the self-assurance of peoples whose national boundaries and national identity have for centuries been so fully established that they have ceased to be the subject of any particular discussion, peoples which have long
CHAPTER ONE

expanded outside their borders and colonized beyond them" (Elias 1978 [1939]: 3). Civilization encouraged a continual expansion of empire, while Kultur fostered national self-definition and a demarcation of difference from other groups.5

Culture as national essence is fundamental to claims to indigenous sovereignty and ethnonationalism, often in resistance to human rights. In 1993, when Lee Kuan Yew of Singapore claimed that human rights failed to incorporate Asian values, he drew on this understanding of culture. With support from several other Asian leaders, he argued that Asian values differed from Western conceptions of human rights (see Bauer and Bell 1999: 3–23; Sen 1999).6 In some ways, the Asian values argument replays the German romantic resistance to French and English claims to civilization. Indeed, one critic of the Asian values argument notes that it falls into Orientalist notions of a communitarian East, with communal values, and an individualistic West (Tatsuo 1999).

Although the Asian values argument is less often articulated now, it represents one of many ways that leaders assert that human rights violate the fundamental cultural principles of a nation or a religion and therefore cannot be adopted (see Chanock 2002: 41). Women’s rights are often opposed by those who claim to defend culture. Challenging women’s subordinate position in the family or the workplace threatens to disrupt a wide range of patriarchal privileges. Those who stand to lose will often argue that providing these rights will cause social chaos and disturb established hierarchies. Thinking of culture as national essence provides governments with an excuse not to intervene more energetically to protect human rights since they can defend their resistance as the protection of the national identity. As a representative from Sweden asked at the 2001 meeting of the UN Commission on the Status of Women, “Cultural diversity is a treasure of the modern world, but how can we avoid using these arguments to justify human rights violations of women and girls?” (see Nagen-gast and Turner 1997; Zechenter 1997). And as the prominent African women’s activist Florence Butegwa observes, “African women and men need to join others who actively wonder and ask why it is only when women want to bring about change for their own benefit do culture and custom become sacred and unchangeable” (2002: 123).

CULTURE AS CONTENTIOUS

The prevailing understanding of culture within contemporary anthropology envisions a far more fluid and changing set of values and practices than either of these conceptions. Over the last two decades, anthropology has elaborated a conception of culture as unbounded, contested, and connected to relations of power, as the product of historical influences rather than evolutionary change. Cultural practices must be understood in context, so that their meaning and impact change as their context shifts. Comaroff and Comaroff suggest interrogating the “production, in imaginative and material practice, of those compound political, economic, and cultural forms by means of which human beings create community and locality and identity, especially on evanescent terrains; by means of which, in the face of material and moral constraint, they fabricate social realities and power relations and impose themselves on their lived environments; by means of which space and time are made and remade, and the boundaries of the local and the global are actualized” (1999: 295). This conception emphasizes the active making of culture, society, and institutions and the grounding of this action in specific places and moments. Cultures consist not only of beliefs and values but also practices, habits, and commonsensical ways of doing things. They include institutional arrangements, political structures, and legal regulations. As institutions such as laws and policing change so do beliefs, values, and practices. Cultures are not homogeneous and “pure” but produced through hybridization or creolization.

The way culture is conceptualized determines how social change is imagined. If culture is fixed and unchanging, it is simply a barrier that needs to be removed through education. If culture is a set of practices and meanings shaped by institutional contexts, it is both malleable and embedded in structures of power. These different perspectives on culture affect policies concerning women. For example, in Uruguay’s country report to the committee monitoring the Women’s Convention, the government expressed regret that more women were not involved in politics but blamed cultural traditions, women’s involvement in domestic tasks, and the differences in wages by gender. In contrast, facing the same absence of women politicians, Denmark offered funds to offset babysitting expenses when women attended meetings (CEDAWC/DEN/5, 3 July 2000: 16). In the first case, the barrier to change is theorized as cultural tradition; in the second case, as institutional arrangements of child care. The first model sees culture as fixed; the second assumes that the meanings of gender will change as institutional and legal arrangements change.

When a group’s failure to abide by human rights principles is blamed on its “traditional culture,” this ignores the complex and dynamic nature of culture. Organizations working at the grassroots are far more aware of the importance of local cultural practices as a resource than are the transnational elites meeting at global conferences. Local norms can be paths to change as well as barriers, as Nyamu-Musembi demonstrates in her study of women’s property rights.
in Kenya (2002). Local actors creatively adopt human rights ideas, sometimes reshaping local social relationships. For example, Jane Cowan shows how the use of a human rights framework by Greeks living in Macedonia promoted the formation of a minority Greek identity (2001).

Culture defined only as tradition or as national essence implies that villages are full of culture but that there is no culture in the conference halls of New York and Geneva. Yet, culture is as important in shaping human rights conferences as it is in structuring village mortuary rituals. Thinking of those peoples formerly labeled "backward" as the only bearers of culture neglects the centrality of culture to the practice of human rights. UN meetings are deeply shaped by a culture of transnational modernity, one that specifies procedures for collaborative decision-making, conceptions of global social justice, and definitions of gender roles. Human rights law is itself primarily a cultural system. Its limited enforcement mechanisms mean that the impact of human rights law is a matter of persuasion rather than force, of cultural transformation rather than coercive change. Its documents create new cultural frameworks for conceptualizing social justice. It is ironic that the human rights system tends to promote its new cultural vision through a critique of culture.

WHO SPEAKS FOR CULTURE?

One way of disentangling the meanings of culture is to consider who speaks for a "culture" in international forums, national debates, and village forums. Those who worry about enhancing the cultural legitimacy of the international human rights system, such as Abdullahi An-Na‘im, advocate working with cultural insiders. With reference to promoting reforms in Islamic countries, he notes that "It is primarily the task of internal actors, supported and encouraged by external allies, to promote and sustain the necessary degree of official commitment and popular political support for a program for changing Shari’a laws" (1994: 18a). He argues that it is only those within the society or culture who can be fully persuasive. But what does it mean to be an "internal actor?" Is there a clear boundary between who is inside and outside a culture? In practice, these boundaries are fluid and shifting. Is a person born in one country who has been educated and works in another country an insider in the nation of his or her birth? Does the person born in one country who has spent her life living in another have less right to speak in her adopted country? The boundaries around cultures are never clear and unambiguous.

I became aware of this issue when I listened to a Nigerian woman describe widowhood rituals in Nigeria as human rights violations at the UN Human Rights Commission in 2001. Speaking in the elegant conference hall of a UN building nestled among mountains in Geneva, she was part of a panel of non-governmental activists from an international human rights organization. She described the plight of widows in Nigeria and the humiliations widowhood rituals inflicted on women. Widows were forced to marry their dead husband's brother, blamed for their husband's death, and forced to undergo ordeals to determine their responsibility, such as drinking the water used to wash the corpse. They were forced to stay in a room alone and sit on ashes, expected to wear tattered clothes, feed on a broken plate, and sometimes prohibited from looking at the person who brings their food. Widows were expected to cry so loudly that their wails were audible to people outside the compound and were taunted by their in-laws if they failed. A widow may no longer be able to work the land she was given by her husband's family; she may not be supported by her husband's family; and she may lose her children. These practices are common mostly in rural areas, she said, and in the southern part of the country. She pointed out that women are equal to men in the Nigerian constitution but are not treated that way. She ended by observing that many NGOs in Nigeria are working hard to criticize the government and to train people in their rights because "this widowhood thing is so bad."

Although the denial of access to a woman's lands and children after her husband's death was very troubling, I found myself surprised by this broad condemnation of rituals and cultural practices. As an anthropologist, I had come to value respect for cultural difference. As a student of colonialism, I found critiques of customs and rituals a familiar repeat of imperial arguments. What, I thought, had happened to the commitment to treat cultural differences with respect? Cultural relativism as an ethical stance was critically important to anthropologists in the early twentieth century as they fought against the colonializing mission. Yet, here was a highly educated member of Nigerian society voicing the kinds of criticisms of cultural practices familiar from colonial rhetoric. I wondered again about the way the concept of culture was being deployed in human rights discourse and about practices of cultural representation in international forums. For whom did she speak? Did all the women in these villages condemn these practices? Were they applied equally to all widows? Were all villages the same? If culture were not seen as a consensual system determining all behavior but instead a repertoire of argument that allowed powerful people to control weaker ones, would that make a difference? Is there an intractable contradiction between respecting cultural difference and protecting vulnerable groups such as widows?

After the meeting, I sought out the speaker to ask her about her work. She
said that she was concerned with several violations of women’s human rights, of which widowhood rituals were only one, but that they were a great problem for some women. They were particularly difficult for urban educated women like her. She is a lawyer, fluent in English, and living in a major urban center. She is employed by a US-based human rights NGO. When women in her class are widowed, they find themselves journeying to the village of their husbands where they are subjected to rituals by relatives who may not have liked the woman or the way she treated the family while her husband was alive. Village women, she told me, do not really mind these rituals.

This incident made me wonder who is an insider who can speak for a culture in international settings. In Geneva, this woman was speaking for all Nigerian women. For some in the audience, she probably represented all African women. Yet, there is a vast diversity among Nigerian women on the basis of education, social class, and language as well as region and religion. Widowhood clearly affects women in different social positions differently. But in the context of an international setting and universal principles, acknowledging such complexity would diminish the political impact of her statement. It is not that she claimed to speak for all Nigerian women, of course, but that she was positioned in the international forum as a spokesperson for her country and as representing the experiences and suffering of all Nigerian women. Like other postcolonial elites, she is viewed internationally as speaking for a national culture despite her own positioning within particular social class and ethnic frameworks.

Moreover, by telling the horrors of widowhood rituals as some experience them while implying that all Nigerian women experience them the same way, she is able to tell a more gripping story. Perhaps she assumed that the horrors of the rituals were more persuasive than the disabilities of the inheritance system, even though concerns about property rights and marriage choices after widowhood are issues of major concern for African feminists (Buteiga 2002; Nizioki 2002). Instead of offering a story about how cultural practices are used in struggles over class, education, urban mobility, and ruptures in kinship obligations, she told a story about the oppression of culture.

The issue of representation appears over and over in international forums. NGOs working in various countries hold panels in which the activists speak for their countries, whether about women and poverty, trafficking, or customs such as female genital cutting. The setting reinforces the idea that they are speaking for national "cultures" and that these national cultures are homogenous. Thus, the holistic image of culture is smuggled into international discussions even as participants themselves recognize the dangers of overgeneral-
ization. Just as the concept of culture needs to be interrogated and destabilized, so do assumptions about who speaks for culture.

Global Cultural Processes

Understanding the global-local interface requires attention to transnational cultural flows and their relationship to local cultural spaces (see Hannan 1996; Sassen 1994, 1996, 1998; Appadurai 1995, 2001; Gupta and Ferguson 1997; Ong 1999). I distinguish three forms of global cultural flow that take place across and within global and local spaces. These processes are fundamental to the global production and local appropriation of human rights.

The first is transnational consensus building. This describes the global production of documents and resolutions that define human rights and social justice: major treaty conventions, policy documents that come out of global conferences, and resolutions and declarations of the UN General Assembly and its commissions such as the Commission on the Status of Women and the Human Rights Commission. In this process, representatives of states and civil society negotiate a consensus across differences in ideology, politics, and cultural practices. This requires a protracted and often excruciating debate about wording and sentence structure, but the result is a document legitimated by its unified transnational support. Debate circles around word choice rather than social science evidence. As representatives from governments work together over the years, a consensus on procedure emerges as well as some agreement on substance. While the negotiation process is often arcane and frustrating, it is amazing that national representatives who hold vastly different ideas about women’s place in society talk together at all and reach some agreement. Chapter 2 describes this process in detail based on several international conferences I observed in the early 2000s. Chapter 3 considers how one of these global documents, CEDAW, is actually implemented. Chapter 4 explores tensions between global legal standards and more local, contextualized understandings through a case study of Indian personal laws and Fiji reconciliation processes.

The second form of cultural flow is transnational program transplants. Social service programs and legal innovations created in one society are transplanted into another. All five countries I studied adopted the same repertoire of interventions more or less simultaneously, sometime between the mid 1980s and early 1990s. In addition to promoting counseling services and new laws for domestic violence and rape, they conducted surveys on the incidence of domestic violence and developed public education programs. Ironically, despite
in conferences and events where information is exchanged. Wealthier countries send larger delegations to international conferences and can participate in more deliberations. Smaller countries, such as Fiji, often fail to send national representatives to UN meetings at all. Some of the smaller Pacific island states have not ratified UN conventions because they lack the resources to prepare reports and present them at UN meetings. Many of the NGOs in poorer countries are funded by the wealthier states of the global North as well as foundations rooted in these areas. As a professor in Delhi working on women’s issues told me, the new ideas that come from these international cultural exchanges are welcome, but international funding for NGOs creates a parallel system of government within India that is unaccountable to its citizens. Global inequalities of power shape the kinds of cultural flows that take place even for feminist efforts to prevent violence against women.

Violence against Women as a Human Rights Violation

The emergence of violence against women as an important human rights issue illustrates how human rights are made. First discussed as a human rights violation in the 1980s, concern about violence against women expanded enormously in the 1990s. The original meaning of violence against women—men’s violence against their partners in the form of rape, assault, and murder—has expanded to include female genital mutilation/cutting, gender-based violence by police and military forces in armed conflict as well as in everyday life, violence against refugee women and asylum seekers, trafficking and prostitution, sexual harassment, forced pregnancy, forced abortion, forced sterilization, female foeticide and infanticide, early and forced marriage, honor killings, and widowhood violations (see Cook 1994a: 20; Keck and Sikkink 1998). Gender violence was not a major issue in the 1975 and 1980 global women’s conferences, although it was explicitly mentioned in the 1980 Copenhagen document (Thomas 1999: 244–45). The Nairobi Forward-looking Strategies developed in 1985 identified reducing violence against women as a basic strategy for addressing the issue of peace (Report of the Secretary-General 1995: 125). The 1979 Convention on the Elimination of All Forms of Discrimination against Women did not mention violence against women, but the committee monitoring the convention developed an initial recommendation against violence in 1989 and in 1992 formulated a broader recommendation that defined gender-based violence as a form of discrimination. The 1992 statement placed violence against women squarely within the rubric of human rights and fundamental freedoms and made clear