

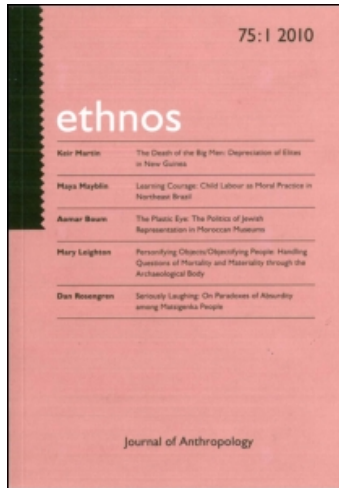
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Unsettling Power: Domestic Violence, Gender Politics, and Struggles over Sovereignty in Ghana

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ABSTRACT *This article provides a new lens for analyzing power formations in human rights practices by examining Ghanaian struggles over a Domestic Violence Bill. While the hegemonic character of human rights advocacy is well-established, we know less about exercises of power in discourses and practices that oppose rights. I analyze how the Ghanaian government constructed the discourse of cultural sovereignty and deployed it against women's rights. The government legitimated this discourse by appropriating the voice of 'the people' and superimposing notions of 'foreignness' onto both the Bill and Ghanaian women's rights activists. Drawing on the historiography of colonialism and ethnography of political performance, I argue that this case illustrates how the discourse of cultural sovereignty is mobilized in a struggle over shifting configurations of gender, political activism, and state sovereignty.*

KEYWORDS *Domestic violence, women's rights, NGOs, state, human rights*

In the election year of 2004, the Domestic Violence Bill was the most controversial topic of public debate in Ghana and a site of intense campaigns and struggles between the government and NGOs. The Bill criminalized domestic violence and introduced new legislative provisions, the most controversial of which was the marital rape clause. While Ghanaian law defines all sex within marriage – including forced sex – as consensual, the Bill would have made forced sex a crime. The Bill's social life far exceeded the text itself; it became a battle of representation. In support of the Bill, women's NGOs mobilized discourses of women's rights and national development. Opposing the Bill, the government mobilized the discourse of cultural sovereignty – claiming that the Bill was a foreign import that presented a grave danger to Ghanaian culture. According to the government, the marital rape clause

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would grant women undue rights and tear apart families. The government deleted the marital rape clause from the version that was eventually presented to Parliament, and the modified version of the Bill was passed in 2007.

The debates that took place in Ghana reflect familiar scholarly and activist debates about human rights, which are often structured as an oppositional oscillation between 'culture' and 'rights.'¹ Within contemporary liberalism, this debate is framed as a question of negotiating the limits of multiculturalism on the one hand, and the universality of rights on the other. In the African case, according to Mahmood Mamdani, 'the liberal solution is to locate politics in civil society, and the Africanist solution is to put Africa's age-old communities at the center of African politics' (1996:3).

Anthropological responses to this debate have crystallized into two distinct approaches. First, anthropologists enter directly into the rights vs. culture debates as well as the debates about the limits of liberalism. They argue that both liberals and their critics reify the culture concept. Jean and John Comaroff argue, for instance, that 'even the most conservative anthropologist would be wary' when an essentialized notion of culture is mobilized in response to liberalism (2004:188). Since culture is often invested with a near-sacred 'authority, a determinacy, a superorganic unity' (2004:188), critiquing a static view of culture allows anthropologists to conceptualize culture as fluid, dynamic, and contested (Merry 2003; Shell-Duncan 2008). Second, anthropologists attempt to sidestep normative claims about rights and culture and instead focus on how rights are negotiated and contested in practice (Goodale & Merry 2007).² Ethnographies of human rights examine power relations in the processes of negotiating rights, question the emancipatory promise of the human rights framework, and highlight the hegemonic aspects of rights – from geopolitical inequalities to ramifications of global capital (Lazarus-Black & Merry 2003; Merry 2006; Englund 2006; Riles 2000).

This article intervenes in debates regarding liberalism, human rights, and the role of 'culture' within these frameworks. I point to an important oversight within this literature: when 'culture' is understood as a 'native' form of resistance to rights, the mobilizations of 'culture' are exempt from analyses of power. I first analyze how the rights-culture opposition that has dominated many scholarly debates now haunts actual negotiations and practices of women's rights in Ghana. I examine a complex case in which the Ghanaian state opposed women's rights claims by deploying the discourse of cultural sovereignty in the name of the Ghanaian 'people.' This ethnographic example illustrates how deploying a discourse of cultural sovereignty

is not an automatic response to rights claims, but an outcome of a politically charged and laboriously orchestrated process. The Ghanaian government strategically mobilized the putative opposition between 'culture' and 'rights' to authorize its opposition to the Bill by cloaking its position in the legitimating discourse of cultural sovereignty. I argue that in contemporary Ghana, cultural sovereignty is a discourse that serves the exercise of state power, and that the opposition between culture and rights is established through political performance.

This ethnography reveals that questioning how 'people' negotiate rights claims cannot be the end point of analysis. Rather, we must extend the analytics of negotiations by asking who claims to speak for the people, detaching the assumed alliance between the Ghanaian 'people' and the discourse of cultural sovereignty. My analysis questions the paradigms that consider the language of culture to be intrinsically at odds with the language of rights and that cast culture as 'local' and rights as 'Western.' Negotiations of rights occur against a backdrop of multiple kinds of power struggles – from colonialism to neoliberalism – that are shaped by a discursive history which positions 'culture' as an anti-imperialist stance. I trace the legacies of these struggles and demonstrate that in the Ghanaian case, cultural sovereignty is not a discourse that emerges from popular, or what Howe and Rigi call 'native' sentiment (Introduction to this issue), but a sentiment mobilized and nurtured by the government. In this instance, 'rights' are not the only 'foreign' discourse.

First, a note on the central characters in this story: the Bill's proponents, opponents, and 'the Ghanaian people.' The Bill was drafted by an NGO I call Lawyers for Women's Rights (LAWORI), an organization of women lawyers who volunteer their services.³ LAWORI drafted the Bill in the late 1990s and presented it to the public in 2000. In subsequent years, a large coalition of other organizations and activists came together to advocate for the Bill. Over time, this coalition grew to encompass Ghanaian women *and* men, as well as a wide variety of organizations – including NGOs, trade unions and public institutions. The Bill galvanized activists, academics, and civil society at large to unite around this issue and form political solidarity.⁴ Most of the coalition's active members were from Accra, but women's NGOs in other parts of the country also mobilized around the Bill. In the Upper East region, for instance, they showed their support for the Bill by organizing marches and protests.⁵

The government of Ghana publicly opposed the Bill and Gladys Asmah, the Minister of Women and Children's Affairs, was put forward to be the sole visible face of this opposition.⁶ It was not well known that in fact the Cabinet

(the President and his most important Ministers) had ordered Asmah to campaign against the Bill (Parliament of Ghana 2005:16). Ghanaian media *appeared* to oppose the Bill, as newspapers primarily reported the views of government officials in keeping with the media's general focus on the voice of authorities (Hasty 2005). The media restricted its reporting to stylized repetitions of official statements made by government and NGO representatives.⁷

'The' Ghanaian people are also central to this story, in that the government's opposition hinged upon its claim to speak for them. What 'ordinary' Ghanaians thought about the Bill is not known despite the government's putative advocacy on their behalf. The only Ghanaians who discussed the Bill's merits were urban, educated professionals such as NGO heads, directors of governmental offices, and journalists.⁸ Discussions about the Bill were restricted to spaces of 'national' debates about development and politics and took place in government and NGO offices, publications, and in the media. While the Bill was debated vigorously by the Ghanaians who inhabit such spaces, they do not represent 'the' people that the government invoked and romanticized. 'Ordinary' Ghanaians were *impelled* to speak when NGOs and the government organized workshops and public events, but the Bill was not on the minds of community members in Bolgatanga neighborhoods or nearby villages where I conducted fieldwork.⁹

NGO Advocacy for the Domestic Violence Bill

In order to foster the Bill's passage, proponents drew on local histories as well as global frameworks. The story activists tell about the origins of the Bill is a local one. Dozens of women were murdered in Accra in 1998, alarming the Ghanaian public. Activists formed a group called Sisters Keepers which organized a series of protests demanding that the government address violence against women. Wearing red and black, the colors of mourning, both women and men marched to Osu Castle, the seat of the Ghanaian President. When the crimes remained unsolved by 1999, protesters felt the government had not done enough to find and punish the perpetrators and demanded that the Minister of the Interior step down.¹⁰ These demands were not met. The government's failure to address the murders and its hesitant and partial response to protests set the stage for heightened activist advocacy for the Bill.

Activist lawyers working for NGOs also argued in support of the Bill based on their experiences practicing law in Ghana. Having provided victims of violence with free legal counsel and court representation for more than twenty years, LAWORI lawyers and other activists saw themselves as being

well-positioned to argue that the existing legislation was inadequate. LAWORI viewed the Bill as a response to problems with the current legal framework and state institutions. They pointed out that existing legislation employed a very narrow notion of violence, restricting it to physical violence that occurs outside the family and marriage. Moreover, they claimed that the available tools for addressing violence – arrests and imprisonment – are inadequate, as they are viewed negatively by many Ghanaians. The Bill LAWORI drafted would remedy each of these problems.¹¹

While activists emphasized the local aspects of their advocacy, the construction of the Bill is grounded in two kinds of global processes. First, the struggle over the Bill and the politics that ensued reveal a predicament that Comaroff and Comaroff have called ‘the fetishization of law’ and ‘the judicialization of politics’ (2006:28). They argue that anxieties about the law as well as public fascination with it are proliferating in postcolonial contexts (2006:25). In Ghana, the government and NGOs have been conducting numerous legal overhauls aimed at remaking the social order. These include laws that regulate issues ranging from land tenure to gendered initiatives such as widows’ inheritance rights, women’s ritual servitude, and female genital cutting. Second, the creation of what Sally Merry calls laws against ‘gender violence’ (2006:2) is a global phenomenon. Ghana is one of many countries in which activists have introduced laws criminalizing sexual and domestic violence. This global trend began when violence against women was framed as a human rights violation at the 1993 World Conference on Human Rights in Vienna.¹² Merry’s multi-sited ethnography about the formation of laws against ‘gender violence’ shows that both the forms and discourses of advocacy are surprisingly similar across the globe (2006). Activists often situate their arguments in appeals to international law, resulting in what Merry calls the ‘localization’ of international rights frameworks (2006:4).

Ghanaian NGOs drew on this strategy and invoked Ghana’s commitments to women’s rights under international law. They pointed out that Ghana had signed and ratified UN treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Declaration on the Elimination of Violence against Women. According to international law, when a country signs and ratifies these conventions, it is expected to implement them. Ghana *had* to pass the Domestic Violence Bill, NGOs claimed, because the Bill was a ‘*fulfillment* of Ghana’s international obligations as a signatory to several international conventions and declarations.’¹³

Like many other activists worldwide, Ghanaian NGOs also mobilized science

to highlight the extent of violence against women and children. Research conducted by the Gender Studies and Human Rights Documentation Centre found that Ghanaian women experience violence in a wide range of settings and relationships, from domestic and romantic relationships to schools and workplaces. Their interviews with more than 2,000 women from different regions of Ghana revealed that a third of these women experienced physical violence and a fifth had been forced to have sex against their will (Appiah & Cusack 1999). This study shocked Ghanaians because it revealed that violence against women was widespread and largely unreported. Since its publication, the results of the study have been widely circulated in Ghanaian academic and activist communities, and a book based upon the research became a common fixture on desks and bookshelves of Ghanaian NGOs. The report galvanized activists, alerted the general public to the extent and character of violence that Ghanaian women experience, and established 'domestic violence' as a new category in need of intervention.

The NGOs' final strategy was to portray domestic violence as an obstacle to development. As the Center for Democratic Development put it:

The Bill would assist the nation in quelling violence against women, which would in turn enable the country to increase its productivity. The more women are able to participate as equal partners in the country, unimpeded by violence in their homes, the more likely that they will contribute to the country's economic development (Center for Democratic Development 2005:5).

Since 'development' is the dominant language of both economics and politics in Ghana, women's rights activists attempted to draw upon the familiar trope in order to make themselves understood by the larger Ghanaian population as well as by state bureaucrats. The discourse of development is both global and local. It offers NGOs access to global capital and legitimates their projects in the eyes of the state. By couching their advocacy within this recognizable discourse of economic productivity, NGOs hoped to provide a rationale and legitimacy for the Bill that the government could not deny. These hopes were not fulfilled.

The Government's Campaign: Mobilizing Cultural Sovereignty against Rights

To oppose NGO advocacy, the Ghanaian government constructed and mobilized what I call the discourse of cultural sovereignty. Using ideas from a legal scholar and the former Director of the Ghana Law School, Kwaku Ansa-

Ansare, the government crafted a set of key terms, documents and political positions in opposition to the Bill. Ansa-Ansare developed four propositions to undercut the validity of the Bill: (1) the Bill was a foreign imposition; (2) it posed dangers to the Ghanaian family and culture at large; (3) domestic violence was best adjudicated privately (outside the system of civil law); and (4) traditional authorities should mediate and adjudicate domestic violence problems (Ansa-Ansare 2003). These four ideas became the conceptual cornerstones of Asmah's campaign against the Bill. Ansa-Ansare was the first to describe the marital rape clause as particularly problematic and argued that the government should not allow the concept of marital rape to enter the legal system (2003). Within this discourse, the marital rape clause was singled out as particularly threatening to Ghanaian culture and family structures.

The discourse of cultural sovereignty did not spread across the country spontaneously. Instead, the government worked assiduously to propagate it. Asmah laid the groundwork by holding press-conferences and talking to newspapers. She said that 'definitions of domestic violence emanating from other cultures, particularly Western, European, and American notions, concepts and traditions may not necessarily be appropriate for Ghana's circumstances' (*Public Agenda* 2003). She claimed that criminalizing domestic violence would be ill-suited for Ghana: 'We are first and foremost Ghanaians and so we must first of all find home brewed solutions to our problems' (*ibid.*). Asmah's criticism of the marital rape clause pivoted upon arguments that emphasized the threat of foreign intervention and the value of local remediation.

Asmah in Bolga

Asmah further developed the state's oppositional platform by organizing a country-wide campaign against the Bill where she toured the 'remote' regions of the country. I observed Asmah's campaign when she came to Bolgatanga (Bolga) in May of 2004. She arrived with pomp and circumstance on a sweltering day at the end of the dry season, her shiny black SUV stopping at the entrance to the House of Chiefs, which was decorated in her honor. She was received with great respect and when she got out of the car, local government officials and NGO representatives immediately encircled and greeted her. Dozens of students in orange-brown uniforms who had marched for women's rights that morning waited outside to greet her, but she went straight to the 'high table' without acknowledging them. Inside the assembly hall two hundred people were waiting for the Minister, all of them invited and hand-picked by the local government. Chiefs sat in the front rows and

village women sat behind them. The audience members also included local government officials and NGO representatives.

I sat on the side and watched Asmah deliver a rhetorically masterful performance. Given that she was the governmental official charged with protecting women's rights and that she was opposing the Bill and the marital rape clause, she faced a formidable task. Asmah had to make a veiled argument against the Bill while appearing to promote it. She used a number of discursive strategies to try to convince the public that the Bill was undesirable and that the marital rape clause was especially problematic. Most of Asmah's strategies drew on the four ideas originally proposed by Ansa-Ansare.

First, Asmah framed the Bill as a foreign imposition:

It is my responsibility as a Minister to caution as we go around with this Bill. Because Cabinet wants the people of this country to have a law that will suit them. Not to take ideas from someone else. We are Ghanaian. We must do what we think will fit Ghanaians.

While NGOs advocated that the Bill would protect women, for Asmah it would endanger the nation. By declaring the Bill a threat to the nation, Asmah effectively inverted the logic of 'protection.'

Second, Asmah declared that the Bill was a danger to Ghanaian families:

All of us, all of us must think how to protect the family. It is very crucial. If the family is going to be able to develop properly and for Ghana to develop properly, we must protect everybody. [...]

For instance, in the countries that have this particular [marital rape] clause, we are told that about 65% of marriages break down. That if you are going to have a hundred people that get married, 65% will divorce. [...]

Should a case like this occur and a husband goes to jail for raping his wife, what happens to that marriage and the children? What happens to the relations between the families of the man and the woman?

Asmah's vision of protecting the family, both nuclear and extended, was based on two principles. First is the idea that absence of divorce is the most important component of protecting the family. In this formulation, the goal of the state is to maintain marriages and keep families together. Second, Asmah attributed causality to the alleged correlation between divorce rates and marital rape prohibitions, suggesting that the prosecution of marital rape is a problem for the family. Each of these questionable propositions and correlations were meant to destabilize the logic of the Bill and undercut support for it.

Asmah also mobilized notions of development by saying 'for Ghana to develop properly, we must protect everybody.' By recasting the earlier NGO arguments about the Bill's ability to protect women and thereby make them more productive citizens who would contribute to the country's economic development, Asmah managed almost seamlessly to invert the NGOs' rhetoric. In other words, she cast 'proper' development as rooted in the protection of Ghanaian families. These competing notions of development are reflected in Asmah's statements that characterized women's interests as secondary to those of the family. In her public presentations, the Minister created an antithetical relationship between the rights of women and 'the family.' By asking 'what happens to that marriage and the children,' Asmah made it clear that woman's interests should be subordinated. According to this logic, were a woman to fight against marital rape, she would bear the blame for destroying her family.

Asmah envisioned families, rather than individuals, as subjects of law and bearers of rights. While the Bill itself is aimed at preventing domestic violence and protecting individuals who experience it (who tend to be women and children), Asmah introduced 'the family' as the preeminent legal subject: 'all of us must think how to protect the family.' This different emphasis on the proper subject of the Bill is important. The Bill itself frames individuals – women and men – as potential victims of violence and legal subjects that enjoy a set of inherent rights. Ghanaian civil law concurs with this definition of individual rights. This is one of the reasons why the government tried to relegate domestic violence to customary law. Customary law does not position all individuals as equal; rather, it accommodates the rights of individuals, families, and communities in complex and sometimes competing ways.

Third, Asmah presented sexuality within marriage as a private matter:

And if you, my brothers, say, 'She's my wife, I married her. What does the government want to do in my bedroom,' let's discuss this and see what we can do about that particular clause. That's the clause that many people were choking on.

As she addressed men as 'my brothers,' Asmah placed herself squarely on 'their side.' Invoking a form of direct address, she placed words in the mouths of the male audience members ('if you, my brothers, say'), further deepening her alliance with the men in attendance. Asmah also used reported speech, referring to unnamed others, ('many people') who were supposedly opposed to the marital rape clause in order to create an impression that there was widespread resistance to the clause.

Fourth, Asmah presented customary law and adjudication by traditional authorities as a viable alternative to the Bill:

We have the social structure ...the chiefs are there, the imams are there, the mallams are there, everybody is there in the community to talk to somebody who is misbehaving – they don't need to go to the police. [...]

And because in Ghana, we are a country with a cultural background, we need to know: do we go a civil way of protecting the family or the criminal way of protecting the family? We have to make that choice. When you go the civil way, it means the family heads, the queenmothers, the uncles and the mallams, imams, the churches, they're all there to counsel couples to stay in peace.

By coupling 'criminality' with the Bill and 'civility' with 'traditional' mediation, Asmah inverted the logic of legal protection. To sanction opposition to the Bill, Asmah characterized the Bill, i.e. law itself, as criminal and used the valence of 'civility' to promote the appeal of purported counseling by traditional authorities. Asmah's rhetoric places civility in the provenance of culture and tradition while relegating the law to a 'criminal' *modus operandi*. With these statements, Asmah presented herself and the government as doubly defending Ghanaian families: while the NGO-advocated Bill would destroy families, the government's alternative would bolster the family as well as civility.

In official Ghanaian state, international development, and NGO discourses, 'culture' is often reified and stands for a relic from the past, still existent in rural communities. As Asmah put it, Ghana is 'a country with a cultural background.' This notion of culture as anachronism is pronounced and widely reproduced in both state and NGO discourses, suggesting that tradition is constructed in opposition to modernity and progress. The Ghanaian state habitually invokes Ghana's 'cultural background' to outline areas requiring reform. However, Asmah affirms the notion of 'cultural background,' signaling her respect for tradition. For Asmah, a country like Ghana does not need police and laws to handle social problems and remedy 'misbehavior.' Instead, according to Asmah's logic, tradition provides a means and a method to manage domestic violence cases. Through this inversion, Asmah effectively portrayed customary law as an effective alternative to the Bill.¹⁴ When domestic violence is imagined as being adjudicated outside of civil law, the state is able to deflect its responsibility. In turn, it denies women the right to make demands for state protection.

Finally, Asmah presented the Bill as dangerous because it would allow women to abuse the law:

In countries that have this law, there is a clause that mentions something called marital rape. It could mean that a woman can come out of bed and say that the husband has raped her.

In this configuration, women were not trustworthy legal subjects but potentially reckless and suspect subjects prone to abuse the law. According to her logic, giving women the legal right to charge their husbands with rape would result in legal abuses. In Ghanaian English, the phrase 'to come out of bed and say' has a literal meaning, but it also suggests a random act, one without a proper and valid cause. Asmah's use of this phrase suggests that the Bill would allow women to capriciously accuse their husbands of rape and thus open the gate to indiscriminate arrests of men across the country. In other words, women should not be granted legal rights because any Ghanaian man could suffer as a result.

Overall, Asmah's speech reveals the composite logic of a discourse of cultural sovereignty. She wove together notions of the Bill's foreignness and the alleged danger the Bill presented for Ghanaian families. She seamlessly equated a family-based social structure with Ghanaian culture. By placing 'family' and 'culture' within the same theoretical and discursive framework the Minister attempted to construct a concept of the social order that is essentially Ghanaian. According to Asmah's representation, the Bill would subvert that order and thus endanger the essence of Ghanaian culture.

Asmah's speech makes it clear that the discourse of cultural sovereignty can be mobilized to oppose women's rights in civil law. Although Asmah never explicitly mentioned customary law, and could not advocate for it directly since the Ghanaian government presents itself as modernist and reformist, by describing the contours of customary law, she effectively placed domestic violence outside of state responsibility. These invocations (and imaginaries) of the ambiguous space of customary law allowed the government to cast domestic violence as something outside the provenance of state jurisdiction and authority.

Authorizing the Discourse? Responses to the Government's Campaign

In Ghana, politics is indeed migrating to the judiciary (Comaroff & Comaroff 2006:26), and, in a form of multiple displacements, to the countryside. Asmah's speech in Bolga and her subsequent 'consultations,' to which I will turn shortly, were an attempt to spread particular readings of the Bill and develop opposition to it. The government sent Asmah to persuade the

Ghanaian public that the Bill should not be passed. Her campaign was an attempt to extend the discourse of cultural sovereignty, thus allowing the state to 'acquire a life in the practices of the community' (Das 2004:234). More importantly, however, Asmah's public performances were aimed at *authorizing* the discourse of cultural sovereignty and legitimizing the government's opposition to the Bill.¹⁵ The staging of the propaganda tour throughout the provinces helped the government produce the illusion of popular debate about the Bill while simultaneously legitimating the government's right to represent the voice of 'the people.' As we shall see, Asmah's success in widening opposition to the Bill was partial, but she nevertheless managed to authorize the government's opposition.

The responses to Asmah's speech show that the discourse of cultural sovereignty found only moderate traction. In the question and answer period following the talk, women and men from Bolga spoke their minds in ways that conflicted with Asmah's intent. Many of their comments dealt with issues of poverty, which for many people is the Upper East region's largest problem. Audience members criticized the government for neglecting the region and making elusive promises of economic development.¹⁶ They spoke forcefully voicing their disappointment, bitterness, and anger at promises the government had made but not kept.

Some did take up Asmah's invitation to discuss the Domestic Violence Bill, but only a few sided with her. The audience response was largely divided along gender lines: the women supported the Bill and the men opposed it. Here are some representative comments from the women:

– That question about marital rape. I want to say that should stay there, because this is not for one person; it's two way. Because if after hard work the woman wants to rest small and the man says 'who is she to rest,' nothing good can come out of that. So what I am saying is: if we are implementing that portion of the Bill, we should go ahead and do it.

– Our law is English law from the time of Henry the Fourth. This law was brought to Ghana by the English. And the law is not good for women. The law tells the husband you have right over the woman. That is really criminal. This law must go.

The first commentator defended the marital rape clause by claiming that women's desire to 'rest small,' or to refuse sex at times, was legitimate. For her, the Bill would allow women to assert their decision to rest without facing repercussions from their husbands. She rebuked Asmah's notion that the marital rape clause would only benefit individual women and endanger

families, saying the law was 'two way.' The speaker framed this in ethical terms, stating that there was 'nothing good' about the system which allows a husband to overrule his wife's wishes.

The second woman who spoke, a well-known journalist and women's rights activist from Bolga, deconstructed the notion of authentic Ghanaian law by arguing that existing laws are a colonial imposition rather than a purely Ghanaian product. While Asmah promoted customary law as authentically Ghanaian, the journalist pointed out that the Bill responds to and transforms an already existing civil law. The journalist's historical critique questioned the existence of any Ghanaian law free from foreign influence. She also represented the existing law as anachronistic, appealing to notions of progress that are normally a central part of the government's repertoire. Finally, the speaker subverted the Minister's language of 'criminality.' While the Minister claimed that adopting the Bill would mean 'going the criminal way,' the journalist argued that preserving a law which gave men rights over women's sexuality was, in fact, criminal.

The men who spoke, on the other hand, sided with Asmah's critique:

- In those countries where there is this law, 65% of marriages break up. I think we should rather talk to chiefs about marital problems instead of marital rape being admitted to the law.
- When you pointing a finger at someone and we no longer all come together to live peacefully as a whole unit, that's a problem.

The first man who spoke simply repeated the argument presented by the Minister, amplifying her voice. He adopted the discourse of cultural sovereignty and customary law as a solution ('we should talk to chiefs') and singled out the marital rape clause as a problem. The second man agreed that the Bill was a danger to the community. Like Asmah, he located the disruption to families not in the act of violence, but in the act of accusation, 'pointing a finger'.

These statements only hint at what the audience might have thought of the Bill, as they were not given much time to question Asmah. After the first round of questions and comments, Asmah gave brief and rather defensive responses and then concluded the 'consultation' forum. As soon as the audience expressed discontent with Asmah and the government, the meeting was ended. While we cannot be sure what the audience thought about Asmah's speech, it is safe to say that the opposition to the Bill and the discourse of cultural sovereignty did not meet an enthusiastic response.

Performing Authorization

Although Asmah was not able to orchestrate significant popular support against the Bill, the authorization process was successful in the sense that Asmah was able to engineer the government's 'right' to speak on behalf of the Ghanaian populace. In a meeting with activists, Asmah proclaimed that 'the main concern being expressed *by the people* against the Bill was the part dealing with marital rape' (*Daily Graphic* 2004). This is also how the government justified its opposition to the Bill internationally. In its report to the UN, the government claimed that the marital rape clause 'was generating a lot of controversy *among the population*' (*Republic of Ghana* 2005:27). Therefore, in both local and international registers, the Bill was not ready for passage because of purported popular opposition to the marital rape clause.

At the factual level, the government's claims were blatant misrepresentations. Asmah had no support for the claim that the people were opposed to the Bill other than her country-wide tour. After Bolga, Asmah visited six more towns across Ghana. These visits were not consultation meetings at which everybody could speak freely, but merely occasions for Asmah to promote her discourse. As the interaction between Asmah and the audience in Bolga illustrates, the people whom Asmah met on her tour did not necessarily embrace the government's campaign. There was not much popular controversy about the Bill either, as spontaneous discussions about the Bill were limited to urban public spaces and highly educated Ghanaians. Moreover, the government misrepresented the temporality and causality of opposition to the Bill. Those opposing the Bill did so in reaction to the government's position. Yet, the sheer fact of the 'consultation' tour – however small and limited – both produced and legitimized the position that cultural sovereignty was a native discourse that could not be reconciled with rights claims. I consider this authorization a 'performance' because the very act of staging the tour and consultations produced the impression that there was a popular debate about the Bill.

The tour worked to authorize the government's opposition to the Bill for three reasons. First, Asmah's tour to 'remote' regions of Ghana was highly unusual. Politicians from Accra do not frequent the Upper East, the poorest of Ghana's ten regions, which is located 800 kilometers from Accra, near the borders of Burkina Faso and Togo. This was the first time that the government sent high-ranking officials to tour remote regions of the country to campaign against proposed legislation.¹⁷ As Asmah said in her speech, it was her first visit to the region. The campaign was staged in public forums

at the geopolitical margins of the state in order to create the effect that the Ghanaian people (rather than state officials) from all parts of the country saw the Bill as a threat to their culture. After the tour, Asmah could claim that she talked to Ghanaians from all walks of life and from all parts of the country. In this way, the spectacle served an authorizing function and allowed the government to oppose the Bill in the name of the people.

While the government's campaign was unusual, it was staged against the backdrop of a larger discourse of participation in democracy and development (Bornstein 2005). Ghanaian NGOs routinely hold workshops and consultations with the 'people' and donor organizations hold workshops for government officials and NGOs (Hodžić 2006). Such 'participatory' meetings ensure the legitimacy of development projects and government policies because they imply that there is a level of popular, local support for development interventions. The government does not usually 'consult' with ordinary Ghanaians about political decision-making processes. Nevertheless, the framework of participation allowed the government to legitimize its opposition to the Bill.

Finally, the performance of authorization was successful because nobody challenged the government's legitimacy to represent the voice of Ghanaians. The people themselves did not have much opportunity to speak back, activists did not challenge Asmah's claims openly, and the media did not critically analyze the controversy about the Bill. Journalists and other subjects of the Ghanaian state performed an adherence to official ideology. According to Achille Mbembe, the strategy of simulacrum 'allows ordinary people to (a) simulate adherence to the innumerable official rituals that life in the postcolony requires... and (b) thus avoid the annoyances which necessarily arise from frontal opposition to the orders of power and its decrees' (1992:11). As a result of simulacrum and public silence on Asmah's maneuvers, the government was able to invest its opposition to the Bill with the voice of the people.

Dangerous Concepts and Gendered Anxieties:

Marital Rape and Abuse of the Law

While the proposal to adjudicate domestic violence with customary law found little traction, the fear that women would abuse the law did spread in some circles. Asmah's accusation that women would abuse the marital rape clause took on a life of its own as it was echoed by government officials and others who opposed the Bill. Concerns about potential abuse of the clause reveal how the Bill became a site that produced and amplified anxieties about power relations between husbands and wives. By examining how the Bill's

opponents represented women, I will show that concerns about gender and power were a driving force behind the opposition.

Some of the Bill's opponents saw a conspiracy behind the advocacy for the Bill. A male NGO director from Bolga was convinced that there must have been a hidden reason why 'feminists' were lobbying for the Bill. 'There is nothing in that Bill that's not already in the legislation, so why the need for the Bill?' he asked. He explained that he had read the Bill and compared it to existing laws. Because he had not seen much substantial difference apart from the marital rape clause, he was suspicious.¹⁸ What if, he asked, the entire Bill was created to camouflage the real intent – the introduction of the marital rape clause? NGOs may have drafted the Bill with a single purpose in mind, to give women power to manipulate the law against men. He feared that if marital rape were illegal, wives could claim they were raped when this was not the case.¹⁹

Cecilia, a high-ranking official from the Ministry of Women and Children's Affairs, expressed similar concerns. She told me that the marital rape clause was difficult because 'men are worried.' She thought this was particularly problematic because men constitute a majority of the Parliament. She insisted that not only men, but 'we' – representatives of the Ministry of Women and Children's Affairs – were worried. 'We also don't want women to use it as a trump card; we won't create problems. Cecilia construed women as manipulative, suggesting that they would use the Bill to resolve marital conflicts that had nothing to do with domestic violence or marital rape.²⁰ Thus, for those who opposed the Bill, this claim crystallized anxieties over possible changes in gendered power relations within families.

Contested Histories: Colonialism, Nationalism, and the Deployment of Cultural Sovereignty

Historical analysis of how discourses of cultural sovereignty have been deployed in colonial times offers an important lens for understanding the controversy over the Domestic Violence Bill. It shows us why the government was able to rely on the discourse of culture as a language of anti-imperialism, but also teaches us critical lessons about how culture was used as a tool to undermine the rights of Ghanaians. The machinations of colonialism (re)-conceptualized 'culture' and put it to multiple purposes; 'culture' was used both as a governing principle for customary law and – when it was thought to work against the interests of modernist development – as a target for intervention and eradication. Anti-colonial struggles were often fashioned

in response to the latter invocation of culture and these histories inform the present in complex ways. The government's campaign against the Bill is vested with the legacies of anti-imperial nationalist struggles. However, the history of northern Ghana demonstrates that the government also followed the unsavory path of the colonial state.

'Tradition' as a principle of governance in the guise of chiefly rule and customary law is a product of the colonial state. Only some regions of what is now Ghana were governed by chiefs prior to colonialism. Indeed, in much of the North, the very existence of chiefs in precolonial times is disputed.²¹ Customary law and the idea that chiefs should serve as judges was also a colonial invention in the sense that cultural norms were codified as law. More importantly, the notion of cultural authenticity was used to uphold the interests of the colonial state. Customary law was deployed as a shield against rights claims and law was not meant to provide justice, but to enforce power (Grischow 2006; Mamdani 1996).

The history of colonial rule in the Upper East region reveals how the British created and protected traditional authorities in order to stifle rights claims and anti-colonial sentiments (Grischow 2006). The British appointed chiefs and incorporated them into the colonial administrative structure, but did not hesitate to replace them with other 'traditional authorities,' *tindanas* (landlords), when chiefs seemed to have accrued too much power (Grischow 1998). The British were also the first to deploy discourses of cultural sovereignty to suppress rights claims in northern Ghana (Grischow 2006). This area was governed and 'developed' differently from southern Ghana, after the British realized that large-scale development projects were potentially threatening colonial rule (*ibid.*). Colonial officials thought that Northern Territories would 'offer opportunities for controlled change for the agency of supposedly unspoiled traditional institutions' (Thomas 1974:427).²² The British justified these models of governance using the discourse of cultural preservation, elsewhere known as politics of 'separate' or 'appropriate' development.

As this brief history makes clear, customary law and chiefly rule are not authentic or 'native,' but forms of colonial governance that were intended to serve British interests rather than Ghanaian ones.²³ The government's proposal to arbitrate domestic violence through traditional authorities is based on a constructed notion of authentic Ghanaian justice that has ties to colonial rule. Despite its dubious origins, customary law could serve the interests of 'the people' today, including those of women who experienced violence. However, we cannot assume that there is such a thing as a 'ready-

made' customary law which would dispense justice, nor that justice is the government's goal in invoking customary law.²⁴

Within historical and anthropological scholarship on Africa, it is well known that colonialism transformed and politicized the notion of 'culture' and that customary law is fraught with multiple legacies of colonialism (Chanock 1998). Nevertheless, scholars believe that the discourse of customary law has a popular appeal. A central assumption in the literature is that the discourse of custom has become naturalized and is now 'native.' Chanock calls it the language of 'ordinary people' (1998:xi) and Manuh claims that 'broad swells of the population' embrace customary laws, including those newly invented (1995:224).²⁵ Scholars also claim that culture writ large has become the primary language of popular resistance to Western impositions, including the frameworks of human rights and liberalism. Nhlapo, for example, promotes African culture and customary law as solutions to the problem that in 'the minds of the general populace' there is 'the association of human rights with Western thought and a Western world-view' (2000:137). In addition, Comaroff and Comaroff argue that culture has become the people's language of resistance to liberalism and 'Euromodernity.' 'Peoples across the planet have taken to invoking it, to signifying themselves with reference to it' (2004:188).

The ethnographic case presented here shows that the language of customary law is not a native language, but a language constructed by the government. The Ghanaian 'people' did not produce the language of customary law and culture to oppose the Domestic Violence Bill. On the contrary, this discourse carries the legacy of colonialism and state power. In the case of the Domestic Violence Bill, it originated and circulated among state officials and elites. The Ghanaian government attempted to spread the opposition to the Bill, but communities did not readily embrace it. When Asmah campaigned in Bolga, only a few men opposed the Bill, agreeing that customary law could solve domestic violence. The strategy of promoting customary law and cultural sovereignty should not be taken for granted as a legitimate 'local' response to 'foreign' interventions. In contemporary Ghana, the language of culture is a nativist discourse, not a 'native' one.

Colonialism, Culture, and Gender

My analysis of the ways in which 'culture' was deployed in both colonial gender policies and anti-colonial struggles illustrates how particular interests are served by contemporary invocations of culture. While colonial economic policies consistently undermined the position of women (Hodgson 2004;

Lindsay 2007), they also singled out specific cultural practices that required 'liberation.' These included, among others, women's veiling (Ahmed 1992), *sati* or widow burning (Mani 1998), and female circumcision/cutting (Thomas 2003; Boddy 2007). In direct response to colonial efforts to eradicate cultural practices, nationalist movements often (re)claimed women's bodies and sexualities in the name of national identity, making them into sites of anti-colonial resistance and elevating the practices themselves to symbols of national culture. The language of culture was used to oppose imperialism, but the sovereignty of independent states was forged on the discursive, embodied, and embattled fields of women's bodies and sexualities.

The campaign opposing the Bill reveals a new attempt to reproduce the nation-state through women's bodies. However, while women's bodies and sexualities have once again become a location for national debate, the contemporary case differs from anti-colonial struggles in dramatic ways. During colonialism, women were often marginalized in political debates, functioning as what Lata Mani calls 'the ground' of both colonial and anti-colonial discourses, not as their subjects (1998:79). Today, women are central subjects in these debates.²⁶ The NGO coalition supporting the Bill was led by Ghanaian female political activists.²⁷ This may explain why the Ghanaian government made families, not women, the symbol of the nation-state that needed to be defended. Another important difference is that it is less clear today what, exactly, is 'foreign,' and whether everything foreign is necessarily dangerous. While the dichotomy between what is 'foreign' and what is 'authentic' is blurred at the level of everyday life and state politics, the government nonetheless forges political tools from this imagined dichotomy by combining fragments of nationalism, nostalgia for (an imaginary) patriarchy, and anti-imperialism.

Selective Sovereignty

Using gender as a lens of analysis helps us understand the selective character of sovereignty. The government of Ghana selectively deployed the discourse of cultural sovereignty. The government hoped to entrench the existing field of power relations, preventing activists from making rights claims, and diffusing the power of political activism. It is important to understand that NGOs and activists who advocated for the Bill are some of the strongest critics of state politics. They have formed a social movement critical of the government's neoliberal policies, from privatization to reliance on microcredit as an economic strategy.²⁸

Ghanaian scholar and activist Dzodzi Tsikata argues that the discourse of cultural sovereignty is used selectively when activists question injustice:

In many countries in Africa, gender activists are accepted as long as they focus on programmes such as credit for women, income generation projects and girls' education, and couch their struggles in terms of welfare or national development. Once they broach questions of power relations or injustices, they are accused of being elitist and influenced by foreign ideas that are alien to African culture (Tsikata in Mama *et al.* 2005).

The ways in which the Ghanaian government has selectively mobilized the discourse of cultural sovereignty is telling. The government did not oppose Western influence when it designed its neoliberal economic policies and privatization laws. Nor did the government oppose the discourse of human rights when Minister Asmah devoted herself to the global campaign against human (mostly child) trafficking in Ghana. The government *did* utilize this discourse when the Domestic Violence Bill questioned power relations at all levels – from the family to the state. The Bill, it was feared, had the potential to unsettle the existing social order. The selective accusations of foreignness reveal that the government's opposition to the Bill was not grounded in anti-imperialism. Rather, the Bill became a ground for a symbolic battle over competing visions of gendered citizenship and the place of NGOs' political activism in Ghana's new democracy.

The purview of the law was also selectively framed, revealing underlying concerns about sovereignty over sexuality. In her campaign, Asmah declared that sexuality and the domestic sphere lie outside the law. The government's campaign against the Bill belies the fact that the state regularly incorporates both the domestic and sexuality into its fold. Asmah's invocation of an apolitical private space points to an attempt to depict a private space free from the state. This invocation must be read as a selective gesture at separating the public and the private. As the journalist-activist who spoke in Bolga pointed out, Ghana's civil law governing marriage also regulates 'the bedroom.' According to this law, marriage ensures a permanent state of consent to sex. The Bill challenges this law, thus revising not *whether* but *how* 'the bedroom' is governed by the state. In the government's configuration of gender, sexuality, family, and law, women's rights are subsumed to national interests. The government still rules over the 'bedroom,' but decides which subjects are granted rights over their sexuality, and which are not.

These exclusions allowed the Ghanaian government to reconstruct its own

state sovereignty by determining not only the purview of the law, but what is outside of it.²⁹ Declaring that marital rape ought to be outside the jurisdiction of state law and labeling NGO advocacy as riddled with 'foreign' machinations, the government aimed not only to shape the law and curtail rights activism, but to redefine the state itself as 'masculinist' (Brown 1992) and sovereign. While the government declined to be the adjudicating power in the case of marital rape and domestic violence, it levied a potent statement about its own sovereignty as it demonstrated its 'right' to determine what counts within the law and what, supposedly, ought to be the provenance of cultural arbitration.

Conclusion: Unsettling Power

In this article, I have argued that we must understand the Ghanaian debate about the Domestic Violence Bill as a site of political struggles over gender, sexuality, and state sovereignty. The marital rape clause had an unsettling effect on government officials concerned with maintaining the status quo within the family, as this clause would have reconfigured rights over sexuality. The very fact of women's activism about new laws unsettled the government as women's emergence as publicly visible political subjects challenged power relations not only within the family but also within the state. My ethnography shows that the government's attempt to displace political struggles onto the language of culture and notions of popular resistance was a strategy meant to sanction opposition to women's rights. The discourse of cultural sovereignty was authorized through the convergence of a popular and scholarly belief that rights and culture somehow necessarily clash in non-Western contexts. This discourse was also bolstered by a dominant perception that customary law provides an authentic, 'native' form of justice. The government's machinations legitimated its opposition to the marital rape clause.

I have shown that the Ghanaian government endowed the concept of culture with an anti-imperialist legacy and a romanticized notion of pure and authentic Ghanaian tradition. Customary law, concepts of culture, and notions of foreignness are sutured together in the postcolonial context in overlapping and sometimes contradictory ways. Ghanaian history shows us that the discourses that are mobilized to oppose human rights are themselves imperial discourses, even as they invoke culture, the 'local,' and the people. If the discourses of human rights are foreign (Merry 2006), so too are those of cultural sovereignty.

In conclusion, I want to address how the discourse of cultural sovereignty is authorized as a legitimate form of opposition to human rights not only

through political performances, but also through scholarly literature. Those who oppose women's rights and women's rights activism are able to authorize opposition in culturalist terms because the dichotomy of 'foreign' rights vs. 'local' culture is readily available and because the discourse of cultural sovereignty as a language of 'resistance' is often given a taken-for-granted legitimacy. I hope to show that ethnography can unsettle the analysis of power within anthropological analyses of human rights in productive ways.

Anthropology can be particularly susceptible to positing 'culture' as a language of counter-hegemony. When anthropologists analyze human rights practices, they often focus on how rights discourses are 'contaminated by the logics of power' (Tsing 2004:269). Critiquing power relations within human rights, anthropologists point to the limits of liberalism, challenge Western impositions, and criticize those who naïvely view human rights activism as situated outside the hegemonic global world order (Lazarus-Black & Merry 2003; Merry 2006; Englund 2006; Riles 2000; Goodale & Merry 2007). Jane Cowan, for example, argues that the only tenable position for anthropologists is 'to support a minority's demands for recognition yet, at the same time, to problematize, not celebrate, its project and to query its disciplinary aura' (2006:20). Even for anthropologists committed to supporting rights claims in practice, questioning the power relations embedded in human rights activism has now become *de rigueur*.

While these critiques are important, the analytics of power has been applied rather narrowly in this literature. In these ethnographies of human rights, the political deployments of 'culture' have been exempt from analyses of power.³⁰ 'Power' is examined only in locations *already* understood as hegemonic, such as the Western origin of the human rights discourse and the global power relations that influence human rights in practice. The deployment of 'culture' *in opposition to rights* is not understood as a form of exercise of power, but as a form of 'resistance' (Merry 2006:65). Not so in other disciplines that analyze culture, power, and rights. Legal scholars, historians, and feminist philosophers interrogate power formations within the opposition to human rights. They critique the ways in which the language of culture has been deployed 'on the ground' by states and conservative movements to oppose social change and rights claims, especially as they pertain to gender (Narayan 1997; Molyneux & Razavi 2002; Mamdani 2000; Sunder 2003; Scully forthcoming).³¹ It appears that the old dichotomy of culture vs. rights has been displaced onto the dichotomy of power and resistance, and specific locations are assigned to each discipline. While anthropologists study the deployment of 'culture'

as a form of resistance, legal and feminist scholars analyze this deployment as an exercise of power.

Why do these ethnographies of human rights tend to see the language of culture as a form of resistance and exempt it from critique? One answer, offered in historical analyses of anthropological engagements with human rights, is that anthropology articulated its opposition to universalism and Western hegemony through the language of cultural difference (see Messer 1993; Goodale 2006; Engle 2001; Merry 2003).³² Anthropology's long history of engaging with human rights debates using the culture concept as a language of counter-hegemony informs the contemporary tendency to see culture as resistance. In fact, this culture-as-resistance model has acquired a performative aspect, according to Annelise Riles (2006). For scholars who critique human rights, 'culture' serves as 'a shorthand for the problems with the legal human rights regime and for moments or points of rejection of that regime' (Riles 2006:54). The culture concept thus performs the critique of power and stands for the anthropological disapproval of the human rights framework.

Paying attention to the specific contexts in which 'culture' becomes mobilized against rights advocacy allows us to see *when, by whom, and to what end* this discourse is deployed as an exercise of power. If we are predisposed to understand the invocation of 'culture' as a counter-discourse to power, we risk misreading how power operates in current struggles over human rights. If we look for power only in discourses and practices labeled 'foreign,' we are bound to overlook exercises of power by 'local' actors who mobilize the discourse of cultural sovereignty. This article shows that we cannot assume that the language of culture is mobilized by 'the people' and expresses pure resistance. By rethinking power relations in campaigns that oppose rights, I demonstrate that power operates across the entire field of rights negotiations. Even when these negotiations are expressed using the dichotomy of culture and rights, they are in fact grounded in different ways of exercising power and shaping the state. As Comaroff and Comaroff argue, it is 'the most brutal of truths' that rights do not produce power, but that power produces rights (2004:192). I would add that power also curtails rights and produces 'resistance.' In the Ghanaian case, the exercise of state power produced the discourse of resistance in the name of people.

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Notes

1. Sally Merry (2003), Annelise Riles (2006), and Jane Cowan (2006) give overviews of the rights vs. culture dichotomy in human rights scholarship, and offer historical analyses of its genealogies.
2. The volume *The Practice of Human Rights: Tracking Law between the Global and the Local* shows the range of ways in which anthropologists and other scholars have analyzed human rights 'on the ground' (Goodale & Merry 2007). See also the special issue of *American Anthropologist* (Goodale 2006).
3. All names of NGOs as well as personal names (except for Minister Asmah, who is a well-known public figure) are pseudonyms. Naming NGOs would be tantamount to naming individuals, as the organizations I mention here are small and have readily identifiable leaders. Furthermore, the work of Ghanaian NGOs is often understood as synonymous with the work of individual leaders.
4. For a detailed description of all activist groups located in Accra involved in this project, see Manuh 2007. Ghanaian academics who have written in support of this Bill include Manuh 2007, Amoakohene 2004, and Amenga-Etego 2006; see also Stafford 2008 and Waibel 2006 for perspectives of scholars from the global North.
5. I conducted fieldwork in Accra for five months in 2002 and 2003, and in the Upper Easter region for nine months in 2004.
6. By 'government' I mean those institutions and persons that claimed authority to represent the Ghanaian state and act in its name. They include the President and the Cabinet. Other government officials and parliament members supported the Bill, but their stances were understood to be personal, rather than official or representative of 'the' government.
7. Jennifer Hasty's ethnography of Ghanaian media reveals an ironic outcome of Ghana's democratization: now both public and private newspapers largely serve as the government's mouthpiece (2005).
8. Development professionals debated this Bill vigorously and talked about it whenever any question of women's rights was brought up. My interviewees all introduced the debate about the Bill in our conversations about other topics related to women's rights and development. This proliferation of debates eventually spurred my interest in this topic.
9. These Ghanaians debated electoral politics and politics of decentralization. They argued over which party would best represent their interests, which candidates were most suitable for local office, and who would bring electricity to villages and channel development money to them. The creation of new districts and the resulting shuffles in the allocation of resources, authority, and power was also a political hot topic.
10. The late 1990s was a time of political upheaval in Ghana, as the Rawlings military-democratic government, which ruled for two decades, was crumbling. The Sisters Keepers protests contributed to the expression of political discontent that eventually led to regime change in 2000. The new, democratic government established the Ministry of Women and Children's Affairs and a Women and Juvenile Unit (later renamed the Domestic Violence Victim Support Unit), but Asmah's campaign

- against the Bill made activists question the government's new commitment to gender equity.
11. More specifically, the Bill extended the definition of violence to psychological and economic abuse; criminalized rape and violence in marriage; instituted a range of dispute resolutions such as mediation, arbitration, and counseling; mandated the government to provide education about domestic violence to all police; charged the police to follow up all domestic violence cases reported to them; and, finally, secured free medical care for victims of violence.
 12. Margaret Keck and Kathryn Sikkink document the making of the category 'violence against women' at international conferences (1998).
 13. This common argument was uttered in this particular formulation by activist lawyer and scholar Sheila Minkah-Premo at a seminar for queenmothers and women's groups (Ghana News Agency 2004).
 14. To foster the social and legal authority of chiefs and other traditional rulers based on the assumption that they are custodians of culture is, by definition, to promote customary law.
 15. To authorize a discourse is to give it legitimacy or validity by linking it to prior discourses and practices. My understanding of authorizing discourses builds on Talal Asad's (1993) and Steven Caton's (2006) arguments that religion is a discursive practice that requires authorization and construction.
 16. Some women claimed that Asmah distributed free agricultural machines only to party loyalists; others demanded government loans and subsidies to buy farm animals and more support for development projects for disabled women. The government's campaign did not entice chiefs either. Chiefs tend to stay away from domestic violence mediation and, moreover, the government did not offer to pay them salaries for this service.
 17. The government does not hold public forums – in Accra or elsewhere – on other pieces of legislation.
 18. In fact, there were many substantial differences between previous legislation and the Bill, as I mention in note 11.
 19. He expressed this fear against the backdrop of a larger cultural panic about wives hurting and killing their husbands, by 'sending' them HIV/AIDS using witchcraft, poisoning them, or through other means. A number of NGOs, including his own, help spread such panic in their community outreach programs by portraying women as promiscuous culprits who infect their husbands.
 20. It is important to note that the depiction of women as rights abusers was not widespread. In fact, gender activists were outraged because women who experience violence are reluctant to seek legal redress. Women whose husbands violently 'discipline' them for 'misbehaving' rarely seek help, as this form of violence is relatively accepted in Ghana (see Cole 2007 and Appiah & Cusack 1999). Josephine, who leads the program on violence against women for a Bolga-based NGO and counsels women on a daily basis, explained that women who do seek help and legal advice have experienced unusually severe trauma.
 21. Because the stakes of this debate are high, the history of chieftaincy is discussed by scholars and Ghanaian intellectuals alike (Lentz 2003). Sean Hawkins calls the precolonial existence of chiefs among the northern Ghanaian LoDagaa a 'historical fiction' (1996:203). According to Carola Lentz, colonial policies did not make chiefs

- out of thin air, but 'redefined the personal networks of the strongmen, their kin and client relationships, as territorial spheres of authority (2006:51). Prior to colonial rule, only Asante chiefs (in southern Ghana) extensively served as judges, spending considerable time arbitrating disputes (McCaskie 1998).
22. To prevent 'Westernization' and anti-colonial activism, the colonial state fostered 'traditional' forms of society, economy, and governance in the Northern Territories. The British enforced communal ownership of land (Grischow 2006), promoted education only for the sons of chiefs (Thomas 1974), restricted education to 'practical training' (Grischow 2006:69), and invested little in infrastructure, such as roads and agricultural innovation (Sutton 1989).
 23. Colonial desires were not always fulfilled. Historians have shown that in practice, the interests of the colonial state and the chiefs were not always aligned. Customary law was interpreted freely by African chiefs and negotiated by legal subjects (Shadle 1999).
 24. That customary law functions as a nativist, rather than 'native,' discourse is also evident in other cases. In Uganda, for example, the government has mobilized notions of customary law to restrict women's access to land ownership (Tripp 2004).
 25. Manuh, a Ghanaian anthropologist and activist, wrote this prior to the debate described in this paper. Given her recent work, I assume that she would not apply this view to the discussion of the Domestic Violence Bill.
 26. I want to qualify this by acknowledging that not all Ghanaian women participated in the campaign for the Bill equally. As I noted above, NGO leaders and other educated, urban Ghanaians were at the forefront at the campaign. However, these women were not speaking only for the 'other' – rural women – but consistently argued that domestic violence affects everyone, regardless of class and background.
 27. While the government's campaign against the Bill was also led by a woman, the scope of Asmah's agency seemed fairly limited. She was given the task of fighting against the Bill; this was not a task she chose. Moreover, her gender and political position as the Minister of Women and Children's Affairs was not coincidental.
 28. A coalition of women's NGOs has challenged the government's submission to the IMF and demanded that the government revise its neoliberal economic policies that exacerbate inequality. At the same time, both NGOs and the government operate within a neoliberal framework and depend on funding that comes in its wake.
 29. This notion of sovereignty rests on Giorgio Agamben's (1998) adaptation of Carl Schmitt's (1996) concept which locates sovereignty in the act of suspending the law and declaring the state of exception. Sovereignty marks the power of the state to decide not only what falls within the scope of law but also what falls outside of it.
 30. Ara Wilson's incisive critique of international institutions (such as the Catholic church and evangelical NGOs) that 'claim to represent traditional values for post-colonial peoples and nations' is a notable exception (2002:257).
 31. Feminist legal scholars also remind us of pernicious deployments of the culture concept, using these analyses to intervene directly in debates about culture, power, and human rights. Crenshaw, for example, shows how the culture concept was used to legitimize white supremacy in the American South, and uses this analysis to complicate the contemporary debate about culture, rights, and power (2000).
 32. These scholars show that for fifty years after the Universal Declaration of Human Rights was passed, the culture concept was tied to anthropological critiques of

hegemonic universalism inherent in the human rights framework, even as anthropologists were committed to the expansion of human rights in practice.

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