

CLIMATE CHAUVINISM: RETHINKING LOSS & DAMAGE

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INTRODUCTION: “LIFT ME UP”

“And yet it is still so tempting for white women to interpret their own ascent as a matter of pure merit, and their own quest for parity as the most urgent priority. It is so easy to be unconcerned with domination, silencing, and oppression when they are perpetrated on those you barely see.”

– Rafia Zakaria, author and journalist¹

The rise of white feminism has decentered and disempowered women of color and Third World voices in academic discourse based on historical delineations of colonialism and slavery. In this Article, we consider the impact of this erasure in the international law arena related to climate change discussion of loss and damage. The spillover effect of the pedestal on which white feminism is placed occurs in political implementation and international negotiation from the corporate world to the foreign policy arena. More specifically, we examine how white feminism has hindered climate change adaptation and environmental protection by deprioritizing frontline and vulnerable communities.

In particular, we explore the normative implications of Rafia Zakaria’s *Against White Feminism: Notes on Disruption* as an entry point for this discussion. Zakaria’s book serves as a counter-manifesto to white feminism’s alignment with colonial, patriarchal, and white supremacist ideals, instead centering itself on the perspectives of women of color. Zakaria considers the legacy of the British feminist imperialist savior complex and what she describes as “the colonial thesis that all reform comes from the West” to the condescension of the white feminist-led “aid industrial complex” and the conflation of sexual liberation as the “sum total of empowerment.”² Zakaria’s arguments build on the work of intersectional feminists, Kimberlé Crenshaw, Adrienne Rich, and Audre Lorde.

This Article proceeds in three parts. Part I provides background information on the impacts of climate change and unequal burden on non-whites. This part contemplates white feminism as a risk multiplier in climate change. Part II delves into our personal accounts of hurricanes and intersections of white feminism. Part III explores the stalemates in

1. RAFIA ZAKARIA, *AGAINST WHITE FEMINISM: NOTES ON DISRUPTION* 173 (2021).

2. *Id.* at 72-75, 110, 120.

country.⁶ Even the American Bar Association sends white men as observers on international climate negotiations.⁷ Progress for diversity has been agonizingly slow, and time is not on the side of climate advocates.

A. *Hurricanes*

Our Fall 2022 semester in Orlando, a city over thirty miles inland, included two hurricanes, which shut down our law school for a total of six academic days. As women of color, we share our reflections on past hurricanes later in pa1.6 (722sn o)10.8 (ur(r)-2.8 (ur(r(r)-2.8 t);1.6 (i)8.3 (cl)-2.6 (e,)2 () (r)-2.8b)12.9 (u)2

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(Nov. 2, 2022) <https://www.state.gov/u-s-delegation-to-the-2022-un-climate-conference-cop27/>.

7. Amanda Robert, *ABA Observers Will Share Their Takeaways from the UN Climate Conference in Glasgow*, AM. BAR ASS'N. J. (Nov. 24, 2021, 8:59 AM)

<https://www.abajournal.com/web/article/aba-members-attend-and-reflect-on-international-climate-change-conference>.

8. Katie Sinclair *Water, Water Everywhere, Communities on the Brink: Retreat as a*

When Hurricane Katrina struck New Orleans in 2005, “the historical

cities across the world but the slow rate of change projected for these cities makes it harder to sound the alarm in their respective cases.¹⁵ Sea level rise

tactics to evade regulatory measures to curb carbon emissions.²⁰ This superiority on the part of First World countries in implementing climate solutions is problematic and is rooted in white racial supremacy and white racial capitalism.²¹ The hubris of these First World countries is compounded by large transnationals that halt and sidestep any regulatory regimes that would lead to comprehensive environmental protection, cognizable reductions in carbon emissions, and a means to protect the weak and vulnerable from the catastrophic disasters that are compounded by climate change impacts. We refer to these complex dynamics as “climate chauvinism.” Sociology, political science, and comparative law have used the term “cultural

analyzing worse case scenarios when a number of geographic regions and spots are already facing dire climate upheaval.²⁴ Climate change adaptation is a luxury and manifestation of First World policies. Countries like Pakistan and Haiti are already experiencing climate catastrophe that is worsened by rich countries shutting their borders to those displaced by disasters.

In the following personal narratives, we share how we experienced climate chauvinism and recalled past climate disasters to inform the current situation. Having both grown up in Florida in the dangerous path of hurricanes and as women of color law professors, we draw upon our intersectional experiences.

A. *Nadia's personal account*

I rattled on about the military carbon emissions, the theory of coloniality, and racial capitalism at the ClassCrits Conference in Houston. I was speaking rapidly, reading passages from the article that I was reviewing. I made my points. I laid out my argument. The Q&A session was ending. It was the last panel of the day's conference. My flight was also leaving that day, so I wouldn't be attending the conference dinner. I was in my element, but out of my comfort zone. Pakistan was not top of mind in Texas.

I wanted to add in one more comment. And then it hit me. To speak about Pakistan. I was rough and raw, and I couldn't speak, because of the raw emotions. I could not collect myself even if I tried. When I wanted to

Chauvin's excessive patriotism become so well known that in 1831, it became the subject of a play, *La Cocarde Tricolore* by Charles T. and Jean Hippolyte Cogniard. In it, a character named Chauvin was so outrageously zealous in his hero worship of Napoleon and his insistence on the inherent superiority of all things French that his name became synonymous with excessive patriotism or nationalism.

Since its origin in the nineteenth century, the word has expanded its definition. It is no longer confined to patriotism or nationalism; it can now be used to mean "undue partiality to one's own group or kind" or "a prejudiced belief in the superiority of one's own group."

When the word is used in these extended senses, most authorities recommend the use of some qualifying word or words to demonstrate that the original meaning is not the intended one. A few examples are linguistic chauvinism, literary chauvinism, and, of course, the ever-unpopular male chauvinism.

24. Mia Hammersley, *The Right to A Healthy and Stable Climate: Fundamental or Unfounded?*, 7 ARIZ. J. ENV'T L. & POL'Y 117, 145 (2017). See also Philip Rathgeb, Martin Gruber-Risak, *Deserving Austrians First: The Impact of the Radical Right on the Austrian Welfare State*, 42 COMPAR. LAB. L. & POL'Y J. 43, 43-44 (2021); Andrew Kent, *The Jury and Empire: The Insular Cases and the Anti-Jury Movement in the Gilded Age and Progressive Era*, 91 S. CAL. L. REV. 375, 381-82 (2018).

mention my country of origin, I was swarmed with a flood of emotions that my normally composed self could not restrain. It was the first time it happened to me during an academic talk. Just three weeks earlier, my own state experienced a catastrophic storm. How do I describe the urgency of the situation?

To see my city flooded, wind debris shattering and uprooting lives, including my own. The semester where the tree fell on my house. If what was happening there in Pakistan was happening to me in Florida, I couldn't just rattle on about it. The Americans can send bombs, drones, and military aid to Pakistan until the cows come home, but only send meager international aid. Even President Biden referred to Pakistan as a dangerous country. Those who were most at threat of climate change were vilified. I felt as if Americans did not have the heart to care about Pakistan's disastrous monsoon floods.

U.S. climate leaders say that they can hear the cries of desperation from Pakistan, but they don't actually hear us. They don't care about us. Am I not allowed feelings, or emotions, and just have to carry on as if nothing has happened? How many fires can I put out? How do I explain the flooding in Pakistan when I felt everyone was looking at me like I was from Mars when I just said the word "Pakistan?"

B. Victoria's personal account

The first time I understood there was a difference in how people experienced climate disasters, I was ten years old. As a Miami baby, even at

I later learned she was one of more than 100,000 Miamians displaced by the storm.²⁵

years for the UN to admit that its peacekeepers caused the Haitian cholera outbreak.³³

When the Institute for Justice and Democracy in Haiti sued the UN for the loss and damage incurred by the Haitian people, it lost.³⁴ Represented by the United States, the UN asserted immunity from suit and refused to address the requests to install a national water and sanitation system on the island, make reparation payments to cholera victims and their families, and a public apology.³⁵

Cholera remained on the island for nine years, until the last reported case in January, 2019.³⁶ Then in October 2022, a cholera outbreak ensued again, and by December, it infected 13,672 Haitian people and killed 283.³⁷ Scientists concluded that the strain likely descended from the *Vibrio cholerae* strain that caused the 2010 epidemic.³⁸

Twenty-three years later, now that the world can see the loss and damage, the disease, death, and suffering that came at the hands of the UN in the days following the worst earthquake the country had seen, why is the UN not required to pay for the damage to the Haitian people?

And in all this, what of the women's experience? During the recovery period, the needs of Haitian women were overlooked, particularly in the reporting done by white women. In the UN's self-applauding Haitian case study of the contribution of women to the humanitarian response after the earthquake, the report noted, "while rates of 'transactional' sex increased, there was no evidence of an increase in sexual violence as such."³⁹

But according to MADRE, a nonprofit working with organizations in Port-au-Prince seeking justice for women in Haiti, in its statement submitted to the UN Human Rights Council in May 2010, a delegation of U.S. lawyers and women's health specialists concluded that rapes in the camps were dramatically underreported, and the majority of women they interviewed were raped by two or more individuals.⁴⁰

33. Jonathan M. Katz, *U.N. Admits Role in Cholera Epidemic in Haiti*, N.Y. TIMES (Aug. 17, 2016), <https://www.nytimes.com/2016/08/18/world/americas/united-nations-haiti-cholera.html>.

34. *See Georges v. United Nations*, 834 F.3d 88, 98 (2d Cir. 2016) (affirming judgment of lower court for lack of subject matter jurisdiction).

35. Domonoske, *supra* note 29.

36. Rubin et al., *supra* note 32.

37. *Disease Outbreaks in Haiti*, *THE NEW YORK TIMES* (Oct. 10, 2022), <https://www.nytimes.com/2022/10/10/world/americas/haiti-cholera.html>.

Residents of the Global South disproportionately bear a greater burden of climate change, and the women of the Global South remain the greatest of these burden carriers; yet, even in activism, their cries are continuously ignored. “Toxic colonialism” is a phrase coined by Jim Puckett of Greenpeace to refer to the “dumping of the industrial wastes of the West on territories of the Third World.”⁴¹ The risk of this transboundary movement of hazardous waste to Third World countries has deleterious effects to its Black and brown residents,⁴² particularly since these developing nations rarely have adequate technology or infrastructure to properly dispose of the toxic waste.⁴³ Waste employees lack proper protective gear and inadequate structural protections to prevent leakage of toxic waste to the water, soil, or crops.⁴⁴

As one of the largest global hazardous waste generators, the U.S. is a significant contributor to the transboundary movement of toxic waste.⁴⁵

Between 2020 and 2021, the U.S. exported 200,000 tons of plastic waste to other countries.

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to adequately warn residents of air toxicity violates their civil rights.⁶⁰ Yet, even in this Letter of Concern, neither liability nor compensation is mentioned as a possible remedy.

These American stories are interminable. In 2008, 1,000,000,000 gallons of coal ash were dumped in the Emory River in Kingston, Tennessee, a city where ninety percent of its residents are white. The EPA labeled the ash as hazardous and authorized the Tennessee Valley Authority to transport the coal ash waste to Uniontown, Alabama, a city where ninety percent of its residents are Black.⁶¹ The Tennessee Valley Authority subsequently reclassified the waste as non-hazardous.⁶² The waste remains in Uniontown to this day.⁶³

And for the record, as of the writing of this Article, the Black residents of Jackson, Mississippi, still do not have clean drinking water.⁶⁴ Although the crisis was directly caused by Mississippi's main water facility failing due to unprecedented flooding in September 2022, the failure originates from the neglect of white-led governments to invest any of the billions of federal dollars the state has received in the water infrastructure of a majority Black city.⁶⁵

B. Loss & Damage

Racial capitalism leads to environmental injustice which is resolved only through money and resource allocation that both eliminate the threat and compensate victims for the damage and loss. Victims must be restored “insofar as possible (and desirable) to their pre-impact physical and emotional status.”⁶⁶

60. Jennifer Hijazi, *EPA Finds Evidence of Disparate Impacts in ‘Cancer Alley’ (I)*, BLOOMBERG L. (Oct. 13, 2022, 1:44 PM), <https://news.bloomberglaw.com/environment-and-energy/epa-finds-evidence-of-disparate-health-impacts-in-cancer-alley>.

61. *See* Davis, *supra* note 50.

62. *Id.*

63. *Id.*

64. Dr. Mel Michelle Lewis,

instead to broaden the label by recapturing environmental racism as simply, “white privilege.”⁷¹

“A focus on white privilege enables us to develop a more structural, less conscious, and more deeply historicized understanding of racism. It differs from a hostile, individual, discriminatory act, in that it refers to the privileges and benefits that accrue to white people by virtue of their whiteness.”⁷²

Legally, it is difficult to prove UN peacekeepers were allowed into Haiti with cholera because they hate Haitians or wanted to harm them. However criminally negligent their behavior may have been. But, white privilege does explain why the UN is not liable for the outbreak.

White privilege explains how the EPA not only acknowledges Cancer Alley is killing Black people specifically, but the local governments seem to be targeting Black neighborhoods; and yet do not hold a single parish liable nor require a single factory to provide substantive remuneration to restore th r8 203. be (r)-4(e)3.4 (s)13 Tw T*[(r)1 (e)3.4 (s)13.()oemTw 0 - (s)13.f*[(r).7 (42 ((r)-4(ei)1

damage caused by environmental racism, particularly when its greatest impact is on those at the intersection of race, gender, and class? While international bodies,e

white-wash women's experiences, nor presume solutions that neither consider nor consult Black and brown women—is the same transformational change required in this global fight for environmental justice. Our very lives depend on the ability of the collective to find creative, impactful, and feasible solutions that halt our extinction. However, the sustainability of even the best of these solutions is impractical without the contributions of the indigenous women to whom our history belongs.