

Human rights fifty years on  
A reappraisal

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## Are women human? It's not an academic question<sup>1</sup>

*V. Spike Peterson and Laura Parisi*

[Amnesty International] concluded that women suffer more violations of human rights than any other group in the world, both in times of war and through traditional practices excused by culture (Bahar 1996, 107).

The exclusion of any group – whether on the basis of gender, class, sexual orientation, religion, or race – involves cultural definitions of the members of that group as less than fully human (Bunch 1995, 12).

### Introduction

This chapter considers the question: 'are women human?', by examining the constitution and meaning of the category 'human' in relation to the binary codification of 'men' and 'women'. A vast feminist scholarship demonstrates that modernist references to an ostensibly universal (non-gender-differentiated) 'human' are in fact androcentric. That is, they are implicitly references to men: their bodies, experiences and stereotypical attributes (e.g., reason, agency, independence). Assuming men as the norm, and generalizing their concerns as universal, precludes symmetry between the subcategories of male and female. On the contrary, women and women's bodies, experiences and stereotypical attributes (e.g., affect, non-agency, and dependence) are excluded from the 'universal' category and cast instead as particular and partial. Viewed through this lens, only men occupy the unmarked universal category 'human'; women are not human but the 'other', that is, the marked – and denigrated – subcategory.

Most feminist critiques of human rights focus on this androcentrism and argue that, ostensibly, human rights are in actuality men's rights. As a consequence, exclusions, constraints and abuses more typical of women's lives are neither recognized nor protected by human rights instruments. In this chapter, we take a deeper look at how 'human' rights are gendered by interrogating the binary of male-female and the normalization of heterosexism. We first define heterosexism and its relationship to sex difference (male and

female bodies) and oppositional gender identities (masculine and feminine subjectivities). We then consider sex difference in the context of heterosexist group reproduction and the constitution of masculinist relations.<sup>2</sup> This is followed by a discussion of the role of states in normalizing heterosexism and its attendant, gendered binaries. Having developed our theoretical articulation of gender, heterosexism, and states, we shift to its implications for a feminist critique of human rights. We organize the latter by examining the three familiar 'generations' of human rights from the perspective of women's lives and experiences under conditions of heterosexism.

It is in the spirit of this volume that our focus in this paper is consistently critical.<sup>3</sup> We intend this neither as a simplistic indictment of human rights, nor as condemnation of activities in pursuit of rights. Rather, we present our critique as necessary ground clearing: a radically disruptive analysis that enables us to see more clearly just what is at stake – and how far we have to go – to take gender seriously in pursuit of justice.

### Heterosexism and gendering subjects

What has not been generally recognized is the bias that often underlies studies of both sex roles and male dominance – an assumption that we know what 'men' and 'women' are, an assumption that male and female are predominantly natural objects rather than predominantly cultural constructions. (Ortner and Whitehead 1981, 1)

What are the political effects of coding the human body as two mutually exclusive and oppositional 'types' cast as male and female? How was this coding institutionalized such that we take few things more for granted than the presumption of dichotomized sex difference, codified in the binary form of male and female bodies, masculine and feminine identities, and heterosexual practice? And what does the normalization of heterosexuality entail for the meaning of 'human', and therefore our understanding of human rights?

In this section, we consider how the dichotomy of sexual difference is integral to, and mutually constitutive of, heterosexism. Whereas heterosexuality refers to sex/affective relations between people of the so-called opposite sex, heterosexism refers to the institutionalization of heterosexuality as the only 'normal' mode of sexual identity, sexual practice and social relations. That is, heterosexism presupposes a binary coding of polarized and hierarchical male/masculine and female/feminine identities – ostensibly based on a dichotomy of bio-physical features – and denies all but heterosexual coupling as the basis of family life and group reproduction. In Judith Butler's words:

The heterosexualization of desire requires and institutes the production of discrete and asymmetrical oppositions between 'feminine' and 'masculine', where these are understood as expressive attributes of 'male' and 'female'.

The cultural matrix through which gender identity has become intelligible requires that certain kinds of 'identities' cannot 'exist', that is, those in which gender does not follow from sex and those in which the practices of desire do not 'follow' from either sex or gender. (Butler 1990, 17)

Heterosexism is rendered natural and normal by reifying 'the family' (in practice, a historically specific idealized western/liberal definition of the family) as 'prepolitical' – as 'sentiment-based' and non-contractual (Rao 1996, 245). Liberal commitments are crucial to this depoliticization of the family insofar as they naturalize a categorical distinction between public and private spheres that privileges the former only as political, and relegates sex/affective relations to the latter. Human rights discourse and practice reproduce this naturalization of heterosexism and the family, including gender inequalities within the family, by upholding the distinction between public/state and private/family spheres and focusing exclusively on states as both protectors and violators of individual rights.

If the gender binary and heterosexism are socially constructed (the effects of contingent, historically specific conditions), how was heterosexism (and its effects, suggested above) institutionalized? Until recently, the 'origins' of sexual difference were addressed almost exclusively from two vantage points. Freud and his followers probed the psychological dimensions of sexual differentiation and its corollary subjectivities and sexualities, while Marx and his followers analysed social structures as determining divisions of labour and their corollary social relations and inequalities. Both approaches take the transition to 'civilization' as key – marking for Freudians the need to control instinctual desires\* and for Marxists the institutionalization of social hierarchies.<sup>5</sup> More recently we have witnessed an explosion of scholarship on both the meaning and production of sexuality, subjectivity and gender (e.g., Foucault 1978; Ortner and Whitehead 1981; Caplan 1987; Butler 1989; Sedgwick 1990; Lacquer 1990; Stanton 1992). Given space limitations, we focus here on feminist analyses within these literatures that illuminate the construction of 'human' and its marginalization of 'woman'.

From the psychoanalytic tradition, feminists draw upon Freud's and Lacan's attention to the unconscious, desire and sexualities, while criticizing masculinist bias in these accounts (e.g., Braidotti 1991; Brennan 1989; Flax 1989; Butler 1990; Irigaray 1985). The psychoanalytic tradition, and especially Lacan's theory of the symbolic, enables feminists to explicitly interrogate phallogocentric thinking, patriarchal structures of language, and the move from 'symbolic to sexual difference' (Brennan 1989, 2). The arguments are complex and resist brief summarization.<sup>6</sup> We make two points here.

First, psychoanalytic perspectives are unique in analysing the unconscious – with its affective, 'irrational' and libidinal features – and the role of linguistic systems in constituting sexuated subjects, gender identities and sexual practices. They are therefore crucial for analysing relationships among

the unconscious, social meaning systems, and the development of sexually differentiated persons who exhibit 'appropriate' heterosexist gender identities. In brief, Lacan argues that the infant's maturation, as a separate and 'socialized' being, is effectuated by entry into the symbolic order, which places human beings in relation to others, and gives them a sense of their place in their world, and the ability to speak and be understood by others' (Brennan 1989, 2). Moreover, the symbolic order is phallogocentric: the binary coding of masculine-feminine and privileging of that which is masculine is inscribed in language itself. The key point here is that language becomes a key dimension in analysing the construction of subjects (humans).

Second, through their emphasis on language, psychoanalytic and, especially, Lacanian theories afford illumination of social structures as well. Lacan's symbolic is not independent of cultural context. It refers not only to language but also to the incest taboo structuring kinship and to patriarchal social relations assumed operative in the transition to 'culture', to 'civilization', and to recorded history. In social science terms, this is the transition that marks early state formation and the development of hierarchical social relations theorized by Marx and Engels. Stated differently, the symbolic refers as well to what Teresa de Lauretis calls 'the oedipal contract', by which she brings into view

the semiotic homology of several conceptual frameworks: Sausseure's notion of language as social contract; Rousseau's 'social contract', with its gender distinction; Freud's 'Oedipus complex' as the structuring psychic mechanism responsible for the orientation of human desire and the psychosocial construction of gender; ... and finally, Wittig's 'heterosexual contract' as the agreement between modern theoretical systems and epistemologies not to question the *a priori* of gender, and hence to presume the sociosexual opposition of 'man' and 'woman' as the *necessary* and founding moment of culture. (de Lauretis 1987, 277, citing Wittig 1980)

What we observe here are recent attempts to bring diverse literatures and disciplinary vantage points into relation through feminist interrogations of sexed bodies, gender identities, phallogocentric language and patriarchal social orders. In particular, feminists are exposing the unexamined assumptions about binary gender/sexuality that pervade psychoanalytic, Marxist and liberal treatments of civilization, early states, the social contract, and human entry into cultural systems. Bringing psychoanalytic and social structural explanations into relation, feminists 'flesh out' our understanding of the historical – and interactive – constitution of individual subjectivities (the binary of masculine-feminine gender identities), sexuated bodies (the binary of sex difference embodied in 'man' and 'woman'), and heterosexual relations (normalized by patriarchal state making that prohibits alternative sex/gender identifications and/or forms of social reproduction).

These studies have not, however, been integrated with conventional frameworks of political science and international relations. We argue that such integration enhances not only our understanding of gender, subjectivities and sexualities, but contributes significantly to contemporary theorizations of politics, states and sovereignty. Of particular relevance to the present chapter, such integration informs our understanding of human rights as theory *and* practice. Before sketching the arguments underlying these claims, we first recapitulate the larger framing of these arguments to clarify how various components are linked.

Stated most succinctly, we argue that the heterosexual contract (naturalizing binary gender identities and heterosexism), the social contract (naturalizing centralized political authority, hierarchical social relations, and the transition from pre-contractual relations associated with the state of nature to contractual relations associated with culture) and language codification (the invention of writing attendant on early state formation) are mutually constituted – historically interdependent – processes (e.g., Peterson 1996b, 1997). Moreover, this mutuality is not simply a conceptual linkage (e.g., between symbolic constructions of masculinity, heterosexuality and stateness) but a historical, empirical and structural linkage that is visible through a feminist lens on early state making and its ideological productions. Stated differently, we understand these linkages as structural in two *inter-active* senses: both as historical-empirical material practices and institutions – the more conventional sense of social structures – and as meaning systems, knowledge claims and ideologies that produce, even as they are produced by, material structures.

What we are linking within an overarching framework are the following:<sup>7</sup> the normalization of a gender binary of bodies and subjectivities/identities (introduced above; involving the unconscious as well as conscious thought, the making of gender-differentiated individuals through immersion in and deployment of culturally shared meaning systems/language); the constitution of sexualities in a binary gender form that normalizes heterosexuality (involving oppositional gender identities and socialization in support of heterosexist identities and practices); heterosexism as a regulatory regime in service to group reproduction in a temporal and spatial sense (involving the primacy of particular *group/collective* identifications and heterosexist 'family forms' structuring biological reproduction); the conceptual and material constitution of separate spheres of social activity – in western state making, the public and private – that structure divisions of authority, power, labour and resources (involving group reproduction through a particular heterosexual family/household form of sex/affective relations separated from ostensibly asexual, contractual relations in the public sphere of formal power); and state orders institutionalizing centralized authority/power/accumulation and dependent upon social reproduction that accommodates state-led objectives

(involving regulation of biological and social reproduction, attempted through state-led ideological productions of culture, education, etc. – including normalization of dichotomized thought in language, philosophy, religion, political theory – as well as the more formal disciplining practices of police and military activities; and involving the context of an interstate system within which particular states are constituted and act).

In short: the normalization and reproduction of binary gender identities (sex difference embodied and internalized as male-female) is inextricable from the normalization of heterosexism (denying all but heterosexual forms of identity/subjectivity, family forms and group reproduction), which is inextricable from western state making (with centralized authority and hierarchical divisions of labour) and its concomitant ideological productions (the social contract, public-private dichotomy, and in the modern era, androcentric human rights, etc.). For Teresa de Lauretis, coming to terms with these linkages means

that one begins the process of critical thinking and scholarly writing with the firm, general assumption that official culture and its forms of representation are male-centered, as well as man-made; and, in particular, that the cultural construction of sex into gender, and the asymmetry that characterizes each gender system as the primary semiotic apparatus through which the female (or the male) body is represented, are 'systematically linked to the organization of social inequality'. (de Lauretis 1987, 260, quoting Collier and Rosaldo 1981, 275)

Having earlier provided some sense of contemporary feminist theorization of the gender binary of bodies and subjectivities/identities, we turn now to situating those analyses in relation to the normalization of heterosexism, analyses of group reproduction and state making.

### Group reproduction in relation to normalizing heterosexism

How is the reproduction of a social group ensured? That is, in the absence of any biological connection beyond some females bearing and breast-feeding infants, how are social relations institutionalized, become marked by group coherence, identified with the group itself, and sustain continuity through time? Jill Vickers argues that patriarchal social relations can be interpreted as *one* way of 'constructing enduring forms of social organization, group cohesion and identity' (Vickers 1990, 483).<sup>8</sup> Men, who lack any immediate biological connection, appropriate an abstract concept of the blood-tie and employ it to promote bonding among males and loyalties to a male-defined group extending beyond the mother-infant bond.

To the extent that women are denied agency in the definition of group interests, and compelled to comply with male-defined needs, their freedom

and autonomy are limited. Historically, this pattern of domination has been marked by denying women the authoritative status of 'personhood' accorded to those who are empowered as group decision-makers (e.g., Lerner 1986).<sup>9</sup> In short, group continuity – and the gender hierarchy it imposes – is 'secured only by limiting the autonomy, freedom of choice and social adulthood of the group's physical and social reproducers' (Vickers 1990, 482).

What Vickers calls the 'battle of the cradle' is about regulating under what conditions, when, how many and whose children women will bear. The forms it takes are historically specific, shaped by socio-religious norms, technological developments, economic pressures and political priorities. The common feature is promoting reproduction of one's 'own' group on the assumption of competition with 'other' groups. Depending on the type of group (e.g., based on national, ethnic or religious identification) this implicates women of different classes, ethnicities and races in complex and context-specific ways. The common feature is a tendency to preclude women's primary identification with 'women' as a group in favour of their identification with the (territorial, class, religious, ethnic, race) group of which they are a member and which is based on male-defined needs (and heterosexual norms).

Heterosexism affords several advantages for masculinist group reproduction: it promotes binary gender identities and the naturalization, therefore 'acceptance', of women's subordination to male-defined interests; it promotes heterosexual relations which promote women's investments in group projects (through emotional identification with male partners and children, etc.), and, as a corollary, heterosexism precludes such bonding and/or group identification and organization among women *qua* women, thus foreclosing alternative group forms and interests at odds with heterosexist male-defined groups. At the same time, heterosexism is oppressive: it privileges males/masculinity and male-defined interests over females/femininity and interests of women *qua* women, and it denies/represses all other sexual orientations and gender identifications.

The 'battle of the nursery' is about ensuring that children born are bred in culturally – and sexually – appropriate ways. This involves the socio-cultural, legal and coercive regulation of sexual liaisons so that membership boundaries are maintained. It also involves ideological reproduction through socialization of group members and cultivation of particular identities. Under patriarchal relations, women are the primary socializers of children and the family/household is the primary site of socialization and cultural transmission. Cultural transmission includes learning the 'mother tongue', as well as the group's symbols, rituals, divisions of labour and world views – including the normalization of heterosexism and, where appropriate, the meaning and subjects of human rights. This socialization extends beyond the household to structure how we understand – and relate to – sexual stereotypes, work expectations, exchange relations, social hierarchies and authoritative power

more generally. At the same time, family/household relations are shaped by state policies and sub-national and transnational dynamics (Peterson 1996a).

What emerges here is the centrality of gender hierarchy and heterosexism in processes of identification and group reproduction. Specifically, the reproduction of groups under patriarchal conditions involves a gendered – also class and often ethnic/race – division of power and labour that institutionalizes inequality(ies) within the group. This divides women from men *and from each other* insofar as any primary identification with 'women as a group' is disrupted in favour of identification with the male-defined group. Hence, women within particular groups may oppress or be oppressed by women invested in other heterosexist groups.

What also emerges is the political significance of reproductive processes. Conventionally ignored as a dimension of the ostensibly apolitical private sphere, the power relations of reproduction/families fundamentally condition who 'we' are – as sexuated individuals, gender identities and collective identities – how group cultures are propagated, and how groups/nations align/identify themselves in cooperative, competing and complementary ways. Insofar as these reproductive processes occur within the family/household, the latter is a crucial site of power and politics.

As with any organizing principle or institutional strategy, heterosexist group reproduction involves multiple and complex trade-offs. While heterosexist practices afford a number of identifiable advantages for the coherence, commitments and continuity of groups, they do so at the expense of alternative gender and inter-group relations. This is especially the case because the gender binary is deployed not only to organize hierarchical sexual relations but as an ideological given as well. In the latter capacity, gender hierarchy not only subordinates the interests of women *qua* women within particular groups, but naturalizes the subordination of all that is associated with the feminine and which is thereby objectified as an appropriate target of domination: females, nature and 'others' (read: barbarians, the uncivilized, natives, and all who are deemed outside of the group's circle of cultural acceptance). Hence, and this is key, gender hierarchy naturalizes not only intra- but also inter-group asymmetries.

### Group reproduction in the context of state making

International relations scholars tend to focus exclusively on the modern state system. And while political theorists at least acknowledge the canonical importance of Athenian texts, international relations theorists tend to ignore how these texts established binary constructions of identity, politics and public-private spheres that continue to discipline the theory/practice of world politics – including, and in particular, the theory/practice of human rights.

What particularly drops out of sight in a historical picture of states is

the institutionalization (read: normalization) of gendered and hierarchical relations associated with early state making. Early state making is, after all, what we celebrate as the transition to western civilization: the settlement of peoples, a new scale of societal organization, specialization of labour, and hence, through the development of writing, the beginning of history. What this transition also marks is the effective centralization of political authority and accumulation processes, military consolidation, centralized regulation through formal laws, a hierarchical division of labour by gender, age and 'class', the reconfiguration of individual and collective identities appropriate to that division of labour, and ideological legitimization of these transformations. Subsequent naturalization – that is, depoliticization – of these arrangements effectively obscures how they were *made* (not found) and their dependence on particular, historically contingent relations of power. In early state making, key sources of power include the enhanced control afforded by centralized authority and the latter's domination of symbol systems/writing. As Athenian texts reveal, the regulation of sexual activities and institutionalization of masculinist law, philosophy and politics were absolutely central features of early states. It is in this sense that group reproduction (as sketched above) and heterosexism are embedded in state-making projects.

Feminists analyse the state from diverse perspectives.<sup>10</sup> In anthropological and historical studies, feminists theorize the institutionalization and ideological normalization of the patriarchal heterosexual family/household, dichotomized gender identities, and gendered divisions of labour, power and authority, masculinist language systems, and the separation of public and private spheres. For example, they argue that the masculinism of the state begins not in modernity but with early states and is explicit in Greek political theorizing. For it is in this earlier context that the state institutionalizes heterosexual families/households and justifies hierarchical power by reference to the hierarchical dichotomies of public–private, reason–affect, mind–body, culture–nature, civilized–other and masculine–feminine. Moreover, the continued patriarchal commitments of states are exposed by feminist research: the state intervenes in private sphere dynamics in part to impose centralized authority over birth rate patterns, property transmission and reproduction of appropriately socialized family members, workers and citizens. The means include laws circumscribing sexual behaviour, control of women's reproductive rights and the promotion – through state policies, public media and educational systems – of gendered ethnic and race identifications, heterosexism and particular family forms.

In sum, to apprehend the larger picture of linkages outlined above, we must take a longer view. Early state formation marks an important turning point in human history. This involved normalizing foundational dichotomies (public–private, reason–affect, mind–body, culture–nature, civilized–barbarian, masculine–feminine) both materially (in divisions of authority,

power, labour and resources) as well as conceptually (in western metaphysics, language, philosophy, political theory). Not least because early state making also marked the invention of writing, these systemic transformations were codified and that codification in western philosophy, political theory and particular texts has profoundly shaped subsequent theory/practice. In particular, early western texts resurfaced to influence and shape political theory in the context of modern European state making. The effects of earlier codification and its modern counterparts continue to discipline our theory/practice, as exemplified in the theory/practice of human rights. Because we take modern state making as our starting point and fail to investigate this earlier transition, we 'forget' how *political* the *making* of sexuality and subjectivities – of 'men' and 'women' – has always been, and remains so today.

This necessarily brief and vastly oversimplified sketch of linkages and developments suggests the following in regard to 'women' and 'human' rights. First, and of particular relevance to first generation rights, women are not included in the western, liberal, public sphere definition of individuals that underpins the discourse of human rights. This has several implications (treated in greater detail below). In brief, existing human rights are in fact men's rights; it is 'citizens' (implicitly male/masculine) who enjoy civil and political rights. As a consequence, women may enjoy these rights *only* to the extent they become like men. In addition, the state's complicity in perpetuating the alleged separation of public and private spheres, combined with the human rights emphasis on state violations only, means that inequalities, expressions of violence and infringements of freedom within the putatively private sphere – where women are most vulnerable – are not deemed violations of human rights and states are not held accountable for their complicity in instituting, legitimating and sustaining gender hierarchy. As a consequence, gender inequalities within the 'family' are depoliticized and women are not free to enjoy bodily security or reproductive freedoms. Finally, men and women who do not conform to normalized gender identities and sexualities are 'outside' of human rights protections and are at risk in two related senses: first, by being outside of naturalized norms (therefore vulnerable to discriminatory and violent acts), and second, by having gender/sexual oppression treated as private sphere phenomena and therefore not protected by human rights laws.

Second, and of particular relevance to second generation rights, unlike men (especially, elite men), women are not constructed as agents/subjects/persons in their own right or as full adults/decision-makers in groups seeking intergenerational continuity. Heterosexist principles of group reproduction both relegate women to reproductive roles and denigrate that which is associated with the feminine. Women are marginalized – not treated as 'human' agents – in relation to economic, social and cultural practices, which

are, in addition, construed as exclusively public sphere manifestations. Rights to work, for example, presume a public sphere understanding of work that is gender differentiated and exacerbates the invisibility of reproductive labour typically performed by women. Moreover, and in literally deadly ways, second generation rights often worsen women's vulnerability and subordination by endorsing cultural and religious beliefs that devalue women and deny gender equality.

Third, and of particular relevance to third generation rights, women's structural location within heterosexist collectivities means that women *qua* women are not 'free' to constitute groups in their own right. However much women may benefit from membership in particular heterosexual groups – and they *do* so benefit – under conditions of heterosexism/masculinism, they enjoy these benefits as secondary members, not as full-status agents or women participating in woman-identified groups. And historically there is no exception to the practice of women's interests *qua* women being subordinated to (male-defined) group interests: self-determination has meant the expression of men's (again, especially elite men's) selves, desires and dreams. Women's interests are repeatedly put on hold, ostensibly until the 'priority' battles are won. Here women are triply marginalized: because they are not members of women-identified groups, they do not benefit *qua* women from group rights; because they are subordinated within heterosexist groups, they do not enjoy the rights to self-determination that men in such groups may achieve through group rights; and because they are members of particular groups, they may suffer from oppression by (and/or oppress) women in other heterosexist groups.

### Women's marginalization in three generations of rights

To examine these issues more concretely – to explore how women are indeed not 'human' in the context of contemporary international human rights – we consider women's rights in relation to the three generations<sup>11</sup> of human rights. We address the first generation in greater detail because civil and political rights engage all of the issues raised in our theoretical framing and are so privileged in contemporary human rights theory/practice.

#### FIRST GENERATION RIGHTS: CIVIL AND POLITICAL LIBERTIES

The first generation emphasizes civil and political rights and is codified in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (1966; hereafter ICCPR). Feminists criticize both the definition of rights as androcentric (that is, human rights – based on public sphere/citizenship activities – are men's rights; Hosken 1981; Holmes 1983; Bunch 1990; Peterson 1990; Charlesworth, Chinkin and Wright 1991; Kerr 1993; Cook 1994; Peters and Wolpers 1995) and how international

human rights law sustains and exacerbates the public-private dichotomy (Eisler 1987; Charlesworth 1994; Romany 1994; Sullivan 1995).<sup>12</sup>

The argument regarding androcentrism is both empirical and conceptual. On the one hand, women's lived experiences and particular vulnerabilities (under conditions of patriarchy) are excluded '[b]ecause the law-making institutions of the international legal order have always been, and continue to be, dominated by men' (Charlesworth 1995, 103). Quite simply, it is therefore men's bodies, experiences and perspectives that are reflected in human rights law. On the other hand, women's conceptual exclusion from the definition of agent and human (wrought by heterosexist practice and ideology and the universalizing move that renders men as humans, women as others) precludes their experience being included in how human rights are conceptualized – and hence practised. In regard to the public-private dichotomy, feminists are nowhere more united than in criticizing how this dichotomy obscures systemic power relations and, specifically, gender inequalities in intimate, family and household relations. In general, the public-private split 'refers to the (artificial) distinction between the private sphere of the home, to which women are assigned, and the public sphere of the workplace and government, to which men are assigned' (Peterson and Runyan 1993, 192). This division of activities rests on a gender-differentiated conception of citizenship that dates back to the Greek polis, yet continues to structure western liberal thought (Grant 1991, 12–13; Elshtain 1981). In the Athenian context, citizenship was linked to owning property and participating in military defence of the city-state. In the European context of bourgeois revolutions, citizenship was additionally linked to the 'human' capacity for reason. These are all gender-differentiated criteria: women have been denied property rights – and treated as property themselves; women have until recently been excluded from military activities, and their continued exclusion from combat duties exposes military retention of gender stereotypes and inequalities; and stereotypes of feminine irrationality have everywhere served to justify women's *de facto* exclusion from public sphere power. In short, existing models of citizenship rest on a gendered construction of the public-private in which only the public sphere is associated with power, politics and privileged masculinity.

These masculinist assumptions similarly underpin international human rights laws, as the latter apply only to the public sphere of society, in the form of protecting citizens from state abuse, thus denying state responsibility in private sphere activities. This emphasis on the state and public sphere is problematic for women because it does not recognize the masculinist state's complicity in naturalizing – depoliticizing – the public-private dichotomy, masculinist citizenship, patriarchal families and heterosexism. By upholding the *status quo*, states uphold women's oppression and the stigmatization of non-heterosexist identities and social relations. In particular,

the public sphere focus of human rights discourse denies the private sphere/family, where women are particularly vulnerable, as a site of human rights violations.

The masculinist state institutionalizes and sustains gender hierarchy – which denies women equal ‘human’ rights – both directly and indirectly. Direct intervention takes the form of laws and policies – regulating marriage, divorce, parenting, custody, sexuality, property, taxes and welfare – that normalize and *institutionally* reproduce women’s subordination through, for example, heterosexist families and masculinist labour markets that assume male breadwinners. The state’s regulation of women’s lives is especially visible in denying women the right to control their own bodies. State abuse may take the form of reproductive coercion and control, exemplified in forced pregnancies, sterilization and limited or no access to abortion. Heterosexism favours men’s initiation of and control over sexual liaisons and contraceptive practices.<sup>13</sup> State-sanctioned barriers to women’s control of their bodies condone male control. For example, many countries require spousal permission before women can acquire contraception or have abortions. The effects on women’s lives are disastrous: marital rape, sexually transmitted diseases, unwanted pregnancies, ill-health from excessive childbearing and violence against women who resist men’s control.

Masculinist cultural norms favour males. The preference for sons has translated into the abortion of female fetuses as well as female infanticide on a harrowing scale. It has also translated into malnourishment and other indicators of poor health and diminished quality of life among females who are not favoured in the distribution of food and other subsistence goods. And worldwide, male privilege translates into higher proportions of men in elite decision-making positions, ensuring that in spite of long-lasting and widespread resistance, the cycle of masculine dominance and women’s subordination is repeated.

The state also acts indirectly to ensure gender hierarchy and its denial of women’s rights. Here the state is complicit in several senses: by failing to acknowledge and punish abuses that occur in the private sphere, by reproducing masculinism through public forums, and by obscuring the state’s role through ideologies that naturalize the public–private dichotomy and gender inequalities.

An example of this complicity is the state’s treatment of the heterosexual family as both pre-political and non-contractual: pre-political in the sense that it is viewed normatively as an arena for something other than rights, and non-contractual in that the family functions according to (non-contractual) sentiments – love, affection, emotion, passion – that are distinct from rationalist and rights-based characteristics of the public sphere/state (Rao 1996, 245). The heterosexual nuclear family unit becomes the primary social unit to be preserved and protected by the state, even as the state denies

intervention in the private sphere. Yet, as Frances Olsen notes, ‘the state constantly defines and redefines the family and adjusts and readjusts family roles’ (Olsen 1985, 842–3, quoted in Rao 1996, 244). It does so in part by establishing the criteria by which ‘the family’ is recognized; the hegemonic definition being a nuclear, co-residential heterosexual unit of close-kin members. This heterosexist model excludes other possible family forms and bases of social reproduction, especially same-sex marriages.

International human rights documents reproduce and similarly privilege this narrow construction of the family. The UDHR defines the family as a heterosexual union, as evidenced by Article 16, Section 1: ‘Men and women of full age, without any limitation due to race, nationality, or religion, have the right to marry and to found a family’. And Article 16, Section 3 declares that the ‘family is the natural and fundamental group unit of society and is entitled to protection by society and the State’. As Arati Rao notes, the UDHR ‘not only defines the family in profoundly orthodox terms but places its institutional integrity under the purview of the state’ (Rao 1996, 246). The identification of the family as a heterosexual union that constitutes the basis of society serves to further naturalize heterosexist practice and gendered division of identity, authority and power.

It is important to note that the state uses its power not only to interfere in the private sphere to suit male-dominated state interests but also to obscure that intervention by espousing the public–private as protecting the private from state interference (Eisenstein 1981). One of the most destructive effects of this contradictory situation is that the state opts *not* to intervene when domestic violence is at issue. Ultimately, this amounts to a loss of security for women’s bodies in the family/household, which is inextricably linked to state-sanctioned mystification of the family/home as the site of harmony/love/safety.

Understood not as agents in their own right – full ‘humans’ – but as reproductive members of the group or even as property, women are subject to objectification and abuse. This is related to a ‘war against women’ in the global context of traffic in women (Barry 1995) and in the home as domestic violence. This abuse is both physical and psychological and it is *not* covered by the UDHR (Schuler 1992; Thomas and Beasley 1993; Copelan 1994; Bahar 1996; Rao 1996). Manifestations of this violence include, but are not limited to, rape, battering, murder (such as bride burning, honour killings and dowry murder), mutilation, deprivation of food and confinement (Schuler 1992, 14; Bahar 1996, 108). While the argument cannot be developed here, rape is inextricable from heterosexist practice.<sup>14</sup> As such, it is implicated in the heterosexist project of state making and its naturalization of male dominance (e.g., MacKinnon 1989). In some countries national laws generally mischaracterize rape as a crime against honor or custom, not as a crime against the physical integrity of the victim, and thus minimize its seriousness



(Human Rights Watch 1995, 5). Many countries condone marital rape by implicitly or explicitly assuming that a wife cannot refuse to have intercourse if her husband demands it. Rape is a worldwide phenomenon and affects women of all classes and ethnic/racial groups. Most rapes are committed by men that are known to the victim – often by associates, relatives and partners. And females of all ages are vulnerable. The state is complicit in reproducing heterosexist social relations that promote the social control of women through the threat/actuality of sexual violence both by failing to intervene when such violence takes place in the private sphere and by defining rape from a male point of view in both spheres (MacKinnon 1989).

Finally, the state's heterosexism in general, and the heterosexual family that is embodied in the public-private split and privileged in human rights documents, render all other sex/affective relations 'deviant'. In the terms of this paper, homosexuality is threatening because it exposes the fragility of the state's normalization project; it suggests instead that the binary of heterosexism is not exhaustive: other identities and meaningful social relations are possible. Even more disturbing to guardians of the *status quo*, non-heterosexist identities and social relations are politically *desirable* insofar as they are less tainted by the inequalities and violence attending institutionalized heterosexism.

States promote homophobic oppression in two senses (Amnesty International 1994; LaViolette and Whitworth 1994; Dorf and Perez 1995; Sanders 1996). By normalizing heterosexism, non-heterosexual identities and practices are stigmatized as abnormal, thus fuelling persecution of those who do not conform. And by creating the category of deviants while refusing to take responsibility for their protection, the state denies the violence it colludes in producing. States promote heterosexism and punish homosexuality by various means. Most common is the criminalization of consensual same-sex relations. This is true of countries as diverse as Romania, Nicaragua, Australia, Russia, and the United States (Amnesty International 1994). Even when homosexuality is not specifically criminalized, sexual minorities are subject to harassment, cultural and physical 'bashing', and sometimes arbitrary detention. And even when individuals avoid persecution by state actors, the homophobic climate of hostility and threat deeply affects the freedom of sexual minorities to express identities and activities that diverge from heterosexist norms. Here it is important to note that 'many laws effectively criminalize not only the sexual behavior of gay men and lesbians but also their association, speech and use of the press', thus denying civil and political freedoms extended to other groups (Dorf and Perez 1995, 327).

In regard to 'family law', states normalize heterosexism by preventing same-sex marriages and limiting the rights of gay men or lesbians to have or adopt children (LaViolette and Whitworth 1994; Dorf and Perez 1995). As another example, when states sanction early marriage, they impose

heterosexual norms without allowing adolescents time to explore their sexual identity (Tambiah 1995). And in an effort to sustain heterosexuality as the dominant sexual identity in society, states have often tortured gays and lesbians (Amnesty International 1994). In Iran, this may translate into executions; in Columbia it has meant the murder of gay men by paramilitary groups; and similar murders have been reported in Argentina, Brazil and Mexico (LaViolette and Whitworth 1994, 565). More generally, many states identify homosexuality as a disease that must be treated by drug therapy, electroshock, 'punitive psychiatry' or incarceration (LaViolette and Whitworth 1994). This is a dramatic instance of denying agency to lesbians and gay men.

Article 2 of the UDHR states that: 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.' It is clear from our discussion, however, that rights as defined by the UDHR and other covenants are selectively intended and applied. The UDHR does not affirm the right of women to freedom from masculine dominance and the structural violence it constitutes against women and others stigmatized by association with the feminine. Rather, the masculinist state typically protects the private *and* public interests of men. The consequences are that women are systematically denied due process under international human rights law (Thomas and Beasley 1993) and the right to privacy becomes 'interpreted as protecting from scrutiny major sites for the oppression of women: home and family' (Charlesworth 1994, 73).

#### SECOND GENERATION RIGHTS: ECONOMIC, SOCIAL AND CULTURAL

Identified with the International Covenant on Economic, Social and Cultural Rights (1966; hereafter ICESCR), the second generation emphasizes socio-economic rights and to a limited degree cultural rights. It is often thought that second generation rights transcend the public-private split and might therefore be more relevant to women. But how these rights are codified in the ICESCR 'indicates the tenacity of a gendered public-private distinction in human rights law' (Charlesworth 1994, 74). By continuing to focus on activities in the public sphere, second generation rights fail to address economic, social and cultural issues of particular relevance to women's lives. By reference to our theoretical framing, insofar as women are secondary and not fully adult members of heterosexist groups, what they do – economically, socially, culturally – is not taken as seriously as what men do.

Hence, the definition of work and rights to work in the UDHR and ICESCR is informed by androcentric discourse that equates what is valued with masculine public sphere activities. Consequently, only paid labour in the public sector is valued economically. The work that women do – defined as

reproductive rather than productive – is devalued and considered secondary to men's work, interests and needs. Inequalities in compensation for work done are documented by the fact that although women perform two-thirds of the world's labour, they receive only 10 per cent of the income and barely hold 1 per cent of the property (Binion 1995, 511). The global significance of women's work is suggested by UNDP (United Nations Development Programme) estimates that 'the non-monetized invisible contribution of women is \$11 trillion a year' (UNDP 1995, 6; also Waring 1988).

Making women's contribution invisible obscures how dependent the public sphere is on private sphere activities. As Mies notes, 'the productivity of the housewife is a precondition for the productivity of the (male) wage labourer. The nuclear family, organized and protected by the state, is a social factory where this commodity 'labour power' is produced' (Mies 1986, 31). Defining the housewife as an unpaid reproducer of future workers rather than a paid producer of commodities provides an 'indirect subsidy to the employers of wage laborers' (Wallerstein 1988, 8). Women provide this subsidy by 'manag[ing] the household resources [so] as to feed, clothe, house, and educate the rest of the household' – whether or not women also work in the formal sector (Elson 1992, 35). The economic disenfranchisement of women serves to normalize the family/household/private realm where women are subordinate to the patriarchal family and masculinist state. Since human rights law generally applies to the public sphere, the identification of women as reproducers and housewives limits their claims to socio-economic rights: because male breadwinners are expected to provide basic needs, women are less able to claim them as rights. In this process, the public realm of male power is protected, while the private realm of women's reproductive work is obscured, and this contributes to the cycle of women's marginalization and exploitation.

The gendered division of labour in the home tends to be replicated in the formal sector of the marketplace. Since women's identities are tied to their socially constructed roles as feminine (read: housewife, reproducer, mother, emotional care-giver), their identities in the labour market are devalued as well. This devaluation translates into systemic discrimination against and exploitation of women in the formal sector. Coupled with discriminatory and exploitative practices is the stereotypical assumption that women's paid labour is secondary and supplemental to men's, who are identified as the primary breadwinners in the family (Rao 1996). This stereotype is fuelled by masculinist ideologies, even as global data indicate that approximately one third of today's households are headed by women (United Nations 1991).

That we obscure women's economic responsibilities and deny them the status of agents in their own right is suggested empirically by recurring salary inequities. The UNDP documents that 'the average wage for women

is only about three fourths of the male wage outside agriculture. The ratio varies from 92% of male wage in Tanzania to 75% in the United States to 42% in Bangladesh' (1995, 36–7). This systemic disparity constitutes nothing less than structural violence against women, the dominant manifestation of which is the increasing feminization of poverty.<sup>15</sup>

The state's role in perpetuating gendered economic inequality takes a variety of forms. First, states may either not legislate equal pay rights, or not enforce existing equal pay rights legislation. Second, states may promote welfare policies that (as in the United States) actually discourage women from working in the public sphere, through lack of training, jobs, child-care provision and/or inadequate wages. Third, states may not create or enforce non-discriminatory hiring and promotion practices, thereby sustaining and condoning the glass ceiling which ensures male dominance in the economic arena. As noted earlier, discrimination against women is fuelled by stereotypes that identify women exclusively as mothers and reproducers and deny women's productive roles and rights. Fourth, when states comply with structural adjustment programs of the IMF and World Bank, women suffer disproportionately. This is due in part to treating 'the household as a unit. Here [a] male bias lies in not disaggregating the household to examine the different positions of women and men in the household, thus ignoring the implications of the household as a site for the subordination of women' (Elson 1992, 35).<sup>16</sup>

Structural adjustment affects women in multiple ways. First, privatization and austerity measures encourage the reduction of state social spending, which is unprofitable monetarily. This exacerbates the situation of the poorest and most vulnerable, who are disproportionately female. Second, if structural adjustment policies fail or falter when global economic competition increases and the drive for competition and efficiency is accelerated, women are typically the first to be laid off, due to stereotypes of their 'supplemental' income-earner status (UNDP 1995). Third, when states reduce social and welfare services, it is primarily women who 'take up the slack' in their positioning as social reproducers. Hence, women find themselves burdened by increased demands on their food providing, emotional care-giving and responsibility for the ill and dependent. The above situations result in a further loss of women's control over resources and independence. For single women it may mean loss of the means to support themselves and the necessity of dependence on the patriarchal state; for married women, the effect may be to exacerbate dependence on and vulnerability to the power of the male breadwinner. In both cases, women lose autonomy/agency and are rendered structurally more vulnerable to abuses of power. At the same time, women's dependence sustains gender hierarchy more generally.

Finally, the state is complicit in maintaining gender hierarchy by not ensuring that women are treated as 'humans' with rights to physical safety

in the workplace, even though the ICESCR promotes the right to work under favourable conditions. This right is often violated for both men and women (Chapman 1996). However, for women it is especially problematic insofar as sexual abuse is often considered a private issue rather than a public one. Therefore, sexual harassment and even assault and rape by employers may go unpunished. Women are especially vulnerable as domestic workers in a foreign country and as sex workers in a global climate of heterosexist misogyny (HRW 1995, 286–90). Human Rights Watch estimates that every year many thousands of young girls/women are lured, abducted or sold into prostitution (HRW 1995, 196). There is little state or international intervention in the trafficking of women, in part because (and in spite of extensive evidence to the contrary) prostitution is typically considered 'voluntary'. Here the growing business in sex tourism, the structural violence limiting women's choices and the increasing risks of deadly infection interact, rendering sex workers – voluntary or otherwise – tragically vulnerable (Pyne 1995).

With regard to social and cultural rights, state élites may draw upon the many cultural exemptions from CEDAW (Convention on the Elimination of All forms of Discrimination Against Women) to justify direct and indirect violence against women (James 1994). Culture becomes an ideological tool of oppression when deployed to legitimate women's subordination and/or objectification. Consider that the world's most powerful religions are without exception male dominated and heterosexist. They are responsible for some of the most tenacious and deeply held beliefs prejudicial to women. In this environment, and especially in the context of heightened fundamentalisms, it is no surprise that women are pressured, symbolically and materially, to assume traditional, dependent and male-serving identities. Similarly, sexual minorities are cast as diabolical, disruptive and in need of saving.

In short, state complicity in the devaluation of the feminine – whether in relation to formal or informal economic sectors – precludes protection of women under human rights law. Under conditions of structural violence, as constituted by gender hierarchy, the choice for most women 'is not between dependence on the state and independence, but between dependence on the state and dependence on a man' (Elson 1992, 38). Either option translates into a loss of agency for women *qua* women. And in particular, dependence on a man presupposes heterosexual coupling that precludes other forms of group reproduction, social relations and gender identities. Economic, social and cultural rights premised on public sphere activities and patriarchal authorities not only fail to challenge but too often exacerbate the structural subordination of women and the denial of women's rights.

#### THIRD GENERATION RIGHTS: COLLECTIVE/GROUP RIGHTS

The third generation of rights, collective or group rights, are not specifically addressed by the UDHR or the subsequent International Bill of Rights

(James 1994, 566). This generation of rights seeks to preserve the integrity of a particular cultural, ethnic or indigenous group through the right of self-determination; claims are typically cast as resistance to the homogenizing and/or genocidal practices of colonization and/or centralization. In effect, subgroups draw upon the discourse of group rights to counter what is perceived as domination in the form of forced assimilation and cultural annihilation. Group rights are therefore predicated on and legitimized by emphasizing the cultural identity of the group rather than rights and identities of individuals (Charlesworth 1994, 75; Kiss 1995). This group emphasis is fundamentally at odds with the dominant liberal view that favours autonomous individuals as rights holders, which prompts considerable debate. Not surprisingly, a growing literature attempts to weigh the trade-offs between benefits to the group as a whole at the expense of harm to individuals within the group (e.g., subgroups based on ethnicity, class, gender, religion, sexual orientation, etc. (Kymlicka 1995; Glazer 1995; Green 1995; Young 1995). Of particular relevance here are feminist analyses arguing that emphasis on the collective is often detrimental to women as *individuals* (Jayawardena 1986; Charlesworth 1994; Young 1995; Peterson 1995; Pettman 1996; Yuval-Davis 1996). Moreover, as we argued earlier, women's subordination within heterosexist and male-defined groups denies women the status of personhood equal to that of male decision-makers and precludes primary identification with women *qua* women. Rather, the history of state making and its intra- and inter-group hierarchies has institutionalized male leadership and authority such that women's interests *qua* women are structurally subordinated to masculinist projects.

We frame our discussion by identifying three ways in which group rights are problematic for promoting women's rights, and concretize the discussion by focusing on the pending Draft Universal Declaration on the Rights of Indigenous Peoples (hereafter, the Draft Declaration). If passed by the UN, this would be the first international human rights 'law' to sanction group rights over individual rights, with important effects for the approximately 5,000 indigenous groups in the world constituting an estimated population of 300 million (Corntassel and Hopkins Primeau 1995, 346), over half of whom are women.

First, the normalization of masculinism/heterosexism prevents women *qua* women from constituting groups of their own, through which women might take advantage of group rights. This shapes women's options for self-determination, which we discuss below. Similarly, insofar as heterosexism is presumed in human rights documents, including those specific to group rights, sexual minorities cannot constitute 'appropriate' groups and are thereby precluded from the benefits of group rights. In terms of the Draft Declaration, spokespersons for indigenous collectivities are predominantly male, which suggests male dominance in these collectivities, as well as the

absence of any groups premised on women's primary identification as/with women.

Second, due to their subordination within heterosexist groups, women do not enjoy the rights to self-determination emphasized in group rights. That is, under masculine/heterosexist leadership, women's interests and concerns are structurally marginalized in determining group strategies and goals. In effect, women give up their right to self-determination as individuals, or as a collectivity of women, in favour of self-determination of the group as defined by male élites. Consequently, although the group as a whole, including women within the group, may benefit from claims to self-determination, history suggests forcefully that women's interests (e.g., in reproductive rights, political representation, economic equality) will be treated as secondary. In short, self-determination of heterosexist groups has historically meant the particular realization of (primarily élite) men's selves and dreams.

As a corollary, individual women may be at risk if they are unable/unwilling to 'deliver' in terms of their primary reproductive role insofar as that constitutes their value and status. Indeed, the Draft Declaration is potentially problematic in this regard since it affirms that 'indigenous peoples are entitled to the recognition of the full ownership, control, and protection of their cultural and intellectual property' (Ewen 1994, 170, Article 29, Reprint of the Draft Declaration). It is important to bear in mind that this right is accorded to the group as a whole in relation to the state. Applied to intra-group relations, this article could be interpreted as a collective right to control, without any countervailing protection from the state, women understood to be the biological and cultural reproducers of the group, and sometimes identified as property.

In the face of cultural or physical annihilation, it is not surprising that groups promote their own reproduction and seek legal protections. Women also benefit from their group's survival, but under heterosexist social relations, women are especially burdened by responsibility for reproducing the group. Unlike men, women find themselves disciplined not only to bear children but to do so according to group-defined parameters that constrain women's reproductive choices (e.g., at what age, with whom and how frequently to bear children). Moreover, under heterosexism women are expected not only to bear but also to raise the children. On the one hand, heterosexist delegation of this work exclusively to women denies individual women freedom to make their own choices about heterosexuality and parenting. It marginalizes women from public sphere power and imposes heavy sanctions on women who resist conforming to masculinist expectations. On the other hand, men's withdrawal from child rearing and other care-giving activities has consequences for the psyches, emotional development, life styles, capacities, and decision making of adult men. In short, heterosexist group

reproduction may serve to expand group numbers and sustain cultural traditions, and these may be highly desirable goals. But they come at a cost, not only to women, who suffer a loss of rights and self-determination, but also for men, whose experience of dominating also has its costs.

Again, this is not to argue that women reap no benefits from participation in male-defined groups. Nor do we intend to trivialize the importance of seeking protection for endangered groups. Our point is rather to insist that women's allegiance to masculinist collectivities has structural consequences, one of which is systemic and inevitable subordination of women's concerns. In other words, group rights predicated on heterosexist social reproduction contradict women's self-determination. The empirical evidence for this analytical claim is visible in revolutionary and nationalist struggles, where gender equality has without exception been subordinated to masculinist group objectives.

Third, although women are subordinated to male leadership within groups, their membership in particular groups may position them favourably *vis-à-vis* women in other groups and thus contribute – however unintentionally – to other women's oppression. That is, women's affiliations with male-defined groups implicate women in hierarchies structured by inter-group competition such that women are oppressors of, and oppressed by, women who are members of other groups. In short, group benefits may oppress women in other groups as groups compete for the right to self-determination. The Draft Declaration is here problematic. While it promotes the rights of *all* indigenous groups, it lends itself to supporting competition among groups by emphasizing *group rights*.

In terms of human rights discourse and practice, the Draft Declaration embodies the very notion that collective or group cultural rights should take precedence over individual rights. Should the Draft Declaration be passed, indigenous group rights will be formalized for the first time in international human rights law. This move is applauded by many, including women, but at the same time it is problematic for women, given their structural subordination in heterosexist collectivities.

## Conclusion

Whereas most feminist critiques of human rights focus on their androcentrism – identifying human rights as men's rights – we have focused on their heterosexism. Rather than assuming the categories of men and women as timeless and unproblematic, we explored how these categories were *made* in historical time, and how that making normalized gendered identities and heterosexist practices that underpin existing human rights. Rather than simply adding 'women's rights' to existing 'human' rights, we explored how only men are human under heterosexist social relations, and how human

rights are therefore problematic terrain for women and all who are stigmatized by association with the feminine.

Due to limitations of space – and the volume's intent – we have focused entirely on critique in this paper. But our intent is *not* to dismiss the progressive possibilities of human rights or denigrate activities in pursuit of rights. Our critique exposes numerous and interrelated problems in rights *given* their heterosexist framing. We believe that it is crucial to render that framing and its limitations *visible*. Only then can we adequately theorize and more effectively eliminate social hierarchies and their structural violence.

We also recognize, however, that we currently live *within* that framing. Therefore, women and men must pursue justice with the tools at hand, and rights are crucial tools in the face of state and structural violence.<sup>17</sup> In short, our argument is less to denigrate rights than to situate them in the context of heterosexist states and thereby reveal their limitations. They are important – indeed often life-saving – as available tools in contemporary battles against oppression and violence. We must, therefore, strategically deploy them. But their limitations are also literally deadly. If we do not simultaneously work to *disassemble* heterosexist oppression, we resign ourselves to perpetuating, not eliminating, direct and indirect violence against all who are 'othered' as feminine.

## Notes

- 1 Peterson wishes to thank Charlotte Bunch, Hilary Charlesworth, Riane Eisler, Stanlie James, Arati Rao and Sandra Whitworth for their inspiration and leadership in the theory/practice of human rights that empower women as well as men. She also thanks Patrick McGovern for his research assistance and gratefully acknowledges the support of a Research and Writing Grant from the John D. and Catherine T. MacArthur Foundation that enabled research for this article. Parisi wishes to thank Jeff Corntassel and Cindy Holder for their support and for many insightful discussions regarding rights.
- 2 In this paper, gender hierarchy describes systems of structural power that privilege men and that which is associated with masculinity over women and that which is associated with femininity. By *masculine privileging* we refer to men's appropriation of women's re/productive labour, their disciplining of women's bodies/sexuality, and their dominance in society's important institutions and in the production of ideologies, especially those that naturalize masculine dominance. Patriarchy is used narrowly to describe the absolute power of male heads of households over dependent family members; its broader meaning, as male dominance over women extended to society in general, is similar to gender hierarchy. Masculinism and heterosexism may refer to the system (masculine privileging) and/or to the ideology (naturalization) of gender hierarchy. We understand feminism *not* as the 'opposite' of masculinism but as theoretical/practical efforts to transform *all* oppressive hierarchies, such as classism, racism and imperialism, that are intertwined and naturalized by the dichotomy of gender and its denigration of femininity. Finally, our critique of heterosexism is

not an indictment of heterosexual relations *per se*; rather, we reject the systemic oppressions constituted by assuming heterosexuality as the *only* acceptable expression of sexuality and social relations.

- 3 Like every effort to illuminate, ours pays the price of selectivity. Our interest in exposing structural features of gender hierarchy/heterosexism has the effect of privileging generalizations that neglect, for example, differences among women and variations in how men and states participate in masculinist privileging. We are – and encourage the reader to be – aware of simplifications and distortions encouraged by such broad-brush analyses, but deem the risks of over-generalization less dangerous than the continued neglect of gender in even critical discussions of 'human' rights.
- 4 'Human civilization rests upon two pillars, of which one is the control of natural forces and the other the restriction of our instincts' (Freud quoted in Padgug 1989, 63).
- 5 The classic text here of course is Engels, *The Origin of the Family, Private Property and the State* (1972).
- 6 In particular, we cannot address the important differences among feminists themselves in regard to interpreting the category of sex and its relationship to gender.
- 7 The linear demands of writing text force us to adopt some organizational order in referring to components whose interaction is not characterized by linearity. Of necessity then, we present these components in the form of what might be conventionally understood as 'inner to outer levels' – as concentric circles, from the 'most individual/internal', etc. to the 'most global/largest social structure', etc. Such depiction imposes its own distortions, especially in regard to masking how symbol systems/language, etc. are 'large' structures that mediate/pervade all 'levels'. Similarly, we remind the reader that these 'levels' are mutually constituted and dynamic; in the argument we are making, neither the 'subject' nor the 'family' precedes the 'state'.
- 8 With Vickers, we emphasize that the development of gender hierarchy was neither 'necessary' nor 'inevitable' but represents one among numerous possibilities. Like states, racism and nationalism, gender hierarchy is a complex, contingent, historical development that is not reducible to 'nature'.
- 9 This is exemplified in western philosophy and political theory where man stands for the universal – the norm – and woman represents the particular – the other (e.g., Peterson 1990; Charlesworth 1994).
- 10 See, for example, Showstack Sassoon (1987); Yuval-Davis and Anthias (1989); Gordon (1990); Parpart and Staudt (1990); Watson (1990); Kandiyoti (1991); Peterson (1992); Sainsbury (1994); Brown (1995). Although most are critical of the masculinist history and practice of states, there is less agreement on whether and how to mobilize state power in support of feminist objectives. Especially in today's context of transnational capitalist forces – which shape the well-being of all of us but are not held accountable for their social effects – states remain the primary site of political accountability and welfare delivery. Because women and the children for whom they are responsible are particularly vulnerable to the effects of economic maldevelopment (within both 'First' and 'Third' worlds), states are singularly important reference points in struggles for equity and economic security. These complex issues have obvious relevance to the role of states in relation to human rights, but we can address only a portion of issues here.
- 11 Bahar (1996, 131) notes that the metaphor of three generations itself is controversial because it implies progress and hierarchy. For an excellent historical overview of how each Covenant, etc. has affected the development of women's rights see James (1994).

- 12 Bahar (1991) compellingly argues that NGOs such as Amnesty International help sustain the public-private split by focusing their attention on state abuse of individual rights.
- 13 'Studies from countries as diverse as Mexico, South Africa, and Bangladesh have found that partner approval is the single greatest predictor of women's contraceptive use' (Heise 1995, 242).
- 14 The main point is that the objectification of women and forced penile penetration as a violent act requires for its intelligibility the polarized identities and objectification of the feminine constituted by heterosexist ideology and practice. Stated differently, the willingness/desire to rape is not established by the presence of a (normally flaccid) penis but by the internalization of a masculine/heterosexist identity that promotes aggressive male penetration as an expression of sexuality and power. It is, presumably, the mobilization of some version of such an identity that renders rape a viable form of social control and violence. On this view, heterosexist masculinity is mobilized to sustain gender hierarchy *within* groups (e.g., domestic violence in 'private' and the threat/reality of rape in 'public' that prevent women's autonomy and equality) and to reproduce collective violence *between* groups (e.g., forced prostitution and mass rapes in war).
- 15 The UNDP (1995, 4) reports that there currently exists a global 'feminization of poverty' in that '70% of the 1.3 billion people in poverty are women'. The UNDP (1995, 36) also notes that the 'number of rural women living in absolute poverty rose by nearly 50% over the past two decades'. The increasing feminization of poverty is not only prevalent in developing countries but in industrialized ones as well. The UNDP estimates that 'in the United States ... while only 40% of the poor were women in 1940, 62% were women in 1980'.
- 16 See Scott (1995) for an in-depth feminist critique of the modernization programmes of the World Bank.
- 17 For feminist discussions of 'what is to be done' in support of women's rights as human rights, see for example Cook (Introduction 1994); Kerr (1993, especially Part 4); LaViolette and Whitworth (1994).

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