Human Rights and Gender Politics

Asia-Pacific perspectives

Edited by
Anne-Marie Hilsdon, Martha MacIntyre,
Vera Mackie and Maila Stivens

Routledge Advances in Asia-Pacific Studies

Human Rights and Gender Politics

In recent years, the slogan 'women's rights are human rights' has become a central claim of the global women's movement. *Human Rights and Gender Politics* examines the critical issues raised by this embracing and expansion of the human rights discourse by feminists world-wide.

Through detailed case studies drawn from the Asia-Pacific region, this book explores the tensions between an apparently universalizing discourse of human rights and increasing awareness of the complexities of women's politics of difference. It questions how feminists negotiate controversial issues such as 'rights' and 'cultural relativism', and argues for an increased focus on the ways in which human rights claims are embedded in highly specific local contexts, histories and struggles. This original and thorough volume assembles an outstanding panel of international experts who address diverse issues including:

- enforced military prostitution during the Second World War
- the question of women's rights within the Indian feminist movement
- the politics of China's one-child policy
- women's struggles against domestic violence
- ambivalence towards feminism among Salvadoran activists in Australia
- the growth of lesbian and gay movements throughout the Asia-Pacific.

This volume challenges conventional, un-gendered and male-centred analyses of the politics of human rights and addresses the future of global feminisms. It is essential reading for all those interested in learning more about human rights and women's rights in the Asia-Pacific region.

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1
Introduction

Gender politics and the reimagining of human rights in the Asia-Pacific

Maila Stivens

As the new millennium leaves behind the most violent of centuries, human rights activists and international agencies are looking to a new Age of Rights. Feminists have been prominent among those struggling 'from below' to reconstruct human rights: the slogan 'women's rights are human rights' has become a central claim of the global women's movement; feminist theorists have argued for an explicit inclusion of women and gender in human rights tenets; and United Nations forums have become central sites of an energetic new global feminist 'public', providing unprecedented avenues for feminist initiatives and action. It is clear, however, that feminist reshapings of human rights have been engaged in complex conversations with both human rights claims and with feminist and gender politics in all their many local versions.

The contributors to this volume address these complex conversations through a number of case studies within the Asia-Pacific region.[1] We were excited by attempts to expand the human rights project to include women's rights and other issues concerning gender and sexuality which intersect with feminist politics. The 1993 Vienna Human Rights Conference and the 1995 Beijing Women's Conference saw a dramatic increase in the deployment of human rights discourse by feminists worldwide. Activists and critical legal theorists sought 'to transform the assumptions, discourse and goals of the international human rights movement and by implication, the power structures of states and international organizations' (Bouvard 1996:xii). It was argued both that human rights law and practice had systematically excluded the experiences of women and that women's rights were to be understood as human rights. The core of this critique points to the inherent masculinism of much thinking about international human rights. Essentially, it was held, man had been the measure and the standard for establishing appropriate, fair and reasonable behaviour (Kaufman and Lindquist 1995:121).

We also felt, however, that the growth of the global 'women's human rights project' posed a series of critical issues for feminists and human rights activists in the region and beyond. How and why did this space for gender politics open up? Why have feminists at this point been homing in on human rights discourse as a pre-eminent global space for feminist politics? Why now? What are the consequences of the development of this space? And what happens to both the

feminist and human rights projects when feminists adopt the concept of 'human rights' as the core claim of a global feminist politics? As I argue, the feminist expansion of the human rights project has meant that many women's movement concerns of the last three decades have been recast as human rights issues (as in Tomasevski's 1993 volume). Dennis Altman argues in his contribution to this volume (Chapter 10) that there has been a similar appropriation of human rights discourse by lesbian and gay rights activists. Others have also joined this human rights push, including advocates of children's rights, indigenous rights, land rights and disability rights. Why are so many feminists keen to claim a place alongside these projects?

This poses a related question: why are we seeing a return to an apparently universalizing discourse of human rights, just when many feminist intellectuals and activists alike had become acutely aware of the complexities of women's politics of difference? How do we resolve the tensions between a gender politics increasingly located within the 'women's-rights-are-human-rights' frame and the post-modern and post-colonial uncertainties and fragmentations that contemporary feminisms have so strongly acknowledged? Are we seeing a shift within feminist discourse away from a post-modern neo-romanticism, overly concerned with culture, text and meaning (Benhabib 1992; Ebert 1996)? And if so, how should we understand that shift? Is the women's rights/human rights project to be seen as a convenient way to sidestep some of the difficult issues raised by 'third-world' women and others challenging a single feminist voice, albeit within the new conjunctures posed by globalization? Or can it be seen as part of attempts to move beyond simplistic dichotomies between 'post-modern' and 'universalist' (Fraser 1997)? This would place it within the recent quests for reconstituted 'universals' within feminisms and other social movements that some recent writers have termed 'transversals', as I discuss in more detail below (Yuval-Davis 1997).

Some of our principal questions are resolved in a core argument of the volume which looks at the polarities within human rights debates between universalism and particularism and cultural relativism. These polarities can be transcended, we propose, by looking at the ways in which claims to rights are embedded in highly specific local contexts and struggles. The anthropologist Richard Wilson comments:

> As with most absolutist dualisms, the universalist/relativist polarity is too totalising in its conceptualisation. The intellectual efforts of those seeking to develop a framework for understanding the social life of rights would be better directed not towards foreclosing their onto-logical status, but instead by exploring their meaning and use. What are needed [sic] are more detailed studies of human rights according to the actions and intents of social actors, within wider historical constraints of institutionalised power.
>
> (Wilson 1997:3–4)

As Wilson suggests, it is possible to have contextualization without relativization (1997:12). We argue that many human rights claims are not to be understood as simply universalizing 'imports' from western liberalism and radicalism. Nor are they simply neo-colonial imposts, as both political opponents of human rights activists and some post-colonial theorists hold.[2] Rather, recent claims about 'women's rights as human rights' in the region are better understood as highly specific products of local social movements. These movements have arisen in the context of multiple, divergent modernities within a globalizing regional and world order. The local forms of modernity, which differ from western versions, have inevitably generated their own forms of struggle, including feminist, womanist and other gender-based struggles. As we argue, those involved in such struggles are drawing on long-circulating, quintessentially 'modern' ideas about democracy, rights, equality and justice. Such ideas have formed part of the constitution of their social orders no less than those of modernity in the West. Today, we propose, these ideas are being reclaimed and reimagined in an often exuberant transforming of the notion of 'rights' within a new world order of 'global modernities' (Featherstone and Lash 1995:3). The case studies in this volume explore the many and intricate ways in which human rights discourses and action have emerged, been reworked and negotiated within specific institutional contexts and in a direct relationship to the larger globalizing order. This approach, we suggest, can allow us to move beyond the prevailing polarities of the debates without succumbing to relativism or simplistic culturalism.

The Asia-Pacific focus of the volume throws the tensions between universalism and cultural relativism into especial relief. Developments within the Pacific Rim suggest novel perspectives from which to debate both the complexities of human rights claims and the future of feminisms. A perspective drawing on recent Asian developments, in particular, cuts across the grain of many of the Euro-American debates about human rights and democracy, undermining notions drawn from the European historical experience about liberal modernity and its accompanying political forms. While the Pacific has suffered the classic problems of 'third-world' underdevelopment, parts of East and Southeast Asia until the 1997 financial collapse saw many of the region's politicos triumphantly proclaiming the success of 'Asian values' in producing alternate modernities. Local intellectuals, subalterns and other activists disputed the costs of such 'development', especially the authoritarian state managerialism of many regimes.[3] But many also entertained some degree of optimism about the possibilities for democratic reform resulting from such growth. The imploding financial chaos of a number of countries radically altered some of these predictions, intensifying human rights issues dramatically: this is especially the case in Indonesia, where widespread state abuse of human rights is alleged in the wake of social unrest. But those same destabilizing forces have also seen a resurgence of democracy movements within Indonesia and Malaysia, in which human rights demands have become core elements of new political movements.

The contributors to this volume are anthropologists, sociologists, historians, cultural studies practitioners and political scientists. We aim to explore from a gendered perspective a number of linked theoretical concerns which are of regional and global significance within human rights movements: these include the local workings of ongoing debates within human rights circles about the polarities of universalism and cultural relativism; the difficulties posed by the liberal heritage of 'rights', especially conflicts between views of rights as inhering in the individual and in larger collectivities; the complex interplay at a geopolitical level between human rights discourse and action (especially the accusations levelled against activists in many countries that they are the 'stooges' of western interests); the claims made on a reconceived human rights by a range of political actors; shifting oppositions between 'ethics' and 'politics'; and the ethical responsibilities of intellectuals. We must emphasize the point that we are not law experts and we do not pretend in any way to be providing a comprehensive coverage of human rights issues in the region. This applies particularly to our home locale, Australia, with its long history of racist oppression.[4] Our case studies comprise Vera Mackie's chapter on feminist understandings of military prostitution and militarized sexual violence (Chapter 2); Kalpana Ram's discussion of human rights, the state and the Indian women's movement (Chapter 3); Antonia Finnane's chapter on induced abortion, infanticide and the cross-cultural politics of human rights in the People's Republic of China (Chapter 4); Krishna Sen on writing about human rights violations and gender in Indonesia (Chapter 5); Margaret Jolly's exploration of human rights, women's rights and domestic violence in Vanuatu (Chapter 6); Martha Macintyre on Pacific women, cultural relativism and human rights (Chapter 7); Anne-Marie Hilsdon on the execution in Singapore of the Filipino domestic worker, Flor Contemplacion (Chapter 8); Beryl Langer on Salvadoran refugees in Australia (Chapter 9); and Dennis Altman on the emerging international lesbian and gay rights movements in Southeast Asia (Chapter 10).

A global feminist public? 'Women's rights are human rights' and global forums

A first, important question for this volume is how and why 'human rights' as a critical, global space for gender politics opened up in the 1990s. And why are feminists so keen to claim a space within this project? The active lobbying around women's human rights by NGOs and others in the late 1980s and early 1990s played a critical part. But how did this politicking come to take off so spectacularly, coming to fruition in concerted feminist action at both the 1993 World Conference on Human Rights in Vienna and the 1995 Beijing United Nations Decade for Women Conference?[5]

Richard Wilson has commented that 'the past few decades have witnessed the inexorable rise of the application of international human rights law as well as the

extension of a wider public discourse on human rights to the point where human rights could be seen as one of the most globalised political values of our time' (1997:1). This process has had a long history. The internationalization of human rights is seen by writers like Charles Taylor (1991) as a process which began with the western Enlightenment, and emerged in large part in political conflicts in the eighteenth and nineteenth centuries in Great Britain, between Great Britain and its American colonies and in France (Hunt 1996:4). Human rights notions today have a direct lineage from the Declaration of Independence, the US constitution and the Declaration of the Rights of Man and Citizen (Sassen 1996b: 90). Some writers, however, have also explored how far there have been parallels to concepts of human rights in Islamic and other 'non-western' 'traditions' (Wilson 1997:13–14; Pannikar 1982; Donnelly 1989; Renteln 1990).

Women's rights discourse developed in tandem with that of human rights, sharing common origins in eighteenth century Europe. As a number of writers have noted, the French Revolution in particular opened up the question of women's rights for consideration.[6] The uneasy relationship between human and women's rights was flagged early in the piece, when Olympe de Gouges's *Declaration of the Rights of Woman and Citizen* (1791) attempted to rewrite the *Declaration of the Rights of Man and Citizen.* In terms of international organizations, women's rights were on the international agenda at the 1919 Paris Peace Conference which established the League of Nations (Steady 1995:14), and there were campaigns mounted through the League on issues like the traffic in women and children throughout the 1920s. The United Nations Commission on the Status of Women (CSW), formed in 1946, influenced the drafting of the Universal Declaration of Human Rights, adopted in 1948 (Steady 1995: 14). As Filomena Steady suggests, the role of worldwide women's organizations made important interventions into an international system largely dominated by men. Women's involvement in nationalist independence movements was also important in both the human rights and decolonization projects within the United Nations. The continuing pressure from women's organizations and academic and research organizations was important in shaping the ongoing work of CSW, which culminated in the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Steady 1995:14).[7]

The first United Nations Decade for Women, declared in 1975, saw the establishment and consolidation of several UN institutions servicing CSW and CEDAW. These included the Branch for the Advancement of Women (later Division for the Advancement of Women), the United Nations International Research and Training Institute for the Advancement of Women (INSTRAW) and the Voluntary Fund for Women, later the United Nations Development Fund for Women (UNIFEM) (Steady 1995). The United Nations 'Decade for Women' Conferences—Mexico City in 1975, Copenhagen in 1980, Nairobi in 1985 and Beijing in 1995—along with the Vienna human rights conference in 1993, the Cairo and New York conferences on population and the associated non-

governmental organizational (NGO) forums, have all formed critical arenas for the promotion of women's rights, interests and activism.

A number of contributors to the Peters and Wolper *Women's Rights, Human Rights* collection contend that (up to the 1990s) few issues received as little political attention at the United Nations as the human rights of women (Peters and Wolper 1995:36). Various dimensions of women's situation have been addressed in a number of United Nations instruments, covenants, declarations and treaties, starting with the United Nations Charter. It is suggested, however, that the agendas, mechanisms and political weight of the Commission on Human Rights, founded in 1948, and of the Commission on the status of Women have developed quite differently.[8] Elissavet Stamatapoulou sees an apparently tacit agreement that women's issues, including human rights, were to be dealt with by the CSW, even though the prevention of discrimination on the basis of sex was never removed from the mandate of the Commission on Human Rights (1995: 41).[9] Only in 1984 did the identification of an area of gender-based human rights violation, namely the particular forms of abuse to which imprisoned women were subjected, allow the CSW to process communications on the abuse of women in a manner more or less in accordance with communications on general human rights abuses (Galey 1984:468–73). In spite of the considerable expansion of the Commission on Human Rights by 1993, it had done little to draw attention to issues of special significance to women, such as rape, violence, trafficking and other abuses. Stamatapoulou argues that the creation of specialized bodies for addressing women's issues within the United Nations had the negative effect of 'allowing' the mainstream human rights bodies to [largely] absolve themselves of this responsibility (Stamatapoulou 1995:45).

Non-governmental organizations, especially Amnesty International and Human Rights Watch, have played important roles in the recent push to ensure the full integration of women's human rights concerns into the international human rights framework.[10] But according to Friedman, little specific attention had been paid to women's human rights within such human rights groups before the late 1980s (Friedman 1995:25). She suggests that, against a background of the space offered by the various United Nations forums, women began to employ an old strategy in a new way in wider feminist struggles, using the human rights framework to advance women's rights. 'Instead of claiming rights as *women,* they claimed the human rights of *half of humanity*' (ibid.: 22). In turn, pressure from both inside and outside the human rights organizations created an awareness of women's issues within them (ibid.: 27). Human Rights Watch has set up a very active Women's Rights project. This has expanded its efforts to remedy discrimination: against minorities, women, refugees and other vulnerable groups, like garment workers on the US-Mexico border. Non-governmental organizations have been especially active in the lobbying for an Optional Protocol to the UN Women's Convention, adopted by CEDAW in March 1999.[11] This was to create a mechanism whereby CEDAW would be empowered to receive complaints regarding specific violations of the Convention and carry out

inquiries into systematic or serious violations of the Convention.[12] Other key players during this period included the Center for Women's Global Leadership (set up in 1989), which mobilized around issues of women's rights, human rights and violence. Together with the International Women's Tribune Centre and the international YWCA it organized a highly successful petition presented at the World Conference on Human Rights in Vienna in 1993. The drive to expand the category 'human rights' was also given enormous impact by the courage of women bearing witness against the crimes committed against them, especially those from the former Yugoslavia and those forced into military prostitution in the Second World War (see Chapter 2).

Many commentators see the Vienna Conference as the turning point in having women's rights recognized as important components of human rights. The Vienna Declaration and Programme of Action called for the appointment of a special rapporteur on violence against women and the adoption of the Declaration on the Elimination of Violence against Women (DEVAW), both of which were implemented by 1995. Radhika Coomaraswamy argues that 'the underpinning of women's rights with human rights [has given] women's rights discourse a special trajectory, emerging as a major innovation of human rights policy within the framework of international law' (1999:168). In 1996, as a follow-up to the Beijing Conference, the United Nations Secretary-General noted that mainstreaming of women's human rights requires that the Women's Convention become 'a mainstream concern within the human rights programme'. '[S]teps must be taken to ensure that [CEDAW] and its Committee are at least as well known as other human rights treaties and treaty bodies' and that the work of the Committee is routinely incorporated 'into the work of other human rights treaty bodies and mechanisms'.[13]

The strategic use of United Nations forums by feminists has been extremely successful in producing an unprecedented level of global networking and action. Indeed, Anne Brunet argued at the Vienna Tribunal that the moves to understand women's rights as human rights were nothing less than the 'mainstreaming of feminism'. Thus Bina Agarwal after the Beijing conference comments:

> Many northern women today are finding common ground with southern women on economic issues and wanting to be part of commonly-defined strategies, including agitating against transnational corporations.
>   This is not to argue that the North-South gap has disappeared. But among women's groups there is growing recognition of the importance of forging strategic links. One could say 'romantic sisterhood' is giving way to strategic sisterhood for confronting the global crisis of economy and polity.
>
> (Agarwal 1995, cited in Ong 1996:111)

Women's human rights advocates', suggests Friedman, 'have come to recognize the power of the international human rights framework, which lends legitimacy

to political demands', is accepted by most governments and brings with it established protocols (Friedman 1995:19). Recent dramatic developments in global communications have also played a significant part in the growth of such networking, with internet links rapidly developing in importance. It is clear, moreover, that the global appropriation of 'human rights' in general and by some feminists in particular has been linked to the political and intellectual decline of the left, with human rights acting as a global rallying point for intellectuals and activists stricken by its collapse worldwide.[14] In spite of these developments, however, many observers fear that, relatively speaking, 'women's rights [within the UN system] are more fragile, have weaker implementation procedures and suffer from inadequate financial support from the United Nations' (Coomaraswamy 1999:168). There has also been some dissatisfaction with the perceived dominance of western women within NGOs working for women's human rights.

These enlarged and globalized spheres of feminist action around women's human rights can usefully be termed a *global feminist public,* following the Habermasian terminology about 'publics' employed by feminist writers like Benhabib (1992) and Fraser (1997). According to Nancy Fraser, the idea of a 'public' implies an arena of global citizen discourse within the nation state, 'a theatre of modern societies in which political participation is enacted through the medium of talk' (Fraser 1997:70). 'It is in principle unbounded and open-ended, implying a plurality of perspectives' (ibid.: 97). It is also to be distinguished from other senses of the public sphere, which, as Ruth Lister notes, are commonly employed by feminists to imply everything outside the so-called domestic, including the state, the official economy of paid employment or market and arenas of public discourse (Lister 1997). The idea of a *global* feminist public takes the public beyond the boundaries of the nation state, seeing it as imbricated in globalization itself.

Gendering globalization

These recent successes in forming a strategic sisterhood through the women's-rights-are-human-rights project clearly are inseparable from globalization processes. Understanding globalization is critical for the analysis of contemporary feminist human rights struggles, but as yet there is only a modest literature attempting to bring gender into the current social theory debates about globalization.[15] An extensive Women-in-Development/ Gender-and-Development literature has explored the links between 'development' and gender in the world economy, and there has been important feminist work theorizing relations between gender and modernity from a mainly western viewpoint and in relation to the militarized world order (Enloe 1989; Pettman 1996).[16] But generally gender has not featured in work theorizing globalization as a cultural as well as an economic and political process.[17]

Elsewhere I have looked at the issues involved in thinking about gender's relationships with modernity and globalization in Asia. I suggested that a feminist reading of some of these debates can radically unsettle wider understandings of the modernization process, an unsettling which can be intensified when the reading is combined with a perspective stressing the regional specificities of the Asia-Pacific region (see Stivens 1994, 1998a). As a number of writers have suggested, there have been extensive problems with the Euro-American bias of the modernity/post-modernity/globalization debates (King 1991:154), their erasure of the history of the non-western world (Said 1993) and their assumptions that world development is following a trajectory close to that of industrialization in the West.[18]

A move to look at concrete cases in thinking about modernity can play a significant role in destabilizing the category 'modern', as Arnason (1987) argues in relation to Japan: the experiences of modernity outside Euro-America point to the ways that understandings of the category have been based narrowly on the western experience, rather than on the multiple and highly distinctive versions of modernity which have developed outside Euro-America. Critical theorists have suggested that we need to redefine both modernity and globalization in multidimensional rather than unidimensional terms to escape some of the preoccupation with the economic (see Robertson 1992; Turner 1990). Featherstone and Lash argue that it may well be preferable to refer to 'global modernities' (1995: 3). In particular, I am arguing that we are not dealing with one global version of modernity, but multiple, divergent modernities within a globalizing whole (Kahn 1993). This links with one of our central arguments in this book, that we can understand many political claims for human rights within the contemporary Asia-Pacific order as modernist productions within what can be termed the 'divergent modernities' of the region.[19] These modernities are probably best characterized as neo-modernities: that is, current developments in the region, I would argue, qualify as regional versions of modernity, rather than as post-modern, globalization notwithstanding.[20] Even rural village society in Papua New Guinea or Vanuatu, for example, is part of and formed within such modernities, which in turn give rise to forms of politics which are similarly and, in some cases, quintessentially 'modernist', but equally presage post-modern forms of politics in their emphasis on alliances rather than a universally shared interest or identity (Fraser and Nicholson 1990).

The concept of globalization, like modernity, presents intellectual difficulties. The term is often used in a reduced sense of economic internationalization, especially in popular discourse. It implies a growing dominance of transnational corporations and 'free trade', with some reference to the information revolution. Western discussions have concentrated on the change from 'industrial society' to 'informational world' (Featherstone and Lash 1995). Robertson suggests conceiving of globalization as the crystallization of the entire world as a single place (Robertson 1987:38); the control of critical flows of information and capital is seen to produce a single social and cultural space.[21] Such theorizations of

globalization see this stretching of social relations across time and space as superseding 'nation' and 'society' (Featherstone and Lash 1995:2).[22]

Feminist critiques of western political thought have pointed to the masculinism of the modernity/post-modernity and globalization debates. In systematically excluding the female, these debates assumed that the modern, autonomous, individual subject is a man (Marshall 1994; Felski 1995; Stivens 1994, 1998a). By contrast Felski suggests that when women and gender become the object, the periodization and the criteria used to define the concepts modern and post-modern appear profoundly altered (Felski 1992:139; 1995). As Wolff argues, women's experiences of modernity have been ignored because the primary object of discussion has been the (so-called) public sphere (Wolff 1985). She is similarly critical of the lack of concern with gender in writings about globalization, arguing that we cannot discuss 'culture' without discussing gender. Identity, she suggests, is always gendered identity, political and other ideologies operate through notions of gender difference, and discursive oppositions are also complexly interwoven with meanings and discourses of gender (Wolff 1991:169). In order to theorize the global dimensions of culture and society, it is necessary to investigate the interrelations of public and private, of the economy and the domestic, of male and female roles, and of ideologies of work and politics and ideologies of gender (ibid.: 170).[23]

An emergent human rights regime

The future of the nation state and citizenship rights within these processes is a key issue for all commentators. Saskia Sassen has posed a provocative argument that is relevant here: she suggests that as politics becomes more global, human rights will assume an expanded role in its normative regulation (Sassen 1996b: 35–6). She sees general processes developing in which state sovereignty is being partly decentred onto non- or quasi-governmental entities for the governance of the global economy and the international political order (Sassen 1996a:98).[24] Struggles run parallel, making claims on nation states when many of the processes they resist have moved beyond accountability in such arenas. Like a number of other theorists, Sassen suggests that human rights claims are not dependent on nationality, unlike political, social and civil rights, which are predicated on the distinction between citizen and non-citizen (Sassen 1996b: 88).[25] International human rights claims, she suggests, are a force that can undermine the exclusive authority of the state over its nationals and thereby contribute to transforming the inter-state system and international legal order. Sassen also wonders whether citizenship rights might be partly replaced by human rights (ibid.: 96), a suggestion taken up by Lister (1997) among others.[26] Lister argues that once rights are detached from the context of the state, the discourse of human rights becomes more appropriate than that of citizenship.[27] Such new forms of global citizenship rights present, as Sassen also suggests, a particular resource for migrants and asylum seekers, given that they are denied

the rights of citizens. Lister and Richard Falk, among others, speak of a global or international 'civil society', which they see as highly successful in lobbying and initiating programmes in the UN (Lister 1997:62; Falk 1993; Coomaraswamy 1999). The idea of 'global society', however, is as yet relatively untheorized.[28]

If Sassen is right about the emerging human rights regime, its growing importance is such that feminists could scarcely afford to exclude themselves from it. That may partly account for the sudden popularity of the women's human rights project. The renewed claims on human rights are clearly a sign of a reclaiming of rights as a framework for expressing intellectuals' and activists' concerns about ethics and politics. As the feminist theorist Seyla Benhabib has suggested, periods of social turmoil throw up renewed concerns with ethics (Benhabib 1992), a concern widely apparent in the present momentous transformations with globalization.[29] But in view of the problems in enforcing human rights at both the national and international levels, optimism about new forms of global citizenship might, for a number of reasons, greatly concern feminists turning so strongly to global forums. Far more gloomy analyses of these processes emphasize the ways that the rising power of corporations, because of globalization, vastly increases their power to violate the rights of others and to create conditions in which rights become harder to exercise or protect (Ghai 1999:260). This viewpoint receives much support in the literature on transnational labour migration, for example (see Ghai 1999). Sassen herself asks: what institution would enforce human rights in this new order (Sassen 1996b: 88)? Given the masculinism of existing international structures, how would women's interests be promoted within such new orders? Moreover, with citizenship increasingly predicated on the power to consume, and the new global order producing ever-greater inequalities in distribution of resources, women may well find their situation weakened within this dimension of citizenship. Antonia Finnane's chapter on China (Chapter 4) also shows that appeals to 'human rights' may well be highly counter-productive in the prevailing geopolitical contexts. These difficulties underscore the need to acknowledge both the power relations among feminists globally and the diverse and intricate linkages between the emerging global feminist public, international institutions and local struggles representing themselves in varying ways as 'women's human rights' struggles.

The complexities of the processes of making such claims through international avenues are clearly shown in our chapters: sometimes the links are very tenuous and fragile, consisting of a few isolated activists tied through NGO and state networks to the global arenas. This is the case in Papua New Guinea, discussed by Martha Macintyre in Chapter 7. Women activists there resort to a poetic voice, sometimes subtle and nuanced, sometimes shocking in its forthrightness, which explicitly calls on the United Nations for salvation:

Tell me why as a woman

> I have all this burden
> When God, the Constitution and the
> United Nations all tell me
> You and I are equal in all respects?

<div align="right">(Dewenis 1995:60)</div>

The links in Vanuatu, discussed by Margaret Jolly (Chapter 6) are somewhat more robust. There the Vanuatu Women's Centre, an indigenous NGO funded by Australian development aid, quotes from Charlotte Bunch's 1993 keynote speech to the Vienna Conference advocating educating and empowering women in language close to that of United Nations instrumentalities. Women strategically use their links to international aid agencies and other NGOs to counteract the deployment of 'tradition' by male politicians opposed to women's attempts to bring domestic violence into 'public' political spheres. The ways in which Salvadoran refugees in Australia negotiate their tense relationships with feminist organizations within Australia and El Salvador are a focus of Beryl Langer's chapter (Chapter 9). These efforts contrast again with the Indian case discussed by Kalpana Ram (Chapter 3), where the enormous women's movement has multiple links to a global feminist public.

Krishna Sen examines some of the complexities surrounding both voice and power within the emerging global feminist public in her account of the difficult experience of interviewing and writing about the violation of Indonesian women's rights (Chapter 5). In 1995 she was sent on an Amnesty research trip to Indonesia. Exploring some of the ways in which human rights abuses of Indonesian women, notably women political prisoners, have been deeply gendered experiences, she discusses the politics surrounding her decision to write up, as a version of 'fiction', most of the painful details of the story which could not be incorporated into the formal Amnesty report. As she argues, women's experiences singularly failed to fit into the androcentric cast of the Amnesty brief.[30] But the attempt to make them do so brought her back to the acute issues of who may speak for and about whom, which have consumed feminisms in the last decades.

Vera Mackie's chapter on the campaign for justice and recognition by the so-called 'comfort women' forcibly prostituted by the Japanese military hinges on the development of the global public (Chapter 2). As Rhonda Copelon remarks, the women of Bosnia-Herzegovina appeared unique because the rape of women in wars throughout history and in the present had been rendered invisible (Copelon 1995:198). But even that process of becoming visible has taken very different paths. Mackie asks why it took four decades for Euro America to acknowledge the plight of the 'comfort women', while the violations of the women of the former Yugoslavia emerged relatively quickly and indeed were one of the main catalysts for the recent women's human rights project. She suggests that the development of feminist global networking and consciousness

was necessary before the 'comfort women's' situation could be recognized. But one might suspect nonetheless that the Balkan tragedy also came into focus due to the European ethnicity of the victims and the trauma of yet another European war.[31] To be fair, the development of the human rights regime was such that by May 1998 the plight of the victims of mass rape in Indonesia came into world view within weeks.

Dennis Altman's chapter on lesbian and gay rights (Chapter 10) points to a further dimension of the development of global networking around human rights. As he makes clear, the emergence of 'modern' lesbian and gay rights identity politics in the Asia-Pacific region is explicitly linked to globalization, an example of the development of universalizing discourses of both identities and human rights. The supporters of 'gay liberation' and their successor queer activists are mostly middle-class, educated and cosmopolitan, orienting themselves to explicitly global ideologies and movements. (Altman has noted elsewhere that the term for gay men in some parts of Latin America is in fact 'Internacional', pers. comm.) This contrasts with prior forms of sexual practice (cf. Oetemo 1996; Anderson 1996), which are represented as 'traditional', but may well be reconstituted within the modern as much as those of more overtly modernist identity politics movements. The latter inevitably find their claims to rights contested within conservative neo-traditionalist promotions of so-called Asian values, of which the 'Asian Family' is a centrepiece, and their modernist agendas are derided as 'western' imports. As Dorf and Pérez (1995) argue, some of the persecution that lesbians suffer is similar to that experienced by gay men, but they also suffer abuses of a kind uniquely directed at women. The need here, these authors suggest, is for a feminist international law that responds far more fully to the abuses suffered by lesbians.[32]

Women's rights/human rights?

The women's human rights project provides an enormously effective global political platform, but it is also beset by internal political and epistemological tensions. The argument that human rights law has concentrated on 'public' agents and ignored gender-specific violations, whereas violence and other abuses against women are often perpetrated by 'private' agents, has been a powerful force in opening up human rights discourse, bringing women's rights into the global human rights regime. But enlarging the scope of 'human rights' to include women's experiences poses several problems for a larger feminist project. These include the embedding of the public/private divide in human rights discourse, problems with the concept of rights, and the scale of the claims made for the emerging women's-rights-are-human-rights project.

The main challenge to prevailing masculinist ideas about human rights has been the feminist rethinking of the public/private divide within western thought. The power and the persistence of this divide in mainstream/ malestream western political thought has sustained the prevailing human rights concentration on the

actions of states. But it has also underpinned some feminist critiques which argue that human rights law has ignored 'private' violations of women's rights. The core argument of the growing body of critical feminist legal theory rethinking human rights law and practice suggests that human rights law concentrated on 'public' agents— governments and states—from whom redress could be sought under human rights law, whereas violence against women is often perpetrated by 'private' agents like family members (Charlesworth 1991, 1995; Friedman 1995). The state's failure to intervene in the so-called private, for example in cases of domestic violence, is seen as in effect condoning masculine violations of women's rights (Charlesworth 1995). By insulating vital aspects of 'private' life like the family from scrutiny, the state ensured that community and family life were not subject to international standards (Coomaraswamy 1999:170). Copelon's proposal that torture should include violence in the home (Copelon 1994) has been particularly influential. An extensive wider literature has emerged, including a number of key texts like Charlotte Bunch's article 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights' (1990), Katarina Tomasevski's *Women and Human Rights* (1993) and the collections edited by Rebecca Cook, *Human Rights of Women: National and International Perspectives* (1994), and by Julie Peters and Andrea Wolper, *Women's Rights, Human Rights* (1995).[33] This body of work has pointed to the foundations of human rights in liberal and revolutionary thinking about ideas of rights and the individual in eighteenth century Euro America, and critiqued the assumptions about the male subject of social action embedded in that thinking. 'Rights', feminist legal theory argues, are conceived from the viewpoint of a masculine subject. Catharine MacKinnon, for example, has claimed that the very character of human rights is a thoroughly masculinist construct, grounded in a series of concepts that systematically exclude women.

> Human rights principles are based on experience, but the experiences have not been those of women. What most often happens to women escapes the human rights net. Whether in war or in peacetime, at home or abroad, in private or in public, by our side or by the other side, man's inhumanity to woman is ignored.
>
> (MacKinnon, quoted in Robson 1993:14; see also MacKinnon 1993, 1994)

The critical legal project, however, has not always engaged fully with the large Euro-American feminist literature on the public/private divide. That body of work has successfully dissected the western corpus of thinking about 'politics', 'power', 'public' and 'private', showing the masculinism of western political discourse which relegated women to a 'natural', private, invisible domain outside politics and the public.[34] The idea that society is divided into fixed, reified 'public' and 'private' domains, which are assumed to be universal, actual social spaces, has been seen as especially problematic (see Moore 1988). Feminist anthropologists, moreover, have pointed out the ethnocentrism of the malestream

public/private division. They suggest that this reflects ideas about gender divisions formed and elaborated within the development of western liberal modernity. While conceptualizations of public and private have varied historically, the effect of this division within much western political thought has been to conflate the gender division of labour with the public/private division (Marshall 1994:147). The feminist unpacking of this division has taken a number of forms: prescriptions for restructuring the two realms politically; arguments for seeing multiple links between shifting realms of the household and/or family and sexualities on the one hand and the market and state on the other; a stress on the permeability of the divide; and rejections of such a dichotomy altogether. Nancy Fraser, for example, has depicted the categories of public and private as multivalent and contested, and racially and gender-coded, with differing implications for democracy and rights (Fraser 1997:115). Recent social theory has begun to speculate not simply on the shifting boundaries of public and private but on their possible collapse with globalization and its handmaiden neo-liberal privatization. Moreover, as Coomaraswamy rightly points out, the doctrine of state responsibility has been profoundly affected by moves to take international scrutiny into the marital home (Coomaraswamy 1999:176), We seem to be moving beyond the public/private divide, Eisenstein argues, but in inconsistent and contradictory ways (1996b).[35]

The more subtle accounts by feminist critics of the public/private divide in human rights discourse in international law, like Sullivan's (1995), stress the permeability of the boundary between public and private.[36] But there is a tendency in some of the critical legal writing to adopt the received notions of public and private: the problem is seen to be the exclusion of the 'private' from the purview of human rights law. This can have several problematic effects: first, it can conflate 'women' with the 'private'. This threatens to embed the very assumptions about the public/private divide that are being challenged, in effect reifying these spheres into 'real' and bounded categories. There are also issues of essentialism with the idea of 'experience' that underlies critiques like MacKinnon's (1993). Moreover, while the discourses about women's rights and human rights have had a continuing relationship over the last two centuries in Euro-America, the claim that women's rights are human rights could unnecessarily limit the scope of feminist struggles, forcing them into the categories of human rights struggles. The unpacking of the divide has the contradictory effect of bringing all issues of women's rights into the category of 'human rights', essentially collapsing the feminist and human rights projects. How are we supposed to then differentiate women's rights from human rights, if at all?

These problems are apparent if one takes one of the main compendiums of the women's rights/human rights push, Katarina Tomasevski's *Women and Human Rights,* published in 1993. Developed by the UN-NGO Group on Women and Development, the book is a short and rousing encyclopaedia of such topics as women and freedom from torture, women's political organization, free and responsible parenthood, property rights, refugees, the modernization of slavery,

women and development assistance and so on. Indeed, there is little that has been of interest to women's rights activists over the last two hundred years that does not get renamed human rights. Tomasevski does not question the implications for analyses of gendered subordination in framing these analyses within a human rights discourse, especially the tensions produced by the liberal inheritance within this discourse. The book subsumes feminisms into a reconstituted mono-vocal framework, making large and inclusive claims for the field of human rights to encompass gender politics.

As this volume shows, the term human rights itself is a highly slippery term, elusive, very much fought over in both the past and the present and deployed in a series of shifting meanings by a range of political actors. This poses a particular problem for the women's human rights project. Legal discourse has tended to be most interested in formal juridical concepts of rights as inhering in the person; and that person has most often been conceived of as the male agent of western liberal modernity, located in the public sphere. A key issue for global feminist networking, however, has been the concept of 'collective' rights and the contrasting paradigms of communitarianism versus individualism posed in some critiques of the human rights project. The literature has usually divided human rights into several generations: first-generation rights involve civil and political rights, which aim to protect the individual from the state; second-generation rights, drawing on socialist thinking, involve economic, social and cultural rights, which stress the links between levels of development and well-being, including rights to subsistence, shelter, health care, employment and employment rights; third-generation, solidarity or people's rights, centre on group rights and self-determination (see Butenhoff 1999:105).[37] Critics like Hilary Charlesworth (1995), however, suggest that none of these generations of rights address women's rights adequately. As Coomaraswamy notes, 'it may be argued that women's rights are the fourth generation [of rights], radically challenging the public-private distinction in international human rights law and pushing for the rights of sexual autonomy' (Coomaraswamy 1999:178).

Ideas about collective rights have been most developed in the various versions of 'Asian values' discourse, although they are prominent across the whole Asia-Pacific region.[38] This discourse argues for culturally distinct paths to an Asian-style modernity. A number of governments in the region and some post-colonial commentaries have tended to contrast the individualism of the West with the alleged communitarianism of the Asia-Pacific region.[39] In the case of 'Asian values', an attachment to supposed 'traditional', collectivist values, notably the 'Asian family', is held by both government and influential commentators to protect society against the 'toxic' social problems of western-style modernization. Social and economic development is seen to have a priority over individual civil and political rights, which may have to be sacrificed for the collective good.[40] Some states essentially present this as a bargain struck between prosperity and rights. The refusal of the western public/private divide in this formulation is noteworthy: what would be denoted the 'private' in western

malestream thought becomes the key site for the production of allegedly distinctive national cultural values, and women become key bearers of 'culture' and 'nation' (cf. Yuval-Davis, 1997). While 'Asian values' discourse has often been discounted both in the West and by radical critics in the region as the cynical posturing of self-interested governments, it should also be understood as addressing the profound unease if not 'moral panics' around modernity in Asia. Such unease is not simply a response to the recent spectacular social change across the whole region but arguably is also enmeshed in globalization processes themselves.[41]

As Sen argues in Chapter 5, the insertion of women as a group into human rights discourse requires a reconsideration of the fracture in that discourse between individual and collective rights. Temma Kaplan proposes one possible way of doing this when she argues that grassroots women activists worldwide have been forcibly reshaping the very idea of human rights (Kaplan 1997; see also Bouvard 1996). As our case studies show, activists who attempt to rework the idea of 'rights' within concrete political struggles engage with third and fourth-generation understandings of people's rights. They attempt to distance these understandings from assumptions that claims to rights are simply or necessarily part of an individualistic liberal democratic project. Such reshapings are also clearly working towards a 'post-modern' politics based on alliances. It is not clear, however, how far the tensions around the liberal origins of claims for rights, and their embeddedness in foundational notions of rights can be subsumed in new versions of rights that address more collectivist issues.

These tensions are palpable in the Indian situation, discussed by Kalpana Ram in Chapter 3. Following the trail of the various campaigns waged by the Indian women's movement since the 1970s, she explores the extreme instabilities surrounding the idea of rights and the contests around it within various branches of the Indian women's movement, and the ways in which such instabilities reshape the idea of rights. Campaigns around dowry deaths, rape, women's right to inherit land, or the rights of women in minority religious communities all afford clear insights into the way in which gender relations shape human subjectivity in a primarily unequal modality, to then reshape and subvert the enforcement of formal rights afforded by the state and its legislature. She argues that the Indian women's movement has consistently demonstrated the inadequacy of a purely formal juridical concept of rights. She sees particular problems in the reframing of popular perceptions, both within anti-colonial nationalisms and western orientalisms, of 'the West' as emancipatory individualism and 'India' as hierarchical collectivity. Such antinomies, she argues, cannot be held in place in India. The instabilities around rights have operated to broaden the concept of rights in favour of more collective and finely-tuned interpretations of power. The association of women with 'the collective good', and the ways in which this romantic communitarianism conflicts with women's own individual and collective interests, are special issues for a number of our authors.

Human rights, gender politics and 'culture'

Is the women's human rights push simply a neo-colonial move by western feminists to sidestep or reclaim the space contested by post-colonial critiques of western feminist universalizing? One of the commonest claims made by non-western governments and post-colonial critics alike against human rights activists worldwide is that they are tools of the West and its self-serving Enlightenment project.[42] It is alleged that human rights discourse is a product of western neocolonialism, a universalizing western viewpoint, which ignores the need for social and economic rights to take precedence over individual rights. While the geopolitical deployment of human rights discourse by the US state undoubtedly attracts such rhetoric, this is nonetheless to impose a series of overly simplified dualities. As Arati Rao astutely observes:

> When a government exempts itself from the preconceived cultural hegemony of human rights doctrine, its supporters as well as its detractors participate in perpetuating a false oppositional dichotomy in which geopolitical borders are erased and a multitude of cultures collapsed into two falsely unified packages, one bearing the stamp of human rights, and the other lacking it.
>
> (Rao 1995:168)

There is an extensive human rights literature on universalism and cultural relativism, which explores some of these issues, especially geopolitical problems and difficulties with the dichotomizing of 'universalism' and cultural relativism.[43] The resort to human rights discourse by many of the women described in our chapters, shows that attention to history complexifies post-colonial arguments about 'universal' values being in reality western ones.[44] In order to sustain the view that the women's human rights agenda is simply imposed on 'third-world' women, one has to ignore the complex ways in which such women have called upon, negotiated and deployed versions of the concept of human rights both in the past and the present. Some post-colonial critics would argue that such engagements with the modern are hopelessly compromising because they are formed within the continuing colonial and post-colonial hegemony of the West (e.g. Chatterjee 1986, 1993), but many of the people we describe firmly reject the view that resistant discourses offer no escape from domination by colonial and neo-colonial structures of power. Human rights claims by women in the region demonstrably are not merely an individualist project of 'modern' autonomy-seeking woman. The contributions here illustrate the long histories of such claims and the ways in which they are produced within the widely differing webs of power within the specific and divergent modernities of the region. While such notions as equality, justice and democracy have undeniable origins in the West—unless one wants to claim much more ancient origins—their present meanings within the Asia-Pacific have

a long and rich local history. The specificities of local rights discourses and claims in our cases also illustrate some of the slippages between apparently universalistic, ethical notions and their historical reworkings within the local.

'Cultural difference' has assumed an ever-increasing importance in debates about human rights, being invoked by a range of opponents of human right claims. Joel Kahn and Valentine Moghadam, among others, note that during the 1980s discourses and movements centred on issues of identity erupted around the world with considerable force (Kahn 1995; Moghadam 1994:1). This proliferation of 'culturalizing' discourses, Kahn suggests, is a feature of the present time: 'the image, the representation, things quintessentially cultural, as cultural theorists like Jean Baudrillard and Frederic Jameson have argued, have quite literally taken over our lives' (Kahn 1995:ix). The relationships between these identity politics movements and the deployment of ideas of 'cultural difference' by opponents of human rights claims can become quite complex: for example, in their common stress on cultural difference and communitarianism there are ironic parallels between some arguments of post-colonial theorists (e.g. Ong 1996) and the arguments made by several authoritarian leaders in the region. But, equally, communitarian discourse has also been a feature of some nationalist and human rights struggles, such as 'peasantist' struggles against colonial authorities (see Kahn 1995).

A central problem is the frequent failure of the human rights literature to engage adequately with anthropological concerns about reifying 'culture'.[45] Instead, culture is often treated as a concrete, 'real' and bounded 'thing', with no analysis of its being constantly reconstituted and reinvented (see discussions in Kahn 1995).[46] This failure is closely linked to the obstacles to understanding posed by the deployment of the tradition/modernity opposition. As a number of our chapters illustrate, versions of nationalist rhetoric may line up with state rhetoric to defend the force of 'culture', 'custom' and 'tradition' against 'irrelevant' modernist and 'western' challenges. Women find themselves placed as the central bearers of 'cultural difference' and 'tradition' within highly gendered cultural contests (Yuval-Davis, 1997; Stivens 1998a). The strategies required to combat such notions, however, illustrate some of the permeability of the tradition/modernity divide: activists may find themselves resorting both to a range of modernist notions which represent modernity and 'progress' as improvements on the regressive relics of 'feudal' or pre-capitalist 'traditional' forces, and to collectivist, communitarian discourses which stress women's place as equal members of society.

The depth of these difficulties has been illustrated conclusively in the acute politickings over 'female genital mutilation' (FGM), itself a highly contested term. Western and some African feminist interventions to outlaw such practices in the 1970s and 1980s were represented by some post-colonial critics as neo-colonial manoeuvrings. To such critics, the western observer or well-meaning philanthropist too easily became the self-confident purveyor of 'human rights'. Writers like Mary Daly (1978) were justifiably lambasted for arrogantly

assuming the civilizing colonial posture, ignoring the decades-long history of local action and overly homogenizing highly specific historical and political contexts. In Kenya in the 1920s, for example, campaigns by a British (woman) MP to stop clitoridectomy and infibulation backfired: these became nationalist issues, with those opposed to British colonialism holding on to the practices as a symbol of Kikuyu nationalism (Pedersen 1991). A 'tradition' thus became reconstructed and reinvented in the colonial encounter, an experience repeated in innumerable places. The later western feminist concern with female genital mutilation to the exclusion of other issues like the economic deprivations imposed by underdevelopment was also seen as voyeuristic, and complicit in the ideological imposition of western agendas. But an important issue often overlooked by both sides in these debates is precisely the long history of local agitation against 'traditional' practices (a history which Mary Daly's book fails to note). This exemplifies the lack of agency in the representations of third-world women which has long been noted within feminist post-colonial circles (Mohanty *et al.* 1991). It should be noted that according to Ibhawoh, no African country which has banned FGM dares enforce the law for fear of alienating certain power bases or exacerbating tensions between practising and non-practising communities (Ibhawoh 1999:22). She suggests that the most successful campaigns have involved alternative ceremonies arrived at through discussion and consensus. Such strategies have been part of wider moves by women's NGOs to campaign for women's rights around reimagined ideas of cultural legitimacy, which suggest that 'customary' practices in relation to such issues as inheritance and maintenance of children no longer safeguard women.

These approaches point to alternative ways of working for women's human rights which emphasize the importance of dialogue and mediation. The Malaysian modernist Muslim women's group Sisters in Islam represents an interesting example of such an approach. They are a small group of tertiary-educated women, part of an internationalist movement working to counter 'fundamentalist' ideas, who argue that the Qur'an can be reread as a text setting out a social justice agenda.[47] Its inherent gender egalitarianism, they argue, has been suppressed historically in many states where Islam is the dominant religion (Mernissi 1991; Wadud-Muhsin 1992). The group has intervened in the fraught ethno-nationalist politics surrounding Malaysian Islamization and its relationship to Islamic modernity and Islamic globalization (Turner 1994) in recent years, with newspaper articles, pamphlets on issues like dress codes and domestic violence, and through television and other media appearances. They have also sponsored a book on shari'a law and the modern nation state (Norani Othman 1994), forcefully claiming a space in which to speak, a 'public forum on the modern nation, state and Islam' *(Muslim Women Speak).* The international impact of this group has been considerable. They have received many overseas invitations and ran a very successful workshop at the Beijing Women's Conference in 1995. Linking themselves explicitly to the 'women's-rights-are-human-rights' push, the group seeks to engage Malaysian society in a

participatory process of 'cultural' mediation that involves finding sources for internationally recognized human rights in the local Muslim culture and religious teachings, while also questioning the meanings and implications of dominant cultural norms. This strategy contrasts with the 'secular' approach of arguing for rights on the basis of universal claims to human rights (Norani Othman 1999). Nonetheless, as I argue elsewhere, the Sisters' very success in negotiating new forms of 'womanist' politics within the spaces of an alternative Malaysian Muslim, and now global Islamic modernity, also illustrates some of the limits on this 'public' imposed by the state-led Islamization project in Malaysia.[48] These limits persist in spite of the dramatic recasting of Malaysian publics through the recent *Reformasi* movement and its alliances with human rights and women's rights groups (Stivens in press).[49]

The tensions and ambivalences about western feminisms are themes in a number of the contributing chapters. The Salvadoran refugees discussed by Beryl Langer (Chapter 9), the Papua New Guineans discussed by Martha Macintyre (Chapter 7), the members of the Indian women's movement discussed by Kalpana Ram (Chapter 3), and many indigenous Australian women, for example, have considerable ambivalence about 'western' feminism, although in different ways all are keen to engage in struggles for women's and human rights. This ambivalence is explored in some detail in Langer's chapter, which looks at how Salvadoran refugee women in Australia subvert the opposition between third-world women and western feminism posed by debate which situates human rights as a western construct. She discusses a particular crisis in a solidarity group when some members were criticized (albeit in an overtly homophobic way) for affiliating themselves with organizations like *Las Dignas,* an explicitly feminist organization in El Salvador. Issues of sexuality were similarly invoked in Papua New Guinea: Macintyre (Chapter 7) shows how activists there distanced themselves from a 'western' 'feminism' generally construed as sexual libertarianism, and instead invoked humanist ideas of 'community', 'freedom', 'equality' and 'rights'. But that ambivalence is far more complex than a simple expression of anti-colonial nationalisms. Such anti-colonial sentiment, indeed, has been one of the main sources of, and supports for, struggles for democracy, justice and equality and has played a key role in the historical emergence of contemporary claims for human rights in many places.

Antonia Finnane's chapter on China (Chapter 4) illustrates clearly the problems with the dichotomy set up between 'universal' human rights on the one hand and versions of a post-colonial cultural relativism on the other.[50] She shows the ways in which geopolitics has governed the western representations of, and action against, Chinese practices of compulsory female sterilization and abortion, female infanticide and the related practice of sex-selective abortion. Official Chinese acknowledgment of these problems is relatively muted and contrasts strikingly with the global interest in, and emotion generated by, media events like the widely-screened British documentary, *The Dying Rooms* (1995). She explores the ways that western political, human rights and sinological circles

appropriate debates over these practices for their own purposes, arguing that the different positions taken by activist groups outside China often derive more from concerns with western social issues, than with Chinese society and the human rights of Chinese females within it.

The fateful outcomes of geopolitics, again in the Philippines, were manifest in the case of Flor Contemplacion, a Filipino overseas contract domestic worker who was executed in Singapore in 1995 for the murders of a fellow domestic worker and the child for whom that woman was caring. Anne-Marie Hilsdon investigates the ways in which the politicization of overseas domestic service within the Philippines affected the outcome of the trial. Filipino peoples' organizations monitored, challenged and publicized both Philippine and Singapore government actions during Contemplacion's arrest, alleged torture, conviction and execution. In the Philippines Contemplacion was adopted into the heroes and martyrs imagery of popular struggle, while in Singapore she was considered a convicted Filipino murderer being justly punished for her crimes. Hilsdon stresses both the workings of 'Asian values' rhetoric in Singapore, and the links between the inequalities associated with the unfree spaces of domesticity and human rights. These themes tie her chapter to a number of the others, especially those of Altman on lesbian and gay rights, and Macintyre and Jolly on Pacific women's struggles.

Margaret Jolly, in Chapter 6, looks at how debates about domestic violence in Vanuatu are situated, both in the global frame of the recent debates about women's human rights and in a regional and historical context dominated by the relation between *kastom* (tradition) and Christianity. As she emphasizes, universalism and relativism are not just moral or philosophical abstractions, but epistemologies which are politically grounded in the global divisions which are typified as East and West, South and North. Depicting the dynamics of a conference on Violence and the Family in Vanuatu held in Port Vila in 1994, she looks at the workings of the competing claims of universal human rights and cultural relativism, and explores how these kinds of ideological oppositions in international politics reverberate within both local national politics as well as within the politics of domesticity.

Martha Macintyre makes similar points in Chapter 7, where she examines the appeals to human rights made by Pacific women in Papua New Guinea, the Solomons and Vanuatu in the context of their post-colonial situation. In grassroots organizations, church groups, educational institutions and non-governmental organizations, women voice their own demands for change in terms that cannot be interpreted as a simple appropriation of 'western' humanist ideals, or as expressing 'traditional' ideas about the rights of women. As she emphasizes, such campaigns consciously draw on and rework long-circulating, modern ideas about democracy, rights, equality and justice. Through an analysis of Pacific women's writing, the chapter examines the distinctive voices of women in the Pacific as they argue for their rights as humans, women and citizens.

Conclusion: towards transversal politics?

I have been looking at a series of questions about the somewhat tense relationships between a global reimagining and reclaiming of human rights discourse and action on the one hand, and gender politics on the other. I asked why these human rights projects have appeared now and why feminist attempts to relocate gender politics appear to have homed in on human rights. I suggested that we have seen a spectacular growth of a global feminist public, which has been shaped to provide a powerful political platform for making claims on the global stage about women's rights as human rights.

The emerging human rights regime provides grounds for both optimism and pessimism for those engaged in gender politics in the region. I pointed to a series of critical difficulties with the concept of human rights and the terms of the debates, particularly a series of dualisms. I noted some of the complexities of the positioning of human rights discourse, the shifting oppositions between 'ethics' and 'politics', the problems surrounding liberal ideas of rights in particular and the claims on the term made by a range of actors, including the left, liberals and authoritarian prime ministers and presidents. The subsumption of gender politics in all its final complexities into a human rights framework posed a particular problem, leaving the fate of both the human rights and the feminist projects somewhat unclear.

I argued for a degree of resolution to some of our principal questions in a core argument of this volume: that is, that it is possible to transcend some of the polarities of the debates about universalism versus particularism and cultural relativism by looking at how claims to rights are embedded in highly specific local contexts and struggles. I proposed earlier that we are not dealing with one global version of modernity, but multiple, divergent modernities within a globalizing whole. These modernities have generated their own specific, situated politics, including feminist and 'womanist' politics and struggles for sexual rights. This suggests that human rights arguments in the region cannot simply be written off as straightforwardly western liberal universalist and modernist imports. As our chapters show, recent campaigns have been locally produced and locally reinvented in a dialogue with a long history of global ideas about human rights, equality, justice and democracy.

Many feminists feel that the tensions in human rights discourse between universalism and cultural relativism have been less pronounced within the new global feminist public of a post-Beijing 'strategic sisterhood'. Struggles have formed around new axes, such as the divisions among Muslim women representatives at Beijing about women's rights within the Islamic world. These overrode the older oppositions of 'Muslim' women—as some reductionist category—and the Rest. Indeed, globalization would appear to make any simple opposition between 'western' and 'third-world' women problematic. The post-Beijing optimism about new forms of sisterhood may not easily be swept aside: even the most ambivalent of the activists in our case studies are far from sharing

in any straightforward manner some of the dismissive cultural relativist verdicts on the 'women's-rights-are-human-rights-project', which they view as suspiciously similar to the arguments made by their own authoritarian governments. They are wary of the dominance of Euro-American women's agendas within global forums, but like the so-called 'comfort women' now seeking redress (Chapter 2), like the Pacific women objecting to domestic servitude and violence (Chapters 6 and 7), like the supporters of the executed Philippine domestic worker Flor Contemplacion (Chapter 8), like women working to have the rapes of ethnic Chinese women in Indonesia investigated (Chapter 5), they explicitly reject such dichotomizing. Instead, they make clear claims in terms of a shared humanity, a sense of humanity that has many roots in global discourse and practice.

At the beginning of this chapter I asked whether the new importance of human rights discourse in global feminist circles was a sign of a move away from post-modern neo-romanticisms, especially the intense engagements with culture, text and meaning that have marked recent feminist theory. It seems likely that the profound changes accompanying globalization processes, especially the growth of global communications and the opportunities to mobilize strategically through international coalitions and structures within the new world order, are encouraging the renewed claims made on a universal discourse of human rights. But as I emphasized, the inclusiveness of the recent women's human rights project, in which women's rights are assimilated to human rights, poses some difficulties for feminisms: it threatens to conflate the feminist and human rights projects, and appears to run counter to many 1980s and 1990s western feminist recognitions of the complexities of women's politics of difference. These emphasized the dilemmas involved in confronting increasingly unsettled, unstable terms like 'woman' while retaining or remaking a feminist politics (Nicholson 1990; Butler and Scott 1992; Barrett and Phillips 1992). Such dilemmas are explicit within much human rights politics.[51] As Eisenstein has observed, however, feminism always embodies a tension between individuality and collectivity, a tension that cannot ever be fully resolved (1996b). Benhabib (1992), Marshall (1994) and Johnson (1994) have all argued that in spite of its very thorough and necessary critique of mainstream humanist ideals, feminism itself remains strongly committed to humanist values:

> As a political movement, feminism continues to use egalitarian rhetoric as the basis of most of its political demands. Thus feminism is wedded to the modern by virtue of its rootedness in the space opened up by rights discourse and by the ideals of the bourgeois public, but at the same time, its commitment to difference and diversity and its sceptical stance towards Reason calls forth the postmodern.
>
> (Marshall 1994:148)

The rootedness of feminisms in the modern is transparent in the recent workings of the global feminist public, both globally and locally, especially the utopian reclamation of the idea of the 'human' itself. On the other hand, while the slogan of unity in diversity may be dismissed by some as too 'pat', it can also be a highly optimistic basis for a feminist politics for the new millennium that engages with the post-modern. I noted earlier the argument made by Fraser and Nicholson, among others, that post-modernism can be useful for contemporary feminist political practice, which is increasingly a matter of alliances rather than of unified struggle around a universally shared interest or identity (Fraser and Nicholson 1990:35). This formulation helps make some of the dilemmas within the women's human rights project discussed here less acute.

Some of the more uni-dimensional views of the apocalyptic changes brought by globalization have foreseen dire consequences for women. But those committed to ethically-grounded politics may also find much to be optimistic about in the development of new transnational, ethically-based political coalitions, including feminist coalitions. These coalitions may well be grounded in what Nira Yuval-Davis (1997) and others have recently seen as 'transversal politics': the reconstitution of new versions of universalisms that transcend some of the old difficulties with difference. As she argues, transversal politics aims to be an alternative to the universalism/relativism dichotomy at the heart of the modernist/post-modernist feminist debate; it is based on dialogue and debate that take into account the different positioning of women (Yuval-Davis 1997:125).[52] This volume makes it clear that the diverse groups engaged in human rights struggles around issues of women, gender and sexual rights in a globalizing Asia-Pacific region are all playing very important and energetic parts in such transnational dialogues and debates.

Notes

1 This book had its origins in a workshop I ran with Vera Mackie within our Gender Studies Research Unit at the University of Melbourne. Anne-Marie Hilsdon later joined us in taking our concerns to the 1994 American Anthropology meetings whose central theme was Anthropology and Human Rights. My work for this book was supported by an Australian Research Council grant *Gender and Southeast Asian Modernities: Public and Private Revisited.* I also benefited from my time as a Visiting Fellow at the Institute of Southeast Asian Studies in Singapore. I am grateful to Vera Mackie for her discussions in planning this book.

2 See the useful discussion in Wilson (1997) of the relationship of anthropology to human rights discourse and the uses of 'culture' in that discourse. See also discussions in Dunne and Wheeler (1999), van Ness (1999) and Bauer and Bell (1999).

3 See Stivens (1998a), Robison and Goodman (1996) for discussion of Asian affluence in the 1990s.

4 While the writers represented in this collection are located in Australia, our location there does not form a particular focus of our discussion. The long history of mistreatment of the indigenous population obviously has been a long-standing human rights concern in the country, but the ambivalence towards feminisms of many sections of the indigenous rights movement within the country has limited their call on the women's-rights-as-human-rights project so far. Prominent activists like Jackie Huggins have expressed considerable anxiety about possible divisions produced by struggles calling on feminisms. Instead, issues of ethnicity have been privileged over those of gender.

5 Some commentary sees Charlotte Bunch's article 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights' (1990) as a critical moment in this process (Friedman 1995:18).

6 See Hunt (1996), Tomasevski (1993). See also discussion in Margaret Jolly's chapter (Chapter 6).

7 As Coomaraswamy notes, however, CEDAW is also the human rights convention with the largest number of state reservations (1999:168), and originally included no mention of violence against women.

8 See Stamatapoulou (1995) for a full discussion and listing of the UN instruments.

9 Steady points out that the earliest UN convention concerning the status of women was adopted in 1949 to suppress the traffic in persons and the exploitation of prostitution. Forty-six years later, the UN's Commission on the Status of Women (CSW) still found it necessary to adopt a resolution on traffic in women and girls (1995). As noted, this issue had been a regular concern of the earlier forerunner of the United Nations, the League of Nations.

10 Amnesty International (originally founded in 1961) and Human Rights Watch (established in 1978) monitor and promote the observance of internationally recognized human rights worldwide.

11 The commitment to achieve universal ratification of the Women's Convention by the year 2000 was made by governments in 1995 at the Fourth World Conference on Women, but many countries, including the USA, have not yet ratified the Convention, and a large number of reservations have been entered by governments ratifying it. The Optional Protocol contains two procedures: a communications procedure allowing individual women, or groups of women, to submit claims of violations of rights to the Committee on the Elimination of Discrimination against Women; and an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights. In either case, States must be party to the Protocol. Twenty-three countries signed the newly adopted Optional Protocol to the Women's Convention at the UN General Assembly on 10 December 1999.

12 See for example Robson (1993). The cynical post-colonialist could also be wary of the European preoccupation with the former Yugoslavia: they could see it as simultaneously excluding concern with continuing human rights abuses in non-European contexts and leading to an undue emphasis on the universal in a backlash against the particularisms of ethnic fragmentation and war.

13 Quoted in 'The Optional Protocol to the Women's Convention', produced on Amnesty International web site, http://www.amnesty.se/women/focus.html, 12–09–1997.

14 This strategy varies with location: in Europe, where Marxism was a dominating intellectual force, the deployment of human rights discourse clearly fits this scenario of post-Marxist coding. In the US, where Marxism was highly marginal, human rights discourse within the academy has often been more populist and embedded in liberal discourses. In the Antipodes, partly marginalized from these Eurocentric centres of knowledge production, we have yet other takes on human rights, prey simultaneously to the relativist accusations of some of our authoritarian neighbours and to the universalist blandishments of our liberal democratic heritage. We are engaged in a renewed national debate around racism, especially the claims to restitution by indigenous Australians. For the majority of the world's inhabitants beyond Euro-America, human rights discourse in a number of countries has supplanted 'liberation' and other radical ideologies, although activists have found themselves negotiating complex and shifting webs of meaning surrounding nationalist struggles.

15 But see Marshall (1994), Felski (1992, 1995), Wolff (1985, 1991), Chow (1991). See also Pettman (1996) and *Global Legal Studies Journal* 4, 1, 1996 (Special Issue) in which a number of prominent US-based feminist authors address globalization.

16 On the western viewpoint, see particularly Marshall (1994), Felski (1995).

17 See for example Featherstone, Lash and Robertson (1995) which has no entry for either women or gender in its index, although the volume does deal with 'family' in an abstract sense and social policy in a couple of chapters.

18 See my discussion of a gendering of the modernity/post-modernity/globalization debates in Stivens (1998a). In the face of the post-modern destabilizing of the idea of modernity, the classic sociological formulations about its development have given way to new periodizations, including post-industrialism, late capitalism and the death of history. As Pieterse notes, the modernity/globalization couple is frequently another term for 'westernization', with an assumption that the process begins in and emanates from Europe and the West (1995:46; Said 1993:399). The historical amnesia about the history of ideas like imperialism, development and modernization within some of this writing is striking.

19 It is not being assumed here that current neo-modernities in the Asia-Pacific are in any way the first manifestations of the modern. As I have argued elsewhere, the local societies have to be understood as arising within the modern order which we may well see as stretching back a number of centuries (Stivens 1996). Similarly, whether the global order has become 'post-modern' remains a point of considerable debate.

20 See Stivens (1994, 1998a). There has been a group working on issues associated with divergent modernities in Melbourne over the last few years, and several workshops, including two organized by Joel Kahn, with Johann Arnason.

21 See Castells and Hall (1994), Sassen (1996a, 1996b).

22 The widespread concern in the literature to periodize globalization is relevant here. Writers like Pieterse (1995), Harvey (1989) and Lash and Urry (1994) see it as an epoch contemporaneous with post-modernity. Friedman, disputing this, sees globalization as fundamentally civilizational in character, long predating even Wallerstein's global system of modernity (1995). See the discussions of globalization as multidimensional in Pieterse (1995), Friedman (1990:311) and Appadurai (1990).

23 See also *Global Legal Studies Journal* 4, 1, 1996 (Special Issue).

24 As Sassen remarks, 'to a large extent global processes materialise in national territories. This leads to a need for deregulation and the formation of regimes that facilitate the free circulation of capital, goods information and services' (1996b:xii). A strengthening global economy, she argues, is having a profound impact on the continuity and formation of [citizenship] rights, particularly rights that grant the power to demand accountability from government (1996b:xiii).

25 Jane Guyer points out in the African context that while there is much discussion of civil society, this overlooks the fact that *civil society* is largely made up of *international* organizations (1994).

26 Sassen notes that the state's jurisdictional and judicial role and its relation to the individual and nonstate actors are in some regards becoming organized by the international human rights legal order; but, as Yugoslavia illustrates, this is clearly not an irreversible trend (1996:96).

27 See also Falk (1993) on global citizenship.

28 See Shaw (1999:215) who suggests that some of the attributes of a society exist globally, including a global culture, a global division of labour and global institutions proliferating in the economic, cultural and political spheres. See also Kaldor (1999)

29 In the furious debates in recent years about the future of intellectual life in the West something of a divide is often claimed between allegedly nihilistic post-modernism/ post-structuralism and the continuing commitment to situated, in this case feminist, politics. In such framings ethics and intellectuality are often posed as polarized opposites: sections of the avant-garde of western intellectuals have been profoundly sceptical about the so-called project of modernity, about the ideals of the Enlightenment; activists on the other hand counterpose the ethically-grounded politics of true, local, political concerns to intellectual concerns, the supposed nihilisms of culturalism and post-structuralism. Outside Euro-America this particular dichotomy for activists becomes one of imported theory versus 'authentic' local action. In some sections of the hegemonic US academy, however, the dichotomy becomes inverted, with ethics and politics represented as old-fashioned concerns against the up-to-the-minute, fashionably-disengaged intellectual productions. This tension has been echoed in some feminist circles, with post-modern rhetoric privileging its own radicalism in opposition to feminism's allegedly regressive attachment to old hat humanism and essentialism (Felski: 1992).

30 See also Onuma (1999) for comments on the failure to satisfy the requirements of transparency and accountability in the mainly descriptive reports of Amnesty International and Human Rights Watch.

31 This suspicion is strengthened by commentary on the attention paid in 1999 to Sierra Leone and Kosovo by the world's media and agencies.

32 Coomaraswamy notes that the demand for 'sexual rights' in the Beijing draft Platform of Action fell short of the right to abortion or sexual preference, and was omitted altogether from the final version (1999:181).

33 See these volumes for extensive bibliographies. See also Ashworth (1986), Binion (1995), Bunch (1990, 1995), Bunch and Reilly (1994), Charlesworth (1991, 1995), Chinkin (1995), Cook (1994), Copelon (1994, 1995), Eisenstein (1996a), Grant and Newland (1991), MacKinnon (1994), Oloka Onyango and Tamale (1995), Peters

and Wolper (1995), Stiglmayer (1994), Sylvester (1993), Thomas (1995), Thomas and Beasley (1993). For the recent wider literature see Dunne and Wheeler (1999), van Ness (1999) and Bauer and Bell (1999).

34 See Moller Okin (1979), Pateman and Gross (1986), MacKinnon (1987), Showstack Sassoon (1987), Jones and Jonasdottir (1988), Butler and Scott (1992), Marshall (1994). For anthropological discussion see Moore (1988), and for Asian context Stivens (1991, 1998a). See also discussions in Stivens (1991, 1998a).

35 The 'we' here is not problematized, however.

36 Sullivan, outlining the ways in which the state seeks to exercise control over disempowered communities, points to how the sanctity of the family has neither protected women of colour in the United States from sterilization abuse or other coercive reproductive health policies, nor poor families from police power. She argues that the demarcation of public and private within society is an inherently [political] process that both reflects and reinforces power relations of gender, race, and class (1995:128)

37 See Butenhoff (1999) for a bibliography.

38 See Stivens (1998a), Bauer and Bell (1999).

39 See for example Ong (1996), and counter arguments in Inoue (1999).

40 There is a growing literature on 'Asian values' and human rights: see de Bary (1998), Bauer and Bell (1999), van Ness (1999), Mahathir Mohamad and Ishihara (1995)

41 As I argue elsewhere, the state promotion of a corporate Islamic modernity in Malaysia has defined the 'public' very much on its own terms: interventions into, contestations about, and representations of the relationships between modernity and Islam, and women's place within them, must necessarily operate within clearly delimited boundaries (Stivens 1998b, in press).

42 Refutations of this claim were not helped by a particular episode in Singapore several years ago: the US media hypocritically became highly excited about the undoubted human rights problem of an American boy's being flogged in Singapore for graffiti painting, but failed to acknowledge the many human rights issues such as overcrowded death rows back home.

43 See Wilson (1997), Dunne and Wheeler (1999), van Ness (1999), Bauer and Bell (1999) for extensive bibliographies.

44 Kahn (1995) notes the irony that some of the key premises of the post-colonial project implemented by Said were appropriated by the new right in the US and in Europe. 'The American right…has now apparently accepted the post-colonial argument that what were previously assumed to be universal values were in fact western ones…' which must now be quarantined against those whose cultures are at odds with them (1995:6). Extensive political and sociological contests have broken out around the assertion that the supposedly new European racisms have seen 'culture' assuming something of the place occupied by 'race' in nineteenth-century discourses on difference: according to these arguments, cultural difference is now the grounds for discrimination, rather than biology (see Stolke 1995; Taguieff 1992; Kahn 1995).

45 In its older anthropological sense, culture implies systems of signs, meanings and world views of particular groups of human beings (Kahn 1995:1).

46 See Bauer and Bell (1999), van Ness (1999) and Dunne and Wheeler (1999) for exceptions.

47 Malaysian Muslims explicitly reject the term 'fundamentalist', preferring 'resurgent' or 'revivalist'.

48 Norani Othman has argued in some public presentations that she and others working for women's rights in Malaysia prefer the term 'womanist' to 'feminist'.

49 The use of the internet by *Reformasi* supporters is an especially interesting development of new publics within Malaysian politics.

50 As several contributors note, the term post-colonial is highly problematic. Anthony King suggests (1991) that this very colonial term repositions the colonial as the central organizing experience for once-colonized cultures, representing their histories as a trinity of periodizations: pre-colonial, colonial and post-colonial.

51 Coomaraswamy comments on this in a discussion of her personal difficulties in reconciling an Enlightenment-driven concern with human rights and a sensitivity to cultural difference (1999).

52 According to Yuval-Davis, in differentiating between social identities and social values, transversal politics 'assumes that…"epistemological communities", which share common value systems, can exist across differential positionings and identities' (1997:131). 'Concretely this means that all feminist (and other democratic) politics should be viewed as a form of coalition politics in which the differences among women are recognized and given a voice' (1997:126).

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2
Sexual violence, silence, and human rights discourse
The emergence of the military prostitution issue

Vera Mackie

Gendered agendas

In 1992 and 1993, we were shocked by the accounts of the organized and systematic rape and impregnation of between 20,000 and 50,000 Muslim/ Croatian women and girls by the Serbian military in Bosnia-Herzegovina (O'Kane 1992:8; Stiglmayer 1994:85). The experiences of these women were relayed to the world by the mass media in newspaper stories and photographs and reports on radio and television news. At roughly the same time, some elderly women on the other side of the world were drawing attention to a different struggle. They were petitioning the Japanese government for compensation for war crimes committed over fifty years before, an issue which is unresolved as I write.[1] Between 100,000 and 200,000 women from Korea and other Asian countries had been subjected to enforced labour in military brothels, which had first been set up in the 1930s in China, and subsequently in Southeast Asia, the Pacific Islands and New Guinea (Yoshimi 1992; Suzuki 1992, 1994).

The plight of the Bosnian women became a matter for media attention almost immediately, yet those Asian women subjected to enforced prostitution had waited almost fifty years for similar attention to be paid to their experiences. An examination of the process whereby the issue of enforced military prostitution moved from private memory to testimonial, to become the subject of journalistic and academic attention in Japan and Korea, and then to become an international human rights issue, can be instructive in considering the relationship between feminist discourse and other forms of public knowledge.

To return briefly to the Bosnian situation, there are several possible reasons for the immediate dissemination of information about this particular issue in the 1990s. One obvious explanation concerns the development of mass telecommunications media in the post Second World War period. It is now possible to flash images of the victims of war, rape and torture around the world instantaneously. This does not, however, explain the different content of reporting on the Bosnian situation. In earlier conflicts, reports of rape in war have not been seen as newsworthy, or perhaps have not been seen as appropriate topics for public reportage.

It has been suggested that the presence of female war correspondents in this particular conflict has led to a different kind of reporting, that women pay more attention to human interest stories, and that female reporters have greater rapport with female victims of military abuse (Saunders 1993). However, this somewhat essentialist explanation is undercut by the reflections of British television reporter Penny Marshall, one of the first to report on the internment camps in the former Yugoslavia, who confesses that she was slow to pick up on this issue:

> There were some women at the camp, we saw them and although in those circumstances it would have been very difficult to talk to them, I have to confess sadly that it never occurred to me that they might have a story of mass rape to tell. As soon as I saw the men, partly because of their physical appearance, I wanted to know if they had been tortured. It didn't strike me that the women's story was as urgent as the men's, and I think that is because I had inherited a news agenda that has subsequently changed. It has occurred to me since then that the next generation of reporters may well put rape on the agenda much higher, and much earlier in the war, because of this experience.[2]

(Saunders 1993:24)

Thus, a form of rapport based on shared gender between reporter and subject is not enough. Rather, it is only when particular questions are asked about the politics of gender and sexuality that issues such as military rape and military prostitution will come into public discourse. A feminist consciousness of the linkage between gender and militarism, and the relationship between sexuality and human rights is necessary before militarized sexual violence can be seen as a fit topic for public discourse, and an issue which must be considered alongside other aspects of international relations (Enloe 1989; Grant and Newland 1991; Tickner 1992; Peterson and Runyan 1993). In this context, it seems useful to contrast the reportage of the militarized sexual violence in Bosnia-Herzegovina with the discussion of enforced military prostitution perpetrated by the Japanese military during the Second World War, and to trace the process whereby the institutionalized use of military brothels in the Second World War emerged into public discourse. The treatment of this issue has been relatively recent in English-language media (Watanabe 1994; Hicks 1995; Howard 1995; *positions* 5, 1, 1997; Kim and Choi 1998), but has received attention in Japanese-language journalistic and academic circles for over twenty years, and has been a matter of private memory for much longer. After tracing the emergence of the military prostitution issue and considering what this can tell us about the development of a feminist discourse of human rights, I will briefly reconsider the new analytical perspectives enabled by a comparison between the discussion of military prostitution in the Second World War and more recent incidents of militarized sexual violence.

Vocabulary, discourse and positionality

In the light of feminist debates about 'the politics of location', I need to say something about my own positionality before I proceed with a discussion of the military prostitution issue (Mani 1990a; Menon and Bhasin 1993, 1–3). Obviously I cannot speak for Japanese and Korean feminists, let alone the women subjected to enforced military prostitution, but I can suggest what Anglophone feminists with an interest in participating in an international dialogue on human rights discourse can learn from a discussion of this issue.

I also need to say something about the lack of a vocabulary with which to discuss this issue. There are problems with all of the commonly used terms. 'Comfort women' is the direct translation of the euphemism *ianfu* (short for *jugun ianfu,* 'military comfort women') used by the Japanese military. This term is highly offensive to the women involved, as explained by Jan Ruff O'Herne:

> The euphemism 'comfort women' is an insult, and I felt it was a pity that the media were also continually using these words. We were never 'comfort women'. Comfort means something warm and soft, safe and friendly. It means tenderness. We were war-rape victims, enslaved and conscripted by the Japanese imperial forces.
>
> (O'Herne 1994:136–7)

Some historical documents use the phrase *teishintai* (*chongsindae* in Korean), or 'volunteer corps', another euphemism which suggests the duplicity used to procure the labour of young women. Many activists prefer the terms 'sex slaves' or 'victims of mass rape', because they feel that the use of the word 'prostitution' may suggest some voluntarism on the part of the women in selling their sexual services. I prefer to refer to 'women subjected to enforced military prostitution', because this phrase (albeit somewhat unwieldy) focuses on the *institutional* aspect of this form of violence. While vocabulary and labels are important, it is also important to examine the discursive frameworks which inform the discussion of this issue. As Sara Mills reminds us: '[d]iscourse… constructs certain events and sequences of events into narratives which are recognized by a particular culture as real or serious events' (Mills 1997:53).[3]

By analyzing the gendered exclusions built into national histories, we can attempt to find an answer to the question of why it has taken so long for these women's experiences to be recognized as 'real or serious events'. If discourse analysis is to be linked to social change, however, it must go beyond the mere analysis of pre-existing discursive structures. Feminists engaged in campaigns on military prostitution have been involved in a complex struggle on several levels. They have analyzed the discursive structures according to which it has been impossible to make statements about military prostitution. Their attempts to transform the discourse on military prostitution and institutionalized sexual violence have been inseparable from political campaigns for compensation for

the violation of women's bodily integrity. I would thus argue that feminists have been responsible for a form of what I will call 'discursive social change' which has expanded the range of possible statements about militarism, sexuality and violence and made possible the framing of new political campaigns on gender, sexuality and human rights. The use of testimonials from women subjected to enforced military prostitution has been an integral part of achieving discursive social change.

Militarized memories

Knowledge about the existence of military brothels, has, of course, been retained in the memories of those forced to engage in prostitution, their customers, their recruiters, military administrators and medical personnel. Although official records of the existence of these brothels were largely destroyed after Japan's defeat in the Second World War, traces of evidence were available in various forms. Thanks to the research of Yoshimi (1992), Tanaka (1995, 1996) and others, we know that evidence concerning the existence of military brothels is held in the Japanese Department of Defence, the Australian War Memorial archives, and records of Military Tribunals. Some Japanese soldiers were actually punished in the Batavia Trials at the end of the Second World War for their mobilization of Dutch women for sexual service (Choi 1997:vi).

Japanese feminist historian Mikiyo Kano points out that accounts of military prostitution and rape appeared in the memoirs of ex-soldiers from the 1950s:

It has been said that one reason the issue of forced prostitution didn't emerge for such a long time was the lack of information caused by the shame of the disgraced victims and the fear of the assailants of having their past crimes exposed. It was said that there was no written material on the issue. But this was not true. While the victims certainly kept silent until recently, the assailants had been publishing their experiences since soon after the war.

(Kano 1993:42)

Kano, who has analyzed these military memoirs, points out that such accounts were written from the point of view of the male perpetrators of sexual violence, with little consciousness of the plight of the women subject to such violence. The use of military brothels and the rape of civilian women are presented as exoticized sexual experiences in the soldiers' memoirs (Kano 1993:42).

The absence of women's perspectives from these memoirs reminds us that women and men are constructed in different ways in national memories of wartime. Men are remembered in military engagements and stories of heroism and sacrifice, while women are remembered in narratives of loss: separation from fathers, husbands, lovers, brothers and sons. These gendered divisions are part of the very structure of modern warfare, and shape the ways in which wartime is

remembered. To a large extent this can be described according to a dichotomy between the homefront and the battlefront. The battlefront is the site for the performance of a militarized, aggressive form of masculinity, while the homefront is the site for the performance of passive nurturing forms of femininity. Men's activities on the battlefront are said to be devoted to protection of the homefront, while women's activities on the homefront are seen as supporting the battlefront. We can link this opposition of battlefront/homefront with the opposition between masculinity and femininity (Kano 1995:48). Men's and women's memories of wartime are partially structured by these expectations. Although national narratives have no place for the suffering of the victims of sexual violence, discursive space has been created for wounded soldiers, as explained by Renata Salecl:

> The soldier who is wounded in war will find, throughout the course of his life, that his very existence becomes organised around this wound. If the soldier recovers, the memory of the wound will make him a loyal citizen; his heroism will be interlaced with the wound and he will be honoured by the state because of the wound. If the soldier should be permanently disabled, the wound will receive an even greater symbolic meaning because it will always remain visible as a mark of sacrifice for his country. And if the soldier dies, his death will be an heroic death, a death worth dying.
>
> (Salecl 1994:16)

In this context, testimonials which reveal stories of military rape and sexual abuse, and which challenge narratives of national identity based on masculine heroism and feminine virtue, may have the power to cause a crisis in national memory, as happened in Australia when radical feminists attempted to use a day of national military mourning to commemorate women raped in wars (Howe 1995). Another reason for the continued suppression of women's privatized memories of sexual violence is the lack of a language with which to discuss such experiences, which were absent from the mainstream narratives of the culture. The former military prostitutes had no reason to reproduce the military bureaucratese which had dehumanized them, describing them as communal property. The only other available narratives emphasized private shame or national honour defiled. Indeed, what culture has the language to describe systematic and routinized sexual violence? Memories are also shaped by constructions of class, 'race' and ethnicity which may limit the possibility of empathy and identification across these perceived boundaries (Threadgold 1997: 134–67). Most of the women forced into military prostitution were thus sentenced to what Jan Ruff O'Herne (1994) has called *Fifty Years of Silence,* until the development of a new discursive framework for the discussion of gender, sexuality and human rights.

The emergence of the issue

In 1970, a former military officer admitted that he had been responsible for setting up military brothels in Shanghai in 1938, one year after the massacre which has come to be known as the 'Rape of Nanjing'. The brothels were seen as preventing the uncontrolled sexual violence of the soldiers, and as a way of controlling the spread of sexually transmitted diseases. Many commentators have failed to question the logic behind this reported sequence of events. Such accounts take as given the sexual violence and genocide perpetrated by the Japanese military in Nanjing, and thus treat the decision to establish military brothels as natural and reasonable (Yang 1997:52). Analysis should also focus on the military training which produced such masculine aggression, and ensured it would be focused on sexualized and racialized others (Siefert 1994:61; Nordstrom 1996).

The stories of the women who had been enforced labourers in these brothels came to light in the 1970s, in interviews with Korean residents who had been brought to Japan as enforced labourers, and had remained there after the Second World War. Japanese and Korean oral historians found that not only had hundreds of thousands of Korean men and women been subject to conscripted labour, but that many women had been forced to engage in sexual labour. The first books on this issue appeared in the late 1970s (Senda 1978; Kim, I. 1980). These early works brought the issue to public attention in Japan, but mainly focused on Japan's responsibility for aggression in the Second World War, and the history of colonial domination over Korea. The women were portrayed as victims of Japanese colonial and military aggression, with little attention paid to the specifically sexual exploitation they suffered. A feminist analysis of the issue of military prostitution only became possible after a series of developments in the women's movement in Japan, and parallel developments in women's movements Southeast Asia.

Rethinking sexuality

Within Japan, March 1977 saw the creation of the Asian Women's Association *(Ajia no Onnatachi no Kai)*, an organization of Japanese women interested in considering Japan's relationships with other Asian countries, and forging solidarity with women from these countries. The Asian Women's Association should be placed in the broader context of 1970s feminism, whereby women involved in the student left and New Left formed Women's Liberation groups which engaged in consciousness raising and addressed issues of sexuality and reproductive control. Such groups as the Asian Women's Conference attempted to rethink Japanese women's relationships with women in other Asian countries (Mackie 1998b). As early as 1971, there is brief mention of the military prostitution issue in women's liberation writings, in the context of a condemnation of the racial discrimination experienced by the Korean women

(Okazawa 1971, in Inoue *et al.* 1994:88–9), but a sustained analysis of the issue necessitated further developments in feminist thinking in Japan.

The Asian Women's Association chose the anniversary of the March 1919 Korean uprising against Japanese colonial rule to launch the organization. The first edition of their journal focused on political struggles in Korea, and included the first of many articles on Japanese women's participation in the colonial project: as teachers, as nurses, as colonial wives, and as organizers of patriotic women's organizations (*Ajia to Josei Kaiho* 1 1977, 16–20). The contemporary issue of so-called 'sex tours' to Southeast Asia by Japanese men forced Japanese women to think of the economic, political, and ideological links between their own situation and that of women from other Asian countries (Lee 1991; Mackie 1988; 1992; 1998b; Richter 1989:82–101; Truong 1990:110–30). Working groups within the Asian Women's Association conducted research into Japan's economic activities in Asia, the structure of the tourist industry, the sexual division of labour in Japan and Southeast Asian countries, and attitudes to the issue of prostitution in Japan. Their findings were publicized in public lectures and through their journal *Ajia to Josei Kaiho (Asian Women's Liberation)* .[4]

These issues were linked with Japanese women's own lives through consideration of what they called 'Asia in everyday life' *(Kurashi no naka no Ajia).* Members of the association considered how the food, clothes, electrical goods and cosmetics they used in everyday life were often produced by Asian women under shocking conditions of work and curtailment of political rights (*Ajia to Josei Kaiho* 11, 1981). The Asian Women's Association also concerned itself with political repression and liberation struggles in Korea, the Philippines and other countries. These concerns were linked with a consciousness of Japanese history, as economic imperialism in the 1970s was linked with Japan's military activities in the 1930s and 1940s, and 'sex tours' were linked with a history of exploitation of women's sexuality in the process of Japan's modernization. Their activities led to a consciousness that sexuality, as expressed through the use of the services of prostitutes in tourist destinations, was not simply a matter of the relations between individual men and women. Rather, the link between prostitution and the tourist industry necessitated an analysis sensitive to the inter-relationship of class, gender and 'race' relations, in the context of economic inequality between rich and poor countries. The issue was very close to home for some women as they tried to come to terms with the sexuality and sexual behaviour of the men who engaged in such activities overseas, or who profited from their promotion of such tours.

These insights helped prepare the way for feminists in Japan to conduct an analysis of the issue of military prostitution, although further reflection was necessary in order to come to terms with the specificities of institutionalized military violence. 'Sex tours' can be understood in the context of international tourism supported by multinational capital and the construction of male consumers' desires for exotic sexual experiences. The political economy approach of the 1970s has more recently been combined with attention to

cultural constructions of identity and otherness, and an analysis of the eroticization of ethnicized difference (Pollack 1993; Inagaki 1996; *Onnatachi no Niju Isseiki* 9 1996:49–50, 55–6; Creighton 1997; Mackie 1998a). By contrast, the conduct of mass rape in military brothels necessitates an analysis of the deployment of sexuality in military institutions (Enloe 1993:142–60; Siefert 1994:61; Nordstrom 1996), with further attention to the ideologies which justified the exploitation of racialized and ethnicized 'others'.

A parallel development involved the writing of feminist history in Japan. One group called themselves Women Questioning the Present *(Josei no Ima o Tou Kai).* These women were particularly interested in recovering the history of how women had experienced the Second World War (*Jugoshi Noto* 1–10, 1977–85). Although Japanese women had often been presented as innocent victims of the militarization of Japanese society during the Second World War, this group of feminist historians also considered the question of the complicity of ordinary people in Japan's military activities. They pursued these questions through their journal *Jugoshi Noto (Notes for a History of the Homefront).* They did not, however, stop with an examination of the gendered history of the Second World War, but also considered the legacy of the wartime experience in post-war Japan (*Jugoshi Noto Sengo Hen* 1–8, 1986–96). True to the name of 'Women Questioning the Present', they came full circle with the final edition of the journal in 1996. They chose to bring twenty years of feminist research to a close with an examination of the period of student-left activism and women's liberation which had given birth to the group (*Jugoshi Noto Sengo Hen 8,* 1996).

The perspectives gained from their research ensured that when Japanese feminists became aware of the history of military prostitution, there could be no simple identification with the victimhood of the Korean and other Asian women. Rather, Japanese feminist historians and activists realized that they spoke about such issues from a position of relative privilege, and that they could rightly be accused of having benefited from the history of Japanese imperialism, military aggression, and the present-day activities of Japanese multinational companies in Southeast Asia.

Thanks to their research and analysis, we can start to think through the processes of the production of militarized masculinities and femininities in wartime Japan. Nationalist discourse in wartime Japan emphasized a particular form of nurturant femininity. Young unmarried women supported military activities through participation in Young Women's Associations. Even schoolgirls engaged in the preparation of packages to send to soldiers on the battlefront. The packages contained letters, photographs and small gifts. Meanwhile, older women were constructed as literal and figurative mothers, through campaigns for increasing the birthrate, and through the activities of the patriotic women's organizations. The members of the patriotic women's organizations carried out fundraising, participated in mourning rituals, looked after bereaved families, and policed the chastity of soldiers' wives (Kano 1995).

Militarism also, however, produced further sexualized divisions. A specific form of heterosexual masculinity was fostered through military training: an active, aggressive form of masculine sexuality which was seen to need particular outlets. This sexuality was not, however, focused on the chaste and pure young woman of the Young Women's Association or the nurturant mother figure of the Patriotic Women's Association in wartime Japan. Rather, it was women who fell outside these categories who were sexually objectified. While the figures of patriotic womanhood have been documented and placed on the public record, and recorded in oral histories and memoirs, the women who provided sexual services to the military have been officially 'forgotten' until recently.

Ann Stoler's recent work provides further theoretical tools for understanding these mechanisms. Modern states, and in particular colonial states, argues Stoler (1995, 1997), have been interested in the management of sentiment, sexuality and violence. Sentiment and sexuality are managed through the discursive regulation of objects: respectable women as objects of men's sentimental attachment; 'other' women as objects of sexual attachment. While the objects of sentimental attachment have a place in the narratives of the nation, the objects of sexual attachment in the state-managed military brothels of Japan's occupied terrritories have until recently had no place in the national memory. Because of their sexualized, ethnicized, and racialized 'otherness', military prostitutes were seen to be outside the narratives of Japanese national history. Due to the stigma attached to their sexual violation, discussion of their experiences was also taboo in the histories of nationalist resistance to Japanese colonial domination.

Creating coalitions

Japanese women's groups' activities were carried out in parallel with, and often in coalition with, the activities of women's groups in South Korea and other Asian countries. Women in Korea had, of course, been active in nationalist struggles, in democratization struggles, and in the labour movement throughout the twentieth century. In the 1970s, South Korea also developed a women's movement, and an interest in women's history. The campaigns against prostitution tourism in the 1970s were carried out jointly by Korean and Japanese women's organizations. Korean women's groups were disturbed at the use of Korean women's sexual services by military personnel stationed at US bases in Korea, and by Japanese businessmen on '*Kisaeng* tours'.[5] The coalitions formed around these issues in the 1970s would later contribute to the campaigns for compensation for former military prostitutes.

However, there is always a tension between nationalist and feminist discussion of the issue of military prostitution, and a danger that the specifically sexual violence suffered by the Korean women may be subordinated to broader nationalist questions of Japanese domination over Korea. This need not, however, be a matter of choosing between nationalist narratives which position the women as symbols of the colonized nation and feminist narratives which

focus on the gendered and sexualized dimensions of the exploitation of women as military prostitutes. Rather, all of these dimensions need to be integrated in discussion of the issue.

The stationing of United States troops in South Korea, and the continued use of the word *wianbu* (equivalent to the Japanese word *'ianfu',* and the English phrase 'comfort women') for the sex workers around military bases meant that the issue of military prostitution had immediate contemporary relevance (Howard 1995:v-vi). While recognizing the specificities of the mechanisms of tourist prostitution, contemporary prostitution around US military bases, and the history of the Japanese use of military prostitutes, commentators on these issues were attuned to the gendered, racialized, ethnicized and classed dimensions of sexual exploitation in each of these cases. Thus, the development of a feminist perspective on this issue followed the creation of feminist organizations in both Japan and Korea, organizations whose members were interested in international perspectives on issues related to gender, class, 'race', ethnicity, and inequalities of economic development.

Remembering the Second World War

A further perspective which contributed to public consciousness of the issue of military prostitution within Japan came from those interested in creating a climate for a public reckoning of Japan's place in the history of the Second World War. It has often been remarked that the dominant image of the Second World War in the Japanese mass media involves a portrayal of Japan as the victim of aggression in the form of the atomic bombs dropped on Hiroshima and Nagasaki. It has been noted that the memorials to these bombings concentrate solely on the injuries suffered by Japanese *hibakusha* (atomic bomb victims), with little attention paid to the fifteen years of war leading up to the horrific resolution of August 1945 (Field 1993; Yoneyama 1995; Schwenger and Treat 1995). Others have concentrated on the absence of detailed discussion of Japanese aggression in history textbooks, an issue which has been raised by representatives of several Asian countries.

An examination of Japan's history of military aggression has been made more difficult by the fact that, until recently, the Japanese élite displayed a surprising continuity of personnel with the pre-war ruling-class. The Showa Emperor, the head of state during the 'fifteen years war', did not die until January 1989. His death forced some reflection on the continuities and discontinuities of the sixty-three years of the Showa period (1926–89) (Gluck 1990). In addition to reflection on the history of militarism, the left in Japan has been engaged in a critique of the Emperor system itself. In some cases this involves a demonization of the individual figure of the Showa Emperor. Other critics concentrate on the deployment of the figure of the Emperor in nationalist discourse up to 1945, as the focus for Japan's militarism and imperialism.

This focus on the Emperor system was clarified for me by feminist historian Suzuki Yuko. According to the post-war Constitution, the Emperor has no political power, but is seen as a symbol of the state. 'For us', explained Suzuki, 'that means that he is a symbol of discrimination'. For feminist critics, the Emperor is not only a symbol of hierarchies of 'race', class and caste, but also a symbol of patriarchy. She also explained the similarities between the ways in which the figure of the Emperor has been deployed for political purposes by both pre-war and post-war governments. Suzuki identified the different strands of argument necessary for a full understanding of the military prostitution issue: sexuality, gender relations, racialized relationships, a human rights perspective, the involvement of the state, and the connections with the Emperor system (author's interview with Suzuki Yuko, February 1993).[6]

Testimonials

Events moved rapidly in the early 1990s. First of all, Korean woman Kim Hak Sun decided to break her silence about her experiences and claim compensation from the Japanese government. At around the same time, historian Yoshimi Yoshikai found records in the archives of the Department of Defence which proved the involvement of the Japanese military, and strengthened the case of Kim and her fellow petitioners.

As we have seen, the transformation of the privatized memories of these women into a public issue followed the creation of feminist organizations in both Japan and Korea. Another group which has been involved in discussion of the issue of military prostitution are Korean residents in Japan, people who experience the conjunction of gender, class, ethnic and racialized relations in their everyday lives. This issue has been one catalyst for the politicization of Korean women resident in Japan, and has led to some coalitions between Japanese feminists and Korean resident feminists. For the Korean minority in Japan, historical relations of class, 'race' and gender have been shown to have contemporary relevance. For the former military prostitutes who have brought their stories into public knowledge in order to engage with the Japanese state in demands for compensation, these historical relations of class, 'race' and gender have been embodied in their lives (Yun 1992).

Within Japan, Korea and other Asian countries, coalitions of women's groups, Christian groups, and human rights advocacy groups embarked on a further stage of documentation of the histories of the enslaved women, making use of many of the international networks built up in previous political campaigns. A series of regional meetings was held, and more women brought their stories into the public domain, in preparation for the International Conferences on Human Rights in Bangkok and Vienna, and the United Nations International Conference on Women held in Beijing in 1995. At these International conferences, Korean, Dutch, Indonesian and Philippine women shared their stories with the women of the former Yugoslavia (Center for Women's Global Leadership 1994).

Yoshimi Yoshiaki's compilation of documentation on the military prostitution issue was published in 1992. The Korean Council for Women Drafted for Military Sexual Slavery by Japan published a series of documents in 1991 and a collection of testimonials in 1993 (Hanguk chongshindae munje taechek hyobuihoe 1993). This collection of testimonials was translated into English in 1995 (Howard 1995). Most of these women only broke their silence in the 1990s, following the example of Kim Haksun, whose testimonial is also included in this collection (Kim, H. 1995:32–40).

Jan Ruff O'Herne's 1994 book *Fifty Years of Silence* recounts the memories of one Dutch woman subjected to enforced military prostitution in Indonesia. O'Herne describes her participation in an international network of such women, who provided support for each other in their campaigns for official acknowledgment and compensation. Maria Rosa Henson was prompted to break her silence in the Philippines in June 1992, after hearing a former military prostitute tell her story on radio. She made contact with the Task Force on Filipino Comfort Women, gave her first press conference in September 1992, and travelled to Japan to testify in December 1992, joining a group of women who petitioned the Japanese government for compensation. Her autobiography, illustrated with drawings by the author herself, has now been published in both Japanese and English (Henson 1996).[7]

In addition to these testimonials, several groups have explored other means of making these stories available to wider audiences. Some of the women have told their stories in paintings as well as words, and have engaged in demonstrations. Japanese artist Tomiyama Taeko has produced paintings and multimedia presentations, while several Korean and Korean-American artists have used photography and other media (Hagiwara 1993; Tomiyama 1992; *positions* 1997: 275–84; Kim and Choi 1998:223–7). Documentaries have been produced in Australia, China, Japan and South Korea. These documentaries have been particularly important in presenting the former military prostitutes as women with complex subjectivities, involved in political activism, and sustained by networks of mutual support (Freiberg 1995).

The United Nations Women's Conference in Beijing in September 1995 provided many of these groups with an opportunity to present their issues to an international audience. Workshops on military prostitution built on activities directed at the Bangkok and Vienna conferences on human rights, and were placed in the broader context of workshops on militarism and sexual violence (Matsui 1996).

Women from Okinawa (the part of Japan which hosts the largest proportion of United States' military bases) had prepared a workshop on sexual violence for the Beijing conference. On return from Beijing, they were faced with the furore over the rape of a barely adolescent girl by three US servicemen, and immediately moved into action, drawing on many of the networking skills they had been discussing at the Beijing Conference. They embarked on a 'Peace Caravan' to the United States in February 1996, using the opportunity to establish

networks with human rights groups, women's groups, and environmentalist groups (Takasato 1996; *Agora* 217, 1996). They now realized the connections between their own experiences of dealing with military institutions and sexualized service industries in Okinawa and the experiences of women in South Korea, Thailand and the Philippines. All of these countries had hosted military institutions or had provided so-called 'rest and recreation' facilities. The Okinawa issue highlighted the ways in which all military institutions are involved in the management of masculine sexuality. This is one of the few cases where matters of sexual behaviour have become the explicit subject of discussions on international relations at the highest levels, reflecting the beginnings of a changed discourse on sexuality, human rights and international relations. After the furore over the rape of the schoolgirl in Okinawa, the governments of the United States and Japan discussed the future of the military bases on Okinawan soil, the arrangements for the prosecution of military offenders by local courts, and even the sexual behaviour of the American soldiers.

Public *and* private, personal *and* political

Thus far, I have traced the strands of thought which have contributed to an understanding of this issue in the context of Japan and its former colonies. Why then, is it only relatively recently that this issue has been recognized in English-speaking countries? Once again, we need to trace the development of feminist perspectives on the different elements of this issue, this time focusing on the Anglophone literature. One strand comes out of the 1970s realization that 'the personal is political', the realization that supposedly 'private' matters such as sexuality were deeply implicated in political relationships. The relegation of sexual behaviour to a supposedly 'private sphere' had prevented the discussion of such issues as prostitution in terms of labour and in terms of class relations. Such attitudes made it difficult for victims of rape or those who had engaged in prostitution to bring their stories into public discourse.

More recently, feminists have argued that violations of women's bodily integrity in the supposedly 'private sphere' should also be treated as a human rights issue. An important first step was the recognition that states which failed to intervene against men's violence in the so-called 'private sphere' were, in effect, condoning such behaviour.

> The important first step towards effective protection of women's rights is to recognize their violations. This is illustrated…by the examples of traditional [sic] practices detrimental to women, and violence against women. Their inclusion in the human rights agenda was hampered by views that the 'private' sphere should be exempted from human rights norms. In other words, what husbands, fathers, employers, colleagues, and neighbours do to women, was deemed not to constitute a human rights issue. The worldwide movements that successfully argue that violence against

women was a human rights issue are a good example of making human rights norms and procedure work for women.[8]

(Tomasevski 1993:xiv)

The next step was to challenge this logic in the international sphere, where international bodies had failed to intervene in the 'domestic' politics of nation states. In 1992, the United Nations' Committee on the Elimination of Discrimination Against Women explicitly addressed violence against women as a human rights issue.[9]

A consideration of the meaning of sexuality with respect to military brothels needs to go beyond a simplistic analysis of masculine sexuality.[10] An essentialist view of the relationship between masculine sexuality and violence cannot explain the involvement of the state in sanctioning sexual violence. Military brothels were created as a conscious policy at the highest levels of the military bureaucracy, rather than simply being an expression of masculinity which has gone out of control. What needs to be explained is the institutionalization of sexual violence in military brothels, and this goes beyond a simple question of gender relations. Rajeswari Sunder Rajan's discussion of rape in the Indian context is instructive. She discusses:

institutional rape, rape perpetrated by members of repressive state forces like the police or the army, or groups like landlords, upon helpless women of the oppressed classes, often when the women are in custody in police cells or bound by contracts of bonded labour.

(Sunder Rajan 1993:78–9)

Sunder Rajan's analysis focuses on the ways in which acts of individual sexual violence occur in a context of multiple structures of inequality (cf. Ram in this volume). Her analysis, however, does not extend to the kind of mass sexual violence documented in the Second World War and more recent conflicts.

There have been several approaches to the issue of militarized sexual violence. Until recently, it has been possible to argue that rape in war, as in civilian situations, was primarily a matter of gender relations, that women were subject to sexual violence primarily because they were *women.* The subtitle of one book, 'The War Against Women in Bosnia-Herzegovina' (Stiglmayer 1994) seems to invite such an approach. However, most commentators would now recognize that in situations of military conflict gender operates in a dynamic relationship with 'race', class and ethnicity. Women in military conflicts and other situations of systematic inequality are abused both because of their gender and because their bodies are seen to represent the enemy group. As bell hooks has commented with respect to the institution of slavery in the United states, 'women's bodies were the discursive domain, the playing fields where racism and sexuality converged' (hooks 1990:57, in Cranny-Francis 1995:47).

In the case of so-called 'ethnic cleansing', the impregnation of the enemy's women is one of the purposes of sexual violence. This is not, however, unique to the Bosnian situation: a similar form of violence was reported from both sides in the struggle over the partition of India and Pakistan (Menon and Bhasin 1993). The issue of military prostitution introduces another dimension, that of colonialism. The women in military brothels in the Second World War were not there as representatives of an enemy nation, but rather as intermediaries. The bodies of women from the colonized nations of Korea, Indonesia and the Philippines were used in order to manage the sexuality and aggression of Japanese soldiers. The soldiers' aggression, however, was directed at enemy soldiers from China and the Allied Nations. While Korean women were enslaved as military prostitutes, their menfolk were conscripted into support for the Japanese military—placed in a similar situation of subordination—and unable to see themselves as the 'protectors' of the women of their country.

Unlike situations of 'ethnic cleansing', where impregnation is one of the objectives of the rape of enemy women, in the Second World War military brothels pregnancy was prevented by the use of dangerous chemicals with antibiotic and contraceptive effects (Choi 1997:ix). Thus, a comparison of the abuse of military prostitutes in the Second World War, and the mass rape of women in the former Yugoslavia demonstrates the necessity for a complex range of theoretical tools to understand the specificities and dynamics of each situation. Or, in Carolyn Nordstrom's terms, '[in] sharing stories, it is important to respect difference as well as similarity, to recognise the double and triple burdens some people face when rape carries the legacy of sexism and racism and classism and many other "isms" the powerful employ to consolidate hegemony' (1996:159).

Recent feminist discussions of links between gender and militarism, and —more broadly—gender and international relations, have given us a vocabulary with which to discuss the use of sexual violence in war, whether this be supposedly aberrant acts such as the rape of civilian women by soldiers, or the institutionalized use of sexual violence in military brothels. The work of Cynthia Enloe (1988: *passim;* 1989:65–92) has been important in drawing out the links between gender and militarism. A further contribution has been the work of women who identify themselves as 'women of colour' or 'third-world women'. These women have reminded Eurocentric feminist writers that gender relations must always be considered in the context of relations of class, 'race' and ethnicity (Mohanty *et al.* 1991). A group of diasporic Korean women writers have focused our attention on the need to consider Japanese colonialism as well as European colonialism (*positions* 5, 1, 1997; Kim and Choi 1998). All of these strands have contributed to the development of a conceptual vocabulary to deal with the situation of women subject to systematic rape by soldiers in the Bosnian conflict, those forced to work in military brothels in the Second World War, or the recent reports of rape of ethnic minority women in Indonesia as discussed by Sen in Chapter 5.

Feminist discourse has thus had some effect in transforming the ways in which military matters are discussed. A further perspective comes from the linking of sexual violence with human rights issues, particularly in the context of the recent international conferences on human rights (Tomasevski 1993; Wetzel 1993; Kerr 1993). Feminist commentary on these conferences has pointed out that human rights discourse is thoroughly gendered. It should, however, be remembered that the framing of issues of sexual behaviour in human rights terms is not altogether new. Those who campaigned against the enforced inspection of prostitutes in garrison towns under the Contagious Diseases Acts in Victorian Britain (and similar legislation in colonial India) were arguing that these inspections violated the rights of the women involved (Walkowitz 1982: 67–147).[11]

It would perhaps be naïve of me to portray the emergence of the issue of militarized sexual violence simply as a triumph of feminist discourse. We must also consider the international conditions of knowledge production. One issue concerns the time-lag between non-English journalistic and academic representations, and their translation into English-language media. Another issue concerns the state of Japan's bilateral relations with Korea and with Southeast Asian nations. The sensitive state of relations between Japan and Korea in the early 1990s meant that the issue of military prostitution could be used as a bargaining chip by South Korean governments anxious to gain concessions from Japan.[12]

Katarina Tomasevski argues that '[s]ilence…is the best friend of human rights violations' (1993:xi). In this chapter, I have traced the emergence of the military prostitution issue from private silence into public discourse.[13] However, I would argue that simply breaking the silence on this issue has not been enough. We must also consider the reasons why these women have often chosen to remain silent (Park 1992:207–29). We must also consider the discursive context into which these issues emerge. Breaking the silence in a context where female chastity is emphasized will only lead to further stigmatization. A discursive context which privileges nationalist issues may turn the violated body of the prostituted woman into a symbol of the nationalist struggle.[14] In the context of anti-Japanese rhetoric, the issue may be used as proof of the essential otherness of Japanese society, deflecting attention away from the structures and institutions which produced these military brothels. Nordstrom has recently cautioned on this issue:

I have been somewhat surprised by the singular attention directed toward the issue of Korean 'comfort women' abused by the Japanese military in World War II, and the genocidal rapes taking place in former Yugoslavia. In 1992 alone, there were 54 armed conflicts in progress, and hundreds have taken place since the Second World War. Rape on these levels has occurred in a significant proportion of them, and enforced prostitution has been common. Rape unfortunately constitutes an accepted terror-tactic widely employed by militaries around the globe. Allied forces as well as

Japanese forces engaged in forced prostitution during World War II, and the tactic has been carried forward into more recent wars, as the well-known example of Vietnam shows. This is not to decry the attention given to the comfort women or to the Balkans, but to question why it is restricted to these locales. Feminism and human rights advocacy have reached a stage where people can challenge such abuses—but why have these coalesced around the 'losers' of a war 50 years past (while critiques of the abuses of the 'winners' remain noticeably absent), and around a war affecting women on the European continent? The same violations have occurred, and continue to take place, in armed conflicts throughout Asia, the Middle East, Africa, and Latin America. They are not restricted to any form of warfare: conventional war, low intensity conflict, state-sponsored repression, and communal conflict have all employed rape as a core tool of terror-warfare. To look exclusively at Japanese practices during World War II or the tragedies of the Balkans allows people to isolate sexual violence as a 'Japanese' or 'Balkan' problem, rather than recognising how entrenched, and legitimised, the tactic of sexual violence is in systems of militarisation worldwide.

(Nordstrom 1996:150)

A deeper understanding of these issues has only been made possible with the development of international human rights discourse since the Second World War, the development of a feminist understanding of the gendered nature of this human rights discourse, and transformations in the discursive context for reporting on human rights violations. It has been necessary to develop a feminist consciousness of the linkage between gender and militarism and the relationship between sexuality and human rights before institutionalized sexual violence can be seen as a fit topic for public discourse, and an issue which must be considered alongside other aspects of international relations. A reflection of this transformed discourse is the immediacy with which the rapes of ethnic minority women in Indonesia in 1998 became the focus of international attention (Sen Chapter 5; Stivens Chapter 1). It is thanks to this transformation of the discourse of human rights that the private memories of women subjected to enforced military prostitution in the Second World War have now become a matter for international, public concern.

Notes

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1 During 1998, a regional court in Yamaguchi allocated a modest monetary sum as compensation to three Korean plaintiffs. Other Korean women were recently provided with financial assistance from the South Korean government. In 1995 the Japanese government created a private foundation, the Asian Peace Fund, as a compromise which could offer monetary assistance without any government admission of responsibility. Most of the former military prostitutes have been reluctant to accept money from the Asian Peace Fund, and have held out for an apology frorn the Japanese government.

2 On women as newsreaders and reporters, see Holland (1988).

3 The word 'discourse' is used in different ways in ordinary language, in linguistics and in social theory. I follow the critical discourse analysts in trying to bring together linguistic discourse analysis, in the sense of looking at extended passages of text, with Foucauldian discourse analysis which is interested in the 'set of possible statements' in a discursive field, and the 'conditions for making statements'. From this point of view, a sensitivity to language and discourse means much more than simply looking at the choice of vocabulary items such as 'comfort women', 'sex slaves' or 'military prostitutes'.

4 See the following issues of the Japanese language journal *Ajia to Josei Kaiho:* no. 3, 1978; no. 4, 1978; no. 8, 1980; no. 14, 1983. In English, see the following issues of the journal *Asian Women's Liberation:* no. 2, 1978; no. 3, 1980.

5 *'Kisaeng'* originally referred to a high-class courtesan in Korea, similar to the Japanese *geisha.*

6 These themes were brought together in a seminar I attended in Tokyo in February 1992, with the title 'Sexuality and the Emperor System'.

7 I am indebted to my colleague Kathleen Maltzahn for providing me with this book.

8 I would prefer to see a rather more reflective way of writing about the practices which are dismissed as 'traditional'. Such language begs the question of who constructs such traditions, and which groups in a particular society have the right to define what is 'traditional' or 'representative' of the culture. However, I endorse Tomasevski's comments on the changed discourse of whether or not so-called 'private' matters should be the subject of human rights discourse.

9 CEDAW, 'Violence Against Women', General Recommendation No 19, (eleventh session 1992) U.N. Document CEDAW/C/1992/L.1/Add.15; cited in Tomasevski (1993:97).

10 For an analysis of rape which concentrates primarily on rape as an expression of masculinity, see Brownmiller (1975). For a discussion of prostitution which gives primacy to 'male-female power relationships', see Wetzel (1993:44–5) More complex discussions of the issue of rape include Sunder Rajan (1993: 64–82) and Spivak (1982). Discussions of prostitution which take account of the inter-relationship of gender, class and 'race' include Truong (1990) and Mackie (1988).

11 Similar arguments were made about medical inspections under the licensed prostitution system in early twentieth century Japan (Mackie 1997:108).

12 See Rey Chow's (1993:178–9) comments on the use of 'human rights' as the currency of international diplomacy between the US and China in the wake of the Tienanmen massacre.

13 Some women of course have preferred to keep their silence. In Australia, former Army nurses were quick to dissociate themselves from suggestions that they had been involved, even under coercion, in military prostitution. However, as noted above, a Dutch woman now resident in Australia, Jan Ruff O'Herne, has recently revealed her experience of sexual violence by the Japanese military in the Dutch East Indies (O'Herne 1994; Lander *et al.* 1994).

14 cf. Lata Mani's discussion of the figure of the immolated widow in nineteenth century India (Mani 1990b).

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3
The state and the women's movement
Instabilities in the discourse of 'rights' in India

Kalpana Ram

> Recent international conferences, such as those held at Cairo (1994), Vienna (1994), and Beijing (1995)…give credibility to the local struggles by women's groups and human rights groups. These international initiatives, however, also have a contradictory kind of impact. The homogenising impulse of the global articulations have obscured the specificities of micro-level situations. The ripple-effect created by the globalisation of women's rights has carried with it a conception of justice which is static and singular, corresponding to the perception of woman as a universal category.
>
> (Anveshi Law Committee 1997:454–5)

This chapter has its origins in a public lecture on violence, women and the state in India, written for an Australian audience during the 1992 India campaign undertaken by Amnesty International. My central purpose, that of publicizing women's complex predicament in relation to the state and juridical rights in India, was on that occasion—as on many such occasions—made considerably more difficult by the prior necessity to re-frame the popular perception of 'West' as emancipatory individualism, and 'India' as hierarchical collectivity. Speaking to an audience that identitified itself with a 'West' that has historically associated the third world with victimhood, India with caste, and Indianness with inequality and hierarchy, there was no direct route to focusing on the extreme victimhood of torture and rape: if the 'third world' is always-already victim, then what was unique to torture and rape? Similarly, if 'Indian womanhood' has been defined for western audiences since the days of Christian missions and the colonial state, as a life lived in eternal subordination, then how can one possibly elicit the historically changing and evolving nature of Indian women's issues?

The task of shifting such perceptions is no easy one. Such polarized perceptions are as much the province of anti-colonial nationalisms as they are of western orientalism. Within the polarities induced by the complicated history of interaction between western colonialism and third world nationalisms, women's access to justice and equity becomes all but impossible. Women who insist on their rights as individuals can be discredited as 'western', while women's sense

of themselves as social subjects—as members of collective identities of caste, kinship or religion —is reshaped and redefined by nationalist politics. For women who directly experience the pincer-like grip of the colonialist/nationalist dialectic, the re-negotiation of modernity is an extraordinarily complicated matter. The figure of the *sati,* or the immolated widow, has ominously re-surfaced in India as a symbol of the spiritual potency of the devout and chaste Hindu wife, and implicitly, as a rallying point for a resurgent Hindu nation. While there have been extensive feminist campaigns to make illegal not only the actual burning of the widow but the glorification of these events, a significant number of women have also marched in support of *sati.*[1] In its rallies and speeches, the *Sati Dharma Raksha Samiti* (translatable as the Committee for the Protection of *Sati-as-Dharma*), singles out for attack westernized individuals, and especially, the *azad kism ki auraten, thatis,* the free/immoral women who oppose the Hindu *dharma* (Sangari and Vaid 1996:264).[2]

Western feminist adjudications of human rights discourse remain divided between a liberal framework that sees the absence of women from the discourse as a simple omission, politically difficult to address, but theoretically unproblematic (Kerr 1993; Tomasevski 1993; cf. Stivens Chapter 1; Jolly Chapter 6), and more sophisticated post-structuralist feminist agendas whose extreme scepticism of the legacies of Enlightenment allows them at best a purely instrumentalist ('strategic') attitude towards the discourse of rights. *Neither* perspective is able to engage in a fruitful redefinition or expansion of key concepts such as 'rights', despite the fact that they continue to be central to women's struggles in diverse locations across the world. My examination of Indian feminism suggests a different problematic, one which is at once engaged in attempting to realize the emancipatory promises of modernity, and which precisely through that engagement, delineates the critical fault lines and contradictions of modernity (Ram 1993, 1998).[3] Western feminist deconstructions of philosophical traditions have raised several important issues: the relation between equality and sexual difference, between the universal and the specific, between 'the human' (modelled on the male subject) and 'woman' (modelled on that which diverges from the normative subject). For women who have experienced colonization, the critical agendas to be brought to bear on the concepts of modernity need to be more, not less, wide-ranging than this. For feminists in this situation, their interventions, if they are not to succumb to the delegitimization of being labelled 'western' and unrepresentative, are necessarily involved in the deconstruction of antinomies such as East versus West, collective versus individual, hierarchy versus equality, modernity (as western colonialist) versus tradition (as nationalist heritage). The precise impact of colonization is varied. For immigrant women in the West, as for indigenous women living under settler colonial conditions, the weight of racism and western representations is direct and unmediated. For women in India, on the other hand, it is mediated by fifty years of independent nation statehood, and by the *longue durée* of colonialism's impact on relations of class, caste, ethnicity and religion.

It is precisely this feature that gives the Indian women's movement its peculiar importance for international campaigns that seek to bring about laws that constrain nation states to recognize women's rights as part of human rights. The Indian women's movement has accumulated twenty years of practical and theoretical experience in analyzing the interpenetration of juridical rights, a liberal democratic framework and a complex and diverse set of social relations of power. India is rarely discussed in representations of 'Asian democracy', demonstrating yet again that it is criteria of market-driven economic growth— not the professed criteria of liberal democracy—which primarily render an Asian society of significance to the West.

My argument is not that India has fulfilled the promise of liberal democratic values, but rather that here we have a polity where the familiar antinomies of liberal democracy as western and hierarchical collectivity as eastern cannot be held in place. Such polarities are readily exploited by regimes that purport to represent 'Asianness' to the world. In states like Singapore and Malaysia, paternalistic and authoritarian communitarianism combined with market-based economic growth represent 'Asian democracy'. Liberal democratic values can thus be discredited as 'western' preoccupations. They can be treated by these regimes as something external (cf. Stivens Chapter 1; Altman Chapter 10). In India, on the other hand, to the extent that liberal individualist notions of rights are formally enshrined in the parliament and law courts, and are taken up by diverse social movements and institutions, the instabilities of meaning occasioned by the gulf between liberalism and socially conferred identities reverberate *internally,* permeating the entire political process. In India, the contradictions are only too easy to discern. The rights of citizenship posit an individual as the subject who makes political choices, yet electoral 'vote blocs' constitute afresh the collective identities of caste, religion, and region. Constitutional and juridical legislation address the individual as bearing the right to equality, freedom from discrimination on the grounds of religion, race, caste or gender, yet violations of these rights proceed to address and interpellate the individual primarily as a member of a social grouping.

These instabilities have not operated exclusively to undermine the notion of rights. The instabilities have worked just as effectively to broaden the concept of rights in favour of more collective, and more finely-tuned interpretations of power.[4] The very salience of social relations and collectivities which can operate to reinforce hierarchy has meant that western discourses—such as discourses of democracy and rights—are re-constituted by local civil rights activists, the press, anti-caste movements, and the women's movement, often in sociologically imaginative ways.

The Indian women's movement

The emergence of what has come to be known as 'the autonomous women's movement' in India is, in the reflexive understanding of Indian feminists (e.g.

Kumar 1993; Gandhi and Shah 1992; John 1996a, 1996b), the product of a very diverse set of political struggles. The anti-colonial nationalist struggle is evidently one of the most potent of historical forces to have politically mobilized women in the subcontinent, but of particular importance after independence were the traditions of left movements, both parliamentary and extra-parliamentary. In the 1970s, immediately prior to the emergence of specifically 'autonomous' women's organizations, there were a number of local struggles that were of particular significance: a movement against alcohol led by women in the landless labouring classes of Maharashtra (the '*Shahada* movement'), the urban 'anti-price rise movement' in Bombay, and initiatives such as SEWA (Self Employed Women's Association) in Gujarat which brought together trade union activism with Gandhian traditions of collective social initiatives in changing the lives of women working in the economy's informal sector (Gandhi and Shah 1992; Kumar 1993).

The very necessity for a term such as 'autonomous' women's movement signals one of the greatest challenges confronting the movement: that of wresting a specifically gender-based politics from the already constituted politics of class and caste, and, more generally, from the politics of social reform. Socialist movements, of course, have long grappled with the difficulties of forging a new class-based identity out of existing collective identities of religion or caste. The challenges are far greater, however, when a movement desires to articulate a specifically *female* collective set of interests. Women are always found in relationships of dependency, but also of intimacy, with social groupings of families, kin groups, religion, and class. 'The concept of woman was not really part of an available vocabulary', writes Sara Suleri, looking back on her childhood and youth in Pakistan from her present vantage point as Yale Professor of English literature: 'we were too busy for that, just living, and conducting precise negotiations with what it meant to be a sister or a child or a wife or a mother or a servant' (Suleri 1990:1).

For Suleri, the gap between these social identities of the subcontinent and the premises of western feminism represents a 'failed conversation' (1990:2).[5] Indian feminism, on the other hand, has negotiated this gap by partially re-shaping the premises of western liberalism. I say partially, because Indian feminism retains from liberalism an antipathy that pervades modernity itself: a distrust of certain kinds of collective identity, such as religion and caste, against which modernity has defined its own forms of identity. However, Indian feminism has taken as its starting point the most collectivist of political traditions made available by modernity, that of the socialist left. Identities of class, particularly that of the labouring poor, have been inseparable from the earliest 'autonomous' feminist interventions in the public political arena (John 1996a; 1996b).

One could draw lessons for the struggle to secure women's rights as 'human rights' from any number of arenas of feminist struggle in India.[6] I will limit myself here to an argument based on two broad areas of feminist campaigns

which are also characterestic of two chronological phases in the women's movement: campaigns in the first phase focus on rape and dowry deaths; campaigns in the second phase focus on issues of Hindu religious nationalism and the victimization of religious minorities.

Class, caste and violence against women: Indian feminism's break with liberal and left discourses on women

Feminist campaigns in the late 1970s began with the issue of rape. The issue was not, however, understood exclusively as male violence against women (cf. Mackie Chapter 2). Instead, the emergent women's movement renewed its left orientation in the particularities of the rape experiences it naturally gravitated towards. The two women whose experience of rape became the focus of early campaigns were poor and of low status. Mathura was 'tribal' and Rameeza Bee was a member of the minority Muslim community in India.[7] In addition, both were raped by police. Their experience of rape dramatized not only the politics of class inequality, but the role of the state in forging relations of power and inequality. In 1978, Rameeza Bee was gang-raped by four policemen in the city of Hyderabad. Her husband, a rickshaw puller, protested, and was beaten to death. In the second case that eventually became the basis for a nation-wide feminist campaign, the two policemen who raped Mathura were brought to trial and convicted in the High Court, but the conviction was overturned by the Supreme Court, and the men were acquitted.

Feminists were not necessarily the first to draw attention to these incidents. The rape of Rameeza Bee was taken up by the Hyderabad women's group in part because their attention, attuned as it was to mass-based issues, was drawn to the incident by popular local outrage in Hyderabad. A crowd of 22,000 set fire to the local police station. The police treated the gathering as an unlawful assembly, opened fire and killed nine people. The whole city was placed under curfew, and a commission of inquiry was appointed. Rameeza Bee was supported by left parties as well as by a strong local feminist organization, *Stree Shakti Sanghatana* (Organization for Women's Power).[8] The commission found the police guilty of rape and murder, and recommended prosecution. However, the Sessions Court of another state, Karnataka, acquitted the police on the grounds that the evidence recorded in a commission of enquiry cannot be used as evidence in a prosecution. At this point, a women's group filed a review petition and compelled the state government to prefer an appeal, which was dismissed. Two members of the original Hyderabad *Stree Shakti* group write:

> Looking back now, it seems that the focus was clearer in opposition to the state than in cases of family or organizational violence because the state was perceived as a secular institution that was biased, if at all, only along class lines. The perception of the state as carrying and reinforcing

communal and caste identities was not clearly understood or articulated at
that point.

(Kannabiran and Kannabiran 1997:271)

In retrospect, in the wake of the upsurge of religious nationalism, the fact that
Rameeza was a member of the minority Muslim community looms as all-
important in feminist analysis (Kannabiran 1996). The early focus of the
women's movement was *not,* however, on this crucial issue of communalist
politics during the Rameeza Bee case campaigns, despite the fact that some of
the public support for her was coming from a Muslim fundamentalist
organization, the *Majlis Ittehadul Mussalmeen* (Muslim Unity Organization).

The unavailability of these later insights at the time does not minimize the
significance of what the women's organizations were already accomplishing.
The left had addressed police rape as an effect of the state's role in supporting
class oppression. The very nature of the state's mode of handling custodial rape
required feminists to attend to more than the economic relations of class
dependence in understanding why the state did not provide justice to victims of
rape. It required feminists to pay attention to the symbolic construction of
gender, and to the particular place assigned to a construction of female sexuality
in the constitution of wider collectivities. The Supreme Court's acquittal of the
policemen who raped Mathura was based on their ability to cast aspersions on
Mathura's moral character. They were able to cite the lack of evidence of
physical resistance as proof that the rape never occurred. The judges pointed to
the fact that Mathura had a boyfriend as evidence that she was a 'loose' woman
who could not, by definition, be raped (Kumar 1993:129). In the case of
Rameeza Bee, too, the state commission of inquiry made attempts to establish
that her marriage was illegal, that she had married several times earlier, that she
was a prostitute by profession, and that her husband was a pimp (Kannabiran
1996).

The terms employed by a moral discourse of this nature evidently allowed the
state to effectively bypass the moment of rape itself. In investigating the terms of
this moral discourse, women's organizations began to elucidate the systematic
framework of power and meaning which linked the state's modernized version
of patriarchy to other, prior and more enduring forms of patriarchal forms of
power and authority. The fact that these discoveries concerned a state that had
set out to forge a new beginning, a *post*-colonial, modern and progressive force
in society, gave these investigations their peculiarly subversive force.

It did not require feminists to produce a collectivist understanding of rape.
Rape in India clearly conveys to all concerned the desire of the aggressor—
usually conceived of as a member of a social category—to use the female body
as the vehicle by which her family, her clan, her caste and religious group can all
be punished and taught the lesson that it is not within their power to act as custodian
of the terms on which her body may be used. This understanding is reflected in
the categories of rape employed in public discourses of the media: *landlord rape,*

where the landlord exercises the right to rape 'his' female wage workers or the wives of male wage workers; *caste rape,* in which women of lower castes or 'tribal' membership are raped. Rape by state personnel such as the police and army are linked to these older collective categories of rape through a common framework of meaning which constructs the female body as a fragile carrier of the values of purity and chastity. Attempts by the state to establish the fact that victims of rape had already 'fallen' from the status of women of honour draw on these pre-existing understandings, which make a woman who has to work in the public sphere by virtue of her class and caste status into an emblem of her caste's inability to keep her virtuously secluded. Feminist investigations began to elicit the common framework which binds the moment of rape to perfectly everyday social constructions of collective control over the female body in the interests of preserving caste and class hierarchy. These range from daily controls over female mobility and visibility, to the group's control over her sexuality and fertility by attempting to ensure her marriage as a virgin to a partner appropriately matched in status, caste and religion (Chowdhry 1998; Chakravarty 1996; Jayawardena and de Alwis 1996). In this context, the common, spontaneous understanding of rape cannot but bypass the injury to the woman, in favour of concentrating on the social categories to which the aggressor and the victim belong.

We find these common understandings re-confirmed in popular ideas of what might be entailed in securing justice for the woman. In local organs of justice (e.g. in rural *panchayats* or village bodies of self-government), and in the powerful representations of the film industry, justice for the victim of rape is secured by the social collectivity pressuring the rapist to marry her. The assumption here is that the main dilemma confronting the raped woman is the loss of membership in her assigned social collectivity. These popular ideas of the nature of victimhood for the woman who is raped also shape the nature of collective female (and, in some cases, even feminist) demands for justice. A Tamil women's liberation group, the Rural Women's Liberation Movement, parades the rapist in front of local women, who demand that he marry the woman or provide for her some means of subsistence such as land (Gandhi and Shah 1991:43).[9]

We may utilize the precise nuances of these demands for justice in order to gain further insight into the nature of dominant social relations on the subcontinent. The demands vary by class. The demands of rural women's groups, for instance, do not primarily rest on an understanding of rape as sex without consent. Such an understanding of rape is, in any case, only present in the weakest of forms, even in western liberal democracies where women's individuation as citizens is only partially detached from their dependent status as daughters, wives and inferiors (Pateman 1980). From the perspective of rural Indian women, the distinction between rape and their everyday experience of sexual relations within marriage—particularly their first experiences of sex as a new bride—is not based on the absence or presence of their consent. Such a form

of consent is simply not solicited in *either* instance. The distinction is based rather on the absence or presence of the support (economic, emotional and social) extended by wider groupings of kin, caste, and neighborhood. The support is extended when sexual contact with the woman consolidates the norms of group custodianship, and withheld when sexual contact reveals a breach in group custodianship over women. In challenging this system, the women of an organization such as the Rural Women's Liberation Movement ask that these forms of social support remain extended to them even as victims of rape.

Urban women's organizations, on the other hand, are heir to a considerable history in which middle-class women have been the object and (occasionally) the subject of public contestations over 'western' versus 'Hindu' conceptions of marriage. Controversies going back to the public furore over the Rakhmabai case (1884–88) explicitly revolved around the challenge posed by an educated upper-class woman named Rakhmabai to the legal validity of marriages solemnized in childhood, without the consent of the woman concerned (Kosambi 1996). Contemporary middle-class women's organizations are therefore able to draw on this history in asking for a space in which the pain of rape can be heard as the pain of the individual woman, and not as the trauma of her group. Such a space is fragile but necessary in a society where rape is understood primarily in its collective dimensions.

We need to take into account *both* kinds of conceptions of what it might mean to secure justice for victims of rape, when re-framing human rights discourse. The Indian campaigns raise the difficult question of how it is possible to expect poor, labouring and minority women to be able to separate their female experience from their experience as a member of a disadvantaged group. Can a Mathura or a Rameeza Bee experience rape by police other than as a woman who is regarded by police as a 'tribal' or a 'Muslim' or as one of the multitude of the poor? How can the fight for 'women's rights', and by extension, for 'human rights' incorporate this radical difference internal to the very constitution of 'woman'?

The urban women's organizations and their demands for justice as victims of rape, on the other hand, problematize the communitarian versions of human rights discourse that many have found to be a characteristic of non-European cultures and also of minority groups, but which are also increasingly taken up by western communitarian critics of liberalism.[10] Uncritical communitarian renditions of human rights threaten to bypass the woman in favour of the group all over again.

'State custodianship' and women: custodian of citizenship or custodian for 'missing' male authority?

Can we ask the state to act as custodian of a newly reformed version of human rights? What is the relationship between the culture of the state and the culture of

the society at large? This is the question explored in this section, again utilizing political campaigns as the medium for doing so.

Even as women's groups agitated and succeeded in gaining legal recognition for the 'custodial rape' (Kumar 1993:137), feminist investigations into the patterns of violence by state personnel against women began to elaborate an ever-widening circle of power relations entailed in the phenomenon of 'custodianship'. On the one hand, the state steps in wherever male custodianship is deemed to be missing or in need of reinforcement. As such, the state may step in to provide such women with 'protection' against the fallen status of 'prostitute' by placing them in remand homes. On the other hand, women attempting to escape from overt or covert coercion by their families fall into the category of 'bad' women; that is, women simply without male custodianship and patronage, judged therefore to be without morality. This overriding notion of morality, taken in conjunction with the role of the state as enforcer of law and order, has permitted a peculiar interpretation of the function of the state by male members of state personnel such as the police. Women stepping outside the bounds of the custodianship of patriarchal familial units are deemed immoral and therefore punishable by policemen. The civil liberties organization, the People's Union of Democratic Rights, found that in Delhi several cases where police had raped women involved eloping couples.

> [It was found that]…the victims had run away from home with the men they loved but whose marriages [sic] were not permitted by their families; that they had newly arrived in the city; and that the police, having stopped them, had used their 'runaway' status as a reason to separate them from their men and to rape them.
>
> (Kumar 1993:137)

Protection and punishment often seem to merge in the treatment meted out to women. A Calcutta women's organization found that many women were in jail, indefinitely detained, for 'wandering', or for being 'destitute' (Gandhi and Shah 1992:228). The jails in which women are placed either as punishment or as 'protection' provide fresh opportunities for enforcing patriarchal constructions of women's bodies. Women's prison testimonials in the prisons of West Bengal (Panjabi 1997) testify to the centrality of the 'moral' construction of women as chaste mothers entailed in the very modes of torture inflicted on women. Women are separated from their infants immediately after childbirth, stripped and raped in front of their children, and even forced to give birth under conditions that kill either baby or mother and infant. In torture, both pregnancy and maternity become tranformed into new opportunities to force on the woman 'a stereotype of "ideal womanhood", [while simultaneously] making it impossible for her to achieve it' (Panjabi 1997:157).

Equally, police complicity with enforcing the norms of caste and class patriarchy emerges in the form of won-interference when male heads of

households and caste-based *panchayats* (juridical bodies of self-government) take action against couples who wish to exercise their own choice in marriage. *Panchayats* in rural north India, adjacent to the national capital, have ordered the killing of couples found guilty of intercaste elopement. The police, themselves drawn from dominant upper castes, feel that 'social issues must be resolved by the caste leaders or the caste *panchayat* and not the law of the land, which applies a different criterion of justice' (Chowdhry 1998).

Similar structures of complicity are linked to the seeming inability of the police to check the illegal occurrence of *sati* which has re-surfaced since 1981 among particular caste groups in Rajasthan. Despite the fact that these events are watched by thousands, 'the movement of hastening crowds remains invisible to the police' (Sangari and Vaid 1996:256). Sangari and Vaid (1996) argue that the collective and public accounts of the event are constructed in full and conscious awareness of the weaknesses in the existing law, as well as in anticipation of the inability of the law to deal with community crime.

The revival of *sati* is not the first time the women's movement has come up against the ramifications of the ideology of women sacrificing themselves for the welfare of their husbands and husbands' families. In the 1970s, feminists interviewing women in jails came across the extraordinary phenomenon of women as 'proxy convicts':

> the majority of those convicted for murder, theft and vagrancy were serving sentences in proxy for their husbands or family. Most were extremely bitter because they realised that the sacrifice did not mean much to their matrimonial family which would forget or discard them on their return home.
>
> (Gandhi and Shah 1992:260–61; cf. Panjabi 1997:158–9)

Women's extreme dependency on their degree of acceptance within the affinal home had long been a concern of feminist campaigns in Indian cities. The deaths of newly married brides, commonly known as 'dowry deaths', display a pattern of violence which strains any simple understanding of conjugal or domestic violence as that which is perpetrated by husbands against wives. The very nature of the kinship unit in the propertied classes exceeds the boundaries of the conjugal couple or the nuclear family. Feminist campaigns have highlighted the social and kin-based organization of female vulnerability in the middle class. Dowry deaths are orchestrated with the complicity of the husband, but the key actors in the long campaign of abuse and murder of the bride involve the affines or in-laws. The key unit is not the nuclear family, but the entire kinship structure which isolates the in-marrying bride from her natal family and makes her entirely reliant on the wishes of her affines for her well-being. Violence is already embedded in the symbolic construction of the group of wife-givers as the inferior party (the giver of gifts), and of the group of wife-takers as the superior party (the receiver of gifts).

Again, the state has proved complicit. Existing legislation prohibiting the giving or taking of dowry but not of 'gifts' has allowed the structure of violence to go unchallenged because dowry is understood commonly precisely in terms of the ideology of the 'gift'. Indeed, the virgin bride is the most important 'gift' of all, with both givers and receivers entitled to expect that she will, as a gift given to her husband's kin group, be entirely absorbed into it. Such expectations actively shape judicial decisions where the place of domicile becomes an issue between affines and daughter-in-law. In a detailed review of judicial case law on marital disputes, Uberoi finds the judiciary repeatedly leans towards a view of marriage as sacramental, undermining the 'contractually' oriented reformulations of Hindu marriage law (Uberoi 1996).

Apart from highlighting the homelessness of women who wish to leave a violent affinal home, women's groups instinctively drew on their left heritage to analyze the wider class dimensions of 'dowry burning'. The campaigns highlighted the impact of commercial capitalism and competition on the values of the middle class, which was turning to dowry in order to add to 'the immediate consumable family capital' (Stri Sangharsh, *Draft Manifesto,* cited in Kumar 1993:118).

The feminist campaigns of the 1970s and early 1980s had therefore already gone a considerable distance towards interrogating the connections between class, caste, the 'domestic' sphere, and the state. They had highlighted the mutual implications of open violence and questions of ideology, representation and the cultural construction of gender. The campaigns of this period amply demonstrate the fact that the abuse of human rights is not only something that occurs at the moment of the torture, the beating or the rape. The ground is prepared for such moments by the way in which men and women are constituted as unequal and hierarchically related subjects, embedded in larger collectivities such as class and caste which are also hierarchical and unequal. Feminist investigations revealed that these collectivities generate constructions of a gender-specific version of 'morality', which visualize women as 'moral' only in so far as they are contained in their mobility, chaperoned, veiled, secluded, and kept in the custody of parents, brothers, husbands and sons. Women are 'moral', and therefore deserving of 'protection', only in so far as they sacrifice themselves for the welfare and honour of the clan they are born into, or are married into. Collectively, these gender-based notions of morality make the notion of civil rights and citizenship a prerogative well out of the reach of women. The abuse of women's bodies and spirits by the state, the police and the army build upon the pre-existing structure of familial custody of women's bodies, within which they can be beaten, raped, and murdered with impunity. Equally, the campaigns highlighted the range of the everyday, 'normal' forms of control which annex women's sexual and reproductive bodies to the demands of clan networking, patronage, alliance building, and paying the dues of caste and class subservience.

The campaigns directed early attention to the *class-specific* nature of patriarchal oppression. Rameeza Bee and Mathura were judged 'immoral' by the police who raped them and by the state which stood in judgement over them because, as women from the labouring classes, their very mode of existence as workers in the public sphere violated the norms of the upper-caste secluded woman. The educated women who suffered abuse and murder at the hands of their affines in the affluent suburbs of the nation's capital were trapped, on the other hand, by their normative dependence on a family structured by its position as upper-caste/middle-class transmitter of cultural and material capital.

Religious community as a site of female identity: challenge to both state and the women's movement

I have argued that Indian feminism was able to successfully generate an analysis of gender that was able to do justice to the collective affiliation of women to classes and castes. Caste could be understood as a form of class power without doing too much violence to the category. The same is not true of collective identities based on religion. Identities based on religion have been understood by secularists, the left and civil libertarians, as well as by the women's movement, as symptoms of backwardness, a divisive legacy of colonialism, a mystification of class interests. Although one of the key organizations of the self-styled *'Hindutva'* movement, the *Rashtriya Swayamsevak Sangh* (Organization for National Self-Help) has had a continuous existence over the last seventy years, the movement has spawned new organizations and increased its strength since the 1980s. The emergence of religion as a source of nationalist identity in the 1980s and 1990s has been answered by secularist groups with a renewed criticism of the state for failing to provide adequate safeguards to the rights of religious minorities. However, religious nationalism has confronted Indian modernity with a more fundamental challenge than such demands will allow. The *'Hindutva'* movement in India is a sophisticated discourse, not easily classifiable as traditionalist. The movement has increasingly appropriated the language of modernity, including its concepts of rights, citizenship and progress. The repercussions of this appropriation, coupled with the collapse of the Communist regimes, and the rise of globalized 'liberalization', have produced profound instabilities for social movements which have been working towards emancipation within the framework of modernity. The women's movement, exemplary in this regard, has been directly affected.

In 1985, controversy erupted over 'the Shah Bano case'. A Muslim woman, Shah Bano, had pursued her deserting husband for maintenance through the court system for ten years. The High Court found in her favour, and her husband appealed to the Supreme Court on the grounds that the High Court judgement violated the terms of Muslim personal law as stated by the *shariat*.[11] The Supreme Court overruled his appeal, and found in favour of maintenance. The Bench also commented on the injustices to which women were subject under religion, and

urged the government to frame a common civil code that would 'help the cause of national integration' (Supreme Court Judgement, cited Kumar 1993:168). The terms of the judgement allowed the Hindu nationalist parties and groupings an opening from which to argue that cultural pluralism and secularism were harmful to national integrity. From this point onwards the gender question has been central to the rise of communalism (Hasan 1994:xviii–xix). In anticipation of the Supreme Court judgement, a Muslim League member of parliament introduced the Muslim Women's Act in February 1986. The bill was designed to close off existing loopholes in the legislation that had allowed Muslim women like Shah Bano to seek redress under secular criminal law and to tie Muslim women, more completely than before, to their families and to religious institutions for economic support.[12] Meanwhile, the Hindu nationalists appropriated the platform of gender equality to argue that Muslims were backward and oppressive to women, and that the state was 'pampering' the Muslims by allowing them to enjoy an unqualified form of patriarchy. The edge to this charge is given by the fact that the state *did* introduce some reforms in Hindu religious law in 1956, with the Hindu Code Bill, and overrode vigorous opposition from religious spokesmen to allow inter-caste marriage, to enforce monogamy and to make divorce possible. The reform was partial. Marriage, divorce and inheritance continue to be governed by religious identity for those defined as 'Hindus', that is, for those who are not covered by Muslim or Christian personal law.

In the context of this upsurge of Hindu nationalist contempt, Muslim religious leaders responded with militant fervour on behalf of an Islam under siege, making personal law the chosen marker of identity. Their discourse on identity was in fact contested, not only by the all-India women's movement, but by secularists and liberals and educated women within the Muslim community. Such demands, however, were not taken seriously by those constructing 'the Muslim vote' for government purposes, and, against the backdrop of large scale conflict, the Muslim Women's Bill was passed. Shah Bano, under pressure, 'gave up the right she had fought for for so many years, asking the Supreme Court to record that she now stood against the petition they had upheld, and abjuring the maintenance the court had accorded her' (Kumar 1993: 171).

In 1987, the women's movement was confronted with the glorification of *sati* —by women as well as men—as the heroic ideal of the authentic spiritual Hindu woman, and, implicitly, of the newly assertive Hindu nation. In 1992, the Hindu nationalist parties scored a key victory by successfully demolishing a Muslim mosque, the Babri Masjid, which had become a symbol of re-claiming the nation from the usurping Muslim presence. Thousands of women came as celebratory witnesses or as participants in the demolition.

The challenge of religious identity to feminist identity has been insidious. Hindu nationalism produces the figure of the spiritual *sati* in order to de-legitimize feminism as western and inauthentic. However, it employs multiple strategies of de-legitimation. In usurping the demand for a uniform civil code, it has also taken over the very language, tactics and symbolic apparatus of the

women's movement, using it to undermine the equally democratic principle of minority rights (Kumar 1993; Agnes 1995; Banerjee 1995; Bacchetta 1994; 1996).

It is important, given the weight of colonialist representations of India, to recognize that these conflicts are not the result of immutable 'religious' hostilities, but are given shape by the conflicting meanings of modernity itself. Equality may be understood both as undifferentiated sameness and as the systematic privileging of disadvantaged groups. Given these conflicting meanings, tensions may erupt not just in India but wherever there is a backlash against social democratic states that have attempted to secure minority rights. Writing from my location in Australia, the current conflict over land rights legislation for the Aboriginal people bears many similarities to the political crisis in India. Both Hindutva and the 'Hansonism' of the One Nation Party speak an identical language of championing the democratic rights of a 'neglected' majority who stand for equality (understood as undifferentiated treatment by the state).

The nature of the challenge to the women's movement is spelled out in Sarkar and Bhutalia's introduction to a timely volume analyzing women's participation in the Hindu right.

> Politically and methodologically this assertive participation of women in right-wing campaigns, pulled many of our assumptions into a state of crisis, for we have always seen women as victims of violence rather than its perpetrators and we have always perceived their public, political activity and interest as a positive, liberating force… For we do have before us a large-scale movement among women of the right who bring with them an informed consent and agency, a militant activism.
>
> (Sarkar and Bhutalia 1995:3–4)

The intellectual responses of the women's movement to this crisis of legitimacy have been diverse and divided. A common response, uniting different political strategies, has entailed a re-emphasis on history. What is at stake is an attempt to understand the constitution not only of the Indian post-colonial state, but of the sphere of 'religion' and 'religious community' in the sub-continent. The terms in which 'personal law', and the status of Muslims as a minority have been elaborated in post-colonial India are in striking continuity with an ethico-political discourse pioneered by the colonial state in India. This discourse separated religion from the purview and codification of the state, ostensibly in order to leave native society intact and governed by 'religious' law. At the same moment, by virtue of this separation itself, the field of religion was redefined. One of the effects of this redefinition was to cause religion to coincide with the 'personal' and the 'familial': the spheres of marriage, divorce, maintenance, succession to property, inheritance, the custody and guardianship of children and related matters. Not only did the sphere thus defined (and labelled as 'personal law') become static and curiously divorced from political processes, but the

neutralization of religion in its public implications allowed the colonial state to locate issues of women's inequality squarely within the sphere of 'native backwardness' (Mani 1989). At the same time, an exclusively upper-caste version of Hinduism, a version which excluded the diverse practices of 'tribal' and *dalit* groups, became codified as personal religious law (Mukopadhyay 1994; Chhachhi 1994; Sangari 1995).[13]

At the level of scholarly historical reflection, there appears to be an emergent consensus that despite claims to secular tolerance, the Indian state has never transcended a Hindu imaginary. Perhaps one of the most striking feminist enquiries into the way religion and gender fused in the very founding manouevres of the post-colonial state is the work that has been done on 'recovery' of women after the Partition of the subcontinent into Pakistan and India. Menon and Bhasin (1996, 1998), as well as Bhutalia (1995), have documented the determination of the Indian state to bring back to India the women who had been abducted during the forced mass movement of refugees from one part of the subcontinent to the other.[14] The ostensible motivation, concern for the safety and happiness of the women themselves, was overridden by the anxiety on the part of the state to uphold the boundaries of national honour. Even women who had successfully integrated themselves into their new lives were forcibly repatriated to India, their unborn children forcibly aborted, their new families torn asunder. In the previous section, I looked at the evidence for the state acting as the custodian for disrupted patriarchal authority. In the perspective supplied by the work on Partition, the nation-state itself appears to have been founded on moral custodianship over women at the very time that the constitution constructed women as citizens.

If there is an emergent consensus on the patriarchal construction of the nation in the nationalist imagination, this consensus is not matched by a uniformity of feminist responses towards the political crisis engineered by Hindu nationalists. Although the women's movement demanded a uniform set of laws governing all women and men long before the political crisis, there are now profound dilemmas confronting the movement in its ability to extricate the demand for gender justice from the communalist discourses. Can a uniform civil code still be a feminist demand? If so, can it be fought for in the present political conjuncture? What should the contents of such a code consist of? Answers to these questions divide the women's movement (Sangari 1995; Anveshi Law Committee 1997).

Underlying the specific controversies over legal uniformity is a broader disagreement over how far modernity, and the discourses of rights, citizenship, and secularism can provide an adequate framework for further emancipatory struggle. Furthermore, given that the Indian state itself was founded on the promise of modernity, any fundamental crisis in relation to modernity is immediately reflected in the assessment of the Indian state. The kinds of questions now being raised mirror the intimate relationship between the two. Should the women's movement continue to engage with the state and pressure the state to live up to the unfulfilled promises of its founding charter (Menon

1996; Anveshi Law Committee 1997)? Can the language of rights and justice adequately represent the structures of violence that the women's movement and the civil liberties movement have sought to highlight (Tharu 1995; Pandey 1991)? Have intellectual activists identified too closely with the perspective and interests of a nation state viewed as intrinsically progressive and reformable (Pandey 1991)?

To some intellectual activists, the discourses of modernity now stand as a marked category, shaped by the dominance of upper-caste, urban Hindu males. Moreover, in the post-Shah Bano era, feminists from the minority communities have alerted the women's movement to its *own* upper-caste, urban middle-class and implicitly Hindu culture (Agnes 1995), so that 'feminism' no longer symbolizes an unambiguously oppositional identity to be contrasted with religious identity.[15] It has become difficult to discuss 'women' and 'women's rights' in abstraction from the further question as to whether we are discussing women who are members of a dominant upper-caste Hindu culture, or women who are members of minority Muslim and Christian populations.

To other feminist intellectual activists, the increasingly critical stance taken by many feminists towards the legacies of modernity is both unwarranted and debilitating. In an empirically sustained and closely argued examination, Sangari (1996) puts together the compelling evidence for both difference and sameness in the multitude of patriarclies that mark a complex and diverse social formation like that of India. She finds that the complexities of difference—born of caste, region, variable histories, and religious differences—are overriden by the complexities of inter-connections and mutual complicities between these multiple patriarchies. Such interconnections cannot be successfully opposed, she argues, by feminists duplicating among themselves the identities of caste and religion. She therefore calls on feminist and left groups *not* to retreat from 'a secular democratic agenda and from a commitment to common struggles' (Sangari 1996:3294).

Such an affirmation of the values of modernity is, characteristically, tied to a more hopeful view of the state. In this view, the state is not *simply* upper-caste, masculine and Hindu. It is also the site of contradictory tendencies, some of which need to be strengthened at the expense of others. This is the view with which Kumar concludes her richly illustrated history of the women's movement from 1800 to 1990, entitled *The History of Doing* (Kumar 1993:193).

The experience of 'race' and ethnic relations in western societies has shown women from minority communities that it is comparatively easier for women who belong to the dominant racial and ethnic group to affirm the values of universalism. However it is not only women from the majority Hindu community who argue in favour of the values of modernity in India. For many Muslim women, the discourse of equality, citizenship, and alliances across religious boundaries is a crucial *resource,* a means of placing pressure on the state and on society at large. Zoya Hasan, active in the Committee for the Protection of the Rights of Muslim Women during the campaign against the Muslim Women's

Bill, and editor of the book *Forging Identities: Gender, Communities and the State* (1994), acknowledges the communalist appropriation of the concept of equality as a means of undermining minority rights, but affirms that 'struggles for secularism and equality are nonetheless imperative for the entry of women into the realm of citizenship' (1994:xix). Like Kumar, she too views the state as 'demonstrating a dual and contradictory character', rather than as simply elaborating the power of Hindu upper castes. Zareena Bhatty, a Muslim sociologist and activist on labour issues affecting women in the informal sector, has opposed the ghettoization of Muslim women in India through her publications (Bhatty 1988), as well as by personal example. She speaks now of her despair at seeing feminists define themselves as 'Hindu' and turn their backs on the possibility of a common struggle for all women.[16] These women are among a much wider social stratum of 'urban, employed and largely middle class' Muslim women who have 'Voiced a powerful demand for equal treatment' (Hasan 1994:xvii).

Conclusion

The women's movement has striven, in its fight against inequality, to realize the emancipatory promises of modernity. In the course of these efforts, the movement has provided a critical perspective on the contradictoriness and limitations of modernity. In the broad sweep of its campaigns, the women's movement has consistently demonstrated the inadequacy of a purely formal, juridical concept of rights. Such constitutional rights can be fought for and won, while being completely undermined by the 'state within the state': that is, by the custodianship exercised over the bodies of women by family, clan, caste and religious group. Unless specifically challenged, a liberal democratic state can co-exist quite comfortably with a state culture that regards itself as responsible for sustaining the morality of group custodianship over women. We have seen that the Indian state performs this function either by non-intervention, as with *sati* and dowry deaths, or by actively intervening to fill any breach in male custodianship that arises in the course of conflict between groups. The police, the army, the parliament and the judiciary reflect this patriarchal morality. The women's movement has revealed the violence towards women that underpins the workings of such a morality, both in large-scale political events that mark the founding of the nation state, such as Partition, and in the micro-politics of everyday conflicts, such as over a woman's desire to choose her own marriage partner.

In its first ten years of campaigns and scholarship, the women's movement played an active and confident role in exposing the contradictions of post-colonial modernity at the institutional level. I have suggested that *Hindutva's* ability to destabilize the women's movement is based in part on weaknesses in secular modern adjudications of religion. However, the destabilization is also due in part to the fact that after playing an active role in relation to the *institutional*

contradictions of modernity, the movement has been placed in the more passive and traumatic role of having to confront contradictions which exist right at the very heart of the *discourses* of modernity itself. Concepts such as equality and sameness are being mobilized to defend privileges of religion, caste and gender, whereas it was once assumed that this was a language which could only be used to challenge these privileges. The language of modernity—of citizenship, rights, and gender equality—cannot, it would now seem, be made to expel these instabilities. Modernity cannot therefore perform the function of acting as a bulwark against power and inequality as it was once assumed, by the Indian women's movement no less than by its western counterparts.

These instabilities and weaknesses of modernity, both at the institutional and the discursive level, go right to the heart of the human rights movement. The human rights movement can enrich itself by attending to these complex experiences which tell us where some of the fault lines of modernity are to be located. Equally, it is evident that there is no better way to locate these fault lines than in the very process of attempting to realize the emancipatory promises of modernity, even as these are reinterpreted by subordinate groups in diverse social locations.

Notes

1 The campaign has resulted in new legislation which prevents both *sati* and its worship, the Commission of *Sati* Prevention Act, 1987.
2 *Dharma* may be glossed as normative codes of righteousness which became particularly elaborated and established in the classic Sanskrit Vedic period from the first century AD onwards. For an adjudication by a historian on the relationship between the 'Hinduism' of Hindu nationalism and the historical evidence of the ancient period, see Thapar (1992).
3 I have examined in another paper the way in which the Indian women's health movement has creatively expanded on the modern concepts of bodily autonomy

and choice in contesting state and middle-class professional appropriations of these terms (Ram 1998).

4 Some of these strengths are not peculiarities of Indian social movements alone. Yash Gai (1995) has argued that resistance to human rights violation is typically pursued by the category of the group rather than the individual in many parts of Asia. Such reinterpretations of human rights along more communitarian lines are a common feature of other kinds of movements, such as struggles for indigenous rightst and sovereignty (Wilson 1997; Merry 1997; Gledhill 1997).

5 I am indebted to Grewal's thoughtful discussion (1994) of Suleri's *Meatless Days* in making these remarks.

6 See the histories and reflections on the Indian women's movement in Kumar (1993), Gandhi and Shah (1992), as well as John (1996a, 1996b).

7 The term 'tribal' (*'adivasi'* or original settlers, in Hindi) is inherited from British census and ethnological classifications to designate a population who have historically been hunters and gatherers rather than settled cultivators. Subject to both marginalization and incorporation by caste society over the centuries, they have become a semi-proletarian grouping in capitalist India, still marked by differences in modes of social organization.

8 The translations of organizational names are my own, and therefore only approximate in meaning. The term *shakti* or power represents a feminist appropriation of Indian cosmology which attributes to women an inherent power that exceeds male control.

9 Popular understandings of what constitutes a radical or bold departure from these orthodox conventions also necessarily work within the terms supplied by this dominant discourse. See Sunder Rajan's detailed analysis (1993) of a Tamil story, subsequently made into a film, in which the raped woman, rejected by her husband, shames the rapist by living with him. The rapist subsequently experiences a redemptive moral transformation. The film was widely regarded by many women and rural women activists I spoke to as a bold and progressive representation of a woman's agency in the face of rape.

10 See Yash Gai (1995), Wilson (1996), Merry (1996), Gledhill (1996).

11 The *shariat* is Muslim personal law based on the *Qur'an.*

12 The bill sought to make deserted wives reliant on wakf boards, which are religious trusts.

13 Militant segments of castes previously designated as unclean and of low status are now reconstituting themselves as a movement of 'dalit', or 'the oppressed'.

14 See also Das' (1995) commentary based on this body of research.

15 Given the limits of space, I have been unable to do justice to the diverse class strands of feminism in India. These are covered better in book-length treatments, e.g. Kumar (1993) and the pioneering treatment of women in the Telengana peasant movement by *Stree Shakti Sanghatana* (1989). See also my account of women in the poor fishing communities of south India (Ram 1991).

16 Personal communication, Delhi 1996.

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4
Dead daughters, dissident sons, and human rights in China

Antonia Finnane

When the subject of humam rights is raised in international contexts, words such as 'Tibet', Tiananmen' and more recently 'Falun Gong', along with the names of prominent dissidents such as Wei Jingsheng, Harry Wu and Wang Dan, all spring quickly to mind. This may be due in part to the vexed state of human rights in China, but it is also attributable to the fact that discussion of human rights abuses has become a convenient way of talking about the so-called 'People's Republic', now a major player in global affairs. As the present chapter is being written, Australian media are carrying news of the repression of the Falun Gong sect alongside reports of a call by Australian Greens Senator Bob Brown for the Australian government to scrap human rights talks with China, following his visit to Tibet. 'Senator's Tibet call likely to anger Beijing', runs the headline, in a statement of the obvious (*The Age,* 29 July 1999).

The name Zhu Qingping, although also publicized in a human rights context, is perhaps less likely to be recalled. An illegal immigrant, Zhu became pregnant with her second child while in a holding centre in Australia. She failed to gain refugee status, but begged to be allowed to remain at least until the child's birth. Failing in this too, she was flown back to China when eight months pregnant and was apparently compelled to have an abortion (*The Age,* 8 June 1999). Independent Senator Brian Harradine raised Zhu's case on human rights grounds in the Federal Parliament in May 1999, and the Senate established a committee of inquiry. The terms of reference, however, concerned decision-making processes in Australia itself rather than human rights in China. Certainly Zhu's fate provided no-one with grounds to call for the scrapping of the controversial human rights talks.

Tibet, with its Dalai Lama and issues of national sovereignty and cultural integrity, arguably offers a more obvious case of 'human rights' abuses than that presented by the plight of Chinese women in their reproductive years, probably a majority of whom will undergo or have already undergone one or more involuntary abortions without the benefits of an anaesthetic. The former case encapsulates classic 'rights of man' issues, with their emphasis on freedom of thought, the press and association. (Would a Tibetan have been forcibly repatriated?) The latter case can readily be absorbed into, rendered almost invisible by, the routinization of fertility control in China itself, international

concerns with population growth and associated environmental issues, and undoubtedly by the fact that it concerns private life and family formation rather than the public sphere. The different dynamics of these two cases as aired in the Australian press accord nicely with the differentiation between male and female concerns in China itself.

Two stories of twins will serve here to illustrate the different degrees of visibility of men and women in China. When Wu Yimao, the daughter of 'rightist' Wu Ningkun, was living in the countryside during the Cultural Revolution, she became friends with a village girl a few years older than herself. The girl married early and gave birth to two daughters in quick succession before having twins, who were also girls. After this third confinement, an excited Yimao went to visit the young mother, but found her lying in a darkened room in tears. The mother-in-law, also distressed, told Yimao what had happened. It was New Year, a time when nothing should be done to invite bad luck, so the babies had been allowed a day or two of life, but after the festivities were over their father had drowned them in the river (Wu 1993:318).

Steven Mosher, who gained some notoriety for his exposition of birth-control practices in a southern Chinese village, has related a parallel story. Mosher was conducting fieldwork in rural Guangdong in the early days of the one-child family policy. The policy was, and still is, implemented through a mixture of education, economic incentives and severe pressure often involving actual coercion by the local authorities. The case described by Mosher involved a woman who, after a long period of defiance, had finally agreed to the termination of her seven-month pregnancy. This woman, too, proved to be carrying twins, but both were boys. When he heard the news, the enraged father—bereft of not one but two sons— rushed off to the home of the brigade's party secretary, seized the latter's two young sons, threw them into a well and then committed suicide by jumping in after them (Mosher 1983:261).

These two cases are both similar and different. News of the first, to the extent that it was relayed, was no doubt absorbed within the fabric of the village so thoroughly that nothing leaked beyond its boundaries; and it may anyway not have counted as news. The story follows an established pattern, the *dramatis personae* playing out culturally familiar roles. The mother of the twin girls, on Wu Yimao's telling, appeared resigned to her fate. There was nothing she could do: the whole of her existence was bound up with the family into which she had married and who had made the decision to do away with the children. It is not even clear that anyone in particular was to blame for the event, unless it were thought to be herself for failing to produce a son.

News of the second case must have reverberated through the densely populated Pearl River Delta. In the eyes of rural Chinese, Mosher comments, '[it] was a monstrous tragedy', unlike the first perhaps (1983: 261). The *dramatis personae* are mostly male: the party secretary who had been enthusiastically pursuing a low fertility rate for the brigade, his two sons, the aborted twin boys and the twins' father. If, in the first case, the drowning of the female infants was

accommodated by cultural norms and family structures, in the second the third-trimester abortion of the male infants violated both. The reaction of the bereaved father makes this clear: the party secretary is identified as responsible for depriving this family of sons, and revenge is taken on the party secretary's family.

Knowledge of these two incidents in the English-speaking world has been made available through anecdote rather than through the World Court. Considered within the paradigm provided by international human rights discourse, they none the less draw attention to two features of contemporary human rights debates between and within China and the West. The first is the relatively high visibility of male victims in recognized human rights abuses in China, which is to say the high visibility also of those areas of human rights struggles which involve mostly male protagonists and centre, in practice, on male or masculinized concerns. The second, which Mosher's tale of the aborted boys paradoxically highlights, is the low priority accorded to the practices of induced abortion and infanticide. These practices bear most heavily on women and unarguably account for the overwhelming majority of instances of gross physical abuse in contemporary Chinese society. They range from forced abortions and sterilization to female infanticide.

There is a sense in which no explanation is needed for these priorities. The contrasts between the stories of the drowned girls and the aborted boys are readily understood in the context of a cultural disposition to 'value boys and devalue girls' *(zhong nan qing nü).* Similarly, the question of human rights in relationship to freedom of speech and of the press—to name the most prominent human rights controversies—has proved more obvious and clear-cut than any of the many possible questions relating to reproduction. Although abortion, sterilization and infanticide in China are sporadically subjected to scrutiny in the western media, they are dwarfed in significance by mainstream issues of political liberty, which dominate the agenda of international debates on human rights in China.

The gendering of human rights discourse revealed in both these domains, far from being peculiar to the Chinese context, is deeply embedded in the history of human rights in the second half of the twentieth century. Through the prism of this history, women's rights in China become visible only through a glass darkly.

Universal, Asian, and women's human rights

Human rights in the late twentieth century are most obviously—although not only—an international issue. They are most noisily articulated in the context of foreign relations between nations. From 1948, when the United Nations Declaration on Human Rights was promulgated, it was clear that human rights had the potential to be a point of contention between different countries, and particularly between different sides in the developing Cold War. The Cold War, however, actually succeeded in sidelining human rights as an international issue.

Not until the 1970s, at the beginning of the so-called Second Cold War, did human rights become entrenched in the discourse of international diplomacy. China, admitted into the United Nations in 1971, was destined to become a focus for the concerns of human rights activists.

It took some time for this destiny to become manifest. In the late 1970s China was only just beginning to come in from the cold. Deng Xiaoping paid North America an historic visit in January 1979 to celebrate the establishment of diplomatic relations between the People's Republic of China (PRC) and the USA. He received a warm welcome from President Carter, who had ushered in the era of human rights diplomacy. At the time, the American press was giving coverage to the upbeat, pro-American Democracy Wall Movement in Beijing (*New York Times* 1 January 1979: A1, 9). Things in China seemed to be getting better. The one sour note in the Deng visit was ill-feeling on the part of conservatives over America's abandonment of Taiwan.

The first serious confrontation between the USA and China on an issue related to human rights erupted in 1982, when visiting tennis player Hu Na applied for political asylum. Although this case involved a tussle between the Bureau of Human Rights and the State Department and centred on the issue of Hu Na's likely fate if she returned to China, it was not specifically framed as a human rights issue (Ross 1995:228–30). A second issue to arise in the early 1980s concerned birth-control procedures, with the USA withdrawing funding from all international birth-control projects involving induced abortion. As a factor in Sino-American relations, however, the potential seriousness of this conflict was mitigated by the fact that countries other than China were concerned.

It was not until 1987, during Ronald Reagan's second presidential term, that human rights became a definitive issue in Sino-American relations. On 6 October that year, the American Senate voted 'without dissent' to condemn China for its violent suppression of protests in Tibet (Ross 1995: 243; *New York Times* 10 October 1987: A1, 9). After 4 June 1989, the time of the Tiananmen massacre, human rights became an entrenched and thorny problem in relations between the two countries. This is not because human rights were getting worse in China. Rather, the collapse of communism in Eastern Europe in the same year and the disintegration of the Soviet Union shortly thereafter meant that the field was left free for a Sino-American 'grand final' between the communist and capitalist worlds.

The years during which Sino-American relations were becoming both more intimate and more complex were also years in which the issue of human rights was evolving into a complex discursive structure of theories, policies, practices, and institutions (Stivens Chapter 1). The creation of a Bureau of Human Rights in the USA during the Carter presidency was followed in short order by the establishment of comparable offices in other countries. In 1978 the non-governmental organization Human Rights Watch was established, and by the 1990s it had become a truly international organization. The Chinese Human Rights Alliance was founded in Beijing on 1 January 1979 and posted its

'Declaration of Human Rights', in nineteen articles, on Beijing's Democracy Wall later in the same month (Lee, T. 1988:316). By 1993, despite severe repression of human rights activism over the intervening period, the Chinese government itself had approved the establishment of a research centre for human rights in China (Song, Zhang and Qiao 1996:354).

It is a mark of the hegemony achieved by human rights rhetoric that opposition to it has rarely taken the form of frank denial of its premises. Rather, under pressure from home and abroad, a number of governments have sought to shift the emphasis of human rights from the political to the economic domain, the focus of human rights from the individual to the community, and jurisdiction over human rights from the world to the sovereign state. The Bangkok Declaration, issued in March 1993 at an Asian governmental convention, is the most authoritative statement of this alternative position (Davis 1995:205–9). It emphasized 'the significance of national and regional particularities and various historical, cultural and religious backgrounds' in the definition and observance of human rights (Loh 1995:154). At the UN World Conference on Human Rights in Vienna three months later, Chinese Vice-Foreign Minister Liu Huaqiu defended this position on Marxist grounds when he declared that 'different historical development stages have different human rights requirements' (Loh 1995:157).

In the period leading up to the Bangkok Declaration, with its particularistic definition of human rights, an equal and opposite development was occurring in the domain of women's rights (Friedman 1995:18–31). Women's rights, as an issue befitting the attention of the premier international organization, the United Nations (UN), have always been peripheral to 'human rights'. The UN Commission on the Status of Women (CSW) long lagged behind its big brother, the Commission on Human Rights, in terms of procedures allowing the identification of human rights abuses (Galey 1984:468–73). Perhaps if women's rights had emerged as a factor in the Cold War their status *vis-à-vis* human rights would have been more rapidly clarified, but issues affecting women rarely offered firm ground for contention between the capitalist and socialist blocs.

During the 1970s women's rights were increasingly viewed as a problem worthy of attention in international forums, and it was a problem common to — although assuming different forms in—the first, second and third worlds alike. Unlike the domain of human rights proper, socialist countries clearly felt that women's rights were a suitable space for initiatives. China, uneasy about working with the Human Rights Commission, was happy to participate in the proceedings of the CSW. The adoption of the Convention on the Elimination of Discrimination against Women (CEDAW) in 1979 was the end result of a Soviet initiative and of subsequent recommendations by an *ad hoc* working group chaired by a Soviet ally, India. China was one of twenty-three members elected to the CEDAW Committee in 1982 (Galey 1984:476–81).

The modification of socialist programmes in China and their abandonment in the former Soviet bloc meant that women's rights could no longer be claimed as

a conventional political issue for the socialist arena. The way was opened for their integration into the general human rights project. At the Vienna conference of 1993, the same conference at which Liu Huaqiu had declared human rights to be historically and nationally specific, participating countries adopted a 'Declaration and Programme of Action' that stated affirmatively that 'the human rights of women and of the girl-child are an integral and indivisible part of universal human rights' (Human Rights Watch Women's Rights Project 1995:xiii–xviii).

   In sum, while the Bangkok declaration had challenged the notion of universal human rights by insisting on the cultural particularism of human rights, the Vienna declaration promoted the gender-specific rights of women to the status of universal human rights. To the extent that any of these international developments have relevance to women in China, Chinese women as a social category might be said to be caught between access to 'Asian' human rights, which are circumscribed by the particular 'different human rights requirements' appropriate to China's 'stage of historical development'; and 'women's human rights', a term which could be considered either oxymoronic or tautological and which in any case suggests the contested or derivative character of such rights.

Women's rights as international issues

The gendering of human rights discourse is apparent in the separate historical trajectories followed by women's rights and human rights institutions. The effects are obvious in the different degrees of visibility of 'universal human rights' and women's rights in international politics. Although the prominence of human rights in international diplomacy in the 1970s provided a new context for the identification and pursuit of women's rights, human rights as featured in international relations are mostly the kind of rights which are related to the formal political order. Since national and international politics are dominated by adult males, a focus on such issues usually means a focus on male victims of human rights abuses. The 'examples of ongoing human rights violations in China' supplied by Drinan and Kuo are illustrative:

> restrictions on emigration, a lack of fair trials and due process, deplorable prison conditions, suppression of political dissent, religious persecution, interference with foreign journalists, harassment of Chinese nationals in the United States, repression of Tibetan nationals, and exporting of products of prison labor.
>
> (Drinan and Kuo 1992:22)

The same range of issues dominates the Human Rights Watch/Asia *Newsletter*. These issues are mostly based on foundational notions of liberty and democracy which have, in whatever strange forms, gained worldwide currency. 'Each and every Chinese citizen', proclaimed Liu Huaqiu in Vienna, 'enjoys genuine

democracy and freedom, civil and political rights, as well as extensive economic, social and cultural rights' (Loh 1995:157). But in the saga of human rights diplomacy as it involves China, the former bundle of rights—democracy and freedom, civil and political rights—has prevailed over the latter, women's rights being overshadowed sometimes to the point of obscurity. Professor Yu Quanyu, deputy head of the Chinese Association for Research on Human Rights, visited New York in March 1996 to observe the fiftieth anniversary of the formation of the United Nations Commission on the Status of Women. At a press conference the international media quizzed him not on the rights of women but on the Dalai Lama, Taiwan, prisoners' rights, the treatment of orphans, religious freedom, and related topics (Song, Zhang and Qiao 1996:345–55).

To the West, the idea of human rights in China in the late twentieth century is encapsulated in the names Wei Jingsheng, Tiananmen and Tibet, all popularly associated with challenges to the Chinese state in the name of either individual or national freedom and self-determination. Women are, of course, associated with these challenges: the student leader Chai Ling is perhaps the most famous face from the Tiananmen Square demonstrations of 1989, and Tibetan nuns as well as monks have been imprisoned and tortured. Nonetheless, women are a marginal presence both in the Chinese democracy movement in exile and in the Tibetan government-in-exile. In the Tiananmen protests themselves, the position of the women students was, as Lee Feigon has shown, at best ambivalent in terms of any sort of equal participation, and gender was not an issue at all. Questioned subsequently about this, Chai Ling more or less conceded a point that appears not to have struck her before, in stating: 'Next time it's human rights for women' (Lee, F. 1992:168).

As noted above, there are specifically women's human rights issues which are sporadically brought to international attention. A 1995 Human Rights Watch report gives an idea of their range: sexual assault, violence against women in custody, coerced prostitution and marriage, abuse of women workers at home and abroad, domestic violence and contraventions of human rights in connection with reproduction and sexuality. A couple of the cases covered are well known: the 'X' case in Ireland involving a fourteen-year-old rape victim who faced legal obstacles to seeking an abortion in England; and the position of Filipino migrant workers, whose general plight received international media attention in the context of separate murder trials of Filipino maids in Singapore and the United Arab Emirates (see Hilsdon Chapter 8). There are countless other cases which have not received such attention (Human Rights Watch Women's Rights Project 1995).

There is no doubt that internationally the most prominent cases of abuse of women are those which involve crimes committed across national or ethnic borders, such as the so-called 'comfort women' controversy (Mackie Chapter 2) or the ethnically-targeted rapes of women in the Bosnian and Kosovo conflicts. In these cases, as in that of the rapes and abductions committed during the Partition of India and Pakistan, the abuse of women gains infinitely in

significance by virtue of its nationalist dimensions: to rape the woman is to dishonour the man, the community and the nation.

In this latter respect, women's rights actually show an important feature of the human rights phenomenon in the contemporary world, for there is an unmistakable nexus between human rights diplomacy and nationalist *amour propre.* Igor Shafarevich, who along with the more famous Andrei Sakharov had been a member of the dissident Committee on Human Rights in the early 1970s, responded furiously to Ronald Reagan's strategic focus on human rights in the USSR. Why is it, he wanted to know, that human rights in the Soviet Union came under attack 'precisely at that period in which the situation was improving?' He was particularly struck by the contrast in American human rights diplomacy between the treatment meted out to Russia and that accorded China, drawing attention to the coercive practices in birth-control and the contingent practice of female infanticide in the rival communist power, which he had 'never heard…interpreted as a violation of human rights' (Shafarevich 1989:148–9).[1]

Shafarevich foreshadowed the reaction of young Chinese nationalists in the 1990s. *China Can Say No,* the most unrelentingly anti-American of a number of fiercely chauvinist tracts to be published in recent years, is typical in its analysis of human rights American-style as a prime example of American hypocrisy. 'When Americans abuse other people', the authors observe, 'it is not an abuse of human rights; while when other people abuse Americans, that is indeed an abuse of human rights' (Song *et al.* 1996:216–8; see also Zheng *et al.* 1993). The use of economic sanctions to force conformity to human rights is bitterly denounced in the same book.

This sort of debate provides a context at best unpromising for the airing of women's rights issues, and indeed women's rights in China rarely make an appearance either in these nationalist works or in more conservative Chinese works on human rights. This is partly because women's rights are deemed to fall into the category of social rather than political rights, and have long been championed, with whatever gap between theory and practice, by the government itself. Song Huichang, whose theoretical study of human rights is relatively liberal in tone, makes a rare intervention when he explicitly raises sexual equality as a human rights issue (Song 1993:241). All the same, he is careful to avoid too close an engagement with the status of Chinese women. Rather, the problem of women's rights is treated as a universal one (Song 1993:248–9). It is probable that to identify women's rights in China as a problem is to risk making the status of Chinese women a national characteristic, one that reflects poorly on the nation.

Debating women's rights in China

The major women's rights issues in China, as defined either by the Chinese or by outside parties, do not lend themselves obviously to nationalist posturing. There are certainly former 'comfort women' in China, but unlike the situation in Indonesia, the Philippines or Korea, the faces of these now elderly war victims

have not been shown in the international media. The Chinese government on the whole maintains a grip on public demonstrations of anti-Japanese feeling, using it strategically for particular ends of its own. The application of forcible methods of birth-control to Tibetan women is another potential case for overt nationalist tensions. Unlike the case of the Han majority, fertility control among the relatively small numbers of Tibetans carries the spectre of genocide, but it has proved difficult to document the extent to which Tibetan women are subject to such practices.

None the less, the discussion of women's rights in China, along with the inevitably related issue of children's rights, is skewed by tensions between China and western countries, and carries echoes of old conflicts between West and East over the status of women in Asian societies (Chatterjee 1990). In the late eighteenth and early nineteenth centuries, infanticide was a phenomenon popularly associated with India and China, despite the fact that—according to Benjamin Disraeli—it was 'practised as extensively and legally in England as it is on the banks of the Ganges' (Rose 1986:36).

Female infanticide in China received wide publicity in both China and the West during the 1980s, after the 1982 census. The Chinese authorities were alarmed to note a rise in the sex ratio of infants following the implementation of the one-child policy.[2] In 1983 *Renmin ribao (The People's Daily)* published a series of articles on the problem, detailing court cases connected with female infanticide, divorce proceedings related to the wife's failure to bear a son, and the law against infanticide. Li Chengrui, head of the Statistical Bureau, was at pains to emphasize that the overall sex ratio in China was within the bounds of normal, and only marginally higher than the ratios shown in the 1953 and 1964 censuses (*Renmin Ribao* 19 April 1983:4). But investigations by the Anhui Women's s Federation of the sex of newborns in rural districts of that rather poor province, published in *The People's Daily,* showed a disturbing excess of male over female infants.

The causes and the extent of the gender imbalance in the Chinese population have been debated. First, it has sometimes been supposed that the census data have been skewed by under-reporting of girls. Reporting on China for the *Human Rights in Developing Countries Yearbook* 1994, Mary Shi notes the 'international press releases' reporting female infanticide in the countryside but goes on: 'It is not clear, however, which sources these news agencies use and how large the regions are' (Shi 1994:191). Possible alternative explanations which she notes for high sex ratios include undeclared adoptions and under-registration. These explanations are premised on the supposition or hope that the girls are still alive, but the high sex ratio for the toddler cohort of the early Deng years has not adjusted itself over time. The missing girls have not reappeared in later statistics.

Second, it has been argued that while girls are indeed missing, so are women. In other words, not much new is happening. One longitudinal study of cohorts born between the late 1930s and the early 1990s shows that while early female mortality declined sharply after 1949, although not without interruptions, it

Table 4.1 Comparative table of infants by sex in Huaiyuan County, 1981

Administrative unit	Total births	Male	Male births %	Female	Female births %	Excess males %
Shuanggou Commune	133	83	62.4	50	37.6	24.8
Lanqiao Commune	104	66	63.5	38	36.5	27
Longkang Commune	231	145	62.8	86	37.2	25.6
Heliu Commune	285	164	57.5	121	42.5	15
Gangmiao Commune, Shaowang Brigade	9	7	77.8	2	22.2	55.6
Huayu Commune, Nantai Brigade	8	7	87.5	1	12.5	75
Chuji Commune, Xinkou Brigade	10	9	90	1	10	80

Source: *Renmin Ribao* 7 April 1983:4

remained excessive. In 1970, the government introduced a birth-control programme which had the effect of steadily reducing the fertility rate over the succeeding decade. Surveying the sex ratio for cohorts born in the following decade, the researchers found that 'the estimated proportion of females missing because of excess female mortality began to rise in the mid-1970s', i.e. before the implementation of the one-child policy, the latter exacerbating rather than causing the imbalance observable in the 1982 census (Coale and Bannister 1994: 473–5).

Third, a case has been put for a balance between the good effects and the ill effects of government-monitored family planning: in brief, a better standard of living is being achieved and a better quality of life assured for the greater number of female children. There is no doubting the preferential care still received by male children in rural China. According to 1994 statistics of infant deaths in rural areas, 60 per cent of deceased male children had been taken to hospital in the twenty-four hours before death, as opposed to 40 per cent of female children (Jiang Feng 1995:104). Nonetheless, census data for the Deng era show that, while greater numbers of girls were disappearing at birth in response to the rigorous birth-control policy, proportionally larger numbers of girl infants were now surviving childhood (see Guangxi Zhuangzu zizhiqu funü lianhehui 1993:54–9).

Finally, it has been suggested that the incidence of female infanticide, the apparent main cause of excess female mortality for all cohorts born before the 1990s, is now declining. It has been replaced by sex-selective abortion made possible by amniocentesis or ultrasound machines. By 1991 China was estimated to have the capacity to produce 10,000 ultrasound machines a year (Coale and Bannister 1994:476). Since there is no international agreement on the right to life of an unborn child, this new technology introduces a vexed issue into debates

over sex ratios. Abortion in China has hitherto been under fire from the West largely because of the coercive birth-control programme. This has provided a relatively receptive climate for inside stories on China's ghastly 'assembly-line' abortion 'clinics'. It is not hard to be gruesome about abortion and such stories typically provide grim details.

An article by a Chinese journalist in a prominent British daily, *The Independent* is illustrative. The journalist visited a rural hospital where abortions were taking place and saw behind the adjacent public toilet block 'a line of waste-bins: the aborted babies some as old as eight months were put there, then dumped somewhere else' (cited in Mosher 1983:xi). Given that the exposure of aborted foetuses to public view is likely only where resources for rapid disposal of the corpses are unavailable, the publication of this sort of detail seems gratuitous in a paper which would probably not give much space to right-to-life groups. Life and death are tidier in the United Kingdom than in China and the likelihood of an outsider gaining a glimpse of an aborted foetus is low. The sight of buckets full of foetuses merely brings home the reality of what abortion involves.

While the image of the foetuses gave weight to *The Independent's* story, the story itself centred on the mothers, many dragged from their homes in the middle of the night and forcibly subjected to a termination of the pregnancy. Any focus on the foetus, except for the viable foetus of eight months, is rendered problematic by the vexed politics of abortion policy and practice in the West. There, the commonplace use of the term 'foetus' rather than 'child' or 'infant' or 'baby' distinguishes the being *in utero,* with its limited rights, from the post-natal being.

The ambivalence over abortion as an aspect of women's rights is apparent in the 1995 Human Rights Watch Report on women's rights, which focuses on abortion in Poland and Ireland (Human Rights Watch Women's Rights Project 1995). To discuss abortion in these countries is of course to discuss it in the twin contexts of Catholic teaching on the right to life from conception and of either liberal or feminist assertions of women's rights to access to safe medical or surgical termination of a pregnancy. In both these countries Church teaching holds sway, with consequences such as the 'X' case in Ireland.

There is another side to abortion, which a focus by Human Rights Watch on either Japan or China would have revealed. In Japan, it has been suggested that gynaecologists have until recently conspired with the co-operation of the bureaucracy to prevent the introduction of oral contraceptives, the motive being to protect a multi-million dollar business in induced abortions. In China, the authorities would be happy enough for all women to take the pill but have recourse to coerced abortions because of resistance to fertility control. In terms of human rights, the case for women in China and Japan is the reverse of that in contemporary Poland and Ireland: abortions are all too readily available, their frequency a function of limitations to women's rights over their reproductive functions.

The ethical and rights dimensions of voluntary abortion in China have become a problem, albeit rarely discussed, in the wake of Chinese women's gaining access to the ultrasound technology which enables them to choose abortion on the basis of the sex of the foetus. It could be argued that sex-selective abortion is preferable to either compulsory late-term abortion or infanticide. From the perspective of the rights of either mother or child it seems ethically neutral whether she decides to have an abortion because she does not want to have a daughter, or because she simply does not want a child: the latter in practice, if not always in law, provides reasonable grounds for abortion in most western countries. Given access to the appropriate technology, the mother might ascertain the sex of the unborn child at an early stage and elect for abortion if it is a girl. Some subsequent pregnancy will probably yield the son whom the family wants and who will ensure the mother's status and well-being. The local authorities would be spared the problem of pursuing her for the termination of an unauthorized pregnancy, and the destruction of a late-term or newborn baby would be avoided.

The society as a whole, of course, is left with the problem of future marriage partners for the many boys, of whom perhaps 70 million are already destined to be bachelors in the early twenty-first century. Whose rights are to be considered here? Those of the mother wanting a son, those of the female foetus, or those of the society, for the sake of which half the present generation of child-bearing women are required to bear daughters? This is in a way a commonsensical problem. China and the West are united in deploring the practice of sex-selective abortion. But from either a human rights or women's rights point of view, the only available criteria for a way out of this theoretical impasse are provided by the United Nations Convention on the Elimination of Discrimination against Women. This convention decries discrimination against women in any form and gives the female foetus rights to protection on the grounds of its being female, rights which are denied to the foetus in general since its rights are normally subordinate to those of the mother.

The extent of sex-selective abortion in China is as yet unclear, and commentary on the practice is in consequence limited. In the West debates on the country's sex ratio and other contingent factors, however, are frequent and can be seen to be informed by a range of competing viewpoints: West versus China, Sinophiles versus Sinophobes, pragmatists versus idealists and feminists versus the patriarchy. The concomitant tensions result in some rather confused commentaries on women's rights in China. The seriousness of issues such as compulsory abortion and sterilization, systematic discrimination against women in educational institutions and the workplace, and above all female infanticide, invites a high degree of moral engagement. At the same time, an obvious target for natural feelings of moral outrage is not always apparent. The issues are internalized in western political, human rights and sinological circles to a point where they become a bone of contention in debates and arguments which

sometimes have more to do with the internal politics of these circles than with anything to do with Chinese society.

A recent article on female infanticide, written for a general readership, encapsulates the dynamics of such debates. The author, Diane Nisbet, begins with an outline of the historical and geographical scope of infanticide in China before turning to a consideration of the practice in contemporary times (1996). Her analysis is familiar: Chinese society supports a bias against girls rooted in rural reverence for the son who will support his parents in their old age, an attitude surviving modernization and urbanization to appear among the most highly educated members of the urban elite. As Nisbet herself states, the government has been concerned to halt the practice. The question is where to place the blame.

Three targets suggest themselves. One is Chinese society, which the author is anxious not to accuse directly. Another is the Chinese government, an easy target given cynicism about it in China and hostility to it abroad, but Nisbet's approach here is again circumspect. Avoiding old Cold War parlance about the nature of the communist state, she criticizes it rather on feminist grounds. The state in China, she writes, is 'by any practical criteria…a patriarchal hegemony'. This critique is moreover neutralized by her identifying a third agent in the process: the western world. Westerners have, 'to some extent, colluded to enforce these practices in China'. They have perceived that 'there are just too many Chinese', and perhaps because of their 'long-standing racist and anti-Asian attitudes, can act in complicity with Chinese authorities to deny human rights to the Chinese people'. Sinologist Stephen Fitzgerald, regularly held accountable in Australia for crimes committed by the Chinese government, once more carries a burden of guilt by association, this time by virtue of urging that Australia 'should work together with Asian societies to seek a new commonality of ethical consciousness' (Nisbet 1996:28–29).

The tensions apparent in this article, in which Australian issues threaten in parts to overwhelm the ostensible topic, were writ large in the controversy erupting over Steven Mosher's reports on draconian birth-control practices in Guangdong in the early 1980s, referred to at the beginning of this article. One of the first American anthropologists in more than thirty years to actually carry out fieldwork in China, Mosher was a doctoral candidate at Stanford University when he published his first article on this topic, in Taiwan. A more developed and highly contextualized account subsequently appeared in his first book, *Broken Earth* (Mosher 1983). By the time this appeared, Stanford University— apparently in response to warnings from China about consequences for the future of the USA-China scholarly exchange program—had terminated Mosher's candidature. This was the *cause célèbre* of the sinological world and perhaps of American academe as a whole in 1981 and 1982 (Rothwell 1984 *passim*).

Nicholas Rothwell's discussion of the Mosher case in *Quadrant,* Australia's leading conservative intellectual journal, demonstrates the potential for women's rights issues to be subordinated to other causes, in the process of which women's

rights themselves are often lost to view. Rothwell pays some attention to 'the central fact of Mosher's tale—the occurrence of large-scale female infanticide' (Rothwell 1984:88), but veers away to atrocities in Mao's China as exposed by Simon Leys before focussing on the question of intellectual freedom as posed by Stanford's reaction to Mosher's publications. Towards the end of the article he returns to the 'forced abortion program in China', but only in the context of what Mosher's exposition of its brutalities signified for academic freedom in the USA. And the article concludes with a call to academia to take a stand on communist regimes:

> The utopias of the twentieth century have been lived out. Their results are the Gulag of the Soviet Union, the murder prison of the Tuol Sleng in Kampuchea, the nameless dead of the Cultural Revolution. It is the duty of the academic student of politics to speak out, loud and clear, against these barbarities that have made our era the century of organised slaughter.
>
> (Rothwell 1984:92)

The missing women of China—amounting to around 50 million in the opinion of demographer Amartya Sen (1990)—and indeed the forced abortion programme itself, are noticeably absent from Rothwell's brief iconography of communist states. Is this an instance of human rights abuses taking precedence over women's rights?

Mosher himself thereafter became distracted by the politics of American sinology and China-watching. In *China Misperceived: American Illusions and Chinese Reality,* he launched a detailed attack on what he termed 'academic China-watchers' and 'professional China-watchers' in the USA. The nub of his argument was that journalists, academics and diplomats have, through a mixture of real ignorance of and wilful blindness to the truth about Chinese communism, connived at misrepresenting social circumstances within the country (Mosher 1990). By the time the book was published, as Jonathan Mirsky noted in reviewing the work, 'Mosher's once maverick opinions [had] become widespread among China scholars' (Mirsky 1991:19). Disillusion, antipathy and outright hostility characterize much western commentary on contemporary China. Mosher's analysis of the shifting apprehensions of China in the USA is in keeping with a new sinophobia, more recently given expression by two North American journalists, Thomas Bernstein and Richard Munro, in their book *The Coming Conflict With China,* an alarmist work which features similar attacks on China-watchers and the 'China lobby' along with expressions of concern for human rights (Bernstein and Munro 1997). In neither of these works do women's rights serve as a criterion for the critique either of the state in China or of American collaboration with the oppressions practised by that state.

In the 1990s there was nonetheless a more favourable environment in the West for the airing of Chinese women's rights issues. *The Dying Rooms* controversy of 1996, centring on a television documentary about orphanages in

China, showed the potential for women's rights in China to enter into international disputes. First shown on Britain's Channel Four in June, 1995, this documentary was reissued in January 1996 under the title *Return to the Dying Rooms,* just after the publication of a Human Rights Watch/Asia report, *Death by Default* (1996). The latter provided a detailed examination of policy and practice in Chinese orphanages, with a special focus on what has since become China's showcase orphanage, the Shanghai Children's Welfare Institute. The revised version incorporated material used in the report. From the British Government's point of view the timing of this second broadcast was unfortunate, since the newly appointed British Foreign Secretary Malcolm Rifkind was just about to make his first visit to Beijing in an atmosphere already tense because of the impending return of Hong Kong. Moreover, less than a month had passed since, on 28 December, Wei Jingsheng had been sentenced to another fourteen years gaol after a brief period on parole. There was an outcry from Human Rights organizations in the West.

The circumstances of institutionalized orphans in China as revealed both by the documentary and by the Human Rights Watch report have, until recently at least, been horrific. The documentary showed understaffed orphanages housing neglected children, some disabled from birth, others deprived if not of food then of any real human attention, the worst case on film being a sick baby girl left alone in a room to starve to death. In *Death by Default,* Human Rights Watch activist Robin Munro documented what *The Dying Rooms* depicted. He relied in part on information from the Shanghai Children's Welfare Institute provided by a former inmate and a former medical officer at the hospital; this included medical records of deaths in the Institute and photos of emaciated dying children or corpses. The most telling aspect of his report lay in published statistics from China, which show nationwide mortality rates among new admissions to Chinese orphanages in the early 1990s at above 50 per cent (Human Rights Watch/Asia 1996:77). In the Shanghai Children's Welfare Institute, the key case study due to materials made available by the Chinese informants, the ratio of deaths to new admissions was rising through the 1980s to a peak of 77.6 per cent for 1992 up to the month of October (Human Rights Watch/Asia 1996:128).

Extensive coverage of the issue in the western media spurred China into damage-control mode. Through the early months of 1996 Beijing's major foreign propaganda organ, *Beijing Review,* ran a series of articles on human rights in China, beginning with a special issue devoted to human rights in China published in January soon after the televising of *The Dying Rooms.* The *pièce de resistance* in this campaign was the publication of a paper from the Information Office of the State Council on 'The Situation of Children in China', a glowing account which came complete with an appendix devoted to refuting the charges of gross neglect contained in the television documentary and the Human Rights Watch/ Asia publication. Of the dying infant filmed in the documentary, the paper stated in part:

The child was seriously ill when admitted to the welfare home and the welfare home immediately gave the child medical treatment. Yang Jinying, the nurse who was responsible for looking after the 'nameless' child, said that after [British journalist Kate] Blewett and others entered the sick child's room, they told Yang to stay outside. Contrary to fact, the television program claimed that nurses hardly ever went into that room. It was winter and after Blewett and company entered the room, they removed the sick child's warm cotton-batting quilt and unbuttoned the latter's clothes. Yang tried to stop them. She said it was cold and the child was sick. But Blewett said it did not matter. Wearing a fur coat, Blewett had the sick child stripped to the waist and shot for 15 to 20 minutes. After they finished shooting, they left the child undressed and didn't even cover the latter with quilt. The sick child later died despite medical treatment.

(Information Office of the State Council of the People's Republic of China 1996:28)

This unlikely account of events must serve to confirm rather than otherwise the veracity of the televised version. The official response also sidestepped the question of the sex of the orphans. As it happens, the Human Rights Watch/Asia report does not focus on gender issues, partly because the records of the Shanghai orphanage, on which it largely concentrates, do not show a gender imbalance. But this is at variance with the situation elsewhere in China. Statistics compiled by Canadian Peter Costello of deaths in a Harbin orphanage show that most were either female or handicapped, if not both (Becker 1995). In the Shanghai orphanage, the children were overwhelmingly in the 'disabled' category, regardless of sex. Munro's speculation is that the 'disablement' was frequently concocted: an infant might be recorded for bureaucratic reasons as suffering mental impairment, especially as failure to thrive became evident. It is possible that most of the boys in the orphanage did suffer from a disability, but that the girls, who as a group should have a naturally lower rate of disablement, included some actually disabled and others merely labelled as such.

Return to the Dying Rooms, by contrast, linked the issue of orphans explicitly to the problem of women's status in Chinese society. This was a major focus also of the panel discussion broadcast after the televising of the documentary. The studio was dramatically lit for this occasion, with two enormous Chinese characters *nü ying* (female orphans) serving as the backdrop. The panel featured tensions between the participants on the problem of sex discrimination in China and its relationship to the one-child policy. Jonathan Mirsky, East Asian editor for *The Times* and a resident of Hong Kong, Philip Baker, British political scientist and human rights activist, and Brian Woods, producer of *The Dying Rooms,* were relatively uncompromising in their critique of a China which had produced the unedifying spectacle provided in the television documentary and the Human Rights Watch/Asia report.

On the other side, Stirling Scruggs, Director of Information and External Relations of the United Nations Fund for Population Activities was forced to defend his organization's involvement in population control activities in China; Professor Elisabeth Croll, one of the most widely published writers on issues of women and gender in China, was concerned to note the efforts being made within China to overcome the social problems attendant on the one-child policy and established attitudes towards women; while Lulu Langtree, a medical practitioner who trained in Beijing, was frankly critical of the portrait of Chinese society painted by *The Dying Rooms.*

Dr Langtree, the sole Chinese representative on the panel, provided an excellent demonstration of likely Chinese responses to the documentary. In brief, despite her undoubted familiarity with western society, she felt affronted by the documentary, viewing its purpose as being 'to show China in a not very good light'. Children in western orphanages, she noted, also suffered from abuse; 'corruption happens everywhere'. If it is true that women in China are kidnapped for marriage (as noted by Brian Woods), is it not also true that 'women in western countries are raped?' She herself, she pointed out, was one of two girls, 'and I am here'. Pressed by Sheena McDonald, she would not come anywhere close to saying that women in China suffer discrimination. Unlikely as she probably is to identify with the chauvinistic authors of *China Can Say No,* her position on the orphanage story was very similar to theirs. The latter were delighted to find letters in *The New York Times* from Americans who objected to aspects of the newspaper reportage on the orphanages scandal. Three of these were translated and printed in full in a chapter entitled "The Orphanages Incident"— Americans Themselves Say No' (Song *et al.* 1996:172–6).

In all three instances—Nisbet's article, the Mosher case and *The Dying Rooms* controversy—the difficulties attendant on a dispassionate analysis of women's rights in contemporary China are apparent. The Chinese government is on the whole held in such odium in the West that debate on a wide range of issues is overdetermined. *The Dying Rooms* controversy, as with virtually all human rights cases concerning China, developed in a very pointed way, the situation in China being analyzed by western commentators narrowly in the context of Chinese circumstances. This was not in itself inappropriate, because the problem was manifest in state institutions that were being adequately funded. There is a clear burden of duty on the Chinese government to combat the corruption evident in the misuse of funds and the falsification of medical records, such as documented in *Death by Default.* In fact by 1996 the situation in the Shanghai orphanage at least had come to the attention of the authorities in both Shanghai and Beijing and when foreign journalists visited it in January, 1996, all was in good order.

But with respect to the underlying causes of the problem, comparable situations elsewhere show that the circumstances which place so many children at risk of death are not peculiar to China. Sattareh Farman Farmaian, who established the first school of social work in Iran, has described conditions in an

orphanage outside Tehran in terms which can only call to mind *The Dying Rooms:*

> Here, about three hundred abandoned children, from newborns to twelve-year-old girls, were put out of sight and mind, entrusted to illiterate, often brutal men and women…. In one of the dormitories… [there were] dozens of silent, emaciated babies and tiny children sprawling on the floor…so stunted from malnutrition and neglect that instead of walking they could only crawl…toddlers sat and rocked back and forth, staring into space like miniature old people with huge eyes sunk deep in bony little faces, heads gigantic above the skeletal frames and grotesquely protruding bellies of famished children.
>
> (Farmaian 1992:298, 306)

This is only marginally better than the description provided by *Der Spiegel* reporter Juergen Kremb of an orphanage in Harbin which he visited in 1995:

> In a grim room as big as a dance hall, deformed and starving babies and small children lie in beds, really metal cages. Some lie in their own urine, naked or in filthy jackets. Thirty infants and small children with 20 mostly mongoloid women are here locked away from the outside world without any kind of care, sanitation, toys or the slightest sign of attention. Even in summer the room is cold as a grave.
>
> (Becker 1995)

It further appears that in both places most of the victims of this gross neglect were female. Farmaian does not detail the gender balance in the Iranian orphanage, but her mention of 'twelve-year-old girls' indicates that boys were a less obvious presence. Although Farmaian's account relates to an earlier period, it is consistent with the fact that nearly four decades later Iran and China have comparable sex ratios (Sen 1990).

In the Channel Four panel discussion following the broadcast of *Return to the Dying Rooms,* both the host, Sheena McDonald, and panellist Jonathan Mirsky questioned whether comparisons with other countries were relevant or fruitful. This was in response to Lulu Langtree's raising the problem of women's rights abuses in western countries. But comparable sex ratios in a large number of populous, predominantly agrarian societies suggest that comparative studies of the problem of women's rights are essential to understanding the problem. India, the country closest in scale to China in population and featuring a similar sex ratio, begs attention.

A comparison of the intermittent coverage of the position of women in South Asia and that provided for the Chinese case is illuminating. None of the countries of the subcontinent receives the attention accorded to human or women's rights in China. In 1996 *The New York Times* ran fifty-seven articles about

human rights in China, three on Pakistan and one on India. Judging by sex ratios in both China and India, suicides in China and dowry deaths in India, involuntary marriages, and pressures on women from their families to bear sons and from the government to curtail their fertility, the two countries are comparable in the scale of women's rights abuses. India is a democracy with rule of law and freedom of the press. Human rights as legally-sanctioned civil rights are not at issue there in the same way as they are in China, and it is to be expected that abuses of human rights in India should receive correspondingly little attention. But Indian women's rights also receive less attention in the American press than Chinese women's rights, particularly where these involve reproduction: the focus, in fact, of the vast majority of media reports on women in China. Kalpana Ram drily observes elsewhere in this volume that 'India is rarely discussed in representations of "Asian democracy", demonstrating …that it is criteria of market-driven growth—not the professed criteria of liberal democracy—that primarily render an Asian society of significance to the West' (Ram Chapter 3). But it is also true that democracy in India renders women's rights a social rather than a political problem in the eyes of the West.

One of the justifications for greater attention to women's issues in China is the linkage between the one-child policy on the one hand and coercive birth control and female infanticide on the other. In China a range of laws and regulations is designed to combat these social evils, such as the Law for the Protection of Women's Rights and Interests adopted in April, 1992 (Tian *et al.* 1997:446–53). These measures tend to be regarded dimly by analysts. In a wide-ranging survey of women's rights in China, Ann D.Jordan identifies a number of shortcomings in legal protection afforded to women, viewing the rectification of laws as a partial key to the improvement of women's situation (Jordan 1994:47–104). In India, too, there exists a range of laws designed to protect women, but their efficacy is defeated by under-reporting, backlogs of cases and the complicity of police in abuse of women.

If India is comparable to China in size, South Korea is close to it historically and culturally. Here, despite the absence of a coercive one-child policy, fertility rates have fallen dramatically from around 6.0 in the late 1950s to 1.5 in the 1990s. This has been accompanied by an upward trend in the overall sex ratio at birth comparable to that found in China. Demographers Coale and Bannister comment directly on this with reference to the terms in which the sex ratio in China is commonly understood:

> Can we assume that only communism, compulsory family planning, or the one-child policy can cause a sharp rise in the masculinity of young cohorts, of the type that occurred in China in the 1980s and early 1990s? The answer appears to be 'no' because a very similar increasing dearth of young girls is observed in data from the Republic of Korea from 1983 to 1988.
>
> (Bannister and Coale 1994:476)

Human rights in South Korea, it should be noted, have received international attention largely in the context of student demonstrations. Sex ratios in South Korea, by contrast, have never been a matter for international press coverage.

Conclusion

In the attention given to both human rights and women's rights in China, one senses, to return to Shafarevich, that 'the reason for hostility lies deeper'. *The Times* in London inadvertently pointed to precisely this reason in a cartoon published on 10 January 1996, alongside an article by Jonathan Mirsky about the Chinese orphanage scandal. On television the preceding night Mirsky had commented that the Chinese authorities would use Hong Kong as the whipping boy to vent to their anger over the expose. It was Hong Kong democracy rather than women and children on which the cartoon commented: over the caption 'The Dying Room' an emaciated figure lies in a single bed under a light bulb, in a dilapidated room. On the coverlet is written 'Hong Kong Democracy' (*The Times* 10 January 1996:16). 'An impression is created', to quote Shafarevich yet again, 'that the concept of "human rights" does not have any self-evident content' or alternatively that some human rights are more human than others (Shafarevich 1989:148–9).

To the extent that women's rights are debated both in China and the West, discussion invariably turns to the cultural and economic basis of discrimination against women in Chinese society. Why boys should be preferred to girls in China is explained in different ways but is finally no great mystery. In a society featuring a strong adherence to patrilineage and in which aged parents continue to be reliant primarily on their sons for financial support, the birth of a son fulfils both ritual and economic aspirations. Society rewards boys for being born and for growing up. Congratulated, admired, providing satisfaction to their fathers, doted on by their mothers, promoted not only over less talented male peers but also over more able female peers, why should they not think highly of themselves in particular and of being male in general? The tendency of Chinese women to differentiate sharply between male and female, and for some to regard men as more intelligent and more able than themselves, is quite comprehensible. It is a short step to preferring a male child to a female one, or perhaps no step at all. What parent does not want the best possible offspring? The concentration of girls and disabled boys in Chinese orphanages makes more than a metaphorical point: girls are seen to be born disabled, in the quite fundamental sense of lacking a part of the body.

In all of this, Chinese society differs only in degree from some societies and not at all from other societies. The nature of government in China is clearly not the only factor inhibiting achievement of such rights. As defensive and disingenuous as the Chinese authorities usually are in their responses to human rights charges from abroad, they have a point when they note the difficulties posed by poverty for the achievement of human rights in respect of women,

particularly those in rural society. Poverty does not cause gender discrimination: sex ratios are low in sub-Saharan Africa. But there is a strong correlation between poverty and high sex ratios in China. While educated urban women as well as illiterate peasant women in China can be heard expressing a preference for a son, there is a difference between wanting a son and aborting a daughter. Sex ratios in Chinese cities are much closer to the international norm than are ratios in rural areas.

For their part, human rights lobbies outside of China, together with foreign governments which make a point of raising human rights issues, can boast some success in a strategy of targeting the Chinese government as the party with a clear responsibility for—and some powers to mitigate— serious and widespread abuses of human rights in China. In July 1997, China sent a delegation to Amnesty headquarters in Norway, with the aim of initiating dialogue with the foremost international human rights organization, and was simultaneously showing signs that it was considering ratifying the United Nations covenants on human rights (*Economist* 30 August 1997:17).

It seems doubtful whether attention to formal political rights will quickly facilitate an advance in women's rights. Inside China, the problems posed by the present political and economic circumstances of the country have pushed the question of women's rights to second place in the minds even of key women activists, intellectuals and writers. Chai Ling is not alone in this respect. As an international issue, women's rights in China seem fated to be regarded as a domestic matter, their achievement premised on the achievement of the human rights of their brothers, fathers and husbands to exercise free speech, subscribe to a free press and freely elect their governments.

One obvious meeting point of universal human rights and gender-specific women's rights in the Chinese context is to be found in census statistics that reveal high sex ratios and hence untowardly high female mortality rates. Since these statistics increasingly concern the fate of the female human foetus, the theoretical clarification of this meeting point is likely to be some time coming. In the meantime, if prestigious educational institutions in China, including Beijing University, stopped admitting male students with scores lower than their female competitors, more Chinese women might think that raising a girl was worth the trouble. Here indeed the Chinese government could intervene, without risk to its population goals.

Notes

1 I am grateful to Robert Horvath, doctoral candidate in the Department of History, University of Melbourne, for this reference and translation.

2 The sex ratio is usually calculated by taking the number of males in a population and dividing it by the number of females in the same population. A high sex ratio thus refers to a situation where males outnumber females, and a rise in the sex ratio means an increase in the proportion of males.

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5
The human rights of gendered citizens
Notes from Indonesia

Krishna Sen

> I recognize that I have one right alone: that of demanding human
> behaviour from the other. One duty alone: that of not renouncing my
> freedom through my choices.
>
> (Fanon 1986:229)

As with any account grounded in humanism, the 'woman question' unsettles the
paradigms of human rights discourses in Indonesia (as discussed below) and
elsewhere in the world. This chapter is written in the shadow of the gang rapes of
Indonesian women of Chinese ethnicity on the streets of Jakarta in May 1998.
Photographs, claims and counter-claims about these attacks against women
flooded the internet almost immediately. More than two years later, after a report
by the United Nations Special Rapporteur on Violence against Women and its very
sophisticated rebuttal by the Indonesian government, the scale of the violation
and the identity and purpose of the perpetrators remain shrouded. While clearly
there were many witnesses to the rapes, and the rapists or their supporters
continue to threaten the victims and the advocacy groups who work for them, there
appears to be no possibility of bringing anyone to justice or even identifying the
perpetrators. This is not only because of the prevarications of state institutions:
the body-count on rapes is always notoriously difficult. It is especially difficult in
a nation where, as the Special Rapporteur pointed out, three decades of
corruption have eroded all faith in the criminal justice system, in which the
testimony of the rape victim alone 'is not sufficient to prove that a defendant is
guilty of the act of which he is charged' (Coomaraswamy 1999). For the human
rights advocate the issue is clear: the evidence of violations must be collected
and documented. For the feminist this conviction is complicated by questions
about who does the work of reporting the violation; who represents the accounts
of the victims; who has the right to talk about whom; and how? Such questions
about representation have been at the heart of feminist writing of all shades for at
least two decades. I do not propose an answer here but rather will try to rethink
the questions within a discourse of women's human rights in Indonesia.

The insertion of 'women' as a group into human rights discourse also requires a
reconsideration of another common fracture in this discourse: that between

individual and collective rights. In a speech on human rights, former President Suharto commented: 'Every individual person's rights are acknowledged and respected, but none the less one is not entirely separated from all others. Every individual is an inseparable part of the whole society' (Suharto's speech cited in Zainuddin 1994:437).[1] Most academic writing on the subject now acknowledges the 'indivisibility' of human rights. That is, it recognizes the ways in which categories of rights—political, civil, cultural and economic—are each predicated on the others.[2] None the less, differences in categories of human rights continue to be debated in international political forums.[3] The most common line of demarcation is between so-called 'Asian' or eastern, and 'western' priorities in the global discourse about rights. Asian political leaders, with Indonesia's former President Suharto often leading the charge, have repeatedly argued that the 'western' definition of a rights regime steeped in modernist-capitalist ideology valorizes the individual as the principal and primary repository of rights. The ideological position of 'western capitalist democracies' is contrasted with 'Asian values', which allegedly give precedence to the collective rights of communities over personal rights of individuals. This distinction has often been used to legitimate gross human rights transgressions by the state. I will suggest, however, that when we look at women's human rights, it is impossible to sustain such a distinction, in part because there are no easy ways of defining what 'community' particular women belong to and therefore whose collective rights must be ensured to safeguard the rights of individual women. Increasingly, feminist and human rights lobbies within Indonesia are recognizing the important connections between the legal and political definitions of women as a category of citizens and the transgressions against the rights of individual women. Thus, making claims for the human rights of women in Indonesia is not a matter of protecting individuals, but is central to the feminist task of reordering the politics of being woman in New-Order and post-New-Order Indonesia.

This chapter, then, is not *about* violations of human rights which women in Indonesia confronted in Suharto's New Order.[4] It is about the politics of researching and writing those stories. In the last year or so there has been a renewed interest in the long-suppressed stories of violence and violations which marked the birth of the New Order and many aspects of its thirty-eight year history both within Indonesia and abroad.[5] In that context it becomes urgent to rethink questions about the rights and responsibilities of those who might recover these long-suppressed violations and for what purpose.

Writing human rights as women's rights

In 1995 I went to Indonesia for three weeks as a researcher for Amnesty International, with the aim of producing the first-ever report on contraventions of women's 'human' rights in the country. When our two-woman Amnesty International research team arrived in Jakarta in April 1995, our initial points of contact were largely (although not exclusively) men. Some of these men were

key figures in the Indonesian human rights lobby, while others had long histories as victims of systematic abuse by the Indonesian state. They were largely dismissive of our exclusive focus on women. As one prominent human rights lawyer claimed: 'There are no gender issues in human rights; these are universal'.[6]

Indeed, 'universality' is paradigmatic in every text that has significantly determined our understanding of human rights in the last fifty years.[7] Mulya Lubis, one of Indonesia's most prominent lawyers, has produced the first systematic study of the law and practice of human rights in Indonesia (1993). Searching for nationally-specific notions of human rights, he nominates the turn-of-century letters of Kartini, a Javanese aristocratic woman, as one of the foremost sources of such ideas.[8] Kartini's advocacy for women's right to education, on the grounds that girls should be treated no differently from boys, can be accommodated easily into a universal rights model. But Lubis makes no further mention in his study of either women as a particular social category or of any of the Indonesian women's organizations engaged in the definition and defence of women's rights.

As noted in Chapter 1, the global feminist concern with women's particular human rights is relatively recent. An Amnesty International listing of 'modern' (1919–86) human rights documents lists only one that is specific to women: the United Nations instrument, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) established in 1979 (Steady 1995: 14). The United States-based Human Rights Watch Committee set up its first 'women's rights' project in 1990 and its first comprehensive global report addressing women's human rights was published in 1995 (Human Rights Watch Women's Rights Project 1995).[9] Both these attempts to make woman-focused interventions, and the recent spate of academic interest in gendered analyses of universal rights, reveal the enormous conceptual difficulties in writing women into human rights and human rights into feminist paradigms (Tomasevski 1993; Cook 1994). As Margaret Jolly demonstrates in Chapter 6, many attempts to critically redress the masculine focus of human rights laws and instruments end up simultaneously claiming both a specificity for women's oppression and the universal application of protective legal measures.

The international legal framework of human rights is typically directed at protecting civil and political rights within a public life. Hilary Charlesworth points out that the so-called 'first generation' of rights which 'covers civil and political rights [is] still regarded by many western commentators as the paradigm against which all newer claims of rights must be measured' (Charlesworth 1994: 58). She goes on to argue that the 'existing women's international human rights law' is characterized by the assumption that 'the disadvantage suffered by women can be compartmentalized and redressed by a simple requirement of equal treatment' (ibid.: 63–4). Not surprisingly, given the political and intellectual location of human rights in the so-called public sphere, most reports on human rights are litanies of government abuse, primarily that directed against

men. Few women feature. This is not of course because fewer women suffer human rights transgressions against their persons, but because these transgressions are more difficult to capture in a 'universal rights' framework (Stivens Chapter 1).

While researching for the Amnesty International report we were constantly told stories of abuse that would not be included in the final document: stories of maids brutally beaten by their masters and mistresses, of factory foremen raping women workers, of marital rapes and of forced prostitution. In every case we looked for an angle that would show the hand of the state, of some act of government omission or commission to fit these stories into Amnesty's definition of rights. In most cases, although clearly there was a lack of protective state mechanisms, these acts by private agents or groups did not fit within the fundamentally androcentric paradigm of universal human rights (Amnesty International 1995).

There is, however, a more specific problem that confronts the process of writing on the subject: human rights reports are ethnographies of violations. I choose the analogy with ethnography rather deliberately. We get very few first-hand accounts of human rights violations. The reports of international peak bodies such as Amnesty International or Human Rights Watch are inevitably written by a 'professional', usually not a national of the country concerned. The reports depend on the availability of 'eyewitness' accounts and first-hand statements from victims. But these are mediated, turned into statistics and into provable, verifiable data, and given credibility through the authority of the academic, the lawyer or the institution. Like much ethnography, human rights reports are about the 'other', the victim whose experience I can report only *because* I do not share it.[10]

This is not a problem in the cases of high-profile victim-heroes like Anwar Ibrahim or Aung San Suu Kyi, who in many other ways belong within national and international élites. The problem arises the further we move from public-political victims and into the lives of ordinary women whose 'normal', everyday experiences include the constant threat of abuse: women caught up in civil war in Bosnia; female petty criminals threatened by police brutality; women in India who walk miles for drinking water; and women in Indonesia labelled as whores for participating in collective political action (I return to this particular story in the next section). The claim to human rights may be, and indeed must be, universal, but the experience of its violation is highly singular.

Experiences of violation

How then should I/we talk about women's collective and singular experiences of brutality within a universal discourse of human rights? How does one talk about the horrors of physical abuse, rape and mutilation that happened to someone else? How does one ever transcend the politics of knowledge-power, in which I am the observer and the writing subject, and the abused other woman is the

object, her experience translated into respectable, theoretical discourse? How does a woman living amongst a privileged, white, middle-class intelligentsia learn/talk about an Indonesian 'housewife' raped in an Indonesian prison?

The military coup and counter-coup of 1 October 1965 brought General Suharto to power and unleashed on Indonesia one of the most brutal massacres of unarmed civilians in the twentieth century. Over the next year, at least half a million Indonesians were killed, either directly by the military, which had just seized government, or by young men (mostly Muslim, but also from other religious groups), encouraged by the military. Many more were incarcerated over the next four years and thousands remained in prison until the late 1970s. The last of the so-called Communist women were released in 1986, but a dozen or so old men remain in prison on death row to this day, even after the departure of Suharto. This general account of Major General Suharto's rise to power is well-known and starts almost every report on this nation's human rights record.[11]

The stories of women's experiences of that period are surfacing only now and rather more slowly, still contained principally in unpublished conference papers and typewritten memoirs circulated underground. The issue was raised publicly in Indonesia for the first time in December 1998, six months after the fall of Suharto, when Sulami, the General Secretary of Gerwani, spoke to a large gathering of women activists at the Women's Congress in Yogyakarta (Sen 1999).[12]

It seems almost churlish to even attempt a gendered account of the killing fields of Indonesia in 1965–6. If we did, statistics would probably reveal that a smaller number of women than men were imprisoned and killed. Only four women had been among the category A prisoners who were actually tried and convicted. As a relatively well-known, male, former political prisoner pointed out early in our Amnesty research trip: 'Most of the women were just mostly housewives. Of course they had financial difficulties. But you know the families in Indonesia always help'. Conceptually, domesticity saved the idealized 'woman' from the brutalized public space of civil war and thus kept her out of the accounts of rights violations.

Measured in scales of violation—how many, how much, how long—the way we often see violations recorded, men may indeed outnumber women in the victim count of 1965. But the mythography of women in the deadly birth-rites of the New Order affected every Indonesian woman, as it transformed what it meant to be a political woman, a woman in the public sphere and a female Indonesian citizen.

The Gerwani experience

Historians of communism in Indonesia (including women) had paid scant attention to *Gerwani,* until recently the women's mass organization of the Indonesian Communist Party (*Partai Kommunis Indonesia,* PKI). Wieringa's detailed account of the organization redresses that gap to some extent and suggests

clearly that to paint it as a women's ancillary of the PKI is incorrect.[13] In any case, contemporary Indonesian feminism, since its birth in the mid-1980s, has attempted to recover *Gerwani* as an exemplary autonomous women's organization. This is not the place to tell the story of *Gerwani,* but its centrality in any womanist politics in Indonesia needs to be underlined: the place of the organization in the foundation myth of the New Order effectively demonized the political role of women (Wieringa 1995; 1996).

No images of the civil war of 1965–6 are quite so horrible as the stories of young *Gerwani* women allegedly mutilating the corpses of six murdered generals at Halim airport in the early hours of 1 October 1965. Wieringa has tracked the creation of depictions of *Gerwani's* sexually depraved, demonic orgy of death and sex from newspaper reports which started appearing a week or so after the murders and became increasingly gruesome in their description. Very quickly *'Gerwani cabul'* (*Gerwani* whores) became one of the main anti-communist slogans. Stories developed of the deadly attractions of *Gerwani* women, who seduced good Muslim men and killed them. The veracity of these accounts is not the issue here, although there is now evidence that there was no truth in them (Anderson 1987). The important point is the way in which the fabricated accounts of the activities of a few hundred young women, who happened to be in a training camp near Halim, became the dominant image of the largest Indonesian women's organization (three million according to its own figures). *Gerwani* was held up as a threat to all other Indonesian women.

Media reports about *Gerwani* were constantly addressed to the 'good', religious, maternal woman: 'let us leave it to the women to judge the womanly morality of *Gerwani,* whose [im]morality is worse than animals' or 'who would have thought that those exercises at Lobang Buaya (literally 'crocodile hole', the place where the generals were murdered) would produce crocodiles…? Our girls today have to be taught to become revolutionaries who are able, brave, refined and humble and always have to guard their specific womanly culture' (cited in Wieringa 1995:310). Major General Suharto himself warned a large gathering of women not to 'behave like *Gerwani* members who "had left behind our special identity, for they had damaged the identity of Indonesian women"' (Wieringa 1995:213). The simultaneously politicized and sexualized *Gerwani* woman—and by extension all political-sexual women —were non-woman. *'Gerwani cabul'* remained the longest surviving slogan of the anti-communist massacre of 1965–6. Women demonstrators, even in the late 1980s, report young soldiers calling out 'Gerwani' *Gerwani* and *'cabul'*.

The sexualized image of *Gerwani* resulted in sexual attacks on women. There are many individual accounts of brutal sexual assault from that period, and undoubtedly many more will be told, as the fear of reprisal recedes in the post-Suharto era. Many women whose lives were brutalized by the *Gerwani* myth were not political women at all, but indeed, like 'most women [they] were just housewives'. The myth of *Gerwani* whores did not simply symbolically exclude

women from the universal rights of citizenhood—it also authorized torture and rape by agents of the state.

The extent of the abuse can only be deduced from the particularities of the individual accounts. But to tell, and thus appropriate, such singular experiences of 'other' women ('other' by class, age, nation and the very experiences I am about to appropriate for my purposes), immediately throws up a host of questions about who may write and how it can be done. I shall return to these questions, which I raised at the beginning of this section, after telling such an 'other' woman's story.

One woman's story

On the 1995 research trip for Amnesty, a prisoners' support group organized a meeting for us with a small group of *ex-tapol* (*tahanan politik,* political prisoners) women. Most of them had belonged to *Gerwani* or to one of the PKI youth organizations. Some had continued to organize resistance even after the military counter-coup of 1 October which brought Suharto to power. They had all survived prison and some degree of torture, with nothing less than inspiring courage. What stood out about the story of *Ibu* 'S' (a fictitious name) was not just the extremes of abuse which she had suffered, but that her experience seemed to have been so deeply gendered: the totality of an experience which could only happen to a woman. My co-researcher and I agreed that most of the painful details of the story could not be incorporated into the formal Amnesty report and that I would write about it in some other form. Eventually I wrote it as a 'fiction', both because I wanted to protect the identities of everyone, including myself, and because I could not find another genre in which I could convey the enormity of this woman's experiences. What follows is an edited section of that fiction.

> My husband had not come home since that night [30 September 1965]…he was PKI. But I was just a housewife. Never belonged to any organisation. I used to be a school teacher [in her native Java], but after we moved [to West Sumatra)] my husband was so busy with party work that he didn't want me to have a job any more.
>
> (Sailendri 1995:10–11)

After her husband's disappearance, S and her two adopted daughters survived in hiding for nearly a year. Then all three were captured:

> They said they were holding us hostage to get my husband to surrender…. I was beaten a lot. And then one day they beat my little girl…smashed her face on the table. Her mouth was twisted, her teeth were sticking out. I would have told them anything I knew, but I didn't know anything.
>
> (Sailendri 1995:10–11)

Her husband was arrested a year later, but S and the children were not released:

> The women [prisoners] were not allowed underwear. They could strip us naked any time. They said Gerwani women had GERWANI written… [between their legs]…
>
> They started to let the churches come in after a couple of years. And my daughter who was ten years old was allowed to go to school. One of the guards used to take her to and from school. One day—maybe the guard wasn't looking—she ran off to a friend's place…. But they said I had sent her to make contact with our comrades.
>
> They beat me for hours to find out where she had gone. I didn't know. I was afraid that she had been kidnapped or even killed…. In the end they put me in the dark room underneath the toilet for the Chinese prisoners…. Completely dark… No windows and no lamps. My arms were shackled to the bars inside the door.
>
> I think I found out later [that I was there] about a month. I couldn't separate one day from another. It was always so dark. It was there that I was raped, with my hands and legs chained. I don't know [by] whom. I don't know [by] how many…[for] how long. I got pregnant. I had a son. He died a few days [after birth].
>
> (Sailendri 1995:10–11)

Understanding violations

When the above account was first published in the magazine *Inside Indonesia,* a letter from a European woman questioned my purpose in publicizing the kind of events about which many foreign researchers knew, but did not write. The author of that letter had assumed, I think, that I was a white woman, reproducing the white feminist critique of women's condition in another society. In effect, she was correct in placing me as a white feminist. My ethnic identity (I am Indian, my first language is Bengali) does not by any means obliterate the ethical implications of the colour of the language in which I write, or the privilege of the institutions from which I speak. I want to suggest, however, that the feminist identity politics of colour is less than helpful in laying bare the violations against women that lie hidden in the pores of national histories. Indeed, that identity politics, which was once so useful in unsettling confident liberal feminist prescriptions for all societies, no longer appears to push feminism towards new questions or alliances.

The differences within feminism tend often to be written out in georacial terms: white-West versus coloured-Rest. Within this paradigm, the rendition of 'other' women's stories into western feminist discourses generates two related charges: first, that the white feminist has no capacity and no right to speak about the experiences of women of colour; second, that the process of white women speaking about 'others' simply reproduces the historical inequalities of power

rooted in colonialism and reconstituted in neo-colonial global capitalist relations. Through the representation of 'blacks' in the words of white women, the white woman becomes the anthropologist, and the black women remain nameless informants; the white woman becomes the author, the brown woman the research topic; the white woman is the subject of feminist discourse and women of colour, the objects of her inquiry, the targets of her reform.

The argument about colonial power relations carries enormous weight. Edward Said's classic work on Orientalism showed the ways in which the abjectness of the female was often held up as signifying the backwardness of the colonized cultures (Said 1978). Gayatri Spivak, looking at the banning of Hindu widow-burning by colonial British law, argues that the empire was legitimized by the need for 'white' men to save 'brown' women from 'brown' men (Spivak 1988). Clearly too, early white women scholars were frequently vehemently critical of the condition of women in the colonized world.[14]

The post-colonial register within feminism has allowed national and ethnic identities to take on enormous importance. My point here is not that any of the foregoing critique is analytically or historically incorrect. But, ironically, as Chapter 1 also suggests, some of the most sophisticated and radical of feminist theorizing seems to speak on issues such as human rights with the same voice as authoritarian Asian leaders. Perhaps it is even a somewhat convenient alliance, in which both seek to escape problematic outside scrutiny. Elite, upper-class women intellectuals of Asian origin, by virtue of their ethnic origins acquire a certain right to represent the 'tribal', the peasant or the destitute urban woman. They often live in the West as highly privileged diasporic intellectuals, with their speaking positions displaying considerable mastery of western feminist discourse supported by western institutional support (research grants, places on international committees, conference invitations and so on). The ethnic demarcation within feminism is convenient for the 'white' feminist too, as she is now absolved of the responsibility to learn about, talk to, or take into account in her theorizing, the different, difficult, painful experiences of 'other' women. It is now politically correct for the white feminist to have those 'other' women's experiences mediated by diasporic 'ethnic' feminists, translated into theory by the Spivaks and Trinh T.Minh-Has, or into statistics on poverty or human rights violations, with all experiential singularities of the violated 'other' woman wiped out.

It seems to me that the power relation between the researcher and the researched becomes clearer if we turn to a slightly different taxonomy of feminism: first and third world. I am not 'white'. But the power relations involved in my writing about the brutalized woman in an Indonesian prison are no different from those affecting a white woman with a political conscience and a comfortable academic job. I speak the dominant language of the first world, that is, formal English. I work within a first-world institution and live in Australia. But in terms of shared experience I belonged to the first world even before I came to live and work in Australia. Growing up in an upper-middle-

class family in Calcutta, I read the same books and listened to the same music as many of my contemporaries in the first world. I shared perhaps fewer of the words and images of the 'maid' who came in to clean our house and wash our clothes each day. If we understand first and third worlds in terms of experiences of consumption and production, rather than in terms of geopolitical locations, we can begin to understand the problem of trying to match up the ethnic speakers with the 'correct' ethnic 'subaltern who cannot speak' within a respectable feminist discourse.[15]

Does my location in the first world give me the right to write about women in the third world? Clearly not. Should my difference from her allow me to be complicit in the exclusion of her experiences from the discourses of institutions in which I work? Probably not. Before we, as feminists, proceed any further in our thinking about whether or not one woman can write about another, we need to consider what, in each particular instance, is the consequence of not speaking/ writing.

The Indonesian context suggests that there is an urgent need not simply to record the individual human rights violations experienced by women, as many human rights reports do, but to understand how our definition as women in particular contexts makes us vulnerable.

The 1996 annual report by *Lembaga Bantuan Hukum* (Institute of Legal Aid, LBH), the peak legal aid body, makes explicit the connection between the myth of *Gerwani* and human rights transgressions against women in the New Order:

> Above all, the women's movement itself faces serious problems. The stigma which links women's movements with Gerwani (Gerakan Wanita Indonesia, the Indonesian Women's Movement)… frequently marks all women's movements. Historically, Gerwani has indeed been marked by a political stigma which is far heavier than that borne by the more masculine affiliates of the Indonesian Communist Party (PKI).
>
> (Made Tony Supriatma 1997:232)

The report argues also that in the Indonesian context international conventions give scant protection to Indonesian women, because 'international conventions about civil and political rights really only give protection for individual rights. Whereas in the Indonesian case, most instances of violations of civil and political rights are of a collective nature' (Made Tony Supriatma 1997:231).

In December 1998, as I sought information about the gang rapes of Chinese women in Indonesia during May 1998, I was told that two leading women activists working for the rape victims had received anonymous phone calls threatening their young daughters with rape. There was deep suspicion among women activists that a high-school girl was raped and murdered because she was working with the victims of the May rapes. Her mother, who had also been involved in similar support organizations, withdrew from her activities. The point is not whether this threat of rape acts as a deterrent to women organizing

politically. Rather, any attempt to demand collective rights by women as a class of citizens erodes the most fundamental human right of individual women: the right over one's own body.

Race rapes

During the riots of 13 to 15 May 1998, as the Suharto regime teetered on the brink, Chinese women in several districts of Jakarta were gang raped by unidentified men. No other single incident has so focused the attention of Indonesian feminists on the issues of women's human rights, and that of human rights lawyers on the specificity of violence against women. A seminar was held on 29 June 1998, entitled 'A Demand for a Final Resolution on Violence Against Women', which was largely an attempt to come to terms with the rapes at a legal level. At the seminar, a prominent male lawyer listed a variety of tortures of women political activists in various parts of Indonesia by the security apparatus, including sexual mistreatment of a kind that would not generally be endured by men. This was the same lawyer who three years before had confidently asserted that 'there are no gender issues in human rights; these are universal'. *Jurnal Perempuan,* the only Indonesian journal that sees itself as engaging in feminist theorizing, also ran a special issue on human rights in November 1998 (*Jurnal Perempuan* 1998–9).

The story about the rapes broke about a week after the resignation of Suharto, that is about two weeks after they reportedly took place. As the stories emerged, it appeared that a number of Chinese women in several suburbs of Jakarta where rioting had taken place had been raped and sexually assaulted in public, and some had been burnt to death or died later from the effects of the assaults. The reports were particularly shocking, since there were no recorded historical precedents for such mob attacks on women in post-colonial Indonesia, especially not under the glare of international attention in the capital, Jakarta.

This is not to argue that 'everyday' patterns of rape in Indonesia differ from those elsewhere: for most of the 1990s *Kalyanamitra,* a women's organization, collected data on rape from Jakarta newspapers. These reports suggest that, as in most other parts of the world for which such information is available, rapes are likely to take place within homes by men known to the women. Public spaces in urban Indonesia, in most of living memory and recorded post-independence history, have been relatively safe for women.

The patterns of rape by the military and police, however, are distinctive. During the period of the destruction of *Gerwani* (1965–6), rapes and the sexual torture of women appear to have taken place largely in police and military lock-ups in large cities (as far as we know, although there is much we do not know about that time), rather than on the streets. Since the early 1990s reports had begun to emerge of rapes in distant provinces of Indonesia, particularly Aceh, West Papua and East Timor, where there were ongoing military conflicts. An essay surveying patterns of gendered violence in Indonesia in a recent issue of

Jurnal Perempuan (1998–9), suggests that the Indonesian army has systematically used rape and sexual violence as a weapon of war against women political activists, wives and female relatives of male activists. But such information, restricted to specialist human rights documents, has never gained national or international attention.

In the early 1990s *Kalyanamitra* had attempted to mount a campaign against rapes. About the same time a small group of feminist lawyers sought to introduce legislation into Parliament on rape in marriage. Both of these campaigns were singularly unsuccessful. But the race-rapes in Jakarta, at a time when international attention was turned on Indonesia, put rape on the national political agenda for the first time. In his first National Martyrs' Day *(Hari Pahlawan)* address to the nation, then President Habibie became the first Indonesian President to condemn rapes and apologize to women. When the United Nations Rapporteur on Violence Against Women visited Jakarta in early December 1998 to investigate the May rapes, Indonesian feminist activists pushed her agenda beyond those rapes alone to the more long-term issue of the Indonesian army's use of rape as a weapon of war.

This open discussion of rape in the context of Indonesian political transformation may well become a turning point in the long battle to gain the state's protection for women's civil right to personal safety and their political right to organize without threat of sexual violence from agents of the state. But meanwhile, the debates over the rapes—did they happen? how many? who is guilty?—reveal analytical problems in both the individualist bias of international human rights discourse and in Asian authoritarian rulers' attempts to distinguish 'collective' from individual rights.

Almost as soon as the rape stories entered the media, a controversy started about how many women were raped, and therefore, whether or not the incidents could be called 'mass rapes' *(perkosaan massal),* as the women's groups most closely involved in supporting the victims had dubbed them. In July, the *Tim Relawan untuk Kemanusiaan* (Volunteer Team for Humanism) stated in a preliminary unpublished report that 152 women had been raped and assaulted in and around Jakarta, most between 13 May and 15 May, and a small number in the following four weeks. There were challenges to that figure almost immediately. The day after Habibie's apology for the sexual assaults, a military spokesman asked the women's groups to 'put up or shut up'. Even the Minister for Women's Affairs expressed doubts about the veracity of the reports of mass rapes. The credibility of the *Tim Relawan* report was further challenged by the publication of a report by the peak international Human Rights body, Asia Watch, which suggested a much smaller figure of about sixty rapes.

In the August 1998 issue of *Jurnal Perempuan,* its editor and feminist academic Karlina Leksono responded to this dispute over numbers:

> Numbers don't tell the stories of the blood, the tears, the pain, the
> destruction of the soul, of torture, violations and violence that one never

imagined was possible. Numbers never talk about the memory of degradation—hidden, uprooted—which will never be erased as long as one lives.

(*Jurnal Perempuan* 1998:1)

The emotional appeal of such a statement may or may not find a place in any international legal definition of 'mass rapes'. But the statement does draw our attention to the weakness of statistics as a basis for dealing with human tragedies. If, when the jury has finally returned its verdict, the raped women turn out to number less than 152, or even less than fifty-two, the fact that a certain number of citizens were raped because they were Chinese and female detracts from every Chinese-Indonesian woman's right to security. Numbers cannot apprehend the sense of erosion of the rights felt by a collectivity when any individual member is violated simply for belonging to that collectivity. When the individual is the first and final repository of rights then the definition of 'mass rape' may indeed be a matter of adding up the numbers of the violated (who knows how many equal 'mass'!). But adding up numbers is not enough if we see the violated woman not simply as an individual but as enmeshed in a network of social relationships which are disrupted by the single violation.

Not the last word

I have argued that any discussion of the human rights of female citizens needs to move beyond both the individualist paradigm of international ('western') discourses, as well as the false dichotomy between collectivist and individualist definitions of these rights that authoritarian governments seek to promote. But the question of authority and authorial rights and responsibilities remains. If Chinese women in Indonesia are raped, how shall we delineate the community, the collectivity which is violated? Chinese in Indonesia? All Chinese? Women? All women? Who therefore can/may get beyond statistics to the affective dimensions of the violations?

Answers to such questions are perhaps necessarily strategic and provisional, rather than theoretical and final. At the moment, within the context of a national struggle for democracy on the one hand and the struggle for the integrity of the Indonesian nation on the other, the Indonesian women's movement has embraced a multi-ethnic national sisterhood. The race-rapes have become a central point of struggle through which the movement is elaborating its vision of itself and the future of the national gender regime.

Notes

1   My translation into English.

2 It is commonly argued, for instance, that the prioritization of economic rights of the poor over, say, the civil rights to freedom of speech of middle-class media professionals, is a false dichotomy, since the ability of the poor farmers to struggle for their economic rights depends on the middle-class professionals' ability to help organize such struggle, and the ability of the media to report cases of abuse.

3 See, for instance, the *Bangkok Declaration* which elaborated the 'Asian' position prior to the debates at the United Nations Conference on Human Rights, in Vienna, in June 1993.

4 Suharto's *New Order (Orde Baru)* dates from 1 October 1965 to the date of his resignation on 21 May 1998.

5 There has been a spate of newspaper interviews with former political prisoners in Indonesian newspapers which have circulated widely via the internet. A small number of former political prisoners are now speaking openly of their own experience and that of their colleagues in the early years of Suharto's rule. From the Australian media, see the three-part special series on the Indonesian coup in the *Sydney Morning Herald* (9, 10, 12 July 1999).

6 A fictionalized account including references to some of these conversations appeared in Sailendri (1995).

7 James Hsiung, opening his critique of the 'western' bias of any discussion on human rights, notes the following as the foundation texts of the discourse, all, needless to say insisting on the 'universality' of rights: 'Magna Carta, the American Declaration of Independence, the United Nations Charter, the United Nations Declaration of Human Rights and a dozen or so other international covenants concluded within and outside the United Nations, including the Helsinki Accords (1975)' (Hsiung 1985:3).

8 Kartini (1879–1905) is probably Indonesia's single best-known woman. She worked to establish women's right to education. In later years she came to be regarded as a proto-nationalist and the founder of a modern Indonesian women's movement. See her letters written to Dutch friends at the turn of the century (Kartini 1992).

9 See also Human Rights Watch web site, <http://www.amnesty.se/women /focus. html>, 12 September 1997.

10 I am suggesting here that not all textual representation of abuse is categorized as 'human rights' discourse. The recent book *Desert Flower* by Waris Dirie (1998), now a glamorous photographic model, dealing with her experiences of her brutalized childhood as a member of a nomadic 'tribe', will be read by many more than read UN documents, but will not I think gain the status of a human rights document. When many such singular experiences are generalized into data, for instance as '[n]umerous African as well as Asian and Middle-Eastern governments condone involuntary female genital mutilation' (Human Rights Watch Women's Rights Project 1995:412), that then is part of the rights discourse, as conventionally defined.

11 See for example *Human Rights in Indonesia and East Timor,* Asia Watch Report, March 1989, or any similar publication by Asia Watch or Amnesty International.

12 *Gerwani* is the abbreviation of *Gerakan Wanita Indonesia* (Indonesian Women's Movement). Gerwani was banned in 1965 for its alleged involvement in the so-called Communist push for power.

13   The most detailed and sympathetic account of *Gerwani* to date is Wieringa (1995, 1996).

14   Some of these authors were clearly at best misguided, at worst mischievous. A text frequently targeted in Indian populist nationalism was the notorious *Mother India,* written by Katherine Mayo in the 1920s (1969 /1927), which argued that the nature of Hindu marriage had made Indian women incapable of even producing healthy babies!

15   I have discussed elsewhere this notion of identities as a sum of production and consumption practices: the idea is derived from Jonathan Friedman (1990). See Sen (1998).

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6

Woman ikat raet long human raet o no?
Women's rights, human rights and domestic violence in Vanuatu

Margaret Jolly

Introduction

Universalism and relativism have often been seen as conflicting but complicit epistemologies, generating a tension which defies easy resolution. As a feminist and an anthropologist I aspire to sustain a creative tension between the universal and the particular, but I also desire to be aware of the positions from which the global and the local are viewed. What engages me here is a particular form of that tension—universalism and relativism—not so much as divergent epistemologies but as embodied and situated stances. Thus it is not just the difference between seeing what we share as against seeing what we do not share, but in how our very notions of identity and difference are grounded in historical, political and moral relations. This is nowhere more obvious than in contemporary debates about women and human rights.[1]

I focus these broad questions in the context of some conversations with Pacific women and, in particular, my participation at a conference in Port Vila, in August 1994, on 'Violence and the Family in Vanuatu'. This chapter works through three phases: a review of a popular text about women and human rights, a portrait of the conference and its situation in a regional and historical frame, and finally an exploration of whether or how, in the words of the ni-Vanuatu writer, Grace Mera Molisa, quoted in my title, 'women have human rights or not'.

Women's rights, human rights: global and local relations

Despite the strenuous critique of the notion of the human subject as Enlightenment archaism, as imperialist residue, or as mere discursive effect on the part of post-structuralist theorists, the 'human' is again globally vaunted in debates and political campaigns about human rights. From the huge literature generated by this process I select as my key text Katarina Tomasevski's *Women and Human Rights* (1993), not because it is especially profound, but because it is a widely used handbook which comes with weighty credentials, having been commissioned as part of the United Nations-NGO Women and World

Development Series and celebrated by none other than Professor Erica Irene-Daes, Chairperson of the Joint Inspection Unit of the United Nations System.

This book, like some others, takes for granted not only the notion of the human but that humans have natural rights. As in much of the human rights literature the human person is modelled on notions of the individual derived from western liberal humanist traditions. The problem then for Tomasevski is that the 'human' and 'rights' have been conceived from the viewpoint of a masculine subject.[2] She traces this from that originary moment in 1789—the French *Declaration of the Rights of Man and Citizen-and* marshals two columns to contrast the masculinist terms of this declaration with that of Olympe de Gouges, *The Declaration of the Right of Woman and Citizen* (1791). The latter was addressed to Marie Antoinette, and was 'intended to draw attention to the male bias in the first declaration, hailed then as now as the basis of human rights' (Tomasevski 1993:3). As is clear from Tomasevski's table, de Gouges sometimes simply added 'and women', while in other cases she totally rewrote the provisions to highlight women's difference.

Tomasevski works through a similar tactic of extending the notions of human to woman while, much more cautiously than de Gouges, vaunting sexual difference. Thus, in successive chapters of the book she documents how 'he' has not included 'her' in innumerable national laws and international conventions: in rights to vote and hold political office, in rights to work and join unions, in rights to hold property and pass it on, in rights in family and personal law, and in rights to education and health. A major embarrassment is revealed (Tomasevski 1993: 11). The United Nations Convention on the Rights of the Child enacted in 1989 up until its final draft used 'he' throughout, and the specific forms of discrimination against female children —infanticide, unequal education, vulnerability to sexual abuse or debt-bonded prostitution—were countenanced too late for inclusion.

But Tomasevski is rather happier about extending the human to woman than she is about recognizing sexual difference. Thus she tends to see maternity as a problem which impedes the full realization of women's natural rights. One chapter is entitled 'From Protection of Motherhood to Equal Rights'. Tomasevski is committed ultimately to the view that women should become like men: The conventional view that women's rights are different from, and separate from human rights as such, has impeded action to uphold the basic rights and fundamental freedoms of women as human beings' (Tomasevski 1993:xiii). Moreover she has little tolerance for those who 'pussyfoot' about human rights in the name of 'cultural sensitivity'; 'this reluctance is understandable but not justifiable; international human rights standards, which include the eradication of gender discrimination is binding on all governments' (ibid.: 87). But what if such a reliance on law and international conventions proves unproductive or even counter-productive? And are culture and tradition only to be seen as an impediment to the realization of women's natural rights?

Culture and tradition in her text appear primarily in their role as obstacles to human rights, evidenced canonically in practices such as 'genital mutilation', child marriage and female sequestration. And more often than not the cultures which are chosen to typify these impediments are in Africa, Asia or Latin America rather than her native Denmark or North America. Patriarchal practices such as cosmetic surgery, pornography or sex tourism are mentioned but are not so privileged nor seen as 'traditional'. Moreover, tradition is rarely seen as something worth recuperating or perpetuating for women, and the 'human' comes dangerously close to the western value of an individual subject with natural rights. Now of course this is precisely what various states like China have claimed in opposing UN and US criticisms of their human rights record and attempted sanctions against human rights abuses through aid and development strategies. Ancestral values and cultural relativism may thus be a way of securing repressive political regimes. But are all ancestral values equally repressive?

One of the hazards of this kind of debate is that the human slides imperceptibly into the western, and is too readily dismissed as a new form of colonialism (as discussed later). This risk is even greater if there is a difference or conflict between male and female subjects, whereby tradition comes to be unduly equated with female subordination, and human rights with female liberation. This is nowhere more obvious than in debates about domestic violence, in the Pacific as elsewhere.

Violence and the family amily in Vanuatu

I now turn to the conference. We are sitting in a large airy room at the University of South Pacific Extension Centre, Port Vila, Vanuatu. It is August 1994. At one end, a large banner proclaims the title, 'Violence and the Family in Vanuatu', in the canonical feminist palette of purple, green and white, and it is reiterated in an indigenous form in the weave of a pandanus mat. The walls of the room are covered in posters by schoolchildren, all of which represent the problem as one of male violence towards women: the winning entry portrays a man standing over a woman like a sadistic alien. Many of these posters, like the poetry and personal testimonials of other school-children, graphically implicate alcohol: a bottle seems stuck in a woman's head, an adolescent boy painfully recounts the horrific consequences of his father beating up his mother in a drunken rage, killing her. On the opening night we had heard a stirring speech against domestic violence by the Minister for Justice, Culture, Religion, Women's Affairs and Archives, the Hon. Sethy Regenvanu. We were led by his wife Dorothy, a Presbyterian pastor, in prayers that the conference might help redress the problem, and witnessed a hilarious but poignant skit by the all-female TUA theatre group.[3] This depicted a young woman, the victim of sexual assault by her uncle, whose mother would not believe her story.

The conference was sponsored by the Vanuatu Women's Centre (VWC), an indigenous NGO, set up in September 1992 'to provide support and counselling

to the victims of violence', and to 'empower our women with information and training'.[4] It was a collective of volunteers—activists, researchers and counsellors—co-ordinated by Merilyn Tahi.[5] The Women's Centre is no doubt more radical and confrontationist in its feminist politics than most other women's organizations associated with either the state or the churches.[6] Those present over the four days of the conference were mainly ni-Vanuatu women, primarily well-educated women from the port towns of Vila and Santo.[7] There was Rita Naviti of Santo, sworn in as Vanuatu's first female magistrate in 1993 and whose mother was an uneducated woman from the Big Nambas *kastom* communities of Malakula, and Charity Bona, child of a Melanesian Mission couple from Point Cross, South Pentecost, educated as a lawyer at the University of Papua New Guinea and now working in the Attorney General's Department.[8] But a few women came from village church groups or VNKW (Vanuatu National Council of Women) chapters in the outer islands. There were a few ni-Vanuatu men: a sprinkling of policemen, bureaucrats and custodians of ancestral traditions associated with the Cultural Centre, like Philip Tepahae from Aneityum. There were several white men, mainly members of the judiciary, a few white women from the various High Commissions and aid agencies, and myself, the sole anthropologist. Most of the locals were Christian with the exception of an Iranian man, his wife and sister who were articulate and passionate proponents of the Baha'i faith. (Local women present quizzed them about the lack of male hierarchy in their church: is it really true you have no popes or bishops?) Conversations were almost exclusively in Bislama (the pidgin of Vanuatu) with the notable exception of the papers delivered by the judges and lawyers who spoke impeccable, if rather inaccessible, English.

The issues which circulated and recirculated were familiar, and might arise at a similar conferences elsewhere. What is domestic violence—is it only physical abuse or does it include psychological torture? Does it have to be intended? Who are the perpetrators and who are the victims? How does male violence compare with female violence? Are they sequentially linked? What about violence towards children? What makes violence 'domestic' or private rather than public? Is domestic violence acceptable to some, and even legitimate? Is domestic violence increasing? If so, why? Is the increase in rates only an increase in reporting, with greater awareness of the problem and with easier access to police, to judges, to community workers? Does the very existence of the Vanuatu Women's Centre increase women's ability and propensity to report domestic violence?[9]

This is all familiar stuff. But there were other questions which might seem strange to Europeans or Anglo-Australians (though perhaps less so to Aboriginal Australians and many migrants to Australia). Is sorcery violence? Has violence increased as people have moved into towns? Is the growth of the cash economy and the increased isolation of the family to blame? Moreover, throughout the several days of presentations, questions and conversations the same trio of concepts recurred: *kastom* or tradition, Christianity and human rights.

Kastom, **Christianity and the human: a historical frame**

Let me now try to situate some of these conversations in the broader historical frame of the relation between *kastom* and Christianity in this Pacific archipelago. Vanuatu is a small group of islands, 1,700 km distant from the eastern coast of Australia, with a population now approaching 180,000, most of whom are indigenes or ni-Vanuatu. The name Vanuatu, which means 'land standing up' or 'independent land', was assumed in 1980, when it was proclaimed an independent republic. Its colonial title—New Hebrides/ Nouvelles Hébrides—was a place-name conferred by Captain Cook, in nostalgic recollection, yet again, of the British Isles. The first exploratory voyages by Europeans were those of De Quiros (1606), Bougainville (1768) and Cook (1774). Then, from the nineteenth century, the land and the people had been subject to the extractions of those who came to trade in sandalwood, in *bêche-de-mer* and in labour for the plantations of Queensland (Australia), Fiji and nearby New Caledonia. From the mid-nineteenth century, these were joined by foreign planters and settlers, including Christian missionaries both Protestant and Catholic. Commercial and denominational differences were entangled with the rivalry between the two colonial powers, Britain and France. British interests emanated from the colonies which were to become a federated Australia in 1900, as much as from London and French investments similarly derived in part from strategic interests in colonies in nearby New Caledonia and Polynesia, as well as the imperial visions of Paris. In the early twentieth century, they first proclaimed a region of joint colonial influence and then a Condominium: a government chronically divided between Anglo and French interests, which was both weak and indifferent to the local population, who later dubbed it 'Pandemonium' government. In contrast to most other states of the Southwest Pacific, where independence was conferred peacefully and even peremptorily by foreign powers, in Vanuatu there was a struggle which at points erupted in violence. The French, who were as keen to stay as the British were to withdraw, promoted anti-independence movements and secessionist attempts which impeded the nationalist struggle, but were ultimately defeated by political manoeuvres and by military forces brought in from Papua New Guinea. In this movement for independence there was, as in many of the larger and more violent nationalist struggles of Africa, South Asia and the Americas, a recuperation of the local, the indigenous, 'traditional' values and practices of life prior to European incursion. In Vanuatu this is signalled in the concept *kastom.*

Kastom is a Bislama word which loosely translates as 'tradition', but evokes not so much the totality of ancestral practices, as a particular selection of such practices for the present (see Jolly 1992a). Indigenous forms of sociality were based on root-crop horticulture, pig-breeding and exchange, with small settlements of people clustered according to variable relations of kinship and place. There were patterns of achieved or inherited rank, and in most places the segregation of male and female persons, who embodied differentiated, even

antithetical sacred powers. The pre-colonial religion consecrated origins in place and ancestral being and witnessed their power in healthy and fertile people, good crops, and pigs which were corpulent or had fine ivory tusks. Indigenous sociality was vastly transformed, from the early nineteenth century, by the combined effects of the extractive trade in *bêche de mer* and sandalwood; by the labour trade which transported many men and some women to Queensland and Fiji; by the development of plantations of cotton, copra and other cash crops; and by the effects of that peculiar form of colonial state: the Condominium, the conjoint rule of Britain and France. But precolonial practices were probably most changed by the arrival from the 1840s of Christian missionaries. First came the London Missionary Society (LMS), Reformed Presbyterians, Melanesian Mission (Anglican), and the Marists, and later a congeries of more fundamentalist faiths such as the Church of Christ, Seventh Day Adventists and Assemblies of God. The independent state, proclaimed in 1980, avows both *kastom* and Christianity as indigenous values, and at the local level, all except those traditionalists or *kastom* adherents (like those in South Pentecost with whom I first worked; see Jolly 1994) are effecting compromises and conjunctions between the two. But how does all this bear on domestic violence?

In some motivated caricatures of their relation, *kastom* is seen as the source of violence and Christianity as the source of peace. Indigenous narratives of conversion typically talk of the transformation from the time of darkness to the time of light. As Geoffrey White (1992) has graphically depicted it for Santa Isabel in the Solomon Islands, local Christians contrast the time of darkness as typified by ancestral violence, killing and cannibalism, to the time of light characterized by Christian peace, love and togetherness.

In Vanuatu too, conversion is often depicted in such a rhetoric of rupture. The very tropes of darkness and light derive from missionary discourses, but are also appropriated and indigenized. Early European observers were inclined to see the ancestral cultures of Vanuatu as violent: not only because of the endemic practices of warfare but because of more intimate violent acts such as infanticide, widow strangulation and domestic brutality, which travellers, colonial officials and particularly missionaries portrayed as pervasive and typical. In such accounts Europeans often emphasized the violence of ni-Vanuatu (and especially ni-Vanuatu men) for rhetorical reasons as part of the projects of mission and state to pacify, convert and reform. Simultaneously, they de-emphasized the violence inherent in their own countries of origin which were also arguably in a constant state of war and military preparedness, and where domestic violence was hardly rare. Two historical images may illustrate my argument (see also Jolly 2000). While Bougainville (1772:292) pronounced that the armed warriors of Ambae were warring savages, he was poised to attack them with rifles and cannons, without reflecting on his own state of martial preparedness. Captain Cook (Beaglehole 1961:464, 504–5) wrote several passages depicting the Malakulans, the Tannese and especially the Erromangans as prone to violence, while the propensity of the Europeans for violence was

rarely so acknowledged, and while the sailors on his several voyages increasingly felt the sting of the lash and the confinement of being locked up (Obeyesekere 1992).[10]

The ancestral cultures of Vanuatu did manifest violence, but was it any greater than the violence of the ancestral (or even the contemporary) cultures of Europe? Warfare and violence were endemic in Vanuatu's pre-colonial past but were always opposed by the countervailing values of peace and consensus (which no doubt appeared less salient to European witnesses). The London Missionary Society and Catholic and especially Presbyterian missionaries resident in the southern islands of Aneityum, Tanna and Aniwa from the late 1840s represented domestic violence as rampant. But they merged infanticide, widow strangulation and physical assault in contentious ways and probably amplified the occurrence of all three for rhetorical effect (see Jolly 1991b). Much of the conjugal violence which they reported, ensued from struggles over conversion or 'going to the mission'. Moreover the intimate link they drew between warfare and domestic violence is hard to sustain (especially since warfare has ended but domestic violence has not, see Jolly 2000).

Given such prior colonialist discourses I was surprised to discover, when I arrived in the *kastom* communities of South Pentecost in the early 1970s, that they were extremely pacific places. Domestic violence was very rare: only one case of 'wife-beating' came to a village court in my two years there. Moreover there were strong contrary ideals of the inviolability of the person and the sanctity of the body. Assault on man, woman or child, especially if it drew blood, necessitated compensation (to the maternal kin of that person). An alleged threat of sexual violence against an unmarried woman was adjudged culpable and occasioned a massive fine. In these villages in the late colonial period (and still today, according to Charity Bona) there were strong pressures to keep the peace in public and domestic spaces. So, in some of Vanuatu's *kastom* villages, even where male domination is aggressively pronounced, domestic violence is not routinely condoned.

The Christian churches, though they were implicated in (or at least claimed credit for) the process of ending warfare, were not always consistent in outlawing domestic violence. Indeed the message of St Paul's letter to the Ephesians (Ephesians 5:22–25) about the obedience of the wife to her husband, or the Biblical edicts about children obeying their parents, seem in some places to have rather legitimized it. Christine Dureau (1994), writing of Simbo in the Western Solomon Islands in the 1990s, reports a very high level of violent disputes between spouses, and especially wife-beating. There, despite the regional and national rhetoric of the church enjoining conjugal equality and harmony, local men often have a contrary interpretation of the Christian message. They quote the letter of St Paul's in support of their right physically to discipline their wives. Indeed much conflict arises from married women's engagement in Church activities. Husbands allege that going to the Women's Fellowship means abandoning home, children and husbands. Women retort and resist such control,

but such taunts have been used very effectively even against mature, high-ranking women.

Biblical support for male dominance and male violence is also patent in Papua New Guinea. Although the Survey of the Law Reform Commission in Papua New Guinea (Toft 1985) suggested that very religious men and some pastors were the only men who did *not* beat their wives, they also found many pastors who did, and indeed proclaimed men's rights to do so (Counts 1990). The Bible has also been used by lay Papua New Guineans to proclaim women's secondary status or their natural wantonness. Here are two choice quotes from male correspondents to Papua New Guinea's major newspaper the *Post Courier,* recorded by Evelyn Hogan (Hogan 1985:63):

> You are just part of me. You are meant to be protected because a bone of my rib was extracted to form you…think twice before you decide to sell Papua New Guinea for only 30 pieces of silver.
>
> (*Post Courier* 29 April 1977)

> Sin begins with a woman and thanks to her we all must die.
>
> (*Post Courier* 26 May 1977, from Ecclesiastes 25 and 26).

Women at the Port Vila conference conceded that ni-Vanuatu men too could and did make such *rabis* (nonsensical) interpretations of the Bible, but thought that, as mothers, women had the power to instruct their children in the true interpretation of Christ's message: conjugal love and domestic peace.

The views of the family advanced by women at this conference as in many other Pacific contexts were derived from (but importantly, not identical to) those promulgated by Christian missionaries from the nineteenth century. They deplored arranged marriages, the bride price, polygyny, and domestic violence in the name of those pre-eminently Christian values of freely chosen partners, the nuclear family, marital monogamy and conjugal harmony.[11] But as well as the blessings of Papa God and the wisdom of the *blak buk* ('black book', the Bible), women are also increasingly drawing on a new language of human rights. A brochure issued by the Vanuatu Women's Centre at the conference proclaimed 'In the Name of Love Stop Violence Against Women'. This summarized the local history of the Vanuatu Women's Centre and the many cases it has dealt with since its inception in 1992. But it also quoted from Charlotte Bunch's speech at the Second World Conference on Human Rights in Vienna in June 1993 and derived its title from Anita Roddick's Body Shop's book *In the Name of Love.*[12] It advocated educating and empowering women, concepts and strategies now shared by many United Nations Conventions and aid projects dedicated to women's equality in development. The Vanuatu National Council of Women (VNKW) had earlier strongly endorsed the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in a publication written by Grace Mera Molisa called *Woman Ikat*

Raet Long Human Raet O No? (1992). Successive governments stalled on that, suggesting that they had not received a copy of the CEDAW report, which in fact had been sent through several official channels and also disseminated in this book in English, French and Bislama with attached interpretative comments. As elsewhere in the Pacific, the reservations male politicians consistently expressed related to ancestral values or *kastom*. In the Pacific the process of ratifying the convention was painfully slow. The Parliament of Vanuatu did so only after the conference in March 1995.[13]

But the debt to the UN and to aid agencies is in more than just the language of human rights. The Vanuatu Women's Centre is an indigenous NGO, run by a collective of local women (including expatriates) and coordinated by Merilyn Tahi. The workers were initially primarily volunteers, although the Centre is locally supported by fund-raising and donations, and also by overseas aid. They secured Aus AID funding administered through the International Women's Development Agency (IWDA), a woman-centred NGO with headquarters in Melbourne. This aid was granted for three years from 1994. From 1995 to 1996 an Australian lawyer, Merrin Mason (associated with Australian Volunteers Abroad), worked with the VCW as a legal officer, on issues ranging from domestic violence and family law to the implementation of the several articles of CEDAW, running workshops to facilitate women's 'legal literacy' (see Mason 2000).[14] The pamphlet for the conference was financed by the Australian High Commission in Port Vila. Past publications and events by the VNKW have been similarly financed by the Australian and New Zealand Governments, Australian, Canadian and British High Commissions, UNIFEM, YWCA and Australian Freedom from Hunger (as well as local sources). Such overseas funding sources and allies are crucial to the women involved, but also lay them open to the charges of undue foreign influence and worse, a betrayal of *kastom*.

The dynamics of this process were graphically highlighted at the conference in the content of and responses to several speeches, delivered by the expatriate judiciary. They documented a litany of horrific crimes of violence against women.[15] In several such cases the recent behaviour of male *kastom jifs* (customary chiefs) in adjudicating such crimes was severely criticized. Some *kastom jifs* on the outer islands are presently presuming to settle cases which should, by law, be referred to the courts. Thus we heard from the then Chief Justice, Charles Vaudin d'Imecourt, the gruesome and complicated details of a case of rape on Ambae.[16] This is an island which is usually renowned for its powerful women. This case was settled by a *kastom jif* through a series of compensations in pigs and mats. Tracing the flow and value of these payments the Chief Justice revealed that those paying the heaviest fines were the man who had rescued her from her rapist and carried her back to her house after the rape, and the woman who was the victim of the rape. Another memorable case involved a woman from Tanna who was having matrimonial difficulties with her husband. He wanted to sort out their dispute in a *kastom* meeting; she refused to attend but was forced to do so. At this meeting a *kastom jif declared* that she

must return to Tanna, and she was kidnapped by eleven Tannese men and put on a boat for home.[17] The Chief Justice proclaimed, *kastom* is failing ni-Vanuatu women.[18]

My discussions with a number of women afterwards revealed conflicted sentiments. They were outraged at the cavalier treatment of violent offences against women but some also expressed disquiet about the white judges' lack of knowledge of or appreciation for *kastom*.[19] One woman thought the Chief Justice clearly had not understood the principles of compensation involved in the Ambae case, and indeed seemed to share the usual colonialist denigration of pigs. Other women were worried about their failure to influence male politicians and local men. There had been that resounding speech by Sethy Regenvanu the first night but then, perhaps in anticipation of the drubbing of *kastom jifs* at the conference, the head of *Malvatumauri* (the National Council of Chiefs) Noel Mariasua had failed to show for his opening address the next morning. Several other male leaders of the Christian churches similarly failed to appear as scheduled.

Women's disquiet perhaps emanates from a political process whereby having powerful foreigners as allies risks alienating the very local men they are trying to influence and to change. A spectacular instance of the charged political atmosphere around these issues of violence and the law occurred in the week prior to the conference. The President released twenty-six of Vanuatu's worst prisoners. Amongst them was the notorious Morris Ben, who was at that point due to serve forty-two years in prison for several crimes of burglary and rape against ni-Vanuatu and white women (the last of whom he bludgeoned till she was unconscious and near death). He had escaped from custody several times before, but this time was released in honour of Vanuatu's celebration of fourteen years of independence on 30 July 1994. Soon after his release he was interviewed on Radio Vanuatu, and asked 'How would you advise the youth of today to make a good living?' Of course all those at the conference were scandalized. Was this a perverted electoral strategy? Didn't the government and Radio Vanuatu recognize that they were making him a celebrity, as a renegade and a rascal? Did they want Port Vila to become like Port Moresby? Within days graffiti appeared in Port Vila proclaiming, '*Savem pikinini* [save the children] *kill Morris Ben*'.

Now it may be that these releases were an act of political largesse. But I am inclined to interpret them in the same way as I interpret the actions of *kastom jifs* on outer islands in pre-empting the power of the police and the courts to arrest and try rape and other violent crimes against women. In acting against the powers of western-derived laws and the persons of the expatriate male judiciary, some men at both local and national levels are not so much reclaiming powers which they had in *kastom* as asserting new and more strenuous forms of male control over women, in contestation with outside powers and foreign values.[20] So it seems the universalizing discourse of 'human rights' presents both attractions and risks for Pacific feminists.

The language of human rights exerts a powerful allure for educated élite women in Vanuatu. But is the modern female subject—the new kind of person being posited in some expressions of women's emancipation in the Pacific— perforce an isolated individual apart from, even against, her collectivity? Must the modern woman author herself against the 'other woman', the traditional woman as object or victim? Must she deny all the values of tradition in order to embrace the human? The answer from ni-Vanuatu women is no. This we can see in present debates about the relation between domestic violence and the bride price. As Merilyn Tahi expressed it:

> Women are paid for in the guise of bride price for their labour, both in bed and in the garden, they allow their bodies to be battered, to be abused and discarded and thrown away when their usefulness is deemed to be over by their men.
>
> (Vanuatu Women's Centre 1994)

Here Tahi condenses the two extreme negativities of women as victims and women as objects.[21] But rather than finding an individualist or a separatist solution to this problem, Tahi insists rather that collective values must be changed, that social norms which legitimate violence must be transformed by women and by men acting in concert. For her 'the roots of violence are cultural' but so are the means of digging up those roots. 'Attitudes to violence, like culture, are not static. They depend on our needs and our interpretations of what we want to be, how we want to be and how we get there. To be static is to be dead' (Vanuatu Women's Centre 1994). Thus, she envisages a newly created tradition, renewed collective values in accord with the values of non-violence and human rights.

Misogynist caricatures have often represented well-educated, professional or élite Pacific women as unduly autonomous, mobile and sexually free (see Hogan 1985). Most Pacific women by contrast stress that their form of feminism differs from that in foreign countries like Australia in its emphasis on the values of collectivity, and on connecting women's movements to broader sociopolitical struggles for self-determination, where the self is a collectivity not an individual (see Jolly 1991a). Ni-Vanuatu feminists have in the past successfully negotiated those invidious oppositions which equate tradition with women's oppression and modernity with women's liberation, by simultaneously claiming greater powers in both. The particularly powerful sentiments generated by domestic violence threaten such past efforts in so far as they tend to situate men on the side of tradition and cultural relativism and women on the side of the human and universalism.

Such insidious dichotomies can only be challenged by women insisting that human rights are not necessarily inconsistent with *kastom,* by appropri ating and indigenizing notions of the 'human' to suit their local context and by insisting, as does Merilyn Tahi, that tradition is not a static burden of the past but something created for the present. There are, several years after the conference, some

hopeful signs that women in both rural and urban contexts are increasingly claiming *kastom* as created and recreated by women as well as men. Despite profound obstacles, ni-Vanuatu women are making small gains on the difficult issues of domestic violence and family law, and indeed a range of other women's rights envisioned in CEDAW and declared at Beijing in 1995 (see Mason 2000).[22]

The Women's Culture Project was initiated from the Vanuatu Cultural Centre in 1992, conjointly by a ni-Vanuatu woman, Jean Tarisesei (from East Ambae), and an Australian anthropologist Lissant Bolton (formerly of the Australian National University and now at the British Museum). This has been working at the national level to insist that women have *kastom* too. Throughout the 1970s and 1980s only men were involved as fieldworkers in recording, codifying and discussing the particular *kastom* or traditions pertaining to their place of origin. Through the medium of material culture and especially women's centrality in weaving pandanus mats, the powers of women in *kastom* are being celebrated and recuperated for the present (Bolton and Tarisesei 1994). Such a national project has perforce to deal with the radical differences between islands and regions in the powers which women had and have. As has been long recognized, the power of women *vis-à-vis* men in public and domestic spaces differs dramatically between those places where male dominance is aggressively pronounced, as it is in parts of Tanna and Malakula, and those where it is less so, like Ambae and north Pentecost. This derives partly from differences in ancestral practices of reckoning descent and connection to land, forms of exchange and rituals of rank (see Jolly 1994a), but also from divergent experiences of Christian conversion, education and relation to the state. It must be acknowledged that Ambae, where Jean Tarisesei comes from and where Lissant Bolton's first ethnographic research was concentrated (Bolton 1993), is distinctive in the public powers which women exercise, deriving from their relation to land, their central place in the creation and exchange of valued mats, and their prominence in the rituals of rank. It is also distinctive in the way in which women gained prominence as leaders in the Christian churches through women's groups, through processes of education, and in some rare instances through the powers which they articulated in the service of the state. It is perhaps no accident that Grace Mera Molisa comes from Ambae and that despite her trenchant critique of the way in which men have revived *kastom* as 'a Frankenstein's corpse to intimidate women' she was, especially during her time as the Prime Minister's Personal Secretary, strongly committed to the selective perpetuation of *kastom* at local and national levels (see Jolly 1997). For her *kastom* is a source of respect and power for women, as important as the language of equality and human rights she had learnt from being educated in New Zealand. Both are celebrated in her poetry and in speeches she has made at international forums (see Jolly 1991a; 1997; Macintyre Chapter 7).

But how far are such sentiments about respect and equality for women confined to the so-called 'urban élite'? There is, as Macintyre and others have

shown (Chapter 7), a pervasive tendency to dismiss their voices as 'inauthentic' (Jolly 1992c), as foreign-influenced and as not representative of village women, 'the grass-roots' (Scheyvens 1995). But élite women are not alone in calling for women's rights. Both in the work of the Women's Culture Project and the ongoing work of national and church women's organizations, there has been a chorus of complaints from poor rural women about women being 'beasts of burden' while men laze and drink; and about women being excluded from important decisions at local and national levels, or becoming increasingly victims of male violence. A brief anecdote might suggest that some poorer, urban women hold similar views.

The year following the Vanuatu Women's Centre conference, in November 1995, I was back in Port Vila for the opening of the new Museum. One Saturday I visited some people in a squatter settlement on the outskirts of Vila town. Here I met Louis, a young man whom I first knew twenty-three years before when he, then five, was undergoing the ordeal of circumcision in Bunlap, South Pentecost. He confided to me that he wanted to marry, not a woman from his own place but from Malakula, a marriage which would occasion a very large bride price. An older woman from the Shepherds—I will call her Ruth—sent him up mercilessly, for his desire and his profligacy. She then suddenly stopped her taunting jokes, turned to me and, putting her hand on my thigh, said in Bislama, 'You see, your skin is white and mine is black, but all around the world today, people know how stupid and wrong it is to buy women'.

Ruth was hardly part of the 'urban élite': she lived in a squatter settlement and made a living as a maid at Iririki, an upmarket tourist resort. Spirited criticisms of the bride price are not just being voiced by those who attend conferences or write poems in English or Bislama (see the poem *Braed Pres,* reproduced by Macintyre, Chapter 7).[23] We might hear Ruth's voice as an echo of foreign missionary attacks on the bride price and arranged marriage as rendering women like pigs or cattle. But this would be to deny the indigeneity of Christianity and the decades of transformation that colonialism and Christianity, in particular, have yielded in the gender relations and ideals of both women and men. Many women in Vanuatu who are committed Christians still support bride wealth as a recognition of women's value as workers, wives and mothers, but others do not. In particular, those who have converted to the new evangelical faiths often deplore it, or consider that the effects of commoditization and inflation of the bride price are debasing women, rather than according them their true worth. Many believe with Merilyn Tahi that contemporary bride wealth really is a 'price', and that the practice is increasingly being used by men to justify domestic violence.

Epilogue: towards transversals?

In conclusion I want to situate this specific, Pacific example of claims about women's rights in the broader context of contention between universalism and

relativism in contemporary human rights discourses. Universalism and relativism are not just moral or philosophical abstractions but epistemologies that are politically grounded in the global divisions which are typified as West and East, North and South—cardinal points which oddly naturalize and dehistoricize the dispositions of different nation states in the world system.

Some perceive the language of human rights as the globalizing discourse appropriate to the latest epoch of an imperializing capitalism. They argue that the notions of the human are little more than pious projections of wealthy western nations, stressing the values of the individual: civil and political rights and the right to own property. This is ranged against the rights allegedly preferred by the East or the South: economic and social rights, and the rights of self-determination and economic development of collectivities rather than individuals. Thus Messer (1993) has argued for Africa that it is groups and not individuals who are endowed with rights. Of course one of the problems with perceiving the debate in terms of these contending antitheses is that it is a play of reciprocal caricatures (see also Douglas 1998). Notions of 'rights' in the West have in fact historically been claimed and fought for on behalf of collectivities, such as social classes, 'women' and 'minorities' as well as on behalf of 'the individual' (see also Macintyre Chapter 7). Although cultures and civilizations beyond the West may not value the individuated person, they still sustain notions of humanity pertaining to persons as well as collectivities. Moreover, the East and the South are not the same place. The richer, industrialized nations include those often authoritarian states of East and Southeast Asia, the erstwhile 'Tigers' rampantly engaged in capitalist development, whose leaders disavow the western value of 'freedom' as corrupting or enervating. Yet like many leaders of the underdeveloped parts of Africa, Asia and the Pacific they stress collective rather than individual rights, rooted in the 'Asian values' of family and hierarchy. There have been some particularly powerful criticisms from Asian politicians and commentators of western presumptions about the 'human' (see Abdullah 1993) and the need to broaden the definition of the human to include core values from other philosophical traditions, such as those of Asia. The same might be argued for the Pacific.

Such relativism may simply justify repression, although it is important not to summarily equate the two. And as Steiner (1994) has warned, it is important to discriminate between the political contexts in which the contest between universalism and relativism occurs, and not to conflate the state with 'culture' as some have done. He perceives a significant irony in that the very Asian states which are vaunting relativism in their foreign relations, may be vaunting universalism within, trying to erase traditional cultures through modernization or to eclipse ethnic or regional differences through state rhetorics of 'unity in diversity'.

Jacobsen (1994, 1995) has perceived a similar paradox in the debates about human rights in Papua New Guinea (PNG). In his view the establishment of a PNG Human Rights Commission in September 1995 was primarily a response to

external international pressure exerted, in particular, by Amnesty International and the United Nations Development Programme. This was obvious at the Vienna Conference of 1993 in the condemnation of PNG's human rights record in Bougainville and of the broader operations of police and military in the country. Some state officials seem both sceptical about the relevance of these issues beyond urban élite discussions, and troubled by the prospect of an unfettered Commission, which might challenge an already fragile state and fuel separatisms, such as transpired on Bougainville. NGOs, although they acknowledge that foreign pressure is linked to aid and development monies, are more positive, and lay stress on civil society and a new 'civilizing' mission to educate those in rural hinterlands in human rights concepts. The philosophical prologue to the establishment of the Human Rights Commission in Port Moresby stressed that there were indigenous notions of the human to be credited as well as foreign ones. There is, perhaps, in PNG a similar dynamic emerging between claiming cultural relativism abroad and state-sponsored universalism within. But unlike China, Malaysia and Singapore, Papua New Guinea is a new and fragile state which may not be so readily able to absorb these philosophical or political tensions.

How does all this bear on women's rights? In Vanuatu, as in Papua New Guinea, women's groups and NGOs are at the forefront of those employing the language of human rights. The tensions between relativism and universalism, between the values of collectivity and person are especially potently expressed in debates by and about women. But these are not so easily aligned and policed as 'Melanesian' and 'western'. Although ni-Vanuatu women are alert to the specificities of their situation and the particular values they might select from tradition for the present, like many women in the Pacific they are proclaiming universals, and often stress shared identity as women or as humans as much as difference based on race or culture (Macintyre Chapter 7). Their universalism owes more to the language of the shared faith of Christianity than it does to the 'good sentiments' of secular humanism. In this and other ways, their use of the language of human rights can be seen to exceed or even eclipse the formal juridical notions of rights, grounded in Enlightenment reason and the 'western' masculinist norm of an individual.

The same must be said for that facile dichotomy of collectivity and person (see Douglas 1998).[24] As Ram has shown (Chapter 3) such antinomies have had a particularly powerful place in representations of the East versus the West and especially of India versus Europe. Long before Dumont and long after, India has been caricatured as the site of collectivity and hierarchy in opposition to the alleged individualism and equality of Europe. The depiction of Indian women as downtrodden victims versus western women as emancipated agents was pivotal to this (Ram 1993). Not only are these mutually complicit caricatures but, as Ram shows, the language of equality and of individual rights and freedoms are—given the history of colonialism and a modernist independent state committed to reform and development— as much Indian words as they are foreign words. Indian

women, like lower castes and minorities, deploy the language of humanism and of 'rights' which some post-structuralist scholars would like to deny them (Ram 1993). But Ram (Chapter 3) suggests that the very secular bias of most Indian feminisms renders their struggles for a secular civil code more difficult in moments like the present, when inflamed religious and communal tensions divide, in particular, Hindu and Muslim. Unlike the Pacific, religion divides women in India more than unites them.

Representations of collectivity in the Pacific have perhaps justifiably been more benign than for India, but may be as a result less sensitive to indigenous hierarchies of power, including gender. Macintyre (Chapter 7) detects a 'soft focus' view of Pacific communities and a tendency to a misty romance about the natural nobility of small, decentralized societies, their generosity, tolerance and plurality. She is right to warn that Pacific villages can also be characterized by meanness, parochialism and authoritarianism. But it must be said that different parts of the Pacific have attracted divergent representations. The differences between utopic and dystopic representations of Pacific communities and of women were deployed to distinguish Polynesia and Melanesia from the time of the first foreign explorations (Jolly forthcoming). Within more contemporary Melanesian ethnography the generalized difference plotted between, say, the Massim and the Highlands is rather similar, and again relies on contrasting figures of women as agents or victims. This is not to deny the real differences between these places, but to emphasize the longevity of distorting dichotomies in foreign representations of Pacific societies.

Such divergent constructs of community abound in indigenous representations too. There is no doubt a tremendous nostalgic investment in the idea of 'the village', especially on the part of men in Papua New Guinea, as Macintyre attests (Chapter 7) and as Otto (1997) has illustrated with particular reference to Bernard Narokobi's construct of the Melanesian way. But some Melanesian women are prone to this romance too. Molisa, in avowing the continued relevance of *kastom,* embraces the values of consensus and of respect for elders and chiefs (Jolly 1997). As Personal Secretary to the Prime Minister, Walter Lini, during the 1980s, and then as head and advisor to the National Council of Women she had a very close political association from 1980–93 with *Jif* Willi Bongmatur, head of the *Malvatumauri,* the National Council of Chiefs. That body has reinscribed the power of male hierarchy in the present and has been seen by some to legitimize the excessive power some *kastom jifs* are assuming locally (Lindstrom 1997), a power which is often exercised over and against women as we saw before (and see Mason 2000).[25] The notion of *kastom* used in such a way can be both romantic and essentialist, but more nuanced sociolinguistic studies rather suggest a far more contextually fluid and strategic field of meanings (White 1994). In most conversations in Bislama and local languages in Vanuatu, *kastom* is contested, not least between men and women, and vigorous controversies ensue as to what aspects of *kastom* should be recreated and which abandoned. No doubt in those communities in Vanuatu, the

Solomons and PNG, where *kastom* is seen to more thoroughly oppress women, women will more thoroughly embrace the available forms of Melanesian modernity: not just the cheap perfumes, the high heels and the skin-tight pants evoked by Jully Sipolo in her poem 'Civilized Girl' (see Macintyre Chapter 7), but the promise of emancipation through education, paid jobs, business and the pleasures of the novel urban cultures of places like Port Vila, Honiara and Port Moresby.

   We might witness then, as in the conference at Port Vila in 1994, how the 'new women' of the Pacific are skilfully negotiating the competing claims to their persons by the more parochial collectivities of villages, the languages of citizenship in new states, the universals offered by Christianity and the new discourses of human rights emergent within a globalizing world system. And in this process some women are keen to avoid the forced choice whereby tradition stands only for male domination and modernity for female liberation (Jolly 1997). Although this forced choice, like the binaries of Melanesian and western and community and individual constantly threaten to subvert women's efforts, there is post-Beijing a novel urge to transcend such antinomies, and renewed hope in a global feminist politics of 'strategic' rather than essentialist, sentimental sisterhood. Perhaps then the struggles and the strategies of women in this small archipelago of the Pacific can be seen as a part of a broader regional and global search for 'transversals', for new ways of acknowledging difference and identity, particulars and universals in the alliances forged by feminisms and other social movements (Yuval-Davis 1997; Stivens Chapter 1).

Notes

This chapter is a revised and updated form of the article of the same name which appeared in *Feminist Review* 52, Spring 1996:169–90, and I thank the editors and publishers for permission to republish it here. Given both how events have moved in Vanuatu, the region and the world since then, and especially after Beijing 1995, and how the theoretical literature on women and human rights has developed, I am sorry not to have had time to write a new essay. Much of what I might say now could not be accommodated in the revised form of this paper, but needs another shape and context. I express my humble appreciation to the women of the Vanuatu Women's Centre, and especially to Merilyn and Andi for their invitation to participate in the conference in 1994. I thank Bronwen Douglas, Jeannie Martin, Ann Curthoys and Martha Macintyre for comments on earlier drafts, and of course the several editors of this volume for its inclusion here. Finally I thank the anonymous reviewers of this volume for their kind comments.

   1 See, for example, the debates about colonialism and feminism and the politics of ethnic and cultural difference in women's movements (Bulbeck 1988; Jolly 1991a; Mohanty, Russo and Torres 1991; Moore 1988).

2 It is no doubt true that female subjects have been marginalized in human rights debates, focusing as they have on male subjects suffering abuses as soldiers or prisoners. As Tomasevski (1993) notes, human rights activism emerged in response to blatant abuses of liberty and political repression: summary executions, arbitrary arrests, disappearances, torture. But of course increasingly women too are victims of political repression, rape, torture and death. See Finnane (Chapter 4), Mackie (Chapter 2) and Hilsdon (Chapter 8) in this volume.

3 A recent paper by Douglas (1998) has interesting material from an interview with Dorothy Regenvanu, commenting on the different orientations and degrees of ambivalence to *kastom* of Presbyterians, Catholics, Seventh Day Adventists and the new evangelical churches. Converts to *kastom* she sees as coming mostly from the Presbyterian church, being attracted because of its small size and close communal character, which stands opposed to other collective demands of clan, lineage and family.

   TVA, a theatre group attached to the Vanuatu Women's Centre, performs as part of their public education programmes. The Centre holds workshops and meetings with young people in schools and with various groups and communities in the outer islands and Port Vila.

4 This is quoted from the brochure issued by the Vanuatu Women's Centre at the conference entitled 'In the Name of Love, Stop Violence Against Women' (Vanuatu Women's Centre 1994).

5 The conference was co-organized by Merilyn Tahi and Andonia Piau-Lynch, a Papua New Guinean woman now resident in Port Vila.

6 Douglas (1998:18) makes the important point that academic and aid agency literature, including this present chapter, focuses on the Women's Centre and the VNKW (Vanuatu National Council of Women) rather than the church women's groups, the local chapters of which are the 'main avenues for collective action and empowerment for most rural women'. The latter include the Anglican Mothers' Union and the Christian Women's Fellowship of the Church of Christ, affiliated with VNKW and the Presbyterian Women's Missionary Union, and those of the Seventh Day Adventist and the pentecostal churches, which are not. But as Douglas herself acknowledges, many Presbyterian women *do* want to affiliate with VNKW but are regularly opposed by the predominantly male hierarchy of their church. I am not so certain that feminism is still a 'dirty word' (Douglas 1998:17) for all ni-Vanuatu women, nor that we can read the stress of the Women's Centre collectivity on women's role as mothers and peacemakers as a strategic way of outflanking 'widespread calumny'. As I see it, such family and Christian values are widely shared by women, including those working for the Centre.

7 I was invited to attend this conference and present a paper. I do not see my particular conversations with Pacific feminists in Port Vila as representative. I am not saying that their views represent those of most ni-Vanuatu women in towns or in villages, nor those Pacific women who call themselves 'feminist'. I am also not suggesting that the particular predicaments which Pacific feminists face are generalizable to other parts of the so-called 'third world': this is a specific site of intersection of the local and the global.

8 Charity reminded me that we had first met in 1972 (when she was eight years old and I was twenty-two) at a wedding feast in South Pentecost, during my doctoral research there.

9 A paper written by Mason some years later suggests that although domestic violence is, in law, an assault and no different from an assault elsewhere, the police and judicial officers treat the matter differently, as less subject to intervention and as not requiring police action. Indeed she implicates police not just as some of the worst offenders themselves, but as likely to try to intervene either on the man's behalf or to try to enforce a reconciliation. Police seemed reluctant to enforce restraining orders and very unlikely to impose bail conditions (Mason 2000:125–8). She also reported that, from her sample, women were most at risk between the ages of twenty-five and thirty-four and especially if they had young children, were pregnant and were in paid employment, particularly when their husbands were not. Disputes over money and especially over the wife's income were a frequent trigger to violence (ibid.: 120–5). She also notes the very wide gap between the constitutional and legal provisions which confer fundamental rights without discrimination on women and offer protection in various ways, and the implementation and enforcement of these laws. There are, she notes, mistaken views about the law held by police, but their ignorance and incompetence she also sees as shading into intentional failure or outright refusal. Presuming to act to reconcile rather than prosecute was one example of the latter, which some saw as part of their community policing function (ibid.: 128–31). This paper was presented at a workshop on Violence in Melanesia in November 1997, convened by Sinclair Dinnen, as part of the State, Society and Governance Project of the Research School of Pacific and Asian Studies, at the Australian National University. It has appeared as a chapter in the collection derived from that conference (Dinnen and Ley 2000).

10 I should qualify this a little. Cook, in the earlier voyages, seemed keener to avoid violent encounters, and indeed the German naturalists on the second voyage, Johann Forster and his son George, lamented how violence seemed to be an intrinsic part of such European voyages of 'discovery' (see Jolly 1992b).

11 Elsewhere (Jolly 1994b) I develop this theme, especially in relation to the bride price and family law and with respect to Marilyn Strathern's propositions about how the language of subjects and objects is inappropriate to Melanesian concepts of the person (Strathern 1984; 1988).

12 Katerina Te-iaiwa (n.d.) has critically examined the role of the Body Shop in funding and supporting indigenous rights of Banabans now resident on Rabi Island.

13 By contrast the Vanuatu government speedily ratified the UN Convention on the Child. This is curious since in many ways ancestral values are equally at odds with the terms of that convention.

14 Merrin Mason interview with Patti Orifino on Radio Australia, Wednesday 12 April, 1995, 3 a.m.

15 The Public Prosecutor (Baxter-Wright 1994) was keen to stress women's propensity for violence also, and noted that of thirty-three Intentional Assaults cases brought in Port Vila so far that year, 42 per cent had been committed by women. This was higher than the percentage in 1993, when 36 per cent of all defendants had been female. Moreover in 1993, 36 per cent of unlawful assaults upon women were committed by other women.

16 It might be noted that the laws on rape differ significantly from those in Australia, stressing as they do violation by vaginal penetration rather than the full range of

sexually violent acts as in the reformed law of Australia. This was stressed by Merrin Mason in her interview with Patti Orifino.

17 The men were subsequently charged but received a suspended sentence, fines and costs of 60,000 *vatu.*

18 To be fair he also said that the law was failing women too.

19 Merrin Mason (2000) also noted, especially from her tours through the outer islands, that women often supported the rights of *kastom jifs* to hear such violent disputes and that many were also unaware that they had a right to press charges through the courts; compare Garap (2000) on the extreme difficulties faced by Simbu women in the administration of village courts and customary law in Papua New Guinea.

20 I am not suggesting that all men are doing this, and indeed some *kastom jifs* are sympathetic to women's interests. But, as Merrin Mason noted, only men are chiefs.

21 Elsewhere ni-Vanuatu and Solomon Islands women have in published poetry been more satiric and playful about the equations which might be made between women and other valuables, from shells to speedboats (Billy, Lulei and Sipolo 1983:103; Mera Molisa 1992b).

22 A draft of a new bill for the Domestic Violence Act was prepared by the State Law Office in late 1999 (letter of 11 October 1999, State Law Office, Government of the Republic of Vanuatu, to Department of Women's Affairs and Draft Bill as of 11 October 1999). This was a notable advance in legislative terms. But, as Mason (2000) has insisted, the problems are essentially the denial of women's existing rights in law and the failure to enforce pre-existing legislation. So, not only the passage of this bill but its effective implementation would be necessary to effect significant changes.

23 Indeed, as Macintyre suggests (Chapter 7), these poems are being recirculated in local communities, and songs and hymns are being composed in vernacular languages expressing similar sentiments about women's rights.

24 Bronwen Douglas has offered a trenchant critique of this and other binaries in her paper 'Traditional Individuals' (1998). She observes however that the contrast between a communalist Melanesia and an individualist West is also deployed in indigenous critiques of foreigners as selfish and materialist.

25 Mason also implicates both male politicians and police in the widespread condoning of domestic violence and the failure to deal with it according to the terms of the law. She quotes both the then president of Vanuatu, Jean-Marie Leye Manatawai, and the head of the National Council of Chiefs, Noel Mariasua, from reports in the Port Vila newspaper, the *Trading Post.* The first was quoted as saying, 'Men should not hit their wives, but you can't have a fire without smoke…. Some men have short tempers and women should try not to make smoke' (Trading Post 57, 24 May 1995, cited in Mason 2000:138). Noel Mariasua was reported as warning women not to take CEDAW (the Convention for the Elimination of all Forms of Discrimination Against Women) as reason to 'start thinking highly of themselves and forgetting their place in society' (*Trading Post 60,* 20 May 1995, cited in Mason 2000:138).

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7
'Hear us, women of Papua New Guinea!'
Melanesian women and human rights

Martha Macintyre

Tell me why as a woman
I have to sit down, crawl on my knees
When you are around my territory?

Tell me why as a woman
I have limited chances of getting education
When we are in the same territory?

Tell me why as a woman
I have a lower status
When we are in the same territory?

Tell me why as a woman
I have all this burden
When God, the Constitution and the
United Nations all tell me
You and I are equal in all respects?

> (Dewenis in Grassroots Women's NGOs of the Pacific
> 1995:60)

In June 1998, a theatrical dance performance played to packed audiences at the theatre of the University of Papua New Guinea. *Dancing Flames* was written, choreographed and directed by Stella Inimgba, a lecturer in performance arts. It tells the story of a group of people taken into captivity by blackbirders, the labour recruiters who took Melanesians to work in Australian sugar cane plantations in the late nineteenth century. In the play, they are placed in different plantations where they are enslaved, mistreated and alienated from each other. They eventually kill a 'master' who has raped his enslaved women and shot any who resisted him.

A 'Note from the writer' (Inimgba 1998) was appended to a review in a local newspaper, *The Independent,* in Port Moresby. Here, Inimgba represented the political argument of the dance play as having a universal message. For her the play was moral, didactic and expressive of the shared experience of all black people under colonialism. The opening scenes show a community of people dancing in worship of a bountiful female deity who confers upon them clarity of vision and creativity. These scenes represent the cultural unity and coherence that is lost when people are captured, enslaved and scattered. Inimgba draws parallels between the Melanesian experiences of colonialism with those of African-Americans: the actors were dressed in leopard-skin garments to emphasize the similarities with enslaved Africans. In her view, the play tells a universal story of the opposition between black and white under imperialism and the enduring effects of cultural loss and fragmentation on the enslaved. 'Apart from the degradation of the slaves, the blacks continue to stagger in perpetual loss of [the] unity, of power, human wealth and history'. She concluded:

> People may argue that the abolition of the slave trade and black-birding is enough compensation, [but] the facts remain that the generation of slaves is still plagued every day that it does not know the part or the country in Africa that is their ancestral root. The injustices of slave trade and blackbirding remain as cases one hopes that are yet to be addressed by the United Nations International Court.
>
> <div align="right">(Inimgba 1996)</div>

The appeal to the United Nations as the appropriate institution to ameliorate suffering and effect justice for Papua New Guineans, and the rhetorical emphasis on similarities with other colonized people/women who suffer injustice, are recurrent themes in Papua New Guinean women's political discourses. Ideas of universal and inalienable human rights and an emancipatory project of global justice permeate their discussions of their position and their struggles to improve their lives. With a constitution enshrining ideals of gender equality, politically active women pursue their rights in campaigns for justice and equal rights in terms redolent of the emancipatory discourses of the colonizing cultures of Europe.

In this they are part of moves by women throughout the Pacific to appeal for justice on the basis of a shared humanity, shared with men and with other women. The critiques of essentialism and discussions of post-modernism present in some western writings about women in post-colonial nations (e.g. Mohanty 1991; Marchand and Parpart 1995) have little currency in these women's organizations. They conceptualize their differences from women in industrial societies in terms of relative disadvantage: in political representation, in health, education, in opportunities to work and in rights over their own bodies. While cultural distinctiveness is celebrated in some contexts, women's organizations campaigning for change stress the basic similarities among women. The

appropriation and creative use of introduced cultural modes of expression (poems, plays, theatrical dance performances) to argue for women's rights are also typical of the way that many women present their views and appeals for justice.

The dramatic expansion of the global women's human rights project, discussed by Maila Stivens in Chapter 1, has had important implications in the Pacific region, where women's issues are barely represented in national politics and government policies. Internationalist campaigns for human rights have provided an arena for Pacific women's political voice. Many of the women's organizations in which much political action on gender issues in the Pacific is based depend for their survival on funding and advice from foreign aid agencies, and from church groups in Europe and Australia. As Stivens outlines in Chapter 1, the 1993 Vienna Declaration and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) established international standards of justice for women. The arguments that human rights *included* women's rights, and that gender difference should be incorporated into legal definitions of humanness revived the humanist feminism characteristic of the 1970s western women's movements. This emphasis on legislating for women's rights has been strongest in the United States, where feminists campaigned for the Equal Rights Amendment to the Constitution. The re-emergence of this ideal in the 'third world' during the 1990s may be a reflection of the changes in global political systems and the decline of socialist parties in many countries. As the alternative to forms of state oppression is seen increasingly to lie in liberal democratic governance, so the political ideals of women in such countries are expressed in terms that draw on the same discourses of liberal democracy. Indeed, as Freeman notes, CEDAW 'is the only document to have emerged from the International Decade for Women [1975–85] that legally obligates governments to eliminate discrimination against women by granting them rights as well as opportunities' (Freeman 1995:164). But this Convention was not ratified initially by Papua New Guinea, on the grounds that CEDAW's aims were not consonant with its diverse cultural traditions. This allied it with a number of other countries, including China, Malaysia, Malawi and Fiji, which made similar arguments about the need to recognize 'cultural difference'. These tensions around tradition and difference lie at the heart of women's assertions of rights throughout the Pacific.

Modernity, tradition and women's rights in Papua New Guinea

As is argued in a number of the chapters in this volume, the appeal to culture and custom and the rhetorical rejection of human rights arguments as Eurocentric or alien have been used by many repressive regimes to justify summary imprisonment and execution, the banning of labour organizations, capital punishment, and discriminatory legislation against ethnic minorities. Margaret

Jolly, for example, demonstrates how strategic justifications of human rights abuses in the Pacific region are justified as 'customary' practices which occur in the context of cultural beliefs about sexual differences, ideologies of gender distinctions and complementarity, and traditional hierarchical relationships. Within Papua New Guinea similar arguments are made about polygyny and the rights of men over women.

One of the most contentious issues in this respect is the claim made locally that in many 'traditional' Melanesian societies husbands acquired the 'right' to physically punish wives by virtue of bride wealth payments. The extremely high rates of domestic violence in Melanesia, especially in Papua New Guinea (Counts 1984; Toft 1985; Zimmer-Tamakoshi 1993), are often explained in terms of traditional authority. Customs which render women jural minors, refuse them property rights, and require all females to defer to adult men are common in many regions. Even in parliament, the majority of Papua New Guinean members have argued against laws specifically legislating against wife-beating on the grounds that they were contrary to 'traditional family life'. The 'payment' for a wife justified her being beaten when she was disobedient (Tomasevski 1993:94). Studies of attitudes to wife-beating in Papua New Guinea reveal that many women accept the right of husbands to beat wives (Toft 1985; Wilson 1987). But in other Melanesian communities, insult or physical abuse of a wife required payment of fines to her and her kin. The creation of a nation from many diverse communities has meant that women from areas where wife-beating is accepted encounter others from places where apparently it was always considered a breach of women's 'traditional rights'. The cross-cultural dialogues between women within Papua New Guinea thus destabilize and render specific traditions relative. At the same time, a newly-constructed homogeneity in law, provided by the constitution since 1975, means that regional variations of custom are (in theory) overridden by the rights of all people as citizens. Many women who now question customs as oppressive, do so in recognition that decolonization and the emergence of Papua New Guinea as a nation state gives them rights as citizens.

In the Pacific region aspirations for economic advancement and national prosperity provide the basis for most discussions of human rights in a post-colonial context.[1] As people debate and discuss their lives in new nations, appeals are made to rights over natural resources, rights to education and health, and judicial rights that assume both human personal autonomy and communal citizenship. In Papua New Guinea women are often marginalized within this discourse of advancement. Parliaments and government bureaucracies are male-dominated: during the 1990s there has been only one woman in parliament, Carol Kidu, who is the (white) Australian widow of a prominent Papua New Guinean. Legal institutions reflect their colonial origins, reinforcing a sex/gender hierarchy in which women's lives are subsumed in the categories of 'custom' and 'tradition'. Men are presumed to be more willing to embrace modernity and more able, through education and an ability to speak English, to

administer justice to those whose lives are circumscribed by their historical exclusion.[2]

In the national context, men in parliament often move between a thoroughly modernist position, calling for economic development and women's participation, and a paternalistic appeal to 'tradition' that excludes women from self-representation. This paternalism, like that of anti-suffragists in many western countries earlier this century, is based on the conviction that men are the natural political representatives of family, clan, village, and most recently, regional interests. In this respect their views on citizenship reflect the historical legacy of British and Australian traditions. As Pateman has clearly demonstrated (1988; 1989), these rest on an essential distinction between public and private that effectively excludes women from full incorporation into the public sphere. In contemporary Papua New Guinea, the idea of a 'traditional' domain, which is backward by definition, is associated with the premodern and with women. While this historically specific distinction owes much to colonialism, it is nuanced and interpreted through the discourses of traditionalism within new nationhood and the continuities of local gender ideologies.

In the pre-colonial era, most societies in the Pacific were characterized by a system of authority and prestige that excluded women from the activities and decisions that are now perceived as analogous to those of the modern political sphere. Public debate and decision-making, war and diplomacy were almost invariably the province of men. Women's influence varied historically and culturally, but during the periods of colonial domination the assumptions of European male authorities combined with those of Pacific island men to limit women's open participation in new political and judicial activities. During the early period of colonial rule in Papua New Guinea women were rarely recruited as plantation labourers or domestic servants. Thus there is a long history of exclusion from wage labour. The later colonial period in the Pacific provided only a few women with the education and experience to take on the tasks of government and bureaucratic administration. In some respects this history of formal exclusion from the cash economy reinforces the view of women's 'backwardness' and stasis in the 'traditional' world of the village as men moved back and forth or migrated to towns for work. This situation has persisted in the decades following independence in 1975, and urban populations are still male-dominated.

Meg Taylor, Papua New Guinea's first woman ambassador to Washington, argues that women's status has declined since independence: 'They work harder, that's all'. In an economic climate that is impoverishing large numbers of people, in which public services in health and education are being cut back, she maintains that women are more disadvantaged than they were before independence. Men dominate senior positions at all levels of government and administration, as Taylor comments in an interview with Ann Turner:

> Men are entrenched in almost all of the top positions, and when vacancies occur the women are usually overlooked in favour of less well qualified men…[I do not believe that there is] a real commitment in public policy to the advancement of women or to women's participation in policy making… little is being done to raise the community's respect for women or the protection of women's rights.
>
> (Turner 1995:60)

Whatever the values attached to gender differences in the past, the differences that are seen now as 'traditional' form the basis for women's disqualification from the political, bureaucratic and modern economic spheres. Just as the process of colonization deprived indigenous men of their former political autonomy, so independence has denied women any decision-making role in modernization. It is only in the last decade that women have been able to obtain loans for development projects and have been the targets of a few foreign aid projects. Prior to this, female labour was generally unremunerated and subsumed within cash-cropping ventures of which men were assumed to be the 'owners'. Even in areas where women provided most of the labour for cash crops such as coffee, the financial profits were often managed exclusively by men (Josephides 1985; Nakikus *et al.* 1991).

Since independence, Australian hegemony has persisted in government and legislative forms and through Papua New Guinea's dependence on aid and investment. Most of its current leaders were educated in Australia or by Australians using curricula adapted from their own state education systems. English is the language of government and higher education. The complexities of continued economic dependence, aspirations for a distinct national identity and the legacies of hegemonic ideals of development and modernity mean that antagonism towards European or Australian 'traditions' is a strong component of nationalist rhetoric. Hostility towards the former colonial power often emerges in defensive responses to Australian criticisms of the government, its inefficiencies and corruption. While the Australian media represent Melanesians as undemocratic, or failing to meet international standards of justice for all citizens, Papua New Guineans often claim these 'offences' as traditional and beyond the reproaches of foreigners.

This defensiveness and hostility have special significance for gender relations. The discourse of tradition and national identity incorporates women as the guardians of custom in ways that marginalize educated, urban women, portraying them as inauthentic imitators of 'western' ways. Melanesian women are represented as simultaneously central and peripheral in the construction of national identity. As archetypical village women they embody the continuity of custom: they remain the providers of food, the mothers of future generations and the authentic 'bearers of culture', who are symbolically outside modernity. The 'real' Melanesian woman remains in the village. The fact that fewer women than

men move from villages to towns, go to high school, or participate in the paid workforce, reinforces their ideological exclusion from the 'modern' nation.

Those Melanesian women who recognize their exclusion as discriminatory within the terms of the new constitution have to locate themselves as citizens of the nation in order to claim their 'right to have rights'. To contest pervasive gender ideologies that discriminate against women educationally, economically and politically they have to operate within the small discursive space between anti-colonialism and national pride. They are then labelled as inauthentic and 'non-representative' of women.

The privileging of definitions of 'custom' over women's claims to human rights rests on an essentialist and exoticizing construction of the authentic Papua New Guinean as a person defined by unchanging customs. This imaginary stasis is as much part of contemporary nationalist discourses of 'Melanesian identity' as it was of previous colonial discourses. Such stances ignore the more complex and messy business of being a citizen in an independent nation state whose history of colonization and missionization has destabilized 'custom' over a very long period.

The paradoxes are compounded in the case of Papua New Guinea, where the demand for women's human rights has surfaced mainly in the contexts of grassroots women's organizations and the Bougainville conflict. Ironically, objections to such claims come mainly from western-educated male politicians in Port Moresby, whose defence of the state's policies on both regional self-determination and women's rights perpetuates a paternalism entrenched during the colonial period. Political protest by women is readily dismissed by male leaders as culturally inappropriate and the product of 'western feminism'. Speaking against 'traditions' that marginalize women within the modern state is represented as tantamount to an attack on Melanesian ways, on the very ancestral customs that were denigrated by Australian colonial observers.

For many years large numbers of village women (and men) have been committed to educating their daughters so that they might benefit from the changes brought by independence.[3] These women are the stalwarts of women's organizations at both national and village levels. This relatively small group of women—the estimated adult female illiteracy rate is about 60 per cent (Gannicott and Avalos 1994)—are often very vocal in public controversies. Their voices express the hopes for change and improvement in women's lives. They also reject the subordination to men that grandmothers and mothers tolerated. Many of the women whose families struggled to give them the advantages of education, and whose schooling often meant years away from village and family, refuse to accept criticisms about their 'modern' ways being an attack on Melanesian ways.

Speaking out: tradition, modernity and poetic spaces

Throughout Melanesia women have taken up as their own the issues of domestic violence, the representation of women's issues in government and, most recently, environmental destruction, language and culture. In the words of Grace Mera Molisa, a Vanuatu political activist and poet, 'years after Independence, men are free, women are still colonized' (1987:7). As she describes domestic violence in Vanuatu in her poetry, she laments over and protests about women's situation. In doing so she appropriates the colonial language of the past, the clichés of the European observers who depicted Melanesian women as 'mere chattels', or 'beasts of burden':

> Man's
> colonial
> domination
> of Woman
> is exemplified
> in the submissive
> subservient
> obedience
> to Man's rule
> and authority
> which takes
> Woman Vanuatu
> for granted
> as
> a beast of burden.
>
> (Mera Molisa, 1987)

To express their views, women such as Meg Taylor and Grace Mera Molisa generally draw on liberal democratic discourses of egalitarianism rather than those of feminism. Distancing themselves from a 'feminism' generally construed as sexual libertarianism, they speak of women as citizens within a nation, and of 'community', 'freedom', 'equality' and 'rights'. They uphold ideals of equality of opportunity, political representation and improvement in women's services, and of women's human dignity, opportunity and self-determination in their own careers. They see feminism as an inappropriate, alien ideology which reflects the interests of educated middle-class women and fails to grasp the particularities of women's experience in the transition from colonial to independent government.

Many of the aspirations of other Pacific women concerned with their position within the nation also resonate with the arguments for human freedom and democracy that are usually identified with the European Enlightenment. But such aspirations are equally indebted to the Christian doctrines and ideals which have been part of the missionary project: women's appeals to 'women's rights as

human rights', their attention to the nurturant roles of women, and to the centrality of motherhood in defining the feminine, all stress equality in the sight of God and draw on the Christian ideals of liberty and of personal autonomy.[4]

Poetics

The marginalization of women within contemporary societies in the Pacific has meant that, like Grace Mera Molisa, they seek alternative spaces in which to express their discontents. One of the most interesting of these is a small but exciting body of poetry. The notion that globalization and new forms of communication give women an international voice is, alas, a fantasy of the post-modern West. In Papua New Guinea the majority of women are illiterate, electricity supplies are only available in urban areas and the writings of women are unpublished and rarely available outside the organizations that produce them. Most information about women is to be found in government or aid agency reports, many written by European women.[5] Moreover, since the 1970s, the women who have spoken out publicly for Papua New Guinean women have generally used English. But the ephemeral poetic works of women writers do provide the most direct, vernacular expression of women's political struggles, giving voice to personal experience in the context of a number of political campaigns: these involve campaigns on women's issues, including domestic violence, and the need for women to participate in decision-making about their future, education, economic development and environmental destruction by mining and logging companies.

Free-verse poetry was the chosen form of self-expression among the 'first-wave' of tertiary-educated Papua New Guineans in the 1960s and 1970s, especially those who were influenced by the expatriate writers and teachers, Ulli Beier and John Kolia. Many became high school teachers and encouraged poetry and short story writing in schools. Women's organizations and non-government organizations providing aid and assisting development projects have also encouraged women to write poems in English and the other lingua franca of the region (Melanesian, Pidgin and Bislama). Numerous small anthologies of women's writings have been produced in the last decade, particularly by women who speak English or Pidgin, to give voice to their thoughts about their world. Several women writers whom I interviewed, however, insisted that they had only been introduced to poetry recently, at meetings of church groups and women's organizations.

The poems are usually short and, as noted, in free verse. Sometimes small booklets are published after a conference and brought back to village communities by the representatives who attended. Occasionally the poems are made into songs, but more often they are read aloud (and where necessary, translated) at local meetings. The poems inspire village women to write their own, and these are then circulated, handwritten on single sheets of paper.

In the two regions where I have worked, Milne Bay and New Ireland Provinces in Papua New Guinea, such poems are common enough to be recognized by most literate women as an appropriate way to express personal thoughts and political protest. Women compose new songs and extemporize upon familiar ones. Sometimes the poetry is reminiscent of the Christian hymns and prayers that are also regularly sung in villages, but many are performed in the traditional styles of each community. In these compositions women draw on their experiences and reflect upon their significance, in terms very similar to those of the written poems. In many regions there are strong oral traditions of women's improvized songs, performed in rituals of mourning as well as festive occasions. Whatever their origins, poems are now a distinct cultural genre in contemporary Melanesia, especially those in English or Pidgin.

The volume *Beneath Paradise,* produced for the NGO Forum on Women in Beijing in 1995, exemplifies the range and force of women's writing. The collection includes contributions by 'first-time writers' as well as works by women who are recognized as poets in their own countries. These poems are directed towards other Pacific women, with the subject matter ranging from the narrowly personal to appeals for women to unite globally around issues of peace and environmental conservation.[6]

Civilized Girl

Cheap perfume
Six inch heels
Skin-tight pants
Civilized girl
Steel-wool hair
Fuzzy and stiff
Now soft as coconut husk
Held by a dozen clips
Charcoal-black skin
Painted red
Bushy eyebrows
Plucked and pencilled
Who am I?
Melanesian Caucasian or
Half-caste?
Make up your mind
Where am I going—
Forward, backward, still?
What do I call myself—
Mrs Miss or Ms?
Why do I do this?

Imitation
What's wrong with it?
Civilization

(Sipolo 1986)

Jully Sipolo, a Solomon Islander, wrote 'Civilized Girl' when she was a student at the University of Papua New Guinea in the 1970s. While it could be read as ambivalent towards the 'civilization' represented by young women's adoption of modern western clothing, the final verse establishes a theme which has been recurrent in her work over twenty years: Melanesian men's appeal to tradition in their continued oppression of women and the barbarism of these traditions in upholding the rights of men over women's bodies. Similar themes mark the poem at the head of this chapter 'Tell me why, man', by Agnes Dewenis, from Nissan in the North Solomon Islands, where the Bougainville war has raged for a decade. In it she challenges her male kinsman with appeals to 'God, the Constitution and the United Nations' rather than to the traditional values of Bougainville society. This places her firmly in a 'modernist' camp. In another poem addressed to her female antecedents, Agnes Dewenis outlines the progressive improvements she envisages for her daughter:

O Bubu *[grandmother],*
You knew your place in Nissan Society
You accepted your lower place in society
Now you're gone
And left your society to me
                                    …
I once accepted my lower place in society
Now I don't
And while I'm still here
I will elevate my place
So that when I'm gone too
My daughter will have a better place
In Nissan Society.

(Grassroots Women's NGOs of the Pacific 1995:64)

Many Papua New Guinean women share her views. At a time when a sizeable number of feminist theorists in advanced capitalist societies have been distancing themselves from such universalizing and essentializing ideas and decrying them as Eurocentric, women in the Pacific are embracing them and claiming them as part of their political struggle in the post-colonial era. Women are expressing clear opposition to the persistence of customs which symbolize female inferiority and require women to publicly defer to men. The erosion of customary values through development has placed women in a contradictory position:

modernization has compromised their former powers and yet provides the only means of advancement.

There are difficulties for outsiders who wish to examine these contradictions. Given the wariness that many western feminists now feel about 'speaking for others', especially women in former colonies, there is a reluctance to write about those aspects of Melanesian culture that oppress women. The assumption may well be that to present women as discriminated against, or disadvantaged in contemporary life, is to detract from their obvious strengths, adaptability and endurance. Or in terms of feminist argument, a stress on their sufferings and structural disadvantages can be interpreted as a denial of their agency. But a retreat into discreet silence or a respectful emphasis on informal powers carries the danger that Melanesian women's problems and appeals for support will not reach people outside the region. The high incidence of violence against women, the legal discriminations and the experiences of women in the civil war on Bougainville (1988–97), for example, are recognized and discussed by Papua New Guinea women, but rarely feature in ethnographic studies of women's lives.

The language of human rights in a post-colonial frame

The salience of human rights in respect to women's lives has arisen in part because of the more general political climate in the Pacific during the decades of decolonization. Resistance to persistent colonial domination in Tahiti, New Caledonia and Irian Jaya has drawn Pacific women into struggles for self-determination, while in some of the newly independent countries internal conflicts have arisen as part of the legacy of former colonial regimes. In the context of these conflicts, militarism and the use of defence forces to suppress opposition to state power have meant that human rights abuses have become an important issue.

In Papua New Guinea, the civil war between North Solomon Islands secessionists and the government began in Bougainville in 1988, as a campaign of strikes and civil disobedience directed against the coppermining activities of the Australian company, CRA (Conzinc Rio Tinto Australia) and the national government. Demands were made for the acknowledgment of indigenous sovereignty over land and resources. But it quickly became a war of secession, bringing the violence of a guerilla war and the displacement of thousands of people, as well as the destruction of public facilities such as educational and medical services. A generation of children has been deprived of access to such services. The effects on women and children of living through war and a government blockade have generated debates about their human rights within the nation.

The Bougainville conflict has become a focus for women's protest only in the last few years. There women, particularly the *Katolic Mamas* (Catholic Mothers), were influential in forcing peace negotiations in 1997, although their role has received little attention from the media in Papua New Guinea and

abroad. Within the region, however, women recognize the influence that these women have had in forcing men to the negotiating table. In spite of the enormity of the pressures created by the war, however, many women continue to support the aims of secession and demand control over their island's rich copper resources. But at a meeting I attended in Port Moresby in 1996, women also spoke of their suffering and loss during the civil war. They each had stories of rape and murder by soldiers. As they spoke they were assuming the self-evident injustice, inhumanity and immorality of these events.

Bougainvilleans who have organized as mothers to demand justice on behalf of relatives tortured, killed or missing without trace represent themselves as having 'human rights'. Women make appeals in terms of their humanity, their femaleness, their maternity and their Christianity; they also appeal for the solidarity of others beyond their country. In many instances, such claims are made with respect to shared experiences which they perceive as uniting them with other women. Helen Hakena's poem, *Love Lost,* for example, simultaneously expresses the particularity of suffering, the devastating effects of war on a specific homeland and the longing for peace:

> Death deprives the country of future leaders,
> Dawn brings new hope
> Peace lingers in the minds of faithful mothers
> Amid all confusions
> A child plays with tankers and guns
> What sort of leaders will they be
> I wonder?
> Bougainville O Bougainville…
> The fast flowing rivers
> Grave yards too many
> If only you could talk
> Then I'd know where
> My loved one lies.
>
> (Grassroots Women's NGOs of the Pacific 1995:84)

These women also draw on generalized images of maternal love, nurturance and women's capacity for survival when children's lives are at stake. Lucy Sinei's poem, *Beneath Jungle of Beauty,* typifies such images:

> …
> It's dawn
> Distant gunfire come closer
> One hand holding 4 year child
> Napsack, 2 year child
> We run for cover

Beneath jungle of beauty
Bougainville
It's part of my bloodstream now
I strive with 3 children to survive the war
From another hut or cave I hear wails of a woman
Her child has been shot
Beneath the jungle of beauty
Six years of sorrow, pain suffering
Broken hearts…

(Grassroots Women's NGOs of the Pacific 1995:82)

In the conflict on Bougainville each story is particular, each woman is particular, has a name, is a daughter, a sister, a mother. No one is simply a biological female of the human species. These women are raped because they are believed to be supporters of the Bougainville Revolutionary Army—the wives, daughters or mothers of secessionist guerrillas—or because they are not. They are raped in the cultural context of ideas of masculinity, so that through the humiliation and pain inflicted on them, their men are rendered less masculine and defeated warriors. They are raped as representatives of their community, as Bougainvilleans, or as women who are recognizably *mungkas,* their very black skin distinguishing them from other Papua New Guineans. Each rape victim is multi-constituted: defined in terms of age, ethnicity, territory, political affiliation and religion. She defines herself and is defined by her rapist. In all of the stories women represent the rape as both physical and political: the psychological effects both on them and, when they are aware of them, on their husbands, fathers, mothers and children, are seen as horrific.

However alone they may have felt during the rape, its effects are never neatly enclosed by the physical body: it is also a violent assault on the woman as a relational, social person. The anthropological literature on gender in Papua New Guinea societies has emphasized relational and culturally constructed ideas of male and female social beings (namely Strathern 1988; Lepowsky 1993; and Meigs 1990). The mutability of Melanesian gendered persons, partly because of the interesting differences between their cultural categories and western ones, is thus given salience while the shared ideologies of humanness—many of them initially introduced by Europeans—are often suppressed or ignored in anthropological representations of contemporary women. But at the same time, the common-sense appeals by women to universal humanness and the rights of women in law are equally and fully 'Melanesian'.

The stories of Bougainvillean women are remarkably and distressingly similar to those of Bosnian and Croatian women: the discourse of legal declaration; the sequence of capture, taunting, violation, insults and pain; and the feelings of disintegration and humiliation. Also similar are the strategies of survival, the assertion of their human rights and their appeals for intervention and legal

redress. Perhaps the most tragic recurrent theme is their hope that in testifying about their suffering, they will rouse a moral response from others that recognizes their common humanity. But their similarities as victims of war exist alongside differences, and no woman is 'simply' a woman.

Bougainvillean women's commitment to the political and armed struggle for their rights might be viewed as 'pursuing transcendence', but it does not entail the 'commitment to disembodied or ahistorical selves' that anti-humanist feminism attributes to Enlightenment humanism (Green 1995:168). In appealing to others through these stories, the women were taking for granted the justice and reason inspiring the guerrillas' resistance to a government whose interests in the copper mine were solely economic. The force of their statements rested also on the shared views of the horror of violent death, of pain and fear. These women's stories demonstrate the discursive artificiality of representing humanist ideas of the person as incompatible with 'understandings of ourselves as embodied, emotional creatures whose sense of self is made up of a mixture of reason and feeling which cannot be sharply separated' (Green 1995:168). Moreover, empathy with another's suffering rests on the humanist idea of shared capacities. It is only through the human capacities for imaginative identification, reason and compassion that we can understand the historical, cultural and experiential specificity of the women in the Pacific region. For those women from Bougainville who sat down with other women and relived the traumas of war, the purpose was unequivocally political: they wanted the truth about Bougainville to be told and they demanded justice for their people.

Bougainville's recent colonial past has provided the primary grounds both for political struggle and the language employed. The Bougainvillean arguments about resource sovereignty, ethnic identity and the right to self-determination derive from the political discourses introduced in the nineteenth century by the British and elaborated during the period of Australian rule. Moreover, their appeals nationally and internationally to human rights as the basis for secession from an unjust national government are grounded in assumptions about universal human rights. The ideals of justice and the emancipatory discourses developed during the period before independence, emphasized the rights of citizens within a nation state and the institutional basis for protection of those rights. The appeal of universalism and emancipatory political goals to Melanesian women has derived from their experience of the colonial encounter and their inheritance of its cultural legacy. The expression of their political aims incorporates their specific experiences into the broader discourses of democracy and citizenship, linking them to other Pacific women and beyond.

Let me clarify this with an example drawn from the Pacific. In Chapter 6 in this volume Margaret Jolly gives an account of a forum on women's human rights and domestic violence in Vanuatu. As noted, women throughout the Pacific region have been involved in campaigns against domestic violence. The leaders are usually women from the so-called 'urban élite', whose arguments are couched in the familiar terms of the United Nations documents about the rights of

women as citizens. In Papua New Guinea and Vanuatu opposition to these campaigns is often presented in terms of the ideas about tradition described above, especially the customary rights of men over their wives and other women in their families. Human rights are thus represented as the alien doctrines of European colonialism. One of the major claims is that human rights are conceptualized as individual rights in the West and as collective rights in the Pacific. This is of course simply incorrect. The Enlightenment tradition is as much concerned with the rights of groups as it is with those of individuals—ideas of democratic representation, of national sovereignty and of democratic legal systems all rest on ideas of collectivity, of 'the people'. Arendt's idea of 'the paradox of human rights': whereby human rights are defined as rights of 'natural persons' independent of citizenship, but which can only be claimed by virtue of citizenship—is especially pertinent here (1958). For while she discusses this paradox in contrasting the rights of modern citizens in a nation state with those of the refugee or 'stateless' people, the situation of women in newly-independent Pacific nations is analogously paradoxical.

The Nietzschean turn in some academic feminism rejects political aspirations drawn from both religious doctrines and ideals of humanity as the basis for intrinsic rights. For example, Braidotti dismisses the political aspirations for equality and rights of representation as 'the lukewarm humanism of those who have nothing else to offer but good sentiments' (Braidotti 1996:146). But 'good sentiments', both from other human beings and from a benign God, are precisely what inspire the poetry and prayers of many Papua New Guinean women. Moreover, as noted, many women see the progress of the Bougainville peace process during 1997–8 as the result of their rhetorical efforts. These have united people in the desire for peace, and have been rewarded by a just God. In the Pacific region, as elsewhere in the third world, many of the established churches have taken the lead in criticisms of state violence and injustice. In many ways, the pervasive religiosity of women's politics in Melanesia makes it profoundly different from western feminisms, and yet locates it within those contested western discourses of liberation, salvation and divine intervention. The force of these unifying discourses is palpable at women's meetings in Papua New Guinea, which begin and end with Christian prayers, and where a woman makes a public appeal for God's assistance in stopping her husband's drinking, or another reports on a pan-Pacific conference where 'the best thing was that we were all Christian women who were experiencing the same troubles'.

The theme of a humanity shared with men as the basis for a better society similarly recurs in women's poems:

Women are the same as men
Women should have some freedom
And enjoy themselves like men
Women are not animals

To be kept in the house
All the time as in a fence
Women do everything
To please their husbands
And still, men want to be the boss
Why should there be differences
When women are the same as men?
　　(Betty Arthur, in Grassroots Women's NGOs of the Pacific 1995:82)

Freedoms

I think there is a reluctance among western feminists to recognize the stances taken by third-world women as inspired by humanism and religious doctrines like Christianity. One sign of this reluctance is the absence of a literature addressing Melanesian women's experiences of nation states. There is instead a continued exclusive emphasis on the unique, the different and the culturally specific aspects of Melanesian women's lives; I suspect that this derives from a desire to attribute to these women an affinity with current criticisms of modernity that have developed in the context of Euro-American post-modernist critiques. This approach is underpinned by submerged images of the 'natural nobility' of smallscale, stateless societies which privilege communal interests over those of the individual and promote harmony rather than competition. This subtext is just as much a part of an Enlightenment view of the differences between, and the common qualities of, human social existence as the modernist version that stresses progress from small, fragmented groups to the unified nation state. The idea of communitarian values as less 'selfish' and more altruistic than liberal democratic values which attempt to balance out the interests of the individual and 'society' is itself intrinsic to the development of a democratic ideal of 'the common good'. The soft-focus view of communal life as tolerant and inclusive has permeated anthropology and validated a nostalgia for the pre-modern sociality of small communities. In Melanesia this communitarianism is invoked by those like town-dwellers who do not have to live it.

For many young Pacific women who imagine the freedoms and independence that education and wage labour might bring, the view of communal life is often much harsher, emphasizing the constraints it imposes on autonomy and choice. As Marquand observes, '[c]ommunitarianism, after all, has two faces. It can be generous, tolerant and pluralistic, but it can also be mean, parochial and morally authoritarian' (Marquand 1997:3). Many women in Papua New Guinea share such longings for independence and represent 'the village' as a place where gossip and petty feuds restrict action and exclude people who depart from the strictures of custom and convention.

On a few occasions an issue has arisen that has united women in towns with their village sisters in opposition to a custom that is in breach of state law.

Recently a young Western Highlands woman legally contested her male relatives' right to 'give' her in marriage to a neighbouring tribal group as part of a compensation payment for a man killed in tribal fighting (Dinnen 1997:6). The woman was supported by the newly formed human rights organization Individual and Community Rights Advocacy Forum (ICRAF), which is funded by foreign aid. She argued that she was denied her rights as an individual to choose whom she should marry; that in being given as part of a transaction she was effectively being reduced to the status of an object (pigs, money and food were also given); and that her menfolk were acting illegally. The men argued that this marriage conformed to customary law and rejected the view that the woman had the right to choose her spouse. They maintained that the arrangement had merely been altered slightly, having been brought forward in order to restore friendly relations with neighbours, and that men always had rights of bestowal of their women. They defended their rights not only on the grounds of custom, but in terms of their view that women were incapable of making decisions that had implications for their lineage group. This, they held, justified male control over them. Initially the police refused to bring civil charges, as they too believed that the young woman had no rights in the matter.

The difficulties she encountered illustrate the variety of obstacles Papua New Guinea women face in attempting to bring a matter to court. Policemen, village court magistrates and even judges regularly reject women's complaints and uphold men's interpretations of custom in marriage and property rights. Very often women are unable to pursue the available legal redress of wrongs against them simply because they lack the money to do so. Even a trip to the police station in a town becomes impossible. The emancipatory potential of women's economic independence may ring hollow in the ears of women from industrialized countries who think of themselves as 'wage slaves'. For many women in Papua New Guinea, however, employment offers freedom from the demeaning, parochial and authoritarian dimensions of village life, where institutions such as polygyny and bride wealth constantly affirm the rights of men over women.

In many communities adult men 'traditionally' held authority over women both as a group and as particular members of their clan or lineage. The ways in which they controlled a woman as an individual included rights over her fertility, her labour and her person. In some areas men could insist that a woman marry her rapist in order to gain an appropriate bride price; they could also chastise and punish her for disobedience and restrict her movement from place to place. A widow could be ritually killed at her husband's funeral so that some of his clan land would be given to her clan in recognition of her sacrifice. The extent to which such rights were acted upon is a matter of dispute now, although in my own research in New Ireland I found few women who represented such actions as anything but commonplace. One old woman, illiterate and uneducated, spoke of the past practices as treating women as if they were pigs who could not speak or choose to die of old age. She gleefully recounted a scene she had witnessed

recently involving a young woman, who was earning wages as a laundry maid, and a man working on a mine site:

> He came into the village with his wages in his pocket and I saw him approach the girl, holding out ten kina. They have no shame now, these men, and the village girls want money too so they go with them. But this one, she had her own money, from working at the mine, so she pulled out ten kina and waved it in his face and said, 'No thanks. I have my own'. We women all laughed then and he hadn't seen we were watching and was shamed. I really believe now that we have to teach young women to be like this, not to just think that men control us. Each one of us has always had her own mind, but with no power to act against the desires of men.
>
> I remember my mother talking about a young woman whose brothers had strangled her on her husband's grave. She said then that if she had been a man and had been able to do plantation work, she would have been able to buy that woman's life by paying for the land. But women had no way of working for money then. Now they do, and the changes will come.

Changes in the ways that village women construe bride wealth payments are already discernible in those areas where women have access to cash. While many educated young women accept the interpretation of the transaction as mutual gift-giving, some resent their implicit objectification and the cupidity they believe marriage exchanges generate. The Papua New Guinea court upheld the rights of the Western Highlands woman to refuse to be married and her victory has since inspired three other women to legally contest the rights of their families to exchange them for bride price payments (ICRAF Women's Desk Officer, personal communication). One woman from Vanuatu expressed her views on bride price and the difference between the rhetoric of custom and the real situation created by such payments in a poem at the National Festival of Women in 1990:

Braed Praes

Braed Praes I mekim mi fil olsem wan spid bot
O trak blong oli pem.
I mekem ol famili blong mi I gridi
Mo oli wantem wan bigfala praes moa.
I mekem ol tambu mo ol tumbuna blong mi oli kros
taem me no save bonem wan pikinini blong boe blong olgeta.
I mekim man blong mi I ting se mi mas obei
long hem evri taem…

Bride Price

Bride price makes me feel just like a speed boat
Or a truck that can be bought.

It makes my family greedy
For they just want a higher price.
It makes my in-laws and my grandparents angry
When I don't yet have a male baby.
It makes my husband think that I must always obey him…
(Vanuatu National Council of Women 1990:12)

The trickle of court cases against bride price transactions by young women indicates that women are increasingly prepared to invoke their rights as citizens and as individuals. For many young women economic independence is the only means they have of avoiding the constraints that men place on their lives. Their personal control over earnings is usually tenuous because of family demands, but they are often able to make decisions about their lives that were formerly the province of others. And from their new position of relative economic autonomy, they speak for women who have little.

Conclusion

Throughout the Pacific, women who are campaigning against domestic violence, organizing women's development projects, or working through their church organizations to improve the lives of rural women, draw on a range of universalizing discourses that they have encountered in their everyday lives: these include religious, educational and cultural, and non-government agency practices. The 'culture' of the contemporary Papua New Guinea villager includes education in English and the use of Pidgin to communicate with each other and with people from different language groups. The cultural values of the majority of women incorporate Christian beliefs, ideals and hopes for economic development and material improvements. The Beijing Fourth World Conference in 1995 provided the context for the development of a *Papua New Guinea Platform for Action* (Papua New Guinea 1995). Women from rural villages contributed to the policy recommendations which were formulated by a group of highly educated women employed by government. The collaboration of urban and rural women, and their mutual recognition of skills and strengths derived from different experiences, are features of Melanesian women's projects which are obvious to all participants and observers. Attempts to divide women into 'westernized' and 'traditional' are usually reactionary ploys to discredit the political goals of women. The Bougainville crisis and peace process, which has drawn together women from many regions, has been one of the main rallying points for women.

The ideal of women's human rights does not necessarily require a unified, monolithically female human subject. At the moment perhaps it is critical that

women in western nations recognize multiplicities, differences and the discordant elements that divide women. But this does not mean the denial of those physical and structural similarities that render women's bodies vulnerable to rape, the symbolic defilement by men who construct them as adjuncts to themselves. Constructions of gendered violence may differ in cultural form, but they are depressingly similar in the personal and political implications for women.

The poetry that Pacific women produced in the context of the Beijing conference appealed to all women in the region, drawing on the grand and incorporative ideals of modernist feminism. Rights to work, to equal pay, to education, to equality under the law, protection from male violence and access to health care were the issues that women within Papua New Guinea enshrined in the policy document *Papua New Guinea A Platform for Action—A Decade of Action for Women Towards National Unity and Sustainability, 1995–2005* (Papua New Guinea 1995). This acknowledged the need for emergency action in areas where women suffer grave disadvantage and discrimination.

When women in the Pacific distance themselves from feminism and argue that its aims seem foreign or individualistic, they stress instead those aspects of women's experiences that they see as the basis for a future unity. Thus the demand for clean water, for protection from violence and rape, for economic development that will ensure future prosperity and for health services that serve their needs are all represented as *rights* for women. In countries such as Papua New Guinea, where men dominate public debate, the opposition to human rights discourses comes from conservative patriarchal traditions. Men in power eagerly accept those elements of post-colonial critiques that keep women in the 'traditional', culturally fragmented domain where their voices are hushed and solidarity impossible. For example, within the University of Papua New Guinea —itself the site of numerous rapes and several murders of women in recent years —the discriminatory practice of withdrawing the scholarships of women who become pregnant has been justified by appealing to 'discourses of difference': these situate Melanesian women as less deserving of a tertiary education than men (ICRAF Women's Officer, personal communication). In a feminist intellectual milieu where appeals to shared female experience are dismissed as spurious universalism there is a danger that the words of Pacific women will not be heard sympathetically, or will be dismissed as 'inauthentic' by the very women to whom they appeal on the basis of shared humanity. Cultural variations and distinctions within Papua New Guinea present the acceptable face of post-colonial authenticity which stresses difference as the proper subject of 'identity' politics. But for many women who work to improve the lives of women there, the appeal for international support from women is a crucial political step in gaining status as citizens. Linda Passingen, in her poem, 'Hear us, the women of PNG', expresses these ideas evocatively:

Hear us, the women of PNG

Hear us, the women of PNG,
Stop the discrimination and violence against us.
We, Papua New Guinean women are ignored,
undervalued and exploited.
We are hardworking, but where is our reward?
We bear many children and maternal deaths are too common.
We are often ill and undernourished
we are frequently beaten and raped
but with little legal redress.
Many of us are illiterate with little opportunity
to benefit from formal education.
We women are strong and crucial
in upholding the social and cultural life of PNG
We must be incorporated into the emerging social forms
if our society is to survive.
Let the women and men of PNG,
the government and churches listen.
Stop the violence and abuse of women in PNG
Stop the beatings, the rape and killings,
Educate women to read and write their own lives,
Recognize and value women's roles
and contributions, in every culture.
In the child rearing and daily tasks,
Share political, economic and social benefits with us,
as equal partners in development.
Listen to us and be with us
in the development of our nation.

(Grassroots Women's NGOs of the Pacific 1995:12)

Notes

1   Although I am aware that the concept of the 'post-colonial' has acquired much more than a temporal reference in academic writing, in Papua New Guinea it is almost invariably used to indicate the period since 1975. That is the sense in which I use it here.

2   The terms 'modern' and 'modernity' are used in Papua New Guinea to refer to the types of government and economic activities associated with contemporary nationhood, democratic elections, industrialization and wage labour. While I am aware that these are not innocent terms I am mainly using them here in the way that they have been consistently used by Melanesian women commenting on the position of women in contemporary Papua New Guinea.

3 Throughout the period of Australian rule, most education was provided by churches. There were several girls' schools and most of the women who are now in senior government positions attended either a Catholic, Methodist or Anglican secondary school. When state education was introduced most schools were coeducational, a change which in some regions led to a drop in female enrolments. Since 1980 there has been an increase in female education at all levels. In 1994 the government statistician reported that 67 per cent of girls over seven were in primary school and 17 per cent of girls over the age of thirteen were in secondary school, compared with 80 per cent and 21 per cent respectively for boys. Most instruction has been in English and it is only very recently that elementary schools that teach vernacular literacy have been set up. Many of these are run by the Summer Institute of Linguistics and the teaching is tied to that organization's aim of translating the bible into all 700 Papua New Guinea languages.

4 Papua New Guinea's most recent census revealed that 97 per cent of people identified themselves as Christian (Government of Papua New Guinea 1991) and the majority of women's organizations in the country are church-based.

5 There are numerous reports prepared by Australian, New Zealand and Canadian aid agencies and institutions such as the Asia Development Bank and the World Bank, but these are often confidential or unpublished documents.

6 All poems quoted in English were written in English. While some women write in *Tok Pisin* (pidgin), very few are published. This reflects the fact that the majority of women who are active in women's organizations have attended school where all instruction is in English.

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8
The Contemplacion fiasco
The hanging of a Filipino domestic worker in Singapore

Anne-Marie Hilsdon

Flor Contemplacion, a poor married woman with four young children, left the Philippines on her own in February 1987 to work abroad as a domestic contract worker.[1] By March 1995 Contemplacion was dead, executed in Singapore after her conviction on a charge of double murder, a crime which many still claim she did not commit.

In this chapter I analyze the public emergence of the Contemplacion case in a human rights context. By recounting the personal narratives of Contemplacion's family and friends and examining the public positions of the media and non-government and government agencies in the Contemplacion case, I reveal the complexity of competing claims to human rights. I show how human rights discourses in which such claims are embedded give differential primacy to aspects of gender, class, ethnicity, national politics and geopolitics, and have differential effects on the citizenry and governments. Some claims inevitably emerge as more important than others.

My account draws on interviews conducted in 1996 with members of Contemplacion's family, her Changi Prison cellmate, her lawyer, officials from relevant Philippine government departments and non-government organizations (NGOs) involved in her case, and Philippine newspaper and television representatives. Secondary sources used include Philippine government-commissioned reports; proceedings of United Nations Conferences on violence against female migrant workers; and articles from national daily newspapers from the Philippines, Indonesia, Malaysia and Singapore. The public nature of events like the execution of Contemplacion are open to various interpretations and resolutions. In the public sphere, such differences between local, state and international groups involved in the event are not attributed equal importance. It is not my intention as a researcher to make moral decisions about the innocence or guilt of Flor Contemplacion but rather to build my analysis of the tragedy through discussion of competing perceptions of my informants and those represented in secondary data.

Through an analysis of these sources I argue that the violation of the rights of a female overseas domestic worker in the private sphere is different from that of an overseas man or woman who works in the 'public' sphere. It is different because modern capitalism maintains a societal dualism in which the 'private' or

domestic sphere, and all work performed there is devalued by comparison to the public sphere. Abuse of the rights of overseas domestic workers remains unacknowledged and often outside the purview of state regulation.

Contemplacion in Singapore

Although Contemplacion's case became a public issue in 1995, events and processes were set in motion long before. She was arrested for the murders of domestic worker and friend, Delia Maga and Maga's employer's child, Nicolas, in 1991. Barely fluent in English, she was reportedly coerced into a confession without a lawyer present, after having been drugged and administered electric shocks. Her arrest followed a visit she had made to Maga, giving her some gifts to deliver to Contemplacion's family in the Philippines. During Contemplacion's visit, Nicolas, an epileptic, reportedly drowned in the bathroom. After this, Maga reportedly called her employer and sent Conternplacion home. Later, Maga's body was found battered and strangled.[2]

Contemplacion's prison cellmate for several years was Virginia (Angie) Pamurog, imprisoned in Changi when she was sixteen, with five other Filipinas whose visas had expired. They had escaped from a room in a residence where they had been held captive by unscrupulous recruiters, who had lured them from the Philippines with the prospect of domestic work. The work turned out to be prostitution and they refused to participate. After serving a two-month sentence, they remained in jail because they had no money for the airfare back to the Philippines. There Pamurog and Contemplacion ('Mama Flor') became good friends. Finally in July 1994, Angie and two of the other five were repatriated when their airfares were paid by a Filipino seaman.[3] They were reportedly brought to the Singapore airport runway 'handcuffed together like pigs' (interview, Virginia Pamurog, June 1996).

Contemplacion was detained without trial for nearly two years under Singapore's Internal Security Act.[4] Convicted through her original confession, she entered a plea of insanity on advice from the Philippine Consul in Singapore in the hope that this would result in the commutation of her prison term, but instead was sentenced to death. In early March, 1995, her family found out about her plight through public radio and her children went immediately to Singapore, at the expense of the local mayor, to say goodbye to her (interview, Russel Contemplacion, June 1996; interview, Migrante-Philippines spokesperson, June 1996) .[5]

President Ramos and Contemplacion's Philippine attorney, Capulong, twice sought a stay of execution.[6] Non-government organizations in the Philippines, who had started campaigning for migrant workers in the 1970s, led by two Marxist-oriented groups, Migrante-Philippines and Gabriela, took up the case.[7] The media who publicized and protested against the death sentence locally and internationally worked in conjunction with the non-government organizations.

Contemplacion begged to be allowed to hold her children before she died. She and her fifteen-year-old twin sons did not recognize each other at first in Changi prison as Flor had left home when they were seven years old. Russel, her only daughter, was soon to have a child. Contemplacion could only talk to her children via the intercom and only when they visited for the regulation one hour per day. They showed her photographs of home through the thick glass separating them. They could not give her any parcels.[8] Their request for a farewell embrace was disallowed by the prison officials. Contemplacion told her children to embrace her body in the Philippines when it returned, and sent them home (interviews with Russel and Joel Contemplacion, June 1996). Contemplacion was hanged on Friday 17 March 1995.

In the Philippines the citizenry mobilized to protest in grief and outrage. Flor Contemplacion became the embodiment of a hero and martyr who had sacrificed for her family: a victim, selfless worker and saviour of the Philippine economy. Thousands of people from NGOs, including feminist NGOs and the media, protested her innocence at all-night vigils at the Singapore Embassy and during her funeral march (*Philippine Graphic* 5, 44, 4 October 1995:10–12). Such a mobilization of the citizenry requires some explanation. Hero/martyr imagery resonates with a long Philippine tradition of armed and militant resistance for national liberation, first against Spanish colonizers, and subsequently against successive governments (Hilsdon 1995:165, 169, 172). For example, such imagery was used by leftist groups between 1970 and 1992 as a strategy to curtail human rights abuses during political campaigns against militarization (Hilsdon 1995:169).[9] Heavily influenced by Catholicism, hero/martyr imagery has been differentially embodied over time and across several political and gender boundaries.[10] In the 1970s it flourished, as the hardship and abuse of rights experienced by those doing overseas contract work were revealed. Such work was popular amongst the citizenry and government because of the relatively high wages and remittances. At the kinship level, migration of members financially assists their families (Hilsdon 1998:51–2). Workers' remittances not only contribute substantially to the housing, education and welfare costs of their families but also buoyed a depressed economy during the Marcos dictatorship and successive governments.[11] Overseas contract workers, or OCWs, are considered national heroes for their contribution to the development of the Philippine economy.

For women, particularly migrating women, such hero/martyr imagery is problematic. Like all Filipinas, they are subjected to a feminized form of the state-sanctioned religious discourse of martyrdom in which women and mothers, located in the household formally through marriage, sacrifice themselves for 'the hearth, home and heaven' (Hilsdon 1995:37–8).[12] A woman's traditional role as homemaker has been extended to domestic service abroad (Tolentino 1996:53). Yet, leaving her 'traditional' location at home may be perceived by the media, the migrant's family and the migrant woman herself to produce 'disintegration of the family': children are considered to be neglected and husbands reportedly

become unfaithful when wives and mothers go abroad to work (Santamaria 1992: 71; *Business World* 10 September 1992:9; Interview, Kanlungan spokesperson, June 1996; interview, Joel Contemplacion, June 1996; interview, Russel Contemplacion, June 1996).[13] Such presumed changes in 'traditional' family patterns may be counted as social costs of modernization and 'development' (Stivens 1998:19, 25).

Women workers overseas are widely considered to have usurped the husband's position as main family breadwinner endorsed by the state (Hilsdon 1995:145–6). Yet framing women's work abroad in terms of provision for their children enables OCWs still to be perceived as fulfilling their state-endorsed female roles. Filipino feminist writers and activists, such as Piquero-Ballescas (1992) and Josie Aguilar, Kanlungan Center Foundation Inc. (1992), point out that women work abroad to support children also after marital separation— divorce is illegal in the Phillippines —or to escape family abuse or pressures to marry; and unemployed husbands reportedly 'spend big' with their overseas working wives' earnings.

Women who work abroad are also considered to have unknown freedom (Javate de Dios 1992:47; Piquero-Ballescas 1992:51). They have travelled overseas, and have 'the promise of making concrete the cultural standards of middle-class living…betamax [video], TV, cassette recorders', white goods, land, houses and owning businesses like their employers in Singapore or Hongkong' (Hilsdon 1998:52–5; Tolentino 1996:60). While such autonomy may threaten the national vision of the family and traditional roles of women, it facilitates new notions of the family, such as 'wage-earning couples'. Through the migration of women, Tolentino (1996:53) argues, men are forced to learn these notions too.

After Contemplacion's death there were many changes to her family. Russel gave birth prematurely; John got married and Joel lived with his girlfriend in the family house. The twin children starred in a movie by Viva Films (in the Philippines) about Contemplacion's life. Legal struggles with Viva Films were ongoing in 1996 as Contemplacion's children attempted to secure an ongoing percentage of the film's considerable profits. Efren, Contemplacion's husband, received the initial royalties (reportedly 5 million pesos, or A$278,000, in 1996). He bought two blocks of land, a tricycle and two passenger jeeps, one for Sandrex the eldest son. The twins bought motor bikes with their acting salaries. Efren ended his relationship with his mistress, Ellen, who had previously campaigned for Contemplacion's release. She left for Bicol, Luzon, and he married another woman. President Ramos awarded a 120,000 *peso* (A$6,667 in 1996) scholarship, partly from personal funds, for Contemplacion's children (*Jakarta Post* 19 March 1995:1).

Although the tragic and poignant events of Contemplacion's life and death were well understood in the Philippines, in the Singapore press the hero/martyr image of Contemplacion signified primitive emotionalism and irrationalism (*The Straits Times* 15 April 1995:10). While some display of outrage at Contemplacion's death was considered understandable, Filipino civilians were

primarily regarded as manipulated, and their government subjected to mob rule. President Ramos was declared irrational for welcoming a 'child murderer' as a heroine (*Far Eastern Economic Review* 27 April 1996:4). In short, the Filipino response to Contemplacion's execution was attributed to the nation's 'backwardness' and 'lack of education', epitomized by an economy which remains under-developed through 'too much democracy' (Senior Minister Lee, in *Straits Times Weekly Edition* 11 February 1995:13; interview, Kanlungan spokesperson, June 1996). To Singaporeans, overseas contract workers symbolize economic backwardness in the Philippines. Their existence in Singapore, however, is regarded as an indicator of the economic achievement of middle-class families (Chua 1995:65). Thus the Filipino contribution to Singaporean nation-building remains unacknowledged. Contemplacion, who represents the Philippine nation, can only be marginal to national narratives of Singapore.

The Philippine press, as indicated above, did much more than merely report the Contemplacion case. The press actively campaigned about her plight as a violation of human rights through reconstructing and legitimating her ordeal, and they relinquished the 'badge of "objective reporting" in openly advocating protest' (*Today* 26 March 1995:4). The press characterized Contemplacion as a hero and martyr (*Philippine Graphic* 10 April 1995:10–12), producing widespread protests including rallies and marches throughout the Philippines (*Philippine Graphic* 5, 44,10 April 1995:10; *Today* 26 March 1995:4). They galvanized opposition to both Singapore and Philippine governments by reporting on the symbolic burning of the Singaporean flag and effigies of President Ramos and Singaporean Prime Minister Goh Chok Tong (*Philippine Graphic* 5, 4, 4 October 1995). They analyzed the rupturing of Philippine-Singapore relations and encouraged the government to break diplomatic ties with Singapore if necessary (*Today* 5 April 1995:8; *Philippine Graphic* 5, 44, 10 April 1995:10). They also speculated that Maga's employer Wong Sing Kiong, and not Contemplacion, had murdered Maga.

Migrante and Gabriela succeeded in mobilizing nbn-government groups of different political colours in the Philippines and internationally to protest against the execution (Hilsdon 1995:152). Previously such groups had participated together in international United Nations (UN) human rights forums in Beijing in 1995 and Vienna in 1993 (interviews with Migrante and Gabriela workers, June 1996). Migrante and Gabriela have a distinctive analysis of overseas contract work which distinguishes them politically from other Filipino migrant workers' organizations such as Kanlungan and Kaibigan.[14] Instead of colluding with government policies on migration as Kanlungan and Kaibigan were thought to do, they took a radical stand. Government policies, they argued, support the globalization of capital. As part of the National Democratic Movement in the Philippines, Migrante and Gabriela are aligned with other Marxist 'cause-oriented' groups such as KMU, KMK and KMP all of which, after recent factionalization of the left, have reaffirmed their commitment to armed struggle

by the Communist Party of the Philippines.[15] Gabriela have analyzed Filipino women's position within global capitalism (Hilsdon 1995:32–47; 152–79). They situate themselves in the male-dominated National Democratic Movement and distinguish themselves from other more 'autonomous' Philippine women's movement networks by asserting that 'every issue is a woman's issue' (Hilsdon 1995:161). According to Migrante and Gabriela, overseas contract work is the result of the government's failure to generate employment and high wages. The economy, Migrante and Gabriela argue, should serve its constituency, defined as Filipino workers and their families (interview, Gabriela workers, June 1996). Instead of competing in the global economy, they argue, the government ought to avert unemployment, poverty and malnutrition by implementing land reform (which constitutes a redistribution of resources) and developing a programme of food security, thereby eliminating the need for migration (interviews with Migrante workers and Gabriela workers, June 1996).[16] By contrast, Kanlungan and Kaibigan, while pushing for government economic reforms for women affected adversely through the structural adjustment imposed by the IMF-World Bank, have accepted migration abroad as inevitable.[17] They therefore lobby primarily for government reform to strengthen the protection of (women) workers.[18]

Through protestations of Contemplacion's innocence, citizens' groups pressured the Philippine government to conduct a Commission of Inquiry to hear evidence from the National Bureau of Investigation (NBI) which had conducted a belated forensic examination of Delia Maga's exhumed body, from other government officials, from Contemplacion's family and friends, and from Filipino domestic workers in Singapore.[19] The NBI confirmed the Maga family's suspicions on their own earlier examination of the body before its burial: Maga had suffered bodily injuries reportedly inflicted by a very strong woman or a man—Contemplacion was of slight build—and Maga had been strangled by a left-handed person: Contemplacion was right-handed (Office of the President: Republic of the Philippines, 1995, Part 2:7). Testimonies from about thirty-six witnesses during the Commission of Inquiry confirmed Contemplacion's probable innocence (Office of the President: Republic of the Philippines 1995, Introduction: 9; Part 2:7) as 'a victim of a grave injustice' (ibid., Part 4:18). The inquiry recommended a re-opening of the case 'to unmask the real killer' and 'to ensure the safety and protection of all overseas contract workers and nationals in Singapore' (ibid., Part 2:7). The Philippine government acknowledged national responsibility for the tragedy and attempted to quell civilian rage by the dismissal of the heads of the Foreign Affairs and the Labour and Employment Departments, and by laying charges against others considered negligent with respect to the Contemplacion case (*Manila Chronicle* 3 April 1998:5).

In an appeasement strategy in the Contemplacion case, President Ramos invited the Singapore government to conduct their own forensic examination of Maga's remains. They disagreed with the NBI findings and a third, independent, US forensic examination was undertaken which arrived at the same conclusions

as that of the Singapore team, namely that Maga's body was battered after she was strangled (*Manila Bulletin* 16 February 1995:12), making it feasible that Contemplacion, though of slight build, could have inflicted the wounds. Forensic evidence, specifically that of the US team, rather than the contradictory testimonial evidence of the Inquiry, was used to reconfirm Contemplacion's guilt. The National Commission of Inquiry and the report of the Philippine NBI forensic team were dismissed and discredited internationally. President Ramos urged the Philippine people to 'put this sad episode behind us…we must acknowledge before the world that our outrage has been misplaced' (*Manila Bulletin* 7 June 1995: 12). Singapore-Philippines formal relations resumed and ASEAN relations were no longer threatened (an outcome which reportedly had been feared) (*Far Eastern Economic Review* 25 May 1995:32). Singapore's investments in the Philippines were secured.[20] Ramos' besieged administration was exonerated, his government restabilized and his credibility as president renewed before the senate elections.[21]

Despite official decisions, however, the Philippine citizenry continue to regard Contemplacion as innocent. Cynically, they observe that her guilt was reasserted to exonerate individuals and governments and appease regional alliances. Moreover, Singaporean government ministers, while officially defending the execution of Contemplacion, have questioned whether the law could have been tempered with humanitarian considerations and diplomacy, such that a stay of execution could have been granted (*Manila Chronicle* 26 June 1995:231–2).

Non-government protest in the Philippines shifted to lobbying the government to develop more effective mechanisms to protect Filipinos working abroad, especially women. A multi-pronged government and non-government programme, perhaps the most active in the world with respect to recruitment, education, protection at the workplace, return and reintegration (Abrera-Mangahas 1996:11–12), was already fully operational but had not been able to protect the rights of Contemplacion and Maga. After Contemplacion's execution a new Republican Act (RA) 8042, or the Magna Carta for Overseas Workers (1995), was tabled. This re-emphasized many of the Overseas Employment Program's premises, embraced the National Commission of Inquiry recommendations (Department of Foreign Affairs 1995) and also included a clear statement of protection of women migrant workers (Abrera-Mangahas 1996:11).[22] A yearlater, the Act was critiqued as a palliative measure by Kanlungan and Kaibigan because, as with other Philippine initiatives, it 'addresses the problem only at the Philippine end' (*Business World* 1 January 1996:1, 8). Such Philippine Government Acts align well with many UN conventions, such as the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, but these remain unenforceable because receiving countries have not ratified them.[23] Although several bilateral agreements which offer limited protection to overseas Filipino workers have been established with Iraq, Iran, Jordan, Austria, Spain and the United Kingdom (Abrera-Mangahas 1996:18), the Singapore government has

declined to enter into one (May 1998:71; and see below for discussion). Where bilateral agreements do exist the Philippines is reluctant to protest at workers' mistreatment (Stasiulis 1996:8). Structural inequalities, including the Philippine government's reliance on the remittances earned by overseas nationals and its dependence on investment, trade and aid ties with these countries, constrain criticism of abusive working conditions there.

The Philippine government's action in the Sarah Balabagan case, which arose soon after Contemplacion's execution, presented a considerable contrast, in which it was praised for its 'swift…intervention by aggressive embassy staff (interview, Lydia Santos, Under Secretary, Department of Foreign Affairs, June 1996).[24] Balabagan, a fifteen-year old Muslim Filipino domestic worker in the United Arab Emirates (UAE), was found guilty of murdering her employer after he allegedly raped her, and was sentenced to seven years' jail.[25] At a retrial in September 1995, called after the Philippine government's appeal against the sentence, Balabagan was found guilty of premeditated murder and sentenced to death. Demonstrations followed in the Philippines and internationally: the European Parliament passed a resolution condemning the UAE for its actions (*West Australian, Big Weekend Section* 21 November 1998:2; May 1998:73) and threatening trade embargos (interview, Kanlungan spokesperson, June 1996). President Ramos reportedly made Balabagan's case a priority because of the damaging effects of the Contemplacion case. 'Three Philippine Cabinet members flew to the UAE and Sarah's family were flown to visit her three times' (*West Australian, Big Weekend Section* 21 November 1998:2). Philippine Ambassador to the UAE, Roy Seneres (with whom Balabagan now lives in Manila), played a key role in lobbying the UAE president to commute the death sentence. Simultaneously, to stave off a potential collapse in negotiations, he successfully negotiated a moratorium on demonstrations and protests planned by the European Community ambassadors to the UAE and NGOs in the Philippines (*West Australian* 21 November 1998:2). A pardon was granted by UAE President Zaid and 'blood money' was paid by a Philippine businessman to the dead employer's family (May 1998:73). Effective action by embassy officials curtailed the need for unsuccessful last minute interventions by President Ramos, as had occurred in the case of Contemplacion, and contrasted with the reported neglect by DFA officials from 1991 to 1994 while she was imprisoned in Changi (Office of the President: Republic of the Philippines 1995).

International human rights covenants and sovereignty: domestic work in Singapore

The fact that international human rights labour covenants are not endorsed internationally contributes to an imbalance of power relations between labour-sending and -receiving countries. Human rights covenants are intended as legal instruments to resolve conflicts of interests between states by making legitimate international issues from areas formerly within each state's exclusive jurisdiction.

Such legal instruments can, however, entangle states in a network of obligations over issues such as labour, migration and the law (Goldman 1994:186) which tend to breach state sovereignty.[26] Being a signatory to such universal covenants obliges governments of countries receiving migrant workers to amend their state legislation 'to conform with Human Rights Covenant judgements' (Waters 1995: 30). This conflicts with 'national independence' which countries such as Singapore hold as 'a fundamental human right that we have an obligation to uphold' (Goldman 1994:29). Individual sending countries lack authority and resources to contest the sovereignty of receiving countries and extend extra-territorial protection to their overseas workers (Stasiulis 1996:8). Because workers' issues, indicated above, are not recognized internationally, OCWs like Contemplacion and Maga remained relatively unprotected.[27] Singapore's state laws and conditions (Margold 1995:285) to which they were subjected overrode those of the Philippines.

Domestic workers, like workers in the public sphere, are reliant on Singapore's laws, policies and customary practices to determine the conditions and protections available (Stasiulis 1996:8). In addition, specific laws regarding domestic service in Singapore require only that the worker be provided with adequate nutrition and eight hours of sleep (Lee 1995 in Cooper 1997:205). Domestic service contracts are handled by agencies which are often the only contact the woman has in Singapore other than the Philippine Embassy. Employers become almost entirely responsible for employees, partly due to the bond they are required to post (currently S$5,000), and a monthly levy which may be more than the worker's salary. Hence domestic workers' activities are closely monitored and constrained by employers fearful of losing their bond if employees become criminals, get pregnant, or run away (Cooper 1997:205). Ideologies of domesticity, familism and privacy embodied in policies of the Singapore government and practices of employers can thus constrain the human and labour rights of domestic workers (Stasiulis 1996:2). In addition, a domestic worker's migrant status signals a lack of citizenship which often increases the regulation of their activities and reduces their rights (Tolentino 1996: 59–60). Only foreigners with more valuable skills and qualifications than domestic work permit holders are permitted to marry Singaporeans. Domestic workers undergo compulsory pregnancy tests every six months (Abrera-Mangahas 1996:8; Wong 1996:123) to ensure monitoring of any inter-cultural relationships. Overseas domestic workers, then, are subjected to greater and more exceptional levels of restriction relative to other categories of workers and immigrants (Stasiulis 1996: 8–9). Perhaps as a result of this, the suicide rate in Singapore is highest among foreign domestic helpers (Kanlungan Center Foundation 1992:32).

Human rights in 'private' spheres

Although the rhetoric of universality of international human rights covenants, namely the provision of a court of appeal beyond the state for all people, is

widely asserted, in the domestic sphere human rights are not yet adequately safeguarded.[28] Many of the threats to women's lives, such as endemic violence, occur in the 'private' non-governmental sphere left untouched by the International Covenant on Civil and Political Rights (Charlesworth 1995:107) ,[29] This Covenant refers *only* to the public sphere (Bunch 1990; Engle 1992; Otto 1993; Rowland 1995; Amnesty International 1995). While the family in the domestic sphere may or may not be free from the intervention of the state, women are not autonomous and free in such a space (Yuval-Davis 1996:10). The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979) acknowledges unequal power relations between men and women but focuses primarily on the economy, the law and education. In CEDAW, violence against women is not defined as a human rights violation, but is presented implicitly as a discrete category of harm 'on a different (and lesser) plane than serious human rights violations' (Charlesworth 1995: 108; Rowland 1995:11). For live-in domestic workers in Singapore and elsewhere, such abuse is hardly a 'private' issue; it would be unthinkable if perpetrated by a more 'public' employer.

Violence against domestic workers in the form of psychological and physical abuse such as that allegedly experienced by Maga and, arguably, by Contemplacion, is part of the structure of the universal subordination of women brought about by historically unequal power relations between men and women: power relations which have relegated many women to forms of labour which mirror their restrictive roles as wives and mothers. As domestic workers and as women they are excluded from the 'public' sphere where work is valued.

Violation of domestic workers is largely outside the scope of national and international labour laws and conventions (Charlesworth 1995:106; Interview, Kanlungan spokesperson, June 1996).[30] Moreover, international 'rules' cannot be easily invoked to hold states internationally accountable for social systems in which such abuse is endemic (Charlesworth 1995: 107). Domestic workers, because they are women in the 'private' sphere, remain less protected than workers in the public sphere, thereby reinforcing rather than challenging the 'public'/'private' distinction of modern capitalism.

Singapore, development and human rights

I have argued above that state sovereignty enables states to resist the universal legitimation of human rights and the subsequent modification of state laws on migration, labour and criminal justice. Sovereignty cannot be equally asserted by labour-sending states to protect citizens who work outside their borders. Migrant workers in countries like Singapore are subjected to state rather than international laws. While the 'public-private' dualism of modern capitalism restricts national labour laws in Singapore from protecting domestic workers' conditions, international human rights and labour conventions also fail to protect domestic workers while they are underpinned by this dualism.

It has been argued that Singapore's sovereignty is perhaps more stridently asserted than that of other Southeast Asian nations.[31] A strict and uncompromising form of government has presided over a long period of growing prosperity. Political economic policy to establish a market-oriented economy is based on a philosophy of developmentalism which stresses an authoritarian development model (Sullivan 1995:32). Developmentalism emphasizes societal order and stability bolstered by universal 'Asian values' such as collectivism (Chua 1992; Sullivan 1995) rather than the 'western' style liberal values on which existing international human rights covenants are believed to be based. Singapore embarked on building a unique but distinctly Asian culture. In a response to a high crime rate the government enacted restrictive labour, criminal justice and migration laws amongst others to promote 'modernization at all costs' (Clammer 1985:29). Political stability was achieved through a sustained policy of 'moulding the people into law-abiding national citizens' (Ang and Stratton 1995:180) and 'tough' laws reportedly lowered Singapore's crime rate. Administering a severe punishment for a crime is assumed to act as a deterrent, and expediency in swiftly locating and removing a suspect from the public view is considered to reassure the citizenry of the maintenance of social order. But the infallibility of the criminal justice system has been called into question by Contemplacion whose rights were reportedly violated during arrest, conviction and execution; and international rules cannot easily be invoked to hold states internationally accountable for the alleged violation. The Singaporean government disagrees: 'Every society must decide what it considers appropriate for its circumstances. We have never claimed universal validity for our approach [to criminal justice], but it works in Singapore and we intend to keep it that way' (Government Minister, *Jakarta Post,* 18 March 1995).

UN human rights covenants reportedly protect the individual against the state. In developmentalism, however, the welfare of the collective or 'community' is given primacy over and above the interests of particular individuals. Collectivism, as Senior Minister Lee explains it, is: 'society as No. 1, and the individual, as part of society, as No. 2' (Nair in Seow 1995: xiv). The rights of individuals or groups might be temporarily curtailed for 'development' of the whole economy and the improvement of health, education and housing. This philosophy has been instrumental in developing a third generation of human rights (Cerna 1994; Charlesworth 1995: 109) which claim support for the particularities of countries' political, historical, social and cultural traditions which the West reportedly does not take seriously enough (Chua 1992; Sullivan 1995; Cerna 1994).[32] Third-generation rights are perceived by Singapore to be different from those rights of the first and second generation, which reveal aggressive 'western' promotion to the third world of democracy, human rights and freedom of the press (Mahbubani 1993, cited in Cerna 1994:745).

By adopting a relativist approach to rights, Singapore has placed itself at the forefront of the debate over universal human and political values (Vatikiotis 1996:15). But although third-generation rights to development acknowledge

important differences in cultures and communities, relativism has become the most useful available ideology to facilitate 'international acquiescence in state repression' (Wilson 1997:9). Charlesworth (1995: 109–10) argues that third-generation rights, like those of other generations, have evolved in an androcentric way. 'Traditional' development embraced by the UN third-generation Declaration on the Right to Development focuses on economic growth, but like previous declarations, accords greater value to work conducted in the 'public' sphere than in the 'private' sphere (Charlesworth 1995:109). It fails to acknowledge the lack of benefits for women or the disadvantageous effects that growth may have on half of the society (Charlesworth 1995:109). Hence it fails to improve the situation of many women in developing countries which arguably has deteriorated over the last two decades: their access to economic resources has decreased, their work burdens have increased and their health and educational status has declined (United Nations 1986:19–20). Third-generation rights are considered to perpetuate a logic that legitimizes the systematic violation of human rights (Sullivan 1995:33), and brutal authoritarian leaders may manipulate cultural and religious relativist arguments to justify human rights abuse (Sullivan 1995:28). Such violation is exacerbated in public and 'private' spaces and communities where men dominate (Charlesworth 1995: 109–10).

'Traditional' 'Asian values' are said to bolster modernization in East Asian countries and underpin human rights discourse. Yet in each Asian country 'Asian values' are differentially constructed. For example, Singapore has no pre-colonial past on which to draw in constructing its post-colonial national identity (Ang and Stratton 1995:183). Its modern bureaucracy, including its legal system, originated in British colonialism (Vatikiotis 1996:29, 31–31, 49–51, 95, 97). Hence, political philosophy and human rights discourse in Singapore since this period could be viewed as the translation of 'western' ideas in a 'Westernised non-"Western" context' (Ang and Stratton 1995:180). Although its conscious construction of 'Asian values' uses Confucianism as a base, Singapore has also adopted the modern capitalist values of free enterprise and the market (Vatikiotis 1996: 29, 30–1, 49–51, 95, 97). Hence the strength of the 'Asian' values which bolster development and human rights discourse in Singapore lies in cultural hybridization.

Although 'Asian values' have been championed as 'universal' in Singapore and Malaysia by their influential leaders Lee and Mahathir, this masks possible competing claims to their construction within those countries.[33] 'Asian values' can be constituted as a narrow, ideologically faulty construction by an élite government trying to assert domestic control, as Khoo (1998) argues for the Malaysian case. Internationally these values become a vehicle for élites of particular countries to demonstrate the nationalist consciousness through which they developed economically to escape poverty and 'backwardness' (Khoo 1998). Yet 'Asian values' differ from country to country, as became clear in the Contemplacion case in which the 'virtues' of 'Philippine democracy' conflicted

with 'Singaporean authoritarianism'. NGOs in East Asia criticize this crude instrumentality of the application of 'Asian values' and the rights which embody them (Khoo 1998).

Conclusion

The Contemplacion case reveals specific aspects of the gendered nature of international human rights discourse. Different claims to human rights are underpinned by specific social, cultural and political philosophies. Such claims by groups in government and civil society relate to specific national and sociocultural histories in which meanings of human rights shift over time and space. Narratives of nation-building in the Philippines are based on a tradition of sacrifice, heroism and martyrdom forged through resistance against three waves of colonization. Such traditions, reinvented in contemporary narratives, situate OCWs as self-consciously aware citizenry for whom hard work and sacrifice abroad are regarded as a solution to economic underdevelopment. Notions of reciprocity, however, pervade such narratives: Filipinos also contribute to the economic advancement of nation states in which they work. In this way, Contemplacion and other OCWs become both heroes and martyrs at home and abroad. Narratives shape and are shaped by political contingencies. President Ramos, beset by national and international political pressure because of approaching elections and dissent from ASEAN and its partners, finally acceded, after considerable opposition, to both Contemplacion's neglect by his own key government officials, and her guilt and execution.

By contrast, Singaporean national narratives have focused on the considerable achievement of exponential economic growth through a developmentalist philosophy bolstered by a consciously created 'Asian' national identity. National order, stability and economic incentives 'guarantee' the Singaporean citizenry the basic human right of economic advancement. Overseas workers such as Contemplacion are marginal to such national narratives and can be considered victims of manipulation of national identity in both Singapore and the Philippines.

National claims to human rights conflict in the international arena. Although strategically incorporated into economic planning, foreign nationals such as Contemplacion and Maga working in Singapore lacked the citizenship rights of other workers. Like other overseas workers, they were subjected to Singaporean rather than Philippine law, and were more vulnerable to abuse by employers and Singapore government departments. Migrant-sending countries are reluctant to complain, and the hierarchy of sovereignty created between sending and receiving countries has proven extremely resistant to international intervention. Thus Contemplacion can be considered a victim of geopolitics.

Contract work of migrant women abroad is differentiated from that of migrant men and further differentiated from the work of local citizens. In the late twentieth century the feminization of labour in global capitalism has resulted in

increased numbers of overseas contract domestic women workers from poor countries servicing new middle-class households in richer countries. The acknowledged inability to secure labour rights in the private sphere is exacerbated in Singapore and elsewhere by the customary practice of employing live-in workers. This arguably contributed to the vulnerability of Contemplacion and to the violation of her legal rights as a worker and resident.

Perhaps abuse of the rights of domestic workers has affinities with the domestic violence to which all women are potentially subjected. Despite the recent proliferation of UN covenants which have acknowledged violence in domestic private space, acknowledgement of domestic violence as the violation of a basic human right is still not forthcoming. Domestic violence, though not perpetrated by an agent of the state, could be considered analagous to the torture of political dissidents in the 'public' sphere. However, unlike torture which is considered to be the violation of a second-generation basic human right, domestic violence is presumed to occupy 'a special category of harm' in UN covenants. The artificiality of contemporary 'public-private' divisions has still not been contested by first and second generation UN covenants. In third-generation rights which aim to redress the ethnocentrism of earlier generations of rights, cultural communities may refuse to acknowledge the legitimacy of violence against women. Hence at national and international levels adequate protection for all women against violence in the domestic sphere remains elusive.

Although Contemplacion's death was formally legitimated by both Singapore and Philippine governments, the question of her guilt remains contested within the Philippines. While public claims of Contemplacion's innocence have been dismissed, moral, political, philosophical and religious narratives embodied by the citizenry are not easily modified by geopolitics. 'There is no justice for the poor', Contemplacion's family say, 'governments [of the Philippines and Singapore] do not care about people'. Contemplacion's rights globally as a woman, a worker and a Filipina, regarded by substantial numbers of individuals and NGO groups in the Philippines and elsewhere as inviolable, were subsumed under political and economic hierarchies. Contemplacion, working in 'private' space in a foreign place, arrested, imprisoned and neglected by her own country, reportedly tortured and executed for a crime it seems she did not commit, remains a popular global symbol of heroism and sacrifice for family and nation.

Notes

This chapter was conceptualized after the initial idea for the book. The latter developed from the editors' interests which converged in a panel on the Asia-Pacific region which I organized for the Conference of the American Anthropological Association in 1994, the theme of which was Human Rights. The book also developed from a Conference on Human Rights and Gender Politics convened by Maila Stivens and Vera Mackie in Melbourne. As the

situation of contract labour is a growing area of abuse of women's rights, the editors considered it timely to include a chapter on Flor Contemplacion. I would like to thank Mina Cadayoc from Manila for her assistance with this project.

1 That is, an overseas contract worker, or OCW.

2 Interview, Virginia Pamurog, Contemplacion's prison cellmate, June 1996; Office of the President: Republic of the Philippines 1995; interview, Romero Capulong, lawyer, June 1996.

3 The wife of one of the Singapore immigration officials, whom Angie had befriended, located the seaman.

4 Under the Act, the Minister of Home Affairs can detain a suspect for up to two years without a trial (Chua 1992:96).

5 Migrante is an international network of, and for, Filipino migrants overseas which started in 1985 as a Committee for Unity of Overseas Filipinos. It now comprises forty-five organizations in different countries, the aim of which is to protect the rights of workers through education and advice.

6 In addition, President Ramos visited Singapore in March 1993; he told Russel and Contemplacion's other children, via a television programme, that their mother was 'okay' (interview, Russel Contemplacion, June 1996).

7 Gabriela is one of the most prominent women's networks in the Philippines (named after the woman warrior who fought against Spanish colonization). Mobilized during Martial Law (1973–81), women protesting in diverse groups in the National Democratic Movement became aware of issues confronting them as women. Armed struggle, they suggested, should not be the sole domain of men; and women ought not to be objectified in the media and at beauty pageants (a common cultural phenomenon in the Philippines). In the early 1980s, while retaining their positions in their respective national liberation groups, the most militant women's groups united as Gabriela to address local and post-colonial issues such as trafficking of women and children for sex, the health and safety of migrant women workers and the demise of breast-feeding through the rampant distribution of overseas milk formulas (Hilsdon 1995:157, 161). Now Gabriela comprises several commissions, one of which, the Commission on Violence against Filipinas, takes up cases like that of Contemplacion.

8 Family members commented on the 'strictness' of Changi by comparison to their own rural prison in San Pablo, Laguna, Luzon. In rural prisons in the Philippines the gate is sometimes left open! Prisoners grow vegetables in and even outside the compound to support their meagre food allowance; and sometimes bamboo houses are built in the compound for wives, children and their husbands who have been politically detained.

9 Feminist activists and theologians gendered the term 'martyr' to refer to women who had been sexually tortured or whose children, husbands and fathers had died in the liberation struggle. Seeking justice for those martyred, they also invoked the UN Covenant on Civil and Political Rights (1966) (see Hilsdon 1995:115–116, 165–179).

10 For example, see Ileto (1979) for the history of *Katipunan,* the peasants' movement that fought against the Spanish colonizers during the late 1800s, declaring Independence in 1898.

11   Official annual remittances from the Philippines totalled US$1.2 billion (in 1990), while annual remittances sent through unofficial channels were estimated by the Philippine Overseas Employment Administration (POEA) to range from $2 billion to $6 billion (Osteria 1994; *Manila Chronicle* 15–21 August 1992:59).

12   Following the religious iconography of the 'Madonna' and the imagery of 'Maria Clara', a legendary *mestizo* (i.e. a Spanish Filipina) character from a Filipino novel, women are deemed to be religious, socially graceful, sweet, innocent, docile, meek and submissive (see Hilsdon 1995:38–39).

13   By contrast in the early 1970s, when the first overseas contact workers, who were predominantly male, left the Philippines, the focus was on juvenile delinquency and infidelity of wives (interview, Kanlungan spokesperson, June 1996; and *Business World* 10 September 1992:9).

   Kanlungan is a migrant workers' service and advocacy organization, developed in 1989 by Gabriela's Commission on International Relations and the Center for Women's Resources (a Gabriela member organization). It provides services for unemployed, unskilled or deskilled workers before, during and after gaining jobs abroad. Such services include pre-contract awareness and skills training, social and economic adjustment programmes on return home, and conducting campaigns for individual workers whose rights have been violated abroad. Kanlungan do not favour work bans in particular countries, but rather advocate the control of illegal recruiters, women organizing in groups for protection abroad, and an improvement in government service to overseas contract workers (OCWs).

14   Kaibigan, Friends of Filipino Migrant Workers Incorporated, is based in Manila.

15   That is, KMU: *Kilusang Mayo Uno* May the First Movement; KMK: *Kilusan ng Manggagawang Kababaihan/*Movement of Women Workers and KMP: *Kilusang Magbubukid ng Pilipinas/*Peasant Movement of the Philippines.

16   See Ishi (1987), Sharma (1987) and Battistella and Paganoni (1992) for a theoretical discussion of this Marxist position on overseas labour migration from the Philippines.

17   Securing and maintaining IMF-World Bank loans is contingent on requirements regarding Philippine government spending and levels of taxation.

18   The Philippines government is no longer in complete control of its citizens' migration for work. Networks of knowledge or migration cultures, formed through kinship and community relations are now acknowledged as more powerful agents in facilitating overseas contract work (see Hilsdon 1998).

19   In the midst of the protests President Ramos also ceased diplomatic relations with Singapore.

20   Singapore's investments in the Philippines totalled US$63.2 million in 1995 (*Philippine Graphic* 5, 44, April 10 1995:11).

21   The elections were held later that year (1995).

22   The commission examined nine existing bilateral labour agreements and suggested ten provisions for inclusion in future bilateral/multilateral agreements including that: all countries respect migrant workers as their own nationals; receiving countries share information with sending countries regarding national migration and employment policies and procedures; standards of recruitment, introduction and placement are regulated so that costs of labour migration are met by governments rather than individual migrants, migrants can secure employment contracts before departure from country of origin, and recruitment by private agencies is controlled;

host countries facilitate Philippine Embassy assistance to nationals; and all bilateral/multilateral agreements are reviewed periodically (Office of the President: Republic of the Philippines, July 1995:31–32). Other recommendations of the Inquiry were that: negligent officials of the Department of Foreign Affairs (DFA) and Department of Labour and Employment (DOLE) undergo 'appropriate administrative and/or criminal proceedings'; the Maga-Contemplacion Case be reopened, and in its reinvestigation '(1) the…witnesses who testified before the Commission be asked to testify, (2) the police investigator who issued the police investigation report on the death of Delia Maga and Nicolas Huang be made to testify and produce the said police investigation report, (3) the employers of Delia Maga and Flor Contemplacion testify, (4) Dr Wee Keng Poh, the Singapore pathologist who conducted the autopsy on the body of Delia Maga in Singapore, testify' (Office of the President: Republic of the Philippines, July 1995:15); and that the Singapore government be requested to examine the skeletal remains of Maga, and if they disagree with the NBI findings, that expert opinion of a neutral third party be sought (Office of the President: Republic of the Philippines, July 1995:7–15; and see *Philippine Star* 18 March 1996:8).

23 In Philippine reports (such as by Abrera-Mangahas 1996 and Department of Foreign Affairs 1995) and writings about women's human rights, such as by Tomasevski (1995:52–53), a number of multilateral conventions for protection of migrant women workers are listed. For example, International Labour Organization Conventions nos. 43, 143, 86, 151 and 147 which set labour standards; and nos. 19, 188, 157 and 165 which relate to social security.

24 Department of Foreign Affairs (DFA) staff involved were considered exemplary: 'We need to take a lesson at the DFA office to be vigilant…of training experience and character differences…. We need [DFA] people who are aggressive in countries where we have plenty of OCWs (interview, Lydia Santos, Under Secretary, Department of Foreign Affairs, June 1996).

25 Balabagan received around A$36,000 compensation for the alleged rape. However, her compensation to her employer's family was A$53,000 (*West Australian* Big Weekend Section, 21 November 1998:1; May 1998:72).

26 The genesis of the latter was marked by the Treaty of Westphalia (1648) when rising states were attributed absolutist power in the international arena, to govern subject populations free of external interference and to defend themselves against territorial aggression from other states. Waters (1995:32–3) explains that the 'absolutist' nation-state was succeeded by a 'liberal' construction based on the rights of citizens against the state, as a curtailment of absolutist power. However, after the First World War, civil society in Russia and Germany was weakened and state power enhanced. Then the International War Crimes Tribunal convened after the Second World War established that where state laws were in conflict with international humanitarian standards they had to be changed. Finally, the first International Human Rights Covenant in 1948 re-expressed citizenship rights, and governments were no longer entirely sovereign and could not govern in an authoritarian fashion.

27 Singapore is not a signatory to covenants of first or second generation rights (Cerna 1994:740). First-generation rights refer to civil and political rights as set out in the International Covenant on Civil and Political Rights and the Declaration on the Elimination of Violence Against Women. The second-generation rights concentrate

on economic, social and cultural context as set out in the International Covenant on Economic, Social and Cultural Rights (Rowland 1995:10; Charlesworth 1995:106–108).

28 Neumann (1997:56) regards this provision as a step towards the creation of a world civil society.

29 'Private' in this context may be defined as that domain of domesticity and biological reproduction located outside the state and rendered invisible (Pateman 1989:51).

30 In 1992, about 1,000 Filipino domestic workers in Singapore reported forms of abuse by employers to the Philippine Welfare Center (May 1998:71). See Corpin (1992) and Kanlungan Center Foundation Inc. (1992) for more discussion of abuse of domestic workers in Singapore.

31 Perhaps Singapore is quick to take offence about outside 'interference' because independence was a smooth transition and did not include 'the passion of revolution' (Vatikiotis 1996:101).

32 Huntington (1993:26) sees the confrontation between Asia and the West as one where Asia increasingly has the desire, will and resources to shape the world in a non-'western' way.

33 Khoo (1998) suggests that, with the 'Asian meltdown', East Asian states want to distinguish themselves from each other.

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9

Mothers of the disappeared in the diaspora
Globalization and human rights

Beryl Langer

> For feminists worldwide, El Salvador raises the compelling
> questions of how an oppressed female population can participate in
> the political process and whether the guerrilla experience can be a
> training ground for feminist awareness.
>
> (Cosgrove and Morgan 1994:29)

In this chapter I explore the tensions within a refugee Salvadoran solidarity organization between universalist and gendered views on 'human rights'. Drawing on participatory research in an Australian city, I reflect on the engagement of Salvadoran refugee women with the 'human rights' struggles of their homeland's state terrorist regime and with feminist understandings of 'women's human rights'. The experiences of a small group of refugee women in the Antipodes working for human rights in their Central American homeland might seem marginal to the major debates on gender and human rights addressed in this volume. It is through such groups, however, that the 'global women's movement' is constituted (Bunch *et al.* 1996:7). The ways in which they define their political activities have significant implications for the meaning of 'global solidarity' as social practice rather than discursive strategy. As Roseneil notes in her discussion of the women's peace movement, 'the global aspects of social movements cannot be studied in isolation from their local and personal dimensions' (Roseneil 1997:55). Such groups also call into question the opposition between 'third-world women' and 'western feminism' posed by debates which situate 'human rights' as a 'western' construct. As residents, and often citizens, of 'western', 'northern' or 'first-world' countries, refugee women occupy a liminal space—neither 'first' nor 'third' world—from which they can mobilize opposition to human rights abuse in their country of origin. Situated beyond the borders of the terrorist state, such opposition can be neither silenced nor dismissed as 'outside interference'. The diaspora becomes a strategic resource in their struggles for human rights within the home nation. In the Salvadoran case, US support for the military regime as a 'democratic government' defending itself against 'communist insurgents' gave refugee women, in particular, an important oppositional voice speaking as 'mothers'

across ideological lines to a global public of human rights activists, feminists and Christians.

The radically different conditions of political consciousness formation in state terrorist regimes and countries of refuge make for inherent tensions in the micro-politics of global solidarity. Refugees and solidarity activists inhabit different 'life worlds': they do not necessarily approach their joint activities from 'interchangeable standpoints' or 'congruent relevance systems' (Schutz and Luckmann 1974:60). Women engage in grassroots action for human rights in countries like El Salvador from multiple and sometimes shifting subject positions (Schirmer 1993; DeShazer 1994; Stephen 1995). Solidarity work thus involves negotiation between women motivated by the 'female consciousness' which Kaplan (1982) associates with political mobilization by women as *'mothers',* and women motivated by 'feminist' concern for refugee women. But it also involves negotiations between women who prioritize class and nation—whether refugees or local left-romantics in search of 'popular struggle'— and those primarily concerned with 'women's rights'. The situation is further complicated by factional divisions within the diaspora and by the intra-communal and familial tension generated by refugee women's access to support from a 'feminist public'. This public unsettles cultural patterns of female subordination and challenges men's political leadership. There are particular tensions around the relationship between conventional understandings of 'human rights abuse' in terms of state-sanctioned detention without trial, torture, disappearance, death squad murder and mass slaughter, and feminist understandings of women's rights. Women's relation to 'human rights', when negotiated in specific 'glocal' settings like the Salvadoran-Australian organization considered here, appears to be more complex and contradictory than suggested in discussion of 'global alliances based on collective political goals and a common agenda' (Bunch *et al.* 1996:10).

These tensions were not far from the surface when a group of Salvadoran refugee women in an Australian city formed a human rights support group in February 1989. This was set up as a solidarity group working for the Monsignor Oscar Arnulfo Romero Committee of Mothers and Families of the Political Prisoners, Disappeared and Assassinated of El Salvador, known as *CoMadres El Salvador.* Archbishop Romero, Archbishop of San Salvador, was assassinated by right-wing death squads in March 1980. This organization's identification with *'female consciousness'* (Kaplan 1982) is clearly signalled in its name. One of the Australian group's first actions was to host a speaker from the *CoMadres* committee in El Salvador who had been invited to Australia to address an iconic event in the *feminist* calendar, the International Women's Day Rally. To assist with arrangements for the visit, a Salvadoran woman who had been appointed recently as the 'Official Representative' of *CoMadres El Salvador* in Australia convened a committee of seven Salvadoran and Australian women. This was envisaged as the nucleus for a human rights organization dedicated to raising local awareness of the situation in El Salvador and mobilizing financial support

for *CoMadres.* As someone engaged in a study of the settlement experiences of El Salvadoran refugee women, I was known as an interested 'Australiana' and invited to join the group, initially called the *CoMadres* Support Committee.

The ethical dilemmas associated with moves from 'neutrality' to 'engagement' were not an issue on this occasion. The stories that I had heard from Salvadoran women in the course of documenting their settlement experiences were of such unimaginable horror that the attitude of distanciation implied by the term 'research' seemed grossly inappropriate to the 'object of study'. Confronted with the horror of El Salvadoran history and the refugees who bore its scars, the bounds of ethnographic detachment proved extremely permeable. It was impossible to be dispassionate about what I was being told. While the political point of documenting Salvadoran women's narratives of exile had seemed obvious when formulated as a research proposal, their stories of daughters, sons, husbands, fathers, mothers, brothers and sisters shot, imprisoned, raped, murdered and disappeared evoked a world in which 'research proposals' had no place. It became neither possible nor ethically tolerable to 'work on' the settlement experience of Salvadoran women without sharing their commitment to 'work for' human rights in El Salvador. It should be noted therefore that I write here from a position of active solidarity rather than academic detachment.

The Support Committee was to meet the International Women's Day speaker from *CoMadres El Salvador* at the airport. The presence of several other groups with welcoming banners and flowers for the visiting *companera* provided a demonstration of the high regard for *CoMadres* shared across the divided political spectrum of Salvadoran refugee organizations. Relations between the different groups were polite but strained, as was their relation with the 'Official Representative': she was clearly perceived as having secured an advantage through public association with the *CoMadres'* aura. The details of these intra-communal tensions would require a major detour into the history of the five ideologically and organizationally distinct 'tendencies' within the FMLN and of the ways in which these divisions continued to shape refugee politics in the diaspora: in this context, the term 'Salvadoran refugee' elides divisions *within* the left, as well as *between* left and right (Langer 1990).[1] The cold war context in which the Salvadoran civil war was fought made it difficult for refugee groups associated with the FMLN to mobilize solidarity in Australia, where broad community support for 'people's struggle' as articulated in the language of Central American Marxism was an unlikely prospect. Association with *CoMadres,* on the other hand, provided a position from which opposition to the El Salvadoran regime could be mobilized on moral rather than ideological grounds. As a women's human rights organization associated with a Catholic martyr, *CoMadres* had the potential to attract a feminist and Christian constituency not readily available to other Salvadoran groups. This reinforced the strategic advantage of the 'Official Representative's' position. Its occupant was thus an inevitable target of resentment from women who saw themselves as equally qualified for the role, and from men whose claims to political leadership

were threatened by 'relative advantage' in mobilizing solidarity—not just among Australians, but within the Salvadoran 'community'.[2]

The moral authority of *CoMadres,* both within and beyond the Salvadoran 'community', owed much to its relation to Archbishop Romero. A Catholic Archbishop demanding an end to government repression 'in the name of God' (Armstrong and Schenk 1982:149) could hardly be dismissed as a 'communist insurgent'. The symbolic impact of his murder—in church, while saying a memorial mass— extended well beyond national borders. It focused attention on the situation in El Salvador, undermining the legitimacy of US aid to a regime whose 'democratic' credentials were increasingly difficult to sustain. *CoMadres'* relation to the martyred archbishop was incorporated into the organization's name, its letterhead, which featured his image in the top left-hand corner, and accounts of its genesis. For example, fund-raising letters sent by the Australian support group began by situating it as an organization initiated by Archbishop Romero:

> The Monsignor Oscar Arnulfo Romero Committee of Mothers and Families of the Political Prisoners, Disappeared and Assassinated of El Salvador— usually known as the Committee of Mothers, or *COMADRES* —was formed in 1977 when a group of women whose family members had been detained, 'disappeared', or killed in circumstances suggesting official involvement, asked the late Archbishop Romero for help. He assisted them in their attempts to locate their relatives, and used his Sunday sermons to denounce government repression. Archbishop Romero recommended that the women form a committee to coordinate their efforts to find their children and other relatives, and encouraged them to publicly denounce these human rights violations. With the Archbishop's assistance, the Committee of Mothers was formed. In March 1980, Archbishop Romero was assassinated while celebrating a memorial mass, and the Committee of Mothers honoured his memory by taking his name.
>   (Unpublished letter, CoMadres support group documents, 1 August 1989)

Some 'western feminist' readings of this account of the Archbishop's role in establishing the Committee of Mothers might situate it within the patriarchal versions of Catholicism associated with the cultural tradition of *'marianismo';* this emphasizes maternal devotion and suffering (Moraes-Gorecki 1988:26). One of the informants in Schirmer's study of *CoMadres* in San Salvador, for example, recalled that Archbishop Romero had explicitly likened the women in *CoMadres* to Mary, mother of Jesus, calling them 'the Marys of today' (Schirmer 1993:36). An organization which traces its lineage through a Catholic Archbishop to the Virgin Mary would seem an unlikely source of radical consciousness, but read in terms of 'liberation theology' the story takes on different political connotations. As Ana Maria Bidegain puts it, 'Jesus calls women to set off down the road of their own liberation'. She notes that while Mary 'has frequently been utilized to

justify a patriarchal mentality that marginalizes women', the figure of Mary in the Latin American 'people's church'—'Mary poor, Mary committed and engaged'—provides a powerful 'model of liberation' (Bidegain 1989:31–33). The role played by 'Christian Base' communities in the politicization of the Salvadoran people was significant here. These were set up in rural areas as part of a 'people's church', following liberation theology tenets, with 'worker priests' and elected lay preachers. Such politicization (Pearce 1986: 109–22) suggests a more radical reading of Mary by *CoMadres.* Involvement in these communities had clearly not erased all traces of *'marianismo',* nor did members of the Support Group share a clearly articulated liberationist critique of patriarchy. But it cannot be assumed that Catholicism necessarily made members inherently 'conservative' on women's issues. It is also worth noting in the Australian refugee context that the Catholic connection had the practical advantage of legitimizing women's political activism in a community otherwise dominated by men. Moreover, the involvement of two nuns in the support group provided potentially jealous husbands with a guarantee of sexual propriety.

Over the five years of its existence, the support group's membership varied in size, affiliation and name. In the first year of operation, as the *CoMadres* Support Committee, there was a core group of about twelve Salvadorans, as well as the two Catholic nuns noted above. One of these was employed by a community development project for Salvadoran women sponsored by the Uniting Church. The other, a Spanish-speaker, was sent to Australia by her Order to work with (or, as she put it, 'walk with') Latin-American immigrants and refugees. A number of Australian members made a contribution to infrastructure (secretarial skills, financial resources and transport) that was at least as important as the 'international solidarity' signified by their presence. The group met on a monthly basis in premises provided by a sympathetic trade union, organized activities to raise money for projects, worked to increase Australian awareness of human rights abuse in El Salvador, and established a Rapid Response Network.[3] This funded messages of protest against atrocities documented by human rights and union organizations in El Salvador. A Salvadoran Human Rights Campaign was launched, with a disappointing attendance at a press conference and a meeting which drew a small audience of familiar faces from Latin American solidarity groups, but not the 'cross-section' of the 'Australian community' anticipated by the organizers. Undaunted by this indication of El Salvador's place on the Australian public agenda, the Official Representative maintained an exhausting schedule of speaking engagements with church groups, university students, Catholic schools: anyone who might provide support for *CoMadres'* humanitarian work. At the same time, the group sold handcrafts and Salvadoran food at various 'fiestas' and community festivals, ran a second-hand clothing stall at a Sunday morning street market, and worked to extend the list of sponsors for the Rapid Response Network.

While the logistics of these various activities were endlessly debated at monthly meetings—the food to be sold, who should be responsible for preparing

it, who should purchase the ingredients and who should provide transport—things proceeded relatively smoothly until the November 1989 escalation of the war in El Salvador. The FMLN had mounted a major offensive which took the war into the wealthy suburbs of San Salvador.[4] Government repression of activists in the democratic sector was intensified, with working-class suburbs bombed by the Air Force. At the University of Central America, six Jesuit priests, their cook and her fifteen-year-old daughter were 'pulled from their beds and machine gunned to death' by a death squad identified in reports as 'uniformed Salvadoran military' (*El Rescate Legal Service* 1989). It was a time of intense anxiety and distress in the diaspora. The precise location of refugees' family members in relation to aerial bombing was not immediately known, and former combatants felt frustrated at being so far from the action at what appeared to be a determining moment in the course of the war. Refugees held all-night vigils to pray for peace, participated in masses for the murdered Jesuits, and joined protest rallies outside the United States Consulate. Meetings were also held to co-ordinate 'community' response to the crisis and express solidarity with the 'Salvadoran people'.

The crisis in El Salvador was taking its emotional toll, however, and tensions erupted within the *CoMadres* support group over the issue of solidarity with other Salvadoran refugee organizations. Two women reported that they had been at a 'community meeting' which was planning a function to raise money for people made homeless by the bombing. When asked what *CoMadres* could contribute, they had volunteered to make *pupusas* and *tamales,* for which they assumed the Support Committee would provide the ingredients. Concerned that public participation in activities organized in solidarity with the FMLN would compromise *CoMadres'* standing as a human rights organization, the 'Official Representative' reprimanded the women for volunteering without the permission of a formal meeting of the Committee. The women—passionately committed to 'working with the community' and 'helping the Salvadoran people'—insisted on their right to make the offer, and said that if the Committee did not approve they would donate food as private individuals. The meeting resolved to provide money for the ingredients, but the incident left both parties feeling angry: the women because they saw the Official Representative's behaviour as 'undemocratic', the Official Representative because she felt that both her 'political experience' and her responsibility for the *CoMadres'* reputation entitled her to veto decisions which she considered ill-advised.

An argument over whether two women should cook *pupusas* and *tamales* for a function sponsored by other groups might seem trivial, but it serves to illustrate the importance of personal feelings and interpersonal relations in the operation of grassroots organizations. Such interpersonal links are easily overlooked in academic discussions of the relation between 'feminist', 'feminine' and 'national' consciousness. The mutual ill-feeling generated by this dispute flowed into meetings to formalize a constitution that were held in December and January 1990. The importance of this process had been signalled by the Official

Representative from the earliest days of the Committee's operation, but it was now viewed with suspicion by women who felt that they had been treated as subordinates. They saw it as a move to consolidate the power of the Official Representative. At the same time, division within the organization served to further convince the Official Representative of the need for clear policy and decision-making procedures if the group was to function in a disciplined way. A draft constitution was presented and after much debate it was rejected as 'undemocratic' by several of the Salvadoran women, who announced their resignation frorn the Committee.

Accounts of what had taken place circulated throughout the 'community's' rumour and gossip networks—dramatized, embellished and changed along the way—and the organization's Salvadoran support base diminished accordingly. It continued to operate as Friends of *CoMadres* through 1990–1, and as WINDS (Women's International Network for Development and Democracy in El Salvador) from 1992 to 1994. By this time the founder had returned to El Salvador and all but one of the Salvadoran women had ceased to be involved. What had begun as a Salvadoran organization with direct links to *CoMadres El Salvador* had turned into an Australian solidarity group comprising the two Sisters, some women from the International Women's Development Agency and myself. Moreover, our affiliation was no longer with *CoMadres* but with *Las Dignas,* an explicitly feminist organization which had been subject to negative comment in 'the Salvadoran community'. This made it difficult for Salvadoran women to continue their association. One rumour had it that *Las Dignas* in El Salvador was a 'lesbian organization', while others focused on discrediting the people who had negotiated the shift in affiliation to WINDS and *Las Dignas.* Even women whose loyalty had survived the splits and defections that took place over the summer of 1989–90 stopped coming to meetings, and were no longer available to prepare food for fund-raising activities. There were a number of attempts to recruit new groups of Salvadoran women or to rekindle the interest of those who had left, but community rumours about *Las Dignas* had done their work. One woman confided that it was 'too difficult' for her to continue working with us. She belonged to other Salvadoran organizations where she was criticized by people who believed that *Las Dignas*— for whom WINDS was raising money —was in favour of lesbianism and abortion, or that the money raised by WINDS went to particular individuals or factional interests rather than to the 'Salvadoran people'. The Australian woman who had taken over as coordinator finally conceded defeat, sent letters to Rapid Response Network members suggesting that their support for women in El Salvador might be continued through other channels, and the organization was officially disbanded.

The details of the shifting alliances and objects of contention involved in the withdrawal of Salvadoran women from the Committee, and the unwillingness of many women who had been active members of *CoMadres* in El Salvador or elsewhere to participate in the group in Australia, cannot be dealt with here. There are, however, a number of points to be made which highlight the

complexity and specificity of the relations between the global, the local and the personal. There is an obvious sense in which the feminist agenda of WINDS and *Las Dignas* was problematic for women exiled in Australia. They were living with men whose masculinity was threatened by the refugee experience in ways that undermined any rethinking of *'machismo'* that might have taken place in Christian Base Communities and FMLN-liberated zones. To explain the women's withdrawal in terms of their being 'allowed' to work for *CoMadres* but not for WINDS, however, would be to ignore the active agency of the women themselves. Some of them were puzzled by the shift in affiliation from the support group to WINDS and *Las Dignas* and were outraged by reports of 'women's conferences' in El Salvador where issues of sexuality and abortion had allegedly pushed 'peace with social justice' off the agenda.[5] Given the role played by Christian Base Communities in articulating a concept of 'liberation' which included the liberation of women and men from the oppression of *'machismo',* rejection of the feminist agenda of *Las Dignas* cannot be explained simply in terms of affiliation to conservative Catholicism alone. The version of 'women's liberation' associated with the people's church emphasized respect for women as equal partners in building a just society, in which 'women's rights' were only one element rather than the primary focus of political action.

The importance of this ongoing interpersonal conflict within the *CoMadres* support group, especially the rumours it generated, should not be underestimated. The reconstruction of homeland politics within the diaspora, the politics of 'deterritorialisation' (Appadurai 1990), cannot be explained solely in terms of ideological difference: this is particularly so in a refugee 'community', where rumour and speculation about what people have done, whether in the homeland or the diaspora, can be at least as important as what actually happened. If people 'define situations as real', as W.I.Thomas (1928:572) put it, 'they are real in their consequences'. As an organization, *CoMadres El Salvador* commanded enormous respect in the refugee 'community', but WINDS and *Las Dignas* were known only through rumour, all of it negative. Once refugee women believed that money raised in Australia would be used to promote sectional interests rather than those of 'the Salvadoran people' they withdrew their support. This was not because they 'rejected' feminism *per se,* but because feminism was simply not part of their 'relevance system' (Schutz and Luckmann 1974:60). This had been shaped by an experience of state terror which made the 'liberation of the Salvadoran people from oppression' their highest priority.

State terror, civil war, and the politics of deterritorialization

The intense commitment of Salvadoran refugee women who worked for 'human rights' and 'peace with social justice' in their homeland under conditions of displacement, loss, discrimination and poverty can only be understood in relation to the history which produced them as refugees: a 500-year epic of

dispossession, revolt and reprisal. This is not the place to document either the complex succession of military juntas and thwarted attempts at democratic reform which culminated in the emergence of guerrilla forces in the 1970s, and full-scale civil war in the 1980s; nor can I document the social, economic and environmental consequences of that war, which ended, at least officially, in February 1992. More central to the questions at issue in this chapter are the circumstances under which refugee women left El Salvador in the early 1980s, the experiences of state terror which shaped their definitions of 'human rights', and the ways in which life in Australia tended to reinstate traditional gender relations. This reinforced the subordination of women in family and community life which had been challenged by their participation in armed struggle and popular movements.

Revolution and war in El Salvador had their roots in the failure of the economy 'to provide the majority of the country's people with a means of survival', and the refusal of the ruling class to implement 'structural reforms which might enable it to do so' (Pearce 1986:11). Data on the distribution of land and wealth in El Salvador show concentration of both land and wealth in the hands of a small number of families, and levels of poverty unequalled in the western hemisphere (Armstrong and Schenk 1982:6–7; Montgomery 1982:27–31; Russell 1984:61–9). El Salvador also had the highest population density and lowest per capita calorie consumption. In Harrison's 'anatomy' of third-world poverty, for example, El Salvador is grouped with Bangladesh, Afghanistan and Haiti as one of the 'few over-crowded under-resourced countries' unable to absorb projected increases in population 'without undue stress' (Harrison 1990: 450). From the last quarter of the nineteenth century, the peasant economy of El Salvadoran peasants was gradually destroyed by expropriation of arable land for export agriculture, a process which escalated in the 1960s, leaving the bulk of the rural population land-poor or landless. The refusal of the oligarchy to countenance land reform, and the brutality of the military forces protecting their interests, produced a regime of unimaginable terror. Opponents of the regime were subject to arbitrary arrest, detention without trial, torture, disappearance and death squad murder. As Joan Didion observed after a visit to El Salvador in 1982, 'terror is the given of the place' (Didion 1983:14).

> The dead and pieces of the dead turn up in EL Salvador everywhere, every day, as taken for granted as in a nightmare, or a horror movie. Vultures of course suggest the presence of a body. A knot of children on the street suggests the presence of a body. Bodies turn up in the brush of vacant lots, in the garbage thrown down ravines in the richest districts, in public rest rooms, in bus stations. Some are dropped in Lake Illapango, a few miles east of the city, and wash up near the lakeside cottages and clubs frequented by what remains in San Salvador of the sporting bourgeoisie.
>
> (Didion 1983:19)

In rural El Salvador, political mobilization by *campesinos* (peasants) on the issue of land reform was met with military reprisal: low intensity conflict strategies pioneered in Vietnam by the United States, and passed on to the El Salvadoran military by US 'advisors' (Lundgren and Lang 1989:698). The horrific quality of life at the receiving end of this strategy is conveyed in accounts of the massacres that took place throughout rural El Salvador in the early 1980s as the army mounted 'search and destroy' operations against alleged guerillas. These were in effect indiscriminate attacks on civilian populations. One of the best documented occurred on the Honduran border on Wednesday 14 May 1980, when *campesinos* attempting to escape a 'search and destroy operation' by crossing the Sumpul River into Honduras were slaughtered in a joint Honduran-Salvadoran military operation. An American priest working in Honduras described the Sumpul River as 'covered in a black carpet, a mass of vultures gnawing the remains of the dead' (Armstrong and Shenk 1982:162). The incident is just one of many documented by Camarda in *Forced to Move*.

> The massacre begins at 7.00 am in the Salvadorean settlements of San Jacinto and La Arada. Hundreds of Salvadorean National Guardsmen, soldiers and members of Orden, backed by artillery helicopters, assassinate nearly 600 defenceless peasants. The Salvadoreans who manage to cross the river seeking refuge in Honduras are forced back by Honduran soldiers to the area of the massacre, and they too are assassinated. The assault ends some time after four o'clock in the afternoon.
>
> (Camarda 1985:81)

The refugee women who were core participants in the *CoMadres* Support Committee had left El Salvador during this period, when death squad murders of members of popular organizations and 'counter-insurgency' strategies such as the bombing and burning of rural villages were everyday occurrences (Armstrong and Shenk 1982:159–81). Not just individuals, but entire regions were labelled 'subversive', so that anyone who lived in or came from that region was treated as a 'threat' to the government. Lundgren and Lang describe this policy in action:

> As planes bombed the countryside, Airmobile Infantry enveloped populated areas. *Campesinos* (farmers and their families) were expelled from their villages, captured and assassinated or sent to camps. Homes and crops were burned and animals were killed and left to rot. In such ways do *campesinos* become *desplazados*.
>
> (Lundgren and Lang 1989:698)

A number of the women who were survivors of this kind of generalized terror were able to give public witness to their experiences, albeit at great personal cost. Telling their stories involved re-living the associated trauma, which they

endured in the hope that telling people in Australia about the situation in their homeland might help bring international pressure to bear on the American Government to stop funding the Salvadoran military. One woman told of the day truckloads of soldiers arrived and 'took all the students from the school' to a playing field outside the town, where they were 'thrown down on the ground as if they were just animals', and shot. The nightmarish sequence of events which had brought another to Australia as a refugee widow with four children began with the murder of her father and a cousin by military forces, after which she and her husband took her mother, her sister and her sister's children to live with them. Their house was near a combat zone, and whenever her mother heard shots 'she would become very agitated'. On one such occasion, her mother ran outside, and when they went after her 'she was dead'. Soldiers came to the house, and asked if there were any men inside.

> We said no, there were only women and children. They said that if there were men inside, if we were lying, we would all be taken out and shot. They asked who had started the shooting, and we said 'You did', and they said 'No, there must be terrorists inside who started the shooting'. With that excuse, they came inside and ransacked the house.

The soldiers took her sisters, forcing them to leave their children behind. She imagined that they would be 'raped and possibly killed'. When the shooting stopped, she went outside to look for her mother, whose body she found being eaten by a dog. A neighbour helped her to bury her mother and she returned to the house. She stayed inside with the 'terrorized' children for two days. Some boys started looking for her sisters, but couldn't find them. Finally her husband found them, 'in a terrible condition—they looked as if they had been raped'. He asked her to help him bury them; she couldn't. 'Later', after they had already applied to come to Australia, her husband was also killed, murdered by a death squad.

All the refugee women in the group had similar stories, though not all were able to speak of them. All had experienced the death of immediate family members, either at the hands of the military or death squads, and lived with grief that time could not heal, particularly those who mourned dead or 'disappeared' sons and daughters, like the anonymous woman who left this poem on the wall of a Salvadoran refugee centre in Chinandega, Nicaragua:

Poem of a mother (Salvadoran)

I had a son
Who told me every year
—Look, mama, this year I want to continue studying
But this May 10
He couldn't tell me anything

He was cold and stiff, his face bloody
When I saw him on the steps of the cathedral
Shot in the Back

(Reproduced in Montgomery 1982:9)

Human rights as social justice

The attachment of Salvadoran women in the Support Committee to the version of 'human rights' articulated by popular organizations and the revolutionary movement in El Salvador, and their unwillingness to work for the 'feminist' agenda of *Las Dignas,* readily accords with Temma Kaplan's distinction between 'female' and 'feminist' consciousness. But it can be understood also in relation to their experience of state terror as directed at entire communities; the Salvadoran refugees saw liberation as an equally inclusive process. The inextricable link between state terror and economic immiseration in El Salvador meant that 'human rights' were not just defined in terms of the rights of political prisoners but broadly understood as extending to issues of social justice: the right to adequate nutrition, clean water, adequate shelter, health care, education, work and land. In this sense, the Salvadoran case directly challenges the proposition favoured by many authoritarian opponents of human rights that such rights are irrelevant to people whose dire poverty makes economic development a higher priority. Escalation of state terror in El Salvador was a direct response to mobilization for economic and political reform by people who saw 'human rights' as inseparable from 'social justice'.

This is not to suggest that state terror in El Salvador was not gendered. A culture which prizes female virtue and chastity *(marianismo)* and aggressive, dominant masculinity *(machismo)* is arguably one in which rape is both more probable and more shameful. However, such a culture equally might be expected to be one in which men in the security forces would be ashamed to violate 'mothers'. As Kaplan has demonstrated, women who oppose the state in their role as mothers often enjoy a degree of immunity not granted to protestors in general (1982). It is perhaps a mark of the particular brutality of state terror in El Salvador that *CoMadres* enjoyed no such immunity. Police raids on their office and the disappearance or detention of *CoMadres* members were a regular subject of telexes calling for international protest. Rape was also systematically deployed as an integral part of security force strategy. As one of the founders of *CoMadres* observed in an interview with Schirmer:

They know that one way you can emotionally injure a woman is by raping her. For us, it is something very delicate and, in this sense, they know this perfectly well, so they use this method against us. And since it is the worst thing that can happen to us, it could effectively destroy us…. They use rape because the government and army have not been able to make our

organization disappear…. And since they can't make us disappear, they use other methods, such as internal beatings, and forcing [by rape] bacteria into our vaginas. Someone who is sick cannot work, right? It's all part of the repression against us. It's part of the politics of wanting us to disappear, of wanting to destabilise us.

(Schirmer 1993:43)

Rape is thus understood as a cultural strategy for destroying *CoMadres* by re-locating its members within the binary opposition between mother and whore: 'there are many cases when a married woman is captured and is tortured and when her husband finds out about it, he leaves her' (Schirmer 1993:43). It is seen also as a physical strategy: a form of bacterial warfare directed at women who simply refused to be intimidated.

Given the iconic status of Committees of Mothers as defenders of human rights in Latin America, attacks on *CoMadres* brought international condemnation. This gave rise to the military maxim 'to capture a CoMadre is to fall on top of an anthill' (Schirmer 1993:43). Considerable energy was expended by security forces in attempts to discredit and delegitimize the organization by representing it as an FMLN 'front'. One propaganda campaign, for example, featured two blurred black and white photos supposedly of the same woman: one wore the black dress and white scarf of the *CoMadres,* the other was a female guerrilla with a gun; this 'proved' that *CoMadres* women were 'in fact' FMLN combatants (Popkin 1991:74). Similar 'proof was manufactured during the 1989 offensive, when police broke into the *CoMadres* office, destroyed its contents, and photographed a group of the women in front of an FMLN banner wearing Che Guevara T-shirts. Both banner and T-shirts were provided by the police (Stephen 1995:812).

The continuing campaign to discredit *CoMadres El Salvador* explains the anxiety of their 'Official Representative in Australia' about expressions of public solidarity with the FMLN and the consequent arguments about breaches of discipline by members of the Support Committee. Her fear of compromising *CoMadres'* independence as a human rights organization was not misplaced: the lines of communication between Australia and El Salvador were not the preserve of 'the left' and the possibility that someone from 'the right' might use them to discredit *CoMadres* could not be ruled out. What was counter-productive, however, was the attempt to impose a hierarchical model of leadership on an ostensibly 'democratic' women's organization at a time of crisis in the homeland. This crisis called out emotional rather than strategic responses from most of the women. It might in fact be argued that the withdrawal of Salvadoran women from the group was as much a rejection of hierarchical models of leadership as of feminist consciousness. This would certainly be consistent with observations made by Vazquez (1997) concerning the reproduction of FMLN leadership models in Salvadoran women's organizations:

The perceptions and practices of the FMLN during the war were markedly urban and were imposed on a peasant mass whose customs they were not aware of or [which they] considered backward. On the other hand, the Salvadorean women's organizations, formed mainly by rural FMLN women but directed by urban women, have also not reflected on these differences or their repercussions for building unity among women, but have imitated the hierarchical model established by the FMLN during the war.

<div align="right">(Vasquez 1997:145)</div>

It is perhaps ironic that the most obvious explanation for the reluctance of the *CoMadres* women in Australia to work for *Las Dignas* is offered by research conducted in El Salvador by feminist researchers from *Las Dignas.* In her report on this research—on 'the impact of the war on the perceptions and practice of sexuality and motherhood among women combatants and supporters of the FMLN'—Vazquez notes the importance of the urban-rural divide in shaping Salvadoran women's experiences and perceptions.

For example, the differences in the ways the women interpreted their sexual experiences, how they defined a couple or what they thought constituted harassment or promiscuity, were more significant in relation to their social origins than to age or how their militancy developed. In fact, it was the urban-rural distinction that most influenced their views on gender and models of female behaviour. The understanding of gender issues was precarious in the cities of El Salvador, but it was absent in the countryside.

<div align="right">(Vazquez 1997:145)</div>

Most of the women on the Support Committee came from rural backgrounds in El Salvador, where, as Russell notes, 'women suffer from a virulent form of *machismo* and are openly regarded as inferior' (Russell 1984:75). As might be expected in a country with a rural illiteracy rate of 73 per cent (Pearce 1986:53; Harrison 1987:305), none had more than a few years of schooling. They certainly had direct experience of the conditions that advocates of 'women's human rights' wish to see addressed by governments, not least violence against women in all of its forms; this included incest (at least one member of the group had her first child, fathered by a relative, at the age of 13), domestic violence and rape by the agents of the state. El Salvador is a country in which there is much scope for change in women's lives and in which women have demonstrated extraordinary capacity to work for change. This does not, however, necessarily translate into support for a 'feminist' agenda articulated in terms of 'women's rights', either in the homeland or the diaspora as is demonstrated by the case considered in this chapter. The relation between gender politics and the politics of class and nation is not just historically specific in relation to particular countries, but between classes and regions within them. The point of feminist human rights

interventions, however, is not to judge women's grassroots organizations in terms of 'progress' towards particular versions of feminist consciousness, but to support such grassroots claims to 'human rights' in whatever terms *its proponents* find it meaningful to articulate them.

Notes

1 The FMLN—Farabundo Marti National Liberation Front *(Frente Farabundo Marti para la Liberacion Nacional)*—was formed in November 1980, from a coalition of five revolutionary 'Political Military Organizations'. Differences over how revolutionary struggle should be conceptualized and conducted had been debated within and between the groups throughout the 1970s, and continued within the FMLN into the 1980s. This indicates, as Montgomery (1982:132) puts it, that 'unity is not an absolute end, but a process'. Many of the refugees in Australia had left El Salvador in the early 1980s, and it is arguable that the process of working towards unity on the left in El Salvador was arrested at the point of departure for those in the diaspora.

2 The term 'community' is qualified throughout the chapter to indicate the class, regional and political differences among Salvadoran refugees in Australia. These differences make use of the term 'community' a convenient fiction rather than an appropriate descriptive category (see Langer 1990; Langer 1998).

3 The intersection of the personal, the local and the global in the operation of the Rapid Response Network underlines the complex and sometimes disjunctive relations involved in the micro-politics of 'global solidarity'. Electronic mail was not a communications option between Australia and El Salvador in 1989, and messages were sent using the telex facilities of a sympathetic local union recruited to the cause through personal connections, the *'companero'* of one of the members. The union in question was a traditional left-masculinist organization that might be seen as an unlikely source of support for women's political work. The union that allowed the Support Committee to use its post office box as a mailing address was also of the left-masculinist tradition.

4 The FMLN offensive became international news when a combat group led by a nineteen-year-old guerilla fighter held pyjama-clad Green Berets hostage in the San Salvador Sheraton.

5 Accounts of the Sixth Latin American *Encuentro* (conference) held in El Salvador towards the end of 1993 filtered back to Australia in a form which indicates the success of a right-wing propaganda campaign to discredit the Encuentro, and by implication, the FMLN. Comments about 'lesbians' and 'immorality' made by several of the Salvadoran women in relation to the conference suggest that discrediting propaganda about the conference was picked up by refugees in Australia. A report in the March 1994 issue of the US journal *Off Our Backs* gave this account of the campaign.

> A few weeks before the Encuentro, the Salvadoran right wing began attacking the Encuentro, using feminist-and lesbian-baiting tactics and propaganda. In a country where the general public has been exposed to limited AIDS education and there is almost no information about lesbianism, the homophobic propaganda spread like wildfire. One conservative magazine discussed whether or not the lesbians who were coming (according to the Right, all of the attendees were lesbians) would be able to spread AIDS (which, the articles implied, all lesbians have) through the sheets on hotel beds.
>
> (*Off Our Backs* March 1994, xxiv, 3:9–10)

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10
The emergence of 'modern' gay identities and the question of human rights rights human rights

Dennis Altman

One of the great alibis for excusing the denial of the most basic of human rights has become the invocation of 'Asian values'. Consider this quote from the publication *Myanmar Perspectives,* a journal produced to legitimize the State Law and Order Restoration Council's view of the world, which is handed to travellers to Burma:

> We are not Caucasians, we are Asians, and we wish to preserve our own national identity. So the Democracy we want is the kind that is most suitable for us and not an imitation of the Western model. As a sovereign nation no one should try to force us into a mould that is completely out of character with our people. The same holds true for human and civil rights…. Freedom for us does not mean licence, and rights bring along in its wake responsibilities and duties.
>
> <div align="right">(Myanmar Perspectives 1996:53–4)</div>

One can imagine the rulers of China, Singapore and Vietnam nodding in agreement.

There is a strong argument to be made that the particular understanding of human rights and democracy dominant in the the West reflects particular historical and intellectual traditions which are not shared universally.[1] There is an equally strong argument that the underlying assumptions of human rights, which rest upon the assertion that all humans share certain basic physical, emotional and social needs, are universally relevant. As the former Secretary General of the United Nations put it:

> We must remember that forces of repression often cloak their wrong-doing in claims of exceptionalism. But the people themselves time and again make it clear that they seek and need universality. Human dignity within one's culture requires fundamental standards of universality across the lines of culture, faith and state.
>
> <div align="right">(Ghali 1993)</div>

Too often western commentators accept the claims made by governments for 'Asian values', without questioning either how far these are largely ideological statements intended to justify a particular sort of rapid economic growth which will not disturb entrenched privilege, or whether there is empirical evidence that limiting rights does actually promote growth (Jones 1996; Sen 1997:33). Interestingly, the need to limit rights to promote economic growth is still used in countries like Singapore which are now richer than most western liberal democracies. In this sense the rhetoric of some Asian governments is reminiscent of Soviet claims for a socialist form of industrialization, and their dismissal of concerns about the human costs as no more than expressions of bourgeois class privilege. Stalinist fellow travellers have been replaced by western economic rationalists—one thinks of the Chicago School in Pinochet's Chile or western investors in China—who today defend assaults on human rights in the interests of rapid economic growth.

The difficulty in challenging claims for 'Asian values' is compounded by the colonial legacy, which makes western critics all too aware of the extent to which conservative politicians—Dr. Mahathir is a very good example—appeal to nationalist pride to disguise their own self-interest. While Mahathir may seem a long way from the (often expatriate Asian) inventors of post-colonial theory, there is a sense in which he and his ilk call on a popular, if not always well-articulated resentment of the colonial legacy. Indeed one might suggest that post-colonial theory can become another source to legitimize the assault on 'decadent westernization', a phrase used from Iran across to China.

While some of the rulers of East and Southeast Asia regard one set of 'western' practices as inconsistent with their own brand of 'Asian' values, other Asians see far less problem in embracing 'western' ideas and fashions, and reshaping them to incorporate 'traditional' cultural themes and symbols. Spend a couple of hours watching the various television rock programmes which now emanate from centres like Bombay and Hong Kong, and one realizes the extent to which new cultural shapes are being carved out of a range of traditions and cultures which go beyond the control of any one government or transnational corporation.

As soon as we accept the notion of defending 'traditional values' we enter upon slippery ground. Should we therefore defend foot-binding, or the ritual deflowering of prepubescent girls, both of which certainly have claims to being part of 'traditional' East Asian culture? The campaign for 'spiritual civilization' waged by Mayor Bo Xilai in Dalian in 1997, a particular variant of the 'Asian values' argument, used safer examples. One local participant was quoted as saying: 'As Asian citizens of China we pay attention to our ethics…. We don't want our soccer fans to be hooligans like in England. We want them to be warm but civilised' (Cody 1997).

There are of course far more sophisticated attempts to defend particular Asian cultural values without using them as an alibi to deny basic rights. Tu Wei-ming has argued convincingly that there is a more humanist strand in Confucianism

than the official spokesmen of Beijing allow (Tu 1989). Before his arrest, the former Deputy Prime Minister of Malaysia, Anwar Ibrahim, explicitly argued that Asian values are consistent with certain basic universal assumptions about individual dignity: 'It is altogether shameful, if ingenious, to cite Asian values as an excuse for autocratic practices and denial of basic rights and civil liberties' (Ibrahim 1996:28). At the same time it is true that western democracies do not have a monopoly on finding ways to combine individual and communal rights and obligations. Current western societies seem increasingly unsuccessful in finding ways of reconciling individual freedom and social obligations, and here they may have much to learn from many of the countries of East and Southeast Asia.

There is considerable strength to the argument that 'western' understandings of human rights place too much emphasis on individual legal and political rights to the exclusion of social, economic and cultural rights. (Of course, one way to protect social and economic rights is through effective and independent trade unions, which are anathema to many of the proponents of an 'Asian' concept of human rights.) This argument has recently been worked through in an attempt to reconcile 'western' liberal with certain 'Asian' values by joint Australian and Asian 'teams' of experts, and has produced some interesting results (Milner and Quilty 1997). It has also produced some very silly lines, as in the following: 'Punishments such as mutilation and stoning under the Islamic penal code, for instance, horrify many westerners, who put the right to freedom from pain before freedom of religion' (Milner and Quilty 1997:48). In this instance the issue is surely the 'right' to inflict religion upon others, which is a quite different concept to that suggested in the sentence.

To argue that human rights are universal does not lead to some inevitable position which sees the necessary homogenization of cultural and political forms. As Chandran Kukathas argues: 'Cultural diversity does not preclude the possibility of moral criticism or of developing universal moral standards' (Kukathas 1996:9). Recognition of human rights should lead precisely to a recognition of diversity, in which individuals and groups are able to choose from a range of cultural values and forms which will inevitably reflect different material and historical circumstances. They should, however, never act as a legitimation of brute force over others: 'Culture' wrote Ken Booth 'can be torture, and "authenticity" the means of maintaining oppressive power structures' (Booth 1995:115).

One of the areas where proponents of 'Asian values' are most determined that 'western' concepts of human rights are inappropriate is in relation to homosexuality. Speaking at the 1994 Human Rights Conference in Vienna Singapore's Foreign Minister proclaimed that: 'Homosexual rights are a western issue, and are not relevant to this conference' (*Outrage* 1993:5). Yet many Singaporeans would disagree strongly with this. Over the past few years a number have tried to form a political movement to challenge the laws against homosexual behaviour (ironically a British legacy, with nothing whatsoever to

do with the 'Asian values' with which they are now defended). A group called People Like Us was founded several years ago to contest these laws, but it has been very hampered by the efficiency with which public dissent is controlled by the Singapore government (Anonymous 1996:4).

Across the Causeway the Malaysian Prime Minister links homosexuality with 'western hedonism': 'Western societies' he wrote, 'are riddled with single-parent families which foster incest, with homosexuality, with cohabitation, with unrestrained avarice…and of course with rejection of religious teachings and values' (Mahathir and Ishihara 1995:80). On what basis he assumes incest and homosexuality were not found in precolonial Asian societies is not revealed. Dr. Mahathir has also acknowledged that: 'Wealth and success will probably undermine our morals anyhow. In the end we may decay like the others' (Mydans 1997).

These examples reveal what is often the case, namely that the invocation of 'Asian values' as against 'western' or 'universal' rights is sometimes the balancing of one set of imported values against another. In the case of prohibitions of homosexuality there is a rich set of examples, whether it be Christian missionaries in the Pacific or Chinese Marxists imposing particular moral strictures in the name of national tradition. The Chinese case is more complex, as there is evidence for hostility to homosexuality developing already during the Manchu dynasty before major western influence (Pan 1996).

Both rights and identities in relation to homosexuality as a 'lifestyle' are clearly products of western liberal theory and consumer society. As Pheng Cheah has pointed out: 'The very constitution of a subject entitled to rights involves the violent capture of the disenfranchised by an institutional discourse which inseparably weaves them into the textile of global capitalism' (Cheah 1997:261). The notion that homosexuality can be the basis for a social identity, and that one has a right to freely embrace such an identity and lifestyle, privileges the consciousness and rights of the individual over the claims of the community, the family and religious beliefs. This is a very new concept even in western societies. While there are precursors for this argument as far back as Jeremy Bentham's unpublished writings in the early 1800s (Crompton 1978), it is only since the gay liberation movements of the early 1970s that homosexuality entered any sort of mainstream discourse on human rights. Even today the most 'modern' society, the United States, is bitterly divided between those who would argue for a basic human right for sexual expression (as in current debates around gay marriage), and those, almost always claiming religious backing, who would assert homosexuality is a sin, a perversion or an illness. In stark contrast to almost every other western democratic society, criminal sanctions against homosexual behaviour remain in the legislation of a number of American states, and, despite the existence of a Bill of Rights in the US Constitution, these laws have been upheld by the Supreme Court (*Bowers v. Hardwick,* 1986).

The inclusion of homosexuality within human rights law is the product of the very recent past. The Universal Declaration, adopted in 1948, makes no mention

of sexuality. However the growing interest in human rights over the past several decades has meant increasing debate about the inclusion of homosexuality within its scope.

Such debate has only occurred because of the rise of an international lesbian and gay movement, with the skills and resources to take advantage of the mounting interest in human rights. In 1978 the International Gay (later Gay and Lesbian) Association (ILGA) was formed at a conference in Coventry (Clark 1993; Holtmaat and Pistor 1988). While ILGA has largely been driven by northern Europeans, it now has member groups from over seventy countries and gained consultative status at the United Nations in 1993. This was subsequently lost after attacks on ILGA, generated by the American right, for including paedophile groups. These attacks, in turn, caused considerable divisions within the organization as it sought to balance the lure of official recognition with conflicting views about the extent to which it should allow debate over inter-generational sex (La Violette and Whitworth 1994:568–70).

Partly as a result of lobbying by ILGA and its affiliates, the European Court of Human Rights upheld in (1981 and 1988) that the criminalization of private consensual homosexual acts contravened the right to privacy (Drubber 1989). After many years of gay lobbying efforts, Amnesty International offered support for those imprisoned for homosexual acts in 1991 (Hagland 1997:357–84; *Breaking the Silence* 1997). Simultaneously there was growing recognition of the interrelationship between gender and human rights due to pressure from the women's movement, for example at the Second World Conference on Human Rights, Vienna 1993, which ILGA attended (Connors 1996:169–73). At the 1995 Beijing United Nations World Conference on Women, although the Lesbian Caucus failed to have sexual orientation included in the eventual *Platform for Action,* there was a large visible lesbian presence (Reinfelder 1996:20–6).

The 'discovery' and naming of HIV/AIDS (Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome) in the 1980s made for a new linkage between the language of AIDS, sexuality and human rights. AIDS was originally conceptualized as somehow inherently linked to male homosexuals (its original name was 'gay related immune deficiency') but it became clear, relatively quickly, that in most parts of the world this was not the case: the rapid spread of AIDS in Asia since the 1990s is primarily linked to heterosexual transmission. The creation of a number of international responses to the epidemic at both governmental and non-governmental levels made for a new recognition of sexual behaviour and of how far sexual identities are social constructions. Crucial to a view which linked effective prevention of HIV to opposition to stigmatization and persecution, was the work of the World Health Organization (WHO) agency, the Global Program on AIDS (GPA), which under the direction of Jonathan Mann placed heavy emphasis on both human rights concerns and support for organization amongst affected communities (Altman 1994; Mann and Kay 1991; Tarantola 1996).

While there was some hesitation about explicitly recognizing the impact of HIV on homosexuals, there is no doubt that AIDS has been a major force in the widening of concepts of human rights to include sexuality.[2] GPA's successor, UNAIDS, has already sponsored several workshops on men-who-have-sex-with-men and HIV prevention in developing countries.

ILGA never attracted much US participation, but in 1990 the International Gay and Lesbian Human Rights Commission (IGLHRC) was established in San Francisco, with the specific mission of 'increasing the visibility of issues specific to sexual minorities within mainstream human rights organizations' (IGLHRC 1996/7). A small, largely volunteer-staffed organization, IGLHRC has pursued this goal with considerable energy and enthusiasm.

Under various international treaties governments can allow citizens to bring complaints before the United Nations Human Rights Committee, and in 1994 the Committee ruled that the existing laws in Tasmania prohibiting sodomy (under Australia's federal constitution states have jurisdiction in criminal matters) breached Australia's obligations under the International Covenant on Civil and Political Rights (Morris 1995; Tenbensel 1996). Meanwhile various jurisdictions are moving in a variety of ways to include sexual orientation under the provision of anti-discrimination legislation, as in various measures in force in some Canadian, Australian and US states, in provision for the recognition of same-sex relationships, through specific acknowledgment of such relationships for immigration and social welfare purposes. The new South African Constitution, adopted in 1996, was the first national Constitution to specifically guarantee protection of homosexuals from discrimination (Spruill 1997).

There can be no serious doubt that homosexuality, both male and female, has been part of the sexual cultures of almost every society of which we have knowledge. Some of the richest cultural expressions of same-sex love and eroticism come from Asia, although in a number of cases these expressions have been deliberately ignored by official cultural guardians. This does not mean that there is a seamless history linking 'modern' Asian homosexualities to pre-colonial expressions: while there is considerable variety in practices across time and place, it is unlikely that homosexual *identities* existed anywhere in the pre-modern world.

What did exist in a large range of societies is a particular identity based on both gender and sexual non-conformity, whereby some men (and more rarely women) took on aspects of the appearance and behaviour of the 'opposite' sex, which might include sexual relations, often through prostitution, with men whose own identity as heterosexual was therefore not compromised. To casual observers groups such as the Filipino *bakla,* the Tahitian *fa'falene,* the Indian *hijra,* the Korean *hwarang,* could all be lumped together as 'a third sex', although we need to be careful in assuming that all examples of apparently socially sanctioned effeminacy or homosexuality had the same meanings across different cultures (Herdt 1994). The 'modern' definition of homosexuality (the

word itself was only coined in 1869) was imported to Asia along with other aspects of 'western' regimes of sexuality.[3]

During the colonial period conflicting 'western' influences helped disguise and distort existing sexual cultures: Europeans brought their own assumptions about sexuality with them, often resulting in considerable confusion, whereby 'traditional' cultures were both condemned for their licence and became enormously seductive for Europeans fleeing the strictures of their own societies (Bleys 1996; Gill 1995). Certain parts of the new colonial world—North Africa, Bali and Ceylon—became particularly attractive to westerners precisely because they could find the same-sex relations largely denied back home. (The homosexual adventurer was overwhelmingly male, largely for all the obvious reasons which made such adventuring extremely difficult for women.)

It is not surprising, therefore, that the versions of 'modernity' adopted by the élites of independence often echoed the condemnation of homosexuality of colonial rhetoric. It is only in the past decade that a counter-rhetoric has begun to emerge, one that is closely connected with an assertion of contemporary homosexual identities, but at the same time one that seeks its legitimacy as much in particular cultural traditions as in the universal language of human rights.

The last decade has seen a remarkable growth of apparently 'western'-style lesbian/gay identities in most Asian countries, and both commercial venues aimed at a 'gay/lesbian' market and small activist groups are now present in most countries in the region where sufficient political space exists for independent associations. There are huge problems of interpretation, as surface similarities (designer clothes, discos and cafés etc.) can also cloak more significant differences. A recent Spartacus Guide, which is generally accepted as providing the most comprehensive world listing of places of interest to gay men —and, to a lesser extent, lesbians (Rauch 1996)—lists as gay the 'Disco Hollywood' on Ghenghis Khan Avenue, Ulan Bator, Mongolia. It would obviously be a mistake to assume that it is in all respects equivalent to a similarly named disco in, say, Los Angeles or Paris.

Moreover, while the universalizing rhetoric of human rights is one which blunts gender differences—talking of both 'lesbian' and 'gay' (and sometimes of 'lesbian', 'gay', 'bisexual' and 'transgender') as if they were inherently coupled —the itinerary towards new forms of homosexual identities, behaviours and communities will not necessarily be the same for women and men. One would expect lesbian movements to develop in conjunction with the development of middle-class feminism, and not necessarily to be linked to developments amongst homosexual men. Thus, one account of Japan claims 'the lesbian movement grew out of the women's liberation movement in the 1970s' and not until the 1990s did it foster links with gay male groups (Ishino and Wakabayashi 1996; Hanawa 1997).

It is generally claimed that lesbians and lesbianism are invisible in most of Asia. Thus in a book, published in partnership with a number of lesbian groups, the author who writes of India, claims: 'It is virtually impossible to find any

literature, films or art by, for, or about lesbians in India' (Cath 1996:85). The novels of Shobha De, however, widely read in both India and the West, are remarkably frank in their treatment of lesbianism (De 1992). Yet it is certainly true that homosexual men are more visible in most societies, and that this visibility is largely a reflection of male privilege. Nevertheless there are signs of quite rapid change as 'lesbian chic' starts to affect at least the most urbanized and cosmopolitan parts of Asia.

Gay/lesbian worlds reflect the larger culture within which they develop, and while the Reeboks may be the same, the styles and manners of relating to each other will vary (Altman 1996; Drucker 1996). Understanding these developments is further complicated by the investment which observers—both indigenous and foreign—have in various interpretations: a number of the spokespeople for the new movements have themselves lived and studied in western countries, and have strong psychological reasons to stress their links with the first world. Equally, others will be politically and personally motivated to take exactly the opposite position, in other words to stress their dissimilarity. The confusion—what post-modernists might term hybridity and inter-textuality— is caught perfectly in this quote from a Filipino writer:

> You are reading the latest copy of Interview, one of the trendy fashion-slash-lifestyle monthlies that tell you what to wear, what to talk about and how to live. You are under the impression that you belong to the world the magazine describes, and not in this tropical, underdeveloped, unstable country. You dream of escaping to this world full of perfect people, with perfect faces and perfect lives and perfect clothes and perfect bodies.
>
> (Groyon 1994:111)

Peter Jackson has recently made the point that as a 'western'-style commercial gay world expands in Bangkok there are increasing divergences from the US/ Australian models of gay community/activism (Jackson 1997a; see also Jackson 1997b). It is likely that Thai homosexuals, both women and men, are developing their own models, which are unlikely to follow either 'traditional' Thai or more recent 'western' patterns. Before we fall into accepting the common 'western' belief that Thailand is necessarily more accepting of sexual diversity than countries with Christian or Islamic traditions, it is worth noting that in 1996 the government backed the exclusion of homosexuals from teacher-training colleges. It is possible that a more overt homophobia is being imported along with a more 'modern' form of gay/lesbian identity, or indeed that the definition of specific homosexual identities triggers off a particular form of hostility.

For my present argument it is unnecessary to enter into the details of how far the emergence of lesbian/gay commercial and political worlds in countries such as Thailand, the Philippines, Malaysia, Japan, or India is merely replicating 'western' models. What is clear is that to assert these sorts of identities is to break with various traditional patterns, which have often allowed more room for

divergence from the dominant sex/gender norms but in ways which are increasingly incompatible with modernity. The hostility to 'homosexuals' in Thailand thus appears more strongly directed towards those who assert a 'modern' gay/lesbian identity than it is to the more traditional *kathoeys,* just as Michael Tan observes that it is easier to be a *bakla* and cross-dress in the Philippines than it is to be 'an ordinary gay man' (Tan 1996:55).

Often the way in which homosexuality is discussed in contemporary Asia will combine quite distinct traditional and modern discourses. Consider this sentence in a report on the first Filipino lesbian congress: 'Rep. Reynaldo Calalay's bill seeking the appointment of a congressional representative for the third sex and Rep. Geraldo Espina's that criminalises discrimination against gays have stirred some ripples' (Medina 1996). In these two attempts to use the power of the state one sees the ongoing confusion between those who see homosexuality as the result of gender divergence (a 'third sex') and those who see sexuality as a distinct category ('gays'). This confusion is not of course unknown in the West; it underlies the popularity of 'drag' films from *Some Like it Hot* (Wilder 1959) and *Tootsie* (Pollack 1982), through to *The Adventures of Priscilla Queen of the Desert* (Elliott 1994) and *The Bird Cage* (Nichols 1996).

Indeed, it is only in the past two decades that the 'western' understanding of homosexuality has become largely divorced from gender, that is, that lesbians are seen as other than women who want to be men, and male homosexuals as other than effeminate men wanting to be women. These changes were expressed in the creation of gay/lesbian communities and political movements since the 1970s in most western countries, which tended to marginalize 'drag queens' and 'butch dykes' in favour of more mainstream styles of being homosexual, including exaggerated masculine ('macho') and feminine ('lipstick lesbian') modes.

The ambiguities between the local and the global, the traditional and the post-modern are constantly there. In my most recent trip to Manila, in 1996, I was half-listening to the radio in a taxi when I heard an unmistakably 'queeny' voice proclaim: 'I'm a girl dropped in a man's body' followed by several sentences in Filipino, then: 'I'm a girl with something extra'. That same day, in *The Evening Paper,* a somewhat upmarket newspaper, I read the weekly 'Gayzette' page, where readers were asked to identify the authors of a list of twenty books ranging from *To Anaktoria* (Sappho) to *A Place I've Never Been* (David Leavitt), only one of them (Ameng of Wu's *The Cut Sleeve*) not from the West. The quiz, headed 'queer now, queer then' was designed to discover: 'how much you know about your world. Are you a real queen? Or a mere princess? Is the baby now a fairy?' (*Evening Paper* 1996:29).

Peter Drucker (1996:87) has noted that: 'Even the sexualities that Third World people feel to be their own often bear little resemblance to those which existed before European conquest'. Thus when Filipinos seek to reclaim the traditional *babaylan* or Thais speak of the continuing existence of *kathoeys* they evade the question of how far they are engaged in a romantic nostalgia, seeking to recreate

identities outside the sociocultural environment which allowed for their emergence in the first place.

We are, of course, speaking here of a search for identity, based on sexual practices and emotions, which is largely confined to middle-class men and women, aware of international developments via an increasingly globalizing media. Some observers complain of the tendency to impose 'western' definitions of sexuality upon very different cultural formations, stressing that they are largely irrelevant to the great majority of people in most Asian countries. Thus, a report from a series of workshops in India and Bangladesh for 'men who have sex with men' states: 'The terms gay/homosexual have very little significance for the vast majority of males who have sex with males, and only seem to have some meaning to those with access to English and who are primarily middle/upper classes, a small minority in India' (*Ki Pukaar* 1996:4). The problem is that in substituting the term 'men who have sex with men' there remains the confusion of identity with behaviour, which may well be culturally inappropriate, as it is, indeed, for some groups within western societies.

More important, the same objections about its limitations could have been made about the gay liberation movements in the western world in the early 1970s. The emergence of 'western'-style homosexualities in Asian countries is part of a larger story, namely the globalization of cultural and social forms, and whether these identities will become the dominant ways of being homosexual in particular countries probably depends upon the extent to which globalization is, indeed, creating universal forms of cultural expression. As Alison Murray wrote:

> Jakarta is now gayer than ever, and despite the dominant discourse, gay is a modern way to be. This has undoubtedly been influenced by western trends and internationalisation of gay culture, and in the process, the distinctive position of the *banci* has tended to be subsumed within the definition of gay.
>
> (Murray forthcoming)

A number of factors are contributing to the seemingly rapid development of gay/lesbian identities and communities in most of Asia. *The Economist* (6 January 1996), which devoted a cover story to the internationalization of gay identities, identified economic growth and AIDS as the two major forces in creating gay/lesbian communities in the non-western world. With affluence comes exposure to mass media and consumerism, as well as increasing space and time to develop identities and lifestyles which go beyond the expectations of one's parents. It is perhaps symbolic that the massive shopping malls of Southeast Asia have become major meeting places for young homosexuals, both men and women, just as they are potent symbols of the ways in which mass consumerism is transforming certain social and economic relationships. (I am not aware of any systematic study of the role of malls as sexual meeting places, but anyone who has spent time in Asian cities will be aware of their centrality, as well as of the rather different

patterns involved in male homosexual as distinct from heterosexual or lesbian cruising: only the former may involve actual sex on site, usually in public toilets.)

Both cable television and the internet, restricted as they are to relatively small and affluent groups, have an ongoing effect on the ways in which people feel connected to other worlds and ways of imagining themselves. It is interesting to watch the almost certain losing battle waged by governments, such as those of China and Singapore, who seek to encourage economic growth through global involvements while simultaneously seeking to preserve artificially created 'traditional' values. The Singapore government, for example, banned the film *The First Wives' Club* (Wilson 1996) because it includes a scene in a lesbian bar. The logic of economic globalization means that images will circulate faster and more densely across the world, opening up new spaces from which people will take unpredictable messages and styles of being.

Equally, the strength of certain cultural and family ties in even the richest countries of East Asia remains an argument against too reductionist an insistence on the ways in which affluence will change social relations. The weight of family obligations remains a more important fact for young homosexuals in countries such as South Korea, Malaysia or the Philippines than in western countries, who are far more likely to live openly with a partner of the same sex. Little wonder that the Taiwanese film *The Wedding Banquet* (Lee 1993), in which a young gay man living in New York marries to please his Chinese parents, is so popular among Asian gay groups. (The same theme underlies the 1986 Mexican film *Dona Herlinda and her Son* (Hermosillo 1986), in which the mother can accept her son's homosexual relationship as long as it is never acknowledged and he makes an appropriate marriage.) Family pressures are a real burden on many young women and men in the West, but not, it would seem, as ubiquitous as in other parts of the world.

It is not AIDS as much as the particular international mobilization around AIDS which has led to a strengthening of homosexual identities, often in the name of better epidemiological and prevention surveillance. After all, the criticism of using 'western' concepts of (homo) sexual identity from India which I have already quoted came from a workshop for 'men who have sex with men', another form of identifying and categorizing people, and one made possible because of AIDS education programs. It is ironic that while AIDS has stimulated research which stresses the cultural specificities, complexities and fluidities of sexuality, that research has also aided gay organizations to develop, and made homosexual identities more widely available. This research, which for good epidemiological reasons has concentrated almost exclusively on men, has reinforced the already existing imbalance whereby women's voices and experiences are both less assertive and less subject to surveillance.

Indeed, it is resources, both financial and intellectual, directly connected with HIV/AIDS programs, which have been the basis for some of the most obvious growth of gay/lesbian groups in Asia in the past decade. Take Malaysia as an

example. Largely due to the efforts of a small group of 'western'-influenced gay men the first community-based AIDS organization was established in Kuala Lumpur in the late 1980s. It took the name Pink Triangle, a name which signalled its gay base (pink triangles were used in Nazi concentration camps to identify homosexual prisoners). Simultaneously, it has worked to build a gay community in Malaysia and to promote a more general awareness of AIDS-related issues (Jayaseelan 1993).

The leaders of Pink Triangle have been able to increase outreach to men who have sex with men with the tacit support of the government (which is concerned about HIV transmission), but in doing so have simultaneously fostered a sense of gay identity and a connection to gay communities in other parts of the world. Pink Triangle has also provided a meeting space for local Kuala Lumpur lesbians, who, I was told, communicate through an effective 'Fax tree' and stage large parties: 400 women were claimed to have attended a 'raunchy' party with strippers put up for 'auction' (Nur and A.R. 1996). Indeed, there is increasing interaction not only with the 'gay meccas' of the West—San Francisco, Amsterdam, Sydney—but equally within Southeast Asia, partly as a result of AIDS-related networks which have allowed close ties to be built between groups such as Pink Triangle, Action for AIDS, Singapore, and the Library Foundation, Manila. One friend observed—both cruelly and accurately—that the most likely place to find members of all these groups was in the opulent gay saunas of Bangkok, or perhaps at the Mardi Gras parties in Sydney.

Women would seem largely excluded from these networks, and certainly the impact of AIDS on the emergence of lesbian groupings has been far more indirect and unimportant. Yet women, too, have been affected by the new affluence, the internationalization of media images associated with globalization and the economic boom of recent years in much of Asia. In both Thailand and Japan it seems that it is lesbians, rather than gay men, who have been the most active politically. Following the 1994 International AIDS Conference in Yokohama, a gay demonstration was organized by OCCUR, a group of lesbians and gay men, in which lesbians were particularly prominent.[4] In the response to the ban on homosexuals entering Thai teachers' colleges it was the lesbian group, Anjaree, which took the lead, subsequently organizing a national conference for lesbians in Bangkok. In Taiwan it seems that lesbians are more prominent than gay men in asserting their existence. In Indonesia a small lesbian group was established in the 1980s, and lesbian/gay activism has grown in the 1990s (Wieringa 1987; Castells 1997:206–12).[5]

Yet the emergence of 'modern' homosexuals, and the creation of gay communities in much of Asia, has not meant a large-scale political mobilization. Even where one finds the combination of political freedom and economic affluence which The *Economist* (6 January 1996) seems to suggest is required for such mobilization there is not much political activity: the Japanese groups are very small, those in Korea and Thailand even smaller, while the quite large numbers of people who are gay/lesbian-identifying in Singapore or Hong Kong

are restrained by the restrictive political environment. In China there have been reports of gay groups, but clearly they encounter considerable resistance from the regime. Currently there are moves to organize an international organization to promote gay rights within China. (The section of the Chinese penal code which criminalizes 'disturbances against the social order' has been directed at homosexual men (McKenna 1996:44).) Indonesia has a small but well-organized network of gay and lesbian groups, and held its Third Congress in 1997 with eleven organizations and a number of individual activists represented. In India and especially the Philippines there has been some gay/lesbian political organizing in recent years.

Without necessarily engaging in political organizing, a new middleclass, literate and urban generation in most Asian countries is adopting styles of being homosexual which seem more and more to resemble the dominant patterns of the West rather than the traditional cultural patterns available for gender and sexual unorthodoxy. Even while this change is largely apolitical—the group People Like Us in Singapore seems able to reach only a very small fraction of the large crowds who flock to the 'right' discos on the weekend—it is significant. There seems reason to assume it will continue, as 'western' modes are recuperated and changed to fit different social and political circumstances.

In practice it is impossible to separate out the internal dynamics of social change within 'developing' countries from the dynamics of change connected with the impact of 'western' capitalism. But analytically it is important to recognize that non-western societies develop their own modernities, their own dynamics of social change related to specific historical and cultural conditions, as Maila Stivens suggests in her introduction to this book. Thus the apparent spread of global gay and lesbian identities means more than merely a replication of the existing models available in, say, San Francisco's Castro or Darlinghurst in Sydney. As people in other societies borrow styles, ideas and concepts from the West, they will reapply them to their own conditions, and develop new and currently unforeseeable ways of being homosexual which in turn may well influence its formation in the West.

The globalization of sexual identities is a small part of a much larger story, namely the constant reshaping of the world which began with the industrial revolution in Europe, and has now resulted in vast and rapid shifts in the material conditions of life for millions of people at a time when global communications places the local in a constant interchange with the global (Appadurai 1990). While 'difference' is a term often deployed in a particularly nostalgic way, to stress existing cultural formations and to protect them from change (as in much of the emphasis on 'cultural tourism'), it can also be employed rather differently to suggest that globalizing changes lead simultaneously to homogenization and to new differences. To reiterate: while the Reeboks may be the same, the meanings they have for their wearers will vary.

There are two dangers for the western observer writing about other societies. The first is that he or she will impose a particularly romantic vision, which

denies the similarities between his or her own society and that which he or she is describing. The second danger is precisely the reverse, namely that the appearance of social and cultural convergence will lead the observer to underestimate the extent to which cultural differences remain significant, even while surface appearances seem the same. 'One important consequence of the globalization of social, political and economic life,' Richard Falk has written,

> is cultural penetration and overlapping, the coexistence in a given social space of several cultural traditions, as well as the more vivid interpenetration of cultural experience and practice…. The emergence and the implementation of international human rights embody both the opportunities and obstacles arising from this always-shifting interplay between the valuing of difference and the quest for sameness.
>
> (Falk 1992:46)

Changing notions of homosexuality become an issue which brings into relief all the contradictions of 'traditional' versus 'modern', 'Asian' versus 'western' cultures. The fact that the debate around homosexuality in Asian countries has strong resemblances to that which has taken place in the past few decades in most of the West, suggests that one of the dangers of stressing cultural 'difference' is that it leads us to underestimate the extent to which human beings share a vast amount in common. To repress individual sexual and emotional desires (as distinct from explicit criteria of harm, as in the case of rape, harassment or child molestation) in the vague name of cultural tradition is unacceptable whether the tradition invoked is Islamic, Confucian or Christian.

In ways which are increasingly unpopular with post-modern and post-colonial fashion I believe that it is possible to argue for certain universal standards of rights, and it is for this reason that I look to Aung San Suu Kyi and the martyrs at Tiananmen Square, rather than to their governments, as the real custodians of 'Asian values'.

Notes

1 I am using the 'West' and 'western' here to mean North America, Western Europe and Australasia.
2 The regulation and discourses of HIV/AIDS have, of course, had an impact on human rights in a number of ways which are outside the scope of this chapter (Jayasuriya 1995; Tan and Brown 1994).

3 There are, of course, differences between, say, Italian and American constructions of 'modern' homosexuality, but for the purposes of this essay they are not very important. 'Modern' homosexuality is characterized by its ability to draw on cultural influences from a number of sources, and its development across borders is assisted by very considerable travel and international networks of friends, lovers and internet acquaintances.

4 As far as I can ascertain the name OCCUR was adopted because the English word seemed to suggest the possibility of something 'happening' in Japan.

5 English excerpts provided to the author by Saskia Wieringa.

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