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**WOMEN'S RIGHTS, INDIGENOUS RIGHTS, AND SOCIAL  
COHESION IN LATIN AMERICA**

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## WOMEN'S RIGHTS, INDIGENOUS RIGHTS, AND SOCIAL COHESION IN LATIN AMERICA\*

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The exclusion of indigenous peoples is a critical issue in several countries of Latin America and has become more salient as the indigenous themselves have mobilized. Pressures from below are changing the contours of politics, most notably in Bolivia and Ecuador, but also in Guatemala, Peru, and even in Mexico, which has the largest indigenous population of any country in the Western hemisphere.

In earlier periods, the indigenous were often subsumed under the category of “peasants” or, in the case of lowland groups, as “tribes.” Contemporary indigenous movements, uniting both highland and lowland indigenous, have organized through identity politics, emphasizing their differences from the dominant white/mestizo culture that surrounds them (Van Cott 2009; Postero 2007; Seider 2002; Speed 2009). This essay reviews the content of indigenous demands and the material and symbolic roles that “indigeneity” plays in transnational movements of resistance to capitalist globalization. It then argues that, although indigenous movements expand the language of rights to include collective rights, they do not acknowledge discrimination against women within indigenous communities. Instead, indigenous movements have offered “gender complementarity” as an alternative to gender equity, setting up a potentially serious conflict between indigenous rights and women’s rights. How this conflict is addressed has implications not only for efforts to promote gender equity within indigenous communities, which are demanding autonomy to live according to their traditional “*usos y costumbres*,” but also for the legitimacy of the core liberal values that undergird feminism that also inform “Western” concepts of democracy, human rights, and citizenship.

The conflict between women’s rights and indigenous rights has met with different responses from the various actors with stakes in the debate: Latin American feminist activists, women’s NGOs (both international and domestic), the gender and development programs of foreign assistance agencies, and those who have studied—and often identify with—indigenous movements. They reveal some of the difficult choices facing those who are committed to addressing issues of inequality and social justice in Latin America, or elsewhere, when cultural differences conflict with universal notions of human rights. I review some of the issues at stake and conclude by arguing that, rather than throw up our hands at our inability to resolve what is ultimately a moral debate, we should try coming at the problem from the side. By confronting racism and making legal systems work for the poor, we may be able to reframe the challenges posed by indigenous identity politics without abandoning liberal democratic values.

## *The Concept of Social Cohesion*

Scholars and practitioners from various disciplines have used the concept of social cohesion to explain why people join and remain in groups (Friedkin 2004). An ECLAC study in 2007 defines social cohesion as “the dialectic between instituted social inclusion and exclusion mechanisms and the responses, mechanisms and attitudes of citizens toward the way these mechanisms operate”(18). Incorporating the indigenous is a pressing requirement for social cohesion, particularly in countries such as Bolivia, Peru, Guatemala, Ecuador and Mexico with large and increasingly mobilized indigenous populations.<sup>1</sup>

The origins of the term “social cohesion” in the work of Emile Durkheim and Max Weber suggest different approaches to the issue. The evolution of the modern nation-state in Europe required that local, “particularistic” ties to village and clan give way to a national identity.<sup>2</sup> Weber emphasized institutions. As societies modernize, they move from traditional patrimonial authority to charismatic leadership, and ultimately to “rational/legal” authority based on the public goods that governments provide and the establishment of effective legal systems. Weber’s approach is similar to the emphasis of the report on social cohesion done by the Economic Commission for Latin America and the Caribbean in its emphasis on *mechanisms*: observing that the “European tradition of social citizenship” assumes “an intrinsic relationship between social inclusion and the provision of mechanisms to integrate individuals and give them a sense of full membership in society”(ECLAC 16). Mechanisms can refer to social patterns, but the primary focus has been on developing effective institutions that can address “the disconnect between growth and social equity” (20). It takes institutions to create “synergies between social equity and political legitimacy” (ECLAC 18). But this is probably a Catch-22 for, as William Easterly (2006) has shown, it takes social cohesion to create strong institutions in the first place.

Approaching social cohesion from a different angle, Durkheim emphasized attitudes and perceptions. In Latin America, the ECLAC report observes, persistent inequalities have led to a “perception of social injustice” that “erodes confidence in the system, weakens the legitimacy of democracy and exacerbates conflict” (20). Of course, that perception is true. Durkheim thought that the increasingly complex division of labor weakened social bonds and increased individual alienation. He thought modern societies needed to create “organic” ties of solidarity to replace the “mechanical” ties that bound traditional, small scale communities together (16-17). Durkheim’s formulation raises the question of whether integration based on diversity, not assimilation, will be able to provide sufficient “glue” to hold Latin America’s “plurinational” societies together. Some see indigenous identity politics not as the problem but as the solution.

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<sup>1</sup> According to the World Bank, 56% of Bolivia’s population are indigenous, compared with 44% in Guatemala, 40% in Peru, and 30% in Ecuador. The number of people who speak indigenous languages in Mexico is just over 6 million, out of a population of 111 million in 2009. Different criteria have been used to identify who counts as indigenous, with self-identification and mother tongue are the most common.

<sup>2</sup> In Weber’s well-known view, rational/legal forms of authority would replace traditional, patrimonial loyalties with charismatic leadership the “transitional” form; this tracks well with the importance of charismatic leaders to radical populist governments, particularly in Bolivia and Ecuador where parties and political institutions have historically been weak.

“Indigeneity,” which privileges the community over the individual and solidarity over competition, provides an alternative to the over-homogenizing approach to citizenship that characterized the European experience, and the “nation-state” as the international norm.

### *Indigenous Rights, Indigeneity, and Identity Politics*

Within Latin America and beyond, indigenous groups have become political actors, connecting (as women’s groups have also done) through transnational organizations and conferences at regional and international levels. The first UN conference on discrimination against indigenous peoples in the Americas took place in 1977. The UN declared two Decades for Indigenous Peoples (1995-2004 and 2005-2014) and, following the ILO Convention 169 on Indigenous Rights (1989), the UN General Assembly passed a Declaration on the Rights of Indigenous Peoples in 2007. The Declaration recognizes the right of indigenous groups to claim collective as well as individual human rights (Article 1), reflecting the demands of indigenous communities to maintain their autonomy, barring governments from employing assimilationist policies while affirming that the indigenous have the same rights as all other citizens to the opportunities and resources of the wider society. Article 26 states that indigenous communities have rights to lands “traditionally owned or acquired,” and Article 32 gives indigenous peoples the right to be consulted about any development of natural resources on land they consider theirs.<sup>3</sup> Most Latin American countries have ratified the convention and have incorporated consultation with indigenous groups into their constitutions. During the past decade, these norms have become serious sources of dispute, as indigenous groups resist oil exploration and drilling and the opening of new mines, projects are funded by foreign investment, increasingly Chinese, and promoted even by “radical populist” governments, which need export earnings to fund their expanded commitments to social spending. Finally, and potentially important for the conflicts between women’s rights and indigenous rights, a 2007 Statement by the Indigenous Caucus proposes that governments should consider “integrating traditional systems of justice into national legislations in conformity with international human rights law and international standards of justice.”<sup>4</sup>

The Declaration is a wish list of indigenous demands, but “indigeneity” is more than a set of claims to be negotiated in competition with the claims of other marginalized groups. Indigenous identity is a moral as well as a political stance. As Emma Cervone observes, “Indians portray indigenous cultures as antithetical to the social injustices and abuses of what they call Western societies” (2002: 181). As Kay Warren and Jean Jackson write,

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<sup>3</sup> This provision caused four developed countries with large indigenous populations (the United States, New Zealand, Australia and Canada) to vote against it on the grounds that the Declaration challenged existing property rights. The Obama Administration has recently announced its decision to reconsider its vote.

<sup>4</sup> From the Statement of the Indigenous Caucus, September 2007 and the Declaration of the Rights of Indigenous Peoples are available at <http://www.iwgia.org/sw248.asp>. Arguments for moving away from “universal” conceptions of rights based on the individual to the concept of “multicultural” or group rights, as argued by authors such as Will Kymlicka and Iris Marion Young, can be found in Iveson, Patton and Sanders (2000). The feminist counterargument, that the practices of indigenous and other groups claiming collective rights may be patriarchal and discriminatory, can be found in Shachar (2001), Deveaux (2006), and Okin (1999).

The pan-American discourses that emerged to celebrate indigenous otherness often stress a nonmaterial and spiritual relation to the land, consensual decision-making, a holistic environmentalist perspective, and a reestablishment of the harmony of the social and physical worlds. Implicit in these values is a critique of occidental forms of authority, desires to control and commodify nature, and the sovereign nation-state model with its accompanying power to define democracy, citizenship, penal codes, jurisdiction, and legitimate violence (2002:13).

Indigeneity thus offers a new avenue to achieve the Rousseauian ideal that remains deeply ingrained in the Western political imagination. In its opposition to economic development and to universality, indigeneity offers a fundamental challenge to liberal capitalism that is potentially as radical as Marxism, and for countries with large indigenous populations, more relevant today.

Indigenous political practices can offer some useful lessons for democratic governance. Donna Lee Van Cott suggests, for instance, that Andean communities could serve as a model, offering “an array of self governing practices that may prove useful in impoverished towns: collective work; incorporating local religious and cultural symbols to enhance the authority of new governance institutions; incorporating traditional methods of leader selection into formal election rituals; and providing mechanisms for community leaders to exercise ‘social control’ over elected authorities” (2008:235).

Others see the possibility of a deeper philosophic shift. As Shannon Speed argues, when the indigenous of Chiapas unilaterally declare their autonomy from the Mexican government, they are challenging “liberal conceptions of natural and positive law” by showing that rights “*exist in their exercise*, not as designations from God/nature or the state/law” (2008: 165-167). This formulation ennobles indigenous resistance and weakens conventional notions of state sovereignty, but also comes close to saying that “might equals right.” Why shouldn’t oppressive elites also claim that their rights “exist in their exercise,” unconstrained by “God” or “natural law”? Speed perhaps unintentionally draws attention to a basic problem with the “rule of law” in Latin America (and elsewhere): the conflict between the ideal that the law that applies to everyone, which can among other things protect the weak, and the reality that law in fact is what is “exercised,” to the detriment of the poor and the marginalized, not what is “legal.”<sup>5</sup>

Speed questions as “essentializing” June Nash’s statement that indigenous culture is “*necessarily* opposed to Western practices” (179), but she applauds the ways in which indigenous communities “demand the right to maintain an alternative structure of power” based on “alternative logics of rule.” These do not arise from some “indigenous cosmivision,” she writes, but rather are to be found in indigenous practices of collective and consensual decision-

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<sup>5</sup> Which is why small nation states strongly support international law as a brake on powerful states in the international system. Speed does concede that “rights in their exercise” might be deployed by groups “whose goals one finds abhorrent, for example right wing militia groups in the United States,” but adds that “even in that case...such deployments might be challenging to neoliberal power”(173), which suggests how far she is willing to go to fight “neoliberalism.” Her frontal attack on the state ignores the essential role of the state in ultimately guaranteeing the rights of all.

making, the concept of “rule-obeying,”<sup>6</sup> and the assertion of pluriculturalism or diversity within the collective. The indigenous are “reappropriating” the neoliberal language of subjectivity—the “right to self-control and autonomous self-production” (162-3)—in ways that are “subversive of” Western liberal individualist discourse and provide an “alternative form of the production of subjectivities ...and rule” (179). But the “collective” she is referring to is the nation, not the community, where diversity is not well tolerated and social controls—Durkheim’s “mechanical” ties—are strong. From a feminist standpoint, “individualist discourse” is not where the West went off the track; its failure has been its lack of universal application in systems where the strong have rights and impunity, and the weak are denied both rights and dignity.

### *Gender and Indigeneity*

Indigeneity as a political project challenges feminist moral capital by opposing the indigenous paradigm of gender complementarity to the “individualist” Western concept of gender equality. Scholars have documented the ubiquity of gender complementarity in Andean societies, which is derived from, and reinforces, the emphasis on duality in the Andean world view (e.g. Harris 1985, but see also Cervane 2002; Barrig 2006; Goodale 2009). The Andean couple unites opposites. Individuals are not accepted as adults in the community until they marry and complete each other.<sup>7</sup> Complementarity reflects the need for cooperation between men and women to ensure survival, but also projects a cultural ideal of gender equality that is consistent with gender difference because, although men and women perform different tasks and assume different roles in the community, these are equally valued.

Feminist skepticism about whether “different” can be “equal” does not seem unreasonable, however, in the face of the evident gap between the ideal of complementarity and the reality of indigenous women’s lives. Indigenous women are the most disadvantaged group in Andean and Meso-American societies; they have the highest rates of extreme poverty and high rates of maternal mortality. Gender gaps in school attendance and literacy have virtually disappeared in much of Latin America, but not among the indigenous. In Ecuador, according to Manuela Lavinás Picq, 36% of indigenous women on average are illiterate, as compared to an average of 20% for indigenous men (2008:278); in highland Peru, illiteracy rates for women are above 25% (Barrig 2006:124). Labor markets remain “highly segregated by race and gender,” according to Radcliffe, Laurie and Andolina, who find that “nine out of ten” indigenous women in Ecuador “have unmet basic needs” (2009: 198, 200)

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<sup>6</sup> This is a reference to the role an indigenous leader is expected to adopt, to “lead by following” or “*mandar obedeciendo*,” a cultural expectation that is present in the Andes as well as Meso-America that community leaders can be made accountable through social control. This tradition is one of the important differences between the leadership style of Evo Morales in Bolivia, and that of Hugo Chávez or Rafael Correa.

<sup>7</sup> Barrig was looking at why NGOs and their staffs were ambivalent about promoting gender equity as their (external, often European funders required), and was often told that “Western values” should not be imposed when they interfered with the Andean ideal of complementarity. As one NGO describes this, “in the rural communities, there is a notion of “incompleteness.” Everyone recognizes that he or she is not self-sufficient. The idea of the “individual does not work in the community; each individual is subordinated to the community within which the man as well as the woman plays an important role, but only as part of an established couple, which gives each person a level of maturity and completion; the couple comes together and makes a unity. The couple, not the individual, is recognized as a member of the community” (Barrig 2006: 122).

These differentials, Radcliffe, Laurie and Andolina argue, should be attributed to inadequate state and foreign assistance policies, not the patriarchal practices of indigenous communities. But there is substantial evidence that the latter in fact are important prior and persistent sources of discrimination against women. Women can hold title to land (Deere and León 2001), but the fact that women marry out of their communities and live in their husband's village denies them effective ownership of the land they have inherited as well as the right to participate in the cargo system of community governance.<sup>8</sup> Men can travel outside the village, wear "Western" clothes, cut their hair, and are likely to speak some Spanish, but women's mobility is restricted by traditional norms, such as the fact that they often need to have their husband's permission to leave the house (Barrig: 2006; Lavinás Picq 2008).

These distinctions are heightened by identity politics. Because women are the carriers of culture, they are expected to wear the traditional *pollera* or layered skirt and a hat appropriate to their village, not to cut their hair, and to speak the indigenous language (2006:119). Indigenous women are expected to prepare and eat traditional foods, such as guinea pig and potatoes, while men may eat dishes like chicken and rice, which are associated with mestizo culture. Further, men migrate and engage in work outside the village, adjusting to "national norms and realities," while women remain "isolated from service facilities" and often fearful of interacting "with an outer world they [are] unfamiliar with." As their behavior is constantly monitored, indigenous women are, in Lavinás Picq's phrase, the "guarded guardians of culture" (2008:286).

The ideal of consensus implies that all members of the community can participate in the forums in which community decisions are made, but women are often marginalized. As Barrig reports, men exclude women by ignoring or ridiculing them, or by using Spanish to talk about the "important things" while reserving indigenous languages for discussing domestic or private affairs. "Women's illiteracy is transformed into a condition of social and political inadequacy that silences them in public—even when meetings are held in their own vernacular in their own communities. This assumption of female inadequacy becomes part of a female identity ("women know nothing") that defines women as socially inferior to men" (Cervone 2002: 182). Reports from several NGO projects on women's empowerment show that, when asked, indigenous women put access to formal education, literacy, knowledge of Spanish and public speaking high on their list of priorities.

Modernization has led to greater contact between indigenous communities and the white/mestizo world, and this has exacerbated traditional power differentials between indigenous men and women. As Emma Cervone describes this,

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<sup>8</sup> Mark Goodale points out that there is a pragmatic reason why women's land is taken over by the males in the family: if women retained their rights in absentia (having moved to the village of their husband), subsistence would be threatened. "In relation to landholding, women *must* be unequal to men..., not because this is compelled by local or moral discourse, but because a pragmatic inequality is necessary for sheer survival" He suggests that Westerners often think of indigenous or traditional values as rigid, but to Bolivia's rural population, the modern discourse of human rights, and particularly of gender rights, presents itself as "unyielding sources of normative knowledge that admit of no exception or nuance" (2009: 98,99).

The gendered symmetry between the androcentric and patriarchic national power structure, on the one hand, and the actual political control exerted by indigenous men within indigenous societies, on the other, has been further reinforced with the “modernization” of the Ecuadorian state and economy...Although traditional forms of social and political prestige (such as the cargo system) still play a key role in the construction of leadership, formal education, experience in interethnic negotiations and, most recently, participation in development projects, have all become pivotal requirements for affirmation of local as well as national leaders. (2002: 182)

But women who are illiterate, lack a good command of Spanish, and are usually restricted to the house and the village, rarely gain these skills. Public space “no longer refers to a specific place” shared by the community, Cervone observes, “but to a space where Indians have to negotiate with white-mestizo society,” and from which women are largely excluded (183).

Lavinias Picq’s description of violence as “intense and frequent, compromising women’s physical integrity, sexual and reproductive health, and often putting their lives at risk” (2008: 280) is not challenged, even by those who support indigenous demands for legal autonomy. Violence against women is often tolerated by indigenous communities, and reinforced by social control. A woman’s parents are likely to side with the husband should their daughter seek their support because the husband is alcoholic or abusive, for example. Barrig notes that marriages are customarily arranged by parents, and that strong pressure is placed on the girl to consent. In the southern highlands of Peru, “mock abduction” and “trial marriages” (*servinaquy*) are practiced; the first may involve rape, and the latter occur although they are prohibited under the Peruvian Penal Code, “which labels them as “rape, seduction, kidnapping, and violation of sexual freedom” (2006: 123). “Rape is often the first sexual experience of indigenous girls,” Lavinias Picq writes, and indigenous women lack legal recourse outside the community, while shame and fear of retaliation prevent them from seeking help within. Most women attribute violence to “male jealousy and alcoholism,” but engaging in activities outside the home that “threaten men’s power or image in the community” may also be a cause (2008: 281-282).

#### *Responses to the gap between the ideal of complementarity and the reality of indigenous women’s lives*

Discrimination, silencing, and controls over women’s dress, language and behavior reveal a gap between the ideal of gender complementary and indigenous practices that creates a serious conflict between women’s rights (as generally understood by the international community since the UN Human Rights conference in Vienna in 1992) and indigenous rights. Reactions to this conflict vary, even among feminists. Latin American feminist activists, whose positions are derived from liberal principles of human rights and whose successes are always vulnerable to misogyny and backlash, are often frustrated when their equality claims are challenged on “multicultural” grounds. The charge that “feminism is a foreign import,” which was often used against Latin American women’s movements in the 1970s, has reemerged, and rejecting feminist claims can be justified (cynically by some) as part of a larger project of resisting the “homogenizing policies of the modern state” (Cervone 2002: 181). In countries where indigenous populations are a substantial voting bloc, feminists have found themselves on the defensive in debates over new constitutions, in setting legislative priorities, and in seeking to



implement policies and laws that can be construed as insufficiently sensitive to multicultural views on gender.

Another response, characteristic of many development practitioners, is to concentrate not on women's rights but on "empowering" women. Multilateral agencies and NGOs carry out projects to assess needs and increase the resources available to women through training, microcredit programs, leadership workshops and the like. In this approach, the insistence on gender complementarity is simply the form male resistance takes in Andean indigenous communities, and is seen as not so different from what development practitioners hear in villages in Africa or Asia. Ironically, "gender and development" approaches are seen to be an improvement over "women and development" programs because they "take men into account," but they do not have any ethical leverage to change male behavior.<sup>9</sup>

Radical anti-globalization feminists appear to ignore the conflict between women's rights and indigenous values because their goal is to have feminists and indigenous groups cooperate in their shared resistance to globalization. They too champion the "empowerment" of indigenous women, whom they see as particularly effective voices in the struggle, and seek ties with indigenous women who defy custom to take on leadership roles in transnational feminist, indigenous, and anti-globalization forums. Yet, as Lavinia Picq notes, there are strong constraints on women indigenous leaders. The most conservative sectors of the indigenous movement "portray dissent as an act of disloyalty to the group," and women sometimes even perceive "their own agency as a threat to the collective foundations" of the movement (2008: 289).

Feminist scholar-activists who are sympathetic to indigenous demands try to find ways to reconcile positions that are in fact at odds. One choice is to argue that indigenous communities are not "by nature" patriarchal, but have been "contaminated" by exposure to white and mestizo society. Maruja Barrig cites Billie Jean Isbell's early view that modernization will be bad for indigenous women "to the degree that Spanish society, dominated by men, continues to displace the Andean order which is basically dual, complementary, and egalitarian." Isbell later modified her assessment but, as Barrig notes, the assertions that "complementarity and sexual equality are equivalent among Andean peasants and that this ideal has eroded as rural communities became more connected to the urban system" remain as "points of reference for other researchers and activists" (2006: 114). For those who blame "outside contamination," there is no conflict between women's rights and indigenous customs because women who wear traditional clothes and conform to traditional expectations are doing so by choice; wearing the *pollera*, like wearing the veil, is construed as "a heroic gesture of cultural resistance" (2006:120).

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<sup>9</sup> For a discussion of the Women and Development/Gender and Development (WID/GAD) debate, see Jane S. Jaquette and Kathleen Staudt, "Women, Gender and Development," in *Women and Gender Equity in Development Theory and Practice*, Jane S. Jaquette and Gale Summerfield, eds. (Durham, NC: Duke University Press, 2006).

Research by Radcliffe, Laurie and Andolino on gender and development programs in Ecuador clearly shows that women in indigenous communities are disadvantaged. But the authors see the discourse and practices of states, multilateral agencies, and development NGOs as complicit in creating disparities in life chances and access to resources between men and women in indigenous communities. In their view, the adoption of a “social capital” approach to development by indigenous communities and their leaders “highlight[ed] women’s distinctive characteristics as the symbolic and material embodiment of ethnic communities.” “Resignifying the body as a basis for engagement with international development policy on gender” itself “alter[ed] meanings of indigenous gender relations and national development projects.”(2009: 204). They conclude that “such ethnocultural agendas, and the obstacles they have created for gender equity, may be *transnational* constructs that are not reducible to traditional or local patriarchies” (2009: 213, emphasis in original). I could be argued, of course, that these agendas could not have been “constructed” without some basis in local cultural practices.

Lavinias Picq assigns some blame to women’s movements, for while they were “conquer[ing] new political spaces, repealing several discriminatory laws and securing new laws to protect women’s civil and political rights,” indigenous women were left behind. But she also finds indigenous movements partly to blame “for pursuing and legitimizing discriminatory practices.” They mobilized women to gain support, but once they gained political leverage, “women’s voices were not heard.” She concludes by observing that indigenous identity politics is not gender neutral. On the contrary, the “cultural realm” is “particularly violent towards women, not only because it tolerates violence, but because it grants them few freedoms.” The double standard of indigenous justice “leaves women with “virtually no rights” and “subjugated both to men and the community at large” (Lavinias Picq 2008:279-285).

Although Radcliffe, Laurie and Andolino try to balance women’s rights and indigenous rights by advocating changes in the way development programs are carried out, Speed (2008), who coedited a book on women in Chiapas, ultimately opts for indigeneity over feminism. She does not deny that women are silenced or that they suffer violence, but argues that the poor treatment of women should not be used, as it has been in Mexico, as an excuse to oppose granting autonomy to indigenous communities. Indigenous communities offer the possibility for “new subjectivities” and operate with “different political logics.” When Zapatista communities assert autonomy, by “refusing to grant the state the power to decide who are rights bearers and what rights they may enjoy,” they are articulating “a radically distinct discourse of rights” (2008:167). Drawing on Antonio Negri (Hardt and Negri 2000), Speed argues that power in indigenous communities is *potentia*, “the creative activity or force of constitution,” rather than *potestas*, “centralized authority or command, rule.”<sup>10</sup> *Potentia* is the “creative force of social struggle”; *potestas* is the power of the sovereign (2008: 168-69). The Zapatistas are not

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<sup>10</sup> A similar contrast between “power to” and “power over” has played an important role in feminist theory. See, for example, Nancy Hartsock (1983) and a critical discussion by Jane Mansbridge (1996). The feminist and ultimately Rousseauian desire is to find a form of power without violence or coercion, although social control (to say nothing of indigenous communities’ use of stocks and shunning) is violent and coercive.

challenging the state by proposing separatism; instead they are offering “symbolic and material alternatives to neoliberal rule” (2008:172).<sup>11</sup>

It is not necessarily true, as Speed contends, that it is possible to “exercise” power without having the authority of “rule,” or that the indigenous norm of *mandar obedeciendo* provides an adequate substitute for checks and balances as indigenous communities become increasingly linked to the world of modern communications, trade and mobility. In fact, the real object of Speed’s critique is “neoliberal” citizenship. The Zapatistas’ discourse “does not lend itself well to market logics and to notions of rational-actor citizens out to maximize individual benefits, express their freedom of choice at the ballot box, and expressing their dissent in the courts of state” (2008: 172). Feminist concerns can seem narrow and even selfish compared with the more ambitious goals of replacing Locke with Rousseau and overthrowing “neoliberal rule.”

### *Finding New Frames*

The conflict between women’s rights and indigenous rights is not easily resolved. There are convincing moral arguments and social forces on both sides. Feminist movements endeavor to extend liberal values of equality and voice to women, who were historically denied these rights. Feminist discourse like human rights discourse, is based on individual moral autonomy, but is also cognizant of the material, political and social conditions necessary to make life choices. It does not lend itself well to enforced “complementarity,” silencing women, or gender violence.

There are three ways to approach the impasse that indigenous identity politics poses for women’s rights and, by extension, core liberal values. They are “exit” (full autonomy); “waiting” (until broader social forces make the debate obsolete), and “reframing” (in this case, by attacking it from the side rather than head on).

The exit option is separation, which would in practice mean granting indigenous communities a high degree of autonomy. This course of action is unlikely to occur, and if it does to have the effects its advocates predict, if only because of the increasing migration and ever-closer economic, social and political interaction between indigenous communities and the wider society. If separation could in fact occur, the debate between indigeneity and liberalism would be moot, as indigenous communities would no longer have a stake in challenging “liberalism.” Gender relations would be resolved on indigenous terms by indigenous communities themselves. There would be costs, not the least of which would be the loss of the benefits that could come from the ongoing dialogue between “white-mestizo” and indigenous societies. But it is unlikely that “exit” will be seriously pursued, as indigenous societies have begun to receive the benefits of both recognition and redistribution, and will not seek full autonomy.<sup>12</sup> The partial autonomy

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<sup>11</sup> There has been an intense debate about whether efforts in Bolivia in the 1990s to integrate indigenous communities through a multicultural constitution and the Law of Popular Participation should be dismissed as cooptation, or “neoliberal multiculturalism,” but the water and gas “wars” in Bolivia and the election of Evo Morales suggests that indigenous groups instead took it as an invitation to activism. See discussions in Postero (2007) and Lucero (2009).

<sup>12</sup> The distinction between recognition and redistribution is Nancy Fraser’s (1995).

they are increasingly enjoying, however, does involve the state's accepting local standards of justice and punishment, *usos y costumbres*, that, like shari'a law in Islamic societies, prescribes gender behavior in ways that disproportionately affect the lives of women.

A second approach is to argue that the conflict between women's rights and indigenous rights is not as much of an impasse as it appears and to wait until relations between indigenous communities and the wider society change on their own accord. Today, indigenous identity politics appears to be an attempt to preserve traditional cultural practices. But in the longer run, indigenous identity politics may in fact be dialogic and ultimately modernizing. In their struggle for recognition and representation, the members of indigenous communities are drawn into interactions with the outside world, exposed to different norms and values, and forced to learn about white/mestizo society in order to negotiate with it. This two-way street will produce compromises on both sides, though history suggests that the balance will tilt toward greater integration into the wider society, and will be spurred by the revolution in communications.

Indigenous communities may succeed in preserving some of their lands, the "territory" needed to make the "plurinational" politics of local autonomy meaningful. But, although population growth may stabilize, migration and pressures to develop natural resources, control water resources and turn more land over to agricultural production will not decrease. The real question is how much development will occur, how fast, and with what share of the benefits going to the indigenous communities themselves. This is at the core of the conflict between indigenous movements and governments today, even the radical populist, anti-"neoliberal" governments of Bolivia and Ecuador. The wait and see approach does not challenge the discriminatory treatment of women. Still, it is a defensible feminist position to the degree that changes in gender relations have to come largely from within, and will be resisted by women and men if they are imposed from the outside.

A third approach is to admit that the conflict between indigenous rights and women's rights (as well as "occidental" values on a range of issues) cannot be resolved directly, but also to be concerned that simply waiting is not enough. It looks for indirect ways to approach the conflict, the dimensions of which will surely change over time. I suggest two strategies that might shift the debate onto more productive terrain.

The first suggestion, in the spirit of Durkheim, involves changing attitudes and behavior. It is a commonplace that identity politics are about recognition in contrast to the Marxist and social democratic focus on redistribution. But, not all ethnic politics are the same. Indigenous identity politics owes some of its self-confidence to successes elsewhere—particularly, the success of the black power movement in the United States, beginning in the 1960s, which resonated with movements in South Africa, the Caribbean and elsewhere. For U.S. blacks, identity politics produced not only recognition (of black culture, defined, articulated and performed by blacks themselves as an integral part of American culture) but gained them respect. Identity politics did not solve problems of redistribution; African-Americans still have lower incomes, lower life expectancies, poorer housing and medical care than the US average, although all of these have improved. But it did address discrimination, not only as a structural problem (employment, Jim Crow laws, school segregation, affirmative action), but as a set of

discriminatory practices carried out in face-to-face interactions in the street, in offices, in educational institutions, in public and private venues of all types.

In Latin America, race and class are typically discussed in the abstract, and “structural” solutions are offered.<sup>13</sup> But the power of identity politics is that it can confront and force changes in the attitudes and practices of discrimination, the combined oppressions of racism and classism that indigenous people face every day in their contacts with the white/mestizo world. Carlos de la Torre captures a sense of this in his explanation for the repeated emergence of populist governments in Ecuador:

[The] socioeconomic distinctions between a few citizens, who not only enjoy all the privileges of living under a state of law but who can be above the law, and the majority, who are excluded from the benefits of their rights, explain the appeal of populist politicians. Like other politicians, populists have built political machines that exchange votes for goods and services. But, in addition to what other political parties have offered, *populist politicians have given back dignity and self-worth to those who are constantly discriminated against in their daily lives* (2000:142, italics mine).

Until very recently, indigenous rights have largely been demanded *for*, not *by*, the indigenous, and to an important degree that is still the case. Where in Latin America is the equivalent of Alex Haley’s *Roots*, a best-selling book and very popular TV miniseries written by an African-American about his search for his African origins, the experiences of slavery and Jim Crow? Superficial in one sense, perhaps, but it was a widely shared cultural awakening that made it possible for many whites in the United States for the first time to identify with and experience the pain of being black. This individual change made possible a collective shift.<sup>14</sup> Where is the opening for an indigenous equivalent of a Martin Luther King, who created a powerful narrative of American citizenship, based on the expressed values of the Founding Fathers and open to all? Identity politics was critical in dramatically changing the way whites treat blacks, and the way in which blacks are perceived and perceive themselves. This required whites—not all, but enough—to go beyond recognition to respect, and this in turn required them to change the way they thought about and treated African-Americans in their everyday lives. Are Latin Americans interested in examining—and changing—the ways in which their attitudes and behavior enforce on a day to day basis the class and race hierarchies that mark all aspects of Latin American life?

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<sup>13</sup> For example, Nancy Postero cites the 1977 work of literary critic Raymond Williams to illustrate how “the discourses of Otherness” constitute what Antonio Gramsci calls “hegemony” that “orders society” and “subordinates certain social classes.” In Williams words, this is a “saturation of the whole process of living—not only of political and economic activity, nor of manifest social activity, but of the whole substance of lived identities and relationships” that are felt as “simple experience and common sense”(2007: 9). This captures the pervasiveness of discrimination, but at a level of abstraction that is obfuscating, and it misses the stigma of race entirely. For whom, one must ask, are these hegemonic exercises of power “common sense”?

<sup>14</sup> This month, in fact, PBS is showing a series on The Latin Americans, explicitly intended to give Latinos in the US a recognized history as Americans, not “immigrants.”

It is not by chance that De la Torre's account of popular resentment begins with the way the legal system perpetuates class and race oppression. This suggests a second approach, "Weberian" in its focus on institutions. Of course, even to mention the "rule of law" invites a negative reaction; not only has the term been overused to the point of cliché, but turning to "Western" law may seem to be denying the specific indigenous demand that their communities be allowed legal autonomy to govern themselves according to their "*usos y costumbres*." Shannon Speed's position is typical of a broader trend toward thinking that the law itself is the problem, a symptom of the ways in which liberalism takes illiberal forms" in countries with different histories and cultures.<sup>15</sup> Of these illiberal liberalisms, the distortion of law to serve the interests of the powerful and keep the poor in their place is surely one of the most perverse.

Indigenous Latin Americans are far from alone in suffering the consequences of the lack of legal systems that can deliver justice. As Gary Haugen and Victor Boutros observe, the international struggle for human rights has changed norms and legislation, but has not changed the way legal systems affect the poor. For them the struggle is not an "abstract fight over political freedoms or the prosecution of large-scale war crimes, but a matter of daily survival":

It is the struggle to avoid extortion or abuse by local police, the struggle against being forced into slavery or having land stolen, the struggle to avoid being thrown arbitrarily into an overcrowded, disease-ridden jail with little or no prospect of a fair trial. For women and children it is the struggle not to be assaulted, raped, molested, or forced into the commercial sex trade (2010: 51).

The issue is not the content of the laws—Latin American constitutions are generally quite progressive—but the way in which legal systems operate to serve the interests of a few. Elites have little incentive to reform a system that works for them, and gives them cover "in the name of the law." It is not surprising that indigenous groups are demanding to get out from under "Western" law, but it is surprising that the Latin American left has taken such little interest in the corrosive effects of having laws and constitutions that represent little more than good intentions, and are cynically abused.

Nor is it clear that highland indigenous groups, who have been in contact with "the West" for over five hundred years, repudiate Western laws. In a provocative study of the role of law in highland Bolivia, Mark Goodale maintains that, far from being alien to indigenous Bolivians, the law has been used by them for centuries to negotiate their relations with white/mestizo society. Surprisingly, he found that women were "legal actors" in more than fifty percent of the cases brought to the court he studied in northern Potosí (2009:104). He asks us to consider, however, what an indigenous woman must feel when she comes to the office of the mestizo judge and finds the walls covered with pornographic calendars.

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<sup>15</sup> The argument is the exhaustion of liberalism as a normative anchor for the region. As Jean Franco writes, reviewing Ileana Rodríguez's book, *The Limits of Liberalism*, "incongruous fantasies of liberalism' (democracy, justice, and the common good), when transferred to cultures with different historical development, produce illiberal forms of liberalism" (2009). I would argue that lack of political will is the most important factor; it is not culture nor history but class and race interests that perpetuate illiberal uses of liberal institutions.

Haugen and Boutros counsel several measures to address the way legal systems oppress rather than protect the poor and marginalized, including “collaborative casework,” linking human rights lawyers and law enforcement professionals with local officials to identify victims of abuse and work together to prosecute them in local courts. These kinds of measures would require changing the approach of human rights lawyers, redirecting resources in part to provide “caseworkers for the poor” and, in Latin America, to change the view, commonly acted upon but rarely addressed, that the poor really don’t deserve effective legal rights. This approach goes beyond moralizing and generalized attacks on the way the system works to providing concrete ways to build local capacity. Such an effort could mesh well with indigenous concerns and strengthen rather than delegitimize legal institutions, which have suffered not only from underfunding, corruption and incompetence (as is widely argued), but also the failure of social movements to engage in institution-building.

In the end, as Mark Goodale argues, liberalism is not going away. All counter-liberal ideologies are in the “shadow” of liberalism; they are about the failure of liberalism to live up to its ideals. The conflict between women’s rights and indigenous rights suggests the need for new thinking that can build the institutions needed to further social justice. “They” cannot exit; “we” cannot simply wait.

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