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# **Human rights for women: an argument for 'deconstructive equality'**

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## **Abstract**

The status of universalism has been much debated by feminists at the end of the twentieth century. Poststructuralist feminism is readily positioned in these debates as antagonistic to normative universalism. It is criticized as such: how is injustice to be judged and condemned if contestation and the openness of ungrounded universalism are the only ideals? This paper is a 'sub-philosophical' enquiry into the normative commitments to equality implicit in poststructuralist feminism and its relationship to 'actually existing' human rights for women as they have been re-worked by the international feminist movement. It argues that poststructuralist feminism can be used to provide support for one possible understanding of equality encoded in the Convention on the Elimination of All Forms of Discrimination Against Women. It addresses feminist concerns over universal rights as androcentric and ethnocentric, arguing that extending human rights to women is compatible with poststructuralist commitments to anti-essentialism and anti-foundationalism and required by the model of 'deconstructive equality' implicitly shared by CEDAW and poststructuralist feminism.

*Keywords:* international feminism; poststructuralist feminism; human rights; equality; ethnocentrism.

Human rights are increasingly important, both in actuality and in political theory, as a result of increasing interest in globalization (e.g. Held 1995; Dunne and Wheeler 1999). There is an extensive specialist feminist literature on human rights issues, mainly written by lawyers and activists (e.g. Bunch 1990; Charlesworth, 1994; Charlesworth, Chinkin and Wright 1991; Kerr 1993; Cook 1994; Peters and Wolper 1995; Peterson and Parisi 1998). The relative success of the international women's movement is, however, in uneasy tension with the highly developed suspicion of universal rights in mainstream feminist political theory. Challenges to Enlightenment thought and increased emphasis on sexual difference and differences between women mean that feminist political theorists are wary of universal rights as androcentric and ethnocentric (Phillips 1992). This paper is an attempt to think through the issues raised by human rights for women and to argue that some of these suspicions, if not misplaced, are overstated with respect to the way in which universal human rights are being developed and used in practice. In particular, I shall argue that poststructuralist feminists should support human rights for women as part of a long-term strategy aimed at achieving sexual equality.

With respect to androcentrism, feminists have argued that liberal rights, to which human rights are at the very least closely related, are not universal at all. Analysis of the history of liberalism shows how individual rights were conferred on male heads of household, dependent on the labour of women in the private sphere within which those rights did not apply. It is argued that, given that the individual of liberal rights is actually not gender-neutral, the very form of the liberal law as universal means that women's specific embodiment, concerns and interests are necessarily devalued or neglected (Pateman 1989; Rhode 1989; Gatens 1991). Women's use of supposedly universal rights can only reinforce male domination; it cannot bring about genuine freedom or equality for women.

Furthermore, principally as a result of the work of black feminists, feminist political theorists are now sensitized to see sexual difference as just one among others that contribute to inequalities and domination. This understanding does not simply mean that feminists should always be aware of differences between women but also that in certain contexts some women may see their allegiance to some groups of men more readily than to other women. This is evident, for example, where women are committed to women's issues and also to struggles against structural racism in which white women may have considerable investment (Carby 1982; hooks 1984; Brah 1992). This critique has particular consequences for feminist thinking about human rights in a global context. Black feminists have argued that, where Third World women are judged in ethnocentric terms to be lacking in human rights, a colonialist logic in which the construction of 'the Other' serves only to legitimate the centrality of (Western) man is reproduced (Mohanty 1991: 73; Lazreg 1990). This argument does not necessarily lead to cultural relativism, which is currently rather unpopular (but see Bulbeck 1998). It does, however, lead to questions about the appropriateness of universal rights in particular contexts, whether on the basis of cultural differences or, increasingly, in relation to particular socio-economic formations (Spivak 1999).

Although the first set of critiques, of liberalism as androcentric, may point towards an essentialist understanding of sexual difference (Nash 1998: ch. 2), the mistrust of universalism is generally associated with feminist readings of postmodernism and poststructuralism (Nicholson 1990; Barrett and Phillips 1992; Butler 1995). The dominant themes of contemporary feminist political theory are anti-essentialism and anti-foundationalism. Anti-essentialism involves the deconstruction of assumptions and claims that identity has some intrinsic essence and the understanding that identities are always socially constructed, contextual and necessarily constituted through exclusion (Fuss 1990; Spelman 1988). Anti-foundationalism, as I am using the term here, involves reflexive consideration of the ultimate grounds of truth claims or moral universals with a view to understanding how they have been contingently established in particular texts or historically specific traditions of thought. Such an understanding is supposed to contribute to the contestation of their unquestioned status as foundations and so to the democratization of thought (though not to the elimination of foundations as such, which are indispensable to thought) (Butler 1995). Both anti-essentialism and anti-foundationalism are thought to be especially important in a post-colonial context because they enable rethinking of the way in which the necessary partiality of reason has been mapped on to the ethnocentric exclusion of 'Others' as inferior.

This paper will argue that, despite the undoubted pertinence of feminist critiques of universalism, human rights need not be rejected as 'terroristic' (Lyotard 1984: 63–4). It is possible to understand the (increasingly successful rather than decaying) meta-narrative of human rights in such a way that it does not undermine poststructuralist commitments to continual contestation, disruption and difference. I shall also argue that thinking about 'actually existing' human rights, in a kind of 'subphilosophical turn' (Robbins 1998: 3), offers the opportunity both to clarify the normative claims implicit in poststructuralist feminism and also to enable judgements of human rights from a poststructuralist feminist perspective. Poststructuralism and postmodernism have been criticized as negligent on this account, unable to elaborate universal principles that would constrain the unjust possibilities that must arise if contestation and the openness of ungrounded universalism are the only ideals to which we subscribe (Lovibond 1990; Benhabib 1996: 8). This paper addresses such criticisms, attempting to direct poststructuralist feminism towards positive normative statements. It is intended as a contribution to poststructuralist feminist political theory rather than as an analysis of women's rights as human rights as such. I hope to encourage those feminists for whom poststructuralism is intellectually compelling to address the issue of political judgement in a less ad hoc way than anti-essentialism and anti-foundationalism seem to require.

## **Feminist re-workings of androcentric human rights**

Feminists active in the human rights arena are concerned with the way in which universal rights exclude women as women. However, they are less interested in the critique of universal rights in abstract terms and more in extending andro-centric definitions of rights to try to include women's concerns within the framework that they provide. This is only in part because human rights are, in principle at least, backed by the force of states, international and supranational institutions. In fact, human rights law and institutions are cumbersome and relatively ineffective (Byrnes 1994). Even where particular conventions have been ratified by states there often remains a separation between domestic and international law. States may sign conventions but fail to pass relevant legislation and rulings are made at the discretion of judges who may be ignorant of, or unwilling to enforce, laws even where they have been passed. Nevertheless, the legal standing of human rights is felt to contribute to people's willingness to take up rights issues, while, symbolically, rights discourse provides a powerful vocabulary for challenging wrongs. Feminist activists therefore advocate the extension of human rights, despite their limited effectiveness, because of the way they contribute to a culture in which justice is furthered as an ideal (Chinkin 1998; Charlesworth 1994).

It is conventional in the literature on human rights to divide them into three 'generations' according to their historical development.<sup>1</sup> This is in itself problematic for feminist understandings of human rights development insofar as it suggests inevitable progress. It is useful, however, insofar as the different generations were consolidated at different historical moments and through different ideological projects.

The first set is the most privileged and the most classically liberal: the civil and political rights codified in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights. Feminists have argued that this set of rights is androcentric in its construction of the opposition between the public sphere of rights and the private sphere of family, intimacy and household relations outside the scope of rights discourse. For example, the UDHR defines the family as entitled to 'protection from society and the state' (quoted in Peterson and Parisi 1998: 145). This means that violence against women in the private sphere is not seen in human rights terms as a contravention of civil rights: 'Everyone . . . entitled to all the rights and freedoms set forward in this Declaration' (ibid.: 147) is a man. The feminist campaign for the definition of rape, enforced prostitution and indecent assault to be treated seriously as war crimes has undoubtedly brought public attention to the issue and has also resulted in successful prosecutions at the Hague Tribunal (Robertson 2000: 284–6). Feminists are also considering how the powerful international prohibition on torture, now defined as action by or at the instigation of a public official, might be extended to include torture by individuals in the private sphere (Copelon 1994). The use of human rights to challenge structures and incidences of violence against women across the

world has been the most successful way of extending human rights to women, doubtless because of the prestige civil rights already enjoy and because it has proved relatively unproblematic to re-describe taken-for-granted violence against women as illegitimate (Keck and Sikkink 1998: 203–6).

The second set of rights is set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Although this set of rights is more socialist than liberal,<sup>2</sup> it nevertheless constructs a public/private distinction that maps closely on to that of liberal rights. Again, it is assumed that power rests with the state and that it is exercised over civil society so that power in relation to the domestic sphere is denied (Charlesworth 1994: 74–5; Pateman 1989). In terms of economic rights, for example, only paid labour is valued; women's unpaid work goes unrecognized and unreported as a contribution to national wealth. Rights to cultural self-determination are equally problematic insofar as culture and religion are seen as 'private' and protected from legal regulation; they are frequently invoked to justify 'traditional' practices enacting or contributing to the subordination of women (Peterson and Parisi 1998: 147–50). Again, feminist activists have worked to extend the remit of economic, social and cultural rights to women, challenging the public/private distinction on which their exclusion is premised. They have lobbied, for example, for statistics to be collected on women's unpaid contribution to recorded wealth, to end discrimination with regard to existing economic rights (such as land rights) and protested that cultural rights should not be permitted to overrule individual rights in the domestic sphere. Women from the South in particular have been active in trying to get economic and social rights taken seriously, connecting arguments against violence against women to inequalities exacerbated by structural adjustment programmes instituted by neo-liberal organizations and institutions. They have been supported in this project by women from the North, but it is arguable that, just as economic and social rights in general are marginalized in human rights culture, so too they are marginalized in international feminism (Stienstra 2000).

The third generation of rights is similar in intent and consequences to the rights to cultural self-determination of the second generation but it goes much further in the direction of group rights. The Draft Declaration of the Rights of Indigenous Peoples is predicated on the need for cultures to be protected against forced assimilation and domination in relation to genocide and/or the homogenizing tendencies of globalization (see Peterson and Parisi 1998: 150–3). At first glance, it seems fundamentally at odds with liberalism insofar as rights are accorded to collectivities rather than to individuals, but political philosophers have justified group rights in liberal terms (Kymlicka 1995). Somewhat ironically, given the feminist critique of individual rights as androcentric, the radical/liberal feminists engaged in extending human rights to women tend to find themselves opposed to this set of rights for this very reason. Women do not form the kind of group to which self-determination would be appropriate and, while they may benefit from ownership and control of 'cultural property' along with other members of collectivities, the precedence of group rights over individual rights is likely to make women's subordination within collectivities more difficult to challenge (Peterson and Parisi 1998: 150–3; Charlesworth 1994; Okin 1999; Shachar 2000). This mistrust of cultural rights to difference on the part of radical/liberal feminist activists may seem to mirror the poststructuralist feminist mistrust of universalism in such a way as to make the two bodies of thought irreconcilable. It is one of my aims in this paper to show that feminists engaged in re-thinking human rights and poststructuralist feminist theory should not be opposed in this way.

Feminist re-workings of human rights in practice have been greatly facilitated by the Convention on the Elimination of All Forms of Discrimination Against

Women (CEDAW). It was adopted by the United Nations General Assembly in 1979 and has now been ratified by most states – albeit with the greatest number of reservations on any Convention, a serious constraint on its practical efficacy (see Lawson 1996; James 1994; Charlesworth and Chinkin 2000: 102–12). The Convention has been used to argue against discrimination against women in human rights declarations themselves, challenging the androcentric exclusion of women from the humanity they construct. In addition, it has far-reaching implications for gender relations as such. The most radical article of this Covenant is undoubtedly 5(a), which states that states must undertake:

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. (quoted in Sotela 1994: xi)

What this means is that, in principle, states that have ratified this Convention are undertaking to eliminate all aspects of social, economic and cultural life that contribute to women's inequality. Interestingly, the Convention is here promoting two rather different visions of equality. The tension between the two has been thoroughly debated in recent feminist theory (Phillips 1993; Bock and James 1992). The first we can call the 'difference' vision of equality. On this model, the sexes are different – physically, socially and psychologically; what is associated with women has been devalued and, furthermore, it is likely to continue to be devalued if the second model of equality were to be realized. This model is associated with 'maternalist' feminists for whom what is necessary is that women's biological capacities, social roles and gender-specific thinking should be re-valued so that it is at least equal with those of men (Ruddick 1980; Elshtain 1981; Noddings 1984). It is also associated with versions of psychoanalytic feminism which are more poststructuralist insofar as they see sexual difference as metaphorical while arguing that it is necessary to re-assert and re-value female capacities and desire in order to go beyond the dichotomy of equality/difference (Irigaray 1993; Cornell 1998). This model is encapsulated in the Convention where it refers to the elimination of practices that contribute to the superiority and inferiority 'of either of the sexes'.

The second model of equality takes 'de-gendering' as the ultimate goal of feminism. This model is formulated by the Covenant where it states that practices based on stereotyped roles for men and women should be eliminated. Of course, this does not mean the elimination of all women and men as such, but rather of gendered practices, such that no occupation or values correspond to either sex. This model is associated with the ideal of androgyny as the end point of feminist politics, an ideal which now tends to be seen as problematic. Arguably, androgyny requires ignoring sexual difference and this is seen as impossible (short of a massive surgical re-structuring of the sexes (Elshtain 1987)) or undesirable (since it would mean the final eradication of the feminine in the name of masculine subjectivity (Irigaray 1993)). As a result of the emphasis on sexual difference in contemporary feminist theory, de-gendering, associated with the goal of androgyny posited by much early second wave feminism, has lost popularity in recent times.

'Equality' is not readily associated with poststructuralist feminism. In fact, poststructuralist feminists are more inclined to problematize than to adopt 'equality' as an aim for feminists. A good example is the much cited article by Joan Scott, 'Deconstructing equality-versus-difference' (1990) in which she argues that, since neither equality nor 'difference' is a transcendent value, what we should consider is how they are constructed in particular contexts: what qualities or aspects of situations or groups are being compared in order to conclude that they are, or should be, equal or different? Scott deconstructs the opposition between equality and difference, which she sees as endlessly trapping feminists in terms that reproduce the masculine norm, to open up appreciation of diversity – of contexts, women and possible feminist strategies. As Judith Squires has argued, Scott's privileging of diversity aims is intended to displace the dichotomy 'equality/difference'; however, its effect is also to displace the normative commitment to equality that has been so central to the feminist project (Squires 1999: 136).

Poststructuralist feminists should not give up on equality. The ideal of sexual equality was a condition of possibility of 'modern' feminism (Nash 1998) and it is not clear that it can be dropped without poststructuralist feminism becoming indistinguishable from the reviled 'post-feminism'. Moreover, as they are currently being developed, human rights are important as a means to what, I shall argue, should be the poststructuralist version of feminist equality: 'deconstructive equality'. Certainly, it is clear that liberal rights do imply a notion of equality as sameness, a standard that has been developed on masculine principles, of equal treatment by the law. However, it is less clear that there could ever be a model of equality that did not imply some standard of 'same treatment'. As Zillah Eisenstein puts it, any version of equality, however sensitive to difference or diversity, 'must encompass generalization, abstraction and

homogeneity as well as individuality, specificity, and heterogeneity' (quoted in Phillips 1992: 20). Without such a standard (which certainly has historically been constructed according to male norms but which surely need not be masculine) it would seem to be impossible to distinguish between differences in equality and differences that are simply inequalities. Equality may be multiple and contextual in practice, as Scott argues, but approaching it as simply 'diverse', without some standard that is supposed to transcend particular cases and situations, would seem to remove any critical purchase equality might have as an ideal.

Human rights are a means to equality for poststructuralist feminists because the strongly articulated ideal of equality as 'de-gendering' on which their current development is based is the version of equality that is most consistent with the anti-essentialism to which poststructuralist feminists are committed. Anti-essentialism involves the claim that ontologically there is nothing about sexual difference that is fixed or necessary. On the contrary, the necessary instability of sex, gender and sexuality means that, in principle, complete transformation of all these categories and the relations between them is possible. Given the post-structuralist commitment to the continual disruption of sexed identities with a view to appreciating a plurality of lived possibilities, the model of equality to which poststructuralist feminism is inclined is not the 'difference' model, which is premised on the idea that binary sexual difference should be celebrated. Nor is it a model of equality as androgyny, which (even if did not imply gender reassignment for the entire world population) would seem to suggest a limiting of lived possibilities rather than their expansion. A poststructuralist version of equality would involve rather the continual disruption of gendered practices and identities without penalty or disadvantage to any person. In other words, it would mean the transformation of social practices such that any sex, gender or sexual orientation – and poststructuralist feminists would not expect these to be binary – could be occupied by any individual was always open to contestation and change and was not discriminated against. This possibility, encoded in CEDAW as the 'de-gendering' model of equality insofar as it commits states to eliminating stereotyped gender roles, is what I propose to call 'deconstructive equality'.<sup>3</sup> It differs from androgyny in that 'deconstructive equality' does not require ignoring sexual differences. On the contrary, it requires ongoing transformation of all aspects of sex, gender and sexuality in the name of equal treatment for all individuals regardless of their personal sexual characteristics, biography or choices. (Of course, we shall have to look into the foundationalism of 'the individual' invoked here, and we shall do so in the following section).

The idea of 'deconstructive equality' is well illustrated by problems of the application of human rights for women. If my argument is correct, the post-structuralist model of gender equality is closely related to the strategy of 'degendering' implicit in human rights as they are currently being developed. However, the problem of androcentrism in the application of human rights remains. The difficulty is that proving discrimination in court has generally been taken to require a male standard of equality. '[W]omen are forced to argue either that they are the same as men and should be treated the same, or that they are different but should be treated as if they were the same, or that they are different and should be accorded special treatment' (Cook 1994: 11). The few cases that have been brought to court under CEDAW have successfully used the 'male comparator' test against discrimination, but it is limited in its potential. The 'male comparator' standard of equality ignores the biological and structural differences between the sexes and makes systematic inequality invisible. To deal with this difficulty, feminists propose a different test, currently being used in Canada: that of disadvantage. This test requires that a person show that as the member of a group they suffer disadvantage where some distinction is made that puts that group at a continued or worsening disadvantage in relation to others. If they can do so, as they have successfully done in the Canadian courts, there is a case of discrimination to answer. This test is preferable because it requires that judgement be made concerning women as they are currently positioned, potentially enabling far-reaching challenges to sexual hierarchy (Mahoney 1994).

Although such a test looks, on the face of it, to be more appropriate to the 'difference' model of equality, since it requires the mobilization of women's rights as women, it is also compatible with deconstructive equality. Deconstructive equality concerns the elimination of individual disadvantage that results from distinctions made on the basis of sex, gender and/or sexual differences; it does not involve ignoring or eliminating differences. The disadvantage test does not necessarily lead to deconstructive equality because, in principle, it makes possible the



genuinely 'equal but different' political community proposed by 'difference' feminists, where women's capacities, roles and concerns are as valued as men's. The danger of 'difference' equality is that it may contribute to solidifying gender identities in 'traditional', if re-valued ways. However, insofar as deconstructive equality requires the re-valuing of practices currently associated with women and femininity if it is to become a practicable possibility, the 'difference' model of equality is potentially important as a step in the right direction. Moreover, the disadvantage test works against a conservative interpretation of sexual difference because it encodes the principle of individual autonomy on which deconstructive equality, and liberal human rights as such, ultimately relies. Although it may lead to judgements with far-reaching implications for other members of the group in the name of which the test is being carried out, the disadvantage test allows an individual to claim discrimination where, as an individual, they are disadvantaged because they happen to be a member of a particular group. Most significantly, perhaps, it allows the claim that a woman or man may be disadvantaged as an individual should she or he choose to do something that is ordinarily the preserve of the other sex. In this way, the notion of individual autonomy enables the possibility of continually contesting fixed gender identities on the grounds of sex discrimination. What this suggests is that feminists concerned with the androcentricism of human rights and persuaded that equality is an important goal of feminism should be as concerned with individual rights as with equal rights for women as a collectivity.

### **Ethnocentrism and human rights culture**

The most obvious objection to this formulation of human rights as based on individual autonomy is that it is ethnocentric and, indeed, this is an important topic in writing on human rights. Although there have been attempts to ground human rights in cross-cultural universals (An'Naim 1994; Lauren 1998), it is widely agreed that the content of human rights charters as they stand has been developed out of, and is heavily dependent on, liberal individualism drawn from the natural law tradition of Europe (Coomaraswamy 1994; Donnelly, 1999). The extent to which this matters is also a matter of dispute.

With regard to contemporary feminist theory, ethnocentrism in relation to human rights has three main aspects. First, there is the assumption that women are all fundamentally the same, suffering from the same oppressions at the hands of men across the world such that analyses and programmes developed in one context can be validly applied to another. This position is associated with the foundationalist notion of 'sisterhood' on which radical feminism in particular was premised (e.g. Daly 1978; Morgan 1984). It is ethnocentric insofar as analyses, moral judgements and political recommendations are made on the basis of the particular context in which Western feminism was developed without regard to the different situations in which women find themselves and through which their ideas and beliefs are formed. Second, a related argument is that which sees the human rights discourse as individualistic and therefore unable to address structural issues, like the international division of labour, that are of more concern to women in developing countries than Western feminists acknowledge, understand or appreciate (Spivak 1999; Ackerley 2000: 142–9). Finally, the accusation of ethnocentrism is linked to the way in which white Anglo feminists have despised other cultures as productive of specific features of women's oppression or lack of resistance to oppression in a way that replicates colonialist representations of 'backwardness' and progress (Mohanty 1991; Narayan 1997: ch. 2). In particular, there has been a failure to appreciate different types of resistance, not immediately recognizable as such from within Western norms (Spivak 1999).

For poststructuralist feminists the issue of ethnocentrism raises difficult questions in relation to human rights. The very idea of 'women' as an already existing constituency to be represented is problematic. The deconstruction of essences and foundations to which poststructuralist feminists have applied themselves is in part an attempt to avoid the ethnocentrism implied in making general analyses or universal normative claims from particular, privileged positions as white, middle-class women. Poststructuralist feminists have advocated a detailed approach to analyses of gender as it is constructed in specific racialized and sexualized contexts that are not necessarily generalizable. In this way it is hoped that differences can be respected and the imposition of terms and categories that are inappropriate to particular situations can be avoided (Fraser and Nicholson 1990). Furthermore, normative

judgements are also avoided for this reason, except insofar as encouraging subversion and disruption to foundational categories and fixed identities may be thought to carry a normative charge. Judith Butler argues that we cannot do away with the category of universality, but that 'Within the political context of contemporary postcoloniality generally, it is perhaps especially urgent to underscore the very category of the "universal" as a site of insistent contest and resignification' (Butler 1995: 40). The normative timidity of such a position, the reluctance to give any content to the (contestable) universal is, however, difficult to combine with a robust commitment to sexual equality.

Poststructuralist feminists are rightly sensitive to the difficulties of ethnocentrism because it might be supposed that ethnocentrism is actually a direct consequence of a commitment to anti-foundationalism. Richard Rorty has put this view most forcefully. He argues that value judgements and norms are necessarily ethnocentric because they are 'grounded' only in the 'beliefs and desires and emotions' with which the moral self identifies; there is no rational, extra-community point from which judgement can be exercised (Rorty 1991a: 200). Under this description, ethnocentrism is inescapable for postmodernists since judgements will always be made on the basis of cultural beliefs that differ between communities. Furthermore, Rorty also argues that 'we' in the West should not be ashamed of our ethnocentrism. Specifically in relation to human rights, he argues that 'we' enjoy a 'human rights culture' into which we have been trained through 'sentimental education'. Although human rights have been limited in that historically those outside our community have not always been regarded as human, as long as they are extended to every person on the planet, including all women, ethnocentrism is relatively harmless. It is certainly, he argues, a good deal less harmful than giving up judgements on the basis of human rights for fear of thinking our culture morally superior to others (Rorty 1991b, 1993).

It is with respect to feelings about the 'moral superiority' of the West and the 'condescension' with which he admits other cultures must then be treated that Rorty's ethnocentrism seems to be closely tied to the colonialist stance to which poststructuralist and other contemporary feminists are so opposed. While post-structuralist feminists would agree with Rorty's claim that it is not possible to escape a historically constructed subject position, his idea of culture is peculiarly un-postmodern. As Uma Narayan has argued, an understanding of culture as monolithic and unified reproduces the understanding of 'Western culture' and 'indigenous culture' as idealized totalities produced in the 'colonial encounter'. Rorty's version of benevolent ethnocentrism must then be seen as reproducing the colonial representation of the West as the site of progress and the Other as the site of unchanging custom and tradition that provided justification for the colonial project and continues to provide it for economic and military intervention today. Narayan argues that an understanding of culture as a unified totality is particularly problematic in relation to insubordinate groups 'within a culture'. The example with which she is specifically concerned in her book *Dislocating Cultures* is Indian women, who are accused of 'cultural inauthenticity' and 'being Westernized' when they resist practices that are coded as 'traditional', particularly under the growing influence of Hindu nationalism. 'Culture' is to be understood in Narayan's terms as a powerful signifier of the Indian contestation of colonial rule that is now being used to silence and dominate Indian feminists (Narayan 1997).

According to this understanding, then, Rorty's notion of human rights culture as Western is far from benevolent: ethnocentrism contributes to the hardening of authoritarian colonialist logics on both sides of the 'West vs. the Rest' divide, consolidating identities that are resistant to contestation from below. However, although Rorty's defence of poststructuralist human rights culture as ethnocentric is unacceptable, not least to feminists concerned not to neglect differences and conflicts within the identity group 'women', it is nevertheless worth consideration. Despite its limitations and dangers it does begin with an insight that is important to an understanding of poststructuralist feminist commitments to human rights: that there is no possible rational standpoint from which the 'rightness' of human rights can be judged. Thus those of us for whom universal human rights are actually compelling can only trace the arguments, situations and political histories through which we have come to this position; we will be able to find no ultimate justification for our beliefs and feelings. In this respect Rorty and poststructuralist feminists are in agreement: any judgement is necessarily situated and perspectival. Moreover, Rorty is right, I think, to insist that this should not mean that we give up on making normative judgements. Feminists should be, as I have argued,

committed to the equality of women and this requires making uncomfortable judgements which, however sensitive we are to their partiality and to the difficulties of arguing for their universal applicability, cannot depend on universal agreement.

The weakness of Rorty's argument is undoubtedly his understanding of culture. It is clear that Rorty and Narayan are using this vital word in quite different ways. Rorty's identification of human rights culture with the Western political community and 'sentimental education' suggests a definition of culture as 'a particular way of life, whether of a people, a period or a group' that is close to that typically identified with anthropological descriptions of different cultures (Williams quoted in Jordan and Weedon 1995: 7). It is this sense of culture that is, as we have seen, closely related to the colonialist stance. Narayan's analysis of 'tradition', 'Westernization' and 'culture' itself, on the other hand, suggests another definition of culture, made famous by Raymond Williams, as 'the signifying order through which necessarily...a social order is communicated, reproduced, experienced and explored' (Williams quoted in Jordan and Weedon 1995: 8). This understanding of culture is much closer to the principles I have claimed are characteristic of poststructuralist feminism: anti-essentialism and anti-foundationalism. The importance of signification in social life is also a tenet of poststructuralism, where it is taken up in terms of the necessary instability of signs, a product of their repetition in different contexts which continually enables the possibility of multiple contestation and change (Derrida 1988; Butler 1993). This understanding of culture emphasizes change and challenges to taken-for-granted certainty and established traditions and enables an appreciation of differences within the anthropological, bounded 'way of life' of the first definition. Understanding culture as signifying practices therefore allows for the deconstruction of ethnocentric logic, which necessarily relies on a rather simplistic opposition between bounded, unified and monolithic 'self' and 'other'.

## **Poststructuralist feminism and human rights culture**

The primary concern of poststructuralist feminists for whom human rights are important should be to foster an anti-essentialist, anti-foundationalist human rights culture divorced from ethnicity and racialized nationalism. This is not so far-fetched; there are signs of such a development, resembling a transnational social movement more than it does a country or a region. The increasing use of formal human rights instruments and the protests and campaigns that grow up around this are part of it. International feminism, women's human rights conferences and the extension and consolidation of human rights for women are good examples of this aspect of transnational human rights culture. So too is membership of INGOs like Amnesty International, Médecins Sans Frontières and TransAfrica Forum (which spearheaded the boycott of apartheid South Africa (Robbins 1998: 10–11)). Human rights culture is also fostered in popular culture, through film, news stories, images and 'world music'. Diasporic networks as well as the time-space compression of global media communications contribute to its construction (Gilroy 2000). Rorty is right to argue that human rights culture is constructed through sentimental education at least as much as through reasoned argument and popular culture has an important unifying potential in this respect.

Unification need not, however, mean uniformity. It would clearly be impossible to confuse this type of culture with 'a way of life' in the singular and, although human rights are linked to liberal individualism historically, they have been extended and adapted, as we have seen in the case of women's rights as human rights. Moreover, there are conflicts between different human rights as well as between different interpretations of how they might be applied in a particular case. This is especially true with regard to second- and third-generation rights, those that are least widely accepted by the most powerful nations and which are most distanced from liberal individualism. In some respects, first generation rights, premised on the freedom of the individual and the protection of private property, conflict in principle with the institution of rights premised on the good of the community and the survival of the group. Human rights are taken up in quite different ways in different contexts according to the strategies and means of those who use them. Of particular importance here is the fact that they may be taken up in ways that would cut across any assumption of identity or easy solidarity of women, especially where struggles involve solidarity with men around economic exploitation or national self-determination (Gillam 1991). Furthermore, there are conflicts

and disagreements over aims, strategies and principles between women who consider themselves to be in the same, as well as in different, movements across the world (Basu 1995; Mohanty 1991; Afshar 1996). It is the understanding of differences in struggles in which women are involved that is important in order to safeguard against the conflation of 'women' into a single subject of feminism to which poststructuralist feminists have been so opposed.

At the same time, however, precisely because of this diversity – both in terms of human rights claims as such and also of women's movements across the world – it is also necessary to make judgements concerning which movements are likely to be progressive in relation to the feminist goal of equality. It is as important to be clear about the normative commitment of feminism as it is to be sensitive to the different identities, issues and contexts that construct the enormous range of movements in which women are involved. According to the argument I am developing here, the ideal of poststructuralist feminism with regard to the development of human rights culture is deconstructive equality. In this case, we should be clear that not all movements, including those in which women participate, contribute to this ideal. This is not to say that other struggles are not important – sometimes more important – and should not be supported. However, what is also important is that the strategies and aims of other struggles should be clearly distinguished from those of poststructuralist feminism so that the ideal of deconstructive equality remains clear, even if unrealizable, across different contexts.

There are cases where the de-gendering encoded in CEDAW has provided an important resource for women's movements. There are, for example, a few cases in which human rights instruments have been used directly, where international law has been adopted into national law. One example is the way in which the Equal Pay Act was amended in Britain to meet the much stronger requirements of European Community law based on human rights and enabling women to claim equal pay for work of equal worth (Coote and Campbell 1987: 117–18). Another is the way in which Tanzanian and Botswanan judges have ruled for women's rights to inherit clan land as individuals on the grounds of sexual discrimination (Beyani 1994: 292–3; Butegwa 1994). In both British and African cases human rights provided a means of challenging customary law and 'cultural' practices. As straightforward examples of anti-discrimination, these cases clearly contribute to deconstructive equality as I have argued for it here.

Action taken by women as women across the world is, however, actually more likely to be oriented towards the 'difference' model of equality. There is no doubt that these movements do contribute to the construction of a human rights culture. They have been particularly prominent in this respect in Latin America. The campaign of 'las madres' for the Argentinian 'disappeared', demanding justice in the name of mother love, is a clear example (Waylen 1996; Bulbeck 1998). It is possible, as I have suggested, that such movements are also making an important, if indirect, contribution to deconstructive equality. As Amy Lind argues, they bring consideration of women's roles in social reproduction and domestic work into the public sphere, so disrupting the 'traditional' terms of women's subordination while contributing, implicitly or explicitly, to the discourse of rights (Lind 2000). However, the very ambiguity of their position means that they are equally, if not more likely, to reinforce stereotypes of women as primarily mothers. In this respect, women's movements militate against deconstructive equality.

There are also women's movements that do not aim for equality of women at all. Examples include so-called 'popular movements' that consist largely of women and mobilize around immediate social and economic needs, to riot for food for example (Waylen 1996). Another case of this type of movement is where women have agreed to postpone their own struggle for equality in the name of some more pressing or more important ideal, as they did for a while in the South African liberation movement, for example (Kemp et al. 1995; Fester 2000).

Finally, there are movements that work towards equality but that do not call themselves feminist. In some countries it is more prudent not to call oneself a feminist to avoid association with 'Westernization', but many women also object to the name ideologically, on the grounds that it suggests an inappropriate agenda set by Western women (Johnson-Odim 1991; Waylen 1996). Drucilla Cornell gives an interesting example of such a movement, called *Mofina Brasa*, in Suriname, which, she argues, does not depend on the concept of the individual that is fundamental to Western conceptions of rights (Cornell 1998: 160–3). *Mofina*

Brasa favour the strategy she herself argues for, demanding recognition of women's specific capacities as women on an equal basis with men while at the same time problematizing sexual identity. Cornell uses the example to show that equality may be, and indeed has been, conceived of without adherence to Western notions of human rights. It is important to note that this is not an argument against the use of rights as such, but only against supposing that there can be no Third World feminism without such a use. However, given the growth of human rights culture with which we are concerned here, and particularly the extension and scope of women's rights as human rights, it is increasingly likely that local movements mobilizing for gender equality will use rights discourse regardless of whether or not they call themselves 'feminist'.

Finally, then poststructuralist feminist commitment to de-gendering may mean making difficult judgements against supporting movements which conflict with women's human rights, regardless of whether women are involved in them or not. Such hard decisions increasingly arise as some form of multiculturalism becomes official policy in many liberal democracies. Given that, as Katha Pollitt has put it, 'multiculturalism demands respect for all cultural traditions, while feminism interrogates and challenges all cultural traditions' (1999: 27), support for women's rights as human rights may well come into conflict with multicultural claims for group rights. This is a complicated topic, which requires fuller consideration than I can give it here. It is relatively uncontroversial to argue that, in principle, cultural movements demanding human rights that are implicitly damaging to women's individual human rights should not be supported, though in practice decisions may be more difficult where women themselves share the dominant views of the 'community'. However, deconstructive equality as an ideal would seem to imply that no group should ever be granted rights to help a 'culture' survive so long as protection would mean reinforcing the reproduction of distinct roles for the sexes (Okin 1999). It is surely the case that the project of constructing and sustaining transnational human rights culture is incompatible with the denial of all multicultural group rights, not only for reasons of justice, but also for pragmatic, strategic reasons. In this respect it is particularly important to note that globalization means that the outcome of supporting or resisting such claims will not be confined to the West but will have impacts beyond the border of the nation-state through diasporic networks (Bhatt and Mukta 2000; van Hear 1998). Nevertheless, I am arguing that in difficult cases poststructuralist feminists should find themselves confronted with a commitment to support the normative ideal of deconstructive equality even where it conflicts with other demands for justice in the transnational human rights culture in formation. This may be of little practical use in deciding what is right in any particular case, but it is nevertheless important to safeguard deconstructive equality as an ideal and long-term aim.

This paper has been an attempt to convince poststructuralist feminists not just that extending human rights to women is compatible with commitments to anti-essentialism and anti-foundationalism, but that it is strongly suggested by the deconstructive equality that these commitments imply. I have tried to show those already convinced by poststructuralist feminism that being clear about our normative commitments need not mean giving up sensitivity to the exclusions produced by essentialist identities and universal norms. I have, however, argued that being clear about the aim of poststructuralist feminism also means being clear that only a narrow range of activities should be thought of as contributing directly to this aim. The poststructuralist emphasis on interpreting meanings as they are situated in specific local contexts is important but it is also important to be clear about substantive differences in the aims, strategies and identities of movements across the world. A commitment to deconstructive equality is rare, though women's movements are not. Insofar as my argument is correct and deconstructive equality is implicit in poststructuralist feminism, it is important to be clear about this commitment and the consequences for feminist political theory and practice. Acknowledging deconstructive equality as the implicit goal of poststructuralist feminism counters the accusations of its critics that attention to 'difference' brings poststructuralist feminism all too close to 'indifference'. Once the goal of equality is taken seriously, it is clear both that a progressive human rights culture should be supported as a poststructuralist feminist project and also that there are limits to the interpretation of human rights that should then be endorsed.

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## Notes

1 It is quite common in this literature to distinguish women-specific rights – such as reproductive freedom – from women’s human rights, general norms that should be applicable to women. This distinction raises a number of issues. Here I follow Charlesworth in taking the wider definition of women’s rights as preferable since it is more likely to enable challenges to their marginalization (Charlesworth 1994: 59).

2 The ICESCR was put on the agenda by representatives of the countries of the communist bloc; the US still refuses to ratify it.

3 In my view, Judith Butler has most clearly articulated the political implications of poststructuralist feminism (even though she refuses the label) and the characterization outlined here is heavily indebted to her work (Butler 1990, 1993, 1995). It is important to note that, from Butler’s point of view, deconstructive equality would also require the promotion of human rights to militate against the discrimination suffered by sexual minorities. This is a complicated topic in human rights discourse and I cannot deal with it here (see LaViolette and Whitworth 1994).

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