

# WOMEN'S RIGHTS, INDIGENOUS RIGHTS, AND THE QUALITY OF DEMOCRACY IN LATIN AMERICA<sup>1</sup>

Jane S. Jaquette, Occidental College

A central debate among students of democracy and Latin Americanists today is whether “direct” or “participatory” democracy—as practiced in Venezuela, Bolivia and Ecuador—produces a “higher quality of democracy” for the poor and marginalized than traditional liberal democracy, which emphasizes checks and balances, party competition, freedom of the press, and other civil and political rights. This chapter addresses a somewhat different but closely related question that is raised by the increasing prominence and activism of indigenous movements in these and other countries: can a “plurinational” democracy, allowing indigenous communities a high degree of local autonomy, address the crisis of representation while protecting human rights, fostering social cohesion and strengthening the rule of law? I examine this question by focusing on the conflict between indigenous identity politics and women’s claims to equal rights and an end to gender discrimination.

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

The political and economic exclusion of indigenous peoples became a critical issue in several countries of Latin America in the last decades of the 20<sup>th</sup> century. Pressures from below have changed the contours of politics, most notably in Bolivia and Ecuador, but also in Guatemala, Peru and Mexico (Van Cott 2008; Sieder 2002; Postero 2007; Yashar 2005). The indigenous demand for autonomy in order that they may live according to their traditional *usos y costumbres* has received broad intellectual and political support.

Contemporary Latin American indigenous movements have organized through identity politics, emphasizing their differences from the dominant white/mestizo culture that surrounds them. Indigenous movements expand the language of rights to include collective rights, but they often fail to acknowledge discrimination and violence against women within indigenous communities. The indigenous answer to the demand for women’s equality is to counter that gender “complementarity” protects and values women as women; “Western” notions of equality violate cultural norms.<sup>2</sup> This sets 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, but also for the legitimacy of the core liberal values that undergird virtually all feminisms and inform broader concepts of liberal democracy, human rights, and citizenship.

---

<sup>1</sup> This chapter draws on my chapter in *Sentido de pertenencia en sociedades fragmentadas: América Latina en una perspectiva global*. Buenos Aires: Siglo XXI, 2011, Ana Soja and Martín Hopenhayn, eds.

I am grateful for constructive criticism from Sandra Harding, Jane Bayes, Ann Tickner, Breny Mendoza, Sarah Jaquette Ray, Abe Lowenthal, Dolores Treviso and Joe Foweraker. I have thought deeply about their diverse concerns and have taken them into account. The biases and errors that remain are mine.

<sup>2</sup> Western political theory has not always been egalitarian. As Arlene Saxonhouse (1985) notes, pre-liberal Western political theory did not see (male or female) individuals as equal, but put the emphasis “on complementarity, on differences, on the parts from which the whole is constructed” (9). The individual is not conceived of as autonomous; consequently “[t]he ancients had no conception of human rights as we understand them”(7).

Within Latin America and beyond, indigenous groups have become political actors, connecting through transnational organizations, through conferences at regional and international levels, and with environmental and anti-globalization groups. The first UN conference on discrimination against indigenous peoples in the Americas took place in 1977, and the UN subsequently declared two Decades for Indigenous Peoples (1995-2004 and 2005-2014). Following the ILO Convention 169 on Indigenous Rights (1989), the UN General Assembly approved a Declaration on the Rights of Indigenous Peoples in 2007, which recognizes the right of indigenous groups to claim collective as well as individual human rights (Article 1) and reflects the demands of indigenous communities to maintain their autonomy against the ever increasing encroachments of the outside world. The Declaration bars governments from employing coercively 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 specifies 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 these lands.<sup>3</sup>

Most Latin American countries have ratified the ILO Convention and many have incorporated consultation with indigenous groups into their constitutions. During the past decade, indigenous opposition has become a serious source of local disputes, as indigenous communities resist oil exploration and drilling and protest the opening of new mines, projects usually funded by foreign investment (increasingly Chinese) that produce primary products largely destined for export. The commodities boom (2003-2014), which brought about a period rapid economic growth in South America, has increased the number and severity of these conflicts. This has created a painful dilemma for all governments, but especially for the radical populist governments of Bolivia and Ecuador, which were elected with indigenous support but rely on robust export earnings to fund generous social spending.

But “indigeneity” is more than a set of claims to be negotiated in competition with those of other marginalized groups. As Kay Warren and Jean Jackson write, it is a moral stance:

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).

In its opposition to capitalism and the state, indigeneity suggests a post-Marxist avenue to pursue the Rousseauian ideal that remains deeply ingrained in the Western political imagination.

### *Gender and Indigeneity*

Indigeneity as a political project challenges feminist moral capital by opposing gender complementarity to the liberal feminist demand for women’s 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 Cervone 2002; Barrig 2006;

---

<sup>3</sup> This provision caused four developed countries with large indigenous populations (the United States, New Zealand, Australia and Canada) to vote against the Declaration on the grounds that it challenged existing property rights, but all have now endorsed it, including the United States, which in 2010 became the last country to do so.

Goodale 2009). The Andean couple unites opposites. Individuals are not accepted as adults in the community until they marry and complete each other. 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: although men and women perform different tasks and assume different roles in the community, these are equally valued.

Liberal feminists are generally skeptical of arguments that justify gender roles based on complementarity. Their concern that “difference” is rarely equal or even equitable is borne out in the evident gap between the ideal of complementarity and the material 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 maternal mortality. Gender gaps in school attendance and literacy have virtually disappeared in much of Latin America, but not among the indigenous. In Ecuador, for example, 36% of indigenous women on average are illiterate, as compared to an average of 20% of indigenous men (Picq 2008:278); in highland Peru, illiteracy rates for women are above 25% (Barrig 2006:124).

Radcliffe, Laurie, and Andolina find that Ecuadorian labor markets remain very segregated by race and gender, and that most indigenous women in Ecuador have unmet basic needs (2009: 198, 200). 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 rotating “cargo system” of community governance.<sup>4</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; Picq 2008).

These distinctions are heightened by identity politics. Because they are the carriers of culture, Andean women are expected to wear the traditional *pollera* or layered skirt and a hat appropriate to their village and to speak the indigenous language (Barrig 2006:119). They should 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.<sup>5</sup> Men often 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 Manuela Picq’s phrase, the “guarded guardians of culture” (2008:286).

Decision-making by consensus implies that all members of the community can participate in the forums in which community decisions are made. But women are often marginalized. Barrig (2006) reports that men exclude women by ignoring or ridiculing them, or by using Spanish to talk about the

---

<sup>4</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).

<sup>5</sup> For a more detailed understanding of food and gender in indigenous Andean communities, see Weismantel (1998).

“important things” while reserving indigenous languages for discussing domestic or private affairs. Emma Cervone (2002) writes that “[w]omen’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”(182). Further, she argues, that as modernization has led to greater contact between indigenous communities and the white/mestizo world, traditional power differentials between indigenous men and women have increased:

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 (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, “but to a space where Indians have to negotiate with white-mestizo society,” and from which women are largely excluded (183).<sup>6</sup>

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, along with the prevention of domestic violence. This awareness offers one hopeful sign that indigenous women themselves may help bring about change from within their own communities.

Violence against women is often tolerated within indigenous communities, and reinforced by social control. Picq sees such violence as “intense and frequent, compromising women’s physical integrity, sexual and reproductive health, and often putting their lives at risk” (2008: 280). Barrig reports that a woman’s parents are likely to side with the husband should their daughter seek their support because the husband is alcoholic or abusive. In the communities she studied, marriages are customarily arranged by parents, and strong pressure is placed on the girl to consent. In the southern highlands of Peru, “mock abduction” and “trial marriages” are practiced. Although these practices may at once time have offered some protections to women, Barrig suggests that this is no longer the case, and that both are characterized by the Peruvian Penal Code as “violation[s] of sexual freedom” (2006: 123).

“Rape is often the first sexual experience of indigenous girls,” Picq writes, noting that 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). Of course, violence against women is not limited to indigenous communities; Latin America and the Caribbean have some of the highest rates of family violence in the world (Dammert,

---

<sup>6</sup> For an earlier version of how women’s roles may change, but their status does not, see also Bourque and Warren (1981).

2013: 83). Women's movements have made anti-violence legislation and enforcement a priority issue throughout the region, but indigenous autonomy makes it less likely that women will claim protection within their own communities or even against outsiders, such as the police and military, who have a long history of abusing indigenous women, particularly in times of civil conflict (e.g. Mantilla Falcón, 2009).<sup>7</sup>

#### *Responses of stakeholders*

The conflict between women's rights and indigenous rights has met with different responses from various actors with stakes in the debate: Latin American feminist activists, environmentalist NGOs (both international and domestic), gender and development practitioners, and those who have studied—and often identify with—indigenous movements. Their responses reveal some of the difficult choices facing those who are committed to addressing issues of inequality and social justice when cultural differences conflict with universal concepts of human rights, including women's rights.

Latin American feminist activists, whose successes are always vulnerable to misogyny and backlash, have found their equality claims can be challenged on “multicultural” grounds by those who resist the “homogenizing policies of the modern state” (Cervone 2002: 181). Where indigenous populations are a substantial voting bloc, feminists have found themselves on the defensive in debates over the content of new constitutions, setting legislative priorities, and in implementing policies and laws that may be construed as insufficiently sensitive to multicultural views of gender.<sup>8</sup>

For their part, feminist development practitioners have concentrated on empowering women by increasing the resources available to them through training, microcredit programs, and leadership workshops.<sup>9</sup> “Gender and development” approaches have been deemed superior to “women and development” programs in part because they “take men into account,” but staff in the field lack the ethical and social leverage to change male behavior, hesitating to impose gender criteria laid down by the development agencies when these might jeopardize other goals (Barrig, 2006).

Environmental and anti-globalization movements tend to sidestep the conflict between women's rights and indigenous values as they encourage indigenous women to defy custom and take on leadership roles in transnational forums and in the media. Yet women indigenous leaders face strong constraints. The more 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 (Picq, 2008: 289), putting the issue of intersectionality in sharp focus.

---

<sup>7</sup> In November, 2014, women from San Juan Sacatepéquez in Guatemala marched in Guatemala City against the “occupation” of their city by police and military forces under a government-ordered “state of prevention,” including “68 accusations of sexual harassment against women and young girls.” The state of prevention was ordered to quell resistance to the construction of a cement factory by a Guatemalan company, Progreso Cement (Abbott, 2014).

<sup>8</sup> Javier Corrales (2013) has written about the political dynamics of constitutional change, particularly in the “radical populist democracies.” His work also focuses on LGBT politics in Latin America, another set of rights in conflict with traditional *usos y costumbres*. See Corrales (2010).

<sup>9</sup> Also maternal and child health programs, which have in some cases made indigenous women the objects of “population control” measures (see Boesten 2010); health practitioners may, consciously or not, reinforce class and ethnic patterns of dominance.

Scholar-activists who are sympathetic to both indigenous and feminist demands find ways to reconcile positions that are in fact at odds. One way is to argue that indigenous communities are not “by nature” patriarchal, but have been “contaminated” by exposure to white and mestizo society. Barrig cites Billie Jean Isbell’s view that modernization is 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.” (2006: 114). This is consistent with the decolonial critique that sees contemporary evidence of gender discrimination as a result of the colonial past.<sup>10</sup> The imposition and reinforcement of social hierarchies has proved particularly devastating to women within their communities, while stereotypes of indigenous mistreatment of women were used to justify the colonial imposition of Western religious and cultural values (Chenault, 2011: 22-33). For many who blame “outside contamination” or the perpetuation of colonial power hierarchies, there is no conflict between women’s rights and indigenous customs because women who conform to traditional expectations are doing so by choice. Wearing the *pollera*, like wearing the veil, becomes “a heroic gesture of cultural resistance” (2006:120).

Radcliffe, Laurie, and Andolino (2009) find multilateral agencies and development NGOs to be a contemporary source of outside contamination. These have been “complicit in creating disparities in life chances” between indigenous men and women, they assert, because their “social capital” approach to development made women’s “distinctive characteristics...the symbolic and material embodiment of ethnic communities” (204). These policies are “*transnational* constructs” and are “not reducible to traditional or local patriarchies” (213).

Picq suggests that Latin American women’s movements may deserve some blame, for while they have been successful in eliminating discriminatory laws and passing new legislation to protect women’s civil and political rights, they left indigenous women behind. She notes, however, that indigenous movements themselves mobilized women to gain support, but once they gained political leverage, “women’s voices were not heard.” She concludes that the cultural realm is “particularly violent towards women” and that the “double standard of indigenous justice “leaves women with “virtually no rights” and “subjugated both to men and the community at large” (Picq 2008:279-285).

### *Indigeneity as an alternative to liberal democracy*

The conflict between liberal and indigenous views of rights and justice can become a “conflict of civilizations” when indigenous values and practices are proposed as an alternative to liberal democracy and “Western” standards of justice.<sup>11</sup>

Rejecting June Nash’s view that indigenous culture is “*necessarily* opposed to Western practices” (179), Shannon Speed (2008) applauds the ways in which indigenous communities in Chiapas “demand

---

<sup>10</sup> This argument was also made by Ester Boserup (1970) who argued that women’s status depended on their role in production and that many African groups had “female farming systems” that were undermined by modernization.

<sup>11</sup> This intent is clearly reflected in Catherine Walsh’s (2010) choice of a quote from Franz Fanon to begin her essay on “decolonial thought”: “Let’s go, comrades, the European game is definitely finished, it is necessary to find something else” (1961).

the right to maintain an alternative structure of power” based on “alternative logics of rule” found in indigenous practices of collective and consensual decision-making, the concept of “rule-obeying,”<sup>12</sup> and the assertion of pluriculturalism or diversity within the collective.

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,” she asserts, they are articulating “a radically distinct discourse of rights” (2008:167) and “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.”(179). Drawing on Antonio Negri (Hardt and Negri 2000), Speed characterizes power in indigenous communities as *potentia* rather than *potestas*. *Potentia* is the “creative force of social struggle,” whereas *potestas* is the coercive power of the sovereign (2008: 168-69). The Zapatistas are not challenging the state by proposing separatism; instead they are offering “symbolic and material alternatives to neoliberal rule” (2008:172).<sup>13</sup> Making clear that the real object of her critique is “neoliberal citizenship,”<sup>14</sup> Speed praises Zapatista discourse, which “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 express their dissent in the courts of state” (2008: 172).

There are some problems with this vision. From a liberal standpoint, “individualist discourse” is not where the West went off the track; rather, it is the lack of universal application of liberal principles in systems where the strong have rights and impunity, and the weak are denied both rights and dignity.<sup>15</sup> Further, although it is possible to imagine a “pluricultural collective” at the national level, at the community level, as we have seen in the case of women, diversity is discouraged and social control remains a powerful force. Nor is it clear that *potentia*, the power to create, can be so easily separated from the power to coerce,<sup>16</sup> or that the indigenous norm of consensus-building (*mandar obedeciendo*) provides an adequate substitute for checks and balances, especially as indigenous communities become increasingly linked to the world of modern communications, commerce and mobility. In Speed’s account and others in this genre, “liberal” efforts to increase representation and voice or defend democratic procedures are thus dismissed as misguided, as barriers to new thinking, while feminist concerns for women’s rights as individuals are made to seem narrow and self-serving.

---

<sup>12</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 custom has been used to distinguish the leadership style of Evo Morales in Bolivia from that of Hugo Chávez in Venezuela or Rafael Correa in Ecuador.

<sup>13</sup> See also de la Cadena (2015).

<sup>14</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.” 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 Postero (2007) and Lucero (2009). For a discussion of the “neoliberal citizenship” critique, see José Antonio Lucero, (2013).

<sup>15</sup> For a decolonial critique of this position, see several of the essays in Mendoza (2014a bx 2014b)

<sup>16</sup> A similar debate about the difference 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). Some feminists share Speed’s ultimately utopian desire to find a form of power without violence or coercion. But social control (which in indigenous communities can involve the use of stocks and shunning) is certainly coercive. It may be that modern states can and should allow and even learn from indigenous concepts of justice; it is not necessary to portray them as utopian.

Finally, Speed finds that in unilaterally declaring their autonomy from the Mexican government, the indigenous groups of Chiapas 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.” But, one might ask, why shouldn’t dominant groups also contend that *their* rights “exist in their exercise,” unconstrained by “God” or “natural law,” thus eroding any distinction between might and right? Speed concedes that such rights might be exercised by groups “whose goals one finds abhorrent,” for example “right wing militia groups in the United States.” But, she counters, “even in that case...such deployments might be challenging to neoliberal power” (173).<sup>17</sup> And that is all that counts.

### *Finding New Frames*

The conflict between women’s rights and indigenous rights is not easily resolved. There are moral arguments and social forces on both sides. Feminist movements have historically been committed to extending liberal values of equality and voice to women, who have long been denied these rights. Few feminists, even those who are critical of liberalism, are unlikely to be convinced by arguments for coerced complementarity, silencing women, or gender violence.

Recognition of the depth of the conflict between women’s rights and indigenous views calls for more serious consideration of the options available to address it. Women in indigenous communities have themselves taken actions that empower them within their own communities and link them to the broader world. The “gender lens” employed by international financial institutions and development NGOs may not be the most effective approach. Chenault suggests addressing violence against Native American women by empowerment based on participation that connects women to their communities as well as to the outside world, where women see themselves not as “victims” but as “members of a community.” Such programs need to connect with “tribal healing practices” and “women’s ceremonies,” in addition to consciousness-raising, education and activism (2011: 41-42).

However effective, such measures may be focused too narrowly when what is needed is a critical perspective on the broader context of the conflict. Inspired by but adapting Albert O. Hirschman’s schema in *Exit, Voice and Loyalty* (1977), I suggest three different ways to think about how this conflict might be addressed: “exit,” “wait and see” and “reframe.”

“Exit” makes the assumption that indigenous communities will in fact achieve something like full autonomy and no longer engage in the national debate on women’s rights or liberal democratic governance. This is not likely to happen, if only because rural-urban migration and ever-closer economic, social and political interaction between indigenous communities and the wider society will continue to draw the indigenous into contact with the mestizo/white world. But if it were to take place, the conflict between indigeneity and liberalism would be moot, and gender relations would be resolved on indigenous

---

<sup>17</sup> Critics too easily conflate liberalism with neoliberalism (a move that depends in part on the fact that liberalism in the United States is closer to social democracy than to classical liberalism. Over time, liberal practice and theory has increasingly recognized that economic and social preconditions are necessary to the exercise of political rights and to make life choices. (See, for example, Nussbaum, 1999). Liberal feminists are not Marxists; they do not reject capitalism out of hand. Nor are they marketeers, because they know full well that women’s lives and values are not limited to nor measured by the market. Rather, they recognize the role of the state in limiting markets, and see the quality of democracy resting on strengthening liberal democratic institutions (checks and balances, freedom of the press, human rights and the rule of law) rather than seeking their “transcendence.”



terms by indigenous communities themselves. From a feminist standpoint, there would likely be serious costs to indigenous women, and for the society as a whole there would be a loss of diversity and opportunities for dialogue between “white-mestizo” and indigenous societies.

The fact that indigenous societies have begun to receive the benefits of both recognition and redistribution makes full exit very unlikely. Yet partial autonomy for indigenous communities is widely accepted in practice, and when there are conflicts between autonomy and women’s human rights, few states are willing to impose those rights in the face of cultural resistance. In addition, the more autonomy is seen by both indigenous and white/mestizo society as meeting indigenous demands, the easier it is for both sides to avoid dialogue. The trajectory of indigenous identity politics, with its emphasis on separating from the “colonial” center rather than changing it, creates incentives for powerful domestic and international groups to insist on an “indigenous other” who *performs* difference in ways that fit elite agendas, rather than making space for indigenous interests in all their complexity.<sup>18</sup>

A second approach is to “wait.” As contacts between indigenous communities and the wider society increase, both conflict and value change are inevitable. Today, indigenous identity politics is seen as an attempt to preserve traditional cultural practices. But in the longer run, indigenous identity politics may turn out to be more dialogic than confrontational, leading to a process of indigenous accommodation if not assimilation. Markets, migration, communications technologies—and even indigenous activism—will hasten these changes, while the indigenous demand for control over indigenous lands will evolve under the pressure of competing forces. The issue to be decided will not be whether development will take place, but rather at what pace, under what conditions, and with what share of the profits going to the indigenous communities themselves. The “wait and see” approach does not directly challenge the discriminatory treatment of women; at best it assumes that increasing female education and mobility will bring about pressures for change from within. In a climate of increasing attacks on liberal democratic values on a global scale, however, a weakness of “wait and see” is its failure to defend liberal values.

A third approach is to reframe the issue. The very real conflicts between indigenous and liberal feminist values cannot be resolved directly, while “wait and see” too easily avoids confronting not only gender discrimination but the broader issue of racism and the negative effects of both on the quality of democracy. I suggest two proactive strategies that might shift the debate onto more productive terrain.

The first, in the spirit of Emile Durkheim, involves changing attitudes and behavior. It is now a commonplace that identity politics are about recognition in contrast to the class politics of redistribution. But not all ethnic politics are the same. Indigenous identity politics in Latin America are following a trajectory that is quite different from that followed by the black power movement in the United States. For U.S. blacks, identity politics produced not only cultural recognition but also respect for African-Americans as individuals and legitimized their claims to full participation in US politics and society. Black identity politics has not resolved problems of redistribution; African-Americans still have lower incomes, lower life expectancies, poorer housing and medical care and less access to good public education than the US average. Blacks have much higher incarceration rates and police brutality remains a serious problem. But the civil rights movement did address discrimination, not only as a structural issue (employment, Jim Crow laws, school segregation, affirmative action), but as a set of discriminatory

---

<sup>18</sup> For a discussion of this phenomenon with regard to how Native Americans become the “ecological other,” precisely because they are expected to be “ecological Indians,” as Shepard Kretch III (2000) argues. See Ray (2013), Ch. 2.

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 debated. But the power of identity politics is its potential to force changes in the micro-practices of discrimination, the combined oppressions of racism and classism that indigenous people suffer daily 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 Latin America:

[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. There is no cultural equivalent of an Alex Haley, whose *Roots*, a best-selling book and very popular TV miniseries about an African-American’s search for his African origins, helped reframe “Negroes” as “African-Americans.” Many whites came to understand and empathize with the experience of being black from the “inside out,” as opposed to gaining an intellectual understanding from the “outside in,” as was true of the classic but emotionally distant treatment of US racism in Gunnar Myrdal’s *An American Dilemma* (1944). Nor has an indigenous equivalent of a Martin Luther King emerged to articulate a compelling vision of citizenship that applies to all. It is true that these changes in the United States have not been enough to create full equality; the struggle continues. But they did give black culture, African-American demands for access to education and jobs and their insistence on being treated with respect a front and center role in American politics that contrasts dramatically with the trajectory of indigenous identity politics.<sup>19</sup> “Race” in Latin America has a different history and requires different tools of analysis.<sup>20</sup> But in the end what has to change is the ways in which the individuals in dominant groups engage in micropolitics that enforce, on a day to day basis, the race/class hierarchies that mark so many aspects of Latin American life.

The second strategy takes the Weberian view that the quality of democracy depends on institutions as well as attitudes and behavior. It is not accidental that de la Torre begins his account of the effects of discrimination by referring to the role of law. Of course, the term “rule of law” has become a

---

<sup>19</sup> The important contrast may be in terms of race (Afro-descendent versus indigenous), not between the treatment of race in North America versus Latin America. The autonomy of “reservations” has also further marginalized Native Americans, whose use of territorial “sovereignty” to establish casinos has failed to provide a space where traditional practices can be reinforced or to make a dent in high levels of alcoholism and violence against women. An interesting window into some of the differences between black and indigenous “strategies” and their effects could be gained by comparing Carolina Maria de Jesus’s diary, *Child of the Dark* (1963) with Rigoberta Menchu’s *I, Rigoberta Menchu* (1984), the debates over their authenticity, and the reasons why these books appealed to elites.

<sup>20</sup> See Wade (2010).

cliché, and it may seem simplistic to invoke Western” law as if it were self-evident when indigenous communities are demanding to be allowed to govern themselves according to their own traditions. Shannon Speed’s position is part of a broader critique that sees Western law itself is part of the problem, a symptom of the ways in which “liberalism takes illiberal forms” in countries with different histories and cultures.<sup>21</sup> Of illiberal liberalisms, however, the distortion of law to serve the interests of the powerful and keep the poor (often identified by racial markers) in their place is surely one of the most perverse.

Indigenous Latin Americans are not alone in suffering the consequences of legal systems that fail to deliver justice. As Gary Haugen and Victor Boutros write in their article on the relevance of legal remedies to problems of poverty and marginalization, the international struggle for human rights has changed norms and legislation, but it 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 and legislation are often quite progressive—but the ways in which legal systems function to serve the interests of a few. Elites have little incentive to reform systems that work for them and at the same time provide legal cover for their privileges. It is not surprising, given how they have been treated, that indigenous groups are demanding more autonomy precisely from “Western” law. What is surprising is that the Latin American left and social movement activists have taken such little interest in the corrosive effects of letting constitutions represent little more than good intentions and have tolerated the cynical abuse of their judicial systems.

Haugen and Boutros identify several ways in which the legal system could protect rather than repress the poor and marginalized, including “collaborative casework,” linking human rights lawyers and law enforcement professionals with local officials to identify victims of abuse and prosecuting their cases in local courts. These kinds of measures would require changing the approach taken by human rights lawyers, redirecting resources in part to provide “caseworkers for the poor” and, in Latin America, to change the view, common in practice but rarely addressed, that the poor do not deserve effective legal rights. Their law-based approach goes beyond moralizing to provide concrete ways to build local capacity. Such an effort could mesh well with indigenous and other forms of activism and strengthen rather than delegitimize legal institutions, which have suffered not only from underfunding, corruption and incompetence, but also from the failure of social movements to engage in institution-building.

---

<sup>21</sup> The argument is that liberalism has become exhausted 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. My point here is that we need to distinguish problems that arise from the lack of fidelity to liberal principles from those that arise from cultural inappropriateness, which I see as a dynamic, not a static, arena of contestation and negotiation.

Real possibilities exist for constructive dialogue within a liberal frame. Donna Lee Van Cott, for example, suggests 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).

Nor should it be assumed that indigenous groups reject “Western” law in its entirety. In a provocative study of highland Bolivia, Mark Goodale shows how indigenous Bolivians have used Bolivian law for centuries to negotiate their relations with white/mestizo society. Perhaps surprisingly, he found that women were the plaintiffs in more than fifty percent of the cases brought to the court he studied in northern Potosí (2009:104).<sup>22</sup> At the international level, indigenous movements have called for dialogue. For example, in 2007 the Indigenous Caucus proposed 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>23</sup>

History has shown the immense capacity of liberalism to absorb new groups and ideas while preserving human rights, individual freedoms and strengthening the rule of law. 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 urgent need to think through how to strengthen effective democracy and build the institutions needed to further social justice.

## References

Abbott, Jeff. 2014. “Indigenous Women in Guatemala Demand End to State of Prevention.” *UpsideDown World*, November 7. <http://Upsidedownworld.org/main/Guatemala-archives-33/5113-indigenous> (accessed May 20, 2015).

Barrig, Maruja. 2006. “What Is Justice? Indigenous Women in Development Projects.” In Jane S. Jaquette and Gale Summerfield, eds. *Women and Gender Equity in Development Theory and Practice*. Durham: Duke University Press, 107-133.

---

<sup>22</sup> Goodale 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, a racialized and sexualized exercise of male power.

<sup>23</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, have been made by authors such as Will Kymlicka and Iris Marion Young, and can be found in Iveson, Patton and Sanders (2000). The argument that the practices of indigenous and other groups claiming collective rights may be patriarchal and gender discriminatory can be found in Shachar (2001), Deveaux (2006), and Okin (1999).

Boesten, Jelke. 2010. *Intersecting Inequalities: Women and Social Policy in Peru, 1990-2000*. University Park, PA: Pennsylvania State University Press.

Bourque, Susan C. and Kay Barbara Warren. 1981. *Women of the Andes: Women and Patriarchy in Two Peruvian Towns*. Ann Arbor, MI: University of Michigan Press.

Cervone, Emma. 2002. "Engendering Leadership: Indigenous Women Leaders in the Ecuadorian Andes." In Rosario Montoya, Leslie Jo Frazier, and Janice Hurtig, eds. *Gender's Place: Feminist Anthropologies of Latin America*. New York: Palgrave/Macmillan, 179-196.

Chenault, Venida. 2011. *Weaving Strength, Weaving Power: Violence and Abuse against Indigenous Women*. Durham, NC: Carolina Academic Press.

Corrales, Javier (ed.). 2010. *The Politics of Sexuality in Latin America: A Reader on Lesbian, Gay, Bisexual, and Transgender Rights*. Pittsburgh, PA: University of Pittsburgh Press.

\_\_\_\_\_, 2013. "Constitutional Rewrites in Latin America, 1987-2009." In Jorge I. Domínguez and Michael Shifter, eds., *Constructing Democratic Governance in Latin America (Fourth Edition)*. Baltimore, MD: Johns Hopkins University Press, 13-47.

Dammert, Lucía. 2013. "Security Challenges for Democratic Governance." In Jorge I. Domínguez and Michael Shifter, eds., *Constructing Democratic Governance in Latin America (4<sup>th</sup> Edition)*. Baltimore, MD: Johns Hopkins University Press, 78-101.

Deere, Carmen Diana and Magdalena León. 2001. *Empowering Women: Land and Property Rights in Latin America*. Pittsburgh: University of Pittsburgh Press

de Jesus, Carolina Maria. 1963. *Child of the Dark: The Diaries of Carolina Maria de Jesus*. New York: Signet. Published in Brazil as *Quarto de despejo* (1960)

de la Cadena, Marisol. 2015. *Earth Beings: Ecology of Practice across Andean Worlds*. Durham, NC: Duke University Press.

de la Torre, Carlos. 2000. *Populist Seduction in Latin America: The Ecuadorian Experience*. Athens, Ohio: Ohio University Center for International Studies.

Deveaux, Monique. 2006. *Gender and Justice in Multicultural Liberal States*. Oxford: Oxford University Press.

Franco, Jean. 2009. "The Crisis of Liberalism and the Case for Subalternity." *A Contracorriente: Una revista de historia social y literatura de América Latina*. Vol. 7, No. 1, Fall 2009, 495-501.  
[www.ncsu.edu/project/acontracorriente](http://www.ncsu.edu/project/acontracorriente)

- Goodale, Mark. 2009. *Dilemmas of Modernity: Bolivian Encounters with Law and Liberalism*. Stanford: Stanford University Press.
- Hardt, Michael and Antonio Negri. 2000. *Empire*. Cambridge, MA: Harvard University Press.
- Harris, Olivia. 1985. "Complementaridad y conflicto. Una vision andina del hombre y de la mujer." Cuzco: *Revista Allpanchis* 15, 17-42.
- Haugen, Gary and Victor Boutros. 2010. "And Justice for All: Enforcing Human Rights for the World's Poor." *Foreign Affairs* 89:3 (May/June), 51-62.
- Hartsock, Nancy. 1983. *Money, Sex and Power: Toward a Feminist Historical Materialism*. Boston: Northeastern University Press.
- Hirschman, Albert O. 1969. *Exit, Voice and Loyalty: Responses to Declines in Firms, Organizations and States*. Cambridge, MA: Harvard University Press.
- Isbell, Billie Jean. 1976. "La otra mitad especial: un estudio de complementariedad sexual andina," *Estudios Andinos* 5:1.
- Iverson, Duncan, Paul Patton, and Will Sanders, eds. 2000. *Political Theory and the Rights of Indigenous Peoples*. Cambridge: Cambridge University Press.
- Krech III, Shepard. 2000. *The Ecological Indian: History and Myth*. New York: W.W. Norton.
- Lucero, José Antonio. 2008. *Struggles for Voice: The Politics of Indigenous Representation in the Andes*. Pittsburgh, PA: University of Pittsburgh Press.
- \_\_\_\_\_, 2013. "Ambivalent Multiculturalisms: Perversity, Futility and Jeopardy in Latin America." In Todd A. Eisenstadt, Michael S. Danielson, Moisés Jaime Ballón Corres and Carlos Sorroza Palo, eds. *Latin America's Multicultural Movements: The Struggle Between Communitarianism, Autonomy and Human Rights*. Oxford University Press.
- Mansbridge, Jane. 1996. "Reconstructing Democracy." In Nancy Hirschmann and Christine de Stefano, *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory* (Boulder, CO: Westview Press, 1996), 119-27.
- Mantilla Falcón, Julissa. 2009. "Gender and Human Rights: Lessons from the Peruvian Truth and Reconciliation Commission." In Jane S. Jaquette, ed., *Feminist Agendas and Democracy in Latin America*. Durham, NC: Duke University Press, 129-144.
- Menchú, Rigoberta. 1984. *I, Rigoberta Menchú: An Indian Woman in Guatemala*. New York: Verso.

- Mendoza, Breny. 2014a. *Ensayos de crítica feminista en nuestra América*. Mexico, DF: Editorial Herder.
- \_\_\_\_\_, 2014b. "Coloniality of Gender and Power: From Postcoloniality to Decoloniality." In Lisa Disch and Mary Hawkesworth, eds., *The Oxford Handbook of Feminist Theory*. Oxford: University Press. Accessed online 14 April 2015.
- Myrdal, Gunnar. 1944. *An American Dilemma: The Negro and Democracy*. New York: Harper Bros.
- Nussbaum, Martha. 1999. *Women and Human Development: The Capabilities Approach*. New York: Cambridge University Press
- Okin, Susan M. 1999. "Is Multiculturalism Bad for Women?" In Joshua Cohen, Matthew Howard and Martha Nussbaum, eds. *Is Multiculturalism Bad for Women?* Princeton: Princeton University Press.
- Picq, Manuela Lavinas. 2008. "Gender Within Ethnicity: Human Rights and Identity Politics in Ecuador." In Guillermo O'Donnell, Joseph Tulchin, and Augusto Varas, eds. *New Voices in the Study of Democracy in Latin America*. Washington, DC: Woodrow Wilson International Center for Scholars, 273-307.
- Postero, Nancy Grey. 2007. *Now We Are Citizens: Indigenous Politics in Postmulticultural Bolivia*. Stanford: Stanford University Press.
- Radcliffe, Sarah A., Nina Laurie and Robert Andolina. 2009. In Robert Andolina, Nina Laurie and Sarah A. Radcliffe, eds. *Indigenous Development in the Andes: Culture, Power, and Transnationalism*. Durham, NC: Duke University Press, 195-222.
- Ray, Sarah Jaquette. 2013. *The Ecological Other: Environmental Exclusion in American Culture*. Tucson, AZ: University of Arizona Press.
- Sachar, Ayelet. 2001. *Multicultural Jurisdictions: Cultural Differences and Women's Rights*. Cambridge: Cambridge University Press.
- Saxonhouse, Arlene. 1985. *Women in the History of Political Thought: Ancient Greece to Machiavelli*. (New York: Praeger).
- Seider, Rachel, ed. 2002. *Multiculturalism in Latin America: Indigenous Rights, Diversity and Democracy*. London. Palgrave/Macmillan.
- Speed, Shannon. 2008. *Rights in Rebellion: Indigenous Struggle for Human Rights in Chiapas*. Stanford: Stanford University Press.
- \_\_\_\_\_. 2006. "Rights at the Intersection: Gender and Ethnicity in Neoliberal Mexico." In Speed, Hernández de Castillo, and Stephen, eds., 203-221.

Speed, Shannon, R. Aída Hernández Castillo, and Lynn M. Stephen. 2006. *Dissident Women: Gender and Cultural Politics in Chiapas*. Austin: University of Texas Press.

Van Cott, Donna Lee. 2008. *Radical Democracy in the Andes*. Cambridge: Cambridge University Press.

Wade, Peter. 2010. *Race and Ethnicity in Latin America* (Second Edition). London: Pluto Press.

Walsh, Catherine. 2010. "Shifting the Geopolitics of Critical Knowledge: Decolonial thought and cultural studies 'others' in the Andes. In Walter D. Mignolo and Arturo Escobar, eds., *Globalization and the Decolonial Option*. New York: Routledge.

Warren, Kay B. and Jean E. Jackson. 2002. "Introduction" to Kay B. Warren and Jean E. Jackson, *Indigenous Movements, Self-Representation, and the State in Latin America*. Princeton: Princeton University Press, 1-46.

Weismantel, Mary J. 1998. *Food, Gender and Poverty in the Ecuadorian Andes*. Prospect Heights, IL: Waveland Press.

Yashar, Deborah. 2005. *Contesting Citizenship in Latin America: The Rise of Indigenous Movements and the Postliberal Challenge*. Cambridge: Cambridge University Press.