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Human Rights: Toward an Integrated Theory for Action

Riane Eisler

INTRODUCTION

Modern history has been shaped by the struggle for human rights. Though this struggle has been successful in important respects, human rights are still, at best, tenuous. Rather than steadily advancing, we are constantly forced to refight the same battles. Instead of becoming firmly rooted, even gains we have already made are chronically in jeopardy.

This article proceeds from three basic premises bearing on these problems: that the aim of the international human rights movement is to secure protection for individual rights; that this includes the rights of all human beings; and that, without a theory that integrates the human rights of half of humanity, the goal of the human rights movement, equal justice for all, cannot be attained.

The discussion that follows provides a historical overview of both the human rights and women's rights movements, examines some of the consequences of this separation for both women and society at large, and proposes that the construction of a unified action-oriented theory of human rights that may be applied to the *whole* of humanity-women as well as men - is now not only essential but also feasible.

The departure point, and juridical foundation, for such a theory is the gradual recognition by the United Nations of the right of women to the "exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men,"¹ culminating in the Convention on the Elimination of

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1. Convention on the Elimination of All Forms of Discrimination Against Women, art. 3, G.A. Res. 34/180, U.N. Doc. A/Res/34/180 (1980). For an overview of the traditional UN approach to the human rights of women, see Laura Reanda, 'Human Rights and Women's

All Forms of Discrimination Against Women. The Charter of the United Nations affirms the dignity and worth of all persons without distinctions as to race, religion, or sex. A number of subsequent UN declarations and conventions directly or indirectly address violations of the human rights of women.² But when, in December 1979, the UN General Assembly adopted this historic Convention, it marked the first time that the right of half of humanity to protection from oppressive practices embedded in laws and customs was forcefully addressed by this important international body.

This action was not only an important step toward the attainment of the three inter-related goals of the First United Nations Decade for Women: Equality, Development, and Peace;³ it also greatly accelerated the process of ending the principal legal distinctions that have traditionally excluded the rights of women from the purview of human rights activities.

HUMAN RIGHTS AND WOMEN'S RIGHTS

Human rights have traditionally been defined as "men's inalienable right to life, liberty, and property."⁴ The term "men" has sometimes been said to include women. But this has not been reflected in human rights theory or in its application.

Modern theories of "human rights" and "women's rights" have historically developed in two separate theoretical strains. Leading philosophers

Rights: The United Nations Approach," *Human Rights Quarterly* 3 (Spring 1981): 11-31. See also H. Pletila, *What the United Nations Means to Women* (Geneva: United Nations Non-Governmental Liaison Service, 1985).

2. See, e.g., the Universal Declaration of Human Rights, *adopted* 10 December 1948, G.A. Res. 217A (III), U.N. Doc. A/810 (1948); the Convention on the Political Rights for Women, opened for signature 31 March 1953, entered into force 7 July 1954, 27 U.S.T. 8289, T.I.A.S. No. 8289, 193 U.N.T.S. 135; the Convention on the Nationality of Married Women, *adopted* 29 January 1957, entered into force 11 August 1958, 309 U.N.T.S. 65; the Declaration on the Elimination of Discrimination Against Women, G.A. Res. 2263, 22 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6716 (1967); the Proclamation of Teheran, U.N. Doc. A/CONF.32/41 (1968); the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, *adopted* 2 December 1949, entered into force 25 July 1951, 96 U.N.T.S. 271; and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, signed 7 September 1956, entered into force 30 April 1957, 18 U.S.T. 3201, T.I.A.S. No. 6418, 266 U.N.T.S. 3.
3. See also 1979 State of the World Women's Report, United Nations; and *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development, and Peace*, U.N. Doc. A/CONF.94/35 (1980).
4. See, e.g., John Locke, "An Essay Concerning the True Original Extent and End of Civil Government" and J.J. Rousseau, "From the Social Contract," in *The World's Great Thinkers- Man and the State*, ed. S. Commins and R. Linscott (New York: Random House, 1947); and the Preamble to the U.S. Declaration of Independence.

writing on the "rights of man," such as John Locke in the 17th century and Jean Jacques Rousseau in the 18th century, specifically articulated a double standard of thought. Men were defined as individuals innately possessed of certain "natural rights." Women, on the other hand, were defined not as individuals but as members of men's households and thus, along with their offspring, under male control.* In response, women-such as Mary Wollstonecraft and Abigail Adams in the 18th century, Elizabeth Cady Stanton and Sojourner Truth in the 19th, and masses of women from both the developing and developed world in the 20th century - pressed for "women's rights." Women, they argued, are also individuals entitled to the same basic rights and freedoms as men.⁶

Nonetheless, the international movement for human rights has focused primarily on the rights of one half of humanity: men. Human rights theories continue to deal primarily with the so-called public or political sphere. Since women traditionally have been excluded from this sphere, this has in effect served to also exclude the rights of women from the category of rights protected from institutionalized oppression and discrimination. Even today, when women have made some inroads into the outside or "man's world," relations between women and men - along with women themselves - are in many nations largely confined to the familial or private sphere. So, in actual practice, international agencies working for the advancement of human rights continue to focus primarily on the relations between men and men.⁷

A traditional rationale for separating the private from the public sphere has been that what a man does in the confines of his home is strictly internal affair. By contrast, the idea that what governments do within the confines of their nations is a strictly internal affair has today explicitly been rejected by

5. See J.J. Rousseau, note 4 above. A little publicized sidelight on Rousseau's famous misogyny is provided by historian Linda Kerber, who notes that his sado-masochistic sexual tastes may have given Rousseau an additional stake in perpetuating the submission of women. See Linda Kerber, *Women and The Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill, N.C.: University of North Carolina Press, 1980).

6. For example, at the first United States Women's Rights Convention in 1848, Elizabeth Cady Stanton adopted the U.S. Declaration of Independence as a "women's rights manifesto" by adding to it two critical words: "We hold these truths to be self-evident: that all men *and women* are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Thus, in the same year that Marx and Engels issued the Communist Manifesto, demanding economic rights for the "working man," three hundred persons assembled in the Wesleyan Chapel at Seneca Falls, New York to assert that women are entitled not only to economic but also political and social rights; "to insist that they have immediate admission to all the rights and privileges which belong to them as citizens of the United States." "Seneca Falls Declaration of Sentiments," in *Feminism: The Essential Historical Writings*, ed. Miriam Schneir (New York: Random House, 1972).

7. For detailed information of how the human rights of women have been split off from the mainstream of the international human rights movement, see the special issue on "Symposium: Women and International Human Rights," guest ed. F. P. Hosken, *Human Rights Quarterly* 3 (Spring 1981).

human rights advocates. Indeed, the rejection of this idea is the theoretical basis for the international human rights movement.⁸

The international human rights movement recognizes that terms like "national sovereignty" or "national security" are frequently code words for maintaining a particular regime in power. But the idea that what national governments do should not be the subject of "outside interference" is both historically and conceptually a direct derivative of a far more entrenched idea. This is the traditional tenet that the male head of the family is entitled to rule over "his" women and children without any outside interference with "family autonomy" or "family integrity," terms that are frequently also code words for the preservation of male power. Both these ideas are inherent in patriarchal or androcratic thinking, deriving from the primitive notion that "a man's home is his castle," in other words, his private autocratic domain.

How integrally connected these two ideas have been may be seen in the English common law, which both linguistically and in specific penal provisions equated the "right" of kings to rule nations and the "right" of men to rule households. In the English common law, husband and wife were called baron and *feme*. That the word baron is to be taken literally, as signifying a ruler, is dramatically illustrated by the fact that if the *feme* killed her baron she was not punished as if she had killed another person. The law treated such a killing as a form of treason, and condemned her to the same terrible public punishment by torture as if she had killed the king.⁹

A commonly held view is that historically centralized authority has become more despotic as society has become more complex. But even a cursory glance at ancient and medieval history demonstrates that this is not factually accurate. A more accurate view would be that while centralized authority in the state became more effective with greater technological and social sophistication, modern history has in fact been the record of the progressive rebellion against despotic state control. Moreover, the model for despotism is very ancient, deriving from the despotic authority in proto-androcratic society of the male as head of his household. Recent archeological data verify that from the first imposition of male dominance, this power was literally the power of life or death.¹⁰

8. A distinction should be made between intervention by another nation to protect or advance its own interests, which is usually of a military character, and non-military attempts to intervene by international agencies for the protection of human rights. Since the French Revolution, there have been explicit statements by governments operating under a particular system (e.g. monarchies) that one nation may interfere in the internal affairs of another during times of threatened social change, particularly in cases of revolution, whenever a "legitimate" government is thereby threatened.

9. W. B. Blackstone, *Commentaries*, 19th London ed. (Philadelphia: Lippincott Co., 1908): 366.

10. Proto-androcratic describes a prototypical male dominant, violent, and hierarchical social organization. In Europe archeological data indicate that the shift from a matrilineal, matrifocal, and generally peaceful and egalitarian society to a patrilineal, patrifocal, and androcratic society began circa 4400 B.C. with the first wave of Indo-European (Kurgan)

Viewed from this larger perspective, splitting women's rights off from human rights may be seen to serve important systems maintenance functions in male dominant or patriarchal societies. The most obvious function is that by perpetuating the idea that the rights of women are of a different or lower order than the rights of "man," it serves to justify practices that do not accord women full and equal status. In other words, the segregation of women's rights from human rights both reflects and reinforces traditions where violations of the rights of women are not violations of either law or custom.

Beyond this, by preventing the formulation of a unified, and operationally effective, theory of international human rights, this double standard of thought has still another important systems maintenance function, it serves as a hidden but effective obstacle to fundamental systems change by preventing the application of the same standards to *all* human relations. This in turn serves to block the kinds of actions that could construct the psychological and sociological foundations for attaining the goals of the human rights movement: the creation of a social system where the human rights of *all* persons are full recognized and respected.¹¹

CULTURAL TRADITIONS, THE PUBLIC AND PRIVATE SPHERE, AND INDIVIDUAL RIGHTS

From the very beginning, the modern human rights movement has had to counter deeply entrenched patriarchal traditions. In the 18th, 19th, and in some places even the early 20th century, the "divine right of kings" to rule was staunchly defended by religious authorities. In addition, secular philosophers like Edmund Burke argued that the doctrine of the "rights of man" would lead "to the utter subversion, not only of all government, in all modes, but all stable securities to rational freedom, and all the rules and principles of morality itself."¹²

In the same way, the "women's rights" movement is to this day staunchly opposed by many religious authorities and some secular writers,

invasions. The archeological record evidences a dramatic change. For example, there is the first appearance of "chieftain graves" and what archeologists call "suttee burials." Here among the "funerary gifts" we find sacrificed women along with weapons and other possessions of the deceased, attesting to the continuation of the male's absolute power even after death. See, e.g., Marija Gimbutas, "The First Wave of Eurasian Steppe Pastoralists into Copper Age Europe," *Journal of Indo-European Studies* 5 (Winter 1977): 277-338. See also Riane Eisler with the contribution of David Love, *The Chalice and The Blade: Our History, Our Future* (San Francisco: Harper & Row, 1987), chap. 4.

11. See, e.g., Riane Eisler, "Human Rights: The Unfinished Struggle," *International Journal of Women's Studies* 6 (September/October 1983): 326-335; Eisler, *The Chalice and The Blade*, note 10 above.

12. Edmund Burke, quoted in Albuery Castel, *An Introduction to Modern Philosophy* (New York: MacMillan, 1946): 425.

for example George Gilder, who claims to represent "the man in the street." Once again, this opposition is on the ostensible grounds that women's rights are a threat to both family and social stability, as well as a subversion of the moral order.¹³

But when the double standard of human rights for women and men is analyzed in terms of its function for androcratic systems maintenance, the argument that women's rights are a threat to both our cultural traditions and family stability can be seen in a new light. The first thing that becomes apparent is that in this context the distinction between private or internal and public or political actions is merely another way of saying that in the private sphere of his home the male "head of household" *should* be in control-or that here the human rights of women *should not be* protected.

Certainly the right to privacy, or more precisely the right to protection from government interference with the right to privacy, is an important human right. The problem is that the terms *private sphere*, *family sphere*, and *right to privacy* have often been used interchangeably.

The term private sphere is generally applied to those areas of personal choice, action, and interpersonal relations where the government should not be able to interfere. But it is also often used to refer to the domestic or familial sphere. The question thus tends to become not whether there is interference with the individual right to privacy but whether there is government interference in the familial sphere.

By reframing the question it is possible to cut through some of this conceptual confusion, and to see how, while ostensibly protecting people's privacy, the distinction conventionally made between the public and the private sphere has often served as a means of preventing the application of developing human rights standards to the relations between men and women.

Let us return to the basic proposition that the aim of human rights activities is to secure protection for individual rights, and that one of these rights is the individual right to privacy. This right to privacy would include the right to freely choose with whom to speak and associate, with whom to have intimate (including sexual) relations, and, as long as it does not constitute a pattern of unlawful discrimination, the right to choose with whom to have, or not have, economic dealings. It would also include the right to freely choose whether to conceive or not to conceive, as well as the right to carry or not to carry a pregnancy to term.¹⁴

13. George F. Gilder, *Wealth and Poverty* (New York: Basic Books, 1981); see also Riane Eisler, *The Equal Rights Handbook: What ERA Means to Your Life, Your Rights, and the Future* (New York: Avon Books, 1978).

14. This is not to say that these rights have traditionally been protected or that even now they are uniformly recognized. For example, laws forbidding interracial marriage were once commonplace in the American South and still exist in some parts of the world. Freedom of speech and assembly are severely curtailed in many nations. So also is reproductive

If we then look at the family as a social institution, the fundamental question is to what extent has society the right to interfere with the family in the interest of protecting individual rights, of which the right to privacy is one.

The critical rearticulation for legal theory is that the right to privacy is not synonymous with the right to noninterference with actions within the family. Nor is it synonymous with the right by the head of the household to governmental noninterference with his actions within the family. The right to privacy in both thought and action is rather an individual right, which like other *individual rights*, should be protected from government interference, be it inside or outside the context of the family.

In reality of course, all social systems, be they "primitive" or "civilized" societies, interfere with internal family affairs. They do so through the regulation, by law and custom, of marriage. They do so through the regulation of divorce. They further interfere in the family sphere through myriads of long accepted laws and customs, ranging all the way from those prohibiting incest to those regulating the inheritance of family owned property.¹⁵

Indeed, the principle of noninterference with "family autonomy" is in actuality nowhere fully accepted. On the contrary, a universally established principle is that family relations are subject to both legal regulation and outside scrutiny. For example, the killing of one brother by another in the privacy of their home is regarded as a public offense in all modern codes of law.

In other words, the principle of noninterference with "family autonomy" is not consistently applied. It has in fact been applied in a very selective manner designed to maintain a particular type of familial (and social) organization: a male headed, procreation-oriented patriarchal family in which women have few if any individual rights."

In many American states as late as the 19th century (long after the Declaration of Independence proclaimed that all men have inalienable rights to life, liberty, and property), women were legally divested of all property rights. Economic transactions were to be carried out for women by their male guardians, and when a woman married (and marriage was most women's only option for social respectability and economic survival), her husband in effect became the legal guardian of both her person and her property. Upon marriage women were legally divested of any right to con-

freedom of choice even though, as U.S. Supreme Court Justice Harry A. Blackmun recently wrote, "few decisions are more personal and intimate, more properly private or more basic to individual dignity and autonomy than a woman's decision ... whether to end her pregnancy." *Thornburgh v. American College of Obstetricians and Gynecologists*, 105 S. Ct. 2169 (1986).

15. Riane Eisler, *Dissolution: No-Fault Divorce, Marriage, and the Future of Women* (New York: McGraw-Hill, 1977).

16. Ibid.

trol property, including property they brought into the marriage. Also under the male's control were any wages his wife earned through her own labor. She did not have the right to sue for injuries to her own body, and any damages therefore, along with the right to her sexual services, became male property. And even today in many developing nations, women's property rights, along with their right to freely choose whom to marry or not to marry, as well as the right to divorce, are still extremely curtailed.¹⁷

Women's political rights have traditionally also been largely nonexistent. In the Cradle of Modern Democracy, the U.S. Constitution did not guarantee women the most elementary of all political rights, the right to vote, until 1920 (a half century after the Fifteenth Amendment granted that right to freed male slaves). And it was not until 1973 that the U.S. Supreme Court held that the most elementary of private rights, the right to decide whether to carry a pregnancy to term, was constitutionally protected under the right to privacy. Moreover, this right, as well as the right of both women and men to freely choose whether to conceive or not, is today under massive attack in the United States. And in many regions of the developing world (ironically often those with the highest poverty and, correlatively, birth rates), women have no right to reproductive freedom and are defined by both law and custom as literally male controlled mechanisms of reproduction.

A shocking case in point are the genital mutilations of women which still kill, maim, and blight the physical and psychological health of millions of women and little children every year in many parts of Asia and Africa today.¹⁸ Unlike male circumcision, with which these practices are sometimes erroneously equated, these are not simply ceremonial cuttings of

17. For an excellent overview of how under both law and custom women continue to be deprived of property rights, see F. P. Hosken, "Women and Property," *Development Forum* (October 1984). Under Hosken's direction, Women's International Network (WIN) is currently developing a detailed program and budget for a worldwide investigation of women's property/land rights, which will be a future International Research and Training Institute for the Advancement of Women (INSTRAW) project.

18. See, e.g., Sudan: *National Study on the Epidemiology of Female Circumcision*, the first systematic countrywide investigation of genital mutilation by Dr. Asma El Dareer, Department of Community Medicine, University of Khartoum, 1980; F. P. Hosken, *The Hosken Report: Genital and Sexual Mutilation of Females*, (Lexington, Mass.: WIN News 1982, 1984): 38-39, the first comprehensive work to bring these practices to public attention; A. C. Selassie, M. Desta, and Z. Negesh, "Harmful Traditional Practices Affecting the Health of Women and Children in Ethiopia," Report funded by UNICEF/AAO Ethiopia, P.O. Box 1169, Addis Ababa, Ethiopia; Odile Botti, "The Battle Against Excisions by Africans: A Survey of Actions in Three West African Countries," *Marie Claire* (November 1985); Salah Abu Bakr, *The Effect of Vulval Mutilation on the Nerve Supply: Anatomical Considerations*, Ministry of Health, Sudan (the monograph unequivocally establishes these operations deprive women of ability to feel genital sensation); Renee Saurel, *L'Entree Vive* (Geneve-Paris: Editions Slatkine, 1981); numerous other materials including Enaba, *Aziza Wa Abeer*, the 1980 documentary film on women's lives and clitoridectomy, by Dr. Laila Abou-Saif, an Egyptian filmmaker; and the excellent up to date reports in the Section on Genital and Sexual Mutilations of Females that appear in the

skin. They consist of cutting off the clitoris (designed to deprive women of sexual pleasure, and thus presumably the desire to "stray") and/or cutting off the labia and tightly sewing up the vaginal opening (making sexual intercourse a painful activity or actually impossible until a larger opening is again cut before marriage).¹⁹

Due to the challenge by women's rights advocates in many nations across the world, this once taboo subject has recently been exposed to public attention. As a result, a number of national leaders have condemned such practices and in some nations laws that prohibit them have been enacted.²⁰ But to date international human rights organizations have not taken a firm position on this important issue and have done little to encourage the passage and enforcement of such laws.

The ostensible basis for this inaction is that these are private rather than public practices and thus outside the purview of international human rights conventions. But clearly these practices are violations of a woman's right to privacy in the most fundamental sense: they are invasions of the basic human right to physical and sexual integrity. Were the practice in question the comparable act of cutting off a male's sexual parts, the international outcry surely would have been deafening.

International efforts to see that laws prohibiting torture and mutilation are enacted and enforced are a top human rights priority. Why should international efforts to encourage the enactment and enforcement of laws prohibiting the barbaric torture and mutilation of women be considered outside the purview of international human rights organizations?

One argument might be that genital mutilation is technically outside what is considered torture. In the conventional legal-political sense, torture is usually discussed in a different context.²¹ It is condemned as an instrument

quarterly *WIN News*, published by F. P. Hosken. For an important article examining the human rights issues involved, see F. P. Hosken, "Female Genital Mutilations and Human Rights," *Feminist Issues* 1 (Summer 1981): 3-23.

19. Among African nations that have recently begun to take measures against the continuation of genital mutilations are Egypt, Kenya, and Sudan, where in 1979 the Khartoum Seminar organized by the World Health Organization (WHO) was held and recommendations were made to eradicate these practices. Since these "operations," which are sometimes fatal, are being exported to Europe along with Moslem and African immigrants, a number of European nations, including France, Sweden, and Great Britain have also recently begun to address these practices. M. Abdou Kiouf, President of Senegal, Thomas Sankara, Chief of State of Burkina Faso, Mathieu Kerkou, Chief of State of Benin, Moussa Traore, President of Mali, and Hassan Gouled Aptidom, President of Djibouti, have also spoken out against these practices. Quoted in *WIN News* 12 (Spring 1986): 31.

20. *Ibid.*

21. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc. A/39/708 (1984), art. 1:

For the purpose of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third per

of political oppression, a means of obtaining confessions or information, and above all, of exacting conformity and suppressing dissent. But while the practice of genital mutilation is deeply imbedded in religious rites and/or ethnic customs, its essential purpose is to exact conformity, and, like the torture of political prisoners, it is a most effective means of breaking a person's spirit. In the realm of sexual politics, it is a means of perpetuating male power over - indeed, male ownership of - women. It is in fact an even more effective instrument of exacting conformity and suppressing dissent precisely because even the victim is socialized to accept and to expect it. Beyond this, it is a traumatic torture that not only causes death and immediate physical damage but also afflicts its survivors with painful physical and mental problems for the rest of their lives.

Despite all this, there are those who still argue for the international human rights agencies to press for the enactment and enforcement of laws prohibiting genital mutilation would be improper interference with ethnic traditions, constituting merely one more form of "Western cultural imperialism." The fact is that non-Western women are today in the forefront of the movement to eradicate these practices.²² Moreover, in the last analysis, the idea that one can justify genital mutilation in the name of respect for cultural traditions is not only horrifying, but ludicrous. All institutionalized behavior, including cannibalism and slavery, are cultural traditions. And surely no human rights advocate, or for that matter anyone else, would today dare to justify cannibalism or slavery-which were once also hallowed ethnic traditions in certain cultures-on cultural or traditional grounds.

THE UNDERLYING ISSUES

In the 18th century, when the modern human rights movement was still in its infancy, Western feminists challenged the medieval idea that a man's home is his castle where he is the sole and undisputed ruler. Today women from both the developed and developing world are demanding respect for the human rights of women - be it in the public or private sphere -and looking to international human rights organizations for support.

Explicitly challenging traditions that oppress and exploit women, the international women's movement is also implicitly challenging the idea that

son, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

22. For example, at the 1985 UN End of the Decade for Women Conference in Nairobi, Kenya, attended by the author, some of the clearest voices against genital mutilation were those of Muslim women. Even among the still rigidly male dominated Masai tribes of Kenya, women are now beginning to reject these "traditional practices."

what a man does to members of his family is outside the purview of human rights protection. Nonetheless, this idea has been extremely resistant to change, even though it is as primitive and inhumane as the notion, specifically and properly rejected by human rights conventions, that human rights organizations may not interfere with what a government does to members of its nation. It has been a very effective way of maintaining an androcratic or patriarchal social order, since women's confinement to the home is most rigid precisely in those time and places where men most despotically rule in their homes.

The real issue is therefore one of priorities. As we have seen, it is clearly not whether human rights standards should apply to private as well as public acts. Rather, the issue is what types of private acts are and are not protected by the right to privacy and/or the principle of family autonomy. Even more specifically, the issue is whether violations of human rights within the family such as genital mutilation, wife beating, and other forms of violence designed to maintain patriarchal control should be within the purview of human rights theory and action, particularly in social systems where women have traditionally been confined to the private or familial sphere.

Reduced to its simplest and most basic terms, the underlying problem for human rights theory, as for most other fields of theory, is that the yardstick that has been developed for defining and measuring human rights has been based on the male as the norm.²³ The fact, of course, is that women are half (globally actually the majority) of the human population. The life experiences that are for either biological or traditional reasons typical for women are both similar to and different from those of males. The development of what may accurately be described as a theory of human rights therefore requires both a female and male yardstick for the protection of human rights.

From a systems perspective, the selective limitation of human rights standards to the public or political sphere and the double standard for women and men described by the distinction between "women's rights" and "human rights" may be seen as attempts to evade this basic issue. That this is the underlying problem may also be seen by taking a closer look at the related distinction between public or governmental and private or individual acts.²⁴

Human rights organizations have consistently, and correctly, condemned governments that fail to protect their citizens from officially con-

23. For an excellent recent article stressing this point and the problems it creates for "equality theory," see Lucinda M. Finley, *Transcending Equality Theory: A Way Out of the Maternity and the Workplace Debate*, *Columbia Law Review* 86 (October 1986): 1118-81.

24. See, e.g., Riane Eisler, "Human Rights: The Unfinished Struggle," note 11 above; F. P. Hosken, "Editorial: Women's Rights and Human Rights," *WIN News* 10 (Spring 1984): 1-2. As Hosken writes, "An examination of human rights on the global level is meaningless unless it is based on the examination of human rights on the family level, and between family members, women and men."

doned acts of violence and torture as being in violation of human rights. In conformity with this position, the failure of governments to protect girls and women from the violence and torture of genital mutilation should logically also be viewed as violations of human rights. So also should be the failure of governments to provide protection from the terrorism of other traditional forms of male violence, such as wife battering and rape. For by failing to enact laws prohibiting such acts or failing to enforce such laws, a government is condoning acts of violence.

Moreover, if laws prohibiting incest or regulating inheritance are acceptable interferences in people's private lives, how can laws that would prohibit the sexual mutilation of female children or the beating of women be unacceptable interferences? There are still nations where a man's physical assault and battery of his wife as punishment for not obeying his orders is sanctioned by law.²⁵ Indeed, not so long ago such laws were part of the mainstream of Western tradition, with laws permitting a man to physically "punish" a "disobedient" wife only repealed in many American states during the 19th century. Moreover, even today in the United States and other "developed" nations, the police rarely arrest men for violating laws against wife battering - even though if they were to beat a stranger they would certainly be arrested. And in some "developing" nations, presumably following Islamic law, the police actually bring women back by force to homes they have fled because of abuse!²⁶

Laws permitting men to beat women who do not obey them are as much violations of human rights as would be laws permitting police beatings of those who fail to obey their governments. And the right of a woman to be free of male violence and brutality is as much as human right as the right of a man to enjoy freedom from fear of police brutality and violence.

Here again, the real issue is not whether ethnic traditions should, or should not, be within the purview of human rights theory and action. It is rather whether - be it in the private or the public sphere - protection of the human rights of women should be a top priority.

That this is the underlying issue becomes strikingly evident in light of yet another generally ignored fact. This is that the failure of human rights theory to include traditional practices that violate the human rights of women does

25. For example, in Kenya a bill that would have required reforms in polygamy and traditional violence against women was shelved by an overwhelming majority in 1979. One of the legislators, Kimunai arap Soi, charged that the bill would make it impossible to teach wives "manners" by beating them and that the proposed legislation was "very un-African." Another opponent, Wafula Wabuge, contended in opposition to the bill that African women loved their men more when they were slapped, "for then the wives call you darling." Time Magazine report quoted in *WIN News 5* (Autumn 1979): 42.

26. For continuing reports see *WIN News* regular section on Women and Violence. For a historical view of American law see Riane Eisler, *Dissolution: No-Fault Divorce, Marriage, and the Future of Women*, note 15 above.

not in reality hinge on the distinction between private and public action. There are actually many areas of direct government action where the denial to women of basic human rights is explicitly condoned and openly enforced by governments.

A notable example is segregation by sex. South African apartheid, or the government-enforced segregation of blacks and whites, is universally and properly considered a basic and urgent human rights issue. But the segregation of women and men is enforced by the governments of many nations. And while it affects many more millions of people, and is certainly no less urgent and major a human rights issue, the still widespread segregation based on sex has as yet not been condemned by any of the major human rights organizations.

The "separate but equal" policy that was a tradition in the American South was in the 1950s exposed as a smokescreen for racial discrimination that unlawfully curtailed blacks' opportunities in education and other spheres of life.²⁷ The "separate but equal" policies of governments that continue to segregate men and women in education and other spheres of life is no less a smokescreen for gender based discrimination. There is ample documentation of this fact. For example, in Saudi Arabia, which rigidly segregates the sexes, only 19 percent of women are literate as compared to 44 percent of men. Similarly in Pakistan the ratio is 22 to 44 percent, in Algeria it is 33 to 69 percent, in Egypt it is 30 to 59 percent, and in Iran it is 39 to 62 percent.²⁸

On the same grounds that the segregation of blacks and whites is universally condemned, the segregation of women and men must be universally condemned. Human rights advocates loudly and properly reject the idea that blacks are too primitive and savage to have the same freedom as whites. But where are the objections to the teaching, formally incorporated into the curriculum of no less an institution than the University of Teheran, that women are weak and dangerous and must therefore be controlled by men?²⁹ Where are the objections to the requirement, officially enforced at the University of Teheran and other schools that mold the minds of millions of people in Africa and Asia, that females may not share classrooms with males? Isn't this the same abhorrent practice as the former separation of white and black students in the American South? Why, if human rights advocates vigorously condemn apartheid (the splitting off from the mainstream of society those who happen to be born black) do they not also vigorously condemn the splitting off from the mainstream of society those who happen to have been born female?

27. See, e.g., *Brown v. Board of Education*, 347 U.S. 483 (1954).

28. Ruth Leger Sivard, *Women: A World Survey* (Washington, D.C.: World Priorities, 1985).

29. *WIN News* 9 (Autumn 1983): 42.

Because the examples from the Middle East are most striking, the temptation may again be to frame the issue in regional and/or religious terms. Segregation by sex, however, is to varying degrees a universal problem, characteristic of Eastern and Western secular and religious societies. It is instructive, and sobering, to remember that sex segregation was practiced in U.S. universities until World War II. Moreover, a universal remnant from earlier and more severe forms of sex segregation in the West is the segregation of jobs into "men's" and "women's" work, with any work assigned to women also assigned lower pay and status, regardless of requirements of technical skill, intellectual ability, or moral sensitivity.³⁰ In other words, framing the problem in ethnic or religious terms veils its function of androcratic systems maintenance.

The problems behind sex segregation and other institutionalized practices that deny women equal protection from discrimination and oppression are of course not only legal. But examples such as the U.S. Supreme Court case of *Brown v. Board of Education* demonstrate that laws are the floor on which social progress rests. International law that fully integrates "women's rights" into "human rights" would establish the foundation for a just and humane world order.

This is by no means to say that women's rights must not be separately, and vigorously, advocated. Quite the contrary, just as black rights have to be viewed as a particular urgent category of human rights, women's rights require similar attention. Indeed, the fully integration of women's rights and human rights hinges on a vigorous international women's rights movement.

A SYSTEMS VIEW OF HUMAN RIGHTS

A first major step in the modern human rights movement aimed at the top portion of the patriarchal pyramid, was the successful challenge to the "divine right" of kings to rule.³¹ The second major step is the successful challenge of the "divine right" of men to rule. Largely because this second challenge has not yet been successful, the modern struggle for human rights remains incomplete. It has left the bottom part of the patriarchal pyramid, the foundations upon which a hierarchic and authoritarian system rests, in place.

Thanks to the cumulative effect of the 19th and 20th century feminist movement, which is now spreading to all parts of the globe through the First

30. A classic work on this subject is Carolyn Bird, *Born Female* (New York: Pocket Books, 1968).

31. Even before this. Renaissance humanists attacked the traditional body of intolerance of Western society (particularly its religious dogmatism). This opened the debate that made it possible during the Enlightenment to frontally challenge the divine right of kings.

United Nations Decade for Women, this hitherto invisible obstacle to the attainment of human rights for all peoples is increasingly being recognized. But to date, this recognition has remained largely peripheral to the mainstream of human rights theory. As a result, the human rights movement and the women's rights movement have remained generally segregated, with severely deleterious consequences for the human rights of *both* women and men.

For women, the consequences of a traditionally imposed second place, be it in the family or in the broader social, economic, and political spheres, have been, and continue to be, severe infringements of the most basic of human rights: the rights to life, liberty and property. So severe is the infringement of women's property rights that, even though women perform two-thirds of the world's work hours, globally women own only one-hundredth as much property as men.³² The infringement of women's right to liberty is also still commonplace in many parts of the world. The extent to which women's freedom of movement is interfered with is perhaps most dramatically illustrated by the Eastern practice of *purdah*. While for many women this is an effective form of house arrest, it is still generally viewed by Westerners as no more than a quaint ethnic tradition, much as the crippling footbinding that almost totally restricted the liberty of Chinese women was once seen. Similarly, while laws and customs that restrict women's life opportunities are still so numerous as to be almost ubiquitous, and have throughout history been the cause of tremendous suffering, indignities, and injustices, they are still so generally taken for granted that they are often merely considered "women's lot in life."

Even the killing of women - through female infanticide or through the culturally approved "family honor" murders of "errant" daughters or wives-has traditionally been sanctioned in many parts of the globe.³³ Moreover, through systematic discrimination in food and health care allocation, girls have often been subject to socially sanctioned criminal neglect. For example, a recent Bangladesh survey found that infant girls were 21 per-

32. 1985 *State of the World Women's Report* (Oxford, U.K.: compiled and written on behalf of the United Nations by New International Publications, 1985). See also note 17 above.

33. For example, a 3 January 1981 story in the *Journal-American* reported:

Unmarried pregnant Arab girls who may face death at the hands of their relatives are escaping by "underground railway" from the tradition-bound West Bank of the Jordan River to Europe. Families frequently kill such girls in the name of honor.... Even modern societies in countries like Lebanon and Egypt still do not deal harshly with perpetrators of so-called "honor killings."... "It's impossible to get exact figures," a physician said, "but I would estimate that there is one honor killing a week in the West Bank.... The girls usually are poisoned or burned to death and the murder made to look accidental," he said. He described some cases: "A father in Hebron, south of Jerusalem, reports that his daughter killed herself by jumping into a well. An autopsy shows she was poisoned.... (A) 17-year old girl with burns over most of her body and face has a miscarriage in a hospital. Her family says a kerosene heater tipped over accidentally."

Excerpt reprinted in *WIN News* 7 (Spring 1981): 52.

cent more likely than boys to die in their first year of life.³⁴ And it is estimated that in the Indian subcontinent boys outnumber girls among hospitalized children by approximately fifty to one even though malnutrition has been found to be four to five times more common among girls.³⁵ So the cost to women of the still prevailing double standard for the rights of women and men has all too often been the cost of life itself.

But as severe as the consequences have been for women, the consequences of diminishing the opportunities and abridging the rights of half the population have been no less serious for society at large.³⁶ Perhaps the grimmest, though still generally ignored, case in point is the effect of sexually discriminatory practices on health.

It is a well known fact that in many parts of the world women's right to equal access to food is severely abridged by practices ranging from food taboos restricting women's protein intake to the custom of women eating after they have cooked for and served the male family members. A less well known fact is that, according to World Health Organizations figures, no less than half of all women and 60 percent of pregnant women in Third World nations suffer from nutritional anemia.³⁷ Since the health of a pregnant woman affects the health of her unborn child, the predictable result for society at large is the birth of children of *both* sexes who are physically, and often also mentally, impaired. In other words, largely as a result of the so-called women's issue of traditions that effectively deprive women of equal access to food, the health and well being of entire populations is severely damaged.³⁸

Last, but not least, are the disastrous consequences of the double standard of human rights for women and men for the attainment of the just social order that is the goal of the modern struggle of human rights. If we look at the totality of our social institutions from a systems perspective, focusing on the relationship between the various parts of the social system, it becomes apparent that the major obstacle that at every turn has blocked or

34. See, e.g., *Review and Appraisal: Health and Nutrition*, World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, Nairobi, Kenya, July 1985, U.N. Doc. A/CONF.116/5Mdd.3; "Women in Food Production, Food Handling and Nutrition with Special Emphasis on Africa," study by the United Nations Protein-Calorie Advisory Food Group, *PAG Bulletin* III (September/December 1977) as well as the latest PAG report summarized in *WIN News* 12 (Summer 1986), and Fran Hosken, *The Hosken Report* section on Women and Development (see note 1B above). Further information may be obtained from Women's International Network, 187 Grant Street, Lexington, MA 02173.

35. *Review and Appraisal: Health and Nutrition*, note 34 above.

36. Eisler, "Human Rights: The Unfinished Struggle," note 11 above; Eisler, *The Chalice and The Blade*, note 10 above.

37. Sivard, note 28 above.

38. Eisler, *The Chalice and The Blade*, note 10 above; Riane Eisler and V. Csanyi, *Human Biology and Social Structure*, work in progress.

reversed the movement for human rights is that the rights of one half of humanity have not been effectively addressed.

How we structure the most fundamental of all human relations-the relation of the female and male halves of humanity - has profound implications for how we structure all human relations.³⁹ As John Stuart Mill wrote over one hundred years ago in a work that is still generally relegated to the women's ghetto of feminist studies, only when "the most fundamental of the social relations is placed under the rule of equal justice" can a just society be realized.⁴⁰ As long as one set of rules and public policies continues to be applied to one half of humanity and another set to the other, the very foundation for the protection of human rights, that *all* human beings have certain inalienable rights, remains fatally undermined.⁴¹

Viewed in systems terms, the right to be free of tyrannical violence and a social organization that sanctions violence in the most intimate social relations - between women and men - are totally incompatible. This seemingly self-evident fact has recently been verified by the author in a new study of society from a gender holistic perspective, that is, an approach that takes into full account the experiences of both the female and male halves of humanity. This study indicates that there is an integral relationship between all forms of male socialization for violence. It also shows that more rigidly male dominant societies tend to be more rigidly repressive of both women and men. Moreover, it confirms that violence or the threat of violence plays a critical part in the maintenance of a male dominant or patriarchal social organization, where the ideal for social relations is imaged in the form of a pyramid, with a strongman ruler and/or a small male elite ruling from the top, and all men in turn ruling over women and children.⁴²

A MAJOR STEP FOR HUMAN RIGHTS

As the First United Nations Decade for Women evidences, women all over the world are today asserting that the same human rights standards that are already widely applied to the relations between men and men should apply

39. Eisler, *The Chalice and The Blade*, note 10 above.

40. John Stuart Mill, "The Subjection of Women," in *The Feminist Papers*, ed. Alice S. Rossi (New York: Bantam Books, 1973), 238.

41. Eisler, "Human Rights: The Unfinished Struggle," note 11 above; Eisler, *The Chalice and The Blade*, note 10 above.

42. See, e.g., Riane Eisler and David Loye, "The 'Failure' of Liberalism: A Reassessment of Ideology from a New Feminine-Masculine Perspective," *Political Psychology* 4 (June 1983): 375-391; Eisler, *The Chalice and The Blade*, note 10 above; Riane Eisler and David Loye "Peace and Feminist Thought: New Directions," *World Encyclopedia of Peace* (London: Pergamon Press, in press); Riane Eisler, "Violence and Male Dominance: The Ticking Time Bomb," *Humanities in Society* 7 (Winter, Spring 1984): 3-18.

to the relations between women and men. One result has been the UN Convention on the Elimination of All Forms of Discrimination Against Women, adopted shortly before the midpoint of the Decade. Because it expressly addressed violations of the human rights of women, the Convention is a potentially pivotal turning point in the human rights movement.

The Convention on the Elimination of All Forms of Discrimination Against Women was the first UN document to recognize expressly that, despite other international conventions against discrimination, violations of the human rights of half of humanity still remain generally ignored. It was also the first UN instrument to deal comprehensively with all aspects of women's human rights, to establish standards that are binding on states parties (i.e., ratifying nations), and to set up the machinery for exerting pressure on national governments to abide by these standards. In specific, although still largely unnoted, respects, the Convention addressed some of the major theoretical barriers to a unified, and operationally effective, theory of human rights.

Article 1 expressly addresses the traditional distinction between the public or external and private or internal sphere. It defines the term "discrimination against women" as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, *irrespective at their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.*"⁴³ In other words, it calls for the international recognition of the human rights of women *both* inside and outside their traditional private or familial sphere.

Article 16 goes even further, specifically stating that "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to *marriage and family relations*" (emphasis added). It also requires that states parties shall ensure women traditionally "private" rights, such as the "rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights." It requires recognition and enforcement of women's right "to choose a family name" and "a profession and an occupation." And in requiring protection of women's rights of "ownership, acquisition, management, administration, enjoyment and disposition of property," it directly challenges the male's economic control of the family.⁴⁴

43. Convention on the Elimination of All Forms of Discrimination Against Women, art. 1, U.N. Doc. A/34/46 (1980) (emphasis added).

44. *Ibid.*, art. 16.

Of major significance is that the Convention expressly addresses the traditional justification of denying human rights to women on the basis of ethnic customs or practices. Article 5 states that:

States Parties shall take all appropriate measures:

(a) To modify *the social and cultural patterns of conduct of men and women, with a view to achieving the limitation 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.*⁴³

The importance of this provision cannot be overestimated. As ungenerous as the law has traditionally been to women, at least in modern times violations of human rights of women have remained far more entrenched in attitudes and customs. Despite the adage that morality cannot be legislated, habits of thinking and acting can be and have been changed by law, particularly if these laws have strong and consistent official support.

But the Convention on the Elimination of All Forms of Discrimination Against Women not only provides essential guidelines for national policies. Of equal importance is that it constitutes the hitherto missing link for the construction of an internally consistent theory of human rights that expressly rejects the traditional exclusion of "women's rights" from the purview of international human rights activities.

This is a critical step toward the completion of the modern struggle for human rights. The exclusion of "women's rights" from the purview of international efforts aimed at protecting human rights has not only helped maintain severe infringements of the human rights of women worldwide - but has also subverted and undermined the entire human rights movement. The ratification of the Convention by all world governments must therefore be a major policy goal of international human rights organizations.

It is often argued that change has to come from inside. Pressure for change is indeed mounting from inside in most, if not all, nations on earth - as evidenced by the First United Nations Decade for Women, with its three major international conferences and grass-roots participations by women of all races, creeds, and nationalities. The critical point is that time and time again these women have expressed the need for outside support because of enormous internal efforts to suppress the forces working from inside for humanistic social change. And this is precisely what the international human rights movement is designed to provide.

Organizations such as Amnesty International are beginning to focus more attention on the rights of female political prisoners. Vigorous support by international human rights organizations for the ratification of the Con-

45. (*ibid.*, art. 5 (emphasis added)).

vention on the Elimination of All Forms of Discrimination Against Women and the reformulation of human rights theory to explicitly include the female half of humanity are the next logical steps. This will not only accelerate urgently needed humanistic social change affecting one half of the human population but also lay the essential foundations toward a fully integrated and effective movement for international human rights.

FORWARD OR BACKWARD

It should be enough to say that the full recognition of the rights of half humanity is essential to finally put an end to the suffering and degradation women and female children. But unfortunately it is not enough. It has long been said, and fallen largely on deaf ears.

One of the many illustrations is the lack of attention given to the well documented practice of female sexual slavery. The 1974 INTERPOL (General Secretariat of the International Police Organization) report to the United Nations documented South American, Mid Eastern, Asian, European, and African networks that traffic-and often sell-women into prostitution and other sexual markets. The UNESCO report in 1975 on prostitution "hotels" in Europe was another horrifying documentation of the torture and imprisonment of women in prostitution. Nonetheless, there was no follow-up to either.⁴⁶

Similarly, widespread practices such as bride-payment, forced marriages, seclusion and veiling, genital mutilation, and polygamy-all designed to establish, transfer, and maintain male ownership of women – have yet to be addressed by international human rights organizations.⁴⁷ The United Nations has adopted a number of conventions specifically condemning slave or the ownership of one human being by another, and any form of slave trade. That female sexual slavery, which in one form or another affects a very large proportion of the world's population, is in violation of these conventions has clearly been articulated. As Fran Hosken writes, "a man claiming to own the body and labor of another man would be instantly accused of slavery. Is it not a human rights violation if a man claims to own the labor, indeed the bodies of the female members of his family-as is the case in many traditional societies?"⁴⁸ Nonetheless, these massive violations of the basic

46. Kathleen Barry, "Female Sexual Slavery: Understanding the International Dimensions Women's Oppression" *Human Rights Quarterly* 3 (Spring 1981): 45.

47. *Ibid.*, 44-45.

48. Fran P. Hosken, "Editorial: Women's Rights and Human Rights," note 24 above. For a good overview of the "invisibility" of these human rights violations, see "Symposium: Women and International Human Rights," *Human Rights Quarterly* 3 (Spring 1981).

human right to liberty are effectively ignored, dismissed as violations of "women's rights."

But while until now neither appeals to reason or compassion have succeeded, the time may be ripe for a change. Perhaps never before in modern history has there been such a massive attack on human rights. This attack is global, transcending such conventional ideological labels as Right or Left, Eastern or Western, secular or religious.* What may turn the tide and lead into a new era for the human rights of both women and men is that the battle lines are increasingly being drawn around so-called women's issues.

All over the world today those working to push us back to "the good old days" before the rights of either women or men were a social and political issue, advocate a return to traditions that maintain the sexual and social subjugation of women. In the United States, the far Right has spent millions to fight the Equal Rights Amendment to the U.S. Constitution as well as reproductive freedom of choice, pay equity, educational equity, and even shelters for battered women and laws against child and wife beating, because they would weaken male rule in the home. Similarly, in many Third World nations, those who display the greatest indifference to existing international conventions on human rights see women's rights as a prime target. For example, for the Ayatollah Khomeini, whose tyrannical regime chronically violates human rights conventions, the return of women to their proper or subservient place is a top priority.⁵⁰

But for many human rights leaders, women's issues are still at best secondary. When violations of the human rights of women are brought up, a standard retort is that as long as men on this earth are tortured, mutilated, killed, or unjustly imprisoned, how can they be expected to deal with anything else? The problem seems to be more lack of perception than lack of good will. Under the double standard of "human rights" and "women's rights," the killings of "errant" women or "unsatisfactory" brides by members of their own families in Moslem nations and India, the imprisonment of women through *purdah* and other traditions confining them to virtual house-arrest and generally restricting their freedom of movement, and the well-documented barbarism of mutilating and torturing millions of little girls and women through "female circumcision" are somehow not perceived as mutilations, tortures, killings, and imprisonments that brutally violate human rights. Rather, they are regarded as regrettable aspects of the situation of women in places where different customs prevail.⁵¹

It is ironic that the systems connection between "women's rights" and

49. See, e.g., Riane Eisler, "Women's Rights and Human Rights," *The Humanist* (November/December 1980): 24-29; Riane Eisler and Davit Loye, "The Failure of Liberalism: A Reassessment of Ideology from a New Feminine-Masculine Perspective," note 42 above.

50. See, e.g., Riane Eisler, "Women's Rights and Human Rights," note 49 above.

51. Ibid.

"human rights" is, in both theory and action, more often recognized by those working against, rather than for, human rights. And it is also extremely dangerous to the human rights of both women and men.

The recognition that women's rights are the leading edge of human rights is both operationally and logically the prerequisite for the kinds of actions required to lay the foundations for a just social order. A unified theory of human rights encompassing both halves of humanity is essential if a basic respect for human rights is to become firmly rooted. Only then can the unfinished struggle for equal justice for *all* - the struggle for human rights - be completed.