

Feminist Bioethics

At the Center, on the Margins

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The Right to Life

Rethinking Universalism in Bioethics

MARY C. RAWLINSON, PH.D.

Social justice, and especially sexual justice, cannot be achieved without changing the laws of language and the conceptions of truths and values structuring the social order. Changing the instruments of culture is just as important in the medium to long term as a redistribution of goods in the strict sense. You can't have one without the other.

Luce Irigaray, "How to Manage the Transition from Natural to Civil Coexistence?" in Democracy Begins between Two, 2000

In October 2003, the General Conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) decided that it was "opportune and desirable to set universal standards in the field of bioethics with due regard for human dignity and human rights and freedoms, in the spirit of cultural pluralism inherent in bioethics" (32 C/Res. 24, 46-47). A committee of seven, composed mainly of scientists, physicians, and lawyers and including two women and two philosophers, drafted the "declaration of universal norms in bioethics." Between January 2003 and October 2005, consultations with U.N. member states were conducted, and the draft declarations were debated at meetings in Paris to which observers from nongovernmental organizations and other interested parties were invited.¹

On October 19, 2005, the General Conference of UNESCO adopted the *Universal Declaration on Bioethics and Human Rights*.² The document identifies bioethics narrowly, as "ethical issues raised by the rapid advances in science and their technological implications" (preamble). The problems of bioethics, the

document insists, result from *progress* in science and technology and are the unfortunate side effects of an immense good. Given its focus on research and the value of new knowledge, the document defines the protection of individual autonomy and the conditions of consent as the central issue of bioethics, invoking, as a guiding principle, maximizing benefit and minimizing harm. The website of the Bioethics Section of UNESCO, under whose auspices the document was formulated and promulgated, aggressively reinforces this definition of bioethics as limited to issues raised by scientific experimentation, scientific practice, and the use of new technologies in the life sciences. The paradigm problems of bioethics for UNESCO's Bioethics Section are "stem cell research, genetic testing, cloning."

The section's introduction to the *Universal Declaration on Bioethics and Human Rights* is more ambiguous, citing obliquely the development of bioethics beyond its core issues in the life sciences to include "reflection on societal changes and even on global balances brought about by scientific and technological developments." This recognition of the complicity of scientific progress in social injustice is, however, left behind in favor of an abstract summary of these "new" questions under the heading of the "relationship of ethics, science, and freedom."

The document explicitly addresses member states of the United Nations and is meant both to promote and to guide the operation of national bodies regulating scientific research and medical practice. The website gives an excellent history of the meetings and activities of the various committees involved in promoting the declaration, especially through the formation of national bodies charged with applying its provisions. Clearly, the purpose of the document, and of the whole project, is to shape the discourse of bioethics around narrowly focused issues in the life sciences, while consigning to the margin issues of health and social justice, particularly those raised by scientific and technological progress. By refusing to make issues of health and social justice central to bioethics, the project shies away from any effective critique of infrastructures of subjection that are inimical to health, substituting for such a critique abstract proclamations on "freedom" and "dignity."

The declaration insists on the "fundamental equality of all human beings in dignity and rights," as well as the necessity to "ensure that they are treated justly and equitably" (article 10). Invoking the "interests and welfare of the human person," the document argues that the rights of this abstract entity "should prevail over the sole interest of science or society" (article 3). The document specifically insists that the right to "the enjoyment of the highest attainable standard of health" is a *human* right, "without distinction of race, religion, political belief, economic or social condition" (article 14). These differences are to make no difference in a con-

sideration of "norms for bioethics." The article does not mention gender, as if human bodies were "beyond" gender and unmarked by its differences.

At the same time that it embraces the rights of "the person" and an abstract equality, the declaration refers to cultural diversity only as a possible threat to human rights. Twice the draft document articulates respect for cultural diversity, only to qualify it by the injunction that such diversity may not be "invoked to infringe upon human dignity, human rights and fundamental freedoms, nor upon the principles set out in this Declaration" (preamble, article 12). The problem of health and justice in a global context becomes a conflict between human rights and scientific progress on the one hand and "cultural diversity" on the other.³ This clarifies the summary on the bioethics website of problems related to "social change" or "development" as conflicts of ethics, science, and freedom. It anticipates the deployment of cultural diversity only as an argument *against* the universal, not as a source of it. The declaration implies that valid norms for medical practice and research can be articulated only by abstracting to a generic "human person."

Yet, the generic "person" of human rights and bioethics is not innocent. The concepts of universality, rights, persons, and equality on which UNESCO's declaration relies did not fall from the sky, as from some *topos noetos*. They belong to a particular conceptual tradition and history and are generated in the context of specific conceptual commitments. The "human person" and his rights depend on the fiction of the "state of nature" and derive from mythological accounts of the origin of human society. These concepts ineluctably invoke the logic of fraternity and philosophies of "man's" common sense.

Within this conceptual history, women have been defined not as agents, but as property, the medium of exchange through which the bonds of brotherhood are elaborated, as both Freud and Levi-Strauss demonstrate. From Aristotle's account of her as a "nutritive medium" to Hegel's sequestering of her in the family, apart from public life, where she tends the body, this tradition renders "woman," at best, a supplement to "man's" agency, lacking the self-consciousness and rational capacities necessary for autonomous, self-directed activity. Moreover, "woman's" fate provides a paradigm of subjection that is deployed on other identities. These concepts of universality, equality, and dignity install the hegemony of particular racial and cultural, as well as sexual, identities.⁴

By failing to pay attention to this conceptual history, the UNESCO project puts forward abstract concepts of equality that hide the real inequities that characterize contemporary ethical urgencies. Ethical challenges tend to arise in relations that are *unequal*: doctor/patient, teacher/student, parent/child, boss/worker, or

between the politically and economically powerful and those who are poorer, weaker, and disenfranchised. By asserting the "fundamental equality of all human beings in dignity and rights," UNESCO, no doubt, *means* well, but the *Universal Declaration on Bioethics and Human Rights* marginalizes the essential logical and historical links between the abstract discourse of rights and inequities of wealth and power. Under the abstract discourse of rights, many subjects do *not* enjoy an equality of dignity and rights. A person who cannot vote or drive in her own country, a person who is condemned by her village council to be raped to settle a dispute among men, a person whose children die of dysentery in the twenty-first century, for example, is not "fundamentally equal," or such equality is so abstract as to be unreal. By marginalizing structural (as opposed to merely accidental) inequity, UNESCO's discourse of abstract rights seems counterproductive. It aims "to promote equitable access to medical, scientific, and technological developments... [particularly in developing countries]" but fails to center its analysis on the intertwining of health and wealth in developed, as well as developing countries (article 2). Article 14 on "social responsibility and health" quickly identifies "the promotion of health" as the responsibility of individual governments, thus forestalling any global circulation of that responsibility. The connections among health, poverty, political status, and education are invoked only to insist that "progress in science and technology should advance... access to quality health care [and the other conditions of life]; elimination of the marginalization and exclusion of persons on the basis of any grounds; and the reduction of poverty and illiteracy" (article 14). Thus, while the document defines itself as addressing ethical problems arising from progress in science and technology, even these are limited to issues of individual autonomy and consent. The complicity of scientific progress with inequities of power and wealth is relegated to the margin by the *Universal Declaration on Bioethics and Human Rights*, along with the link between those inequities and the discourse of rights. The document stipulates that these inequities "should" be ameliorated by scientific progress.

In this way, the document is not so much a call to action as a "reassuring drug" (Irigaray 1994, xi). Indeed, the document exhibits the very features criticized by Luce Irigaray in her analysis of the 1948 *Universal Declaration of Human Rights*.

- By stating emphatically and repeatedly that human "persons" *are* equal, the document forecloses the recognition of structural inequalities that would be necessary to any treatment of social justice.
- By insisting on abstract human rights, it marginalizes gender inequity in

the discourse of ethics and fails to recognize gender difference as irreducible in human experience.

- Its articulation of abstract goals of access and shared benefits from scientific research belies the way in which scientific and technological development frequently contribute to social and economic inequity. It ignores the fact that the results and benefits of much of this research are private property.
- In insisting on the figure of the generic human, it not only denies to women any consideration of the specificity of their experience as it relates to the articulation of a civil identity, but also denies to men and women the resources of women's experience and bodies as points of departure for the moral imagination.

In the *Universal Declaration on Bioethics and Human Rights*, as in the *Universal Declaration of Human Rights*, sexual difference has been aggressively neutralized. As Irigaray remarks, "I cannot feel that this 'universal' charter includes me unless I renounce my sex and its properties, and also agree to forget all the women who do not enjoy the minimal civil liberties that I do." The "egalitarian slogans" of these declarations, Irigaray argues, "promote a totalitarian ideology" (Irigaray 1994, xi). Their proclamations of equality and equal access to social goods support the posture of virtue, while rendering invisible relations of subjection and the differences of power and wealth they produce. Rhetoric matters; and what matters more in the declaration than the abstract language of equality and human rights is what remains unsaid.

Indeed, the history of these abstract rights of the "human person" reveals their complicity with the history of property and their production as safeguards of the privilege of property. The mythological accounts of society's origin in a voluntary contract obscure the way in which these rights were instituted precisely to establish the validity of ownership and to secure inequities of wealth. The rhetorical strategies of rights—the fiction of the "state of nature," the myth of the voluntary social contract, the abstraction of the "person," the recreation of man as a generic, the ideology of equality, and the institution of fraternity as a figure of the social bond—install a social logic that legitimates inequities of wealth as well as the subjection of certain classes of human as the servants of that wealth.

In failing to articulate the reality of our ethical urgencies, UNESCO's *Universal Declaration on Bioethics and Human Rights*, in effect, makes them more opaque and more subjected to an absolute voice. What is implicit in the abstract language? Its proclamations of equality and equal access distract from the vast and increasing inequities of wealth and power that obtain within and across societies,

just as its focus on progress in science and technology covers over the role of global development in the dislocation and dispossession of peoples as well as the degradation of the Earth.

A critique of the rhetoric of rights, persons, and equality and of fraternity as a social figure opens up the possibility of reconfiguring the concept of justice, so as to take account of structural inequity and to deploy the subjected as new figures of moral agency. Such a critique reveals the impossibility of approaching the issue of health apart from that of social justice. Human health turns out to be a lever of intervention that disrupts the function of discourse on rights, at the same time that it implies a way of figuring moral agency as socially constituted rather than a property of an autonomous "person."

Moreover, a consideration of the necessity of gendered rights, and of *women's* right to health, reveals not only the complicity of the discourse of the rights of man in histories of subjection but also the positive possibility of refiguring our position in the world as moral agents in ways that may improve our health. This critique re-evaluates "cultural diversity" and the specific difference of gender, not as a threat to "freedom" or "ethics," but as a resource that might respond to the inadequacies and complicities in the rights of man. From Aristotle to Hegel, the subjection of woman has been identified with the subjection of nature, and the rhetoric of rights marks the transition from nature to civil society. In our time, however, as Irigaray often reminds us, we live on a polluted Earth of diminishing resources under the threat of nuclear annihilation (Irigaray 1993). We live with disease-inducing noise at an unsustainable pace, subject not to the rhythms of our own hearts, but to the circulation of global capital, which concentrates the privileges of ownership even as it engulfs populations in the logic of commodification. In the developed world, inequities of wealth are widening dramatically, while social securities are undermined. In the developing world, environmental integrity and local institutions are sacrificed in the name of an economic prosperity that touches only the already privileged, the educated who have the skills required by globalization. Perhaps, using woman as a lever of intervention, and particularly, her right to health, it is possible to tell a different story of how we stand on the Earth together.

Following Irigaray, my chapter develops a critique of the discourse of human rights, demonstrating its complicity with concepts of property and propriety that sustain inequalities of wealth and power. Second, I explicate Irigaray's claim for the necessity of gendered rights and show how beginning from women's experience reorients the discourse of rights around the right to life rather than the right to property. Finally, this reorientation of moral thinking around the right to life

suggests a new figure of justice, focused on imagining “livable futures” rather than on settling accounts.

The Mythology of Rights: Installing the Inequalities of Property and Propriety

The true founder of civil society was the first man who, having enclosed a piece of land, thought of saying, “this is mine.”

Jean-Jacques Rousseau, Discourse on Inequality, part II, 1755

On whom has oppression fallen in any quarter of our Union?
Who has been deprived of any right of person or property?

James Monroe, First Inaugural Address, 1817

The emergence of “human rights” is coterminous with the emergence of what are commonly referred to as structural inequalities—that is, with the emergence of forms of inequality that are independent of personal attributes and instead derive from modes of economic, political, and cultural organization.

Anthony Woodiwiss, Human Rights, 2005

The discourse of rights depends on mythmaking. The concept of right derives directly from the myth of origin developed in social contract theory. Philosophers, Hobbes and Rousseau for example, fabricate stories about the origin of civil society to demonstrate that rights are both *necessary* and *natural*, on the one hand, and the result of a *voluntary* contract or convention, on the other. The institution of right joins instinct to liberty.

Hobbes, understandably shaken by the chaos of civil war, hypothesized a “state of nature” before the advent of civil authority in which each one’s right is absolute and guaranteed only by his own power. In this “war of every man against every man,” each one is justified in doing whatever is necessary to his own “self-preservation,” and he is both constantly subject to the fear of aggression and entirely reliant on his own strength. Thus, it is in man’s own interest and, hence, *natural* that he should contract with other men to form civil society, laying down his absolute right for the limited but socially guaranteed rights of a political community.

While in Hobbes’s myth of origin it would be unnatural, contrary to his own interest and instinct for self-preservation, for man to persist in the state of nature,

the legitimacy of civil authority depends on man having freely accepted constraints on his liberty. A man may be forced into servitude, but he cannot be constrained into citizenship. Only if, following the dictates of his own reason, he voluntarily accepts the authority of the state's sovereign power, can he be legitimately subject to its judgments and justice. Yet, the voluntary promise is forthcoming only because it is consistent with the laws of nature, necessitated by self-interest and the intolerable insecurity of the state of nature. Thus, the institution of right installs a chiasmatic relation between natural necessity and self-legislating reason, a complicity that belongs to its origin in the idea of nature as a state of absolute war.

The contract takes place in a mythical time, and with respect to actual human history, always *will have been*. Because it is the natural counterforce to nature as war, the contract will always already have taken place. One will always already have assented. In Hobbes's account the installation of a governing sovereign power cannot be undone, for any revolution would constitute a return to nature as war. In principle, sovereign power cannot be illegitimate because it is the condition of legitimacy. The contract and the rights it establishes cannot be rescinded. The contract prescribes legitimate relations among actual human and nonhuman bodies.

Hobbes argues that only the "voluntary transferring of right" institutes property as a legitimate ownership guaranteed by civil authority rather than mere force. As with right in general, the validity of the paradigm right to property depends on the myth of origin in the idea of nature as war. Only after each one has laid down his absolute right to the goods of nature and agreed to accept limitations on his liberty in return for a guarantee of peace and safety, are specific civil rights, first and foremost the right to property, installed as conditions of judgment and punishment. The right to property is just as natural and necessary as the contract that establishes it and the primary counterforce to nature as war.

Though Rousseau directly challenges Hobbes's account of the state of nature and the emergence of civil society, his method is no less mythological and just as clearly identifies the emergence of civil right with the advent of property. Indeed, the chief distinction between his account and Hobbes's is that he imagines man in the state of nature as solitary and subject only to the immediacy of his own physical needs. Rousseau's analysis centers on the idea that, as men come into association, a natural division of labor produces conflict and inequality. Some accrue wealth, while others are not so skilled, applied, or lucky. Some possess, while others are possessed. To secure property in the legitimacy of right, rather than by the mere force of possession, requires civil law.

Language introduces the capacity for reflection and the ability to make comparisons, giving rise to the logic of esteem, "on the one side, to vanity and scorn, and on the other to shame and envy" (Rousseau 1992, 60, 80). Thus, the equality of man in the state of nature gives way to the inequality of civil society in three phases: first, the difference of property between rich and poor; second, the difference of power between those able to enforce their claims and those dependent on them; and, finally, the difference of liberty between masters and slaves, between property owners and those men who become property themselves.

The solution to the inequities that arise with civil society is hardly its dissolution; rather, Rousseau concentrates on distinguishing good from bad government and on identifying the appropriate structures of authority to ensure liberty and happiness. While in Hobbes's *Leviathan*, the topic of women, gender, or sexual difference appears only in a passing discussion of the marriage of priests, Rousseau makes sexual difference essential to man's identity and the conceptual key to good government.

Rousseau not only valorizes the heterosexual family as the basic social unit but also embraces it as the paradigm of good government. Paternal authority, unlike the despotic power of bad government, "looks more to the advantage of him who obeys than to the self-interest of him who commands." And it is fitting that the child obey the man, but "only as long as [his] help is needed and that beyond this point [father and son] are equals" (Rousseau 1992, 73). While the wife and daughter remain, according to their nature, subservient to paternal power, paternal authority is exercised over the son only in order to bring him to manhood. Thus, fraternity or a society of equals, from which women are excluded, necessarily evolves from paternal authority. While critiques of women's subjection often focus on patriarchy, it is, in fact, fraternity that secures the authority of man's civil rights and his hegemony over other bodies, including woman's. The familial hierarchy of paternity is set within and guaranteed by the lateral filial network. Freud and Hegel tell still more violent stories of the father's overthrow and the subjection of the patriarchal family to the lateral exchanges of goods and power among brothers, in which the paradigm unit of exchange is the daughter's/sister's body.

Within this context, woman not only serves as the paradigm of property, providing the body whose exchange establishes the brothers' bonds. She also preserves for the brother the domain of the heart and blood, so that he is free to be the man of reason and to participate in the discursive domains of science, politics, and philosophy. Thus, in the discourse of fraternity and the rights of man, woman has no civil status of her own. She does not participate in the mutual

recognition that comprises the relations of fraternity, and her identity as a supplement to her husband has no integrity of its own.

On this account, woman's nature requires her subjection to man, and her subservience to him is essential to the happiness and well-being of both. Rousseau interprets sexual difference as the original division of labor in nature. Thus, the figures of man and woman in Rousseau's analysis are sanctioned by nature, even as they will require a vast and complex social apparatus for their maintenance and regulation. In the state of nature man was "solitary," but women will always have been dependent on men. Men, naturally independent, may become dependent, but it is woman's nature to be subject to man.

For this reason, the education of the women should be always relative to the men. To please, to be useful to us, to make us love and esteem them, to educate us when young, and take care of us when grown up, to advise, to console us, to render our lives easy and agreeable: these are the duties of women at all times, and what they should be taught in their infancy. So long as we fail to recur to this principle, we run wide of the mark, and all the precepts which are given them contribute neither to their happiness nor our own. (Rousseau 1979, 106)

From infancy, woman must be taught to tend the body, to subject her will to another, to dedicate herself to the happiness of others, to trade respect for love. If she does not play her role, man will have trouble sustaining his.

Citing certain animal behaviors, such as the reluctance of a horse to trample any living body underfoot, Rousseau argues that nature has endowed man with pity to "bolster his reason" (Rousseau 1992, 46). Yet, this natural pity is extinguished by the education and reflection that characterize civil society. Thus, the philosopher cares only for the abstraction of "society as a whole," and "someone may with impunity slit the throat of a fellow man under the philosopher's window, and the philosopher need only put his hands over his ears and argue a bit with himself to prevent nature, which is rebelling inside him, from making him identify himself with the man being murdered... It is the ill-bred rabble, the market-women, who separate the scufflers and prevent decent people from tearing each other to pieces" (Rousseau 1992, 47).

It is not accidental that Rousseau here refers to the rabble as "market-women," for it is the natural destiny of woman to supplement man's rational nature with the "sweetness of her temper." Together they constitute a "moral person," a figure in which woman's autonomy is submerged and reduced to the feeling of sympathy and an ability to "read the hearts of men." (Rousseau 1979, 160).⁵

Thus, not only are rights modeled on the right to have, that is, the right to property, but they also invoke standards of what is proper to each sex. These proprieties are established in the context of the family and serve the installation of fraternity as a system of power. While legal theories establish the "suspension" of the woman's existence in marriage, social contact theory prescribes duties and traits specific to her, just as it prescribes a specific form of sexuality as both natural and normative. The enormous armamentarium of laws, institutions, and practices required to produce and enforce this heterosexism might suggest otherwise. The privileging of the dimorphism of sex can no longer be sustained given this critique of its production as well as the practical disconnection of sex and reproduction through new reproductive technology. No doubt there is more than one way to satisfy the human need for companionship and physical intimacy, as well as more than one solution to the problem of human reproduction and childrearing. Yet, the discourse of rights depends on this commitment to a fraternity of patriarchal families.

Thus, the discourse of the *equality* of rights does not address the problem that these rights derive from concepts of ownership and identity that do not reflect women's identity and experience. Within what Irigaray calls the "framework of familio-religious relations in which the woman is the body to the man's head," the assertion that "men and women are now equal or well on the way to becoming so has served almost as an opiate of the people for some time now" (Irigaray 1993, 77). To embrace equality as a guide for political development is "very problematic," insofar as such a strategy accepts as fixed the concepts of rights produced by fraternity's concern with property and propriety. It ignores the possibility that a narrative of women's experience or the logic of women's bodies might be a source of rights unheard of in fraternity. While the idea of equality may secure women wider rights in the domain of acquisition and the ownership of property, it does not address her lack of agency in the context of fraternity, nor the rights that might be necessary to discover and secure a distinctively female agency (Irigaray 1993, 72).⁶

The discourse of equality is to be rejected on two counts. First, proclamations of the equality of men and women are empirically false in virtually every register. Women are structurally disadvantaged with respect to men economically, politically, and civilly. Poverty is "feminized" and women's labor underpaid. In many parts of the world women enjoy limited, if any, real property rights. Women are drastically underrepresented politically in almost every part of the globe. Most important, as it is a condition of women's agency, the figure of woman is

not recognized as a figure of the universal. Thus, women are denied the experience of themselves as a site of the universal, the subject of science, politics, and philosophy.

Second, we must ask with Irigaray: equal to what? These declarations of rights do not take into account the differences in the bodies and experience of the two sexes. Inevitably, they reinscribe fraternal power, as if the lack of attention to the conditions of female identity and agency did not matter, as if man could indeed speak for all. "The *Universal Declaration of Human Rights* [*La Déclaration universelle des droits de l'homme*]" requires that "I renounce my sex and its properties." It assumes that I will "forget all the women who do not enjoy the minimal civil liberties that I do" (Irigaray 1994, viii-ix; brackets in the original). The Declaration depends on a forgetting of the fact that sexual difference has been forgotten, rendered null and void in the context of ethical value.

If, as Article 21 of the declaration insists, "Everyone has the right of equal access to public service in his [*sic*] country," then, why are there so few women in leadership positions around the globe? If everyone has the "right to the security of his [*sic*] person" and "no one should be arbitrarily deprived of his [*sic*] property," then how are we to understand the difference between the way this culture of rights treats the bodies of men and those of women? Is the traffic in women's bodies and the exploitation of the female body in media, advertising, and pornography an "act of disrespect of my physical or moral person" that would require a "national tribunal" to provide me an "effective remedy?" Does this not constitute the "degrading treatment" of which the declaration speaks? How does this declaration of rights assure the "security of my person," if the state can intervene in my intimate decisions about reproduction? Does its emphasis on civil rights in the public sphere not leave untouched the violence that takes place within the family?⁷ Does the declaration not fail to recognize the specificities of woman's body, history, and identity, so that the articulation of abstract human rights, in fact, reinscribes both her subjection and the invisibility of her identity within the fraternal order?

Women's Rights, Human Rights: The Right to Life

Man seems to have wanted, directly or indirectly, to give the universe his own gender, as he has wanted to give his own name to his children, his wife, his possessions.

Luce Irigaray, "Women's Discourse and Men's Discourse,"
je, tu, nous: Toward a Culture of Difference, 1993

Redefining rights appropriate to the two sexes to replace abstract rights appropriate to non-existent neutral individuals, and enshrining these rights in the law, and in any charter constituting some sort of national or universal declaration of human rights, is the best way for women to hold on to rights already gained, have them enforced, and gain others more specifically suited to female identity.

Luce Irigaray, "Introduction," *Thinking the Difference* (1994)

There is no mention in the philosophical history of rights or in these contemporary declarations of rights, not even in the declaration concerned with health, of the right to decide one's own destiny in relation to human reproduction. This reflects both the differences in embodied possibilities that comprise men and women and the appropriation of women and children as property within the discourse of rights. By refusing woman this right, the state denies her agency and indicates that *women cannot be trusted with this decision*.

This job [mothering] requires more subtlety and intelligence than any other. It would certainly be done better if women had the full benefit of their identity. But, to date, those who engender and protect life don't have a right to it. In an incredibly distrustful maneuver, it's suspected that they would no longer want to protect life the moment they themselves have a right to it. Women are often nothing more than hostages of the reproduction of the species. Their right to life requires them to have legal authority over their body and their subjectivity. (Irigaray 1993, 78)

Within the discourse of rights, where man claims to be the absolute figure of the universal, even this distinctively female possibility must be administered for her. Not only does she lack a political and civil identity that reflects her own experience and her own body, but also her body itself is laid open to state regulation. The "right to life" in contemporary political discourse refers, not to the bodily integrity and agency of the one on whom life depends for its reproduction and care, but to the subjection of that integrity and agency to the fraternal power of the state. Irigaray argues that women are "enslaved" by not being in charge of their own reproductive destinies. Under the "tutelage" of the state and the church and subjected to their decisions, "woman . . . does not yet have the right to manage her own nature for herself" (Irigaray 2000, 42-43). Women's civil identity depends on her being sovereign in her own body and entrusted by the state with the decisive power over reproduction.

The necessity of this sovereignty to her civil identity derives from the fact that the body is the site of the universal, as well as the necessity of social forms, codes, and institutions that recognize and sustain her agency. Only through his embodied performances in the context of collective practices and institutions can the scientist or the politician experience himself as freely participating in a universal project. Similarly, proclamations of women's rights are empty without the elaboration of social forms that recognize a woman's sovereignty in her own body and sustain her authority with men in defining the future. "The universal cannot be reached outside the self; it is not a sum of individuals, a multiplicity of cultures, an accumulation of possessions" (Irigaray 2000, 28). To realize its universality, its solidarity with other human beings, each human body, male and female, requires codes and institutions that support the practices and performances through which each one collaborates with the others in a future. "Justice in the right to life cannot be exercised without a culture of humankind comprising men and women, and written law defining civil rights and obligations that correspond to their respective identities" (Irigaray 1993, 80). Social justice, then, depends not only on "changing the laws of language" and redistributing wealth but also on the collaborative authorization of social forms appropriate to sustain women's agencies. Her citizenship remains abstract and unreal unless the state recognizes her sovereignty in her body and her authority over her reproductive destiny free from its tutelage.

As Irigaray notes, even in those states where a woman is accorded "reproductive rights," these are generally reduced to the right to have an abortion. While insisting on the necessity of resisting any compromise of abortion rights, Irigaray links the right to life and the bodily sovereignty of women to virginity, to the decommmodification of the female body, and to motherhood. Against the historical position of women as property and the commercial use of their bodies and images, Irigaray proposes virginity, not as a literal state, but as a figure of physical and moral integrity not convertible to money. Irigaray argues that women's health suffers "above all" from the lack of formal, institutionalized structures recognizing and securing this bodily integrity: "Without this dimension, [a body] is bound to be ill, ill in many ways, unable to keep itself together, with no suitable medical cure. Resorting to an exclusively somatic treatment might well give it even less chance of true healing" (Irigaray 1993, 105). The failure to entrust women with authority over reproduction and to respect their right to choose whether to be pregnant and the number of pregnancies undermines women's sense of themselves as agents and deprives them of that affirmation of their sub-

jectivity and agency by which "they can unify their corporeal vitality" (ibid.). This sense of agency, Irigaray argues, is essential to health, for a body "is bound to be ill" unless it is animated and organized by a personal or spiritual project, unless it experiences its universality through the value of its agency in defining a future among and with other men and women.

The agency and health of women also depends on the codification of specific rights that recognize the authority and obligations of women as mothers. While children have historically been viewed as the property of the father, subject to his authority and recognized only in his name, the actual work of caring for and rearing children has always been the responsibility of women. The realization of women's agency requires the elaboration of new civil rights that recognize this responsibility. Irigaray suggests that, just as women ought to be free to manage their own reproductive destinies without civil and religious tutelage, so too it should be the mother who registers the child's birth with civil authorities and is identified by law as the guardian and authority in her children's lives. Changing legal codes in this way would require new forms of negotiation and new ways of relating among men and women. While proclamations of abstract rights and equality abet the continued hegemony of the male gender, these changes in law and social forms would precipitate a redistribution of power between the genders and invest women with the possibility of real agency in their reproductive destinies.

The installation of man as the figure of the human denies to women any relation to the universal, as if her body and her experience were not a site for its production. Public discourse and social forms reflect this lack and fail to provide the opportunities and images through which women might understand their solidarity within their own gender. Thus, in specifying the new civil rights that need to be articulated to support women's agency and identity, Irigaray regularly insists on "women's right to their own specific culture" (Irigaray 1994, xv). Identity and agency are formed in social institutions and mediated by the images that circulate in our culture. As long as women's bodies are exploited commercially, in advertising, pornography, and prostitution, women's agency and identity will be undermined. Thus, new civil rights protecting the integrity of women's bodies in these domains are needed. Similarly, the identification of the family with patriarchy and the social and political space with fraternity eviscerates women's agency and identity. The patriarchal family provides no recognition of women as responsible citizens. The subjection of women renders the family a scene of violence, and this domestic violence supplies the paradigm for the public violence that occurs between man's states, armies, religions, and tribes. Providing civil

rights for women is not only a matter of justice for women but also promises to open up new ways of relating that may improve human health.

Livable Futures

We should not delude ourselves that History can redeem all our mistakes. This sort of dreaming is no longer valid: humanity, particularly industrial capitalism, has put the planet itself in danger and there will not be a future unless we make the salvation of the Earth itself our immediate concern.

What brings greater happiness than the return of spring? ... All this happiness which we receive for nothing should be given priority protection by a politics which is concerned with the well-being of each and everyone of us. It is a simple happiness, a universal happiness, a happiness which does not involve competitiveness or aggression, but, on the contrary, favors a rational and sensible sharing at both the national and supranational levels.

*Luce Irigaray, "Politics and Happiness," in
Democracy Begins between Two, 2000*

The critique of man's false transcendence, his fallacious claim that his gender supplies the absolute figure of the human, displays the link between philosophy and health. Man's hegemony has produced not only the subjection of women but also a world that is inimical to our health. The universalism of fraternal rights hides its own origin in a system of concepts linking the right of property to war, the mastery of nature, and social inequity. In the *Critique of Judgment*, for example, Kant defines man's moral vocation as "the mastery of nature and the mastery of nature in man." It is man's destiny to subject nature to his rational purposes. In explicating this vocation, Kant valorizes the warrior character as the most noble and insists on the necessity of war as a formative activity. War solidifies the identity of a people and demonstrates the necessity of a sovereign power to security and to a liberty at once limited and guaranteed by the law. "Prolonged peace debases the way of thinking of that people" (Kant 1790/1987, 263). Moreover, under the sublime project of mastery, the development of culture requires, in addition to war, real social inequalities. Some serve so that others will have the leisure for science and art; the latter keep the former in a "state of oppression, hard labor, and little enjoyment" (432). And, this difference of class is gender marked. In fact, the edifice of culture, its institutions, practices, and artifacts as

well as its history, science, and philosophy, depends on the subordination of one gender to the other.

The discourse of the rights of man absolutizes forms of life that belong to one gender, and even to a group within this gender that also bears other markings of race and wealth. Its operation in complicity with regimes of power invested in war and the mastery of nature has produced an almost uninhabitable world that undermines our health in at least three ways:

- (i) Its emphasis on progress fails to recognize the fragility of nature and installs a negative relation to nature that in our time threatens the Earth itself, which is the necessary condition of our health. The threat of nuclear disaster demonstrates, against the assumptions of philosophers,⁸ the mortality of the Earth, even as global warming demonstrates our capacity to make our own Earth uninhabitable for us. The very scientific and technological progress invoked by UNESCO's *Universal Declaration of Norms for Bioethics* produces a world that is too noisy, fast, and polluted to be conducive to human health.
- (ii) In the era of global capital man's built environment often proves inimical to human flourishing. (Thus, in the competition to build the world's tallest building, architects regularly encounter the problem of how to transport people up and down within the space without causing inner ear damage.) Man's technologies of transportation and communication insist upon a speed that is out of proportion to human life. Built spaces isolate, alienate, and frustrate, when they are not, as they have so often been in human history, strategies of subjection.
- (iii) The discourse of rights legitimates war as a political strategy and renders historically necessary its catastrophic human and environmental results. Nowhere is the duplicity and immorality of the abstract discourse of rights more evident than in the sophistries used to justify war.

Huge amounts of capital are allocated to the development of death machines in order to ensure peace, we are told. This warlike method of organizing society is not self-evident . . . it has a sex. . . Patriarchal culture is based on sacrifice, crime and war. It is a culture that makes it men's duty or right to fight in order to feed themselves, to inhabit a place, and to defend their property, and their families. (Irigaray 1994, 4)

This ideology of the political necessity of war takes life, inflicts suffering, and forestalls the elaboration of more effective forms of social negotiation.

- (iv) Finally, in installing man as the univocal figure of the human and denying the difference of gender, the fraternal discourse of abstract rights provides the paradigm for the reduction of all difference. Actual human beings are rendered mere units in a social process or mere instances of some general form: worker, consumer, citizen. This reduction of difference sets the stage for the "unconditional power of money," which serves as the measure of all things. It provides the single scale with respect to which all entities can be measured and to which all differences of value can be reduced. Thus, the universalism of fraternal rights produces a social focus on consumption. As Wordsworth remarked, "Getting and spending, we lay waste our powers." Social relations tend to be mediated by wealth, and social activities tend to focus on spending, consumption, and acquisition. Women's bodies play a significant role in this social economy. A woman's body, more or less naked, sometimes angelic, sometimes lewd, not only serves as a marketing tool but is also commodified and itself marketed. These representations do not install her as a subject in the social space but reinforce her definition as property. (The ubiquity of capital as a conceptual standard is reflected in UNESCO's declaration of universal norms for bioethics: after defining autonomy and informed consent as if ethics were a matter for abstract individuals, it cites only cost-benefit analysis as a principle of decision making, as if all the goods and values that are in play in health and sickness, from my bodily motility to my relations with others, could be arrayed like units on the same scale.)

Thus, the abstract discourse of human rights is complicit with practices and strategies that undermine our health rather than contributing to our personal and collective happiness, just as it depends on the enforcement of the gender division of labor and identity.

The universalism of fraternal rights authorizes forms of social life that do violence to our identities and our ways of being together, as well as to the rhythms of our natural being. The forms authorized by fraternal rights do not accommodate women in their specific identity or sociality, nor do they acknowledge the specific rhythms of the female body. The *New York Times* reported on a trend among women at Ivy League institutions. Contrary to what might be expected, an increasing number plan not to work outside the home after marriage. Many have decided, citing the experience of their mothers, that it is impossible to successfully combine work and the care of children. They report a desire to avoid the

pain and heartache that comes from compromising performance in both areas (Story 2005).

Some of the most talented women in the United States, who would be entering the world of work at a privileged rank, have decided that these hard-won opportunities are not worth the cost to themselves as mothers, demonstrating clearly the painful structural incompatibilities in current social forms. As Irigaray remarks, "The incentives that exist for women to go back into the home have a good chance of success, not necessarily among the most reactionary women, as is too readily believed, but also among women who wish to try to become women" (Irigaray 1993, 85). Outside these ranks of privilege women continue to labor in the care of the body, whether in the family, where the labor is often hard, or in the "service industries," which involves them in the same conflicts that their more privileged sisters have encountered, but without the same means of escape. As Irigaray observes, allowing women the choice to get married, to have children, and to work is not a recognition of them as women (Irigaray 2000, 146).

The public discourse within which our being together must be negotiated, when it is not drowned out by the surfeit of media and "communications," concerns almost exclusively questions of war or money. In the United States, as in many nations, issues of security and consumption are coupled with an effort to enforce and reinforce the fraternal figure of the family in its subordination of women and the subjection of women's reproductive destiny to state regulation. In many parts of the world, the institutions of women's subjection are more explicit and more complex in their penetration of women's experience. In some countries, women are killed for learning to read or are raped in settlement of a tribal dispute or are murdered for being raped or are disfigured by acid for refusing an arranged marriage. Given environmental crises, the ubiquity of social and state-sanctioned violence, extremes of social inequity, the sophistry of public discourse, and the explosion of "lifestyle" illnesses, such as addiction, heart disease, or diabetes, related to habits and stress, it is not surprising that in reflecting on our time, Irigaray often strikes an apocalyptic tone.

Her analysis focuses us, however, on the project of collaboratively producing a livable future. The critique of the universalism of fraternal rights calls for a public conversation about these matters, instead of a continued reliance on proclamations of abstract equality and dignity. (Irigaray remarks that we might start by "letting women do half the speaking.") The discourse of human rights needs a new nonmythological origin. It needs to begin from a critique of current structural inequities and the hegemony of certain identities and forms of life and to

make possible a new relation to nature and new forms of social negotiation. It might begin by considering the continuity of women's bodies with the natural world in order to rethink a relation to the Earth as our home. It would find a nonbellicose originary nature in the relation of mother and child. Pregnancy provides a paradigm of human respect and solidarity that ought to inform our social and political life. While, as Irigaray notes, our culture has "blindly venerated" the mother-son relation, it has not appreciated the political significance of pregnancy as the "toleration of the other's growth within." Our culture has failed to reflect on "the meaning of this economy of respect for the other" (Irigaray 1993, 45). A discourse that begins from this "model of tolerance" would directly counter the ideology of war and social inequity at the heart of the rights of man.

Conclusion

Irigaray's critique of human rights suggests a new methodology for moral and political philosophy. Perhaps, rather than focusing on the rational calculation of rights and duties, philosophy would better serve human health and happiness by developing a moral imagination focused on the production of "livable futures." Let us imagine a world in which each man and woman enjoys the "right to life": "to air, to water, to light, to the heat of the sun, to the nourishment of the Earth. Rescuing the planet Earth means, too, being concerned about happiness, as much for ourselves as for others. Happiness of this kind does not cost much, has nothing to do with economic calculations—or, at least, it should not have—but is, perhaps, the highest form of happiness if we learn how to perceive it, to contemplate it, and to praise it" (Irigaray 2000, 168).

Orienting ourselves around an immediate concern for the "salvation of the Earth," addresses the need for a new relation to nature to nourish human health and happiness. Moreover, actively imagining and pursuing a world in which each one enjoys this right to life will necessarily produce new forms of association, negotiation, and solidarity.

While the tradition of rights, persons, and equality is not absolute and is marked by its origins in fraternity, other traditions and experiences offer resources for generating new concepts of justice and society. Women long ago learned to hear themselves in "man." The experience of women, of other races, of cultures other than that of "man," who is, after all, a white Anglo-European, can be universalized too. The differences in our experiences matter: they produce different images of the good, justice, and society, and we enrich our concept of the universal by thinking it from multiple perspectives. Figures of universality

ought to operate as images and concepts that call for and sustain solidarity without reducing the specificities of experience to a general form such as “man” or “woman.” *For his own sake*, if for no other, “man” ought to come to hear himself in the experiences of women, for he will find new figures through which to address the persistent problems of his particular version of moral and political life. Until we begin to generate concepts of the universal, of justice, and of social life from perspectives other than that of “man,” our thought will continue to be too impoverished to answer to the ethical urgencies that beset us.⁹

NOTES

1. I was able to attend the meetings as an observer sponsored by the International Association of Bioethics. Many thanks to Alex Capron and Leonard deCastro for arranging the invitation. My views should not be attributed either to them or to the association.

2. http://portal.unesco.org/shs/en/ev.php-URL_ID=1883&URL_DO=DO_TOPIC&URL_SECTION=201.html. Earlier drafts of the document, as well as an excellent account of the process, are also available on the UNESCO Bioethics Section website.

3. To its credit, the Bioethics Section gives ample access to the debate between the Andean countries, who argued that the connection between social justice and health was central to bioethics, and an array of others led by Germany and the United States, whose narrow definition of bioethics held sway. See http://portal.unesco.org/shs/en/files/8037/11169295721Summary-informal_meeting_en.pdf/Summary-informal%2Bmeeting_en.pdf.

The fundamental underlying conceptual divergence seems to be the extent of the notion of bioethics as applied to this declaration. There are two schools of thought: a broader one that locates bioethics in its social and environmental context and another one that restricts the concept to the ethical issues arising from medicine and life sciences. This basic divergence permeates the entire text of the draft declaration but it shouldn't be irresolvable. The Chair hopes that it could be dealt with in the Use of terms and Scope articles, therefore facilitating the negotiation of the remaining articles.

4. Hereafter, man and woman, without quotation marks. These terms refer to the concepts articulated in philosophy and science that install and maintain gender norms, as distinct from the actual men and women subjected to those norms. They function as logical figures, authorizing and regulating social infrastructures, as well as individual identities.

5. Cf. Blackstone (1765, I.XV.430): “By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended

during the marriage, or at least is incorporated and consolidated into that of the husband, under whose wing, protection, and *cover*, she performs everything.”

6. Irigaray specifically distinguishes two “women’s liberation movements”: the first, organized around the idea of equal rights, emphasizes equality in the possession of goods; the second, advanced by her own work, promotes an individual and collective “*subjectivity*” that is valid for women and insists on the necessity of different rights for male and female subjects.

7. Gender discrimination was so taken for granted by the authors of the UDHR and the Covenants that no one realized there was a problem about confining the applicability of human rights to the public sphere of courts, politics, work and welfare, until this was pointed out by feminist scholars . . . Moreover, once the private sphere of relationships and families was opened up to interrogation in terms of human rights, it was discovered that women’s problems were not reducible to instances of discrimination in the public sphere . . . but included not just sui generic private abuses such as domestic violence and those associated with reproductive issues . . . but also sui generic public sphere issues that follow from women’s ‘special’ status in many cultures as mothers, wives and daughters. (Woodiwiss 2005, 123)

The Convention on the Elimination of All Forms of Discrimination against Women represents a countermovement within human rights discourse in its recognition of the necessity of conceptualizing rights in relation to gender. www.un.org/womenwatch/daw/cedaw/.

8. Hegel describes the Earth as the “eternal individual”; while Kant insists on the immortality of nature. This failure to recognize the mortality of the Earth is essential to their logic of fraternity. It authorizes their arguments for the necessity of war, as well as the violence associated with social inequity.

9. UNESCO’s own strategy of “gender mainstreaming” runs counter to the rhetoric of the rights of man and insists on the necessity of approaching all problems from the perspective of sexual difference. See Walby (2003).

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