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In the quagmires of ethnicity

A Marxist critique of liberal 'exit strategies'

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ABSTRACT   Liberalism and Marxism both reject ethnicity – belongings to kin, religion, culture, race, descent, or 'blood and soil' – as a basis for the organization of state power. The two positions are, however, radically different in their approach to the separation of politics and ethnicity. The liberal panacea is legal and juridical: citizens are 'equal before the law' regardless of their ethnic belonging. Marxism endorses this project of legal equality but argues that, as long as ethnic power is divided unequally outside the sphere of the law, it contributes to the reproduction of inequality. In other words, liberalism offers legal equality while leaving social inequality intact. This article offers a Marxist-feminist critique of liberal approaches to the conflict between women's rights and religious and cultural belonging in societies that practice Islam.

KEYWORDS   cultural relativism ● Marxist-feminism ● Islam and gender relations ● liberal legalism

The title of this article takes a strong position on ethnicity. The concept 'quagmire' confers on ethnicity a highly negative character – it is a danger-ous territory, a swamp that devours intruders. Still more, the concept 'exit strategy' emphasizes the seriousness of this predicament, while the conflict between liberalism and Marxism refers to a long history of struggle over this realm of politics.

Identifying ethnicity as a 'quagmire' does not, however, preclude a complex approach to the phenomenon. My methodology, dialectics, allows a comprehensive study of the highly conflictual relations between ethnicity and the exercise of social power. From this perspective, it is not difficult to understand, for example, that 'Black is beautiful', a slogan of the civil rights

movement of the 1960s in the USA, pursues anti-racist politics, while the equally ethnicist slogan of 'France for the French' promotes racism and racialization of state power in a political system that is known as the model of the 'civic nation'. However, grasping the diversity of ethnic politics is only a first step in the right direction. This article argues that anti-racist politics, when fought on the terrain of ethnicity, is seriously constrained by the conditions that racism imposes on it. In other words, racism decides the turf and terms of the conflict, and anti-racist politics often fails to change these conditions.

The focus of this article is on the use of ethnic belonging against the struggle of women for equality and justice in societies that practice Islam. I will (1) examine Islamist and secular cultural relativist appeals to ethnicity in order to reproduce patriarchal gender relations; (2) critique liberal alternatives to cultural relativist politics; and (3) offer a Marxist-feminist alternative to the gender politics rooted in ethnic belonging.

STATING THE PROBLEM: GENDER APARTHEID IN THE MIDDLE EAST

Gender inequality and the oppression of women in societies that practice Islam is well documented. Political and intellectual resistance against this oppression dates back to the late 19th-century, when women emerged as a new social force, with their own journalism, literature, organizations, and political activism. A persisting theme in the modern literatures of the region such as Arabic, Dari, Kurdish, Persian, and Turkish, is the oppression of women and resistance against it. The democratic and independence movements of the early 20th-century considered gender equality and 'women's rights' as markers of a new world in the making. As early as 1911, a member of the newly formed Iranian parliament tried to persuade legislators to grant women suffrage rights (Afary, 1996).

However, the new nation-states founded in the wake of World War I and World War II tried to contain women's movements. What is now labeled 'state feminism' was a project for controlling this new social force, usually by closing down women's organizations and their press, forming a single government-sponsored women's organization, and granting women certain rights such as access to formal education, ownership of property, unveiling, or employment in public institutions. These secular regimes in countries such as Egypt, Iraq, Iran and Turkey made numerous compromises with religion, especially in personal status legislation. Republican Turkey and monarchical Iran suppressed the power of religious institutions, and brought them under strict state control. This was, however, far from a serious separation of state and mosque in constitutions, laws or political culture.

The founding of the Islamic Republic of Iran in the wake of a popular anti-monarchist revolution changed the politics of gender relations in the region. The founder of the state, Ayatollah Khomeini, considered the separation of state and religion as a conspiracy against Islam, and decided to reverse this history by fusing the two. He began a vast Islamization project, which targeted women first and foremost. In less than a month from assuming power, Khomeini dismissed women judges, and required all women to observe dress codes such as veiling and covering their body according to Islamic principles. In spite of resistance, gender segregation was imposed step by step, and often through the use of coercion.

Unlike the Islamic theocracy of the Taliban in Afghanistan, where women were subjected to a regime of total gender apartheid, Iranian women were allowed to be present outside the home. However, the policy was gender segregation, similar in many ways to racial apartheid. Iranian theocracy, like its Afghan or Saudi Arabian counterparts, denies women the right to unrestricted presence in public and private spaces. Whether at home or outside, women have to 'protect' themselves or be 'protected' from *na-mahram* men, i.e. males who are not fathers, brothers, husbands or sons. In public spaces such as city buses, schools, concerts or line-ups, males and females are segregated. Moreover, women and members of religious minorities have been constitutionally and legally denied the right to be 'supreme leader,' president, or judge. Also, *shari'a*-based laws seriously curtail women's rights in many areas including travel, divorce, marriage, dress, custody of children or inheritance.

Some observers, including Iranian nationalists, emphasize the conspicuous difference between Iranian and Taliban theocracies, and find the former much more tolerant of women. They refer to the active presence of Iranian women in all domains of public life, including journalism, publishing, higher education, parliament, government, cinema and the market. This is clearly different from the Afghan situation, where women were allowed only to live and die within the confines of their homes, and to reproduce the male gender.

However, one may argue, as Israeli scholar Uri Davis has done in comparing Israeli and South African apartheid regimes, that Afghanistan's gender apartheid is 'petty' compared to that of Iran. Davis has noted, for instance, that in Israel there 'are no benches designated in law for "Jews only" and other benches for "non-Jews"; buses for "Jews" and "non-Jews" . . .' Still, 'in all matters pertaining to the question of rights to property, land tenure, settlement and development, Israeli apartheid legislation is more radical than was South African apartheid legislation' (Davis, 2003: 90). By way of analogy, Taliban gender apartheid may be considered crude or 'petty' in so far as it was based on full segregation of the population on the basis of gender only. By contrast, gender apartheid in Iran keeps the semblance of tolerance of women, is carefully legislated

by the parliament, and is enforced through both consensus and coercion, including a network of courts, prisons, police, vigilante groups and surveillance. While in Afghanistan the Taliban ruler was law-maker, judge and executive, in Iran the Islamic parliament acted as the legislator, and a Council of Guardians ensured that all legislation conformed to Islamic principles. The unicameral parliament does, however, look like a multi-faith institution with elected members from Christian, Jewish and Zoroastrian communities. The Islamization of the ancient Iranian state, which Khomeini inherited, was achieved through the re-writing of its extensive legal apparatus, and replacing it with an equally extensive legal order rooted in the theology of a rather small sect of Islam, the Twelver Imam Shiism. No doubt, the Taliban theocracy was much more coercive in enforcing gender apartheid. Moreover, if the lives of women in Afghanistan have not changed visibly since the overthrow of Taliban by the USA, Iran's theocracy and its gender apartheid are in the process of disintegrating largely due to the unceasing and all-round resistance of Iranians, with women as the engine of change.

WOMEN'S RIGHTS UNDER ISLAM: TWO 'GREAT DIVIDES'

Khomeini's theocratic nation-building project and its Islamization of gender relations amounted to a disruption of the way political life had been evolving in the region since the end of the 19th-century, especially Iran's Constitutional Revolution of 1906–11. This change involved, in part, the trend of separation of state and mosque, and a few steps towards legal equality in gender relations (e.g. recognition of women's suffrage rights in Turkey 1930, Pakistan 1947, Syria 1949, Lebanon 1952, Iran 1963, Afghanistan 1964). Not surprisingly, the founding of the new theocratic regime in 1979 led to political, theoretical and ideological cleavages in and outside Iran. In fact, feminists, women's rights activists, human rights advocates and those dealing with the Islamic world have been sharply divided over Islamic gender politics.

The universalist–cultural relativist divide

One side of the great divide tolerates or justifies discrimination against women by arguing that gender relations in these societies are based on religion and culture, and it would be inappropriate to label them as 'oppression', 'discrimination', 'inequality' or 'injustice', because such claims are rooted in western cultural values. This is the position of secular observers who adhere to ideas of cultural relativism. Islamists base their position on the sanctity and divinity of Islamic foundations of gender relations,

although they also appeal to cultural relativism. The other side of the divide starts from the standpoint that gender relations are constructed by human beings, and religion, culture, tradition or custom are some of the sources of inequality. From this perspective, there is nothing sacred about any patriarchal regime. They are constructed socially and they can be dismantled.

The divide is by no means along ethnic lines, although one side appeals to ethnicity, i.e. religion and culture, in order to defend an Islam-based regime of women's rights. This is not an East–West or a Muslim–Christian divide, although it is often presented as such. In fact, there are people of diverse cultural and religious backgrounds, both easterners and westerners, and religious and secular on each side. Moreover, far from being monotonous, each side of the divide forms a spectrum of theoretical, political and ideological positions. There is a considerable literature that reflects the range of debate between the two poles (Mojab, 1998 and Moghissi, 1999, among others, reject relativism, and Afshar, 1996, Karam, 1996, Paidar, 1995 advocate various shades of relativism). However, the conflicting positions within each side have not received adequate research attention. This article demonstrates a major rift among the group that defends women's rights from a universalist and internationalist perspective. This is a Marxist–feminist critique of liberal universalist politics.

The liberal–Marxist divide

Liberals and Marxists are among the group that defend the rights of women from a universalist position. I begin with the liberal position by focusing on the work of Ann Elizabeth Mayer, American professor of law, who has resisted the cultural relativist persuasion, and has been subjected to considerable repudiation by advocates of Islamist gender politics. In one of her articles entitled 'A "Benign" Apartheid: How Gender *Apartheid* has been Rationalized' (Mayer, 2000–01), she conceptualizes the gender relations of Afghanistan (under the Taliban), Iran and Saudi Arabia as apartheid, and offers a critique of 'Western apologists' of this gender regime. These academic apologists rationalize gender apartheid by accusing universalists of totalitarianism, colonialism and disdain for freedom of religion.

Mayer notes that the most important United Nations (UN) document on women's human rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), is 'toothless' compared to the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973).[1] Neither CEDAW nor other documents on women's rights 'condemns gender discrimination in the kind of forceful terms used in declarations and conventions dealing with racial discrimination and *apartheid*' (Mayer, 2000–01: 245). CEDAW does not clearly

relate discrimination to male supremacy, fails to treat domination as oppression, and, as a result, problematizes discrimination as a question of culture rather than politics (p. 245). In fact, this document 'does not criminalize either the policies or the practices of gender discrimination, even where these involve the most rigid forms of segregation and the most egregious, pervasive, and harmful forms of discrimination' (p. 246).

If the most important UN document on women's human rights underrates the seriousness of women's oppression, a group of diverse political persuasions ranging from Middle Eastern theocrats to US conservatives to western academics downplays the scope and seriousness of violations of women's rights in the Middle East. Among the vast number of western academics who 'endorse religious and cultural rationalizations for gender *apartheid*' (Mayer, 2000–01: 290), Mayer focuses on Aziza al-Hibri and David M. Smolin.

These academic opponents of 'universal women's human rights' have formed a de facto alliance with various cultural relativists, religious conservatives and Middle Eastern states that perpetrate gender apartheid. Their goal is to convince everyone that the interests of religion and culture should override women's rights. They claim that Muslim or Jewish women are willing and happy to live under the banner of religion and culture, whereas critics aim at imposing on them their own incompatible cultural values, secularism, colonialism, imperialism, and a destructive totalitarian feminist ideology (pp. 334–8). Smolin has argued that CEDAW constitutes a threat to the survival of Judaism (p. 327). Many Islamic regimes have ratified CEDAW but only with reservations, which allows them to uphold Islamic law at the expense of women's rights (p. 270).

Mayer points to the complexity of the conflict, and notes that while racial apartheid is associated with colonialism, gender apartheid in the Middle East is indigenous, and predates western colonialism. This allows Islamists and cultural nationalists to defend male oppression under the banner of resistance to the cultural imperialism of the West, i.e. feminism and advocacy of women's rights (pp. 272–3).

Mayer provides a detailed rebuttal of the cultural relativist claims of al-Hibri and Smolin, and shows how their position endorses the oppression of Muslim and Jewish women, which often takes the form of a benign gender apartheid. Although she has clearly laid out the male-centered politics of cultural relativists, she has found it necessary to engage in *ad hominem* arguments against al-Hibri. She has tried, in the spirit of Cold War propaganda, to discredit Al-Hibri's position by identifying her as a former Marxist. This has led her to more *ad hominem* arguments against Marxism itself. Although there is no shortage of this genre of Cold War propaganda, Mayer has decided to add to it rather than face the challenge of Marxist critique of liberal legal theory and practice.

'Formerly an assertive Marxist', Mayer writes, 'she [al-Hibri] abandoned

her Marxist credo to emerge in the 1980s as a Muslim, not being the only Marxist to undergo this transformation' (p. 291). The footnote to this highly ideological statement (Marxism is a 'credo' and people get transformed into or out of it) tells the reader that '[a]s the prestige of Marxist ideology crumbled, many Marxists struggled to find substitute intellectual homes', and details how 'the most famous of these intellectual pilgrims', Roger Garaudy, 'has become a zealous Muslim'[2] (Marxism is equated with a religion of pilgrims and zealot converts). Even in interpreting the politics of Smolin, Mayer reminds the reader of al-Hibri's association with Marxism: 'One notes that, in contrast to al-Hibri, who was formerly a Marxist, Smolin treats Marxism as an oppressive ideology' (p. 321). Elsewhere, referring to al-Hibri's identification of human rights with western culture and denying its universality, Mayer writes: 'Whether this is a residual influence of her former Marxist affiliation cannot be told with certainty, but Marxism can be one route to the cultural relativist camp' (p. 294). According to the footnote to this statement, 'the Marxist Hermann Klenner claims that in the contemporary world system, there can be no universally shared conception of universal human rights nor any universally binding formulations of rights'. Again, '[l]ike a Marxist imagining that the right Marxist principles will automatically solve all problems, al-Hibri writes as if reading religious sources and identifying the correct Islamic principles will automatically solve women's problems' (p. 296).

Mayer conflates Marxist theory with the politics and practice of socialist regimes:

> The omission of Communism from the list of historically oppressive systems does not seem coincidental, since al-Hibri concedes in the same essay that she herself was formerly a Marxist. Probably not coincidentally, she never mentions the oppression meted out to Muslim peoples in Central Asia and Afghanistan, which were devastated under Soviet Marxist rule. (p. 309)

If Mayer has failed to escape the Cold War mind set about Marxism, she has succeeded in providing a useful universalist critique of cultural relativism. She has shown the ways in which cultural and religious interests compromise women's rights. However, her theoretical and political frameworks do not allow her to go beyond the confines of religion and culture. In defending herself against Islamists, she emphasizes that 'Islamic law can be interpreted to give women equality in rights' (p. 298). This is the political line of cultural relativists and Islamists who claim that 'Muslim women' can reverse oppressive gender relations by engaging in woman-friendly or feminist readings of the Koran or *shari'a*, engaging in *ijtihad* (new judgement on legal or theological issues based on the interpretation of religious texts and traditions), and joining the ranks of clerics (see, e.g. Najmabadi, 1995, 1998; Hassan, 1996).

Limitations of legalist universalism

If Mayer finds Islamic law compatible with gender equality, Marxist theory posits conflict between the idea of equality and religion or any ethnic belonging. It is, thus, remarkable that she quotes a single source, Hermann Klenner, in order to identify Marxism with cultural relativism.[3]

Mayer achieves her purpose by ignoring the Marxist feminist literature, which finds both religion and cultural relativism in conflict with women's rights in the Middle East (see, for instance, Mojab, 1998 and 2001; Mojab and Hassanpour, 2002; Mojab and Abdo, 2004; and Abdo, 2004). While trying to discredit al-Hibri's cultural relativism by identifying her as a former Marxist, Mayer ignores the anti-relativist position of former or current Marxists and socialists (see, for instance, Héli-Lucas, 1993; Moghissi, 1994: 8–9, 1999; Shahidian, 1997; and Afary 1997). She has also ignored the extensive literature of Marxist and communist organizations, which dismiss theocratic regimes and the Islamization of gender relations, and defend the universality of women's rights.[4] Marxists not only reject the ethnicization of rights, but explain societies, women or revolutions in terms of class relations and socioeconomic formations rather than religion or culture. Thus, they are critical of concepts such as 'Islamic society,' 'Islamic revolution,' or 'Muslim woman' (see, among others, Mojab 1998, 2000).

Mayer's belief that 'Islamic law can be interpreted to give women equality in rights' is, on the surface, in conflict with her opposition to cultural relativism. For instance, she critiques CEDAW for treating discrimination against women as a question of culture rather than politics; that is, a regime of 'male' domination' of women' in which men oppress women (Mayer, 2000–01: 245). She also notes that CEDAW, unlike international documents dealing with racial discrimination that denounced the doctrine of racial superiority, does not denounce 'any doctrine of male superiority' (pp. 247–8). In another context, she argues that 'women's discrimination flows from policies dictated by male-dominated political systems', and there are 'strong reasons for showing respect for religions and cultures, but there are likewise strong reasons for appraising skeptically the opportunistic use of these rubrics by governments defending gender apartheid' (p. 268).

While the distinction between the cultural and political is crucial in this debate, Mayer repeatedly locates the oppression of women in the exercise of state power: 'The coercive power of the state disappears in these [cultural relativist academic] depictions, which fail to address the way religion has been converted into an ideology that serves the interests of the males controlling the levers of power and wielded as justification for oppression and discrimination' (p. 290). Consistent with her interpretation of women's oppression as a political rather than religious or cultural project, she rejects the claim that Islamic feminist jurisprudence or 'Islamic feminist

interpretation' of religious texts will force states like Afghanistan, Iran or Saudi Arabia 'to abandon their retrograde policies on women' (pp. 297–8, 299). However, while Mayer derives the oppression of 'Soviet Marxist rule' from Marxist theory or ideology, she emphasizes that the gender oppression of Islamic theocracies has nothing to do with Islam. She warns her readers not 'to assume that rules of Islamic law are the real force behind these laws. Government policies reflecting the local political contexts determine the laws, even when politicians insist that they are adhering to Islamic requirements' (p. 257).

Although Mayer problematizes the oppression of women as a question of politics, i.e. unequal division of gender power, she cannot exit the quagmire of religion. This is the case because of her legalistic approach to the exercise of (gender) power, failure to see gender relations as a system and inability to separate religion and mosque, and religion and politics. For Mayer, religion is not a locus of male power; it is, rather, used 'opportunistically' and as 'justification' by male power holders within the state in order to perpetuate gender oppression. This view about the exercise of male gender power invites a legalistic solution to gender apartheid and oppression. What is needed is a regime of rights, national and international, that has muscle or teeth, much like those that deal with racial discrimination and racial apartheid. Such a regime of rights will, then, deny statesmen the right or power to opportunistically use religion against women. Moreover, if religion itself is not a source of oppression, Islam and women's rights will be compatible, leaving no grounds for separating state and mosque, and abolishing theocracy.

THE MARXIST ALTERNATIVE TO LIBERAL LEGALISM

Feminists have critiqued the patriarchal nature of liberal theory and how it compromises with religion and culture in discriminating against women (for a recent review see Stopler, 2003). There is also a rich tradition of Marxist critique, which exposes the limitations of law and liberal legal theory as well as a lively literature responding to the Marxist and feminist challenge from the point of view of liberal and democratic theories (see, for instance, Hunt, 1996; Baynes, 2000; Fine, 2002). Mayer's references to Marxism are not, however, informed by this important debate. Her most subtle understanding of Marxism and human rights are two quotations from secondary sources:

> Significantly, Marx and Engels dismissed 'liberal conceptions of civil and political rights', the ones that matter most for gender *apartheid*, as representing only a 'narrow bourgeois horizon of rights'. (Mayer, 2000–01: 301)

In support of her claim that 'Marxism can be one route to the cultural relativist camp,' she writes:

> For example, in a major work on Marxism and human rights, the Marxist Hermann Klenner claims that in the contemporary world system, there can be no universally shared conception of universal human rights nor any universally binding formulations of rights. According to Klemmer [Klenner], each people (which in practice translates into each state) is to be left in control of its domestic system of law and human rights'. (Mayer, 2000–01: 294)

Even without consulting the works of Marx and Engels, Mayer could find, in secondary sources, more accurate accounts of the Marxist position. For instance, Brown (2000: 473) has, in response to critics of Marx, summed up the Marxist dialectic of universality/particularity:

> For Marx, as is well known, the legitimacy of the liberal state is achieved by its proclamation of universality: in declaring all men eligible for the rights of man, the state promises to regard us as if we were the same, without regard for our socially produced differences. However for Marx, this very universality is both contradicted by and premised upon what Marx calls the material elements that distinguish and stratify us in civil society: property, education, in short, class relations. So Marx's insistence on the opposition between the abstract universal and the concrete particular, which figures a homologous opposition between state and civil society, religious life and earthly life, citizen and man, is fundamental to his critique of liberal legitimacy, not simply to a critique of rights . . . The state posits its universality over and against the particular powers that distinguish and stratify us. Crucially, in Marx's account, particularity does not signify mere difference or individuality. Rather it signifies inequality, stratification, irreconcilability – all of which are produced by social powers that the universalism of the state veils in what Marx calls its political abolition of them, its pronouncement that they are irrelevant to citizenship and the rights that attend upon it.

Mayer's idea of right presupposes the neutrality of law, a claim that both feminism and Marxism reject. Marxism and feminism emphasize the class and gendered nature of law, rights, and the state (see, among others, MacKinnon, 1989; Murray, 1995; Hunt, 1996; Collins, 2001; Fine, 2002). From a Marxist perspective, universal women's human rights, even if adopted by the state, cannot dismantle the patriarchal regime. Thus, even if theocratic states such as Iran and Saudi Arabia decide to grant such rights, gender apartheid may be disrupted only in spaces controlled by the state, and to the extent that governments would be willing to mobilize their resources to change the status quo. Under the pressure of women's and feminist movements, constitutional and legal reforms in liberal democracies such as Australia, the UK, Canada, France and Sweden have, since the 1960s, granted women and men legal equality, although discrimination and male violence continue in both public and private domains.

In his 1844 critique of Bruno Bauer's approach to the Jewish question, Marx (1975a) unraveled the limitations of liberal legalism. He rejected Bauer's claim that Germany's Jews could achieve political emancipation only if they abandoned their religious particularism, which is incompatible with universal 'rights of man'. Marx noted that:

> The *German* Jew in particular is confronted by the general absence of political emancipation and the strongly marked Christian character of the state. In Bauer's conception, however, the Jewish question has a universal significance, independent of specifically German conditions. It is the question of the relation of religion to the state, of the *contradiction between religious constraint and political emancipation* Emancipation from religion is laid down as a condition, both to the Jew who wants to be emancipated politically, and to the state which is to effect emancipation and is itself to be emancipated. (p. 148)

Referring to the example of the more secular political regime in the USA in the 1840s, Marx explained the complex relationships between religion, secularism and universal rights:

> What is the relation of *complete* political emancipation to religion? If we find that even in the country of complete political emancipation, religion not only *exists*, but displays a *fresh and vigorous vitality*, that is proof that the existence of religion is not in contradiction to the perfection of the state. Since, however, the existence of religion is the existence of a defect, the source of this defect can only be sought in the *nature* of the state itself. We no longer regard religion as the *cause*, but only as the *manifestation* of secular narrowness. Therefore we explain the religious limitations of the free citizens by their secular limitations. We do not assert that they must overcome their religious narrowness in order to get rid of their secular restrictions, we assert that they will overcome their religious narrowness once they get rid of their secular restrictions. We do not turn secular questions into theological questions. We turn theological questions into secular ones. History has long enough been merged in superstition, we now merge superstition in history. The question of the *relation of political emancipation to religion* becomes for us the question of the *relation of political emancipation to human emancipation*. We criticise the religious weakness of the political state by criticising the political state in its *secular* form, *apart* from its weakness as regards religion. (p. 151)

Quoting the constitutions of American states and the French declaration of the rights of man, Marx emphasized that human rights in the secular capitalist state thrive on religion:

> Incompatibility between religion and the rights of man is to such a degree absent from the concept of the rights of man that, on the contrary, a man's *right to be religious* in any way he chooses, to practise his own particular religion, is expressly included among the rights of man. The *privilege of faith is a universal right of man*. (p. 162)

Thus, political emancipation, achieved through a regime of rights is less than human emancipation. This is not a rejection of human rights or civil liberties.[5] It is rather an emphasis on how under conditions of extra-legal inequality in civil society (class, racial, religious, etc.) equality in rights is 'half-hearted':

> Therefore we do not say to the Jews as Bauer does: You cannot be emancipated politically without emancipating yourselves radically from Judaism. On the contrary, we tell them: Because you can be emancipated politically without renouncing Judaism completely and incontrovertibly, *political emancipation* itself is not *human emancipation*. If you Jews want to be emancipated politically without emancipating yourselves humanly, the half-hearted approach and contradiction is not in you alone, it is inherent in the *nature* and *category* of political emancipation. (p. 160)

It might be clear from this debate that a wide gulf separates liberal and Marxist approaches to emancipation. Marx has outlined the limitations of the most developed liberal democracies of his time, the USA where 'the relation of religion to the state' showed itself 'in its purity' (p. 150).[6] Some 190 years after Marx, it is difficult to disprove him. The USA has refused to ratify CEDAW, has not endorsed the International Criminal Court, and waited some 36 years to ratify, with numerous reservations, the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide.[7] If Iran has refused to ratify CEDAW because it violates its *shari'a*-based legal regime, the USA does so because it violates the sovereignty of the state. Here, ethnic and civic nationalism, and theocracy and liberal secularism, converge within the realm of patriarchal politics. No doubt, rights themselves evolve, as they are sites of struggle. For instance, while the US Supreme Court recognized, in 1973, women's reproductive choice as a fundamental right, an active anti-choice movement has undermined it (Ernst et al., 2003–04). The current Bush Administration has pursued an anti-abortion agenda nationally and internationally (Ernst et al., 2003–04: 792–94). Theocratic tendencies in and out of the state have grown stronger especially in post-9/11 conditions.[8] A former president, Jimmy Carter (2005), has warned that in the USA the lines separating state and church are blurring, a situation that threatens civil liberties.

Liberal democrats are content with the constitutional separation of church and state. While Marxists approve of this separation, they demand much more. As can be seen from the discussion of rights and religion, Marxists aim at human emancipation, which requires the separation of religion and politics. In reference to the Reformation, Marx uncovered the limitations of the bourgeois democratic reform of religion. He noted that the leader of Reformation, Martin Luther:

> shattered faith in authority because he restored the authority of faith. He turned priests into laymen because he turned laymen into priests. He freed man

> from outer religiosity because he made religiosity the inner man. He freed the body from chains because he enchained the heart. (Marx, 1975b: 182)

It is clear, from Marx's analysis, that Luther, an early representative of the bourgeoisie in the old institution of the church, aimed at perfecting religion rather than dismantling it. In the realm of secular politics, Marxism argues that 'equality before the law,' a major achievement of liberal democracy, is a blueprint for reproducing inequality. No doubt, citizens of liberal democracies, especially women, members of aboriginal peoples and racial minorities, have experienced the consequences of the equal treatment of unequal citizens. Anatole France's (1844–1924) famous saying, 'the majestic equality of the French law, which forbids both rich and poor from sleeping under the bridges of the Seine', highlights the contradiction (Young, 1979: 24–5).

While extra-legal inequality in capitalism is accepted as normal, socialism aims at eliminating it. Still, Marx predicted that equal right, under socialism, would operate much like that in capitalism. Equal right in socialism is a 'bourgeois right,' one that presupposes inequality. Workers continue to be different (e.g. married/unmarried or size of family), and when they receive equal pay, this equality:

> is a right of inequality in its content, as in general is every right. Right can by its very nature only consist in the application of an equal standard; but unequal individuals (and they would not be different individuals if they were not unequal), are only measurable by an equal standard . . . To avoid all these inconveniences, rights must be unequal instead of being equal. (Marx, 1933: 30)

If the regime of equal rights reproduces capitalism, a system based on inequality and exploitation, it constrains the building of the alternative system, socialism. Capitalist relations were restored in the Soviet Union and China, even before they took deep root. The operation of 'bourgeois right' in the socialist economies of the two countries was one of the many factors that reproduced capitalist relations (on the restoration in China, see Lotta, 1978; Hinton, 1990). It took suffragists two centuries of struggle to force liberal democracies into granting women full suffrage rights. By contrast, these rights were immediately granted in the two major socialist revolutions of Russia (1917) and China (1949). According to Ernst et al. (2003–04: 757), in '1920, the Soviet Union, guided by Marxist principles of gender equality, became the first country in modern times to make abortion legal at a women's request'. China did the same in 1953.

Mayer equates liberal legalism with democracy, and identifies Marxism as an oppressive ideology. This ideological position fails to see democracy as an evolving phenomenon, distinguish between capitalist and socialist politics, and appreciate the contributions of Marx and Engels to the 'democratic breakthrough' (Miguelez, 2000; Nimtz, 2000). In the same vein, liberalism equates socialism with dictatorship. Theoretically, liberal legalism sees democracy and dictatorship as mutually exclusive entities rather than

opposites, existing in unity and conflict, in all political systems, capitalist and socialist. Thus, it generally overlooks state coercion and violence in liberal democracies, and considers them as deviations from the norm. Even when the evidence overwhelms the observer, capitalist violence and its ideology of racism, nationalism, fascism, eugenics and ethnic cleansing are seen as the 'dark side of democracy' (Mann 2004; see among others, Mazower, 1998; Gareau, 2004). In post-9/11 USA, the violation of civil liberties, the practice of torture, trafficking prisoners across international borders, and, in a word, the suspension of liberal democracy are legitimized because the state feels threatened. Although, the legislative is flexible enough to confer on the executive branch the power to suspend democracy, the present Bush Administration finds it convenient to ignore the rule of law, and justify it by pointing to the priority of the national interest.[9]

Patriarchy: A social system

In many Middle Eastern states, one can see a trend of reversal of women's rights since 1979. Women and men in the Middle East have resisted the new waves of this patriarchal offensive by different means, including the advocacy of rights. CEDAW and other UN documents have been especially useful in the course of this ongoing struggle. To give one example, Mehrangiz Kar, an Iranian lawyer, conducted an extensive study in which she compared the Islamic laws of Iran with the articles of CEDAW and found consistent conflict between the two. Much like Mayer, however, Kar argued that *shari'a* is not divine and monolithic, a situation that can allow the reform of the legal system in order to accommodate CEDAW (Kar, 1999)

While the legal reform of Islamic gender relations is certainly possible and necessary, they will not put an end to the patriarchal regime. From a Marxist-feminist perspective, patriarchy is a social system; it is not a product of misbehavior, misunderstanding, or mis-education, although all of these may be present in individual cases. Patriarchy is a system in which two genders coexist in hierarchical, unequal and oppressive relations. In this system, males exercise gender power and dominate the other gender. It not only produces women's subordination but, like other systems such as capitalism, 'produces the conditions of its own reproduction' (in the words of Marx, quoted in Himmelweit, 1983: 417). Ideology, religion, education, custom, force of habit, language, law, music, dance, among others, create consensus as well as conditions, which restrain resistance to patriarchy. There is an interdependence of these systems. For instance, the economic system, capitalism or pre-capitalism, thrives on the paid and unpaid labor of women. In North America, popular culture and mainstream media propagate anti-feminism (Hammer, 2002).

Patriarchy is, thus, both autonomous from other social formations and dependent on them. It cannot be reduced to religion even in theocratic

states like Iran, or to class exploitation in any economic system. Equality before the law, if it involves gender equality, can hardly constrain such a system let alone dismantle it. In the case of patriarchy in Islamic theocratic states, legal reform within the framework of Islamic law may only moderate state-sponsored gender violence.

Mayer has made useful contributions to the critique of cultural relativism (see, among a long list, 1996 and 1999).[10] The limitations of her critique are the limitations of liberal democracy: after two centuries of state power, liberalism thrives on racism (Goldberg, 2002; Black, 2003), sexism (Nelson 1998; Black, 2003), violence (Bacevich, 2005; Bronner, 2005; Churchill, 2003), exploitation (Rank, 2004; Herivel and Wright, 2003), and poverty (Collins and Yeskel, 2005), and it does so through its political and juridical project, which promises equality and liberty but fails to deliver it. The bourgeois democratic project was worked out, during the Enlightenment, in conflict with the feudal despotism of Europe; it was surely adequate for replacing the old regime of social inequality with a new one, which promised and afforded only legal equality.

If today's liberal legalism fails to discern the ethnic nature of the civic nation, an early student of American democracy, Alexis de Tocqueville (1805–59), did not hesitate to unravel the mystery. Contrasting the aboriginal policies of Spanish colonizers with that of the USA, he wrote:

> The Spanish, with the help of unexampled monstrous deeds, covering themselves with an indelible shame, could not succeed in exterminating the Indian race, nor even prevent it from sharing their rights; the Americans of the United States have attained this double result with marvellous facility – tranquility, legally, philanthropically, without spilling blood, without violating a single one of the great principles of morality in the eyes of the world. One cannot destroy men while being more respectful of the laws of humanity. (Tocqueville, 2000: 325)

The socialist project emerged in conflict with the capitalist system, which was in power by the late 18th-century in parts of Europe and North America. It aimed at replacing the capitalist regime of inequality with a system based on equality, not only juridical and political, but also economic and social. If liberalism presents its political and juridical regime, 'equality before the law', as the realization of a society of equals, Marxists consider the state as relics of the old world, and the regime of rights as the modernization of this ancient institution. However, socialist revolutions have adopted these very apparatuses of inequality to build an equitable society. Here lies the contradiction.

The state and law are products of class societies, and have acted as the (re)producers of inequality. If liberal democrats in the Enlightenment tried to perfect and reform the ancient feudal state, Marxists, long before the assumption of state power in 1917, argued that both the state and law

should wither away. Unable to resolve this contradiction, the first attempts at building socialist societies failed. The most important socialist projects of the last century turned into state capitalist regimes in the USSR, China, and elsewhere. In the wake of these defeats and the success of bourgeois democracy to reproduce itself, the quagmires of the old order – ethnicity, race, religion, nationalism, class, patriarchy, family – are turning into 'black holes' that devour humanity. After the Cold War era, war, femicide, famine, racism, xenophobia, Islamophobia, fundamentalism, disease, violence, and ecocide threaten human and all living beings on the planet. As in the past, but maybe more obviously, the two projects outlined above remain on the agenda: Fukuyama's (1992) project of ending history with liberal democracy and Rosa Luxembourg's vision of ending barbarity with socialism (Meszaros, 2001).

Notes

1 CEDAW, adopted by the UN General Assembly in 1979, has a preamble and 30 articles, and was adopted, as of March 18, 2005, by 180 countries, i.e. over 90 percent of the members of the UN (UN Division for the Advancement of Women, 1979). The 19 articles of the International Convention on the Suppression and Punishment of the Crime of Apartheid entered into force in 1976. Israel, Turkey, and the United States, among others, have not yet signed or ratified this convention (UN, 2002).

2 Mayer assumes that non-Marxist positions are normal, natural and neutral, but Marxism is a deviation or evil that forever haunts those who have been contaminated with it. She fails to see that political and ideological change is the norm and not an inherently Marxist malaise. No one is born a liberal or a Marxist. In the Islamic world, individuals of quite diverse backgrounds, including Muslims, have changed their political and ideological positions and pursued liberalism, conservatism, socialism, Marxism or communism.

3 Contrary to Mayer, Marxists are the most persistent critics of (postmodernist) cultural relativism. See, in a vast literature, Eagleton (1996).

4 The Marxist literature in the languages of the Middle East is extensive (see, for instance, the bibliography of Persian language sources in exile compiled by Mojab and Hojabri, 2000). Much of this literature does not appear in western languages. In this article, I refer mostly to English language material. See, among others, the English language journal *Women and Struggle in Iran* published in the mid-1980s in California by supporters of the Marxist 'Organization of Iranian People's Fedaii Guerillas'. Another journal, *Medusa*, published by the Centre for Women and Socialism (UK), carries, in its 'Special English Edition' (December 2002), articles under titles such as 'Cultural Relativism, This Era's Fascism', 'Sexual Apartheid is a Product of Political Islam', 'The Universality of Women's Rights and Postmodern Theories', 'Women's Rights are Universal', 'Fighting Cultural Relativism and Islamic Regulations in Sweden and Denmark', and 'Islam is not a Solution, it is a Problem.' See, also, 'Islam and America . . . Friends or Foes' in *Asian Marxist Review* (The Struggle Publications, 2004).

5 Marxists advocate civil liberties, and academic and press freedoms for both theoretical and practical reasons: they are indispensable for political and human emancipation, crucial for engaging in open political and ideological struggles, and vital for constraining state violence which has targeted them in all bourgeois democracies. On repression in the US, see, for instance, Wahlke (1952), Churchill (1990) and Ybarra (2004).

6 Eight decades after the French Revolution, the communards of Paris declared in their decree (3 April 1871) the separation of church and the state because the French Republic had failed to deliver the promise (Paris Commune, 1871).

7 On the ratification of the genocide convention and US government 'hostility to international law', see Power, 2003, especially pp. 161–9.

8 See, for instance, Theocracy Watch, 2005.

9 For latest information on the struggle over civil liberties in the US under the Patriot Act, see American Civil Liberties Union (n.d.).

10 Mayer lags behind Iran's Islamists, some of whom now call for the separation of state and mosque. Many Iranian intellectuals, still stunned by the founding of an Islamic theocracy in the wake of a major democratic revolution in 1906–11, claim that the formation of this theocracy was due to the absence of a European-style Reformation and rationalism in Iranian philosophical and political thought.

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