

**Indigenous Women's Appropriation and Redeployment of Human Rights :  
A Comparative Study of the Native Women's Association of Canada and  
K'inál Antsetik (Mexico)**

by

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A thesis submitted in partial fulfillment of the requirements for the degree of

Master of Arts

Department of Political Science

University of Alberta

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## Abstract

Recent studies have examined the roles and politics of human rights in relation to Indigenous peoples. An analysis of the negotiation of rights discourse by Indigenous women in a comparative framework is however lacking in critical scholarship. This study examines how Indigenous women in Canada and Mexico mobilize rights to challenge the cultural and systemic injustices they endure. With the Native Women's Association of Canada (NWAC) and K'inial Antsetik (Mexico) as case studies, this study seeks to explore how Indigenous women in both places perceive and use human rights. The appropriation and redeployment of rights according to Shannon Speed et al.'s analysis is a useful tool for Indigenous women to apply this discourse to their local realities. A comparative analysis of Indigenous women's organization's use of human rights contributes to the establishment of a sustainable, effective and equitable framework and practice of human rights for Indigenous women in various contexts.

## Preface

This study started taking shape when I was applying for a research grant at the International Development Research Center (IDRC) in hopes of getting the necessary funds to carry out fieldwork in Canada and abroad. I always knew that I wanted to do a comparative study between Canada and Mexico on a topic that touched on Indigenous women's socio-political struggles, but it was through that application and several discussions with Professor Isabel Altamirano-Jimenez that it took an orientation towards human rights studies. This study is therefore centered on the data that I collected from two Indigenous women's organizations (the Native Women's Association of Canada (NWAC) and K'inál Antsetik in Mexico) regarding their understandings, perceptions and applications of the human rights discourse, in order to cast light on these women's experiences, reflections and agency on questions of peace, justice and liberation from systems of domination.

Carrying out this research and writing this paper has been challenging and enriching all at once. I learned a lot about Indigenous women's socio-political organizing and the complexity of the rights discourse, but mostly I learned about my abilities and what I want to do in my life. Doing a Masters thesis turned out to be much more than what I had expected and served me on a personal level. These questions of self-growth and development are however not included in the pages that follow. Looking back, I remember the cold nights spent in the mountains of Chiapas, as well as my surprise walking into NWAC's main office in downtown Ottawa. I will also always remember the sense of solidarity that I experienced during interviews with women from both organizations, and the realization that the privilege of sitting and talking with them was becoming the centerpiece of my education.

This thesis is an original work that I have written, of which no part has been previously published. The University of Alberta's Research Ethics Board has approved the field research done for this study. At the time of my ethics application, this study was intended to be entitled "A Comparative Analysis of Organizations Struggling for Social Justice for Indigenous Women: The Cases of Pauktuutit and K'inal Antsetik," under the identification number: Pro00026808. The primary data in this study has therefore been collected in an academically responsible way, and has been reviewed and approved by the participants of each organization. I remain disposed to contribute to the work of these organizations in any way that I can.

## Acknowledgments

I wish to acknowledge the invaluable guidance that I received from my thesis supervisor, Professor Altamirano-Jimenez, and the other members of my supervisory committee for this study. The fieldwork that was executed in Canada and Mexico relied on the financial support of several institutions: the University of Alberta (UofA), the International Development Research Center (IDRC), the Social Sciences and Humanities Research Council (SSHRC) and the Government of Alberta. The UofA, the University of Sudbury, and the Centre for Research and Advanced Studies in Social Anthropology (CIESAS), also deserve of recognition for their accompaniment in my fieldwork and intellectual development. Most importantly, I thank the Indigenous women of NWAC and K'inal Antsetik who welcomed me in their space and spoke to me about their experiences, reflections, and hopes for a brighter future.

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## Introduction

Indigenous women often speak of the political and cultural challenges of being Indigenous in a world rocked and reorganized by Western worldviews that overrun Indigenous values and traditional ways of life. The politics of being women as well as Indigenous raise particular challenges that are being increasingly discussed and examined in academia and political circles at the local, national and international scale. The intersection of gendered and racial oppression that Indigenous women endure brings up urgent concerns on social justice, gender equality and self-determination in Indigenous communities. Many Indigenous women have formed political organizations in order to address their need for social change and ensure the inclusion of their voices and experiences in discussions on Indigenous rights. The discourse of human rights is often a central aspect of their work in this regard, a strategy that is often taken for granted and seen as an obvious avenue for the formulation of socio-political claims, but is in fact a phenomenon that requires special attention and clearer understanding.

Debates concerning human rights have been generated in the past decades, outlining the many issues that have affected minority groups who have tried to make use of this discourse. The Western influence conveyed through this framework and its universalized acceptance are some of the main concerns voiced in the critical scholarship on this matter.<sup>1</sup> Particular concerns however come into play for Indigenous women who continue to be misrepresented in human rights documents and face opposition on this issue from within and outside of their communities.<sup>2</sup> Indigenous feminist scholars and activists push towards the creation of a human

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<sup>1</sup> Ratna Kapur, "Human Rights in the 21<sup>st</sup> Century: Take a Walk on the Dark Sides," *Sydney Law Review* 665, no. 28 (2006); Robert Carmack, "Perspectives on the Politics of Human Rights in Guatemala," in *Human Rights in the*

<sup>2</sup> Tebtebba Foundation, Forest Peoples Programme, and Asia Indigenous Women's Network, *Realizing Indigenous women's Rights: A Handbook on the CEDAW*, Tebtebba Foundation, 2013: 38-41; Winona LaDuke, *Foreword*, in

rights framework that properly represents the needs and concerns of Indigenous women at the intersection of individual and collective rights. Doing so however involves a reshaping of rights according to particular political and cultural contexts in ways that challenge Western frameworks and institutions that do not represent Indigenous worldviews. Western liberal perspectives often see Indigenous rights claims as contentious (i.e., as going beyond the norm of equality between individuals.) The main point of discomfort between these perspectives is that liberalism revolves around individual rights before the state, while Indigenous rights claims demand for recognition of collective rights as well.<sup>3</sup> These types of challenges posed by Indigenous rights claims are seen by mainstream rights institutions as threatening and incompatible with “dominant liberal democratic values”.<sup>4</sup>

On the other hand, however, Indigenous women cannot renounce to the advantage provided by an individual conception of human rights, because they face oppression not only from outside groups or institutions but also from within their own communities. Moving towards a rights framework that breaks through the status quo to represent the needs and concerns of Indigenous women is done primarily by Indigenous women’s political organizations, which act as bridges between local Indigenous women’s experiences, and national and international power structures that manage and disseminate human rights. Understanding Indigenous women organizations’ approach to human rights and its surrounding debates implies a careful look at how these women perceive this framework and relate it with the experiences and knowledge of Indigenous women at the local scale.

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Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (South End Press, 2005), xv-xviii; Andrea Smith, “Against the Law: Indigenous Feminism and the Nation-State,” *Affinities* 15, no. 1 (2011), <http://affinitiesjournal.org/index.php/affinities/article/view/73/233> (accessed April 22, 2014).

<sup>3</sup> Francesca Merlan, “Indigeneity: Global and Local,” *Current Anthropology* 50, no. 3 (2009), 314.

<sup>4</sup> *Ibid.*, 315.

This study aims at exploring this topic by comparing two organizations in separate locations in order to analyze their use of the human rights discourse across different social, cultural, political and historical contexts. The cases to be studied are the Native Women's Association of Canada (NWAC) and K'inol Antsetik in Chiapas, Mexico, two organizations that I had the opportunity to visit for the purpose of this research. These two organizations are renowned internationally for their pathbreaking and leading work in favor of Indigenous women in their respective countries. In their work, both organizations have recourse explicitly to the human rights discourse. The theory of appropriation and redeployment of the rights discourse as elaborated by Shannon Speed et al. is used in order to see how in each context these organizations have recourse to human rights. Indigenous women in various locations appropriate and redeploy the discourse of human rights to serve their particular socio-political objectives, which are contextually and experientially defined across space. This comparison between NWAC and K'inol Antsetik's appropriation and redeployment of rights provides a concrete example of the various ways that Indigenous women perceive and use rights, each within its own specific political circumstances and challenges, thereby giving a more concrete form to Speed et al.'s theory.

The choice of comparing organizations in Canada and Mexico is based on several factors of similarity and difference as well as personal affinity with each location. As a Canadian and Mexican citizen, I have long been interested in comparing these two countries, particularly on questions of social and economic development, and the state of their Indigenous populations. I could see that in both locations, Indigenous peoples claim their right to self-determination, to live in dignity and to have greater access to resources such as land, education and health services. However, I also came to note the important contextual differences regarding culture, identity and

historical background that define these Indigenous populations. As a researcher and Indigenous woman sharing ancestry from both countries, these elements of comparison are particularly interesting in helping me to understand my own identity and political foundations.

Comparing these countries as I intend to is also interesting at a more general, substantial and methodological level. Through colonial histories and in their current politics, the states of Canada and Mexico have marginalized their Indigenous populations who continue to suffer and struggle against systemic neglect, violence and discrimination. Indigenous women in particular are subject in both cases to acute mistreatment coming from within and outside of their communities, and they struggle against poverty and domestic violence, among other issues.<sup>5</sup> In 1994, the North American Free Trade Agreement (NAFTA) was instituted between Canada, the US and Mexico, gravely affecting the livelihoods of Indigenous peoples in Mexico and increasing the economical divide between the North-American North and South. The place-specific effects created by NAFTA increased Indigenous mobilizations in Mexico, and among women in particular who ignited conversations worldwide on Indigenous feminist struggles in a neo-liberal era.<sup>6</sup> They were building on previous human rights work for women such as the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), which had been ratified by Canada and Mexico in 1981.<sup>7</sup> The human rights concerns of Indigenous women in Canada and Mexico have evolved differently from this point, but maintain similarities on

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<sup>5</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Fact Sheet: Violence Against Aboriginal Women," under "Fact Sheet," [http://www.nwac.ca/files/download/NWAC\\_3E\\_Toolkit\\_e.pdf](http://www.nwac.ca/files/download/NWAC_3E_Toolkit_e.pdf) (accessed April 15th, 2014); Samuel Loewenberg, "The Plight of Mexico's Indigenous women," *The Lancet* 375, no. 9727 (2010): 1680; United Nations Human Rights, *Advancing Indigenous Peoples' Rights in Mexico*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/en/NewsEvents/Pages/IndigenousPeoplesRightsInMexico.aspx> (accessed May 21st, 2014).

<sup>6</sup> Shannon Speed, "Gendered Intersection: Collective and Individual Rights in Indigenous Women's Experience," in *Rights in Rebellion: Indigenous Struggle and Human Rights in Chiapas* (Stanford: Stanford University Press, 2007), 134.

<sup>7</sup> United Nations Treaty Collection, *Chapter IV Human Rights: 8. Convention on the Elimination of All Forms of Discrimination against Women*, United Nations, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en) (accessed May 21, 2014).

issues such as poverty, discrimination and violence.<sup>8</sup> Another point that is common to both contexts is that Canada and Mexico have ratified the UNDRIP (Mexico in 2007, Canada in 2010), a legally non-binding text that sets international standards for the treatment of Indigenous peoples.

There are however significant variations between each contexts. In Mexico, due to a strong history of Indigenous uprisings and failed attempts to negotiate with the Mexican state, many Indigenous political groups in this region, particularly in Chiapas, have become wary of communicating with state-governments.<sup>9</sup> It is now important for these groups to remain autonomous from such institutions and to be critical of governmental programs and interventions in Indigenous communities.<sup>10</sup> In Canada, the situation is different: due to their own history, Indigenous organizations have not cut all relations with the state. There are ongoing negotiations between them. All Indigenous organizations receive monetary support from the Canadian government, while some are trying to create distance with the Canadian state. This constitutes an important contextual and political difference between Indigenous organizations in Canada and Mexico. The differences and similarities in both contexts regarding culture, history and politics

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<sup>8</sup> Isabel Altamirano-Jiménez, *Indigenous Encounters with Neoliberalism: Place, Women, and the Environment in Canada and Mexico* (Vancouver: UBC Press, 2013), 8-9, 23. Assembly of First Nations, *Implementing the UNDRIP*, <http://www.aadnc-aandc.gc.ca/eng/1309374807748/1309374897928> (accessed May 21, 2014); .The United Nations Declaration on the Rights of Indigenous Peoples has been ratified by Mexico in 2007 and by Canada in 2010. While this document is non-binding, its ratification by both countries shows an evolution of Indigenous peoples rights in both places.

<sup>9</sup> *Encyclopaedia Britannica*, Online Academic ed., s.v. “Zapatista National Liberation Army (EZLN),” <http://www.britannica.com/EBchecked/topic/655858/Zapatista-National-Liberation-Arm-EZLN/286749/The-rebellion?anchor=ref1118628> (accessed May 21, 2014). The San Andrés Accords negotiations, which took place between 1999 and 2003, created mistrust for the EZLN, who disapproved of the Mexican government’s modifications to the Accord. According to what members of K’injal Antsetik have explained to me during conversations, this type of occurrence has created a generalized feeling of mistrust among many Indigenous political organizations in Chiapas who now keep distances with the Mexican state.

<sup>10</sup> Shannon Speed, *Right in Rebellion: Indigenous Struggle for Human Rights in Chiapas* (Stanford: Stanford University Press, 2007), 52-3, 134; R. Aída Hernández Castillo, “Zapatismo and the Emergence of Indigenous Feminism,” *NACLA* 35, no. 6 (2002); 40-41.

point to the interest of a comparison between the political work of Indigenous women in Canada and Mexico, and particularly their approach to human rights.

My interest in comparing specifically NWAC and K'inal Antsetik began while searching through websites for Indigenous women's organizations in Canada and Mexico. I found that both organizations are trailblazers in the ways they use the discourse of rights. By using its terminology for the advancement of their claims, NWAC and K'inal Antsetik have made the discourse of rights a central point of their work with Indigenous women. Building on human rights frameworks and analyses, both organizations seek to reach new grounds for Indigenous women's rights in their respective countries. This is visible in documents released by each organization, in the content of their websites and by looking at their various areas of focus. While there are differences in terms of scale and scope between both organizations, their outlooks on Indigenous women's needs and concerns are similar as they both advocate in favor of recognizing the individual rights of Indigenous women as well as the collective rights of Indigenous peoples. The important similarities that I identified between NWAC and K'inal Antsetik in spite of their distinct contexts were grounds for inviting them to participate in this study. I also wish to underline the interest voiced by both organizations, which helped determine their presence in my study.

The relevance of comparing these two organizations also rests in their central differences. While both organizations deal with issues of violence, discrimination and poverty, as stated above, their human rights work is done on different scales. In the case of NWAC, the oppression of Indigenous women is perceived mainly as an issue of structural violence. NWAC seeks to achieve transformation of the Canadian state, by engaging in rights litigation against it. It uses the rights discourse as a common language between Indigenous women's concerns and state

institutions and frameworks that will push the Canadian state to change legislation in order to better protect Indigenous women. K'inal Antsetik, on the other hand, does not engage in this kind of litigation against the Mexican state, and rather seeks to transform Indigenous communities in order to create more justice and peace for Indigenous women. In changing Indigenous normative systems and perspectives on gender relations and Indigenous identity, and educating local communities on various issues ranging from politics to health, K'inal Antsetik's main strategy rests at the grassroots level. This distinction between NWAC and K'inal Antsetik shows that each organization mobilizes rights differently in order to reach similar goals.

Shannon Speed et al.'s theory of appropriation and redeployment is used as a theoretical framework in this study. This theory seeks to analyze the ways that the Indigenous women's organizations in this study perceive and use the discourse of rights to achieve their political objectives. Its focus on local contexts as shaping elements for the Indigenous understandings of rights is aimed at highlighting local experiences, knowledge and historical and political situations in each location. This theory's emphasis on the redeployment of this discourse according to local needs and concerns, for its part, acknowledges local agency and the potential for subversion through the discourse of rights. The methodology used in this study is the comparative case study, which seeks to highlight cultural, political and historical contextual elements that may shape the way that the appropriation and redeployment of rights takes place for the cases of NWAC and K'inal Antsetik. Data for both case studies has been collected through open-ended interviews with members of each organization, as well as certain community members in the case of K'inal Antsetik. I have also consulted documentation that is publicly available on the Internet from both organizations on their own websites and through general search engines. I have analyzed the content of these documents and the interviews through an

Indigenous feminist perspective, attempting to understand the unique socio-political position and human rights concerns of the research participants, as women and Indigenous peoples. Aileen Moreton-Robinson's Indigenous women's standpoint theory is useful here as it emphasizes Indigenous women's shared yet unique experiences of gendered and racial violence and discrimination.

This study has limitations. The case studies of NWAC and K'inal Antsetik are uneven in terms of content and analysis. Due to the nature of the grant that was issued to do this study, a much larger amount of funding and time was accorded to studying the case of K'inal Antsetik in San Cristóbal de las Casas than NWAC in Ottawa. The different levels of availability of the participants in each case study were also a significant factor that influenced this unevenness. Due to time constraints, NWAC was able to provide three interviews, which is less than half of the amount of interviews allowed by K'inal Antsetik. I understand this discrepancy as being the result of the different cultural contexts of each organization (NWAC being a national organization dealing with tight deadlines and various large scale projects, and K'inal Antsetik being a grassroots organization focusing on local issues), and the different work priorities that are established in both cases. This being said, it is my understanding that both organizations appreciate and welcome research initiatives that seek to validate and generate discussion on their political work. The uneven content and analysis of each case study could be addressed in future research in order to better understand the similarities and differences between NWAC and K'inal Antsetik's appropriation and redeployment of rights, and find new points of comparison. I however believe that a stronger focus on K'inal Antsetik also has its use by familiarizing Canadian readers with information and background on Mexican Indigenous women's realities, perspectives and political context that may be unknown to them.



### *Sections of Study*

The framework of human rights is introduced in Chapter 1. A brief historical context on the evolution of the discourse of rights is first provided in order to understand why and where certain issues may arise between groups such as Indigenous peoples and human rights institutions and documents. Significant contributions of critical scholarship on human rights are then presented, which raise specific concerns on the cultural and discursive pressures involved with this framework when it is applied to minority populations such as Indigenous peoples. This discussion focuses more precisely on the tensions between individual rights and collective rights for Indigenous peoples. An understanding of these issues sets the context for understanding the relationship between human rights and Indigenous women in particular.

Chapter 2 begins with a historical background on human rights and Indigenous women. An Indigenous feminist outlook on the question of Indigenous rights and collective self-determination is offered, presenting the need for a human rights framework that encompasses the concerns of Indigenous women. The concepts of appropriation and redeployment elaborated by Shannon Speed et al. are then introduced as an avenue to reformulate human rights to fit the local realities of Indigenous women in various locations and their contexts. These two concepts are central to this study and then utilized in subsequent chapters through a comparative case study analysis.

Chapter 3 provides a contextual background of both NWAC and K'inal Antsetik with an emphasis on the work these organizations have done in relation to questions of human rights for Indigenous women, and on their political orientations and influences. This section prepares the ground for a preliminary comparison of both cases, outlining major similarities and differences.

Four major research orientations are then offered for a comparison between NWAC and K'in al Antsetik, linking the theoretical discussions of the previous chapters to these two case studies. Finally, methodological explanations are provided, focusing on the Indigenous women's standpoint theory, which is adopted in the analysis of both cases. The methods that I used during my fieldwork with each organization are described, and I present certain details on my approaches to obtain data and some of my fieldwork experiences.

The first case study, which focuses on NWAC, is exposed in Chapter 4. Structured by the research orientations stated in the previous chapter, the interviews that I did with members of NWAC are used to convey the character of each discussion. The main topics that are discussed in this chapter are NWAC's views on the relationship between human rights and Indigenous culture, the influence of Indigenous feminism in NWAC's human rights work, the issue of cooptation or assimilation of Indigenous value systems through the use of the human rights framework, and the influence that access to resources may have on this organization's understanding of the human rights discourse. The goal of this chapter is to link the theory of appropriation and redeployment as well as other theoretical concerns on Indigenous women and human rights to the shared experiences and knowledge of the members of NWAC in order to expose the way that this organization perceives and uses the discourse of rights.

The case study of K'in al Antsetik is presented in Chapter 5 in a way that resembles the format used in the previous chapter in order to continue focusing on the research orientations stated in Chapter 3. A general description of many problems faced by Indigenous women within their communities in Chiapas is first provided. The relationship that the women of K'in al Antsetik see between human rights and Indigenous cultures in Chiapas is discussed, followed by a discussion of these women's experiences and knowledge on gender dynamics in local

communities, and the impact that the rights discourse has had on their lives in this regard. In a third section, the influence that the Zapatista Army of National Liberation (EZLN) has had on organizations such as K'in al Antsetik is discussed in order to shed additional light on this organizations' perception of rights for Indigenous women. Finally, the emergence of a new subjectivity among Indigenous women in Chiapas is discussed, building on the narratives shared by participants and the existing literature on Indigenous women's social movements in this region of Mexico.

Both organizations' relations to the discourse of human rights are then compared in Chapter 6, in order to draw certain similarities and differences in each organization's appropriation and redeployment of the human rights discourse. This comparison is structured by the research orientations previously determined. The comparisons made are on the maintenance of the Indigenous identity in the perception and use of human rights, the compatibility of the Indigenous feminist approach to rights with the cultural and traditional backgrounds of the communities, the problem of autonomy from the state and its view of the human rights discourse, and finally the differences created in the perception of rights by each organization's different access to resources.

This study should be viewed as a contribution to the work of Indigenous women activists and political organizers. At the core of this study is a counter-hegemonic project. To me, it is a piece of resistance in solidarity with Indigenous feminist struggles as well as an academic contribution to the scholarship on Indigenous women and human rights.<sup>11</sup> Bringing NWAC and K'in al Antsetik together in one study serves not only the purpose of examining the influence of

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<sup>11</sup> My frame of mind throughout the research and writing process has been greatly influenced by Professor Xochitl Leyva Solano who teaches at the CIESAS Sureste in San Cristobal de las Casas in Mexico, as well as other women activist scholars who are part of the *Seminario Virtual Internacional (SVI) Genero, Movimientos y Redes*, of which I have become a part.

context in Indigenous women's appropriation and redeployment of rights, but also to highlight the shared experiences and perspectives of Indigenous women across space.

## Chapter One

### On Limitations of the Human Rights Discourse

A discussion of the evolution of human rights is necessary in order to understand the ways in which Indigenous peoples often perceive and interact with the discourse of rights. The objective of this chapter is to present the issues that contextualize the human rights framework for Indigenous peoples. It focuses more particularly on important critiques that have been made of rights discourse, discussing the work of scholars who take into account the perspectives of minorities and Indigenous peoples in particular, arguing for an approach to rights that takes Indigenous perceptions and worldviews into account.

In general, human rights can be understood as “a wide continuum of values or capabilities thought to enhance human agency or protect human interests and declared to be universal in character, in some sense equally claimed for all human beings, present and future.”<sup>12</sup> The progression of human rights through modern history can be understood broadly in terms of three generations of rights, as explained by Karel Vasak.<sup>13</sup> The first and second generations of rights are based on Western and liberal viewpoints and represent the needs and concerns of individuals in relation to state and non-state actors. Initially, Western thinkers elaborated the notion of human rights by considering civil society as the result of a Social Contract agreed upon by individuals, where civil and public rights are focused on the individual secured by a state, which is held accountable. Among the founding documents of this human rights movement’s liberal

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<sup>12</sup> *Encyclopaedia Britannica*, Online Academic ed., s.v. “human rights,” [www.britannica.com/EBchecked/topic/275840/human-rights](http://www.britannica.com/EBchecked/topic/275840/human-rights) (accessed on April 6th, 2014).

<sup>13</sup> *Ibid.* The presentation of the evolution of human rights in what follows is largely inspired by this article and by Rauna Kuokkanen, “Self-Determination and Indigenous Women’s Rights at the Intersection of International Human Rights,” *Human Rights Quarterly* 34, no. 1 (2012).

doctrine are the American Declaration of Independence (1776) and the French Declaration of the rights of Man and of the Citizen (1791).

Human rights as we know them today are mainly a re-elaboration (the second generation) that emerged after the Second World War with the creation of the United Nations (UN) in 1948. The rise and fall of Nazism gave way to the international and universal recognition of human rights in order to avoid a repetition of the atrocities committed during this historical period. With the establishment of the UN, all member states vowed to take collective and individual action to uphold human rights at the national and international scale. The main human rights declaration to be followed in this way has been the UN's Universal Declaration of Human Rights (UDHR), which was accepted by the UN's General Assembly in 1948 and states that all living persons are entitled to be protected by specific rights that should be evenly accessible to them. This concern for equality, particularly in terms of economic, social and cultural rights, is one of the main characteristics of the UDHR, which is presented as a non-binding ideal.<sup>14</sup>

While it is said that the UDHR is universal and thereby represents and protects the interests of all peoples, there is no real consensus on its scope. There are ongoing debates on the relevance of human rights for collectivities and minority groups, and on the acknowledgement by human rights discourse of questions such as gender and culture, which differ across societies. It is in this context that in recent decades new formulations of human rights have appeared that can be considered the third generation of rights. Indigenous peoples and women are parts of such discussions, demanding a framework of rights that includes collective rights that would represent their needs and socio-political perspectives. New committees that seek to address minority concerns and rights have been instituted, as well as many conventions and gatherings that have

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<sup>14</sup> United Nations, "The Universal Declaration of Human Rights," 1948, United Nations, <http://www.un.org/en/documents/udhr/> (accessed on April 10<sup>th</sup>, 2014).

taken place on the national and international scale. Indigenous rights claims are discussed in further detail below. Understanding the necessity and implications of these rights for Indigenous peoples requires an examination of the critiques of the limitations of the previous conceptions of rights by scholars who take Indigenous perspectives into account.

### *Critical perspectives on human rights*

There have been many trends of critical studies on human rights. Critical legal theory, for example, has been an important avenue for addressing issues within the human rights framework, informing new ways of approaching international and domestic law.<sup>15</sup> Some arguments in this vein claim that rights have lost their radical and moral edge, having been used in selective ways to the advantage of privileged individuals and institutions.<sup>16</sup> Marxist theory, for its part, has also criticized human rights as stemming from bourgeois, liberal ideology.<sup>17</sup> Falling short of securing economic equality for all members of a community, Marx argued that rights only answered to the self-interest of individual persons seeking property rights, which obfuscates oppression.<sup>18</sup> Scholars in international relations and politics have also formulated many arguments challenging human rights, such as concerns with human rights applications to humanitarian aid, and their translation to various cultural contexts, claiming that the human rights framework is “facilitating new hierarchies of control and regulation” in the international

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<sup>15</sup> Carol Bettinger-Lopez, Davida Finger, Meetal Jain, JoNel Newman, Sarah Paoletti, “Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice,” *Faculty Scholarship*. Paper 536. [http://scholarship/law/upenn/edu/faculty\\_scholarship/536](http://scholarship/law/upenn/edu/faculty_scholarship/536) (accessed May 22, 2014).

<sup>16</sup> Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century* (Oxford: Hard Publishing, 2000).

<sup>17</sup> Neil Stammers, “Social Movements and the Social Construction of Human Rights,” *Human Rights Quarterly* 21, no. 4 (1990), 994.

<sup>18</sup> V. Spike Peterson, “Whose Rights? A Critique of the “Givens” in Human Rights Discourse,” *Alternatives* 15, no.3 (1990), 312.

system.<sup>19</sup> Feminist theory has also been critical of rights for failing to adequately address structural violence against minorities such as women, and the masculine ontological view of human nature that decides how rights are given to women.<sup>20</sup>

Among the critical perspectives on human rights, there are also scholars who have looked at this concept with an awareness of Indigenous concerns and perspectives, generating scholarship that links questions of rights to Indigenous knowledge, experiences, needs and concerns. It is this particular outlook on rights that is most relevant to this study, as it focuses on the issues that most predominantly concern Indigenous peoples. The following discussion presents this critical discourse and carries many arguments that contribute to the formation of a more holistic and politically aware understanding of the concept of human rights for Indigenous communities. Readers will note that there is overlap between the views of the different scholars presented here.

As mentioned earlier, the emergence of human rights law took place in terms that originate from liberal conceptions of social justice and equality. Robert Carmack, an anthropologist and Mesoamericanist who has largely contributed to the study of Maya peoples' culture, history and societies in the contemporary era, explains that human rights can actually be irrelevant to Indigenous peoples, or be used in counteractive ways if they are not properly understood as being the product of Western liberal domination over non-Western groups.<sup>21</sup> In his perspective, human rights law is one of many strategies to defend matters of justice and peace in the world, although it has been chosen and promoted by Western liberal structures and

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<sup>19</sup> David Chandler, ed., *Rethinking Human Rights: Critical Approaches to International Politics* (New York: Palgrave Macmillan, 2002), 2.

<sup>20</sup> Peterson, 306.

<sup>21</sup> Carmack, 53. It should be noted that Carmack builds his argument in relation to Mayan culture and traditions in the context of Guatemala. Similar arguments are found in Richard Ashby Wilson and Ratna Kapur's work mentioned below.



institutions as the norm.<sup>22</sup> Human rights are therefore a concept that can be perceived as being part of a liberal political ideology and cultural program. In other words, those who push for human rights should be perceived as being part of a political agenda that may not always be universal or benevolent. According to Carmack liberalism considers the individual as more important than communities, which does not reflect the social and political perspectives of Indigenous peoples in general. Carmack argues that, due to the overwhelming Western perspective within the present human rights movement, the adoption of the discourse of human rights by Indigenous groups and individuals has occurred partially due to pressures of the West and liberal states onto ethnic minorities. It has also become the only possibility for these groups to be recognized within Western liberal democracies. These pressures have given way to radical transformations of many ethnic groups including Indigenous societies, such as the way they choose to organize themselves politically and the types of tools they employ in their political struggles. Carmack thereby interprets the concept of human rights as being “dangerously idealistic, even ethnocentric, and therefore a partial answer to the problems of terror, violence, exploitation, and the violation of human rights in the modern world”.<sup>23</sup> In other words, any effective use of the concept of human rights for groups such as Indigenous peoples needs to be honed by an understanding that there are “underlying political ideologies and realities behind both the advocacy and the violation of human rights”.<sup>24</sup> He advocates for a use of the concept of human rights that is accompanied with a transformation of social conditions of unequal power relations as well as an increase of respect for non-Western groups.

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid., 58. Carmack makes the important remark that the modern democratic state has never prioritized citizen's rights. Rather, rights have had to be fought for through struggle and negotiations by groups and individuals. The process of acquiring rights from the state is more difficult in less democratic countries. (54-5)

<sup>24</sup> Ibid., 65.

According to Isabel Altamirano-Jiménez, even when Indigenous groups attempt to elaborate radical and more politicized versions of human rights, the effectiveness of the discourse is not guaranteed. State approval is often required for the development of any request or demand on the part of Indigenous organizations. In such cases, the need to have state approval for decision-making seems to turn the rights discourse into a limitation of Indigenous political organizing through the reframing of their projects and initiatives. Such reframing processes are often aimed at accommodating neoliberal ideals that may be harmful to Indigenous communities. Human rights become doubly counteractive for Indigenous groups in cases where communities become divided over disputes about “competing visions of identity, social practices, culture, and political and economic projects”.<sup>25</sup>

Patrick Thornberry, a scholar in the field of international law, acknowledges that human rights are imposed on non-Western groups, as the only avenue for recognition and socio-political change. These groups however favor the notion of collectivity rather than individuality, which goes against the Western framework of rights, which focuses on the individual. To address this problem, he identifies the need to find a non-Western equivalent to individual rights in order to reach an unforced consensus among Indigenous peoples. He sees this as a form of cultural relativism, where human rights are made according to different perspectives that vary from Western notions.<sup>26</sup>

Thornberry tries to find grounds to establish and practice international law in a way that is non-prejudicial to Indigenous peoples’ cultural and ethnic traits. He argues that human rights are in a constant process of development and should be applied to local realities. While he seems to value the concept of human rights and finds it to be generally useful for Indigenous peoples,

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<sup>25</sup> Altamirano-Jimenez, 192.

<sup>26</sup> Patrick Thornberry, *Indigenous Peoples and Human Rights* (Huntington: NY Juris Publishing, 2002).

he raises awareness against potential misinterpretations of international law that may lead to a certain “unproblematization” of underlying hidden issues. An idealization of international law (in this case, human rights), he says, could create illusions of universal benevolence from the part of Western and global laws and discourses. He draws attention to human rights’ specification to Indigenous peoples and argues that rights need to be tailored to their needs, practices and realities.

This supports what other authors have identified as the relationship between the local appropriation of rights and people’s experiences, conceptions of self and collectivity, politics and history as well as culture, race and gender and how these elements are constitutive of each other. One of these authors is Ratna Kapur, an Indian scholar who offers what can be considered a holistic perspective on the issues related to human rights. Calling for a disillusionment with the law, Kapur argues that the liberal theory of rights is too naïve and allows oppression to be maintained by the law. Its emphasis on individual rights and liberties does not lead to the problematization of structural injustices and oppression, leading to the maintenance of socio-economic inequalities generated by neoliberal (capitalist) and (neo-) colonial policies. According to Kapur, an overreliance on the law to provide individuals and collectivities with social justice and peace (liberation<sup>27</sup>) – considering its limitations and flaws – can be an obstruction to social change.<sup>28</sup>

Her main critique of human rights law is based on three claims: 1) that it is part of modernity’s narrative on progress, 2) that it is a de-historicized, neutral and inclusive universal

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<sup>27</sup> The meaning that is given to the term ‘liberation’ in this study is inspired from Taiaiake Alfred’s definition of peace for Indigenous peoples. *Justice and peace* brought together in struggle against imperial power and oppression is, in his terms, a way of recreating or transforming Indigenous identities away from Western pressures and limitations; In other words, ‘liberation’ for Indigenous peoples. Taiaiake Alfred, *Wasáse* (Peterborough: Broadview Press, 2005) 27-8.

<sup>28</sup> Ratna Kapur, “Feminism, Fundamentalism and Rights Rhetoric,” *Indian Journal of Social Science* 5, no. 1 (1992): 34-5. Kapur states that a liberal outlook on the law has “no consideration of the deeper relationships of oppression, particularly economic relationships that make people unequal notwithstanding formal equal treatment”.

discourse, and 3) that it is conceived on assumptions about the “Other” (or on an insular liberal subject).<sup>29</sup> In sum, she deplores the pretentious and righteous tone of human rights law as well as the way it is venerated as if it was the “end of an ignorant past”. Furthermore, Kapur argues that human rights law is in many ways another illustration of discriminatory practices in the name of justice and liberation; while it presents ideas of equality, justice and peace, it fails to recognize certain power relations and differences that exist between and within groups that have been created through history and maintained through ongoing colonialism and discrimination. This argument is made in relation to Western versus non-Western identities. She argues for an increased awareness of inconsistencies between the ways that the law is applied across the world, while noting that marginalized peoples and individuals continue to remain subaltern to the rest of the population (i.e.: members of the mainstream) despite the existence and implementation of human rights law by several states.

In pointing out the problematic nature of human rights law, Kapur as well as David Kennedy,<sup>30</sup> underline the erasure of other possibilities for struggle for social justice and emancipation that have been articulated by certain groups such as Indigenous peoples, and replaced by human rights law. In this light, talking of human rights appears to be a civilizational discourse that pushes conformity on groups who may have had other ways of achieving social and political liberation in the past. This critique about the hegemonic nature of human rights law is particularly interesting when looking at Indigenous political and social issues. This one and only “state approved” mode of struggle has put groups such as Indigenous peoples in the peculiar position of having to struggle using Western liberal methods and rules (human rights law) against the forms of oppression that stem from these same political frameworks. This is often the

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<sup>29</sup> Kapur, “Human Rights in the 21<sup>st</sup> Century,” 668.

<sup>30</sup> David Kennedy, *The Dark Side of Virtue: Reassessing International Humanitarianism*, (Princeton: Princeton University Press, 2004).

case, as we will see, within rights-based social organizations for Indigenous peoples: while their problems lay in the state (as an overseer of the maintenance of the colonial and neoliberal status quo), they often look to it for approval of their claims and forms of organizing that aim at alleviating their social and political ills. On this line of thought, Kapur points out that the hegemonic force of human rights is supported by mainstream assumptions of the ‘Other’ (in this case, non-Western collectivities and individuals) that are based on the idea of assimilation of differences considered as a threat to the ‘desired’ state of affairs.<sup>31</sup> In other words, Kapur argues that the seeming acceptance of differences (e.g.: race, gender, class, etc.) by Western, liberal states through the discourse of rights is actually a mere performance. Underneath this humanitarian appearance lie states that continue to discriminate against certain segments of their population through structural loopholes and a system that is inherently incapable of providing ‘liberation’ to minorities such as Indigenous peoples.<sup>32</sup>

Without completely rejecting human rights as a useful framework for marginalized peoples including Indigenous populations, Kapur argues however that human rights can be used for different political agendas (e.g.: feminist and anti-feminist objectives in relation to the same context and issues).<sup>33</sup> Other scholars who have concluded that human rights are not synonymous to social justice, peace or liberation overall have supported this claim. Richard Ashby Wilson, for example, synthesizes this point by stating that “a persuasive explanation of the global rise of

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<sup>31</sup> Kapur, “Human Rights in the 21<sup>st</sup> Century,” 675.

<sup>32</sup> Ibid., 681. Kapur gives the example of the US government claiming to evenly apply human rights law to its population “appearing to be well-ordered, law abiding, and demonstrably tolerant, and human rights are cast as something that is needed out there – in the less developed, non-democratic, illiberal world”; yet, in the same breath, sending some of their own people to places like Guantanamo, Iraq or Abu Ghraib where human rights are not applied. This example illustrates the contradictory aspect of human rights law by powerful states and the exportation of their ‘dark side’ to remote places.

<sup>33</sup> Kapur, “Feminism, Fundamentalism and Rights Rhetoric”.

human rights is their capacity to appeal to radically dissimilar political projects”.<sup>34</sup> He describes this phenomenon as ideological promiscuity in human rights law.<sup>35</sup> Wilson insists on the risk that the state may manipulate the discourse of human rights to serve particular political purposes such as the maintenance of certain inequalities that privilege political and social elites.<sup>36</sup> Manipulation of rights by states is particularly troublesome for minority groups such as Indigenous peoples who are often negotiating with governments to acquire more rights and certain levels of autonomy. This has been the case in Mexico where the federal government has disseminated the discourse of rights in hopes of de-radicalizing Indigenous organizations who were struggling to fracture the status quo.<sup>37</sup> On this note, Wilson advocates in favor of struggles for Indigenous human rights through civil-political actions if states are incapable of administering rights fairly and efficiently.<sup>38</sup>

Other worries regarding the framework of human rights and its potential for marginalized segments of the world’s population are raised by David Kennedy’s analysis. Kennedy’s focus is on humanitarian work by activists and policy makers who, though well intentioned, are often unaware of certain costs and negative political and social implications that are hidden within human rights advocacy. Kennedy points out, as do Kapur and Carmack, the hegemony of human rights and argues that they tend to delegitimize other forms of political and social emancipation (or make them less available): “As a dominant and fashionable vocabulary for thinking about emancipation, human rights crowds out other ways of understanding harm and recompense. This is easiest to see when human rights attracts institutional energy and resources which would

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<sup>34</sup> Richard Ashby Wilson, “Making Rights Meaningful for Mayas: Reflections on Culture, Rights, and Power,” in *Human Rights in the Maya Region: Global Politics, Cultural Contentions, and Moral Engagements*, ed. Pedro Pitarch, Shannon Speed and Xochitl Leyva-Solano (Durham, NC: Duke University Press, 2008), 315.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid., 313.

<sup>37</sup> Altamirano-Jimenez, 186.

<sup>38</sup> Wilson, 319. Wilson thinks that Indigenous peoples should not count on the state if it is weak in infrastructure and cannot hold legitimacy in the eyes of its population.

otherwise flow elsewhere”.<sup>39</sup> This situation favors idealistic views of human rights, overly critical discourses held in regards to other forms of emancipation and social struggle and a disregard of claims that are made outside of this framework.

Another significant point made by Kennedy in regards to human rights law is how they are overwhelmingly focused on the state without acknowledging the damage and oppression caused to minorities by non-state actors. By focusing on relationships between states and individuals, human rights give the impression that states (which grants and takes away rights and privileges in society) represent justice and social equity. This is a significant element of human rights that seems to manifest itself within many mainstream organizations for social change that use litigating against state institutions as a main mode of struggle. While this type of method may in some occasions appear to bring significant political advancements, they usually do not get translated into structural changes that would have a long-lasting effect on the lives of oppressed groups and individuals.<sup>40</sup>

Kennedy also sees a problem in the generalizing terminology that is used in human rights declarations (articulated and implemented by the United Nations) and its overly inclusive and homogenizing effect. Kapur also points out that human rights are dehistoricized and inclusively universal.<sup>41</sup> According to Kennedy, this characteristic of human rights law can be summarized as a “one size fits all” politics, which has been criticized several times by scholars (notably feminist scholars) in the field of identity politics, who argue for plurality and mutuality among disparate

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<sup>39</sup> Kennedy, *The Dark Side of Virtue: Reassessing International Humanitarianism* (Princeton: Princeton University Press, 2006), 9.

<sup>40</sup> Examples of cases where organizations have achieved results that only appear to adhere to advancements in human rights are the San Andres Accords in Chiapas Mexico between the Zapatistas and the Mexican government, and the Canadian state’s apology to Aboriginal peoples for its violent history of residential schools in Canada during Stephen Harper’s first government.

<sup>41</sup> Kennedy, 9; Kapur “Human rights in the 21<sup>st</sup> Century,” 674.

identities.<sup>42</sup> As a consequence, Kennedy warns well-intentioned members of human rights movements against the false sense of satisfaction or accomplishment that can be generated when using the discourse of rights in the context of social and political struggles for minority groups.<sup>43</sup>

Taiaiake Alfred, an Indigenous scholar from the Indigenous Governance Program at the University of Victoria, has been highly critical of the use of settler institutions for the achievement of liberation by and for Indigenous peoples. His work is central to the understanding of Indigenous perspectives on social justice, peace, and Indigenous versus mainstream political and social interactions. His analysis calls for radical changes in the ways that Indigenous peoples seek and struggle for their liberation.<sup>44</sup> In his opinion, peace means the rejection of the state's multifaceted oppression of its population, and Indigenous groups and individuals in particular, in order to reassert Indigenous identities that are authentic to Indigenous 'ways' of understanding and moving through the world.<sup>45</sup> In other words, Alfred argues that Indigenous peoples need to struggle against the dominance of imperial and colonial ideas and power in order to achieve liberation from repression and social ills. Taking any other path towards this end (i.e.: using settler institutions and frameworks for social change) would be a form of surrender or complicity with Indigenous people's oppression:

We need to realize that Western ideas and institutions can do nothing to ease the pain of colonization and return us to the harmony, balance, and peaceful coexistence that were – and are – the ideals envisioned in all traditional indigenous philosophies. In fact, it is not possible to reach those goals in the context of Western institutions, because those institutions were designed within

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<sup>42</sup> Examples of feminist scholars focused on identity politics include the following: Diane Elam, *Feminism and Deconstruction: Ms. en Abyme* (New York: Routledge, 1994); Chandra Talpade Mohanty, *Feminism without Borders: Decolonizing Theory, Practicing Solidarity* (Durham, NC: Duke University Press, 2003).

<sup>43</sup> Kennedy, 28.

<sup>44</sup> Taiaiake Alfred, *Peace, power, righteousness* (New York: Oxford University Press, 1999); Alfred, *Wasáse*.

<sup>45</sup> Alfred, *Wasáse*, 28. Taiaiake Alfred bases much of his analysis on Albert Memmi's work and this theorist's notion of the colonized and the colonizer. For further reference, consult: Albert Memmi, *The Colonizer and the Colonized* (Beacon Press, 1965).



the framework of a very different belief system, to achieve very different objectives.<sup>46</sup>

Along with this argument, Alfred stands against a bureaucratic approach to decolonization, as it is not authentic to Indigenous conceptions of society and politics. Institutionalization should thus be resisted. Otherwise, Indigenous peoples may begin to assert themselves through settler institutions that only reaffirm colonial power and do not pose a real threat to the colonial state; this is referred to as the cycle of ‘assertion/co-optation’.<sup>47</sup> If it is impossible to find solutions to problems that stem from Western and liberal structures and institutions from within them, Alfred argues that refusing to take part in this cycle is a way of challenging the status quo, discomfiting elites (who benefit from present power imbalances and lack of justice) and building rights from within an Indigenous cultural frame.<sup>48</sup>

Furthermore, Alfred argues that Indigenous rights are “incompatible with liberal legal guarantees of civil and human rights and freedoms for all citizens within the state”.<sup>49</sup> While he agrees that cultures and traditions are mutable and can be transformed in several ways, he argues that actually only Indigenous cultures happen to find themselves in a need to change and accommodate mainstream society. This can also take the form of Indigenous peoples limiting their own horizons on possible political actions, change and struggle for more daring or imposing objectives (i.e.: refusal to have any significant confrontation with Western institutions of power). It is therefore of paramount importance that Indigenous peoples claim their cultural difference

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<sup>46</sup> Alfred, *Peace, power, righteousness*, 41. According to Alfred, settler and Indigenous notions like justice (the distinction between right and wrong) and power are radically different. He explains that “[n]ative ideas centre on the imperative of respectful, balanced coexistence among all human, animal, and spirit beings, together with the earth. Justice is seen as a perpetual process of maintaining that crucial balance and demonstrating true respect for the power and dignity of each part of the circle of interdependency.” 42. Settler conceptions of justice and power, on the other hand, are limited to human society and there is little to no interrelatedness between the different spheres of society (i.e.: politics, morality and economics). From there stem very different understandings of politics and society and an incongruence between settler institutions and socio-political liberation for Indigenous peoples.

<sup>47</sup> Alfred, *Wasáse*, 65.

<sup>48</sup> *Ibid.*, 113.

<sup>49</sup> *Ibid.*, 112.

and affirm themselves in new original ways to prevent cultural and political submission to Western liberalism. This can also be construed as a fight for independence and for Indigenous values such as fighting for collective rights rather than individual rights.<sup>50</sup> He states that:

[e]ven within a conservative viewpoint on politics, if self-government or self-determination are the goals, and if communities are seeking to restore a limited degree of autonomy for their people in relation to the state, it must be recognized that the cultural basis of our existence as a Onkwehonwe<sup>51</sup> has been nearly destroyed and that the cultural foundation of our nations must be restored or reimagined if there is going to be a successful assertion of political or economic rights.<sup>52</sup>

The aspect of restoring or reimagining cultural foundations is particularly important to Alfred's line of argument, and is significantly relevant to Indigenous people's use of concepts such as human rights. In fact, it seems to complete aforementioned arguments that advise a critical understanding of rights as an ethnocentric, Western-liberal concept; not only ought Indigenous groups be aware of the political implications of human rights in the process of seeking social change, a more radical move of cultural reassertion seems to be necessary if not essential to the achievement of their 'liberation'.

In addition, Alfred takes a strong stance against Indigenous rights movements who take the approach of 'Indigenous rights within the law'. He argues that an institutional understanding of Indigenous rights is nothing but a redistribution of the existing legally constituted authority and is thereby not transformative in any way, shape or form. Nevertheless, he seems to attribute value to international law and calls for the elimination of all inconsistencies between the latter and domestic law. In other words, Alfred sees human rights in the context of international law as

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<sup>50</sup> Ibid., 134-5.

<sup>51</sup> Alfred defines the word Onkwehonwe as 'original people'. He advocates for Indigenous peoples to find a way to live as Onkwehonwe; authentically to their traditions, cultures, and understandings of politics, economics and human relations.

<sup>52</sup> Alfred, *Wasáse*, 29. Alfred explicitly states that he employs an anarcho-indigenist approach in his analysis and therefore 1) rejects alliances with legalized systems of oppression, 2) advocates for non-participation in the institutions that structure the colonial relationship, 3) and seeks to bring change through direct action and physical resistance and confrontation with state power.

an avenue for the creation of social and political change to the benefit of Indigenous peoples.<sup>53</sup> While he does not give much attention to the topic of human rights, it is clear that vigilance against assimilation or cooptation should also be applied to human rights as a law and a discourse when it is used in Indigenous contexts.

The discussion above may be summarized by identifying three major issues: 1) the overwhelming influence of Western perspectives within the framework of human rights to the detriment of non-Western worldviews such as that of Indigenous peoples; 2) more specifically, the liberal individualistic approach that is identifiable in most present human rights documents; 3) the idealization of and pressure by Western states to use the human rights framework, over non-Western tools for social change that may better represent Indigenous needs and concerns and. These major issues stand in between Indigenous peoples and an appropriate access to their human rights.

### *The question of Indigenous rights*

Part of the third generation of rights attempts to address the limitations of the mainstream, liberal and individualist conception of human rights, as regards the Indigenous peoples needs for the development of their collectivities. To that aim, the international movement of Indigenous peoples began in the 1970s, when the definition and promotion of human rights for Indigenous peoples became a recognized priority on the global scale. Indigenous women in particular have been part of human rights discussions since the First UN World Conference on Women in Mexico, in 1975. Much work has been done since then to produce documents (while often non-binding) that would address minority needs and concerns, as well as the Western tone of the

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<sup>53</sup> Ibid., 133, 137.

human rights movement. New committees of this kind include the UN Working Group on Indigenous Populations, which was instituted in 1982 in order to advance Indigenous human rights claims.<sup>54</sup> An important realization took place at the 1993 World Conference on Human Rights in Vienna where the debate between the private and public spheres shifted to insisting on the “state’s responsibility for rights violations committed by non-state actors,” and to focus on the question of individual vs. collective rights.<sup>55</sup>

Indigenous peoples obtained a declaration of their rights in 2007 entitled the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), where many of their concerns regarding cultural difference and other particular viewpoints are recognized. This declaration does not present anything new in terms of human rights, but does recognize certain specificities and presents a more effective framework that includes collective rights in hopes of providing better protection for Indigenous peoples.<sup>56</sup> The UNDRIP is non-binding, meaning that states and powerful non-state actors have little to no accountability for respecting Indigenous peoples rights. Colonial attitudes (e.g.: refusal to come to a consensus on certain issues and exclusion from pertinent discussions and decisions) and neglect persist unpunished, leaving Indigenous peoples in quite a vulnerable position in the face of violence (in its many forms but notably of the (neo-) colonial kind). Both Canada and Mexico<sup>57</sup> which have ratified the UNDRIP have been subject to heavy criticism from organizations such as the UN<sup>58</sup> and Amnesty International (AI)

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<sup>54</sup> Kuokkanen, 248.

<sup>55</sup> United Nations Office of the Special Adviser on Gender Issues and Advancement of Women and the Secretariat of the United Nations Permanent Forum on Indigenous Issues, *Briefing Note No. 6: Gender and Indigenous Peoples’ Human Rights*, United Nations: New York, 2010.

<sup>56</sup> Kuokkanen, 231; United Nations, “United Nations Declaration on the Rights of Indigenous Peoples,” United Nations (2008).

<sup>57</sup> Amnesty International, “Canada,” under “Amnesty Report 2011 : The state of the world’s human rights,” <http://www.amnesty.org/en/region/canada/report-2011> (accessed February 9, 2011).

<sup>58</sup> Canadian Broadcasting Corporation, “Canada ranked low in UN native report,” *CBC News-Canada*, April 11 2005, <http://www.cbc.ca/news/canada/story/2005/04/11/UNNatives-050411.html> (accessed February 9, 2011);

for their treatment of Indigenous peoples within the parameters of their territories. It is understandable in this context that when Indigenous peoples choose to refer to the human rights discourse to advance their claims and concerns, they often seem to prefer international human rights bodies to national ones as this allows them to avoid state-subordination within their claims, and to speak in terms of multiplicity.<sup>59</sup>

In the last decades, there has been an important theoretical effort from political scientists such as Charles Taylor to think of ways for political recognition of minority groups, including Indigenous peoples in political frameworks.<sup>60</sup> Taylor's work on the politics of recognition has been a central piece for further studies on minority rights and Indigenous rights claims that seek to link individual and collective rights into new frameworks that would better represent Indigenous worldviews and needs. For example, Rauna Kuokkanen, a Sami woman working in the fields of political science and Indigenous studies, explains that the human rights framework needs to account for self-determination of groups such as Indigenous peoples as well as human rights violations of individuals within collectivities.<sup>61</sup> She refers to the work of Iris Marion Young who argues that self-determination by collectivities does not mean exemption of possibilities of domination from within and outside such collectivities.<sup>62</sup> Kuokkanen firmly believes that collective and individual rights are not in contradiction with one and other but rather work together in a mutual fashion. She argues for a 'relational approach' that sees the

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United Nations on Economic and Social Affairs, *United Nations, State of the World's Indigenous Peoples*, ST/ESA/328, New York (2009).

<sup>59</sup> Kuokkanen, 244-5.

<sup>60</sup> Charles Taylor, *Multiculturalism: examining the politics of recognition* (Princeton: Princeton University Press, 1994).

<sup>61</sup> Kuokkanen, 226.

<sup>62</sup> Iris Marion Young, *Global Challenges: War, Self-Determination and Responsibility for Justice* (University of Chicago: Wiley Publishers, 2007), 46, cited in Kuokkanen, 229.

individual as a gendered agent whose rights cannot be conceived separately from the collectivity to which he or she belongs.<sup>63</sup>

For their part, Cindy Holder and Jeff Corntassel agree that the existing human rights discourse is individualizing, with an assumption that collective needs are only the affair of non-Western groups and world-views.<sup>64</sup> This mainstream discourse either reduces a group to its individual members, or disregards the needs and concerns of individuals in order to prioritize the collective. However, Holder and Corntassel explain that the individual, which belongs to a group, is only one element for Indigenous peoples, who see as equally meaningful the tangible benefits of being part of a collectivity (such as attachment to land, physical safety and access to resources for the well being of each individual). They argue in favor of Indigenous peoples' political and cultural viewpoint on this issue, by considering individual and collective identity to be equally important.

This chapter has presented various critical arguments on human rights that represent Indigenous perspectives and concerns. While these scholars come to different conclusions about the utility of right for Indigenous struggles, they point towards the need to establish a framework of rights that would acknowledge the limitations of the Western human rights discourse, and recognize the needs and concerns of Indigenous peoples. The work of Kuokkanen, Holder and Corntassel is particularly interesting to this study, as it acknowledges the concerns stated by previously mentioned scholars and focuses on the necessity to better think together individual and collective rights, which is central to linking human rights to Indigenous and particularly Indigenous women's viewpoints.

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<sup>63</sup> Ibid., 230.

<sup>64</sup> Cindy L. Holder and Jeff Corntassel, "Indigenous Peoples and Multicultural Citizenship: Bridging Collective and Individual Rights," *Human Rights Quarterly* 24, no. 1 (2002): 126.

## Chapter Two

### Indigenous Women and the Appropriation and Redeployment of Human Rights

As established in the previous chapter, the human rights discourse is a contentious tool for Indigenous peoples to use for the advancement of their goals due to the fact that it has been developed primarily in a Western context in order to address human rights issues from a Western-liberal and individualist perspective, thus neglecting to take into account non-Western worldviews on questions of individual and collective self-determination, group rights and other related concerns. This discussion needs to be deepened to take into account the question of how gender comes into play in Indigenous perspectives on human rights. This question has raised many debates within the Indigenous rights movement, which have shaped the ways that Indigenous women rights are understood.

This chapter presents human rights from an Indigenous feminist perspective, which introduces women's particular needs and concerns in relation to Indigenous rights, but also moves away from traditional understandings of women's rights. The concepts of appropriation and redeployment are then introduced as a way of looking at the discourse of rights and applying it to particular contexts, taking into account the specificity of each place and its peoples. This chapter ends with a short discussion on terminological precisions, arguing that appropriation and redeployment present the most appropriate concepts for analyzing Indigenous women's perception and use of human rights.

*Indigenous women and the human rights framework*

Indigenous women have played a particular role in the evolution of human rights for Indigenous peoples. Like Indigenous men, they are concerned with issues of cultural hegemony within this discourse and wish to be recognized through collective rights as members of collectivities that have been and continue to be specifically targeted by colonialism. However, they find themselves at the intersection of gender and racial repression, which adds complexity to the question of their rights.

Women's participation in human rights discussions have existed for a long time but was ignored until recently, when discussions and conventions on the rights of women started to appear.<sup>65</sup> As I will be explaining in the following chapter, Indigenous women in Canada and Mexico have struggled at the local and national level in order to be heard in political discussions on Indigenous rights. Most of the key human rights infrastructures that were created before the 1970s excluded the concerns of women. The UDHR, for example, did not express particular concern for women's rights. In response to this gap, the Convention on the Elimination of Discrimination against Women (CEDAW) was created in 1979 to address women's needs and concerns in terms of rights.<sup>66</sup> This convention is the only international treaty that specifically addresses women's rights by demanding that states act and put an end to customs and practices that infringe on women's rights. While it generally addresses the situation of women on several scales, Indigenous women have denounced its failure to account for cultural and racial differences.<sup>67</sup> On this issue, organizations that represent the interests of Indigenous women such

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<sup>65</sup> Satya Prakash Das, "Human Rights: A gender Perspective," *The Indian Journal of Political Science* 66, no. 4 (2005): 757.

<sup>66</sup> United Nations Entity for Gender Equality and the Empowerment of Women, *Convention on the Elimination of All Forms of Discrimination against Women*, United Nations, 2000-9, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm> (accessed on April 9, 2014).

<sup>67</sup> Tebtebba Foundation, Forest Peoples Programme, and Asia Indigenous Women's Network, 38-41.



as the Tebtebba Foundation have argued for a wider presence of Indigenous women's voices in CEDAW.<sup>68</sup> As there is no international document that expresses Indigenous women's rights in particular, they must refer to several documents such as CEDAW, the UNDRIP, the UDHR, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of all Forms of Racial Discrimination.<sup>69</sup>

The fact that women continue to be the primary victims of gendered and racialized violence proves the ineffectiveness of present international documents in representing Indigenous women's human rights concerns, and the need to put in place a document that recognizes women's unique position at the intersection of gender and racial repression in a (neo-) colonial context.<sup>70</sup> Scholars such as King-Irani, Kuokkanen and Celest McKay argue for the need of a framework that recognizes Indigenous women's rights that includes individual and collective rights in order to address issues of self-determination as well as violations of Indigenous women's human rights.<sup>71</sup>

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<sup>68</sup> Ibid., 43.

<sup>69</sup> United Nations Office of the Special Adviser on Gender Issues and Advancement of Women and the Secretariat of the United Nations Permanent Forum on Indigenous Issues, 1. It should be noted that Indigenous women have been part of discussions ever since the 4<sup>th</sup> World Conference on Women, held in Beijing in 1995, where several documents were produced that express the need to address Indigenous women's human rights. During the meeting of the Commission on the Status of Women in March 2005, a proposed resolution was adopted that highlights specific rights and needs of Indigenous women.

<sup>70</sup> LaDuke, xv-xviii. In this text, LaDuke expresses the challenges that native women must face for being both women and Indigenous; See also Smith, "Against the Law" (accessed April 22, 2014).

<sup>71</sup> Laurie King-Irani, "Building on Indigenous Conceptions of Human Rights," *Al-Raida* 13, no. 74-75 (1996): 16; Kuokkanen, 232; M. Celest McKay, "International Human Rights standards and instruments relevant to Indigenous women," *Canadian Woman Studies* 26, no. 3-4 (2008); Joanne Baker, "Gender Sovereignty, and the Discourse of Rights in Native Women's Activism," *Meridians: feminism, race and transnationalism* 7, no. 1 (2006): 142; Cynthia D. Stirbys, "Gender-based analysis and differing worldviews," *Canadian Woman Studies* 26, no. 3-4 (2008): 138-45. Stirbys argues that the gender-based analysis (GBA) as defined by Status of Women Canada (SWC) may cause more harm than good. She claims that Canadian policies are articulated from a Western, colonial perspective and that a GBA does not address different worldviews such as Indigenous perspectives. She mentions NWAC's (among other organizations) effort to establish a culturally relevant GBA to respond to this gap in SWC's vision.

However there have been conflicts between Indigenous men and women on the importance of discussions on Indigenous women's rights, as many continue to see these concerns as secondary to Indigenous struggles. Joanne Baker, an important contributing scholar to the fields of Indigenous women and human rights in Canada, explains that issues of sovereignty, self-determination, racism and colonialism are often seen as more pressing and central issues to Indigenous struggles than questions of gender violence and equality. In her opinion, this reveals the existence of significant inequalities among genders as well as patriarchal mentalities in Indigenous groups that have been inherited at least partially from colonization.<sup>72</sup> For Nira Yuval-Davis, conceptions of gender often privilege men, revealing male-centered understandings, aspirations and discursive formations.<sup>73</sup> Gender relations are often controlled by men's understandings and experiences, and define the subaltern roles and power of women (or the ways in which women are perceived in their communities). This can be said also for Indigenous communities where culture and traditions are used in ways that impose certain roles upon women, creating inequalities between genders.<sup>74</sup> Sam Grey explains that the colonial assimilation of Indigenous peoples was based on creating a gender hierarchy between men and

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<sup>72</sup> Baker, 129, 149; See also Green, Joyce, ed., *Making Space for Indigenous Feminism* (Cambridge: Fernwood Publishings, 2007). In this publication, several scholars argue for the importance of considering gender as well as ethnicity when looking at Indigenous issues. Struggles for gender equality and Indigenous women's liberation from all forms of oppression cannot be dissociated from struggles for self-determination and autonomy.

<sup>73</sup> Nira Yuval-Davis, *Gender and Nation* (London: Sage Publishing, 2002), 17, cited in Altamirano-Jimenez, 56.

<sup>74</sup> This argument is recurrent in post-colonial scholarship, such as the following publications: Wendy Harcourt and Arturo Escobar, *Women and the Politics of Place* (Kumarian Press, 2005); Renya Ramirez, "Race, Tribal Nation, and Gender: A Native Feminist Approach to Belonging," *Meridians: feminism, race, transnationalism* 7, no. 2 (2007): 22-40; Andrea Smith, *Conquest*; Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *The University of Chicago Legal Forum* 140 (1989): 139-167; Chandra Talpade Mohanty, Ann Russo and Lourdes Torres, eds., *Third World Women and the Politics of Feminism* (Indiana University Press, 1991); Nira Yuval-Davis, "Intersectionality and Feminist Politics," *European Journal of Women's Studies* 13, no. 3 (2006): 193-209.

women that had the effect of damaging their societal relationships, but that Indigenous societies did not used to be sexist in this way.<sup>75</sup>

Many Indigenous women have taken an Indigenous feminist approach to their analysis of human rights, which differs significantly from other forms of contemporary feminism. The evolution of feminism is often summarized in the so-called three waves of feminism.<sup>76</sup> The first wave took place in the 19<sup>th</sup> and 20<sup>th</sup> century, and revolved around the suffragette movement and creating socio-political opportunities for women as individuals. The second wave, which began in the 1960s, increased in radicality and included the voices of several minority groups. It focused on issues of universal patriarchy and promoted discussions on questions of reproductive rights and sexuality, linking them to other socio-political issues, such as class and race. There was an attempt by white, middle-class women to establish a sisterhood with others such as black women. The third wave of feminism, which started in the 1990s, includes contemporary theories such as post-colonialism and post-structuralism; it focuses on many questions including sexual, racial and cultural differences, and challenges notions of essentialism of women and femininity.<sup>77</sup>

Traditional forms of feminism have been accused of being centered on white, middle-class women's experiences, and holding up individualist perspectives on rights.<sup>78</sup> Grey and Sunseri explain that these forms of feminism prioritize individual choice over other avenues such

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<sup>75</sup> Sam Grey, "Decolonising Feminism: Aboriginal women and the Global 'Sisterhood'," *Enweyin: The Way We Speak* 8, (2004): 16.

<sup>76</sup> Martha Rampton, "The Three Waves of Feminism," *The Magazine of Pacific University* 41, no. 2 (2008), [http://www.pacificu.edu/magazine\\_archives/2008/fall/echoes/feminism.cfm](http://www.pacificu.edu/magazine_archives/2008/fall/echoes/feminism.cfm) (accessed May 23, 2014).

<sup>77</sup> Lina Sunseri, "Moving Beyond the Feminism Versus Nationalism Dichotomy: An Anti-Colonial Feminist Perspective on Aboriginal Liberation Struggles," *Canadian Woman Studies* 20, 2 (2000): 143; Andrea Smith, "Indigenous feminism without apology" in *Unsettling Ourselves: Reflections and Resources for Deconstructing Colonial Mentality* eds. Collective members (Minnesota: 2009), 160.

<sup>78</sup> Shari M. Huhndorf and Cheryl Suzack, "Indigenous Feminism: Theorizing the Issues," in *Indigenous women and feminism: Politics, Activism, Culture*, ed. Cheryl Suzack, Shari M. Huhndorf, Jeanne Petteault, and Jean Barman (Vancouver: UBC Press. 2010), 2.

as collective rights.<sup>79</sup> Mishuana R. Goeman and Jennifer Nez Denetdale argue that liberal trends of feminism, centered on individual women's freedom and gender equality, are racially hierarchical: they have an imperial intent in the way that they fail to recognize white women's privilege and their central position in feminist groups. This is at the expense of marginalized collectivities such as Indigenous peoples and women in particular, whose experiences and knowledge are often sidelined.<sup>80</sup> Aileen Moreton-Robinson, recognizes this issue as whiteness in feminism. She argues that whiteness has become normalized in liberal forms of feminism, which are largely deracialized. As a result, they focus mostly on gender issues and neglect questions of race, colonialism, and the way that white middle-class women profit from the colonization of Indigenous peoples.<sup>81</sup>

Most contemporary feminist theories are critical of traditional liberal feminism and attempt to account for various groups of women that have historically been excluded or marginalized from feminist discussions. Such theories include intersectional, post-colonial, and anti-racist feminism. There has been a valiant effort in these types of feminism to acknowledge the diversity among women and the experiences and knowledge of groups such as Indigenous women, thereby changing the discriminatory dynamics of previous forms of feminism. Kate Shanley claims that, corresponding to the diversity of women's struggles; there is a need for several trends of feminism, including Indigenous feminism. She states: "Just as sovereignty cannot be granted but must be recognized as an inherent right to self-determination, so Indian

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<sup>79</sup> Grey, 16; Sunseri, 147.

<sup>80</sup> Mishuana R. Goeman and Jennifer Nez Denetdale, "Guest Editor's Introduction: Native Feminisms: Legacies, Interventions, and Indigenous Sovereignties," *Wicazo Sa Review* 24, no. 2 (2009): 10.

<sup>81</sup> Aileen Moreton-Robinson, *Talkin' up the white woman: indigenous women and white feminism* (Portland: University of Queensland Press, 2000), xv-xx; Luana Ross, "From the 'F' Word to Indigenous/Feminisms," *Wicazo Sa Review* 24, no. 2 (2009): 46. Ross explains that she has also felt the racism within feminist movements. She however called herself a feminist in hopes of building a bridge between Indigenous and white women, who she felt were doing significant and positive work.

feminism must also be recognized as powerful in its own terms, in its own right.”<sup>82</sup> While contemporary feminist theories encompass many groups of women, sometimes they focus mostly on Black or Southern non-Indigenous women, and do not acknowledge to their full extent the unique experiences of Indigenous women.<sup>83</sup> According to Eliza Noh and Luana Ross, Indigenous feminism serves the important purpose of acknowledging contemporary forms of colonial oppression that continue to affect Indigenous peoples and women in particular, which is a task that is not sufficiently accomplished by any other form of feminism. For their part, Shari M. Huhndorf and Cheryl Suzack state: “Although presumed to fall within normative definitions of women of colour and postcolonial feminism, Indigenous feminism remains an important site of gender struggle that engages the crucial issues of cultural identity, nationalism, and decolonization particular to Indigenous contexts.”<sup>84</sup> Such recognition makes Indigenous feminism particularly relevant to this study.

These scholars as well as others such as Andrea Smith, who has written extensively on Indigenous women’s experiences of violence and colonization, advocate for a feminism that fully acknowledges the priorities of Indigenous women.<sup>85</sup> Indigenous feminism emerges as focusing on gender, patriarchy and colonialism as well as other Indigenous concerns such as

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<sup>82</sup> Kate Shanley, “Thoughts on Indian Feminism,” in *A Gathering of Spirits: Writing and Arts by North American Indian Women*, ed. Beth Brant (Ithaca, N.Y.: Firebrand, 1984): 215. Cited by Ross, 41, 47. Ross outlines the various types of feminis that exist today, and that there is no single definition that could encompass all of them. She states that there are “definitions that suit white women from [three] waves of the women’s movement; definitions created by those who aren’t white [...]; and defintions that supposedly fit the underprivileged, although they are written by privileged academics. There are black feminism, liberal feminism, radical feminism, eco-feminism, postcolonial/postmodern ferminism, social feminism Chicana feminism, state feminism, feminist fundamentalism, global/international feminism, and finally transnational feminism.”

<sup>83</sup> Cheryl McEwan, “Postcolonialism, feminism and development: intersections and dilemmas,” *Progress in Development Studies* 1, no. 2 (2001): 98-101; Jennifer C. Nash, “Re-thinking intersectionality,” *Feminist Review* 89 (2008), 4, 8-10. In this article, Nash argues that Black women’s experiences are used as quintessential examples of intersectional subjects, that intersectionality remains a nebulous concept, and she questions intersectional theory’s coherence with the experiences of women on the field. See also Shari M. Huhndorf and Cheryl Suzack, “Indigenous Feminism: Theorizing the Issues”, in *Indigenous women and feminism: Politics, Activism, Culture*, ed. Cheryl Suzack, Shari M. Huhnendorf, Jeanne Petteault, and Jean Barman (Vancouver: UBC Press, 2010), 1.

<sup>84</sup> Huhndorf and Suzack, 1-2.

<sup>85</sup> Ibid, xxi; Smith, “Against the Law”; Smith, “Indigenous feminism without apology,” 160.

anti-colonial practice and self-determination, questioning racism and colonial forms of governance.<sup>86</sup> Moreton-Robinson also explains that a feminism that represents Indigenous women should recognize the importance of connection to the land, Indigenous peoples' legacy of dispossession, racism and sexism, family relations including motherhood, and the negotiation of sexual politics on several scales, among other relevant topics.<sup>87</sup>

The necessity of harmonizing collective and individual rights for Indigenous peoples is particularly relevant here, as I emphasized in Chapter 1. An Indigenous feminist understanding of Indigenous rights sees individual and collective rights as mutually interactive, mainly because of the concern for Indigenous women's gendered inequality as well as ongoing colonialism and the need for collective self-determination. Community survival for Indigenous peoples is certainly important, but depends on the survival and wellbeing of their female individual members who are presently the most vulnerable to violence from within and outside of their communities.<sup>88</sup> Kuokkanen states that: "[s]urvival, for indigenous women, is both an individual and collective matter. If women are not surviving as individuals in their communities due to physical or structural violence, collective survival as a people is also inevitably called into question."<sup>89</sup> Sunseri asserts that women's rights should be seen as collective rights by nature because Indigenous worldviews have traditionally seen collectivity and individuality as mutually

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<sup>86</sup> Ibid; Smith, "Against the Law;" Sunseri, 145; Smith, *Conquest*. Andrea Smith argues that gender needs to be taken into account in Indigenous peoples' conceptions of self and autonomy. A decolonizing project can only take shape if gender issues are treated as central concerns in Indigenous peoples' subordination because violence and repression against Indigenous women counts for all Indigenous nations.

<sup>87</sup> Moreton-Robinson, *Talkin' up the white woman*, xvi. Other important Indigenous women scholars who have worked extensively on the question of Indigenous feminism and the place of Native women in relation to mainstream-liberal feminisms include Lee Maracle, a critical artistic writer in the field of Canadian Aboriginal Peoples and Indigenous feminism, Renya K. Ramirez, an important scholar in the fields of Native American studies and anthropology, who has worked specifically on Indigenous feminism, transnationalism and anti-racist education, as well as Cheryl Suzack who has brought a significant contribution to the study of Indigenous women's rights, political work and relation to literature.

<sup>88</sup> Smith, "Indigenous feminism without apology," 159.

<sup>89</sup> Kuokkanen, 248-9.

inclusive.<sup>90</sup> In other words, recognizing the individual needs of women in Indigenous rights should not be seen as a form of cooptation into liberal feminism and conceptions of human rights, but rather a culturally accurate understanding of both collective needs and women's rights. On this matter, Kuokkanen argues that taking individual and collective rights as mutual parts of Indigenous rights places Indigenous women in a position of greater safety, while recognizing their particularities as members of Indigenous communities who seek self-determination. From this perspective, the struggle for collective self-determination needs to integrate a struggle against patriarchy and not prioritize the former over the latter.<sup>91</sup>

*The local appropriation and redeployment of human rights*

Taking Indigenous women's experiences of violation of their rights into account in an Indigenous rights framework requires its adaptation to the perspectives of communities at the local scale in order to move away from a universalized, Western vision of rights and of women's needs that does not represent Indigenous cultures, values and interests. On this topic, Kuokkanen explains that human rights for Indigenous peoples take place globally but also locally and require flexibility and adaptability to specific circumstances and contexts:

Meaningful and sustainable forms of self-determination must be worked out and realized by indigenous peoples themselves at the local level in their own communities through and by active community involvement and citizen participation [...] The right to self-determination is not a static right and many indigenous peoples have long engaged – among themselves and in collaboration with others – in negotiating the appropriate understanding of this right. In the same way, there is a need to negotiate an understanding and practice of human rights that is appropriate both in terms of local context and social, economic, political, and cultural needs.<sup>92</sup>

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<sup>90</sup> Sunseri, 144-7. Sunseri states that self-determination as a form of struggle against colonialism alone has often meant placing women in subordinating positions to men, who have imposed the role of protectors of a "pure" nation upon women and claimed authority over their reproductive rights.

<sup>91</sup> Kuokkanen, 236-7.

<sup>92</sup> Ibid., 243-8.

Human rights are claimed and negotiated within specific local realities. This is what the notion of appropriation and redeployment attempt to capture. Shannon Speed as well as other scholars such as Xochitl Leyva Solano and Alvaro Reyes, who have worked in the context of Chiapas, Mexico, have formulated these notions. Appropriation and redeployment enable local Indigenous communities to take the discourse of rights and mold it to address their particular concerns and fit their cultural needs and values. This presupposes that there are conceptual resources that are already present in their cultures, and that make the notion of human rights appear relevant.

According to these scholars, the interpretation and implementation of the discourse of rights in local contexts is the result of long dialogical interactions between agents at various scales (e.g.: local communities, state, NGOs) where globalized discourses such as human rights are reconstituted or rearticulated to fit particular situations. As a result, “local usages of the discourse represent re-articulations based on local knowledges, positionalities, and goals.”<sup>93</sup> In other words, the encounter of global discourses (i.e.: the human rights framework) with realities on the ground becomes useful for local communities as they begin to have recourse to their lived experiences and perspectives to formulate their own vision of rights. This process, also known as ‘appropriation’, gives rise to new subjectivities that challenge global elites and the very system in which human rights were formed. Appropriation not only involves seeing ourselves in the context of human rights law, but also understanding the shortcomings of this discourse and using it in creative ways to attain local political and social objectives that challenge the discourse itself

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<sup>93</sup> Shannon Speed and Leyva Solano, “Global Discourses on the Local Terrain: Human Rights in Chiapas” in *Human Rights in the Maya Region*, ed. Pedro Pitarch, Shannon Speed, Xochitl Leyva Solano (Durham, NC: Duke University Press, 2008), 209; Speed, *Right in Rebellion*, 32.



and the structures of power in which it functions.<sup>94</sup> In other words, after discourses are reshaped through appropriation, they need to be reasserted “in the context of struggle and negotiation”, or redeployed in practical ways to achieve social and political objectives.<sup>95</sup> Here, the focus is on the practical uses, or the ‘redeployment’, of a concept once it has been appropriated according to local knowledge, lived experiences and interests. Speed et al. consider appropriation and redeployment as complementary processes that can lead to social change when they are practiced together. The concept of redeployment is not explicitly defined in the literature but it needs to be distinguished from appropriation as an essential element of exercising rights from an alternative, Indigenous perspective.

There are many other terms used in the academic literature to refer to the application of human rights to local cases, such as translation<sup>96</sup>, vernacularization<sup>97</sup>, and localization<sup>98</sup>, as well as methodologies for the study of local applications of the human rights framework. Sally Engle Merry uses the terms “translation” and “vernacularization”. These two concepts refer to the same phenomenon but are not used interchangeably. In this framework, the concept of translation is defined as a process that occurs across the various scales of power between the global and the local<sup>99</sup> that aims at presenting concepts of human rights in terms that are relevant to culturally

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<sup>94</sup> Speed, *Rights in Rebellion*, 32; Shannon Speed and Alvaro Reyes, ““Asumiendo Nuestra Propia Defensa”: Resistance and the Red de Defensores Comunitarios in Chiapas” in *Human Rights in the Maya Region*, 301; Wilson, 307.

<sup>95</sup> Speed, *Rights in Rebellion*, 32.

<sup>96</sup> Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice*, (University of Chicago Press, 2006).

<sup>97</sup> Sally Engle Merry and Peggy Levitt, "Unpacking the Vernacularization Process: The Transnational Circulation of Women's Human Rights," *Wellesley College and New York University*, (November 2008), [http://citation.allacademic.com/meta/p\\_mla\\_apa\\_research\\_citation/3/1/0/9/2/pages310922/p310922-1.php](http://citation.allacademic.com/meta/p_mla_apa_research_citation/3/1/0/9/2/pages310922/p310922-1.php) (accessed March 3, 2014).

<sup>98</sup> Gaby Oré Aguilar, "The Local Relevance of Human Rights: A Methodological Approach," (Discussion Paper/2008.04, Institute of Development Policy and Management and University of Antwerp, 2008).

<sup>99</sup> Merry, 193. Merry explains that translation begins at the global level with transnational elites where human rights law is initially formulated and passes through women's groups who then disseminate translators who work at the grassroots level with women on the local terrain. Once women see themselves as rights bearers, they may take the process back up the scale of power to make claims at the national and transnational levels.

marginal communities. For the translation of human rights to occur effectively in relation to women's issues at the local level, rights have to be formulated in terms that appear historically, culturally, and politically as well as socially salient to women before they can be accepted and perceived as relevant<sup>100</sup>. Once the discourse of human rights is secured within local understandings, an identity shift takes place where women begin to see themselves as rights bearers rather than victims of neglect and disrespect within their communities. Merry explains that there are many risks in this process as it disturbs traditional gender roles and can give rise to conflict at the local level as some people may try to maintain imagined gender roles. Once rights consciousness is gained at the local level, women can begin to mobilize and articulate claims using a language that will resonate with other levels of scale such as NGOs, activist groups and state-related institutions as a way of giving local communities and organizations legitimacy in the eyes of powerful agents who are removed from local realities and understandings.

Vernacularization is another concept used by Merry and her co-author Peggy Levitt that is highly similar to that of translation.<sup>101</sup> According to these scholars, vernacularization is a process that aims at disarticulating and reconfiguring ideas and practices of human rights to local contexts and understandings of social justice that stand apart from Western perspectives. Similarly to translation, vernacularization's effectiveness may diverge depending on institutional support and cultural resonance of the places where it is applied. Merry and Levitt however argue that external actors such as NGOs, that play the intermediary role between local communities and state institutions, play a critical role in this process as they strategize on ways to remake human rights in the vernacular.<sup>102</sup>

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<sup>100</sup> Ibid., 186.

<sup>101</sup> Merry and Levitt.

<sup>102</sup> Ibid., 7-11. Merry and Levitt borrow Tom Boellstroff's concept of "dubbing culture" to illustrate their idea.

The terms translation and vernacularization seem to be limited to cases where NGOs and UN related agencies are very much involved and where women living at the local level exercise their new-found rights through the use of legal systems and claims at the national and transnational level.<sup>103</sup> This view of the use of human rights by local communities cannot be completely discarded and is useful in certain cases. However, it seems to be problematic in relation to cases where NGOs and UN related organizations are not actively present and where the feedback model of which Merry speaks (i.e.: between state institutions and local communities) has fallen through the cracks. This risk is particularly identifiable when looking at cases of Indigenous communities whose rights are not respected by the state despite its adherence to UN documents, and considering that NGOs and other related organizations are actively using the discourse of rights to fit certain agendas that may be dissimilar to those of local populations. As mentioned in Chapter 1, the promotion of the rights discourse through a non-Indigenous or Western lens has a potential to depoliticize radical Indigenous discursive formations and erase or taint gender considerations. Whose agenda is being sought and to what extent are Indigenous peoples' agency and awareness being deployed requires careful attention when looking at local uses of the rights discourse.<sup>104</sup>

The term "localization" is also commonly found in the literature on human rights on local scales. Gaby Oré Aguilar has used it to describe a method to "enhance the protection of individuals and communities from the negative effects of global socio-economic trends".<sup>105</sup> She

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<sup>103</sup> Merry, 16, 184, 192. Merry gives the examples of women who have been approached by UN related organizations and NGOs and who have begun advocating for their rights through public protests at the legislature in Hong Kong. In another example, she explains how women in Hawai'i have had recourse to the justice system rather than dealing with violence at the community level.

<sup>104</sup> Altamirano-Jimenez, 53-4.

<sup>105</sup> Aguilar, 8.

largely bases her methodological approach on the work of Colin Hines<sup>106</sup>, Merry and Koen DeFeyter<sup>107</sup>. Her main focus is on the experiences of marginalized communities (and mostly their women) that have been overlooked during the formulation of human rights law. Aguilar also addresses the disconnection that often takes place between NGO activists and other UN related workers and local communities by highlighting the way they also tend to overlook local experiences. Considering this criticism, she attempts to “address empowerment and rights consciousness among grassroots communities” and find out “*why* and *how* local communities decide to appeal to human rights to achieve their goals”.<sup>108</sup>

The methodology formulated by Aguilar is very relevant to this study due to the attention it pays to the agency of marginalized segments of the population and the questions that are being asked to Indigenous groups. However, I find her use of the term “localization” limiting in the sense that it only describes the process of applying the discourse of human rights to a specific context and does not address the possibility of re-disseminating the discourse through the voices of the marginalized. In other words, the localization of human rights as explained by Aguilar does not leave room for agency beyond the point of understanding the discourse of rights. Unlike Speed et al.’s work on the redeployment of rights, there is no discussion here on ways that local communities can rise against injustices.

While the terminology elaborated by the scholars mentioned above are relevant to some cases, Speed (et al.)’s concepts of “appropriation” and “redeployment” seem to be more applicable to this specific study and allow a more holistic approach of the use of the rights discourse in Indigenous women’s political struggles. These concepts do not focus on the

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<sup>106</sup> The work of Colin Hines is not directly related to the localized use of the discourse of human rights. He uses the term “localization” in the sense of finding an alternative economic model to corporate globalization that emphasizes local production and economic autonomy.

<sup>107</sup> Koen DeFeyter has done important work on the localization of human rights law.

<sup>108</sup> Aguilar, 15.

intervention or assistance of external agents such as states and NGOs that often participate in the ‘implementation’ of human rights within communities. They focus rather on Indigenous ways of knowing and interpreting global discourses, which speaks directly to this particular study.<sup>109</sup> Furthermore, these concepts open the discussion to the possibility of redeploying rights in ways that can be subversive to the very institutions and frameworks from which they stem. For these reasons, the concept of appropriation and redeployment fit this study’s goal of discussing Indigenous women’s use of human rights in a way that honors their agency and socio-political consciousness.

In this chapter, I have argued in favor of integrating an Indigenous feminist perspective to the discussion on human rights, which views collective and individual rights as mutually connected and recognizes women’s wellbeing as an essential step to self-determination for all Indigenous peoples. I have also shown that a critical use of human rights by Indigenous peoples requires their adaptation to local realities, and that the categories of appropriation and redeployment fit best the understanding of this local adaptation process in the case of Indigenous women.

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<sup>109</sup> Ibid., 215.

## Chapter Three

### NWAC and K'inál Antsetik as Cases for a Comparative Analysis

The previous chapters have argued for an approach to human rights for Indigenous women that includes women's individual rights among their collective rights as members of Indigenous peoples, and takes account of Indigenous worldviews and experiences at the local level. Appropriation and redeployment can be used as tools for Indigenous peoples and women in particular to apply the human rights discourse to their experiences and worldviews, and use it to advance their political claims. This theoretical framework relates to the work of Indigenous women's organizations that seek to increase Indigenous women's wellbeing using the human rights discourse. For this specific study, the Native Women's Association of Canada (NWAC), and K'inál Antsetik, a Mexican organization, both non-governmental and aimed at similar goals, have been approached in order to understand how their members perceive and use the human rights framework.

This chapter presents the organizations of NWAC and K'inál Antsetik and their relation to struggles for Indigenous women's rights in Canada and Mexico. This presentation makes possible, in a second section, a preliminary comparison of both organizations in terms of similarities and differences, which provide a more precise context for the field research. In a third section, I outline specific research questions interrogating the ways in which each organization perceives and uses human rights. In a fourth section, I elaborate on the methodology that I used in my work with both organizations, and its underlying principles, and I state further limitations of my comparison arising from the methodology. This chapter serves as a link between the previous theoretical discussions on the human rights framework and Indigenous

women's relations and perspective on questions surrounding Indigenous and women's rights, and the cases studied in the following chapters.

*An overview of NWAC and K'inal Antsetik*

NWAC and K'inal Antsetik are two organizations that represent the interests and concerns of Indigenous women in their respective countries, Canada and Mexico. In both cases, these organizations use the human rights framework to articulate their claims and empower Indigenous women to achieve their objectives and higher standards of life. NWAC and K'inal Antsetik, obviously have many points in common in terms of goals and perspectives. There are however many contextual and historical differences that need to be acknowledged, such as the political climate and influences that have affected the way each appropriates the rights discourse and redeploys it. It is important to know the background of each organization in order to understand how the theory previously discussed relates to them, and what points should be explored and compared in the following chapters.

NWAC was formed in 1974 as part of the international movement of Indigenous peoples and women's growing presence in discussions on Indigenous rights at the national and international scale. The political climate in Indigenous communities at the time was one that placed women in subordinate positions to the men who were monopolizing human rights debates relevant to Indigenous peoples. At that time, the Canadian state was making band membership for women conditional to marriage with Indigenous men. This issue was not being specifically addressed in Indigenous rights claims, which focused on issues of sovereignty and self-determination. The voices of Indigenous women on issues of collective and individual rights, and concerns around gender equality could be better represented at the provincial and national levels

through the creation of organizations such as NWAC.<sup>110</sup> The main goals guiding NWAC have been and continue to be to “improve the social, economic, cultural and political wellbeing of Aboriginal women in Canada.”<sup>111</sup>

This organization represents Indigenous women in Canada, particularly Métis and status and non-status First Nations women. Inuit women are represented by Pauktuutit Inuit Women’s Association, which is similar to NWAC in terms of its goals.<sup>112</sup> NWAC’s work is set in the context of the many social, political and economical issues faced by Indigenous women in Canada. This is a relatively young population, with a life expectancy that is higher than Indigenous men’s, but is significantly lower than Canadian women overall. This is caused in part by socioeconomic indicators including “income, education and occupation,” which studies have shown to be very limited.<sup>113</sup> Often living in crowded housing that are often in poor conditions, raising families on their own, and dealing with higher levels of unemployment than non-Indigenous women, are only some of the challenges that shape Indigenous women’s lives in Canada.<sup>114</sup> Above all, NWAC focuses its efforts on the issues of domestic violence and missing and murdered Indigenous women. Gender relations within Indigenous communities have been severely damaged through colonial impositions that have altered local perceptions of women’s

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<sup>110</sup> Kuokkanen, 234.

<sup>111</sup> Native Women’s Association of Canada – L’association des femmes autochtones du Canada, “35th Annual General Assembly : “Celebrating Aboriginal Women In Leadership”,” under “2008-2009 Annual Report,” <http://www.nwac.ca/sites/default/files/download/admin/NWAC-AGA09-annual-report.pdf> (accessed January 9, 2014), 4.

<sup>112</sup> Frances Abele and Michael J. Prince, “Counsel for Canadian Federalism: Aboriginal Governments and the Council of the Federation,” <http://www.queensu.ca/iigr/WorkingPapers/CouncilFederation/FedEN/11.pdf> (accessed May 24, 2014), 5.

<sup>113</sup> Vivian O’Donnell and Susan Wallace, “First Nations, Métis and Inuit Women,” Statistics Canada, <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.htm#a11> (accessed May 27, 2014).

<sup>114</sup> Ibid.



roles and bodies, increasing the level of violence perpetrated against women and gender inequalities in their communities.<sup>115</sup>

These levels of violence, which continue to exist today are astonishingly high and have claimed the lives of many women, which have not been specifically quantified by the Canadian government.<sup>116</sup> In a 2014 report by Amnesty International, the levels of violence against Indigenous women in Canada constitute a “national human rights crisis” and that despite efforts to rectify this reality by organizations such as NWAC and local governments, the Canadian government still has not provided an adequate response.<sup>117</sup> NWAC has created an important database on missing and murdered Indigenous women in Canada, where they have found that in 2010, there were 582 Indigenous women in girls who had gone missing or been murdered, mostly in the past 20 years.<sup>118</sup> The violence that affects the lives of these women is systemic, coming from outside of their communities, but also local, within communities and families. This reality explains the need to link individual rights of women with collective rights of Indigenous peoples in order to better protect and ensure the well being of Indigenous women. NWAC provides workshops for Indigenous women and education at the local and national scale on Indigenous traditional values and principles that promote gender equality, and governance structures that are inclusive and self-determined. To this end, NWAC advocates for healthy

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<sup>115</sup> Smith; Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2<sup>nd</sup> ed. (New York: Zed Books Ltd, 2012).

<sup>116</sup> O'Donnell and Wallace.

<sup>117</sup> Amnesty International, “Violence against Indigenous Women and Girls in Canada: A Summary of Amnesty International’s Concerns and Call to Action,” 2014, [http://www.amnesty.ca/sites/default/files/iwfa\\_submission\\_amnesty\\_international\\_february\\_2014\\_-\\_final.pdf](http://www.amnesty.ca/sites/default/files/iwfa_submission_amnesty_international_february_2014_-_final.pdf) (accessed May 28, 2014), 2-3. In this report, Amnesty International states: “Acts of violence against Indigenous women and girls may be motivated by racism, or may be carried out in the expectation that society’s indifference to the welfare and safety of these women will allow the perpetrators to escape justice.”

<sup>118</sup> Native Women’s Association of Canada – L’association des femmes autochtones du Canada, “Fact Sheet: Missing and Murdered Aboriginal Women and Girls,” [http://www.nwac.ca/files/download/NWAC\\_3D\\_Toolkit\\_e\\_0.pdf](http://www.nwac.ca/files/download/NWAC_3D_Toolkit_e_0.pdf) (accessed May 27th, 2014).

lifestyles that promote Indigenous culture through practices such as ceremonies, the use of traditional medicines, and reviving traditional languages.<sup>119</sup>

It acts through its various departments such as Violence Prevention and Safety, Health, and International Affairs and Human Rights. Specific programs such as Evidence to Action (formerly known as Sisters in Spirit) have been created to address the particular issue of missing and murdered Indigenous women in Canada.<sup>120</sup> Through these initiatives, NWAC seeks to inform Indigenous as well as non-Indigenous peoples on issues concerning Indigenous women as a strategy for social change.<sup>121</sup> Working together with many forums of the UN such as the CEDAW, NWAC has been an active participant in generating information and demanding state actions on this issue. It has also been critical of the Canadian state on its lack of participation in international and national efforts to tackle the devastating problem of violence and discrimination against Indigenous women.<sup>122</sup>

NWAC receives funding from various governmental bodies such as Aboriginal Affairs and Northern Development Canada, as well as non-governmental and private organizations such

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<sup>119</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "NWAC Workshop on Reclaiming Our Nations Initiative: Nation-Building and Re-Building – Gathering Women's Wisdom," <http://www.nwac.ca/sites/default/files/imce/Final%20NWAC%20Workshop%20on%20Reclaiming%20Our%20Nations%20Initiative%20Victoria%20B%20C%20%20.pdf> (accessed May 26<sup>th</sup>, 2014), 3, 5, 9.

<sup>120</sup> Anonymous, Face-to-face interview, NWAC, Ottawa, January 13th, 2012. The belief that NWAC was forced by the Canadian federal government to change the term Sisters in Spirit to Evidence to Action is said to be a common misconception by the members of NWAC. They explained to me during our interviews that the first project was called Sisters in Spirit and that they chose to call the second project differently, electing the name Evidence to Action. The term Sisters in Spirit is still used in much of their work such as the vigils that are held yearly for the missing and murdered Aboriginal women of Canada. The reason for changing the name was due to a large funding gap and the need to renew funding, and NWAC's impression that the Canadian government had began claiming ownership over the term Sisters in Spirit. It was therefore an attempt to maintain independence from the government while renewing funding.

<sup>121</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Evidence to Action for our Sisters in Spirit," 2011 [http://www.nwac.ca/sites/default/files/imce/2011\\_NWAC-ETA-SIS-Project.pdf](http://www.nwac.ca/sites/default/files/imce/2011_NWAC-ETA-SIS-Project.pdf) (accessed on April 16th, 2014).

<sup>122</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Press release – For Immediate Release." NWAC has collaborated with the Committee on the Elimination of Racial Discrimination, the UN Commission on the Status of Women, the UN Permanent Forum on Indigenous Issues, the Human Rights Council's Universal Periodic Review, and other international groups towards ending violence against Indigenous women.

as those mentioned in their *Funding Opportunities Resource Guide: For Not-for-Profit Organizations*.<sup>123</sup> As it will be explained in the following chapter on NWAC, this organization is limited in its advocacy work due to the funding it receives from the government. The Canadian government's discontent with NWAC's human rights and public education work has pushed this organization to seek funding from non-governmental and private bodies in order to maintain its freedom and ability to do human rights advocacy in Canadian Indigenous communities. At times, NWAC has had to prioritize issues that the Canadian government felt were more relevant such as economic development and employability skills. However, NWAC continues to see rights advocacy as a priority and actively tries to maintain this a central aspect of its work.<sup>124</sup>

This organization is of a large scale, encompassing a large number of members and workers, and focuses on many issues concerning Indigenous women across Canada. Its main office is situated in Ottawa, but it also has provincial offices that look after specific files, and report to the national office. With its work on the local, national and international scales, NWAC is considered a leader on the national and international levels on issues regarding Indigenous women and their rights. Without government funding, however limited, this would be impossible.

One of NWAC's main strategies for social change is engaging in rights litigations to challenge discriminatory legislations, such as laws concerning band membership that affect gender equality, and NWAC's right to participate in decision making at the national level.<sup>125</sup> NWAC has participated in many important debates at the national and international level,

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<sup>123</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Funding Opportunities Resource Guide: For Not-for-Profit Organizations," 2013, <http://www.nwac.ca/files/download/Funding%20Opportunities%20Resource%20Guide,%202013.pdf> (accessed May 24, 2014), 3.

<sup>124</sup> Ibid.; Anonymous (3). Interview with author, Phone interview, NWAC, Ottawa, January 16th, 2012.

<sup>125</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Annual 39<sup>th</sup> General Assembly," under "Annual Report/2013," <http://www.nwac.ca/files/download/Annual%20Report%202013%20Final.pdf> (accessed January 9, 2014), 9.

including court cases on Indigenous women's right to have an equal voice in discussions on Indigenous self-determination.<sup>126</sup>

It is important to understand NWAC's interventions within the context of the Canadian state's discriminatory policies against Indigenous peoples. This discrimination has been strongest in the case of Indigenous women if we consider the Indian Act and the way it has shaped the conditions of Indigenous women in Canada.<sup>127</sup> Created in 1876, the Indian Act, which is the Canadian state's main document dealing with questions of Indian status and the management of Indigenous peoples' resources and rights,<sup>128</sup> gravely limited the rights of First Nation women, maintaining their status dependent on marrying Indigenous men, thereby creating a significant inequality between Indigenous men and women. This legislation has played an important role in excluding Indigenous women from political affairs, as gender discrimination was adopted by many communities and believed to portray their traditional values.<sup>129</sup>

This context explains that one of NWAC's main tools for meeting its goals has been litigation. For instance, NWAC has supported and participated in the Supreme Court cases of "Canada v. Lavell" and "Isaac v. Bedard" in 1973, where the court felt that section 12 (1) (b) of the Indian Act did not infringe on the Canadian Bill of Rights, claiming that equality depends on the equality in the administration or application of the law.<sup>130</sup> In the case of "Lovelace v. Canada" in 1977 before the UN Human Rights Committee, it was found that the status provision

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<sup>126</sup> Kuokkanen, 234; Mary A. Eberts, Sharon McIvor, Teresa Nahanee, "Native Women's Association of Canada v. Canada," *Canadian Journal of Women and the Law* 18, no. 1 (2006), 67.

<sup>127</sup> Wendy Moss, "Indigenous Self-government in Canada and Sexual Equality Under the Indian Act: Resolving Conflicts Between Collective and Individual Rights," *Queens Law Journal* 15 (1990): 279.

<sup>128</sup> Government of Canada, *Indian Act: R.S.C., 1985, c. I-5*, Minister of Justice (Current to March 16, 2014), <http://laws-lois.justice.gc.ca/eng/acts/i-5/> (accessed on April 15<sup>th</sup>, 2014).

<sup>129</sup> Moss, 279-80.

<sup>130</sup> Historica Canada, "Lavell Case: In A.G.," 2013 <http://www.thecanadianencyclopedia.ca/en/article/lavell-case/> (accessed May 27, 2014).

of the Indian Act went against the International Covenant on Civil and Political Rights.<sup>131</sup> In 1985, Bill C-31 was passed by Parliament in an attempt to amend the Indian Act's discriminatory clauses against women who were excluded from land membership. The Canadian government, under the insistence of the UN and in response to the entrenchment of section 15 of the Charter, reluctantly adopted this change. However, NWAC explains that "many women believe that Bill C-31 only caused more suffering and in the long term has perpetuated injustice"<sup>132</sup> in creating discrimination within the communities against reinstated women.<sup>133</sup>

Following the Charlottetown Accord in 1992, where NWAC was not invited to participate and did not receive funding, unlike other Canadian First Nations organizations, (including the Assembly of First Nations (AFN), the Native Council of Canada (NCC), the Métis National Council (MNC) and the Inuit Tapirisat of Canada (ITC)), it used rights litigation to make a case before the Supreme Court of Canada. In "Native Women's Association of Canada v. Canada," NWAC argued for its rightful place at the table of constitutional negotiations on issues of Indigenous rights to self-governance, claiming that section 28 on sexual equality and section 2 on freedom of expression of the Canadian Charter of Rights and Freedoms should ensure their right to such participation. The court however decided that the Canadian government should not be obliged to welcome NWAC in constitutional negotiations. Eberts, McIvor and Nahanee, the

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<sup>131</sup> Ibid.

<sup>132</sup> Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Aboriginal Women and Bill C-31, an Issue Paper," under "National Aboriginal Women's Summit," 2007 <http://www.laa.gov.nl.ca/laa/naws/pdf/nwac-billc-31.pdf> (accessed April 15th, 2014).

<sup>133</sup> Sarah E. Hamil, "McIvor v Canada and the 2010 Amendments to the Indian Act: A Half-Hearted Remedy to Historical Injustice," *Constitutional Forum constitutionnel* 19, no. 2 (2011), 75; Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Fact Sheet" (accessed April 15th, 2014). This fact sheet is based on data generated by Statistics Canada from the years 2004 to 2009; Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Press release – For Immediate Release: NWAC expresses disbelief, and is taken aback by Canada's response to the UN Human Rights Council," Ottawa, September 20, 2013, [http://www.nwac.ca/files/2013%2009%2020%20NWAC%20expresses%20disbelief%20and%20is%20taken%20aback%20by%20Canada%27s%20response%20to%20the%20UN%20Human%20Rights%20Council\\_FINAL.pdf](http://www.nwac.ca/files/2013%2009%2020%20NWAC%20expresses%20disbelief%20and%20is%20taken%20aback%20by%20Canada%27s%20response%20to%20the%20UN%20Human%20Rights%20Council_FINAL.pdf) (accessed on April 16<sup>th</sup>, 2014).

main individuals leading this case on behalf of NWAC, explain in the *Canadian Journal of Women and the Law* that NWAC requested to be present and participate at the constitutional table, as were other Indigenous organizations in Canada, to discuss issues of self-governance that concerned women in particular, but were denied this opportunity by Aboriginal national organizations, the Federal Court Trial, the Court of Appeal and the Supreme Court of Canada.<sup>134</sup> The Women's Court of Canada, a feminist research project that re-writes leading decisions taken by the Supreme Court of Canada from a feminist perspective, criticized the Indian Act's continued influence on Indigenous groups to perpetuate patriarchal and discriminatory practices at Indigenous women's expense, and stated that their exclusion was a breach of the Canadian Charter of Rights and Freedoms and the Constitution Act.<sup>135</sup>

In this, NWAC experienced the opposition of the AFN, another leading First Nations organization in Canada. This organization had a history of being opposed to "women-friendly policy," such as the ones promoted by NWAC.<sup>136</sup> Frictions between NWAC and the AFN occurred at the time of the Charlottetown Accord regarding Indigenous women's exclusion from this constitutional discussion. The AFN had supported the final text of this negotiation, as had other participating Indigenous organizations, which went against NWAC's interests. NWAC challenged the AFN on their position that "aboriginal governments should be shielded from the [Canadian Charter of Rights and Freedoms]," and argued that the AFN was a male-dominated organization that could not speak on behalf of Aboriginal women.<sup>137</sup> Katherine Beaty Chiste explains that the AFN was opposed to NWAC's goal to achieve gender equality among

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<sup>134</sup> Eberts, McIvor, Nahanee, 70.

<sup>135</sup> Ibid., 77.

<sup>136</sup> Kiera L. Ladner, "Colonialism Isn't the Only Answer: Indigenous Peoples and Multilevel Governance in Canada," in *Federalism, Feminism and Multilevel Governance*, ed., Melissa Haussman, Marian Sawyer and Jill Vickers (Burlington, VT: Ashgate Publishing Company, 2010), 81.

<sup>137</sup> Katherine Beaty Chiste, "Aboriginal Women and Self-Government: Challenging Leviathan," in *Contemporary Native American Cultural Issues*, ed., Duane Champagne (Walnut Creek, CA: AltaMira Press, 1999), 72.

Indigenous peoples through actions such as its opposition to Bill C-31, conceiving it as an “unwarranted intrusion on band government authority.” This made many Indigenous women in Canada feel wary about the AFN’s willingness to defend their interests, and sometimes want to distance themselves from the conflict between both organizations, thus creating further divisions between Indigenous men and women and among women themselves.<sup>138</sup>

The AFN has however become increasingly aware of the need to address gender issues within wider Aboriginal concerns. More recently, it has supported NWAC in its endeavor to ensure the rights of Indigenous women according to the Canadian Charter of Rights and Freedoms on certain issues, and bridge the gap between individual and collective rights.<sup>139</sup> In the year 2011, a *Statement of Partnership between the Assembly of First Nations and the Native Women’s Association of Canada* was made for a duration of 5 years and subject to renewal. This statement has the purpose of linking both organizations in seeking “opportunities to collaborate and cooperate on initiatives that advance First Nations rights to equality and improve women’s health, socio-economic situation, cultural well-being and status in Canada.”<sup>140</sup> The significance of this partnership for Indigenous women in Canada and NWAC as an organization is that they are now better supported in their perspectives and uses of the human rights discourse and are facing much less opposition from fellow Indigenous organizations and male leaders on the question of individual and collective rights.

In its 2009 Annual Report, NWAC commits itself to advocating for “the right to live free from violence and discrimination, the right to self-determination, rights related to lands, territories and resources, the right to health, the right to free, prior and informed consent as well

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<sup>138</sup> Ibid, 73.

<sup>139</sup> Ladner, 76.

<sup>140</sup> Native Women’s Association of Canada and Assembly of First Nations, “Statement of Partnership Between the Assembly of First Nations and the Native Women’s Association of Canada,” <http://www.afn.ca/uploads/files/partnerships/nwac.pdf> (accessed May 27, 2014).

as other economic, social, cultural, civil and political rights”.<sup>141</sup> This statement indicates its interest in ensuring the individual and collective rights of Indigenous peoples in human rights documents at the national and international level. It is from this perspective that NWAC represents the interests of Indigenous women within the larger framework of Indigenous rights. This intention is also voiced in NWAC’s 2012-13 Annual Report: “[t]he work in Human Rights and International Affairs [focuses] on ensuring that Aboriginal women’s distinct perspectives, rights and needs in Canada are considered and met in relation to key human rights concerns.”<sup>142</sup> As stated in this document, “NWAC has worked to raise the profile of many issues such as: violence against women, the lack of justice response, high rates of women in prison, the under-funding to on-reserve education, all forms of discrimination against women, poverty, ongoing sexual exploitation and trafficking of women and girls, the lack of clean water, and other violations to our basic human rights”.

K’inal Antsetik, for its part, was formed in 1992 and seeks to represent the interests of Tzotzil, Tzeltal, Chol and Zoque Indigenous women in the jungle, North and mountainous regions of Chiapas, the most Southern state of Mexico.<sup>143</sup> K’inal Antsetik’s name means “Land of Women” in Tzeltal, one of the local Indigenous languages of the region where it is located, in the city of San Cristóbal de las Casas (Chiapas). It obtains most of its funding from non-for-profit and international cooperation organizations such as the W.K. Kellogg Foundation,<sup>144</sup> the

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<sup>141</sup> Native Women’s Association of Canada – L’association des femmes autochtones du Canada, “35th Annual General Assembly : “Celebrating Aboriginal Women In Leadership”,” under “2008-2009 Annual Report,” <http://www.nwac.ca/sites/default/files/download/admin/NWAC-AGA09-annual-report.pdf>, 24. (accessed January 9<sup>th</sup>, 2014).

<sup>142</sup> Native Women’s Association of Canada – L’association des femmes autochtones du Canada, “Annual 39<sup>th</sup> General Assembly,” 31. (accessed January 9<sup>th</sup>, 2014).

<sup>143</sup> K’inal Antsetik, “Welcome,” K’inal Antsetik, <http://www.kinalantsetik.com/> (accessed January 28th, 2014); K’inal Antsetik, “¿Quiénes Somos?” K’inal Antsetik, [http://www.kinalantsetik.com/quienes\\_eng.html](http://www.kinalantsetik.com/quienes_eng.html) (accessed May 24, 2014).

<sup>144</sup> W.K. Kellogg Foundation, “K’inal Antsetik, A.C.,” <http://www.wkcf.org/grants/grant/2014/04/weaving-our-development-as-indigenous-women-ii-3027358> (accessed May 24, 2014).



Global Fund for Women,<sup>145</sup> and the MacArthur Foundation.<sup>146</sup> Unlike NWAC, K'inal Antsetik does not receive any funding from the government. This is due to conflicts between the Mexican state and Indigenous organizations (i.e.: the EZLN) and communities that have damaged trust, relationships, but also for the purpose of being independent from pressures coming from the state.<sup>147</sup> This strategy enables K'inal Antsetik to engage in advocacy work, and apply to grants from organizations that support initiatives in the areas that match its objectives and priorities.

K'inal Antsetik is smaller in scale than NWAC, and consequently focuses on local community initiatives, workshops and political actions in support of Indigenous women's needs and concerns. Its primary areas of work are "production development, health, leadership, education and human rights" and it encourages women to participate in "all aspects of community life".<sup>148</sup> More specifically, K'inal Antsetik focuses primarily on matters of social justice and economic development for Indigenous women.<sup>149</sup> In the following statement, important distinctions between NWAC and K'inal Antsetik can be noted regarding the latter organization's focus on gender equality at the grassroots level, while maintaining similarities on wider issues of social change:

One of the most important objectives of K'inal Antsetik is to contribute to the transformation of gender relations at the household, community and authority level. K'inal works to help women gain representation, and thus influence the collective construction of social justice, democracy and autonomy.<sup>150</sup>

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<sup>145</sup> Changing the Present, "Global Fund for Women," <http://changingthepresent.org/nonprofits/show/115/photos> (accessed May 24, 2014).

<sup>146</sup> MacArthur Foundation, "Grantmaking in Mexico," 2010, [http://www.macfound.org/media/article\\_pdfs/MEXICO\\_INFO.PDF](http://www.macfound.org/media/article_pdfs/MEXICO_INFO.PDF) (accessed May 24, 2014).

<sup>147</sup> *Encyclopaedia Britannica*, Online Academic ed., s.v. "Zapatista National Liberation Army (EZLN)," <http://www.britannica.com/EBchecked/topic/655858/Zapatista-National-Liberation-Armey-EZLN/286749/The-rebellion?anchor=ref1118628> (accessed May 21, 2014).

<sup>148</sup> *Ibid.*

<sup>149</sup> K'inal Antsetik, "Vision-Mision," K'inal Antsetik, [http://www.kinalantsetik.com/mis-vis\\_eng.html](http://www.kinalantsetik.com/mis-vis_eng.html) (accessed January 28, 2014).

<sup>150</sup> K'inal Antsetik, "¿Quiénes Somos?" K'inal Antsetik, [http://www.kinalantsetik.com/quienes\\_eng.html](http://www.kinalantsetik.com/quienes_eng.html) (accessed January 28, 2014).

K'inál Antsetik's work with Indigenous women needs to be understood in the wider context of the socio-economic situation of Indigenous peoples and women in particular, and of their culture, history and political struggles for Indigenous autonomy and dignity. Most Indigenous women in Chiapas live in conditions of extreme poverty, violence and discrimination from within and outside of their communities. Much of their disadvantage is due to a history of settler domination, which has dispossessed Indigenous peoples of their resources. Land resources on which they depend have been commodified and reorganized through (neo-) colonial processes.<sup>151</sup> Labor was imposed upon them as a way of extracting and appropriating these resources, which produced uneven power relations between settlers and Indigenous groups and destitution among the latter.<sup>152</sup> In recent times, neoliberal legislations and free trade agreements like the North American Free Trade Agreement (NAFTA) have particularly affected Indigenous peoples in Mexico and have increased their economic and social marginalization. The Mexican state, for its part, has failed to provide Indigenous peoples with adequate standards of living and protecting their human rights against state and economic violence.<sup>153</sup> Indigenous women have been the most affected by these factors, as their traditional role is to ensure their families' survival.<sup>154</sup>

Practices and customs of Indigenous peoples in Mexico, locally called “usos y costumbres”, are central to Indigenous systems of governance and cultural practices. Some of

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<sup>151</sup> Altamirano-Jiménez, 3.

<sup>152</sup> Ibid., 30. Altamirano-Jiménez specifies that Indigenous peoples in Mexico were subjected to extractive colonialism, which is focused on imposing labor upon them and appropriating their resources for the purpose of settlers domination and prosperity.

<sup>153</sup> Arun Kumar Acharaya and Manuel R. Barragan Codin, “Poverty and Trafficking of Indigenous Women in Mexico: Some Evidence from Chiapas State,” *Journal of Sustainable Society* 1, no. 3 (2012): 64; Stephen D. Collins, “Indigenous rights and internal wars: The Chiapas conflict at 15 years,” *The Social Science Journal* 47 (2010): 774.

<sup>154</sup> Acharaya and Barragan Codin, 63. This article emphasizes Indigenous women's often-felt need to emigrate from their communities of origin in search for financial stability and work opportunities due to their socio-economic marginalization. This often results in human trafficking and further human rights breaches.

them, however, are discriminatory towards women on the basis of gender, which is a critique made by several Indigenous women and scholars working on this topic.<sup>155</sup> Lynn Stephen, whose work focuses on political and economic impacts on Indigenous peoples, states that such discrimination has taken the form of women's exclusion in community assemblies and decisional discussion groups. Other issues experienced by Indigenous women include domestic violence, non-consensual marriage arrangements involving very young women, and an uneven division of labor that forces women to work significantly more than their fellow men.<sup>156</sup> Visibly, the individual rights of women in Indigenous communities are often infringed through cultural practices as well as systemic injustices.<sup>157</sup>

The destitution of Indigenous peoples in Chiapas has pushed many Indigenous communities to mobilize in favor of their human rights and autonomy in the form of armed resistances. The most important organization that was created in this context has been the Zapatista Army of National Liberation (Ejército Zapatista de Liberación Nacional) referred to as the EZLN or the Zapatistas. This organization is led by Indigenous peoples, and has become an international symbol of Indigenous struggles for peace and justice, after its first and main uprising in the city of San Cristobal de las Casas in 1994.<sup>158</sup> The EZLN made a series of demands to the Mexican state and released statements on the international scale explaining their motives, which were based on securing peace, justice, dignity and autonomy for the Indigenous

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<sup>155</sup> Pitarch, Speed and Leyva-Solano. The gender inequalities that are present in certain practices and customs of Indigenous groups in Chiapas is a concern that was mentioned often during interviews with members of K'injal Antsetik.

<sup>156</sup> Lynn Stephen, *Zapata Lives!: Histories and Cultural Politics in Southern Mexico* (University of California Press: 2002), 195.

<sup>157</sup> Pitarch, Speed and Leyva-Solano, 176-181.

<sup>158</sup> Collins, 778. Collins states: "The Zapatista revolt [...] emerged as a consequence of the antecedent conditions of desperate poverty, government neglect, abuse, and absence of due process; and the trigger events of NAFTA and the adulteration of land reform."

peoples of Chiapas.<sup>159</sup> The Zapatistas' approach to human rights is to appropriate and redeploy it as described by Shannon Speed et al..<sup>160</sup> They have therefore established their own conception of human and Indigenous rights through autonomy and forms of resistance to state power structures and global capitalism.<sup>161</sup> It is important to note that the EZLN demands both individual and collective rights for Indigenous peoples: it demands a recognition of individuals' right to live in dignity and to have access to vital resources, but also of collective rights to autonomous and self-governance. This strategy has made it particularly difficult for the state to manipulate individual and collective rights to its advantage.<sup>162</sup>

The EZLN acknowledges the particular oppression felt by Indigenous women on the basis of race and gender within their communities, and since its first uprising, has made a point of addressing Indigenous women's individual rights through the creation of the Revolutionary Law of Women (1994), and Indigenous women's assemblies parallel to those of men.<sup>163</sup> The Revolutionary Law of Women demands equality within communities between men and women and addresses specific issues regarding their individual rights within Indigenous struggles in Chiapas.<sup>164</sup> The law includes ten clauses that touch on the subjects of political participation, the right to work, reproductive rights, participation in community affairs and the right to hold leadership positions, the right to education, free choice on marriage, the right to live free from domestic violence, the right to hold a military rank within the EZLN, and access to all other rights stated under the EZLN.<sup>165</sup> In sum, Indigenous women within the EZLN became organized to have their voices heard and be considered of equal value to those of men on issues of human

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<sup>159</sup> Ibid., 779-780.

<sup>160</sup> Speed, *Rights in Rebellion*, 22.

<sup>161</sup> Ibid.

<sup>162</sup> Shannon Speed, "Gendered Intersection," 134.

<sup>163</sup> Ibid.

<sup>164</sup> Stephen, 178.

<sup>165</sup> Ibid., 180.

rights. Aída Hernández Castillo, a Mexican scholar who has worked extensively with Indigenous peoples in Chiapas, specifically with the EZLN and its female members, and others such as Mercedes Olivera who has focused her research on the EZLN and the construction of Indigenous feminism within this movement, explain that this particular struggle has given rise to Indigenous feminist perspectives within Indigenous political struggles in the region of Chiapas.<sup>166</sup> Hernández Castillo argues that this type of feminism is defined by these women's conception of "women's dignity", their economic and cultural context, and their way of building political alliances.<sup>167</sup> She states: "Contrary to the urban feminist movement in Mexico, indigenous women have maintained a double militancy, linking their gender-specific struggles to struggles for the autonomy of indigenous communities [...]"<sup>168</sup>

Through the Revolutionary Law of Women and autonomous women's assemblies, the women of the EZLN have set an example of empowerment to all other Indigenous women in the region, and inspired many other organizations to follow a similar path to Indigenous women's rights.<sup>169</sup> It is however important to note that injustices and gender inequalities towards women continue to exist in this region, and that the Revolutionary Law of Women is not strictly followed in many communities, and that practices and customs ("usos y costumbres") often prevent women from participating freely in political activities. On this matter, Olivera stresses that developing a feminist framework is a process that needs to be viewed within its context,

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<sup>166</sup> Hernández Castillo, 40-41; Mercedes Olivera, "Feminist practice in the Zapatista movement," *Lola Press* 5 (May 1996).

<sup>167</sup> Hernández Castillo, 40. This author explains that: "Ethnic, class and gender identities have determined their struggle and they have opted to incorporate themselves in the broader struggle of their communities. But at the same time they have created specific spaces to reflect on their experiences of exclusion as women and as indigenous people." Hernández Castillo also specifies in this article that the rise of the Zapatista women as Indigenous feminists cannot be understood without looking at prior struggles of Indigenous women since the 1970s, when Indigenous peoples and women began speaking up for their rights at the international scale. The National Coordinating Committee of Indigenous Women (CNMI), formed in 1997 played a significant role in empowering Indigenous women in this region.

<sup>168</sup> *Ibid.*, 43.

<sup>169</sup> *Ibid.* This statement is also based on the content of interviews with women from K'injal Antsetik, as they are described in Chapter 5.

which is extremely challenging in Chiapas where a lack of access to resources and strict gender norms have maintained women at a distinct disadvantage for centuries. The work of the Zapatista women is neither complete nor perfect but should be understood as an opportunity for Indigenous women to voice their needs and concerns within wider Indigenous struggles.<sup>170</sup> Understanding this political background for Indigenous women in Chiapas is crucial when looking at K'inal Antsetik who has been significantly influenced by the EZLN's approach to human rights in its own visions and endeavors, as explained in Chapter 5.

There is no cooperation between the Mexican state and K'inal Antsetik due to deep conflicts that endure between Indigenous groups and the state and are due to the latter's neglect and continued dismissal of Indigenous human rights claims.<sup>171</sup> K'inal Antsetik therefore relies solely on the support of larger charitable and non-governmental organizations for the development of its own initiatives and programs. K'inal Antsetik however participates in discussions on Indigenous women at the international scale, for example through press releases such as its statement with, Jolom Mayaetik and the Rosa Luxemburg Collective to MADRE, a international women's human rights organization, for the 2011 International Women's Day. In this document, they made demands of justice in relation to violence against women, the political assassination of Indigenous women in Mexico, and several other related political claims.<sup>172</sup>

In its work with Indigenous women, K'inal Antsetik navigates among many different ethnic groups at the core of the organization. As stated by the organization, “[i]n the K'inal Antsetik office, [...] indigenous languages Tzotzil, Tzetal, Chol and Zoque coexists together with Spanish,

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<sup>170</sup> Olivera.

<sup>171</sup> Acharaya and Barragan Codin, 68-9.

<sup>172</sup> K'inal Antsetik, Cooperative Jolom Mayaetik and Rosa Luxemburg Collective, “Statement from K'inal Antsetik for International Women's Day,” Washington, March 8<sup>th</sup> 2011, <https://www.commondreams.org/newswire/2011/03/08-14> (accessed April 17th, 2014).

in a diverse multicultural environment.”<sup>173</sup> There are therefore many different cultural backgrounds and traditions working closely together, which provides a rich and complex array of experiences and perceptions on Indigenous women’s needs and desires in Chiapas. K’inal Antsetik has recently inaugurated an “Education and Training Centre for Women” that affinity organizations (such as Jolom Mayaetik, an Indigenous women’s weaving cooperative who shares offices with K’inal Antsetik) are welcome to use for their own projects.<sup>174</sup> Many of the members of these organizations have at different times worked for or benefitted from each other’s services. Narratives from women who have weaved with Jolom Mayaetik but also worked with K’inal Antsetik are presented in Chapter 5.<sup>175</sup>

It should be noted that the women of K’inal Antsetik have faced some opposition from Indigenous community members in San Cristóbal de las Casas in the form of attacks to the organization’s center and offices, where young Indigenous women live while they attend educational institutions in San Cristóbal de las Casas. Yolanda Castro, one of its main organizers whom I had the honor to meet, has been the target of harassment and vandalism at her home in 2008. Chiapas’ General Attorney attempted to criminalize her work as a defender of human rights, while unidentified individuals tried bribing members of K’inal Antsetik and Jolom Mayaetik in exchange for information on her. The previous Education and Training Center was also the subject of vandalism when a man set fire to the building during the night of the 26<sup>th</sup> of

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<sup>173</sup> K’inal Antsetik, “¿Quiénes Somos?”

<sup>174</sup> Information shared through social media and the document: K’inal Antsetik A.C., *Centro de Formación y Capacitación para Mujeres Indígenas* (San Cristóbal de las Casas: K’inal Antsetik, 2014) <http://www.facebook.com> under “K’inal Antsetik” (accessed on January 28<sup>th</sup>, 2014).

<sup>175</sup> Jolom Mayaetik, K’inal Antsetik A.C. and Schweizerische Eidgenossenschaft, ed., *Ta slo’il ta ya’yejik ti antsetike -Voces que tejen y bordan historias: Testimonios de las mujeres de Jolom Mayaetik* (San Cristóbal de las Casas, Bárbara Tello Ortiz: 2007). This is a collection of narratives from members of the cooperative Jolom Mayaetik, who are often also members of the organization K’inal Antsetik.

September of 2009.<sup>176</sup> This opposition shows that similarly to NWAC in Canada (yet in much more directly harmful ways), K'injal Antsetik as an Indigenous women's organization fighting for Indigenous women's rights faces constant challenges from fellow Indigenous men and state authorities.

*A preliminary comparison and four research orientations*

With the information presented in the previous section of this chapter, we can see that NWAC and K'injal Antsetik hold many similarities as well as differences in their political and historical contexts, and in the ways they work with Indigenous women. Both organizations are pathbreaking in the way they mobilize the discourse of human rights, while doing so differently in each case. They both use the discourse of human rights to advance Indigenous women's socio-political objectives, linking individual and collective rights, firmly believing in the value of the human rights framework for effecting social change for Indigenous women. Both organizations are concerned with Indigenous women's disenfranchisement through colonial legislations from their respective states, and structural violence against women, including unequal access to resources, land and political rights. Gender relations in both contexts are unequal and include injustices such as women's exclusion from community assemblies and negotiation tables (at different scales for each organization).

However, on many respects, NWAC and K'injal Antsetik are very different organizations. NWAC works at the local level, but mostly at the national and international scale. Such activity could not be possible without public funding from the state. But on the other hand, NWAC

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<sup>176</sup> Servicio internacional para la Paz (SIPAZ), "CHIAPAS: Ataque a K'injal Antsetik," under "Blog del Servicio internacional para la Paz," October 1<sup>st</sup> 2009, <http://sipaz.wordpress.com/2009/10/01/chiapas-ataque-a-kinal-antsetik/> (accessed April 17<sup>th</sup>, 2014).



addresses the issues of Indigenous women mainly through rights litigation that seeks to push the state to protect these women and change legislation. In other words, through the appropriation and redeployment of the human rights discourse, NWAC seeks to change the state so that it will better protect Indigenous women. For its part, although K'inal Antsetik has a presence at the international level, its work is focused mainly on the local scale, participating in community struggles for social justice, providing educational workshops and support to Indigenous women in local communities. This organization seeks to increase the wellbeing of Indigenous women by changing Indigenous practices and customs that are discriminatory on the basis of gender. K'inal Antsetik is interested in socially transforming Indigenous communities, not the Mexican state. As previously explained, non-governmental organizations of this kind are not funded by the state and do not trust the state to make meaningful changes to protect Indigenous peoples and women in particular. Due to these circumstances, rights litigation is not part of K'inal Antsetik's work.

Given the differences in scales, scopes and approaches between both organizations, their appropriation and redeployment of human rights takes different forms. The similarities and differences provide the background for a comparison of the two organizations and make it theoretically interesting. The comparison made in the next chapters is focused on general aspects of comparison (i.e.: they are common to both organizations' goals and work; for each of these aspects, the main differences between the organizations are then identified.) The four following points of focus link the theory that has been previously discussed on human rights issues and Indigenous women's rights in Chapters 1 and 2, and the experiences and work of both organizations.

The first point of inquiry that appears to be relevant to these organizations' appropriation and redeployment of rights is how they perceive human rights in relation to their respective

culture and traditions. Chapter 1 discussed the views of several scholars on the relevance of human rights for minority groups and Indigenous peoples, criticizing this framework's Western background and influence on non-Western populations. Human rights are often idealized and used to advance Western agendas and worldviews to the detriment of non-Western perspectives on peace and social justice. Nevertheless, Indigenous peoples and organizations such as NWAC and K'inak Antsetik choose to refer to this discourse in their social and political work at the local, national and international level. While it forces Indigenous peoples to make claims within a Western framework, it is used as a common international language that creates opportunities to mobilize for rights against the state and address local issues. It is therefore important to investigate how the women of each organization perceive human rights in relation to their cultures and traditional knowledge as a way of understanding their adherence to rights despite its Western background. This aspect of inquiry is a starting point in examining how each organization situates human rights in relation to Indigenous identity and in what ways rights are reshaped according to Indigenous viewpoints.

A second point of interest addresses specifically the role of gender in each organization's appropriation and redeployment of rights. Chapter 2 argues that beside the wider cultural and political issues of human rights are issues of gender equality for Indigenous women. The importance of establishing a framework that adequately addresses the needs and concerns of Indigenous women as oppressed individuals within a minority through a balance of individual and collective rights was emphasized. Indigenous feminism was presented as a way to reformulate rights according to the needs of Indigenous women, taking into account their unique experiences of racial and gendered repression. It is now important to investigate how each

organization perceives human rights in relation to gender as it is constructed in each context, in order to understand how this defines the ways that rights are appropriated and redeployed.

Debates on Indigenous women's adherence to human rights have also focused on the issue of cultural and political cooptation to Western institutions and agendas, such as liberal or white feminism and the influence of state institutions. It can therefore seem difficult for Indigenous women's organizations in Canada and Mexico to use the discourse of rights towards individual and collective self-determination while facing pressures to fit within mainstream visions of rights. This issue is crucial to the topic of appropriation and redeployment, which aims at stepping away from Western interpretations of human rights and moving towards a contextually and culturally appropriate formulation of rights that can be redeployed to challenge repressive Western institutions and agendas. A third aspect of inquiry should therefore be on the issue of cultural and political cooptation that may challenge NWAC and K'inál Antsetik. Investigating on these organizations' perspectives on this question will be an important point of comparison to understand how appropriation and redeployment is designed in each context.

The fourth focus of inquiry does not stem from the theory presented in the previous chapters. It came up as I was doing my fieldwork with NWAC. However, I believe it is theoretically relevant to this study and makes its content richer. It is the question of the access to resources by the members of each organization. Different access to resources such as money or formal education may create differences in the ways each organization perceives, appropriates and redeploys the discourse of human rights. Each context presents different levels of opportunity for Indigenous women to enter the realm of political work and to become community leaders and human rights advocates. The members of NWAC and K'inál Antsetik both share similar struggles as Indigenous women to overcome racial and gendered repression in

order to occupy positions at the core of their organizations, but have also necessarily faced different levels of difficulty due to the contextual differences that exist between Canada and Mexico. A look at the challenges and disparate access to educational and economic resources between each organization may reveal differences between the members of NWAC and K'inal Antsetik in their understanding of rights, and varying levels of proximity with Indigenous women's realities at the local level. Understanding these situational differences may help understand these organizations' particular visions and uses of the rights discourse.

### *Methodological considerations*

Before looking at NWAC and K'inal Antsetik with the objective of comparing these organizations' perceptions and uses of human rights, a number of methodological considerations are required. Arend Lijphart, a prominent scholar in the field of comparative politics, explains that qualitative case study analysis, such as those that are undertaken here, is useful in many ways, one of them being to build on existing theory or simply confirming theory.<sup>177</sup> In the context of this research, NWAC and K'inal Antsetik are placed in "the framework of established generalizations" or theoretical propositions, namely the theory of appropriation and redeployment of human rights by Indigenous women through an Indigenous feminist viewpoint. In this way, these case studies initially presented certain elements that were relevant to the propositions made in Shannon Speed et al.'s theory of appropriation and redeployment, mainly Indigenous interpretations and uses of the human rights discourse at the local level. The goal of the comparative case studies is to form a deeper understanding of socio-political processes – in the present case, the process of appropriation and redeployment of the human rights discourse –

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<sup>177</sup> Arend Lijphart, "Comparative Politics and the Comparative Method," *The American Political Science Review*, 65, no. 3 (1971): 691.

by seeing how it unfolds in different contexts.<sup>178</sup> Such a study can also be described as a multiple-case study, which enables the observation and analysis of differences and similarities between each case.<sup>179</sup>

The theory of appropriation and redeployment that is used in this study has not been applied to many cases. As explained in Chapter 2, this theory has a few close equivalents in the literature on human rights, but has not been widely discussed in academic research. A comparative case study analysis such as this one is therefore a fair contribution to this theory as it aims to confirm its validity in two instances and adds complexity to the discussion, thus possibly strengthening the theory.<sup>180</sup> Furthermore, this study's focus on two cases enables a complex analysis of each case within its respective context. Canada and Mexico (Chiapas) present diverse backgrounds and circumstances that have determined the evolution of Indigenous rights and women's roles and shaped the way that NWAC and K'inál Antsetik approach the issue. Doing a case study analysis is a way of integrating these contextual factors as essential elements of analysis, and to explore specific details of each organization such as their relationship with local communities, their objectives and initiatives, and their perspectives on social justice and human rights for Indigenous women.<sup>181</sup> Questions such as how and why these

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<sup>178</sup> Ibid, 692; Daniel Druckman, "Chapter 7: Comparative Case Study Approaches," in *Doing Research: Methods of Inquiry for Conflict Analysis* (Fairfax, Sage Publications Inc.: 2005), 209.

<sup>179</sup> Pamela Baster and Susan Jack, "Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers," *The Qualitative Report* 13, no. 4 (2008): 548. This article's discussion on multiple case-study analysis is based on Robert Yin's work: Robert K. Yin, *Case study research: Design and methods* 3<sup>rd</sup> ed. (Thousand Oaks: Sage Publications Inc., 2003).

<sup>180</sup> Lijphart, 692. Lijphart states that in the case of a theoretical proposition that has already been tested on a large number of cases, "the demonstration that one more case fits does not strengthen it a great deal. Like-wise, theory-infirming case studies merely weaken the generalizations marginally."

<sup>181</sup> Druckman, 209; Baster and Jack, 544.

organizations perceive and use the discourse of human rights can then be answered holistically without absolving phenomena from its context.<sup>182</sup>

The case study approach also enables me as the researcher to build a relationship with the participants of each organization and provide them with an opportunity to share their perspectives and concerns about human rights.<sup>183</sup> This proximity and attention with each participant allows a better understanding of the complexity of their choices and viewpoints, as well as an appreciation of their experiences as Indigenous women doing political work. Aileen Moreton-Robinson discusses this matter in her theory on “Indigenous women’s standpoint,” which guides research towards Indigenous women’s experiences and perspectives through a feminist lens (in this case, speaking specifically of Indigenous feminism). This methodology emphasizes Indigenous women’s lived experiences shaped by racial and gendered repression, “and the subsequent power relations that flow from these into the social, political, historical and material conditions”<sup>184</sup> of their lives, but also their shared resistances for collective sovereignty and individual rights.<sup>185</sup>

Throughout my research, I have made a conscious effort to adopt this approach of allowing Indigenous women’s knowledge and experiences to inform the questions and orientation of the research, emphasizing their intersecting gender and race oppression and

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<sup>182</sup> Ibid., 545. Baster and Jack explain the reasons for doing a case study according to Robert Yin’s theory as follows: “According to Yin (2003) a case study design should be considered when: (a) the focus of the study is to answer “how” and “why” questions; (b) you cannot manipulate the behavior of those involved in the study; (c) you cannot manipulate the behavior of those involved in the study; (c) you want to cover contextual conditions because you believe they are relevant to the phenomenon under study; or (d) the boundaries are not clear between the phenomenon and context.”

<sup>183</sup> Baster and Jack, 545.

<sup>184</sup> Moreton-Robinson and Walter, 5.

<sup>185</sup> Ibid., 5-6; Aileen Moreton-Robinson, “Towards an Australian Indigenous Women’s Standpoint Theory: A Methodological Tool,” *Australian Feminist Studies* 28, no. 78 (2013); Moreton-Robinson explains the meaning of Indigenous women’s standpoint ontology, epistemology and axiology as being shaped by strong relationship with land, ancestors, culture, shared experiences, as well a sense of interconnectivity between all things.

acknowledging their specific epistemological, ontological and axiological perspectives.<sup>186</sup> Indigenous women's understandings and experiences fracture the hegemony that exists within the human rights discourse. Finding their own way to appropriate and redeploy the rights discourse empowers them as knowers and holders of rights. The knowers here are no longer the NGOs, the UN, or the state, but rather women whose voices have traditionally been silenced in history, politics and academia. By prioritizing women's voices and acknowledging their equal right to speak on the subject of rights and to theorize on the discourse of rights, I believe that this research method contributes to making space for Indigenous feminist ways of being and knowing in academia and political discourses.<sup>187</sup>

Moreton-Robinson's Indigenous women's standpoint methodology can be related to other Indigenous methodologies that also draw attention to Indigenous viewpoints and see the purpose of research with Indigenous peoples as raising Indigenous voices, and promoting resistance against colonial tendencies within the social sciences.<sup>188</sup> Linda Tuhiwai Smith, who has greatly contributed to the literature and academic understandings of Indigenous methodologies from a decolonizing perspective, as well as Bagele Chilisa, who has worked extensively on Indigenous methodologies, ways of contextualizing research and valuing marginalized voices, are two central scholars in this field. Other scholars such as Rigney and Mignolo also emphasize the importance of breaking away from epistemic hegemony of Western so-called "objective" knowledge, in a way that advances the social and political causes of Indigenous peoples.<sup>189</sup>

Rigney explains that the main principle of Indigenous research is "resistance as the emancipatory

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<sup>186</sup> Ibid., 340.

<sup>187</sup> Ibid., 332-3.

<sup>188</sup> Moreton-Robinson and Walter, 2-4.

<sup>189</sup> Ibid., 2; Tuhiwai Smith; Bagele Chilisa, *Indigenous Research Methodologies*, (Thousand Oaks: Sage Publications Inc., 2012); Bagele Chilisa and Gabo Ntseane, "Resisting dominant discourse: implications of Indigenous, African feminist theory and methods for gender and education research," *Gender and Education* 22, no. 6 (2010); Walter D. Mignolo, "Epistemic Disobedience, Independent Thought and Decolonial Freedom," *Theory, Culture and Society* 26, no. 7-8 (2009): 162-7.

imperative, political integrative and the privileging of Indigenous voices.”<sup>190</sup> Chilisa, for her part, emphasizes Indigenous methodologies as “revealing social justice research methods that promote social transformation, spiritual growth, and healing.”<sup>191</sup>

The Indigenous women’s standpoint methodology is an approach that accords epistemic priority to the perspectives of Indigenous women, paying particular attention to their oppression as women and Indigenous peoples. Moreton-Robinson lays out six steps that should be followed in order to maintain a standpoint approach: 1) listening and talking, 2) observing, 3) thinking, 4) clear-sightedness, 5) reading, 6) writing.<sup>192</sup> I have followed these steps, however in a mixed and overlapping order as reading, thinking and clear-sightedness are interrelated and often dependent on each other. More importantly, this method and the values attached to it significantly informed the way I did fieldwork with NWAC and K’inal Antsetik. Chilisa’s insight on Indigenous methods and methodology is also useful here, as it provides post-colonial interview techniques that are relevant to Indigenous women’s standpoint theory, such as emphasizing spiritual knowledge, attachment to land, and traditional teachings.<sup>193</sup> My fieldwork having consisted of doing interviews involved an interview guide that I prepared that sought to highlight Indigenous women’s perspectives on human rights debates, and how their experiences, traditional knowledge and spiritual background informed their work and approach to rights. The one-on-one interview method allowed me to consider each participant for her unique experiences, while locating them within the shared experiences of Indigenous women living at the intersection of racial and gendered oppression.

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<sup>190</sup> Lester-Irabinna Rigney, “A First Perspective of Indigenous Australian Participation in Science: Framing Indigenous Research towards Indigenous Australian Intellectual Sovereignty,” *Kaurua Higher Education Journal* 7, no. 9 (2001): 1-13.

<sup>191</sup> Chilisa, 287.

<sup>192</sup> Moreton-Robinson and Walter, 7-8.

<sup>193</sup> Chilisa, 204-23.



The main method used for the fieldwork consisted of open-ended and semi-structured interviews, mostly face-to-face and one-on-one. In my time spent with NWAC during the month of January in 2012, I did three of these semi-structured interviews, two of them being face-to-face and the third over the phone. I talked with each participant in their office, which is situated in downtown Ottawa. While they requested to be identified as NWAC rather than by individual name, the women whom I interviewed were self-identified Indigenous women who had experience in the field of Indigenous women's issues in Canada and abroad, and relevant human rights debates. The selection of participants was dependent on the availability of the organization and each individual, on suggestions made by my main contact in the organization, but also by the fact that these participants had a large knowledge of the issues that I intended to discuss, and would be able to situate the issues, debates and questions I would raise within their own work experiences. Besides primary data, I consulted sources available on the Internet through NWAC's website as well as scholarly articles on the organization, sometimes written by some of its key members. I believe that they provided a fair representation of Indigenous women's standpoint in Canada thanks to their familiarity with the historical and cultural context surrounding the questions at hand.

As for my work with K'injal Antsetik, this part of my fieldwork consisted of two group interviews and six one-on-one interviews, also open-ended. Two other significant discussions took place in Chiapas with individuals who were not Indigenous women, in which case the interview guide did not apply. All interviews took place at K'injal Antsetik's Education and Training Center for Women during the months of March and April 2012, sometimes in their gathering room, or health-care area, and also outdoors when the weather was favorable. The participants who were selected for these interviews were mostly women who had worked in the

organization for many years and were familiar with the framework of human rights and the needs and concerns of Indigenous women in the region.

Rights appeared to be a vague concept to some participants, who nonetheless had thorough and valuable knowledge of life as Indigenous women in the state of Chiapas. One of the group interviews involved young women participating in one of the K'inal Antsetik's educational programs, living at the center. While these participants were not core members of this organization, their stories and experiences allowed me to gain a better understanding of the realities endured by young Indigenous women in rural communities and the reasons why they often leave their communities to move to the city. A second group interview took place with Indigenous women of Pueblo Nuevo, a small community in Northern Chiapas. These women were helped by K'inal Antsetik in the creation of a weaving cooperative and gave me much insight on their understanding of rights and of how far from a real access to rights many Indigenous women in Chiapas are.<sup>194</sup> The leaders of the organization helped me considerably in the interview process by advising me on whom to interview during my stay in San Cristóbal de las Casas and where to look for further information.

Over the course of the 3 months that the International Development Research Center (who issued the grant used to do this research) requested that I spent in Mexico, I had the time and opportunity to accompany K'inal Antsetik for a total of 6 weeks, where I got to do some volunteer work<sup>195</sup>, attend workshops<sup>196</sup>, and become familiar with their work. Secondary sources

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<sup>194</sup> This group interview is not directly quoted in chapter 5. The main goal of this interview was to better understand the realities of Indigenous women in rural communities in Chiapas and the type of work that organizations like K'inal Antsetik do in these areas. This interview was very important to me and to the participants who got to share their experiences and perspective on human rights, and reminisce on meaningful experiences relating to their rights.

<sup>195</sup> In my agreement with NWAC, I offered them my services in the form of volunteer work as I did for K'inal Antsetik. While the members of NWAC acknowledged and appreciated this offer, they did not make any specific requests for work that I could do as a volunteer. I continue to be available to them in any way that I can be useful to their work.

of information involved K'inal Antsetik's website, scholarly articles on Indigenous women's movements in Chiapas, and most importantly K'inal Antsetik's book *Ta slo'il ta ya'yajik ti antsetike - Voces que tejen y bordan historias: Testimonios de las mujeres de Jolom Mayaetik* (Voices that sew and embroider: testimonies of the women of Jolom Mayaetik), which includes the experiences of many members of the organization in their communities and narratives regarding social justice and rights.<sup>197</sup>

It is important to restate that NWAC and K'inal Antsetik do most of their work on different scales, which affects the comparison that can be made between them. NWAC does most of its work on rights litigation, which K'inal Antsetik does not do. It is a national organization that represents a large amount of Indigenous women and deals with issues that are wide in scope. K'inal Antsetik, on the other hand, works mostly on a local scale, on issues that are focused on changing problematic aspects of Indigenous culture in the state of Chiapas. While these aspects of both organizations are important to acknowledge for drawing a comparison, they are difficult to compare. It is rather what these organizations have in common that this study compares, which is their work of appropriation and redeployment of the discourse of human rights. It should also be noted that due to these differences, the questions that I asked during interviews could not always be asked the same way in each case, and often led in various directions. This explains that the two following chapters (on NWAC and K'inal Antsetik respectively) are not structured in the same way. It is only in Chapter 6 that both organizations are put in parallel and compared according to the four research orientations stated above. The results of the interviews

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<sup>196</sup> My ability to attend workshops held by K'inal Antsetik was a result of the amount of time that I was requested to spend in Mexico by the International Development Research Center. Similarly to the group interviews, I saw it preferable to grasp all the opportunities to collect data, build relationships, and gain understanding of K'inal Antsetik's work as possible, even if this would create unevenness with the fieldwork done with NWAC.

<sup>197</sup> I also spent some time in Mexico City during the month of February 2012 at the Centre for Research and Advanced Studies in Social Anthropology (CIESAS), where Professor Aída Hernández Castillo supported me. I had the opportunity to speak with Lina Berrio, a member of K'inal Antsetik, AC, who gave me some background on the creation of K'inal Antsetik in San Cristóbal de las Casas.

provide important information on the differences that exist between Indigenous women's appropriation and redeployment of human rights in Canada and Mexico.

Navigating through the availability of the participants in each case study, as well as managing challenging work circumstances in places like rural Chiapas, and the language barriers between myself and some of the participants (some with whom I communicated through the help of an interpreter) were difficulties that are taken into account in my interpretation of the data. There is a disparity between the amounts of data collected in each case study, which creates a weak point in the comparison. I fully acknowledge the unevenness of the fieldwork I did with each case study and the problems this may cause for a comparative analysis. The disparity between both case studies is however due to circumstances over which I did not have control. As previously mentioned, the International Development Research Center who issued the grant that was used to do this study required me to spend at least three months in Mexico, which created opportunity to do more work with K'injal Antsetik than with NWAC. NWAC's availability was also limited compared to K'injal Antsetik and it was not possible for me to do more than three interviews with their members. I felt that it would have been inappropriate to pressure this organization to give me more time and commitment than what they felt comfortable offering. This being said, I did not want the fear of creating an imbalance in data to limit my fieldwork with K'injal Antsetik.

The given circumstances of this study portray the realities and limitations that graduate researchers must often work with. Despite the unevenness between both cases, I believe that readers who are unfamiliar with the situation of Indigenous women in Mexico will appreciate the extensive fieldwork done with K'injal Antsetik, which portrays realities that are different from those of Indigenous women in Canada in many ways. I believe that the more extensive exposure

to K'inal Antsetik's work does not take away from the data collected with NWAC, which is equally valuable and appreciated. Despite the unevenness of the two case studies, this study is based on comparable topics and remains useful in many regards. This comparative case study allows a careful examination of local conceptions of culture, race, and gender as well as the effects that politics and history have on discursive meaning production. Focusing on these elements allows for an informed analysis of local perceptions and uses of the human rights discourse. The data collected with both organizations, while uneven, provides the information necessary to make this analysis. The voices and experiences of Indigenous women are present in all the data that has been collected, which is an aspect of my research that I believe is crucial and ensures its validity.

In this chapter, three elements were discussed in preparation of the case study analysis of the following three chapters. First, both case study organizations, NWAC and K'inal Antsetik were discussed in order to gain familiarity with their work, particularly in relation to human rights issues. Second, a preliminary comparison of the organizations has helped to determine four specific research orientations to guide the comparative analysis of these case studies, linking the theory presented in the previous chapters to the cases of NWAC and K'inal Antsetik and establishing specific areas of comparison that will shed light on the appropriation and redeployment of human rights by Indigenous women in both locations. Finally, the methodological presuppositions of this study are discussed, emphasizing the importance of highlighting Indigenous women's experiences and knowledge through academic research. This discussion also offers details on the fieldwork that was done with both organizations during the winter and spring of 2012.

## Chapter Four

### Case Study: Native Women's Association of Canada (NWAC)

NWAC was the first organization I had the privilege of working with in the context of this study. As previously mentioned, I had conversations with three members of NWAC in January of 2012. These conversations have brought much insight to this research project and first hand knowledge on ways the notion of human rights takes shape in the minds and work of Indigenous women of this organization. The conversations shaped many of my thoughts on Indigenous women's experiences with mainstream discourses. My goal is to let their voices speak through this chapter and inform the reader on how they relate to the discourse of rights. This section is written in a way that presents simultaneously the content of the interviews and its links to theory, providing in the end a full picture of NWAC's take on the discourse of rights. The order in which information is presented progressively follows loosely the specific research orientations stated in Chapter 3. This chapter offers a complete look at the results from the fieldwork done in Canada. (For confidentiality purposes, the participants' name is indicated as 'NWAC'.)

#### *Indigenous culture and the discourse of human rights*

The most prevalent element that I noticed in my conversations with NWAC was their understandings of aspects of their cultures, Indigenous values and beliefs, which seem to support their recourse to human rights in their work. While Indigenous women in Canada have been and continue to face oppression in many forms, notions such as being a sacred being (made by the 'Creator') and having an inherent, existential value have been maintained. It is important to note that NWAC represents Indigenous women from many groups with various cultures and

traditions. This is noticeable within the organization itself, where women of various cultural backgrounds work together. They however seem to assume that there are common principles and experiences that unite Indigenous peoples in Canada, that these people share a general culture and Indigenous identity. Similarly to their perceptions on gender and womanhood explored below, a shared memory of stories exists about ontology, belonging, and connection to a specific identity that shapes their perspectives on life, themselves and each other, and seems to inform these women's understanding of peace, justice and Western rights. The following segment of interview presents quite clearly how a participant's Indigenous worldview, informs her interpretation of human rights:

Me: [W]hy does NWAC use the concept of human rights? Does this concept come into play in your work?

NWAC: Um, I don't think we use it as a terminology like that: "Okay now here's time to get our human rights lens on," unless you have a background in that field of study, right? But we definitely approach our work with an Indigenous framework and worldview, which means: to look at things holistically and consider the individual as a person. But then you also have the individual in the center and then the family unit, the community, the society at large and mother earth; all those connections. So it is very much connected and a concept where we need to consider the individual and consider all the aspects of life in society. I think a holistic Indigenous framework really lends itself to a human rights lens as well but we don't normally talk about it like "Oh, this is a human rights issue" normally, unless you're very politicized, right? We are a political organization so we do talk about it but in your everyday conversations at the dinner table with your family, you're not really going to talk about it in that sense. That's kind of the difference. This idea of human rights is very much a Western concept.

Me: So the importance of the concept of human rights in your organization is the way that you link it to Indigenous knowledge?

NWAC: No, it's the opposite way. We link human rights to our Indigenous framework, Indigenous worldview and Indigenous knowledge. Human rights are like "Oh, well this is good that, you know, non-Indigenous people have this concept of human rights." We use that terminology because it kind of fits in but we all operate within our own Indigenous worldview. [...]

Me: I am getting the impression that in your perspective, human rights or rights for human beings are not a new or foreign concept to aboriginal peoples. Rights for peoples already existed before the United Nations even came into place.

NWAC: Right. So for example, I'm a sacred being. I know that already. I've always known that. I don't need a government body to tell me "You have rights." I know that already but they frame it in a different way that we can use politically or academically. You know what I mean?

Me: Yeah.

NWAC: So there are inherent rights and our treaty rights. As individuals part of our Indigenous communities, we understand how people should be treated and how we should be living our lives. They do all merge together very well and lend themselves with each other very well. Rights just support Indigenous knowledge and Indigenous worldviews. It's like feminism. We've had that for a long time. This isn't something new.<sup>198</sup>

In another interview, a participant made the following links between the rights discourse and her relation to traditional frameworks and points of reference:

Me: So the concept of having rights and respect for human dignity is not something that's foreign at all to Indigenous peoples.

NWAC: We have different words for it. We don't have a phrase that says human rights or anything like that, but we do have a phrase of living the good life which incorporates all those values; the Seven Grandfather Teachings.<sup>199</sup> So we are extracting all the good stuff and a lot of that encompasses empathy, empathy towards other people which is again that human rights or the equality aspect of it all, to live in balance. Traditionally within our systems, I don't think we ever had to raise that question. Whether we are infringing on the rights of another person depends on the level of balance that we have in our lives and communities. You know what I mean? But a lot of those questions and imbalances today are related to the policies and laws that we're governed by and I think everyone is in that situation.<sup>200</sup>

<sup>198</sup> Anonymous, Interview with author, Face-to-face interview, NWAC, Ottawa, January 13th, 2012.

<sup>199</sup> The Seven Grandfather Teachings can be summarized through the seven following principles: love, respect, bravery, humility, truth, wisdom and honesty. I see and hear about these teachings often in my interactions and work with fellow Indigenous peoples in my community. They are passed on through story-telling and oral traditional teachings. It is my impression that most Indigenous peoples including children who are immersed in traditionally Indigenous ontological and epistemological frameworks know or know of the Seven Grandfather Teachings. It is therefore an important point of reference that may shape their perspectives on other related discourses and concepts.

<sup>200</sup> Anonymous (2), Interview with author, Face-to-face interview, NWAC, Ottawa, January 13th, 2012.



In these quotes, participants made reference to Mother Earth, connections between each aspect of life, being a ‘sacred being’, the ‘Seven Grandfather Teachings’, living in balance with each other and the earth and conceptualizing human rights through an Indigenous framework. These are the concepts that are part of the participants’ discourse on culture and traditions. While they may be from different cultures with various belief systems and that a pan-Indigenous lens can be problematic, these spiritual concepts guide the work of these women in particular. Other points of reference for understanding the discourse of rights can certainly be found through investigations on Canadian Indigenous traditional teachings, values and approaches to conflict resolution. All of the mentioned elements, which are informed by their vision, nature and community, in turn shape the participants’ conceptions of the rights discourse and how it applies to their work. These conceptions are also apparent in the last quote; in the way the participant does not only speak of herself as an individual but rather as a member of an Indigenous community.

The statements quoted above not only provide insight on how relationship to culture influences recourse to the rights discourse in the minds of these Indigenous women, but also connects it directly to the topic of appropriation and redeployment. Participants who spoke on this topic clearly expressed their views on the previous existence of values and guidelines that can be considered equivalents to the discourse of rights as it is articulated by Western institutions. Rather than complying with a concept or discourse that is foreign and imposed on them through the Westernization of laws and ideas on justice as some scholars have suggested, participants explain that speaking in terms of human rights only happens in contextually appropriate events and, even then, they perceive this discourse as a reflection of their own traditional value systems. Spiritual and cultural questions are evoked in these women’s views on

the discourse of rights, which are elements that are less discussed in Western secularized perspectives on justice and peace. The terminological appropriation that takes place here is supported by cultural equivalents to the discourse of rights. It would also be incorrect to say that human rights are replacing other notions of peace and justice as some scholars have argued, for in this case, there is a co-existence of the two (Western and traditional) for strategic purposes.

### *Indigenous feminist perspective and human rights*

The Indigenous feminist perspective of the participants deeply shapes their views on the discourse of rights. The narratives and reports shared by NWAC have communicated a strong appreciation for the importance of Indigenous women and their invaluable role in their communities. While this appreciation for Indigenous women is visibly not felt by all Indigenous peoples in Canada (when we consider the cycles of abuse and violence perpetrated against them or the resistance that patriarchal Indigenous organizations and state institutions have expressed towards NWAC), it is important to recognize the participants' feelings and perceptions on themselves and fellow Indigenous women as they inform their choices, work and political motivations within the organization. It should also be noted that the women of NWAC's lived experiences and cultural values shape the way they perceive gender relations. Their vision of Indigenous women as highly valuable members of Indigenous communities and Canadian society is present in their work, and has an influence on discriminatory perceptions of Indigenous women across the country. This positive impact is particularly visible through the Sisters in Spirit (SIS) initiative created by NWAC many years ago where campaigns and vigils are held each year in many cities across Canada and the United States in honor and remembrance of the

Indigenous women who have died or disappeared due to various types of violence.<sup>201</sup> Many women and men of Indigenous and non-Indigenous backgrounds participate in these events. Breaking the silence around this issue is one of the many ways in which NWAC and other Indigenous women seek to voice the importance and respect they feel towards themselves and each other.

There are other instances where Indigenous women's recognition of their discrimination and oppression, and demand for justice and equality are visible. In fact, I have observed that there seems to be a strong memory of ancestral values among the women of NWAC, where their traditional roles and presence in their communities are remembered and perceived as significantly valuable. While the concept of traditional roles is vague and can be interpreted in a patriarchal sense to silence Indigenous women, the participants in this case have found that their traditional values support their emancipatory objectives. In an interview, a participant mentioned the presence of feminist values in her traditional Indigenous views on women:

NWAC: [...] Traditionally in our societies, we already had feminists. We Indigenous peoples were the first feminists because we had this equal division and women were greatly respected. It's only after colonization that some of these concepts started to erode and that's why aboriginal women are devalued in our society today, which is one of the main reasons why we have missing and murdered aboriginal women and girls in Canada and also why we don't have treaties being upheld, etc. [...] <sup>202</sup>

This quote expresses a set of values carried over generations through collective memory of the importance and respect that belongs to Indigenous women. This vision of history may seem to idealize previous traditional Indigenous societies, but it is the knowledge and experience that

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<sup>201</sup> For more information on SIS, visit: Native Women's Association of Canada – L'association des femmes autochtones du Canada, "Sisters In Spirit," <http://www.nwac.ca/sisters-spirit> (accessed January 13, 2014). The SIS initiative, a project that has been renewed under the name Evidence to Action has produced a large database on the missing and murdered Indigenous women in Canada, which has been mentioned in Chapter 3.

<sup>202</sup> Anonymous, Interview with author, Face-to-face interview, NWAC, Ottawa, January 13th, 2012.

these participants have of their cultural history and background. Behind these words seems to lay a sense of justice and peace that has been partially lost and should be recovered. The Ontario Federation of Indian Friendship Centres also mentions the traditional importance of Indigenous women and examples of traditional ways of dealing with instances of violence and abuse against these women:

Traditionally, the influence and respect that Aboriginal women held in their societies not only gave them a voice, but kept them safe from woman abuse, sexual assault and stalking. [...] Women are seen as creators of life and involved in all things that deal with creativity [...] Historically, woman abuse was present in Aboriginal society prior to European contact, but not nearly in the same volume or frequency as it is today [...] Traditionally, when an abuse occurred, the abuser was confronted immediately by his male relatives or those of his victim. If the abuse continued, punishment could be severe, including banishment, castration and death.<sup>203</sup>

Although there seems to be a divide between traditional ways and beliefs and much of the present treatment of Indigenous women on various scales, the need to be respected and appreciated in their communities as they once were can also be strongly felt when listening to conversations among Indigenous women on the topic of healing (from violence and abuse).<sup>204</sup> There is a clear expression in the two quotes above of a memory of justice and relative peace for Indigenous women that existed even before the terminology of human rights came to be, and was damaged due to the corruption of Indigenous frameworks and practices through colonialism.

For years, NWAC has argued for a reconceptualization of the human rights framework that would encompass individual as well as collective rights in order to include the concerns of Indigenous women in discussions on Indigenous self-determination. As mentioned earlier, this

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<sup>203</sup> The Aboriginal Healing Foundation Research Series, *Aboriginal Domestic Violence in Canada* (Ottawa: Aboriginal Healing Foundation, 2003), 11, cited in Ontario Federation of Indian Friendship Centres, "Kanawayhitowin: Traditional Women's Roles," [http://www.kanawayhitowin.ca/index.php?option=com\\_content&task=view&id=29&Itemid=42](http://www.kanawayhitowin.ca/index.php?option=com_content&task=view&id=29&Itemid=42) (accessed on January 13<sup>th</sup>, 2014).

<sup>204</sup> My experiences working as a volunteer at the Sudbury N'Swakamok Native Friendship Center's Healing and Wellness Program informs my perspective on Indigenous women's appreciation for their traditional roles and values.

organization has fought to be included as a leading Indigenous organization in constitutional and self-government negotiations and has stated in several documents its firm belief that Indigenous women's individual rights concerns should be recognized in official documents. Considering Indigenous traditional value systems that used to protect women from violence and abuse, it becomes clear that there is no contradiction between NWAC's perspective on individual and collective rights and Indigenous authenticity and priorities. Including individual rights that address Indigenous women's concerns in Indigenous rights claims is instead a way to pursue the traditional practice of respect and esteem for women. A culturally appropriate use of human rights serves as a reminder of Indigenous values and principles on gender equality that have been corrupted over time.

*Maintaining cultural integrity through appropriation and redeployment*

The preceding discussions and interview segments indicate that NWAC appropriates the discourse of rights while keeping in mind their traditional values. In some instances, it seems that the participants see similarities between the two and feel that rights have long been part of their Indigenous cultures. However, the aspect of their redeployment of the rights discourse remains unclear at this point. The way this discourse is used and communicated is very significant, as it reinforces or weakens the subversive potential of the rights discourse at the hands of marginalized groups of people such as Indigenous women. As scholars presented in Chapter 1 have argued, the discourse of rights can be used to replace other ways of struggling for peace and justice articulated by non-Western groups, such as Indigenous peoples. Knowing that the women of NWAC keep in mind what they perceive as their traditional values while referring to the

discourse of rights, it is interesting to see if their view of their own tradition and culture is carried over in their redeployment of rights.

Through our conversations, the women of NWAC have explained to what ends they use the discourse of rights and the reasons why they do not simply reject it as a Western discourse, complicit with colonial repression. Their use of Western references and imagery on the topic of human rights is rather a conscious and strategic choice that fulfills a need to involve non-Indigenous peoples in NWAC's struggle for peace and justice for Indigenous women. While assimilation and the compromising of Indigenous conceptions of rights could be claimed here, I believe that focus should be directed at these women's ability to navigate between Indigenous and Western conceptions of peace and justice to their advantage. The participant quoted below explains the purpose of redeploying the Western language of rights in NWAC's work around informing and sensitizing the Canadian population on Indigenous women's issues.

Me: What kind of avenues do you think are the best for an organization like NWAC to effect change in favor of Indigenous women?

NWAC: In my experience, definitely the best way to go is at a human or individual level. When we start adding the humanity to the issues that we are representing, that is when it becomes impossible to reject the facts or to refuse to hear what we're trying to say. Sometimes when leadership and politicians start talking about statistics and things like that, people in general may have difficulty relating to the information.

Me: Yeah.

NWAC: So I think we have had a lot of success as a native women's organization, really adding the humanity to a lot of these statistics and talking about individual women's experiences, specifically in the work that I do on Missing and Murdered Aboriginal Women and Girls. It's about opening peoples to the fact that when we put our numbers together and say that, you know, as of March 31<sup>st</sup> 2010 we have 582 missing and murdered aboriginal women in Canada in a database that we created, each one of those women represents someone's mother or sister. Talk about the inter-generational impact on those issues, right? So we have one woman who has been murdered but she has children that she has left behind or her family or her extended family, her

community. I mean this has ripple effects. It's so many people; I mean I've yet to meet someone in the aboriginal community (which is a small community) who doesn't have some sort of connection to the story. Unfortunately, usually that connection is a direct relation within your extended family.

The effects of our work can also serve to open people's eyes to the normalization of violence. People don't think there's a problem because it's been normalized. So I think that is the biggest success of NWAC; the humanity that we put into this issue. The one on one connection is also really important. You know, it's those kinds of questions; what would you do if your mother or your daughter went missing tomorrow? What happens if you went to the police station and the police officer told you "Oh she probably just went out drinking, she'll be back?" And then you came back the next day and the next day and they wouldn't even open a missing persons file! That's when you really get that connection. People really open their minds and open their hearts, like "Oh my goodness! I had no idea that happened in Canada." Then you start looking at this whole issue, you know what I mean? Big sensational cases like Pickton and things like that.

Me: Yeah, for sure.

NWAC: Even in Ottawa recently, the senior police chief said, you know, prostitutes in the Ottawa area should be careful because there might be a serial killer who has been preying on women for 20 years. What?! It's terrifying! So there's some work being done by NWAC to create more sensitivity in the community and Canadian society at large toward these types of issues.

Me: [...] So you try to step away from the jargon of human rights and use common concepts that resonate with pretty much anyone?

NWAC: Yeah, pretty much [...] Everyone has a mother so, you know, doing that kind of connection, that's how we do it. You don't always get the same reaction or you can't always connect with everyone if you [work from] an Indigenous perspective because if you're not Indigenous, maybe you won't understand. [...] That's why we do it at this basic and simple human level of connection.<sup>205</sup>

This passage raises the question of the multiple-level strategy in NWAC's redeployment of the discourse of rights. In some instances, as described in the previous chapter, the language of rights is necessary for engaging in rights litigation with the Canadian government. But it seems that there are other instances where the discourse of rights is not used with an explicit

<sup>205</sup> Anonymous. Interview with author. Face-to-face interview. NWAC, Ottawa, January 13<sup>th</sup>, 2012.

'rights' terminology. The question of rights for Indigenous women often takes the shape of examples and images that hope to raise consciousness, feelings of empathy, compassion and people's sense of humanity and solidarity. This method of communicating concerns about Indigenous women's 'human rights' is a strategic way of redeploying the discourse of rights, thus raising general awareness and mobilizing on Indigenous women's issues through the creation of emotional connections. Thus, it seems that NWAC perceives the discourse of rights as a tool that can be redeployed in the form of a mutual language of understanding and compassion in Canadian society.

The strategy revealed here shows that the women of NWAC do not refer exclusively to the discourse of rights. As explained previously, their understanding of rights is honed by a pre-existing understanding of their cultural and traditional values and principles, perceptions on Indigenous women and womanhood as well as an awareness of mainstream and international realities and visions on justice and peace. There is therefore a consciousness around the integrity of their work and messages, and the cultural and political implications of human rights as a Western articulation of peace and justice. There is no explicit Indigenous methodology in the strategy NWAC uses in reaching out to the general public. In saying this, I refer to the absence of their traditional frameworks or points of reference (e.g.: notions of the Creator, the Seven Grandfather Teachings and living in balance with the Earth) but rather the creation of an emotional link with non-Indigenous peoples based on mainstream notions of right and wrong. Nevertheless, there is a subversive objective behind this that deserves acknowledgment, which is the formation of a mutual understanding with the (non-Indigenous) Canadian population that may increase NWAC's weight and momentum in its socio-political struggles and campaigns.



However, NWAC does not only use Western human rights terminology with non-Indigenous peoples, but with Indigenous women too. The following quote reveals an example of instances where this type of terminology is indeed used.

Me: When you're going into communities and talking to Aboriginal women about their rights, do you try to translate the concepts that you find in declarations in terms that speak to them more, perhaps?

NWAC: Absolutely. We give UNDRIP posters as a basic standard of human rights for them to live by. So it's very simple terminology. It could apply to their right because I get calls saying : "You know, I've been working for six years and now I'm eight months pregnant. They want to fire me because I'm pregnant. Is that allowed?" Like, they don't know! That's where we will be able to help them. [...] It's very important for those women to get to know their rights.<sup>206</sup>

Some could find problematic the reference to Western articulations of human rights rather than Indigenous equivalents discussed earlier in NWAC's awareness raising campaigns with Indigenous women. Why should NWAC refer to a non-Indigenous discourse of peace and justice in its work when there are Indigenous equivalents that could be used towards the same purposes and that would reinforce collective memory of traditional principles? There is a link between this aspect of NWAC's work and the existing scholarly debate on the (in-) adequacy of Western discourse towards de-colonial Indigenous struggles presented in Chapter 1. If the discourse of rights and its terminology is perceived as inadequate, how do Indigenous women justify having recourse to it when working with Indigenous women at the local level? It is important to ask the women of NWAC themselves how they perceive this issue and how they rationalize the favoring of a Western discourse in certain instances. The following quote explains the participants' views on this point.

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<sup>206</sup> Anonymous (3). Interview with author, Phone interview, NWAC, Ottawa, January 16th, 2012.

Me: Certain scholars have raised a lot of questions regarding the concept of human rights, not just in regards to aboriginal peoples but for minorities in general such as women, saying that aboriginal peoples should refrain from using tools or concepts in their struggles for social change that are non-traditional or non-Indigenous to them. As you just said, human rights law has been articulated by institutions like the UN and is therefore not a ‘traditional’ concept because that terminology was created in a completely different framework. Could you please talk a little bit more about whether that actually influences your work and how you deal with having to use this ‘non-traditional’ terminology?

NWAC: I think the first thing that I would say to start that is that even though, you know, this idea, this body of the United Nations and human right concepts are not historically traditional, it doesn’t mean that they can’t be used now. Like using that kind of argument really ossifies aboriginal peoples to say that we can’t progress, like we can’t evolve; if you want to live in a Tipi doing what you can but anything outside of that means you’re not native, like you’re not Indigenous anymore. That’s not our message. We want traditional values to be held but there’s also room for growth. We don’t want to ossify our aboriginal people’s culture or history. We want to progress as peoples. Promoting human rights has been something that a lot of Indigenous peoples have been pushing towards [...] I think the tension is that you want to use concepts that are created by Western society because they support your work but at the same time we wouldn’t be in this situation if we didn’t have Western oppression... That’s the tension. And I think we do it fairly well according to my experience with NWAC. I really only run into this problem when I’m dealing with someone who is using this concept in a very patronizing way or with a colonialist worldview. [(Speaking specifically of non-Indigenous affinity organizations who try to participate in NWAC’s work) ...] It’s like feminism too! I consider myself an Indigenous feminist but I base myself as an Indigenous woman and then I use feminist concepts to support the work that I do to enhance my work. I’m an Indigenous feminist, not just a feminist. I think it’s the same way with human rights. Like some of these concepts are good but when we talk about human rights, sometimes it also limits the work that we do, right?<sup>207</sup>

This quote answers several questions on NWAC’s take on the subversive potential of Western discourse of rights, explaining that it can complement their work if they are conscious of the ‘dangers’ and political risks of doing so, thus staying true to their (de-colonializing) goals. In many ways, this conversation humbles me as a researcher, keeping me in check from looking

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<sup>207</sup> Anonymous, Interview with author, Face-to-face interview, NWAC, Ottawa, January 13th, 2012.

down at Indigenous women's choices and strategies in their socio-political work in a way that could be considered essentialist.

With this participant's perspective, I come to two conclusions: 1) there is a sense of entitlement to use Western discourse towards NWAC's goals and there is no shame or sense of cooptation involved in this decision; 2) cultural integrity depends on intention, which in this case seems to be a genuine desire to restore and improve Indigenous women's well-being, and ensure the continuity of Indigenous (feminist) values and principles. Towards the end of this quote, the participant speaks of the same tension described in Chapter 2, between Western and Indigenous feminism, comparing it to the hesitations on Indigenous peoples' use of the discourse of human rights. As explained by Indigenous feminists (including this participant), using the language of rights as it is articulated by Western institutions does not imply a lack of cultural faithfulness to one's indigeneity, just as adhering to feminist ideas is not necessarily a form of assimilation to White conceptions of gender and femininity. There is a nuance in both of these cases, where Western discourses are perceived as echoes of pre-existing Indigenous frameworks, and have the ability to fulfill needs felt by Indigenous women if the intention is to promote Indigenous conceptions of feminine wellbeing and gender equality. There is thus a perceived validity in Western discourses in their application to Indigenous women's lives in the measure where it supports their work and the achievement of their goals.

In warning against a "patronizing" or "colonial" use of the human rights discourse, this participant indirectly communicates her awareness of the ambiguity of rights, and her view of the necessity to use them in a subversive way. This creates caution on the part of this organization on the way it uses the discourse and perceives the work of other organizations, guiding their intentions regarding their work. This is a vital and pivotal point in Indigenous women's

appropriation and redeployment of rights that determines whether or not they will serve a beneficial or counteractive role in the achievement of their objectives. NWAC also knows that there is no financial or ‘political’ gain to be made from the choice of adhering to the discourse of rights. While it is an essential language for engaging in law, NWAC applies this concept to other parts of its work out of conviction that it is effective and useful in other contexts as well. A participant has made this clear during an interview where the relationship between NWAC and the present Canadian government in 2011 was discussed. Her experience on this matter revealed a difficult relationship that rendered NWAC unable to count on the Canadian government for funding their work on rights advocacy:

Me: Do you find that there are disadvantages in using the concept of human rights in Aboriginal women struggles? [...]

NWAC: Only that the government of Canada doesn’t believe in funding anything that has to do with human rights. [...] Advocacy: that is a huge drawback. We’ve gone to six Departments and they’ve told us that if government doesn’t believe in human rights, [Laughs] then they don’t believe in public education of human rights. So that’s pretty clear.

Me: So, you’ve been told that the government isn’t interested in funding anything that regards human rights education?

NWAC: Yeah, that’s right, but I get creative and we go to groups outside of the government to do what we want to do. We try as an NGO to lower government involvement. That way they won’t control the agenda, and we’ll have real democracy within our non-government organization.

Me: So in that case it is more liberating from a political standpoint to not get funding from the government when it comes to questions of human rights.

NWAC: Yes, it will be for sure. Government funding specifies no advocacy, no public education, and no human right awareness and often no research. [...] That’s why I’m just applying to all private companies now. Why waste my time with this government? You know, let’s just say it, they don’t fund advocacy of human rights. I even heard one senator tell me “Oh, the people don’t need to learn in advance of their human rights. I was fired from my job and that’s how

I learned about [them]. I got a lawyer to defend my human rights. The training on human rights can wait.”

Me: If I understand, she said that people don't need to be educated about their human rights and that they should basically seek it for themselves?

NWAC: Yes! [...] She also asked me why Aboriginal women don't have equality. She said that White women got equality when Trudeau brought in the Charter. Then she asked me what was wrong with native women, why don't we have equality yet?: “Can [you] not sit around the kitchen table drinking tea, then decide that one person would watch over chief and counsel, another person would write letters, and another person would advocate to the government?”. Senator Ruth said this on the record in December 2011 at a Committee Meeting on Aboriginal Affairs on Matrimonial Real Property on reserve. So I said okay, well then if you won't fund human rights training then I will talk about economic development and train women on life skills and employability skills. But afterward, at the same time and while I'm there, I will provide them with information on human rights. You know, I can multi-task. If there's a will, there's a way.<sup>208</sup>

As mentioned by this participant, the Canadian government has made significant cuts to the Status of Women Canada's budget. Maria Gergin explained in an article for the Canadian Centre for Policy Alternatives that this is the result of the Canadian government's attempt to silence organizations that criticize it or do advocacy work for human rights and gender equality.<sup>209</sup> In 2006, the government cancelled its funding to the Court Challenges Program, which had long been funding Charter litigation for various organizations representing minority groups. This funding was partially reinstated in 2008 for issues relating to language rights due to vast protests from these organizations. Gergin specifies that the Conservative government, which has been in power over the course of this study, “has demonstrated that it is not interested in funding organizations that explicitly advocate for women's equality and rights protection,” such

<sup>208</sup> Anonymous (3). Interview with author, Phone interview, NWAC, Ottawa, January 16th, 2012.

<sup>209</sup> Maria Gergin, “Silencing Dissent: The Conservative Record,” Canadian Centre for Policy Alternatives – Centre canadien de politiques alternatives, April 6 2011, <https://www.policyalternatives.ca/publications/commentary/silencing-dissent-conservative-record> (accessed May 28, 2014).

as NWAC.<sup>210</sup> The Status of Women Canada was cut in 2006 by 37%, causing 12 of its 16 regional offices to close as a result. Several advocacy groups for women's funding have become ineligible for funding, while others such as NWAC have seen some of their programs threatened, such as the Sisters in Spirit, which is now called Evidence to Action.<sup>211</sup> Because of such funding cuts to women's advocacy organizations, Gergin describes the Harper government as failing to fill its mandate under the United Nations and other international treaties ratified by the Canadian state to "maintain and improve domestic human rights" within Canada.<sup>212</sup>

In the previous quote, the participant also mentioned that government officials that she has encountered have voiced a blatant misunderstanding of the Indigenous women's issues. The words of Senator Ruth, as this participant repeats them, express a view where equality for white women has already been achieved and is an issue of the past, but more importantly that Indigenous women's experiences on gender equality should be the same as non-Indigenous women's. The intersection of several categories of oppression that impact Indigenous women, notably race and gender, seems to be ignored by this Senator. Her dismissal of the Canadian government's responsibility to support organizations such as NWAC, placing increasingly more responsibility in the hands of Indigenous women to sort out their socio-political issues, is also very apparent in this quote.

It is interesting to see the opposition faced by NWAC in its work on human rights, and its determination to continue this work nonetheless. As stated above, it finds ways continue its human rights advocacy work for Indigenous women despite the Canadian government's disapproval. Contrary to some arguments mentioned by scholars included in Chapter 1, there is no financial or self-interest behind NWACs' use of this discourse. Rather, there are

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<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Ibid.

consequences relating to governmental support and funding cuts, which NWAC attempts to resolve by seeking funding in other sectors. In another interview, a participant explained the limits and tensions around government involvement in NWAC's work and the organization's need to move away from government dependence for funding and support for the execution of their mandates as an organization representing Indigenous women in Canada.

NWAC: All national aboriginal organizations including NWAC are still based on government funding and there is this hierarchy in terms of who gets the most. And because we're on a bottom run, NWAC is one of the ones that get the least. We don't get any core funding. Our core positions, director positions, administrative personnel, none of that is covered. [...] So we have to really get away from this concept [of economic dependence]. [...] I would love to see this concept of us pushing away from the government and holding our own and being able to raise our own money and our own funds. [...] I think it's really important for organizations like NWAC (the only one that's really for aboriginal women as a national NGO) to push forward and push away from these concepts for us to be fully self-determined peoples. We need to make that shift but it's hard because we need to pay the bills and we need to have an office base. When you have a government agency or government ministry offering this kind of funding, sometimes you become limited in your thinking and for me – I mean I don't think you could put this in the paper, they would not approve it – but for me that's definitely part of colonization. It's still too limited in these concepts of: "Well here's your pie." It's like: "No, there's no pie! My pie is this big." [Makes gestures with her hands] But they're like: "No, here's your pie, and you guys can fight over it." There is still this strong patronizing behavior or patriarchy where the government will only give you this much and you have to jump through hoops and bend down and bow down for these limited funds and be happy with what you have. I think sometimes people do get complacent. The aboriginal leadership in general gets complacent in terms of dealing with that and "thanking people" [and] in a sense normalizing it, like it was okay that this is the relationship that we have.

Me: ... That this is the structure, [and] you kind of just accept it because it's the way that things are.

NWAC: Yeah [...] <sup>213</sup>

In this quote, the participant expresses frustration in regards to the relationship between NWAC and the Canadian government, and a desire to move away from it in order to become

<sup>213</sup> Anonymous, Interview with author, Face-to-face interview, NWAC, Ottawa, January 13th, 2012.

more self-determined. She also highlights the hierarchy that exists among Indigenous organizations in Canada, and the complacency that takes place within some of them in relation to the Canadian government's funding cuts. Not only does NWAC continue its work on human rights advocacy despite ramifications with the Canadian government, there is also a desire to become completely autonomous from governmental support and step out of the hierarchy that causes friction among related organizations. Another participant refused to speak about NWAC's relationship with the Canadian government at the time of the interview, which flags feelings of discomfort around this topic within the organization. It is important to note that the women of NWAC feel that they are walking a tight rope between their mandate towards Indigenous women to work on issues of human rights and equality, and maintaining a relationship with the Canadian government that allows them to keep their various programs running. The interview segments however reveal a desire to continue rights litigation against the state and human rights advocacy with Indigenous women despite consequences on governmental support, and in doing so, refuse to work within the limits imposed by the Canadian government.

#### *Organization's access to resources*

Class and social status also comes into play in the participant's appreciation and use of the discourse of rights. The participants that were interviewed at NWAC benefit from a social status that sets them apart from many Indigenous women in Canada who do not have equal access to many services, such as health and educational services, and who live in precarious situations.<sup>214</sup> Many assumptions could be made on this topic, but what was visible for me as a

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<sup>214</sup> National Collaborating Centre for Aboriginal Health, "Access to Health Services as a Social Determinant of First Nations, Inuit and Métis Health," under "Social Determinants of Health," 2011, <http://www.nccah-ccnsa.ca/Publications/Lists/Publications/Attachments/22/Access%20to%20Health%20Services%20%28English%29>



researcher was their position in society as recognized leaders and holders of knowledge, their location in an office in downtown Ottawa as opposed to the precarious situations of many fellow Indigenous women, and the many privileges and opportunities that have led them to such situations. Not only had they overcome many social barriers in the achievement of their socio-economic situation, but also many privileges have come as a result of it such as the opportunity to travel and develop skills and knowledge. A participant spoke to her social and economic privilege in the following interview segments:

NWAC: [We did work] at the UN level with fellow Indigenous women's groups who only have one laptop that they share between six women and they go back to the community and have to deal with issues like rolling black outs.

Me: What are rolling black outs?

NWAC: Oh, rolling black out means that in your country or in your region, there's only a certain amount of power so there is an actual schedule for recycling or garbage pick up. What we have here is actually scheduled for when different communities have black outs. They have to shut down all the power because they don't have enough power for everyone. So like Tuesdays you'll never have power or Wednesdays from 12 to 6, you'll never have power. So that's the concept of rolling blackouts. [...] I've had those experiences when I went to this big conference in Mexico City and tried to put a larger project together, back when I was a health policy analyst. I was trying to engage and do this international stuff. Sometimes the Indigenous women's organizations that we deal with are coming from a very different place. We're very fortunate. I have my house. I have my family. My husband and I make pretty good money. I come here to this office everyday. It's always here. We always have power. I have my own computer. I have money for translation. I can ask for a meeting. Sometimes I don't get them but usually I can see meetings with my old counterparts in other organizations. I don't have to travel hours to do that. We are very fortunate [...]<sup>215</sup>

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.pdf (accessed May 29, 2014); Assembly of First Nations, "A Portrait of First Nations and Education," under "Chiefs Assembly on Education," 2012, [http://www.afn.ca/uploads/files/events/fact\\_sheet-ccoe-3.pdf](http://www.afn.ca/uploads/files/events/fact_sheet-ccoe-3.pdf) (accessed May 29, 2014).

<sup>215</sup> Anonymous, Interview with author, Face-to-face interview, NWAC, Ottawa, January 13th, 2012.

In this passage, the participant shared self-reflexive thoughts on her social and economic privileges vis à vis fellow Indigenous women living in the Third world. In a previous segment, a participant offered insight on the struggles that other Indigenous women living in Canada are often facing, highlighting the contextual differences that exist within Canada for Indigenous women. It seems that the participant's views on the discourse of rights reflects their knowledge and experiences as Indigenous women but also as educated and relatively privileged members of their communities and Canadian society. Socio-economic privilege, and the access to resources and opportunities that come with it, may have effects on the understanding that NWAC has of concepts such as the rights discourse. The women of this organization may better perceive and speak of the rights discourse critically and with complexity due partly to their access to resources, including higher education, that are not equally available to all Indigenous women's organizations. A comparative analysis of organizations in Canada and Mexico needs to take such factors into consideration in order to understand how access to resources may create a disparity on each organization's vision and use of human rights. This aspect of my analysis becomes more relevant as well as evident in Chapter 6 where both case studies are compared.

### *Conclusion*

The opinions and experiences of the participants from NWAC presented above express an important cultural link between the participants' interpretations of traditional values and beliefs, and the discourse of human rights. Ideas and values are similar, only expressed in different ways that carry cultural and political implications. It seems that the women of NWAC appropriate the human rights discourse in at least two ways. The first is by not abandoning the traditional beliefs and worldviews that they value for the adoption of the rights discourse. There is a continual

reassertion and maintenance of these elements that takes place in their work as they navigate between traditional and Western discourse. The second way is by maintaining a critical perspective on human rights that fosters a careful and conscious appropriation and redeployment of rights, consistent both with the collective interests of their peoples and the interests of Indigenous women. Both types of interests appear to be also consistent with their understanding of their traditional values and worldviews.

In the case of NWAC, theories on cooptation and the replacement of Indigenous frameworks on peace and justice for the instillment of human rights are not applicable. Contrary to what these theories are suggesting, Indigenous discourses on peace and justice are not colonized by the Western discourse of rights. Rather, the Indigenous women of this case study have communicated the resilience of their collective memory of traditional beliefs, values and principles that are in fact culturally equivalent to the Western notion of human rights. They have also stated their awareness and caution around the latter and the frictions that may arise when Indigenous peoples choose to adhere to Western discourse. This pre-existing framework can foster an appropriation and redeployment of rights, by Indigenous women, as well as a reiteration (and protection) of traditional values and principles on peace, justice and gender. While the appropriation and redeployment of the discourse of rights does not guarantee the achievement of justice and peace for Indigenous women, it does seem to steer their intentions and efforts in a direction that promotes subversion and the maintenance of an Indigenous identity in the organizations, methods and goals.

## Chapter Five

### Case Study: K'inal Antsetik

The second case study of this research concerns the Indigenous women's organization K'inal Antsetik, located in the state of Chiapas in Mexico. While there are obvious contrasts between this organization and NWAC in terms of cultural, socio-political as well as economical contexts, important similarities make them subjects to an interesting comparison in regards of their use of the human rights discourse. The following pages provide an analysis of the interviews and group sessions that took place during my time with Kinal Antsetik's members. Links between the material covered in the interviews and theories discussed in Chapters 1 and 2 of this paper are made. The research orientations introduced in Chapter 3 are used, as in NWAC's case study but in a different manner, to examine how contextual differences shape perception and use of the rights discourse. This discussion also seeks to draw certain distinctions and similarities between K'inal Antsetik and NWAC on this matter.

Many interviews as well as group discussions took place with members and staff of K'inal Antsetik during my time in San Cristóbal de las Casas in the Winter/Spring of 2012. Segments from individual interviews with core organizers as well as Indigenous women who benefit from K'inal Antsetik's services are presented. One of the group discussions to which reference is made involved teenage girls who were part of a program created by K'inal Antsetik named "Programa de Formación para Jóvenes Mujeres Indígenas" (Training Program for Young Indigenous Women). Details are provided in cases where the speaker is not an Indigenous woman but is still a significant player in the organization's work and initiatives. The following pages reveal what I believe to be important information on rural and urban Indigenous women's

experiences with the concept of human rights in the region of Chiapas. Again, my goal is to let the voices about the participants speak of the role that the rights discourse has played and continues to play in their lives, which is an objective that seems to be too seldomly achieved in academic research on this topic. The original language of the interview transcripts and notes on group discussions is Spanish and I have taken the liberty of translating the quotes into English.<sup>216</sup>

### *Gender discrimination*

The politics surrounding the lives of Indigenous women of Mexico (and Chiapas in particular) is very contentious and covers a history of significant systemic and local violence and repression. Indigenous women experience a combination of these problems in their communities, as well as cultural richness and an attachment to positive aspects of their identity and gender. The challenge in analyzing and discussing Indigenous women's experiences at the local level is to portray the complexity of their perceptions about gender and culture without falling into essentialism. This sub-section uses the narratives of women collected through interviews and documented narratives in order to let the women speak on these matters, and establish a link between their lived experiences and opinions, and their perception and use of the rights discourse.

The vision that many Indigenous women in Chiapas have of their gender and race reflects a generalized subordination to Indigenous men and to the non-Indigenous population of Mexico. It seems that many Indigenous women in this region have experienced their gender, race and certain aspects of their culture as the source for their subordination. The women of K'inál Antsetik have overcome many cultural barriers and have built lives for themselves and their

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<sup>216</sup> All translations from Spanish to English are personal translations that were done according to my own interpretations of the context and content of the quotes.

families that go beyond what many Indigenous women in their surroundings may hope to achieve in terms of social status, education and opportunity. Their voices as socio-political organizers are thus essential in understanding how life for Indigenous women in Chiapas shapes their visions of the rights discourse and the ways they use it. The following narratives of women express three important elements: 1) the realities of many Indigenous women in Chiapas; 2) a consciousness of injustice and of a lack of gender equality; and 3) Indigenous women's ambitions to subvert intersecting gender repression on various scales. The first two quotes speak about the situation of young women and girls when they are faced with marriage, often a very difficult aspect of their lives.

Martha Gómez, [from the community of] Yochib

Listening to older women talk about how they got married, and to the way my grandmother got married, I know that young women didn't use to decide on whom they wanted to marry. If someone came to ask for them "Cho 'mtayel" their parents had to give away their daughters. If the daughters didn't want to, their parents would hit them with a *chicote* (leather belt). "You have to go with him. You have to get married", said the parents. The daughters were obliged to marry into the men's family. Even if they were asked nicely, they had to obey. This is what older women tell us. If their parents received a liter of alcohol, it would be enough for them to give away their daughter. If she didn't want to go, she would get *cueros* (hit). They had to go.

Now it's the daughters who decide whom to marry. We now have the opportunity to decide for ourselves. Women from before were barely 10 or 11 years old. If they were asked for, they had to go.<sup>217</sup> (Personal translation)

Rosalinda Sántiz, [from the community of] Bayalemó

Well, I am almost 26 years old. Women almost never get married at this age (after turning 20 years old). That's why I think they get married so young, out of fear of not finding a husband. Many of them get married when they are 13 or 14 years old. I like that they now get to decide if they want to get married. Their parents don't force them anymore, but I still don't like how young they get married. They should at least wait until they are 18. [...] I would like to marry out of love. Things are very different now. At least they talk to each other once or twice before they get married, but most of them still don't. If the

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<sup>217</sup> K'injal Antsetik A.C. et al. ed., 94.

man likes the woman, he only has to ask for her and they will get married just like that. There is no falling in love.<sup>218</sup> (Personal translation)

These quotes express discontent with past and current marriage customs that are violent and discriminatory towards Indigenous girls and women. K'inál Antsetik often address this issue in terms of human rights as a way of raising awareness in local communities about the women's right to choose her own fate.

Many women have also experienced strict prohibition on participating in socio-political life in their communities on the part of their husbands and families. The following narrative explains how Indigenous women are socially and politically limited due to cultural perceptions of gender and women's roles in the community:

María López, [from the community of] Bayalemó

I don't think that us women could have any other responsibility in politics in our community [than to take care of young children] because it would look bad. We can't work with the men. They will say bad things about us. Men get angry and they feel jealous. That's why women don't accept any responsibility in the church. No woman will go when catechists invite us, even if they are from the church. We have already tried it with the other women. They don't last long. Their husbands get angry. Sometimes they come grab their women in the evenings in whatever meeting they may be because they won't allow it. That is why women cannot take on responsibilities. The men put up barriers.<sup>219</sup> (Personal translation)

This particular quote speaks to the Indigenous women's lack of access to their right to participate in political events within their communities.

There are also other instances where Indigenous communities are affected by violence coming from outside of the community through racialized and gendered systemic violence from the government and local officials. The following quotes explain women's experiences and opinions about certain government programs where invasive medical care is a condition for financial support:

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<sup>218</sup> Ibid., 100.

<sup>219</sup> Ibid., 124.

Petrona Méndez, [from the community of] Yochib

That's how government programs are! No one comes to your house to explain what they are about. They only give you the money and tell the women that they have to go see the doctor in exchange for grants for their children, but they don't explain what are the benefits and conditions. They just have to go to the meetings they are told. If they don't go, the money gets taken away. That's why the women obey, for the money! They don't have any other way to get money.<sup>220</sup> (Personal translation)

Some participants have confirmed that governmental programs manipulate Indigenous women into attending mandatory appointments in exchange for financial support, without properly explaining their purpose. There are many other instances that could be quoted that are testament to Indigenous women's oppression in their communities due to cultural and systemic violence.

This type of sexism has caused many Indigenous women's to want to leave their communities and build their own livelihoods in urban centres such as San Cristóbal de las Casas. Going to urban centres is often the only way for young women to pursue an education, to not marry out of coercion, and to escape from systemic violence and invasive governmental programs. Young Indigenous women who were part of the Permanent Training Program for Young Indigenous Women, run by K'inál Antsetik, shared their experiences with me where gender and state violence have shaped their visions of their communities. Three girls, in particular, told me how they had to leave their communities during military invasions and the memory of fear that they still have from those experiences. Some of these girls have seen their families being mistreated by the Mexican military and have their land effectively stolen from them.<sup>221</sup> This phenomenon and narratives such as the ones quoted above mostly express a

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<sup>220</sup> Ibid., 127. Another woman named María Luis Ruiz from the community of Oventik Chico explains the phenomenon of women being sterilized without consent in the following quote: "The women get *Progresá* [a medication] and they have to go to the consultation where they are given medication and herbs. They go for check ups every month. Some of them say that after these visits to the doctor they can no longer have children." Ibid, (Personal translation)

<sup>221</sup> K'inál Antsetik : Participants of the Permanent Training Program for Young Indigenous Women, Interview with author, Face-to-face interview, K'inál Antsetik, San Cristóbal de las Casas, March 23<sup>rd</sup>, 2012.



growing consciousness around injustice and gender violence, and the need for change in gender relations for an increased emancipation among Indigenous women.

*Indigenous culture and the discourse of human rights*

The discourse of rights is relatively new in the life of Indigenous communities in Chiapas, and remains ambiguous in the minds of some rural populations. The discourse of rights has been a major element of Indigenous organizing since the Ejército Zapatista de Liberación Nacional (EZLN)'s uprising in the year 1994, where Indigenous peoples' rights to live in dignity and to have access to services and resources was intensely discussed and demanded by this organization. Prior to this, and in many remote Indigenous communities to this day, awareness and discussions around the topic of human rights has been and continues to be uncommon. This is the setting in which organizations such as K'inál Antsetik are situated.

In a sense, however, an implicit consciousness of individuality and autonomy has always been present among Indigenous women in Chiapas through resistance movements. The following excerpt of interview with a mestiza core organizer of K'inál Antsetik expresses the presence of revolt and resistance in past generations of Indigenous women in Chiapas and the way this type of practice has contributed to Indigenous women's identification with the discourse of rights in recent years.

Yolanda: Behind us there is a generation of rebellious women. If you go learning about your history, maybe your great-grandmother or your grandmother was one of the first women who did this, who broke away from the traditions, from what was imposed as a role for women. They were breaking with these gender relations that are non-equitable.

Me: So within the communities, even if the concept of rights hasn't always been in people's minds, that doesn't mean that women were accepting their conditions either? I'm under the impression that even if they were not conscious of having 'rights,' there was still a need to change things that didn't work.

Yolanda: Of course, what you are saying is true, in the end. There is that consciousness in the new generations that there are conditions and things that they don't like, but they (Indigenous women) have been fortified from the discourse of human rights and women's rights. It's something that is external like that, but they [i.e.: rights] are reaching communities. These communities start talking, discussing, and debating on women's rights. At least now consciousness has arrived in the minds of the men.<sup>222</sup>

Here, it is clear that Indigenous women have an inherent affinity with the discourse of rights through their own sense of struggle against injustices. It seems that their perception of rights parallels feelings of indignation and resistance that have existed since past generations. This will be discussed in further detail in the following pages. But it also seems that the discourse of rights provides them with guidance and reinforcement in their local struggles. According to this participants' perspective, the introduction of the rights discourse in Indigenous communities did not initiate notions of justice, peace and respect, but rather provided women with conceptual support in their ethical and moral struggles (which were necessarily honed by internal needs for peace and justice).

Indigenous women in Chiapas thus seem to perceive the discourse of rights as serving the role of providing them with a vocabulary to express feelings and needs that, as explained above, have existed for generations. In this way, the word 'derecho' (right) has gone a long way in their struggles for peace and justice for fellow Indigenous women over the past few decades and has enabled them to articulate many thoughts and feelings on the topics of peace and justice that were difficult to name and discuss. I was surprised to find that some of the participants in interviews and discussions did not think that the discourse of rights could be related to any pre-existing cultural concepts or ideas. It seemed that the discourse of rights was new to them in absolutely every way, not having any reference points in Indigenous cultures that they could link

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<sup>222</sup> Castro, Yolanda. Interview with author, Face-to-face interview, K'injal Antsetik, San Cristóbal de las Casas, March 19<sup>th</sup>, 2012.

it to. This raised concerns and many questions regarding the ethnocentric power of the rights discourse as discussed in Chapter 1, as I started to wonder if some Indigenous women in Chiapas perceived the discourse of rights in a culturally dissociated way. Perhaps they could identify with notions of justice and peace through their own indignation and perceived lack of justice in their communities, but did not actually have a cultural equivalent to the rights discourse that would help them appropriate and redeploy it. I however came to understand that this was not really the case and that the problem resided in questions of terminology and definitions, and the absence of a word to designate what did indeed already exist. The following segment of interview with an Indigenous core organizer of K'inil Antsetik helped me in this realization.

Me: I'm interested in knowing if the fact that the concept of human rights comes from outside of the communities, like Northern countries, is a problem for Indigenous women here.

Micaela: It could be a problem because they [i.e.: human rights] are not talked about in the communities. They're not discussed or mentioned, and it could be that people understand this as a problem. But they manage them in the communities under a different name. They don't know what it is, if it's a right, they don't know. Now they can go out and go to school, and it wasn't like that before. At times I've also asked my mother why they didn't let me study, and she says: "well it's because we didn't have money, there was no support from the government." And so, now many go out to study because they have that opportunity and they [i.e.: unspecified] give them a bit of their tuition. So it's not a problem if they can talk about it, but it's not talked about or discussed in communities. From the way it's understood, it seems like a new concept. But they [i.e.: human rights] are present in communities, it's just that they don't know how to express them the way they should. [...]

Me: So it's a tool that was very developed in Northern countries, but that doesn't mean that it didn't exist here before being called 'human rights.'

Micaela: Yes it existed in communities too.

Me: But in a different way.

Micaela: Yes, in a different way, because we didn't know about them.

Me: That's interesting because there are many women who have told me that they didn't have a similar concept to rights in their cultures, not even in a

different shape or way. But you are saying that they did exist in a different way.

Micaela: In a different way. They don't understand. That's why they tell you that they didn't exist. They did, but in a different way according to the way they manage them. Like, in whatever way their rights were given to them. They don't realize.<sup>223</sup>

Not taking away from what was previously said about the gender exclusion that is carried in Indigenous 'usos y costumbres' in the region of Chiapas, this participant points out two interesting things: 1) that access to resources (i.e.: educational institutions) has shaped Indigenous peoples' experiences of justice and wellbeing; 2) that principles found in the rights discourse can also be found in Indigenous cultures but that the name 'human rights' does not have an equivalent in local Indigenous languages. This makes it difficult for many Indigenous women to find any reference points in their own cultures that relate to the discourse of rights. In this way, it seems that Indigenous women perceive the latter as a means to define their feeling of entitlement to gender equality and wellbeing on all scales, which as mentioned earlier, has always been present in the hearts and minds of Indigenous women.

Another participant talked about the existence of the word 'struggle', which is 'lucha' in Spanish, prior to the introduction of the discourse of rights in Indigenous communities in Chiapas. According to her experience and knowledge of local Indigenous people's relationship with peace and justice in the past, struggling has always been a part of Indigenous lives and practices. It has recently been fortified and in some occurrences replaced by the concept of rights, which has been introduced relatively recently in these communities. The following quote puts into perspective the way in which we are now talking about human rights, including in my work as an academic, since this discourse is relatively new in Chiapas.

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<sup>223</sup> Hernández, Micaela. Interview with author, Face-to-face interview. K'injal Antsetik, San Cristóbal de las Casas, April 26th, 2012.

Yolanda: Here it is, look. What is happening is that first you need to understand that from the moment you interviewed the comrades, an interesting thing is that the word 'rights' has no translation in the Indigenous world. It has no translation. So in the decades of the 60s and 70s and before that, it was more about struggle.

Me: Struggle.

Yolanda: Yes, that was the word that was used, to struggle. In reality behind struggling was the demand for rights. And what happened? Obviously it's important that all that development on the international and national scale about the defense of Indigenous peoples' and women's rights is a tool for struggle, and to see it in that way.<sup>224</sup>

This interview segment expresses the important thought that for Indigenous women, the discourse of human rights is a tool to continue the struggle towards peace and justice that they have been doing for generations. The perception that they have of the discourse of rights, while often implicitly, is that it reinforces their pre-existing sense of entitlement to wellness, dignity, etc. The introduction of an explicit discourse on rights, far from being experienced by participants as bringing a foreign element to their culture, is rather perceived as a tool for protecting it and making possible its revival. Indigenous communities of Chiapas perceive beauty in their traditions and an attachment to certain customs and practices that give them a sense of identity and wellbeing. While some customs are harmful to women, there is a concern that positive ones are being lost due to the Westernization of Indigenous culture and invasive economic development plans that deeply disturb Indigenous communities. The following quote explains what some Indigenous women feel regarding some of their customs:

Petrona López, [from the community of] Bayalemó

We have a lot of customs that concern nature, but if for example they start putting in place the plan Puebla-Panamá, we are going to lose our lands and our customs as well as the water in our rivers because foreigners build factories and that's bad for nature! You can't play around with the rivers! We can't close off nature's pathways. On top of that, they displace entire communities and

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<sup>224</sup> Castro, Yolanda. Interview with author, Face-to-face interview, K'inál Antsetik, San Cristóbal de las Casas, March 19<sup>th</sup>, 2012.

they don't give us back our lands for us to live on. We want there to be rivers and to not lose the good customs of our peoples like our celebrations and ceremonies! Neither do I want *Tzotzil* [one of our local languages] to get lost. That doesn't mean that I don't want to learn Spanish. I want to keep learning. I would like to preserve our [traditional] outfits, with perhaps a few changes, but I wouldn't want to lose them.<sup>225</sup>

A strong desire to maintain traditions and practices that bring joy and wellbeing is expressed here. This has been reasserted during many of the interviews that I conducted. The following quote of an interview with an Indigenous core organizer of K'injal Antsetik reveals the same perceptions.

Me: Do you find that it's important to preserve good customs and traditions in communities? Is it something that you consider to be important in your work as an Indigenous women's organizer?

Micaela: Yes, yes, we can't lose our customs completely because if we did, then anyone can intrude [in our communities and way of life,] right? They can't be lost. Many are losing their customs and that's not allowed. Some men now have long hair and earrings and all that. That's wrong in my view.<sup>226</sup>

Such testimonies also reveal consciousness around Westernization and the destruction of Indigenous traditional livelihoods that it often imposes. It thus seems that many Indigenous women might perceive the discourse of rights as a means to complement their existing 'usos y costumbres' and reinforce their entitlement to the integrity and survival of their traditional livelihoods. Similarly to the argument made in relation to the data collected with NWAC, an intention to use the discourse of rights to the benefit of Indigenous women while remaining true to their cultural symbols and practices is present here.

There has been a great loss of traditions and values among Indigenous cultures in the region of Chiapas through centuries of colonization. In a conversation with a local artist named

<sup>225</sup> K'injal Antsetik A.C. et al. ed., 186.

<sup>226</sup> Hernández, Micaela. Interview with author, Face-to-face interview. K'injal Antsetik, San Cristóbal de las Casas, April 26th, 2012.

Raúl Peretz<sup>227</sup> in San Cristóbal de las Casas who works closely with Indigenous youth, I came to learn that Indigenous peoples in the region have largely lost their cultural roots with the exception of their traditional languages. Peretz explained that ties with most ancestral customs have been cut and that most Indigenous peoples are not aware of their own history as a people. Through initiatives such as the Zapatista movement (EZLN) (that has been working towards the empowerment of Indigenous peoples in Chiapas (and many other parts of Mexico) for over two decades), there is an “awakening of consciousness” (personal translation) happening where Indigenous communities and individuals have begun reclaiming their indigeneity and cultural roots.

This information was also confirmed by a non-Indigenous core organizer of K’inal Antsetik, Ricardo Iglesias, who explained to me during a conversation that the first point of reference that Indigenous peoples have with their indigeneity is their native language (Tzotzil, Tzeltal, Lacandón, etc.).<sup>228</sup> According to this participant, there has been a wide acculturation of Indigenous people through the integration (and imposition through colonialism) of Christianity and it is mostly through the vindication of indigeneity by organizations such as the EZLN that Indigenous peoples and women in particular have begun to take pride in their identity and search of cultural roots.<sup>229</sup> This becomes obvious when we look at the communities that have been identified as “Caracoles” (snails) by the EZLN where murals bear quotes such as “It is symbolic that I, both a poor, [I]ndigenous and Zapatista woman have the opening word and that our

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<sup>227</sup> Peretz, Raúl. Interview with author, Face-to-face interview. San Cristóbal de las Casas, April 11th, 2012. This participant shared his experiences and opinions with me during a spontaneous discussion, and agreed to be quoted in this study as long as his name was mentioned.

<sup>228</sup> Iglesias, Ricardo. Interview with author, Face-to-face interview. K’inal Antsetik, San Cristóbal de las Casas, April 13th, 2012. This is one of the main ways for Indigenous and non-Indigenous peoples (while they may have the same physical traits) to differentiate between one another.

<sup>229</sup> Ibid. This discussion was not audio-recorded and can therefore not be precisely quoted.

message as Zapatistas is central here today”<sup>230</sup> (translation from Spanish), “A world where many worlds fit” (personal translation), and “The women with the rebel dignity”<sup>231</sup> (personal translation), all inspired from the various radical declarations produced by the EZLN since its first uprising in San Cristóbal de las Casas in the year 1994.<sup>232</sup> This has been confirmed during interviews with other members of K’inal Antsetik, where their participation in the EZLN is described as having shaped the direction of their organization.

Overall, the concept of human rights is experienced by Indigenous communities of Chiapas not as an element foreign to their culture, but as a tool that makes explicit their longing for justice and their need of protection and revival for their culture. Unsurprisingly, as we will see now, the women of K’inal Antsetik find also in the discourse of rights, an essential tool for their struggles.

### *Changes brought by the human rights*

The question raised in the observations above is how gender issues among Indigenous women shape K’inal Antsetik’s outlook on the discourse of rights, and how it uses it. K’inal Antsetik’s website states: “Kinal Antsetik envisions a world built with the participation of women and men, without discrimination on the basis of gender, ethnicity, class or any other status, a world in which the participation of Indigenous women is ensured in all walks of life.”<sup>233</sup>

The following quote reiterates this viewpoint in connection with human rights:

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<sup>230</sup> International Museum of Women, “A Struggle within a Struggle: Comandante Esther of the Zapatista Army of National Liberation Speaks Out,” under “Women, Power and Politics : Online Exhibition,” <http://www.imow.org/wpp/stories/viewStory?storyId=113> (accessed January 31st, 2014).

<sup>231</sup> Famous Zapatista phrases found in various places.

<sup>232</sup> For more information on the Zapatista declarations and their uprisings, consult: Shannon Speed, R. Aída Hernández Castillo and Lynn M. Stephen, *Dissident Women: Gender and Cultural Politics in Chiapas* (Austin: University of Texas Press, 2006).

<sup>233</sup> K’inal Antsetik A.C., “Vison-Mission.”



Me: What is K'inal Antsetik's goal when you are in local communities talking about human rights?

Rosalinda: We want the women to take more decisions, to take charge, but in areas that benefit them. [...] The way that K'inal Antsetik teaches rights focuses on how to rise up as a woman, not only by forcing them to go do this or that, but by them deciding for themselves as women and Indigenous women too. [...] <sup>234</sup>

Considering the narratives of members of K'inal Antsetik and their consciousness of injustice, it seems that they see the discourse of rights as a means to describe their sense of revolt against injustices and discrimination. The following excerpt of interview shows the clash that exists between Indigenous women's ambitions, desires and feelings of entitlement to gender equality and traditional 'usos y costumbres' in their communities.

Me: Before you were given workshops on human rights and that they [i.e.: local organizations such as K'inal Antsetik] taught you all this vocabulary, did you feel that they already existed in your community, that there was somewhat of an equivalent to human rights?

Rosalinda: Well I think so, because ever since I was fourteen years old I had decided to continue studying, even though my dad wouldn't say no, he would let me... But ever since I was very young, I began leaving the house. There was an alphabetization course and I would go there every week. I came and went, came and went, and my dad didn't like that: "There are a lot of things to do here, there is enough work here for you to dedicate yourself to here in at home." So I would say no because I wanted to keep studying. [...] So I felt that yes, and the only thing I wanted was to work and study. I just had to do what I wanted. So I disobeyed my dad because he didn't want to let me go [work and study]. So I left my house just like that.

Me: Okay [nodding my head]

Rosalinda: Yeah. But I did feel like, not only can young men study, I could study too, because I want to study. Right? And that's what happened even without knowing all those things like concepts or anything.

Me: So within yourself you had a feeling that you had rights even without anyone else coming to tell you about them.

<sup>234</sup> Santis Días, Rosalinda. Interview with author, Face-to-face interview. K'inal Antsetik, San Cristóbal de las Casas, April 19th, 2012.

Rosalinda: Yeah, yeah, because I wanted to do what I liked.<sup>235</sup>

When the feeling of injustice experienced by Indigenous women due to gender oppression or other forms of oppression is expressed, it can find resonance with the discourse of rights that is increasingly present in the minds of Indigenous women. From that point, it can progress into claims that are articulated through the language of human rights. Indigenous women's use of this language has given them strength in their struggles. This is illustrated by the following quote:

Yolanda: So how did we begin? When someone first introduced the word 'rights' in every day life, (that means, when I heard about the cooperative (i.e.: Jolom Mayaetik) and other Indigenous women's collectives,) I first realized that men controlled the collectives of production, when they were women's to own. [...] I'm talking to you about the 90s, the first women who went to a bank and who said that that institution had the obligation to serve all people who entered it, equally.<sup>236</sup>

It seems that Indigenous women's relationship with the discourse of rights is a work in progress that evolves according to these women's sense of emancipation and ability to assert themselves as citizens. This discourse has come as a conceptual support in their socio-political work: Indigenous women are increasingly asserting their feelings of entitlement to justice and peace, which have not always been acknowledged and implemented as strongly as they are now. This is expressed in the following excerpt of interview with a non-Indigenous organizer of K'injal Antsetik, where a growing link between a sense of citizenship and the discourse of rights is discussed.

Marla: [Human rights] come from fundamental principles, universal, right? That you can find in any culture. I believe that it's more about being a citizen or not. [...] The idea that you belong to a society or not is what determines the difference.

Me: And that's what it's about for women specifically?

<sup>235</sup> Ibid.

<sup>236</sup> Castro, Yolanda. Interview with author, Face-to-face interview, K'injal Antsetik, San Cristóbal de las Casas, March 19<sup>th</sup>, 2012.

Marla: For the Indigenous women of Mexico, back to 20 years ago or less some of them didn't have birth certificates. They had no idea of their own citizenship. They didn't even have access to a piece of paper that said that they belonged to the United States of Mexico, like to a whole nation. They don't have that point of reference. And so, the older women don't know their age. They think they have an approximate age according to what they've been told. If you are not a citizen, well neither do you know that you have rights or enter within that dynamic. But if you look at more universal themes, as I would call them, they relate to your 'usos y costumbres' (customs and practices). Some of them or very faulty, while others are more positive like preserving life, and others are more focused on punishment. [...] So how does this come about? Well it all depends on how you start saying as an Indigenous woman: "I have rights," and begin to see that you can vote, that you have your birth certificate, that you can make solicitations from public services. That's when you begin to realize that you have rights. Now, introducing that concept in communities was necessary because otherwise they (Indigenous women) could have never taken different decisions. It was always like waiting to see what they [i.e.: state authorities] would give us. So I believe that introducing this concept, even if it was very powerful for some communities or for some women, was well received [...]<sup>237</sup>

In sum, it appears that Indigenous women's experiences in Chiapas are often constituted of gender inequalities, discriminatory customs and practices towards women, state violence, and also many positive traditions that they wish to maintain. This has shaped their perceptions of rights in at least three general and interrelated ways: 1) their feelings of injustice and dissatisfaction with their lives due to gendered violence and discrimination are now defined as questions of 'rights', thus being able to give a name to their need for change; 2) they perceive this discourse as a support in and guide to their resistance against gender inequality that is perpetuated through certain local 'usos y costumbres' and state violence; 3) this support encourages them to further assert themselves as Indigenous citizens and community members worthy of living in peace and justice, in a way that suits their visions and opinions.

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<sup>237</sup> Gutierrez, Marla. Interview with author, Face-to-face interview. K'injal Antsetik, San Cristóbal de las Casas, April 23th, 2012.

The approach of K'in al Antsetik to human rights is adapted to local communities, contrary to certain governmental programs and civil organizations for human development. This is illustrated by the two following quotes, which contrast two ways of presenting the discourse of rights to Indigenous women in local communities: the governmental program "Oportunidades," and K'in al Antsetik's own workshops:

Me: You don't want women to depend so much on help from the state or from foreign organizations, so that they can be more autonomous within their communities, right?

Rosalinda: Well yes, what happens is that within the communities, even if we are working with women, many of them are in governmental programs for example, and in the end these programs do not resolve the problem. The government says: "We resolve it, now we are resolving poverty," or whatever. In reality it's not like that. It's the opposite. They make people dependent, and that makes people unable to make their own decisions, and then they don't want to talk or think. So this has an effect because, what are they doing? For example, there are the women of the program Oportunidades, which gives women very little money and obliges them to attend their appointments every so often, maybe every month. That's not a human right. No, because they are forcing them to attend in order to receive their pay, otherwise they don't give it to them. So, it's difficult. In the end it's complicated.<sup>238</sup>

On this same topic, I had the following conversation with another participant:

Me: I'm under the impression that in a programs like Oportunidades, for example, they don't talk about violence and things that could change in the communities. It seems like they don't push for that kind of change.

Micaela: No, they don't talk about that. They [i.e.: local Indigenous women] say that some [organizations] talk about gender but they keep it very short. They don't expand on it. [...]

Me: Also you all speak tzotzil and tzeltal [i.e.: local Indigenous languages]. When arriving in communities, you can explain things in terms that they will understand. I have heard that there are programs from other [non-Indigenous] civil organizations that arrive in communities and don't know how to speak the local language, and they don't have anyone who can translate either.

<sup>238</sup> Santis Días, Rosalinda. Interview with author, Face-to-face interview. K'in al Antsetik, San Cristóbal de las Casas, April 19th, 2012.

Micaela: Yes, yes. Yes that's right, because sometimes they just go and talk, but how do they know if they understood you? And then, if they didn't understand you, it doesn't matter what you talked about!

Me : [laugh]

Micaela : That's how it is.<sup>239</sup>

Analyzing this passage and comparing K'injal Antsetik and other approaches to introducing human rights in the lives of Indigenous women, it seems that K'injal Antsetik perceives and applies the discourse of rights in a way that is contextually appropriate to the realities and needs of local Indigenous women. Furthermore, the emancipating perception that they have of rights is redeployed through workshops and presentations to fellow Indigenous women in ways that promote autonomy and resistance to repressive government programs. Concerns presented in Chapters 1 and 2 regarding the manipulation of the rights discourse by certain groups in ways that disadvantage minority groups such as Indigenous women are relevant in the region of Chiapas when looking at other organizations and governmental uses of the discourse. However, K'injal Antsetik's perception and use of this discourse appear to counter this phenomenon.

### *Influence of the EZLN*

The Revolutionary Law of Women created by the EZLN seems to have influenced the newer generations of Indigenous women to claim pride in their indigeneity and demand respect and equality. This is done through an appropriation and redeployment of the rights discourse that vindicates rights for Indigenous women regarding socio-political participation, leadership, and their roles in their communities.<sup>240</sup> The women of K'injal Antsetik do not seem concerned about the effects of assimilation or cooptation that the rights discourse can have on their work, because

<sup>239</sup> Hernández, Micaela. Interview with author, Face-to-face interview. K'injal Antsetik, San Cristóbal de las Casas, April 26th, 2012.

<sup>240</sup> Ibid.

this discourse is locally appropriated and redeployed to them through the ideological and political influence that the presence of the EZLN has in the region, which serves them as a guide towards appropriation and redeployment of rights that promotes cultural pride and awareness as well as gender equality in communities. The following excerpt of interview describes the influence that the EZLN has on the perception and use of the discourse of human rights by K'inál Antsetik.

Yolanda: [...] It's the departure point for Indigenous peoples' struggle for human rights. We will say that 1994 was the starting point for the emergence of new organizations of mostly Indigenous women, and of an Indigenous women's coordination at the national level, which I believe was key. The Zapatista struggle was going to inform the national agenda on Indigenous peoples' human rights. [...] There was an important effort, which is the 'good government gatherings' [Juntas de Buen Gobierno] (even if they have made a lot of mistakes.) I see that lately there is more incorporation of Indigenous women in these gatherings and other autonomous boards, and these autonomous practices continue to be important to me. [...] I don't want to lose hope in these changes, and I believe that these local struggles and gatherings are also achieving changes in everyday life. They are very slow changes, but they are worth it. They are small resistances like the one we are boosting here with K'inál [Antsetik], but all of this put together feeds and gives sense to the struggle.

Me: You are talking about structural change to not live in a society...

Yolanda: Well in a society that is patriarchal, capitalist, individualist, right? This type of change has to be done from within the communities with autonomous organizations that search for other ways of doing things. [...] I think that this type of resistance and exercise of autonomy allows Indigenous and non-Indigenous men and women, (I insist,) to make their voices heard, to give more content to what could eventually be the political, economical, social or cultural project that the people need.<sup>241</sup>

The influence of the EZLN on the appropriation and redeployment of the human rights discourse appears in K'inál Antsetik's work and in other local organizations of Indigenous women. They are dedicated to challenging structures of domination through reinforcing pride and entitlement

<sup>241</sup> Castro, Yolanda. Interview with author, Face-to-face interview, K'inál Antsetik, San Cristóbal de las Casas, March 19<sup>th</sup>, 2012.

to wellness and dignity as Indigenous women. It is important to highlight the desire for autonomy for Indigenous peoples, and equality between men and women stated in this quote. Linking individual and collective rights under a unified political project is a central element of Indigenous feminism, which addresses the specific issues that Indigenous women face, as explained in Chapter 2. As the girls from the Permanent Training Program for Young Women explained to me, all Indigenous organizations in Chiapas are fighting for the same thing as the EZLN, just in different ways. While the women of K'injal Antsetik do not seem to pay much attention to the potential shortcomings of the discourse of rights, they perceive it and use it in a way that challenges the status quo that keeps Indigenous women and peoples as a whole in subordinate positions.

When asked about the Western origin of the rights discourse, many women did not have any points of reference to understand the question, and did not appear to be thinking about this debate at all. Some women did however have an opinion on this question that expressed a detachment from debates on Indigenous uses of Western discourses and concepts. Their inspiration and proximity with the EZLN's careful and strategic appropriation and redeployment of rights contributes significantly to their own approach to the discourse.

#### *A new Indigenous feminine subjectivity*

So far, the voices of participants have expressed the richness they have found in the discourse of rights for having provided them with a name for their feelings of entitlement to better lives and resistance, as well as being a tool for challenging harmful cultural customs and practices as well as state violence against Indigenous peoples and women in particular. The EZLN has also played a significant role in the promotion of the rights discourse through what

can be described as an Indigenous feminist framework, which has driven many other organizations such as K'inal Antsetik to appropriate and redeploy this discourse in a subversive way. It seems that many Indigenous women who are members of K'inal Antsetik do not think critically of human rights, which increases the risk of idealization of the discourse. However, its presence in their socio-political work in Indigenous communities seems to bring a significant amount of support and empowerment in the lives of women, as well as an increased consciousness around their 'usos y costumbres'. The work of K'inal Antsetik has also enabled girls who had to leave their communities because of oppression to pursue their ambitions to live away from violence and acquire a high school and university education, thus fostering their consciousness around notions of peace and justice, and familiarizing them with the discourse of rights through workshops, which is the organization's primary means of redeploying the discourse to fellow Indigenous women.<sup>242</sup> In sum, while Indigenous women have always struggled and been aware of injustices and suffering, the discourse of rights has been an important addition to their pre-existing foundations around peace and justice.

This sub-section seeks to express an additional facet to K'inal Antsetik's perception of the discourse of rights where it has become an essential and indispensable part of their work. This goes hand in hand with prior reflections on the absence of equivalent terminology in their cultures, and the extent to which human rights have been used and discussed in the context of central Indigenous struggles through the EZLN. It has now become difficult for Indigenous women in this region to imagine pursuing their work without having recourse to rights discourse. It seems to me that this element is important as it conveys a perception of this discourse as being an indispensable part of their struggles. Many Indigenous women now understand their socio-

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<sup>242</sup> K'inal Antsetik : Participants of the Permanent Training Program for Young Indigenous Women, Interview with author, Face-to-face interview, K'inal Antsetik, San Cristóbal de las Casas, March 23<sup>rd</sup>, 2012.



political objectives in terms of human rights advocacy. If struggle has been a central element of Indigenous lives in the region of Chiapas, and if the concept of rights has significantly complemented their visions and methods of struggle, speaking and working through the discourse of human rights has now become a part of many Indigenous peoples', and women's in particular, sense of being. When I asked a core organizer of K'injal Antsetik if she felt that there could be other ways of approaching the need for socio-political change than through the discourse of rights, she could not think of one:

Me: Do you find that there are other tools that could be used to reach this type of change in the communities, other than human rights? Or do you find that it's the only way to do it?

Micaela: I believe it's the only way. There is no other.<sup>243</sup>

During my conversations with Indigenous women, I came to understand that the agency of Indigenous women is focused on the formation of a 'new' Indigenous feminine subjectivity where there is less practice of harmful 'usos y costumbres,' thus making room for women's participation in effecting change on various scales. With the socio-political organizing and awareness raising that has ensued since the initial uprising of the EZLN in Chiapas, new generations of Indigenous women have chosen to strive for different lives than their parents and grandparents'. The making of this emancipated feminine subjectivity seems to be based on the discourse of rights, and the notions of struggle, resistance and autonomy that have always existed in Indigenous realities. In this way, it seems impossible to dissociate many Indigenous women's (especially those of younger generations) sense of self from the discourse of rights. The following segment of interview exposes the link between the presence of the rights discourse in young Indigenous women's lives and their desire to change their fate as women.

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<sup>243</sup> Hernández, Micaela. Interview with author, Face-to-face interview. K'injal Antsetik, San Cristóbal de las Casas, April 26th, 2012.

Me: What are the reasons why K'inal [Antsetik] uses human rights?

Rosalinda: Well, I believe that it's important for women to be organized in cooperatives, in women's collectives, and it's important that they know what are their rights as persons. Also, this will be useful for young daughters when they leave their homes, and at least they will know something to defend themselves from people who will want to use them. Things are not like they used to be. In order to be able to decide: "this isn't good for me." What we don't want is that the same things that happened to their mothers happen to them. You should know what to say, what to think, what to decide, otherwise things will continue being the same. I think it's a part of what many older and younger women have taught us, that if many of us have decided not to marry, it's because we have realized what situation women are in. And this helps you to achieve a different life. Different perhaps because no one is hitting you, or you just decide that you won't get married. It's very good, but it's because you see other women suffer over here and over there, for their kids and everything. And that helps a lot. For me personally, it has helped me so much to see things differently, in another way.<sup>244</sup>

Another participant has expressed similar views:

Me: What are the reasons why K'inal Antsetik puts so much emphasis on the question of human rights during workshops and in programs, etc.?

Yolanda: The importance is because since we emerged, we became aware of the absence of rights for Indigenous women. Now we have laws, we have conventions, and for me it continues to be a tool for political struggle. We consider that it's important for women to know about them, that they appropriate them, understand and translate them, to write them in their own languages. [...] Rights go hand in hand with language. In practice, women should also be aware of what types of violence they have endured at a personal level, what violence have their families and the women in their families endured, what Indigenous women's rights are not respected in their communities. For us it's very important that they can translate in their own languages, these conventions, the international tool of human rights of Indigenous peoples, Indigenous women's rights. We cannot stay isolated.

Me: So this concept of human rights is a way of opening women's minds.

Yolanda: As they say themselves, open your eyes. And to open your eyes goes hand in hand with happiness in your heart, to be happy.

Me: Okay

<sup>244</sup> Santis Días, Rosalinda. Interview with author, Face-to-face interview. K'inal Antsetik, San Cristóbal de las Casas, April 19th, 2012.

Yolanda: Indigenous peoples and women's human rights as a tool feed and reinforce resistances, both personal and collective. Those small ones that I was telling you about, that are being created. Maybe they are not very visible, but they are valuable. So these rights are obviously indispensable political tools... Indispensable.

Me: And have you seen many changes in women that begin to learn about human rights?

Yolanda: Of course, like Rosalinda for example, that I was telling you to interview. She has started talking about her personal space, her own space. She refused! She was part of the first generation of 1994. The first girls who started talking about Indigenous women's rights, which cost them on a personal and social level because participating in forums and events and going out publicly was very punished by Indigenous men. They were the first young women to go out on the streets. [...] Now she has her own house. To her it was like: "I want to change my life. I want to be different and break with the traditional image of what is an Indigenous woman."<sup>245</sup>

This segment of interview, insists on the role of a concept of individual autonomy in building a new generation of Indigenous women who are basing their life choices on their knowledge and experience with the discourse of human rights. While these choices bring a lot of discomfort and conflict with some of their male counterparts (and fellow women as well), it seems that for many Indigenous women, a life that reflects what they have learned on the subject of rights and citizenship is what they desire.

It might be said that the use of human rights by Indigenous women's organizations changes cultural and traditional foundations of Indigenous femininity, thus harming the integrity of Indigenous cultures, as mentioned in Chapter 1. It is however important to remember the arguments advanced by Indigenous feminist scholars such as Kuokkanen and Andrea Smith mentioned in Chapter 2, who argue that Indigenous sovereignty and survival is only possible if the well-being of individuals making up collectivities is ensured. Using the discourse of human rights to protect Indigenous women may cause changes in local perceptions of femininity among

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<sup>245</sup> Castro, Yolanda. Interview with author, Face-to-face interview, K'injal Antsetik, San Cristóbal de las Casas, March 19<sup>th</sup>, 2012.

women, but it also brings a direct contribution to the survival of the individual members of collectivities, and promotes Indigenous pride and political awareness at the local level. Considering the way that large numbers of Indigenous women have to leave their communities in search of better lives in urban centers, the increase of respect and appreciation for women in these communities may result in many women remaining in their communities or returning to them to pursue their livelihood or to work for organizations such as K'in al Antsetik. In other words, an increased esteem among Indigenous women through the appropriation and redeployment of human rights can strengthen communities that have suffered from gendered repression.

The discourse of rights is not only being appropriated and redeployed by Indigenous women through a strategic lens, but in an expression of who they are and how they experience the world. This perception of rights comes as a challenge to theories that have depicted Indigenous peoples' use of human rights as either being imposed on them, or being unauthentic to their traditional frameworks. While in some cases such theories may apply, it seems that the appropriation and redeployment of rights by the Indigenous women of K'in al Antsetik goes deep into their sense of identity and methods of expression and struggle.

### *Conclusion*

This chapter has exposed the field and analytical work that was done with K'in al Antsetik in San Cristóbal de las Casas in Chiapas, Mexico. I have argued that the rights discourse is perceived by the women of K'in al Antsetik as an emancipating tool that provides them with a means to define and talk about feelings of injustice and indignation. While there is no direct equivalent of rights in the Indigenous cultures of Chiapas, the terminology of rights has come as

a conceptual support in their ethical and moral struggles for peace and justice. Their use of human rights therefore challenges hegemonic structures of domination stemming from within and outside of their communities, and pushes forward their pre-existing struggles and women's self-assertion in their communities. This qualifies their vision and use of this discourse as appropriation and redeployment, as described in previous chapters. I have also argued that even though there seems to be an absence of critical analysis in this organization's perception and use of human rights, the work of the EZLN since 1994 has caused a renewal of pride and a sense of vindication among Indigenous women that has largely shaped and guided their perception and use of the rights discourse through a subversive and Indigenous feminist perspective. Finally, I have found that the women of K'injal Antsetik perceive the rights discourse as a tool for the assertion of their agency and the creation of new sense of identity as Indigenous women, thus forming an intrinsic part of new generations of women's lives and of their communities.

## Chapter Six

### Comparative Analysis

The two case studies presented above raise interesting questions regarding perceptions of the human rights discourse as well as the multiple forms of appropriation and redeployment of this discourse that are taking place in Indigenous women's organizations. The findings that were made in relation to NWAC and K'inál Antsetik are challenging to certain theories presented in Chapter 1 concerning the relevance of the human rights discourse for Indigenous causes, and its ability to serve de-colonizing socio-political ends. The flexibility of this discourse, as discussed in Chapter 1, is portrayed in these case studies: it seems to have been molded by each organization in ways that, at the very least, express the ingenuity, agency and ambitions of Indigenous women in manners that are both challenging and consistent with their cultures and collectivities. The core finding of the preceding two chapters is that both organizations have been able to appropriate and redeploy the discourse of rights in ways that are subversive to hegemonic systems of oppression towards Indigenous peoples and women in particular, shaping this discourse to fit their particular principles and goals.

Organizations of Indigenous women in the North and the South perceive and use the discourse of human rights in ways that fit the definition of appropriation and redeployment presented in Chapter 2. This chapter now seeks to place both case studies next to each other in a comparison that highlights the differences and similarities between the main aspects considered in each case. This comparison seeks to bring a contribution to studies on appropriation and redeployment of the human rights discourse in the context of Indigenous feminism. The four research orientations presented in Chapter 3 were 1) how Indigenous women perceive human

rights in relation to their cultures, 2) what role gender plays in each organization's appropriation and redeployment of rights, 3) how the issue of cultural and political cooptation impacts their recourse to human rights, 4) and the influence that disparate access to resources may have on their work. These orientations have guided loosely the discussions in the preceding two chapters, but in this chapter they explicitly steer the comparison between the two case studies.

### *Indigenous identity*

The first comparison to make is on the different relationships to Indigenous culture that were found among the participants in each setting. This relationship seems to be experienced differently by Indigenous women in each organization. NWAC participants voiced a very positive relationship with their cultures, their beliefs and heritage. They expressed deep appreciation and self-identification with the framework of their native communities, which seems to inform their understanding and application of the rights discourse. K'inal Antsetik participants on the other hand had mixed feelings about their cultures, expressing positive experiences as well as very painful ones that have brought many of them to dissociate with certain aspects of their cultural frameworks.

These experiences have informed their perspectives and uses of the rights discourse in different ways. NWAC members expressed a feeling of identification with the human rights discourse that evoked their indigeneity, cultural frameworks and relationship to their land and communities. According to them, their traditional values and beliefs provide a different articulation of the concept of rights. Similarly, the rights discourse is perceived by the members of K'inal Antsetik as a tool that enriches their work and responds to their socio-political needs. According to the members of K'inal Antsetik, the rights discourse complements their sense of

identification with socio-political struggles, which they consider as having always been an element of their culture. However, it is thanks to the work of organizations such as the EZLN that K'in al Antsetik has appropriated the discourse of human rights as a tool to reclaim certain aspects of Indigenous women's identities and cultural frameworks. While Indigenous cultures, values and beliefs have been eroded in Canada as well as Mexico, it seems that recent appropriations and redeployments of rights by Indigenous groups in Mexico play a particularly important role for the renewal of pride for Indigenous peoples, and women in particular. In other words, while there is a link between traditional values and the discourse of rights for both organizations, human rights have had a particularly strong cultural significance for the women of K'in al Antsetik, who are using it to create a new feminine subjectivity.

#### *Gender equality*

The second point of comparison is the participants' experiences of gender. The participants from NWAC understand the traditional values and beliefs of the various Indigenous peoples in Canada as promoting respect and appreciation for women. While colonial practices have eroded and altered many of these values, the collective interpretation and memory of participants of there having been gender equality in Indigenous communities is used as a point of reference when appropriating the discourse of human rights. This may appear to be a romanticized view of Indigenous cultures in Canada but, it is important to remember that NWAC is a national organization that represents many groups of Indigenous women, and needs to maintain a general perspective on questions of culture and traditions. Since its main focus is on the promotion of the individual and collective rights of Indigenous women through rights advocacy and litigation with the state, it does not aim to change cultural practices in particular



contexts, as does K'in al Antsetik. The way that women of NWAC speak of their traditional values and beliefs communicates a gender equality that used to exist, at least in their views, that they feel needs to be remembered. It is present in their work on rights advocacy in a way that frames their appropriation of the rights discourse.

The women of K'in al Antsetik on the other hand reported a very different situation, where their lives as Indigenous women were impeded by certain cultural practices and customs that held women in subordinate positions. These women do not have a collective memory of their traditional values and beliefs, whether these would have promoted gender equality or not. As far as they could remember, Indigenous women had been devalued and subordinate to men. In other words, unlike the women of NWAC, they did not possess cultural references to gender equality, which creates a need to introduce formal concepts such as human rights to promote gender equality in Indigenous communities. The work of organizations such as K'in al Antsetik needs to be focused at the local scale in order to change discriminatory practices within Indigenous cultures. Linking the discourse of human rights with pre-existing feelings of indignation, notions and memories of political struggle has had a significant effect on these communities, and women in particular. According to the narratives of participants from K'in al Antsetik, the discourse of rights has provided Indigenous women with a language to express their need for change, and has enriched their struggles for social justice on several other topics. In fact, a new feminine subjectivity has begun taking place in the past decades with the formation of organizations such as the EZLN and K'in al Antsetik, where an increase in politicization and the use of the language of rights has caused women to pursue emancipatory objectives.

It therefore seems that the ways that gender is experienced does create differences in Indigenous women's appropriation and redeployment of human rights: while the women of

NWAC can rely on their collective memory of gender equality within Indigenous traditional values and focus their efforts on rights advocacy and litigation on other scales, the women of K'inál Antsetik have expressed a deep cultural reliance on the notion of human rights at the local level, where it has created changes in traditional gender relations, maintaining positive 'usos y costumbres' and questioning abusive ones. This being said, both NWAC and K'inál Antsetik have experienced opposition against their rights advocacy, and in the case of NWAC, against its rights litigation with the state.

#### *Maintenance of cultural integrity*

An interesting similarity between both organizations is the near to complete non-reliance and collaboration with government bodies they expressed during interviews. As previously explained, NWAC receives government funding from the Canadian government and seeks to maintain a cordial relationship with it for this purpose. However, participants have voiced the need to distance NWAC from the government in order to maintain as much autonomy and freedom as possible, while at the same time avoid the threat of governmental funding cuts. K'inál Antsetik, on the other hand, does not receive funding from the Mexican government, or engage in rights litigation with the state. This is due to long lasting conflicts between Indigenous political organizations and the Mexican state, and deep mistrust that this entity could produce the changes that Indigenous peoples need and want.

In both cases, the organizations perceive and use the discourse of rights in ways that challenge their governments, and in K'inál Antsetik's case, reject its approach with Indigenous peoples entirely. This challenges views that were discussed in Chapter 1, according to which the Western liberal discourse of rights has the potential to coopt and may feed hegemonic agendas. I

believe that this criticism holds true in many cases and I do not argue against its validity. However it seems that while Indigenous women of NWAC and K'inak Antsetik seem to be convinced of the benefits of the rights discourse, they appropriate and redeploy it in ways that do not fit within hegemonic agendas and initiatives. In the case of NWAC, the use of the rights discourse is largely meant to engage in law, challenge the Canadian state, and demand that it makes changes in favor of Indigenous peoples and women in particular. K'inak Antsetik for its part, supports the vision promoted by the EZLN according to which the Mexican state is not trustworthy and change needs to be generated by Indigenous communities themselves. This organization promotes awareness among Indigenous women on the risks of engaging with governmental programs, and encourages change at the local level, affecting traditions and gender relations.

#### *Access to resources*

Another point of comparison is the class or socio-economic positioning of the participants of each organization. This topic came up in my interviews with NWAC's participants, but I did not discuss it explicitly with K'inak Antsetik's members. However, I believe that it deserves to be part of my comparative analysis. In my perspective, the opinions voiced by the participants in each organization can be better understood taking in consideration their access to information and education, as well as the different types of work they each do. This topic was explicitly discussed in Chapter 4, where the women of NWAC explained that they are cognizant of their individual privileges and the socio-economic disparities that exist between them and other Indigenous women in Canada and abroad. A comparison with women in Mexico was made by one of NWAC's participants while talking about the question of access to resources. I have

argued that the understanding of the rights discourse by NWAC's women was not only shaped by their Indigenous feminist framework, values and objectives, but also by their education and an access to information and resources that is not available to all Indigenous women. This question is not explicitly discussed in Chapter 5, however it is implicit throughout the data that was collected. While the Indigenous women of K'inal Antsetik have overcome many social, political, economic and cultural barriers to achieve their positions in their organization and acquire the necessary knowledge of concepts such as human rights, their work is mostly focused on local scale initiatives and they have much less access to international debates and discussions on rights for Indigenous women. It is also safe to say that there is a lesser access to resources, forums and international initiatives and collaborations in this case than in NWAC's case.

I have found that this results in a difference in ways of understanding and perceiving the discourse of rights. Participants from NWAC spoke of rights in terms that were very similar to what is found in the academic literature, thus often communicating a certain level of familiarity with this concept (i.e.: talking about it in theoretical terms and as a strategic tool). Women of K'inal Antsetik on the other hand seemed to be less concerned with theoretical debates and discussions on human rights, and rather drawn to evoking their daily, real life experiences. I saw and understood that such debates and discussions were not only applicable to other Indigenous women, but for themselves and their immediate families. Their need for human rights was different from NWAC's in this way. They had themselves experienced a lack of access to resources among other issues that characterize the third world, resulting in a different take on the rights discourse that expressed personal proximity to human rights issues, while NWAC often spoke of rights as a strategic tool and language for raising awareness. In this way, each case study's perspective of the rights discourse is influenced by very different needs and experiences.

*Subversion from different angles*

The most striking reflection that stems from this comparison is that NWAC and K'inal Antsetik approach the discourse of rights in a similar manner but from different angles. As to NWAC, I have argued that it sees the discourse of human rights as reflecting Indigenous values and supporting its work for Indigenous women, thus creating a feeling of comfort to use the discourse. These women have also voiced an awareness of the political issues linked to the rights discourse and appear to use it in a way that counters systems of domination. It seems that they appropriate and redeploy this discourse for strategic purposes due to its values, which they consider universal amongst Indigenous and non-Indigenous peoples. In sensitizing the Canadian public to Indigenous women's issues, NWAC feels entitled to using the discourse of rights in the context of its work because of its applicability to Indigenous women's struggles and the way it responds to generational feelings of revolt and indignation as Indigenous peoples and women. It is also the necessary language to engage in rights litigation with the state. As for K'inal Antsetik, the appropriation and redeployment of rights by the EZLN has brought a significant contribution to Indigenous women's feeling of acceptance with the discourse of rights. As a result of this, the women of K'inal Antsetik (and their members) seem to be increasingly defining their identities as Indigenous women through the rights discourse, now insisting on living their lives on their own terms and engaging in political struggles where this was once seen as impossible.

NWAC's choice of using the rights discourse is partly based on strategic and practical purposes. The cultural significance of human rights for these women is mild compared to the case of K'inal Antsetik. This is due to collective memory and the continued presence of traditional values in the lives of these women that defend gender equality. The relationship that

the women of K'inal Antsetik have with the rights discourse does not benefit from the same reference to cultural equivalents. The rights discourse has become a cornerstone of new generations of Indigenous women in Chiapas, thus changing the landscape of their identities. This difference in perception of the rights discourse between each organization is a core finding of this study.

This distinction between K'inal Antsetik and NWAC is a reflection of their experiences as Indigenous women in Canada and Mexico, and the social, political and cultural differences that shape each locale. However, their ability to appropriate and redeploy human rights effectively in both cases draws attention to a point of commonality: their strong socio-political consciousness. Each organization seems to benefit from different levels of consciousness about human rights and their potential dangers, even if this seems to be more the case with NWAC than with K'inal Antsetik. However, the latter organization's consciousness appears to be based on the work of the EZLN, which has elaborated a highly politicized approach to rights discourse. NWAC's expression of consciousness around socio-political risks and needs and K'inal Antsetik's reference to the EZLN's work seems to drive both organizations towards a subversive and Indigenous feminist application of the rights discourse. The theme of socio-political consciousness has been mentioned several times throughout this thesis and does in fact seem to be significant to these case studies and Indigenous women's use of the rights discourse.

Socio-political consciousness also seems to shape the intentions of participants of both studies about their work, thus determining the level of faithfulness and loyalty to their cultural heritage. NWAC's consciousness of the implications of Western discourse translates into genuine intentions of remaining true to Indigenous women's identity, and K'inal Antsetik's exposure to highly politicized and radically anti-colonial social movements has shaped its

guidelines for using rights discourse in a way that is both challenging and faithful to these women's cultures.

There are differences in the ways that each organization subverts structures of domination through rights discourse. In the case of NWAC and its work on rights litigation, changes in Canadian laws that would better protect Indigenous women are slow and depending on several resisting factors. As previously explained, the Canadian government as well as other Indigenous organizations in Canada have expressed opposition to NWAC's work, and threatened the continuation of this work with funding cuts. This political tension seems to limit the actions of NWAC, at least until funding can be secured. This organization experiences periods of precarity and needs to make compromises to maintain a working relationship with the state. On the other hand, engaging in rights litigation has the advantage of giving legitimacy in the eyes of the state for the changes it can obtain.

Such legitimacy is harder to obtain in a revolutionary context such as Chiapas. The progress made possibly by the EZLN and K'injal Antsetik remains precarious in this sense. Only in the long run and with international support can they hope to have a lasting impact. Nevertheless, rejecting the Mexican state entirely and engaging in grassroots education work and activism allows K'injal Antsetik to work more freely and without compromise. As previously explained, threats to the work of this organization do exist and government officials sometimes target individual members. K'injal Antsetik's work is however recognized at the international level and has shown an impressive level of resilience. These Indigenous women have progressed from situations of extreme economic, racial and gendered oppression to the formation of a new feminine subjectivity in only two decades. The work of autonomous, grassroots organizations in Chiapas such as K'injal Antsetik has had tremendous effects on Indigenous peoples in this region,

and women in particular. Deep cultural changes are happening at the local level, which create sustainability and equality for Indigenous women.

This chapter has sought to place the case studies of NWAC and K'inal Antsetik side by side in order to compare the data that were collected and the reflections that were made. There are disparities in my discussion of each case, which I have acknowledged throughout this study. This is due in part to research circumstances that have limited my ability to do as much fieldwork with the case study of NWAC as I did with K'inal Antsetik. Differences in the ways that each case study is analyzed in the previous two chapters are also due to the different scales and scope of work of each organization; NWAC working at a national level and focusing on rights litigation, while K'inal Antsetik promotes cultural changes and rights advocacy at the local level. These differences need to be acknowledged in order to understand the layout of this study, its limitations and the topics that are compared in this chapter.

Certain similarities and differences in each organization's appropriation and redeployment of human rights discourse have been identified in this comparison. Both organizations appropriate and redeploy the discourse of rights by relating it to their contexts and lived experiences, and by using it towards the disruption of systems of domination on various scales. However, these experiences vary between each organization, shaping their relationships to rights. The common denominator between both case studies seems to be the socio-political consciousness of these Indigenous women, which has been acquired differently in each case. The support that human rights bring to their struggles has a strategic character in the case of NWAC in the Canadian context, whereas it holds an intrinsic place in the identity formation of new generations of Indigenous women from K'inal Antsetik in the context of Chiapas. In sum, subversion from an Indigenous feminist viewpoint through the discourse of rights happens in



both cases through a conscious appropriation and redeployment of the discourse of human rights, but comes about in different ways according to context and lived experiences.

## Conclusion

This thesis has attempted to contribute to a better understanding of the various ways Indigenous women perceive and use the discourse of human rights in socio-political work at the local and national levels. Indigenous collectivities challenge Western-liberal conceptions of human rights that focus on individual rights by a central nation-state, by claiming collective rights to self-determination. However, the complexity of the situation of Indigenous women in this regard comes from the intersectional gendered and racial oppression imposed on them from outside of their communities through mainstream and state-institutions, and from within their communities through patriarchal traditions and practices. As a result, their human rights claims are at the interface of individual and collective rights, demanding the recognition of Indigenous women's needs and concerns on the issue of gender equality as an essential step towards self-determination for Indigenous peoples.

The work of critical and progressive scholars, particularly Shannon Speed et al.'s theory of appropriation and redeployment, offers a means of analyzing Indigenous women's perceptions of the rights discourse. An Indigenous feminist outlook in this study emphasized the unique and unified experience of Indigenous women who face racial and gendered oppression, and have a vision of feminism that acknowledges their specific needs and concerns. Furthermore, this framework values the voices of Indigenous women themselves, which I have tried to do throughout this study. After having introduced NWAC and K'inak Antsetik as the two case studies of this investigation and provided preliminary information on their work and approach to the human rights framework, four specific research orientations were laid out in order to guide the analysis of these organizations' appropriation and redeployment of rights.

Using Moreton-Robinson's Indigenous women's standpoint theory as a methodology, the case studies of NWAC and K'inal Antsetik were exposed and analyzed in order to highlight the differences and similarities that can be found in their appropriation and redeployment of human rights. The different approaches that Indigenous women in Canada and Mexico have to human rights seems to be determined by their cultural, political and social needs and consciousness, which are defined by their particular experiences of gender, race, culture, politics and history. Seeing the complexity of their work and experiences helps to understand the distinctions and similarities between their outlooks on rights and also the importance of socio-political consciousness. Rights discourse is appropriated and redeployed by both organizations similarly, but also in ways that fit each context. For NWAC, the discourse of rights is used for rights advocacy and litigation with the state. For K'inal Antsetik, the discourse of rights is appropriated and redeployed at the local level, in order to change discriminatory practices within Indigenous cultures and promote gender equality.

A way of building on this work would be to look deeper into potential reference points of human rights to Indigenous frameworks, in order to reestablish traditional methods of social balance in Indigenous communities. Pride and revival of cultural values and indigeneity serve as compasses to guide NWAC and K'inal Antsetik towards meaningful and politically sound uses of the rights discourse. Working towards better lives and an increase in peace and justice for Indigenous peoples and women in particular should also mean remembering the knowledge and wisdom of those who were there before us. Such research can be more difficult in places such as Chiapas where colonial history and politics have taken a toll on collective memory of traditional values and practices. Rigorous research to recover these forgotten elements seems to be most critical and meaningful in these types of areas. The conclusions of this should thus serve as a

starting point for designing new research that may help Indigenous peoples and women in particular to revive and reinforce traditional values that could serve as reference points in their engagement in feminist and human rights struggles and endeavors.

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