

immigrant multiculturalism or multination federalism, and Switzerland and Austria continue to resist any serious move to integrate metics. But these countries are now the clear exceptions to the norms in the West. And France is *de facto* liberalizing its approach to both autonomy for Corsica and multiculturalism for immigrants.

37. For a survey of the claims of national minorities in the US, see O'Brien 1987. Given these variations and hard cases, some theorists suggest that we should do away with the categories of 'immigrants' and 'national minorities', and simply think of ethnic groups as falling on a continuum with varying levels of cohesiveness, mobilization, concentration, size, historical rootedness, and so on. See, e.g. Young 1997a; Carens 2000: ch. 3; Barry 2001: 308–17; Favell 1999. I defend the typology in Kymlicka 2001: ch. 3.

38. It is worth noting, however, that no Western country has in fact reversed any of these major policy shifts—i.e. no country which adopted multiculturalism has subsequently repudiated it; no country which federalized has subsequently recentralized; and so on.

39. I discuss the claims of these other types of groups in Kymlicka and Opalski 2001.

40. The relationship between political practice and political theory is interestingly different in this case, I think, from other topics we have looked at. In most chapters, political theorists are developing normative theories to guide us in changing the status quo, and bring about models of justice or democracy which do not yet exist. In this chapter, many theorists have simply been trying to make normative sense out of the practices of multiculturalism which already exist in the Western democracies, but which have been ignored by previous political theorists. Theories of multiculturalism sometimes have an 'owl of Minerva' feel to them.

41. There is also a trend towards codifying minority rights at the international level. See Anaya 1996; De Varennes 1996; Kymlicka and Opalski 2001: Part 3.

42. Authors who say that the politics of recognition erodes the basis for a politics of redistribution (and who assume that the latter should take precedence) include Gitlin 1995; Barry 2001; Harvey 1996: ch. 12; Wolfe and Lausen 1997. For the opposite view that recognition supplements redistribution, see Fraser 1998; 2000; Young 2000a; Phillips 2000; Banting 2000; Tully 2000: 470.

43. Barry says that the negative impact of multiculturalism on redistribution is a major reason for rejecting multiculturalism (Barry 2001: p. 321) but he gives no evidence that there is a negative impact.

44. Philosophers' claims about the relationship between minority rights and social unity are often doubly speculative: first we speculate about the sources of social unity (the 'ties that bind'), and then we speculate about how minority rights affect these ties. Neither sort of speculation is grounded in reliable evidence. For example, some political philosophers have suggested (a) that it is shared values which form the bonds of social unity in modern liberal states, and (b) that immigrant multiculturalism and/or multination federalism reduce the level of shared values. There is no good evidence for either of these speculations. I seriously doubt that minority rights have reduced shared values, but I equally doubt that it is shared values which hold societies together. (See pp. 253–7 above) Other philosophers suggest that it is shared experiences, shared identities, shared history, shared projects, or shared conversations which hold countries together. We have little evidence to support such claims about the source of social unity (and even less evidence about how minority rights affect these factors). We simply do not know what are the sources of social unity in multiethnic and multination states. To argue against minority rights on the grounds that they erode the bonds of social unity is therefore doubly speculative: we do not know what the real bonds of social unity are, and we do not know how minority rights affect them.

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## FEMINISM

Contemporary feminist political theory is extremely diverse, in both premises and conclusions. This is also true to some degree of the other theories I have examined. But this diversity is multiplied within feminism, for each of these other theories is represented within feminism. Thus we have liberal feminism, Marxist feminism, even libertarian feminism. Moreover, there is a significant movement within feminism towards forms of theorizing, such as psychoanalytic or poststructuralist theory, which lie outside the bounds of mainstream Anglo-American political philosophy. Alison Jaggar says that a commitment to eliminating the subordination of women unifies the diverse strands of feminist theory (Jaggar 1983: 5). But (as Jaggar notes) this agreement soon dissolves into radically different accounts of that subordination, and of the measures required to eliminate it.

It would require a separate book to discuss each of these strands of feminist theory.<sup>1</sup> I will instead focus on three feminist criticisms of the way mainstream political theories attend, or fail to attend, to the interests and concerns of women. I have argued that a wide range of contemporary political theories share an 'egalitarian plateau', a commitment to the idea that all members of the community should be treated as equals. Yet, until very recently, most mainstream political philosophy has defended, or at least accepted, sexual discrimination. And while traditional views about sexual discrimination have been progressively abandoned, many feminists believe that the principles which were developed with men's experience and interests in mind are incapable of adequately recognizing women's needs, or incorporating women's experiences. I will consider three such arguments. The first focuses on the 'gender-neutral' account of sexual discrimination; the second focuses on the public-private distinction. These two arguments claim that important aspects of the liberal-democratic conception of justice are male biased. The third argument, on the other hand, claims that the very emphasis on justice is itself reflective of a male bias, and that any theory which is responsive to the interests and experiences of women will replace the emphasis on justice with an emphasis on caring. These three arguments give only a limited idea of the

scope of recent feminist theory, but they raise important issues which any account of sexual equality must address, and they represent three of the most sustained points of contact between feminism and mainstream political philosophy.

## 1. SEXUAL EQUALITY AND SEXUAL DISCRIMINATION

Until well into this century, most male theorists on all points of the political spectrum accepted the belief that there was a 'foundation in nature' for the confinement of women to the family, and for the 'legal and customary subjection of women to their husbands' within the family (Okin 1979: 200).<sup>2</sup> Restrictions on women's civil and political rights were said to be justified by the fact that women are, by nature, unsuited for political and economic activities outside the home. Contemporary theorists have progressively abandoned this assumption of women's natural inferiority. They have accepted that women, like men, should be viewed as 'free and equal beings', capable of self-determination and a sense of justice, and hence free to enter the public realm. And liberal democracies have progressively adopted anti-discrimination statutes intended to ensure that women have equal access to education, employment, political office, etc.

But these anti-discrimination statutes have not brought about sexual equality. In the United States and Canada, the extent of job segregation in the lowest-paying occupations is increasing, and there are concerns about the 'feminization' of poverty (Weitzman 1985: 350). Within the family, women do the vast majority of the domestic labour, even when they have full-time jobs—this is the famous 'second shift' or 'double day' that is still expected of working women (Hochschild 1989). Indeed, studies show that even unemployed husbands do much less housework than wives who work a forty-hour week (Okin 1989b: 153–4). Moreover, domestic violence and sexual assault have increased. Catherine MacKinnon summarizes her survey of the effects of equal rights in the United States by saying that 'sex equality law has been utterly ineffective at getting women what we need and are socially prevented from having on the basis of a condition of birth: a chance at productive lives of reasonable physical security, self-expression, individuation, and minimal respect and dignity' (MacKinnon 1987: 32).<sup>3</sup>

Why is this? Sex discrimination, as commonly interpreted, involves the arbitrary or irrational use of gender in the awarding of benefits or positions. On this view, the most blatant forms of sex discrimination are those where, for example, someone refuses to hire a woman for a job even though gender has no rational relationship to the task being performed. MacKinnon calls this the

'difference approach' to sexual discrimination, for it views as discriminatory unequal treatment that cannot be justified by reference to some sexual difference.

Sex discrimination law of this sort was modelled on race discrimination law. And just as race equality legislation aims at a 'colour-blind' society, so sex equality law aims at a sex-blind society. A society would be non-discriminatory if race or gender never entered into the awarding of benefits. Of course, while it is conceivable that political and economic decisions could entirely disregard race, it is difficult to see how a society could be entirely sex blind. A society which provides for pregnancy benefits, or for sexually segregated sports, is taking sex into account, but this does not seem unjust. And while racially segregated washrooms are clearly discriminatory, most people do not feel that way about sex-segregated washrooms. So the 'difference approach' accepts that there are legitimate instances of differential treatment of the sexes. These are not discriminatory, however, so long as there is a genuine sexual difference which explains and justifies the differential treatment. Opponents of equal rights for women often invoked the spectre of sexually integrated sports (or washrooms) as evidence that sex equality is misguided. But defenders of the difference approach respond that the cases of legitimate differentiation are sufficiently rare, and the cases of arbitrary differentiation so common, that the burden of proof rests on those who claim that sex is a relevant grounds for assigning benefits or positions.

This difference approach, as the standard interpretation of sex equality law in most Western countries, has had some successes. Its 'moral thrust' is to 'grant women access to what men have access to', and it has indeed 'gotten women some access to employment and education, the public pursuits, including academic, professional, and blue-collar work, the military, and more than nominal access to athletics' (MacKinnon 1987: 33, 35). The difference approach has helped create gender-neutral access to, or competition for, existing social benefits and positions.

But its successes are limited, for it ignores the gender inequalities which are built into the very definition of these positions. The difference approach sees sex equality in terms of the ability of women to compete under gender-neutral rules for the roles that men have defined. But equality cannot be achieved by allowing men to build social institutions according to their interests, and then ignoring the gender of the candidates when deciding who fills the roles in these institutions. The problem is that the roles may be defined in such a way as to make men more suited to the role, even under gender-neutral competition.

Consider two examples. The first concerns the use of minimum height and weight rules for access to certain jobs, such as firefighters, police, and the army. These rules are officially gender neutral, but since men are on average taller

and heavier than women, these rules operate to screen out most women from being able to apply for the positions. The use of these rules is typically justified on the grounds that the equipment used in the job requires a certain height or strength, and hence these are valid requirements for the job. But we need to ask why the equipment was designed for people who are, say, 5' 9", rather than 5' 5". The answer, of course, was that the people designing the equipment assumed that it would be used by men, and so they designed it for the average male height and build. This was not inevitable. It is quite possible to make the same equipment for smaller and lighter people. For example, in Japan, where men have traditionally been considerably shorter than in the West, military and firefighting equipment has been designed for shorter and lighter people. And no one familiar with the Second World War could argue that this undermined the efficiency of the Japanese military.

The problem here is not old-fashioned prejudice or chauvinism: the employer using these height and weight restrictions may pay no attention to the gender of the applicants. He may simply want people who can fulfil the job requirements. The problem, rather, is that the job requirements were initially designed by men, on the assumption that men would fill the job. And therefore sexual equality requires redesigning the job on the assumption that women should also be able to fill the job. And indeed this is currently taking place. Many jobs with height and weight restrictions are being re-examined to see if they can be redesigned to provide greater opportunities for women.<sup>4</sup>

A more serious example concerns the fact that most jobs 'require that the person, gender neutral, who is qualified for them will be someone who is not the primary caretaker of a preschool child' (MacKinnon 1987: 37). Given that women are still expected to take care of children in our society, men will tend to do better than women in competing for such jobs. This is not because women applicants are discriminated against. Employers may pay no attention to the gender of the applicants, or may in fact wish to hire more women. The problem is that many women lack a relevant qualification for the job—i.e. being free from childcare responsibilities. There is gender-neutrality, in that employers do not attend to the gender of applicants, but there is no sexual equality, for the job was defined under the assumption that it would be filled by men who had wives at home taking care of the children. The difference approach insists that gender not be taken into account in deciding who should have a job, but it ignores the fact 'that day one of taking gender into account was the day the job was structured with the expectation that its occupant would have no child care responsibilities' (MacKinnon 1987: 37).

Whether or not gender-neutrality yields sexual equality depends on whether and how gender was taken into account earlier. As Janet Radcliffe-Richards says,

if a group is kept out of something for long enough, it is overwhelmingly likely that activities of that sort will develop in a way unsuited to the excluded group. We know for certain that women have been kept out of many kinds of work, and this means that the work is quite likely to be unsuited to them. The most obvious example of this is the incompatibility of most work with the bearing and raising of children; I am firmly convinced that if women had been fully involved in the running of society from the start they would have *found* a way of arranging work and children to fit each other. Men have had no such motivations, and we can see the results. (Radcliffe-Richards 1980: 113–14)

This incompatibility that men have created between child-rearing and paid labour has profoundly unequal results for women. The result is not only that the most valued positions in society are filled by men, while women are disproportionately concentrated into lower-paying part-time work, but also that many women become economically dependent on men. Where most of the 'household income' comes from the man's paid work, the woman who does the unpaid domestic work is rendered dependent on him for access to resources. The consequences of this dependence have become more apparent with the rising divorce rate. While married couples may share the same standard of living during marriage, regardless of who earns the income, the effects of divorce in the US are seriously unequal: men's average standard of living goes up 10 per cent after divorce, while women's goes down 27 per cent—a disparity of close to 40 per cent.<sup>5</sup> However, none of these unequal consequences of the incompatibility of childcare and paid work are discriminatory, according to the difference approach, for they do not involve arbitrary discrimination. The fact is that freedom from childcare responsibilities is relevant to most existing jobs, and employers are not being arbitrary in insisting on it. Because freedom from childcare responsibilities is a relevant qualification, the difference approach says that it is not discriminatory to insist upon it, regardless of the disadvantages it creates for women. Indeed, the difference approach sees the concern with childcare responsibilities, rather than irrelevant criteria like gender, as evidence that sex discrimination has been eliminated. It cannot see that the relevance of childcare responsibilities is itself a profound source of sexual inequality, one that has arisen from the way men have historically structured jobs to suit their interests.

So before we decide whether gender should be taken into account, we need to know how gender has *already* been taken into account. And the fact is that almost all important roles and positions have been structured in gender-biased ways:

virtually every quality that distinguishes men from women is affirmatively compensated in this society. Men's physiology defines most sports, their needs define auto and health insurance coverage, their socially-designed biographies define workplace expectations and successful career patterns, their perspectives and concerns define

quality in scholarship, their experiences and obsessions define merit, their objectification of life defines art, their military service defines citizenship, their presence defines family, their inability to get along with each other—their wars and rulerships—define history, their image defines god, and their genitals define sex. For each of their differences from women, what amounts to an affirmative action plan is in effect, otherwise known as the structure and values of American society. (MacKinnon 1987: 36)

All of this is 'gender neutral', in the sense that women are not arbitrarily excluded from pursuing the things society defines as valuable. But it is sexist, because the things being pursued in a gender-neutral way are based on men's interests and values. Women are disadvantaged, not because chauvinists arbitrarily favour men in the awarding of jobs, but because the entire society systematically favours men in the defining of jobs, merit, etc.

Indeed, the more society defines positions in a gendered way, the less the difference approach is able to detect an inequality. Consider a society which restricts access to contraception and abortion, which defines paying jobs in such a way as to make them incompatible with childbearing and child-rearing, and which does not provide economic compensation for domestic labour. Women in such a society lack the legal means to guarantee that they will not have children, yet are unable to both raise children and work for wages. As a result, they are rendered economically dependent on someone who is a stable income-earner (i.e. a man). In order to ensure that they acquire this support, women must become sexually attractive to men. Knowing that this is their likely fate, many girls do not try as hard as boys to acquire employment skills which can only be exercised by those who avoid pregnancy. Where boys pursue personal security by increasing their employment skills, girls pursue security by increasing their attractiveness to men. This, in turn, results in a system of cultural identifications in which masculinity is associated with income-earning, and femininity is defined in terms of sexual and domestic service for men, and the nurturing of children. So men and women enter marriage with different income-earning potential, and this disparity widens during marriage, as the man acquires valuable job experience. Since the woman faces greater difficulty supporting herself outside the marriage, she is more dependent on maintaining the marriage, which allows the man to exercise greater control within it.

In such a society, men as a group exercise control over women's general life-chances (through political decisions about abortion, and economic decisions concerning job requirements), and individual men exercise control over economically vulnerable women within marriages. Yet there need be no arbitrary discrimination. All of this is gender neutral, in that one's gender does not necessarily affect how one is treated by those in charge of distributing contraception, jobs, or domestic pay. But whereas the difference approach takes the absence of arbitrary discrimination as evidence of the absence of sexual

inequality, it may in fact be evidence of its pervasiveness. It is precisely because women are dominated in this society that there is no need for them to be discriminated against. Arbitrary discrimination in employment is not only unnecessary for the maintenance of male privilege, it is unlikely to occur, for most women will never be in a position to be arbitrarily discriminated against in employment. Perhaps the occasional woman can overcome the social pressures supporting traditional sex roles. But the greater the domination, the less the likelihood that any women will be in a position to compete for employment, and hence the less room for arbitrary discrimination. The more sexual inequality there is in society, the more that social institutions reflect male interests, the less arbitrary discrimination there will be.

None of the contemporary Western democracies corresponds exactly to this model of a patriarchal society, but they all share some of its essential features. And if we are to confront these forms of injustice, we need to reconceptualize sexual inequality as a problem, not of arbitrary discrimination, but of domination. As MacKinnon puts it,

to require that one be the same as those who set the standard—those which one is already socially defined as different from—simply means that sex equality is conceptually designed never to be achieved. Those who most need equal treatment will be the least similar, socially, to those whose situation sets the standard as against which one's entitlement to be equally treated is measured. Doctrinally speaking, the deepest problems of sex inequality will not find women 'similarly situated' to men. Far less will practices of sex inequality require that acts be intentionally discriminatory. (MacKinnon 1987: 44; cf. Taub and Schneider 1982: 134)

The subordination of women is not fundamentally a matter of irrational differentiation on the basis of sex, but of male domination, under which gender differences are made relevant to the distribution of benefits, to the systematic disadvantage of women. To remedy this problem, MacKinnon proposes the 'dominance approach' to sex equality, which aims to ensure that gender differences are not a source of disadvantage (MacKinnon 1987: 42; Frye 1983: 38). Whereas the difference approach says that sex inequality is only justified if there are real differences between men and women, the dominance approach says that sex differences (real or imagined) must never be used as a source of, or justification for, inequality and male domination.<sup>6</sup>

Since the problem is domination, the solution is not only the absence of discrimination, but the presence of power. Equality requires not only equal opportunity to pursue male-defined roles, but also equal power to create female-defined roles, or to create non-gendered roles that men and women have an equal interest in filling. The result of such empowerment could be very different from the 'equal opportunity to enter male-defined institutions' model that is favoured by contemporary sex-discrimination theory. From a

position of equal power, we would not have created a system of social roles that defines 'male' jobs as superior to 'female' jobs. For example, the roles of male and female health practitioners were redefined by men against the will of women in the field. With the professionalization of medicine, women were squeezed out of their traditional health care roles as midwives and healers, and relegated to the role of nurse—a position which is subservient to, and financially less rewarding than, the role of doctor. That redefinition would not have happened had women been in a position of equality, and will have to be rethought now if women are to achieve equality.

Acceptance of the dominance approach would require many changes in gender relations. But what changes would it require in our theories of justice? Most of the theorists discussed in previous chapters implicitly or explicitly accept the difference approach. But does that reflect a flaw in their principles, or a flaw in the way those principles have been applied to issues of gender? Many feminists argue that the flaw lies in the principles themselves, that 'malestream' theorists (as Mary O'Brien calls them) on both the right and left interpret equality in ways that are incapable of recognizing women's subordination. Indeed, some feminists argue that the struggle against sexual subordination requires us to abandon the very idea of interpreting justice in terms of equality. Elizabeth Gross argues that since women must be free to redefine social roles, their aims are best described as a politics of 'autonomy' rather than a politics of 'equality':

Autonomy implies the right to see oneself in whatever terms one chooses—which may imply an integration or alliance with other groups and individuals or may not. Equality, on the other hand, implies a measurement according to a given standard. Equality is the equivalence of two (or more) terms, one of which takes the role of norm or model in unquestionable ways. Autonomy, by contrast, implies the right to accept or reject such norms or standards according to their appropriateness to one's self-definition. Struggles for equality . . . imply an acceptance of given standards and a conformity to their expectations and requirements. Struggles for autonomy, on the other hand, imply the right to reject such standards and create new ones. (Gross 1986: 193)

Gross assumes that sex equality must be interpreted in terms of eliminating arbitrary discrimination. But the dominance approach is also an interpretation of equality, and if we accept it, then autonomy becomes a part of the best theory of sexual equality, not a competing value. The argument for women's autonomy appeals to, rather than conflicts with, the deeper idea of moral equality, for it asserts that women's interests and experiences should be equally important in shaping social life. As Zillah Eisenstein puts it, 'equality in this sense means individuals' having equal value as human beings. In this vision equality does not mean to be like men, as they are today, or to have equality with one's oppressors' (Eisenstein 1984: 253).

So the dominance approach shares with mainstream theorists the commitment to equality. But is it consistent with the way mainstream theorists interpret that commitment? Is there anything which prevents the theorists we have examined in previous chapters from adopting the dominance approach to sex equality? It is possible that both communitarianism and libertarianism would reject the dominance approach. Communitarians might object to this approach since it supposes that people can put in question their social roles in a way that some communitarians deny or disapprove of (Ch. 6, s. 6).<sup>7</sup> And since libertarians reject even the formal principle of non-discrimination underlying the difference approach, they are hardly going to accept the dominance approach. For libertarians, employers should be free to design their jobs however they see fit, and indeed to engage in old-fashioned discrimination if they want: if an employer says he will not hire any women, that is a legitimate exercise of his private property rights.<sup>8</sup>

Can liberal theories adopt the dominance approach? MacKinnon argues that the dominance approach takes us beyond the basic principles of liberalism. And it is certainly true that liberal theorists, like other malestream theorists, have historically accepted the difference approach to sex equality, and, as a result, have not seriously attacked women's subordination. But one can argue that liberals are betraying their own principles in adopting the difference approach.<sup>9</sup> Indeed the disjunction between the difference approach and liberal principles seems obvious. Liberalism's commitment to autonomy and equal opportunity, and to an ambition-sensitive, endowment-insensitive distribution of resources, would seem to rule out traditional gender divisions. There seems to be no reason why the gender bias of existing social roles would not be recognized by the contractors in Rawls's original position as a source of injustice. While Rawls himself says nothing about how his contractors would interpret sex equality, others have argued that the logic of Rawls's construction—i.e. the commitment to eliminating undeserved inequalities, and to the freedom to choose our ends—requires radical reform. For example, Karen Green argues that the contractors' interest in equal liberty requires redistributing domestic labour (Green 1986: 31–5). And Susan Okin argues that Rawls's contractors would insist on a more complete attack on the system of gender differentiation, eliminating both the unequal domestic division of labour and sexual objectification (Okin 1987: 67–8; 1989b: 173–86; cf. Kittay 1995).<sup>10</sup> Similar conclusions about the injustice of traditional gender roles can be reached if we ask whether these roles pass Dworkin's test of fairness (cf. Ch. 3, s. 5 above).

However, this is not to say that it will be easy for liberals to incorporate this stronger account of sexual equality. The dominance approach may require liberals to revise or abandon traditional assumptions about the relationship

between public and private, and between justice and care. I will explore these challenges in the next two sections.

## 2. THE PUBLIC AND THE PRIVATE

If we employ the dominance approach to sex equality, one of the central issues concerns the unequal distribution of domestic labour, and the relationship between family and workplace responsibilities. But mainstream theorists have been wary of confronting family relations and judging them in the light of standards of justice. Classical liberals, for example, assumed that the (male-headed) family is a biologically determined unit, and that justice only refers to the conventionally determined relations between families (Pateman 1980: 22–4). Hence the natural equality they discuss is of fathers as representatives of families, and the social contract they discuss governs relations between families. Justice refers to the ‘public’ realm, where adult men deal with other adult men in accordance with mutually agreed upon conventions. Familial relationships, on the other hand, are ‘private’, governed by natural instinct or sympathy.

Contemporary theorists deny that only men are capable of acting within the public realm. But while sexual equality is now affirmed, this equality is still assumed, as in classical liberal theory, to apply to relations outside the family. Theorists of justice continue to ignore relations within the family, which is assumed to be an essentially natural realm. And it is still assumed, implicitly or explicitly, that the natural family unit is the traditional male-headed family, with women performing the unpaid domestic and reproductive work. For example, while J. S. Mill emphasized that women were equally capable of achievement in all spheres of endeavour, he assumed that women would continue to do the domestic work. He says that the sexual division of labour within the family is ‘already made by consent, or at all events not by law, but by general custom’, and he defends this as ‘the most suitable division of labour between the two persons’:

Like a man when he chooses a profession, so, when a woman marries, it may in general be understood that she makes choice of the management of a household, and the bringing up of a family, as the first call upon her exertions, during as many years of her life as may be required for the purpose; and that she renounces, not all other objects and occupations, but all which are not consistent with the requirements of this. (Mill and Mill 1970: 179; cf. Donner 1993)

While contemporary theorists are rarely as explicit as Mill, they implicitly share his assumption about women’s role in the family (or if they don’t, they say nothing about how domestic labour should be rewarded or distributed).

For example, while Rawls says that the family is one of the social institutions to be evaluated by a theory of justice, he simply assumes that the traditional family is just, and goes on to measure just distributions in terms of the ‘household income’ which accrues to ‘heads of households’, so that questions of justice within the family are ruled out of court.<sup>11</sup> The neglect of the family has even been present in much of liberal feminism, which ‘accepted the division between the public and private sphere, and chose to seek equality primarily in the public sphere’ (Evans 1979: 19).

The limits of any approach to sex equality that neglects the family have become increasingly clear. As we’ve seen, the result of women’s ‘double-day’ of work is that women are disproportionately concentrated in low-paying, part-time work, which in turn makes them economically dependent. But even if this economic vulnerability were removed—for example, by guaranteeing an annual income to everyone—there is still an injustice because women are presented with a choice between family and career that men do not face.<sup>12</sup> Mill’s claim that a woman who enters a marriage accepts a full-time occupation, just like a man entering a profession, is strikingly unfair. After all, men also enter marriage—why should marriage have such different and unequal consequences for men and women? The desire to be a part of a family should not preclude one’s having a career, and in so far as it does have unavoidable consequences for careers, they should be borne equally by men and women.

Moreover, there remains the question of why domestic labour is not given greater public recognition. Even if men and women share the unpaid domestic labour, this would hardly count as genuine sexual equality if the reason why it was devalued was that our culture devalues ‘women’s work’, or anything ‘feminine’. Sexism can be present not only in the distribution of domestic labour, but also in its evaluation. And since the devaluation of housework is tied to the broader devaluation of women’s work, then part of the struggle for increased respect for women will involve increased respect for their contribution to the family. The family is therefore at the centre of both the cultural devaluation and economic dependence which attach to women’s traditional roles. And the predictable result is that men have unequal power in most marriages, power which is exercised in decisions concerning work, leisure, sex, consumption, etc., and which is also exercised, in a significant minority of marriages, in acts or threats of domestic violence (Okin 1989b: 128–30).<sup>13</sup>

The family is therefore an important locus of the struggle for sexual equality. There is an increasing consensus amongst feminists that the fight for sex equality must go beyond public discrimination to the patterns of domestic labour and women’s devaluation in the private sphere. In fact, Carole Pateman says that the ‘dichotomy between the public and the private . . . is, ultimately, what feminism is all about’ (Pateman 1987: 103).

Confronting the injustice of the private sphere requires substantial changes



in family life. But what changes does it require of theories of justice? As we have seen, the failure to confront gender inequalities in the family can be seen as a betrayal of liberal principles of autonomy and equal opportunity. According to some feminist critics, however, liberals refuse to intervene in the family, even to advance liberal goals of autonomy and equal opportunity, because they are committed to a public-private distinction, and because they see the family as the centre of the private sphere. Thus Jaggar argues that because the liberal right to privacy 'encompasses and protects the personal intimacies of the home, the family, marriage, motherhood, procreation, and child rearing', any liberal proposals to intervene in the family in the name of justice 'represent a clear departure from this traditional liberal conception of the family as the center of private life . . . as the liberal feminist emphasis on justice comes increasingly to overshadow its respect for so-called private life, one may begin to wonder whether the basic values of liberalism are ultimately consistent with one another' (Jaggar 1983: 199). In other words, liberals must give up either their commitment to sexual equality, or their commitment to the public-private distinction.

However, it is not clear that 'the traditional liberal conception' views the family 'as the center of private life'. There are in fact two different conceptions of the public-private distinction in liberalism: the first, which originated in Locke, is the distinction between the political and the social; the second, which arose with Romantic-influenced liberals, is the distinction between the social and the personal. Neither explains or justifies giving the family immunity from legal reform. Indeed, each distinction, if applied to the family, provides grounds for criticizing the traditional patriarchal family.

#### (a) State and civil society

The first version of liberalism's public-private distinction concerns the relationship between civil society and the state, or between the social sphere and the political sphere. As we discussed in Chapter 7, Aristotle and other ancient political thinkers assumed that freedom and the good life consisted in active participation in the exercise of political power, rather than in 'merely social' activities (Arendt 1959: 24). For liberals, by contrast, freedom and the good life are to be found primarily in the pursuit of our personal occupations and attachments in civil society, and the main function of politics is to protect our personal freedoms in civil society.

This is the first form of liberalism's public-private distinction—we can call it the 'state-society' distinction, since it equates the public with the state, and the private with civil society. It is important to recall that liberals privilege the private sphere of civil society: liberalism involves a 'glorification of society', since it supposes that the private (non-state) associations which individuals freely form and maintain in civil society are more meaningful and satisfying

than the coerced unity of political association (Wolin 1960: 363). By contrast, contemporary Aristotelian civic republicans would like to return to the older model where political participation was seen as the privileged locus of the good life, and social life was seen as just a means to sustain political life.

Where does the family fit into this state-society distinction? One might think that it falls naturally into the private realm of civil society, since families are one of the associations that people freely form. But as many feminists have noted, most liberal descriptions of the social realm make it sound as if it contains only adult (and able-bodied) men, neglecting the labour needed to raise and nourish these participants, labour performed mainly by women, mainly in the family. As Pateman notes, 'liberalism conceptualizes civil society in abstraction from ascriptive domestic life', and so 'the latter remains "forgotten" in theoretical discussion. The separation between private and public is thus [presented] as a division *within* . . . the world of men. The separation is then expressed in a number of different ways, not only private and public but also, for example, "society" and "state"; or "economy" and "politics"; or "freedom" and "coercion"; or "social" and "political"' (Pateman 1987: 107), all of which are divisions 'within the world of men'.

Domestic life, in other words, has tended to fall outside both state and civil society. Why is the family excluded from civil society? The answer cannot be that it is excluded because it falls into the private realm, for the problem here is precisely that it is *not* viewed as part of the private (social) realm, which is the realm of liberal freedom. This exclusion of the family is surprising, in one sense, for the family seems a paradigmatically social institution, potentially based on just the sort of voluntary cooperation that liberals admired in the rest of society, yet traditionally mired in just the sort of ascriptive restrictions which liberals abhorred in feudalism. Yet liberals who were concerned with protecting men's ability to participate freely in social life have not been concerned with ensuring either that domestic life is organized along principles of equality and consent, or that domestic arrangements do not impede women's access to other forms of social life.

Why did liberals, who opposed ascriptive hierarchy in the realm of science, religion, culture, and economics, show no interest in doing the same for the domestic sphere?<sup>14</sup> Part of the answer, no doubt, is that male philosophers had no interest in questioning a sexual division of labour from which they benefited. This was rationalized at the level of theory through the assumption that domestic roles are 'natural' and biologically fixed, an assumption grounded either in claims of women's inferiority, or in the more recent ideology of the sentimental family, which says that the sentimental tie which naturally arises between mother and child is incompatible with the character traits needed for social or political life (Okin 1981).

Most liberal theorists historically have invoked one or other of these

assumptions to justify excluding the family from the liberal conception of civil society. On this basis, liberals have accepted a sharp separation between the female domestic sphere and the male public sphere (including both civil society and politics). We can call this the traditional patriarchal 'domestic/public' distinction, and liberals took this distinction for granted when developing their accounts of the distinction between the state and civil society. As Pateman rightly notes, liberal accounts of the state-society distinction describe it as a distinction 'within the world of men', with women assumed to be at home in the domestic sphere, where they 'naturally' belong.

However, it is important to note that these assumptions about women's roles or capacities were not invented by liberals—on the contrary, they predate the rise of liberalism by several centuries or even millennia. They are essentially pre-liberal views, and there is no logical or historical connection between them and acceptance of the liberal state-society distinction. The sad fact of the matter is that almost all political theorists in the Western tradition, whatever their views on the state-society distinction, have accepted one or other of these justifications for separating domestic life from the rest of society, and for relegating women to it. As Kennedy and Mendus note, 'In almost all respects the theories of Adam Smith and Hegel, of Kant and Mill, of Rousseau and Nietzsche are poles apart, but in their treatment of women, these otherwise diverse philosophers present a surprisingly united front.' Male theorists on all points of the political spectrum have accepted that 'the confinement of women to the [domestic] sphere is justified by reference to women's particularistic, emotional, non-universal nature. Since she knows only the bonds of love and friendship, she will be a dangerous person in political life, prepared, perhaps, to sacrifice the wider public interest to some personal tie or private preference' (Kennedy and Mendus 1987: 3–4, 10).

In other words, liberals inherited this sharp separation between the (female) domestic world and the (male) public world, and endorsed it for the same reasons that earlier non-liberals endorsed it—i.e. assumptions about women's natural role. The fact that liberals emphasized the importance of a non-political realm of civil society, and rejected the Aristotelian privileging of politics over society, was not the cause or explanation of their views about the family.<sup>15</sup> In fact, those civic republican theorists who reject the liberal state-society distinction have, if anything, tended to sharpen the traditional distinction between the female domestic world and the male public world. For example, while the ancient Greeks had no conception of the sort of free social realm which liberals favour, they did have a sharp distinction between the domestic household and the public realm which condemned women to public invisibility (Elshtain 1981: 22; Arendt 1959: 24; Kennedy and Mendus 1987: 6). Far from denying the domestic-public split, 'at the root of Greek political consciousness we find an unequalled clarity and articulateness in drawing this

distinction' (Arendt 1959: 37). Similarly, while Rousseau opposed the liberal glorification of society over the state, he presented his vision of a politically integrated society 'as though it were and should be entirely male, supported by the private female familial structure' (Eisenstein 1981: 77; cf. Elshtain 1981: 165; Pateman 1975: 464). Indeed, he endorsed the Greek view that when women married, 'they disappeared from public life; within the four walls of their home they devoted themselves to the care of their household and family. This is the mode of life prescribed for women alike by nature and reason' (Rousseau, quoted in Eisenstein 1981: 66). And while Hegel rejected liberalism's 'radical separation' between state and society, his theory 'provides the most graphic example of the way the sentimental domestic family has been used to define women's capacities, and to justify their subordination, lack of education, and exclusion from the public realms of the market, citizenship, and intellectual life' (Elshtain 1981: 176; Okin 1981: 85).

So the liberal state-society distinction is different from the traditional domestic-public distinction. Aristotelian republican theorists who reject the former often support the latter. Conversely, accepting the former is consistent with rejecting the latter. Indeed, as we have seen, the reasons liberals give for valuing civil society also seem to argue for reconceptualizing the family on the basis of personal autonomy rather than ascriptive hierarchy, and for ensuring that it allows rather than precludes participation in wider social life.

Are there any feminist grounds for rejecting the liberal state-society distinction, once we distinguish it from the traditional domestic-public distinction? I believe that most contemporary feminists accept the essential features of the liberal view of the relationship between state and society, and reject the Aristotelian republican attempt to privilege politics over society.<sup>16</sup> For one thing, the Aristotelian glorification of the political sphere is based on a nature-culture dualism of just the sort that many feminists have argued is at the root of the cultural devaluation of women in our society. One important strand in the devaluation of women's work, particularly in bearing and rearing children, is the idea that it is merely natural, a matter of biological instinct rather than conscious intentions or cultural knowledge (V. Held 1993: 112–37). Thus women are associated with the merely animal functions of domestic labour, whereas men achieve truly human lives and true freedom by separating themselves as much as possible from the domestic sphere of 'natural' functions or instincts.

The Aristotelian claim that politics is a higher form of life often rests on a similar view—i.e. that social life, like domestic life, is mired in merely natural activities. According to Greek thought, social life remains 'in nature's prescribed cycle, toiling and resting, laboring and consuming, with the same happy and purposeless regularity with which day and night and life and death follow each other' (Arendt 1959: 106). This 'purposeless regularity' of everyday life is ultimately insignificant, destined to pass into the dust from which it



came. Only politics is citizens' 'guarantee against the futility of life' (Arendt 1959: 56). Because Aristotelian politics attempts to transcend nature's cycles, 'it was a matter of course that the mastering of the necessities of life in the household was the condition for freedom of the polis . . . household life exists for the sake of the "good life" in the polis' (Arendt 1959: 30–1, 37). Indeed, 'no activity that served only the purpose of making a living, of sustaining only the life process, was permitted to enter the political realm' (Arendt 1959: 37; cf. Young 1989: 253).

It is difficult to imagine a conception of the purpose and value of public life in sharper opposition to Adrienne Rich's account of women's commitment to 'world-protection, world-preservation, world-repair . . . the invisible weaving of a frayed and threadbare family life' (Rich 1979: 205–6).<sup>17</sup> Indeed, as Anne Phillips puts it, 'there seem few traditions worse suited to an alliance with feminism than one [republicanism] that has viewed freedom as a matter of what goes on in the public rather than the private realm, and has regarded the homely activities of the domestic sphere as a drain on the manly heroisms of public life' (Phillips 2000: 279).

Moreover, since the priority of politics over society often rests on its alleged universality or commonality, protection of this universality requires separating politics from the realm of particularity, and that has invariably meant separating it from domestic concerns. As Iris Young notes,

in extolling the virtues of citizenship as participation in a universal public realm, [civic republicans] expressed a flight from sexual difference . . . Extolling a public realm of manly virtue and citizenship as independence, generality, and dispassionate reason entailed creating the private sphere of the family as the place in which emotion, sentiment, and bodily needs must be confined. The generality of the public thus depends on excluding women. (Young 1989: 253–4; cf. Phillips 2000: 285–6)

Unlike the Aristotelian republicans who value politics as the transcendence of nature and particularity, feminists and liberals share a basic commitment to viewing public power as a means for the protection of particular interests, needs, and social relationships.

This does not show that feminists and liberals agree on all aspects of the relationship between state and society. Even if we agree that political power should be justified in terms of the promotion of private interests in civil society, there are many areas of potential disagreement. For example, as I noted in Chapter 6 (pp. 246–52), liberals tend to view civil society as stable and self-adjusting: so long as individuals' rights to form and maintain associations are adequately safeguarded, we can safely assume that a vibrant and flourishing civil society will exist. But we might think this is overly optimistic, and that individuals will not, by themselves, maintain the web of social relationships passed down to them. Perhaps people will opt in and out of all social ties

with such dizzying rapidity that society will disintegrate unless the state actively intervenes to encourage social groups. This concern was raised by some communitarian theorists (see Ch. 6, s. 8), and, in so far as feminists share it, they may want government to encourage the maintenance of certain social ties, including familial ones, and make exit from those ties more difficult.

Relatedly, feminists may not share the typical liberal faith that freedom of speech and the press will counteract prejudice and stereotypes, including traditional gender stereotypes, and so may endorse stronger government policies to fight demeaning cultural images of women. Liberals tend to think that if everyone has free and fair access to the means of expression and association, then truth will win out over falsity, and understanding over prejudice, without governments having to monitor these cultural developments (see Ch. 6, s. 8). Put another way, liberals tend to believe that cultural oppression cannot survive under conditions of civil freedom and material equality. So once women have achieved effective protection of their civil and political liberties, and gained equal material resources, then demeaning stereotypes and images of women will inevitably be contested and fade away.

But feminists may view this as overly optimistic. There may be some false and pernicious cultural representations that survive and even flourish in a free and fair fight with truth. Pornography and sexist advertising are cases in point. Liberals typically say that while pornography and sexist advertising may offer a false representation of women's sexuality, this is not sufficient grounds for legally restricting it, not because ideas are powerless, but because freedom of speech and association in civil society is a better testing ground for ideas than the coercive apparatus of the state. To some people, this will seem an unwarranted naivety about the power of free speech in civil society to weed out cultural oppression. As MacKinnon puts it, if free speech helps discover truth, 'why are we now—with more pornography available than ever before—buried in all these lies?' (MacKinnon 1987: 155). She argues that this faith in free speech shows that 'liberal morality cannot deal with illusions that constitute reality' (MacKinnon 1987: 162).

As a result, the problem of 'adaptive preferences' may be more serious than liberals suppose. As discussed in Chapter 2, there is strong evidence that people adapt their preferences to conform to what social and cultural norms define as normal or acceptable (pp. 15–16 above). If the prevailing cultural images define women's role as primarily to serve men, then women may adapt their preferences to fit this image. This is one reason why we cannot take the existence of 'contented housewives' (or 'contented slaves') as proof that there is no injustice. Liberals and feminists agree that it is important that people form their preferences and goals under conditions of non-oppression, free from fear or ignorance or prejudice. But whereas liberals tend to think that these conditions of non-oppression can be secured through firmer protection

of individual rights and distributive justice, some feminists believe that active state policies are needed to challenge and overcome the long history of negative stereotyping of women in the schools, media, advertising, and so on.<sup>18</sup>

While these areas of possible dispute between liberals and feminists are of the first importance (and involve some of the empirical questions about state and culture that I raised at the end of Chapter 6), they are located within a shared commitment to the priority of social life over politics.

### (b) The personal and the social: the right to privacy

The original liberal public-private split has been supplemented in the last hundred years by a second distinction, one which separates the personal or the intimate from the public, where the 'public' includes both state and civil society. This second distinction arose primarily amongst Romantics, not liberals, and indeed arose partly in opposition to the liberal glorification of society. Whereas classical liberals emphasized society as the basic realm of personal freedom, Romantics emphasized the effects of social conformity on individuality. Individuality was threatened not only by political coercion, but also by the seemingly omnipresent pressure of social expectations. For Romantics, 'private' means

detachment from mundane existence, [and] is associated with self-development, self-expression, and artistic creation . . . In classical liberal thought, by contrast, 'private' refers to society, not personal retreat, and society is a domain of free rational activity rather than expressive licence. Liberalism protects this sphere by restricting the exercise of governmental power and by enumerating rival liberties. Pure romanticism and conventional liberalism are separated not only by their notions of private life, but also by their motivations for designating a privileged private sphere. (Rosenblum 1987: 59)

Romantics included social life in the public realm because the bonds of civil society, while non-political, still subject individuals to the judgement and possible censure of others. The presence of others can be distracting, disconcerting, or simply tiring. Individuals need time for themselves, away from public life, to contemplate, experiment with unpopular ideas, regenerate strength, and nurture intimate relationships.<sup>19</sup> In these matters, social life can be just as demanding as political life. In fact, 'modern privacy in its most relevant functions, to shelter the intimate, was discovered as the opposite not of the political sphere but of the social' (Arendt 1959: 38; cf. Benn and Gaus 1983: 53). Hence Romantics viewed 'every formal association with others except for intimate relations like friendship or love' as public (Rosenblum 1987: 67).

While this second public-private distinction arose in opposition to liberalism, modern liberals have accepted much of the Romantic view, and have tried to integrate its emphasis on social pressures with the classical liberal

emphasis on social freedom. The Romantic emphasis on privacy in fact coincided with liberal fears about the coercive power groups exercised over their own members in professional associations, labour unions, educational institutions, etc., and about the more generalized pressure for social uniformity, against which the plurality of associations and the marketplace of ideas provided inadequate protection for individuality. As a result, modern liberalism is concerned not only to protect the private sphere of social life, but also to carve out a realm *within the private sphere* where individuals can have *privacy*. Private life, for liberals, now means both active involvement in the institutions of civil society, as classical liberals emphasized, and personal retreat from that ordered social life, as Romantics emphasized.<sup>20</sup>

This second form of liberalism's public-private distinction is often discussed under its legal guise of a 'right to privacy'. Like the first public-private distinction, it has become the target of feminist criticism. The decision which gave the right to privacy constitutional status in the United States, *Griswold v. Connecticut* (381 US 479 [1965]), was initially seen as a victory for women, since it ruled that laws which denied access to contraception to married women violated the right of privacy. But it has since become clear that this right, as interpreted by the American Supreme Court, can also be a hindrance to further reform of women's domestic oppression. The idea of a right to privacy has been interpreted to mean that any outside interference in the family is a violation of privacy. As a result, it has served to immunize the family from reforms designed to protect women's interests—for example, state intervention which would protect women against domestic violence and marital rape, or empower women to sue for non-support, or officially recognize the value of domestic labour (Taub and Schneider 1982: 122; Seigal 1996: 2157-74; Gavison 1992: 35-7). According to MacKinnon, the right to privacy 'reinforces the division between public and private that . . . keeps the private beyond public redress and depoliticizes women's subjection within it' (MacKinnon 1987: 102). Indeed, she says that 'the doctrine of privacy has become the triumph of the state's abdication of women' (MacKinnon 1991: 1311).

Hence this second public-private distinction has reinforced the tendency to exempt family relations from the test of public justice. But there is something unusual about the Supreme Court's interpretation of the right to privacy, for it defines individual privacy in terms of the collective privacy of the family. The right to privacy has been held to attach to families as units, not to their individual members. As a result, individuals have no claim to privacy within the family. If two people enter a marriage, the right to privacy guarantees that the state will not interfere with the couple's domestic decisions. But if the woman has no privacy within her marriage to begin with, and no power in the making of those decisions, then this right of family privacy will not provide

her with any individual privacy, and indeed it precludes the state from taking action to protect her privacy.

Indeed, this family-based conception of privacy fails women in two ways. On the one hand, it has failed to protect women's desire for privacy when threatened by abusive husbands or fathers. On the other hand, it has condoned the *involuntary* privacy of women—i.e. it has condoned the unwanted isolation, seclusion, or forced modesty of mothers and daughters who desired to escape from confinement of domestic roles to participate in public life. As Anita Allen puts it, women's 'privacy problem' is both 'the problem of getting rid of unwanted forms of privacy' and 'acquiring the privacy they do not have' (Allen 1988: 180–1; cf. Allen 1999: 743–4; McClain 1999a: 770–1). For women to get the right kind of privacy requires applying the right of privacy to individuals, not just to collective units like the family.

There are some cases where the Court has explicitly appealed to the woman's individual privacy, even within the family. But they seem to be the exception to the rule (Eichbaum 1979). Why haven't family relations been subjected to the test of individual privacy? The answer cannot be that the family is viewed as the heart of private life, because the problem here is precisely that the notion of privacy which is applied elsewhere is not applied to family relations. As June Eichbaum puts it, the idea of family-based privacy contradicts the whole point of a right to privacy: 'a right of privacy which protects the interests of a collective unit, the family, at the expense of individual autonomy, ignores the human necessity for privacy altogether and necessarily obfuscates privacy's deeper meaning' (Eichbaum 1979: 368). Protecting the family from state intervention does not necessarily guarantee women (or children) a sphere for personal retreat from the presence of others, or from the pressure to conform to others' expectations.

Why has the Supreme Court interpreted privacy as family-based? The answer seems to lie in the lingering influence of pre-liberal ideas about the naturalness of the traditional family. This is evident in the long tradition of judicial defences of the sanctity of the family, of which the 'right to privacy' is just the latest instalment. The first defence of family-based privacy was the *paterfamilias* doctrine, under which 'the family household was conceived as an extension of the personality of the *pater familias*', so that 'intervening in a man's family affairs was an invasion of his personal private sphere . . . in essence no different from requiring him to take baths more often' (Benn and Gaus 1983: 38). Under this doctrine, women became the husband's property on marriage, and so ceased to be persons under the law, their interests defined by, and submerged in, the family, which was taken to be their natural position. With the gradual recognition of the rights of other members of the household, there were challenges to the father's authority. But the legitimization of the traditional family provided by the *paterfamilias* doctrine was reaffirmed

by conservative courts through a doctrine of 'family autonomy' in the 1920s. While the household was not the father's property, the basic structure of the traditional family remained immune to judicial reform because it was seen as a bastion of civilization, and a precondition for social stability (e.g. *Meyer v. Nebraska*, 262 US 390 [1923]).

With the changing view of the family in the 1960s, the family autonomy doctrine in turn was challenged, and the Court needed a new justification for leaving the family alone. The emerging emphasis on privacy was a tempting replacement, for the liberal concern with individual intimacy partially overlapped with the conservative concern with family autonomy, and provided some modern legitimacy for that old policy. But the change is more cosmetic than real, for what the Court means by privacy is remarkably similar to what was previously meant by *paterfamilias* or family autonomy.<sup>21</sup> Indeed, the American Supreme Court has not denied that its family-based right to privacy is a continuation of the old family autonomy doctrine. The Court has justified its emphasis on marital privacy by stressing 'the ancient and sacred character of marriage as the basis of their decisions' (Grey 1980: 84–5; cf. Eichbaum 1979: 372). Conversely, the Court has denied even the most basic components of a liberal conception of individual privacy if they are not tied to the traditional family structure—for example, the Supreme Court continues to uphold laws criminalizing homosexual relations between consenting adults in their own homes, and to deny that these laws are a violation of anyone's right to privacy (*Bowers v. Hardwick*, 478 US 186 [1986]).

Thus the Romantic ideal of individual privacy came into the law fused with the conservative ideal of the heterosexual, officially organized family as a bastion of society. While the Court invokes the language of a liberal public-private distinction, it is in fact invoking the traditional pre-liberal domestic-public distinction, one which subordinates individual privacy to family autonomy. MacKinnon notes that

it is probably not coincidental that the very things feminism regards as central to the subjection of women—the very place, the body; the very relations, heterosexual; the very activities, intercourse and reproduction; and the very feelings, intimate—form the core of what is covered by privacy doctrine. From this perspective, the legal concept of privacy can and has shielded the place of battery, marital rape, and women's exploited labour; has preserved the central institutions whereby women are *deprived* of identity, autonomy, control and self-definition . . . this right to privacy is a right of men 'to be let alone' to oppress women one at a time . . . It keeps some men out of the bedrooms of other men. (MacKinnon 1987: 101–2)

The reason it is not coincidental that the right to privacy has immunized the domestic sphere is not that liberal privacy entails protecting domesticity, but rather that the conservative protectors of domesticity have adopted the language of liberal privacy.

Once it is detached from patriarchal ideas of family autonomy, I believe that most feminists share the basic liberal motivations for respecting privacy—i.e. the value of having some freedom from distraction and from the incessant demands of others, and the value of having room to experiment with unpopular ideas and to nourish intimate relationships. (Consider Virginia Woolf's well-known claim that every woman should have 'a room of her own'.) As Allen puts it, 'feminist critiques of privacy leave the liberal conceptions of privacy of private choice very much alive. The longing for personal time and personal decisionmaking can linger long after the grip of patriarchy over women's bodies and lives is loosened' (Allen 1999: 750).<sup>22</sup>

In any event, liberalism's conception of privacy, like its state-society distinction, is not a defence of the traditional domestic-public split. For intimacy needs defending outside the traditional family, and solitude needs to be defended within the family. The line between privacy and non-private, therefore, cuts across the traditional domestic-public distinction. While we hope that the family forms a 'realm of privacy and personal retreat', for many people the family is itself an institution from which they desire privacy, and state action may be needed within the domestic sphere to protect privacy and prevent abuse. And nothing in either the liberal state-society distinction or the liberal right to privacy doctrine prevents such action. As Rawls puts it, 'if the private sphere is alleged to be a space exempt from justice, then there is no such thing', for the 'equal rights of women and the basic rights of their children as future citizens are inalienable and protect them wherever they are' (Rawls 1997: 791).<sup>23</sup>

Given the centrality of the family to the system of sexual inequality, it is crucially important that theories of justice pay attention to the effects of family organization on women's lives. The refusal of mainstream theories to do this is often explained by saying that the family has been relegated to the private realm. But in a sense this underestimates the problem. The family has not so much been relegated to the private realm, as simply ignored entirely.<sup>24</sup> And women's interests are harmed by the failure of political theory to examine the family in either its public or private components. For the gender roles associated with the traditional family are in conflict not only with public ideals of equal rights and resources, but also with the liberal understanding of the conditions and values of private life.

### 3. AN ETHIC OF CARE

One consequence of the traditional patriarchal public-domestic distinction, and of the relegation of women to the domestic sphere, is that men and women have become associated with different modes of thought and feeling.

Throughout the history of Western philosophy, we find political theorists distinguishing the intuitive, emotional, particularistic dispositions said to be required for women's domestic life from the rational, impartial, and dispassionate thought said to be required for men's public life. Morality

is fragmented into a 'division of moral labour' along the lines of gender . . . The tasks of governing, regulating social order, and managing other 'public' institutions have been monopolized by men as their privileged domain, and the tasks of sustaining privatized personal relationships have been imposed on, or left to, women. The genders have thus been conceived in terms of special and distinctive moral projects. Justice and rights have structured male norms, values, and virtues, while care and responsiveness have defined female moral norms, values, and virtues. (Friedman 1987a: 94)

These two 'moral projects' have been viewed as fundamentally different, indeed conflicting, such that women's particularistic dispositions, while functional for family life, are seen as subversive of the impartial justice required for public life. Hence the health of the public has been said to depend on the exclusion of women (Okin 1990; Pateman 1980, 1989).

Because this contrast has historically been used to justify patriarchy, early feminists like Mary Wollstonecraft argued that women's particularistic emotional nature was simply the result of the fact that women were denied the opportunity to fully develop their rational capacities. If women thought only of the needs of the people around them, ignoring the needs of the general public, it was because they were forcibly prevented from accepting public responsibilities (Pateman 1980: 31). Some contemporary feminists argue that the whole tradition of distinguishing 'masculine' and 'feminine' morality is a cultural myth that has no empirical basis. But there is a significant strand of contemporary feminism which argues that we should take seriously women's different morality—we should view it as a mode of moral reasoning, not simply intuitive feeling, and as a source of moral insight, not simply the artificial result of sexual inequality. Where male theorists claimed that women's dispositions were intuitive in nature and private in scope, some feminists argue that they are rational and potentially public in scope. The particularistic thought women employ is a better morality than the impartial thought men employ in the public sphere, or at least a necessary complement to it, especially once we recognize that sex equality requires a breaking down of the traditional public-domestic dichotomy.

The renewed feminist interest in women's modes of moral reasoning largely stems from Carol Gilligan's studies of women's moral development. According to Gilligan, men's and women's moral sensibilities do in fact tend to develop differently. Women tend to reason in a 'different voice', which she summarizes this way:

In this conception, the moral problem arises from conflicting responsibilities rather than from competing rights, and requires for its resolution a mode of thinking that is contextual and narrative rather than formal and abstract. This conception of morality as concerned with the activity of care centers moral development around the understanding of responsibility and relationships, just as the conception of morality as fairness ties moral development to the understanding of rights and rules. (Gilligan 1982: 19)

These two 'voices' have been characterized in terms of an 'ethic of care' and an 'ethic of justice', which, Gilligan claims, are 'fundamentally incompatible' (Gilligan 1986: 238).

There is some controversy as to whether this different voice really exists, and, if it does, whether it is significantly correlated with gender. Some people argue that while there are two distinct moral voices of care and justice, men and women tend to employ both with roughly equal regularity. Others argue that while men and women often talk with a different voice, this obscures an underlying commonality: 'The moralization of gender is more a matter of how we *think* we reason than of how we actually reason.' We '*expect* women and men to exhibit this moral dichotomy', and, as a result, '*whatever* moral matters men concern themselves with are categorized, estimably, as matters of "justice and rights", whereas the moral concerns of women are assigned to the devalued categories of "care and personal relationships"' (Friedman 1987a: 96; cf. Baier 1987a: 48; Rooney 1991: 341). Perhaps men and women speak in a different voice, not because their actual thoughts differ, but because men feel they should be concerned with justice and rights, and women feel they should be concerned with preserving social relations.<sup>25</sup>

Whatever the empirical findings about gender differences, there remains the philosophical question of whether we can identify a care-based approach to political questions that competes with justice, and if there is, whether it is a superior approach. Some people have responded to Gilligan's findings by saying that the ethic of care, while a valid moral perspective, is not applicable outside the 'private' realm of friendship and family. It deals with the responsibilities we take on in virtue of participating in particular private relationships, rather than the obligations we owe to each other as members of the public (Kohlberg 1984: 358; Nunner-Winkler 1984). But many feminists argue that the care ethic, while initially developed in the context of private relationships, has public significance, and should be extended to public affairs.

What is the ethic of care? As is apparent in Gilligan's summary, there is more than one difference between the two moral voices. The differences can be looked at under three headings:<sup>26</sup>

(a) moral capacities: learning moral principles (justice) versus developing moral dispositions (care);

- (b) moral reasoning: solving problems by seeking principles that have universal applicability (justice) versus seeking responses that are appropriate to the particular case (care);
- (c) moral concepts: attending to rights and fairness (justice) versus attending to responsibilities and relationships (care).

I will look briefly at (a) and (b), before concentrating on (c), which I believe is the heart of the care-justice debate.

#### (a) Moral capacities

Joan Tronto says that the ethic of care 'involves a shift of the essential moral questions away from the question, What are the best principles? to the question, How will individuals best be equipped to act morally?' (Tronto 1987: 657). Being a moral person is less a matter of knowing correct principles, and more a matter of having the right dispositions—for example, the disposition to accurately perceive people's needs, and to imaginatively come up with ways of meeting them.

It is true that most contemporary theorists of justice concentrate more on determining correct principles than on explaining how individuals become 'equipped to act morally'. But the former leads naturally to the latter, for the justice ethic also requires these moral dispositions. While justice involves applying correct principles, 'what it takes to bring such principles to bear on individual situations involves qualities of character and sensibilities which are themselves moral and which go beyond the straightforward process of consulting a principle and then conforming one's will and action to it' (Blum 1988: 485). Consider, for example, the dispositions required for jurors to decide whether someone used 'reasonable precautions' in negligence cases, or to decide when pay differentials between traditionally male and female jobs are 'discriminatory'. To act justly in these circumstances, sensitivity to historical factors and current possibilities is as important as 'the intellectual task of generating or discovering the principle' (Blum 1988: 486; cf. Stocker 1987: 60). As we will see, there are some circumstances where it is important that principles of justice be easily interpreted, and their results easily predicted. But in many circumstances, moral sensitivities are required to see whether principles of justice are relevant to a situation, and to determine what those principles require. Hence justice theorists should join Gilligan in challenging the assumption that we need not worry about people's sensibilities or qualities other than their capacity for abstract reasoning (cf. Baier 1987b: 55). Even if justice involves applying abstract principles, people will only develop an effective 'sense of justice' if they learn a broad range of moral capacities, including the capacity for sympathetic and imaginative perception of the requirements of the particular situation (Nussbaum 1986: 304–6).

Why have justice theorists neglected the development of the affective capacities underlying our sense of justice? Perhaps because the sense of justice grows out of a sense of care which is initially learned within the family. It would be impossible to teach children about fairness unless they already learned within the family 'certain things about kindness and sensitivity to the aims and interests of others' (Flanagan and Jackson 1987: 635; cf. Baier 1987a: 42). Many justice theorists do recognize the role of the family in developing the sense of justice. Rawls, for example, has a lengthy discussion of how the sense of justice grows out of the moral environment of the family (Rawls 1971: 465–75). But this creates a contradiction within the justice tradition. As Okin puts it, 'in line with a long tradition of political philosophers', Rawls 'regards the family as a school of morality, a primary socializer of just citizens. At the same time, along with others in the tradition, he neglects the issue of the justice or injustice of the gendered family itself. The result is a central tension within the theory, which can be resolved only by opening up the question of justice within the family' (Okin 1989a: 231). Rawls begins his account of moral development by saying 'given that family institutions are just . . .' (Rawls 1971: 490). But, as we have seen, he does nothing to show that they are just. And 'if gendered family institutions are *not* just but are, rather, a relic of caste or feudal societies in which responsibilities, roles, and resources are distributed, not in accordance with the two principles of justice but in accordance with innate differences that are imbued with enormous social significance, then Rawls's whole structure of moral development seems to be built on uncertain ground' (Okin 1989a: 237; cf. Kearns 1983: 34–40). For example, what ensures that children are learning about equality rather than despotism, or reciprocity rather than exploitation? Investigating the justice of the family is important, therefore, not only as a potential site of inequality between adult men and women, but also as a school for the sense of justice in boys and girls.

Rather than confront these questions, most theorists of justice have been content to simply assume that people have somehow developed the requisite capacities. But while they say little about this, they do recognize that 'to have failed to develop in oneself the capacity to be considerate of others is to have failed morally, if only because many duties simply cannot be carried out by a cold and unfeeling moral agent' (Sommers 1987: 78).

### (b) Moral reasoning

So moral agents need 'the broader moral capacities' which Tronto discusses. But can these capacities take the place of principles? According to Tronto, the care ethic says that, *rather than* 'asserting moral principles', one's 'moral imagination, character, and actions must respond to the complexity of a given situation' (Tronto 1987: 657–8; cf. Baier 1987a: 40). In other words, these broader moral dispositions do not simply help individuals apply universal

principles, they render such principles unnecessary, and perhaps counter-productive. We should construe morality in terms of attending to a particular situation, not in terms of applying universal principles. 'The idea of a just and loving gaze directed upon an individual reality . . . is the characteristic and proper mark of the moral agent', and this sort of 'ethical caring' does not depend 'on rule or principle' (Iris Murdoch quoted in Grimshaw 1986: 234).<sup>27</sup>

But what does it mean to simply attend to the situation? After all, not all contextual features are relevant to moral decisions. In making moral decisions, we do not simply attend to the different features of the situation, we also judge their relative significance. And while we want people to be good at attending to the complexity of the situation, we also want them to be good at identifying which features of the situation are the morally significant ones. And this seems to raise questions of principle rather than sensitivity: 'We have been told nothing about [the care ethic] until we are told what features of situations context-sensitive people pick out as morally salient, what weightings they put on these different features, and so on . . . we simply need to know more, in a detailed way, about to what and to whom women feel responsible, and about exactly what it is they care about?' (Flanagan and Adler 1983: 592; Sher 1987: 180).

Ruddick claims that while we do distinguish salient and irrelevant features of moral situations, these distinctions come from the very process of attending to the situation, rather than from external principles. Someone who attends closely to a particular situation will come to see it as making *demands* on us. But while some moral considerations may be readily observable to anyone who has developed the capacity for sympathetic attention to a particular situation, there are other relevant considerations which are less obvious. For example, when are job qualifications discriminatory? As we have seen, the existing job situation may 'demand' someone who is free of childcare responsibilities, or who has a certain height or strength. Since these are genuinely relevant criteria for the job, it is only within a broader social perspective that we can see how their combined effect is to create a system of sexual inequality. In these circumstances, knowing when relevant criteria are nonetheless discriminatory, or when reverse discrimination is nonetheless legitimate, requires more than sympathetic attention to the particular situation. In order to know when there is a legitimate moral demand for affirmative action, we need to place the particular situation within a broader theory of social and economic equality (Tronto 1993: 167–70; Bowden 1996: 163).

Moreover, even if we have perceived all the relevant demands, these demands can conflict, and so detailed attention may lead to indecision in the absence of higher-level principles. If one is faced with a conflict between the demands of current male candidates and those of future generations of women, patient attention to the situation may just bring out how painful the



conflict over affirmative action is. As Virginia Held notes, 'we have limited resources for caring. We cannot care for everyone or do everything a caring approach suggests. We need moral guidelines for ordering our priorities' (Held 1987: 119; Bubeck 1995: 199–214; Grimshaw 1986: 219).

Ruddick and Gilligan write as if appealing to principles involves abstracting from the particularity of the situation. But as Grimshaw notes, principles are not instructions to avoid examining the particulars, but rather are instructions about what to look for. Unlike 'rules', such as the ten commandments, which are intended as guides that can be applied without much reflection, a principle 'functions quite differently. It serves precisely to *invite* rather than *block* reflection', for it is 'a general consideration which one deems important to take into account when deciding what is the right thing to do' (Grimshaw 1986: 207–8; cf. O'Neill 1993). Every moral theory must have some account of such general considerations, and the sorts of considerations appealed to by theorists of justice often require, rather than conflict with, attention to particular details (Friedman 1987*b*: 203).<sup>28</sup>

Some care theorists claim that the tendency to appeal to principles to adjudicate conflicts pre-empts the more valuable tendency to work out solutions in which the conflicts are overcome. For example, Gilligan claims that when constructing moral problems in terms of justice or care, her subjects either 'stood back from the situation and appealed to a rule or principle for adjudicating the conflicting claims or they entered the situation in an effort to discover or create a way of responding to all of the needs' (Gilligan 1987: 27). And indeed she cites many cases where girls were able to find a solution that responds to all of the needs in the particular situation, a solution which boys missed in their haste to find a principled adjudication of the conflict. But there will not always be a way to accommodate conflicting demands, and it is not clear that we should always try to accommodate all demands. Consider the demands of racist or sexist codes of honour. These are clear 'demands', but many of them are illegitimate. The fact that white men expect to be treated in a deferential way is no reason to accommodate such expectations. Even if we could accommodate them, we might provoke a conflict in order to make clear our disapproval. If we are to question these demands, then 'attention cannot always be focused on the details and nuances of the particular situation', but rather must situate those details within some larger framework of normative principles (Grimshaw 1986: 238; Wilson 1988: 18–19).

### (c) Moral concepts

The question, then, is not whether we need principles, but rather what sort of principles. As I noted earlier, some writers have suggested that we face a basic choice between principles of 'rights and fairness' (in the justice approach), or principles of 'responsibilities and relationships' (in the care approach). It

seems to me that this basic distinction has been construed in at least three different ways in the literature:

- (i) universality versus concern for particular relationships;
- (ii) respect for common humanity versus respect for distinct individuality;
- (iii) claiming rights versus accepting responsibilities.

I will look at these in turn.

#### (i) *Universality versus preserving relationships*

One common way of distinguishing care and justice is to say that justice aims at universality or impartiality, whereas care aims at preserving the 'web of ongoing relationships' (Blum 1988: 473; Tronto 1987: 660). As Gilligan puts it, 'From a justice perspective, the self as moral agent stands as the figure against a ground of social relationships, judging the conflicting claims of self and others against a standard of equality or equal respect (the Categorical Imperative, the Golden Rule). From a care perspective, the relationship becomes the figure, defining self and others. Within the context of relationship, the self as a moral agent perceives and responds to the perception of need' (Gilligan 1987: 23). Hence, for Gilligan, 'morality is founded in a sense of concrete connection between persons, a direct sense of connection which exists prior to moral beliefs about what is right and wrong or which principles to accept. Moral action is meant to express and sustain those connections to particular other people' (Blum 1988: 476–7).

There is some ambiguity in the notion of the 'existing web of relationships'. On one view, this refers to historically rooted relationships with particular others. If interpreted this way, however, the care ethic runs the danger of excluding the most needy, since they are most likely to be outside the web of relationships. Many care theorists recognize this danger.<sup>29</sup> Tronto says that 'in focusing on the preservation of existing relationships, the perspective of care has a conservative quality', and that how to ensure 'that the web of relationships is spun widely enough so that some are not beyond its reach remains a central question. Whatever the weaknesses of Kantian universalism, its premise of the equal moral worth and dignity of all humans is attractive because it avoids this problem' (Tronto 1987: 660–1). But the question is not simply to explain *how* 'social institutions might be arranged to expand these conventional understandings of the boundaries of care', but *why* they should be rearranged, unless we accept a universalistic principle of equal moral worth. As Deveaux notes, care theories 'have tremendous difficulty in explaining how, or why, we should be motivated to aid strangers' (Deveaux 1995*b*: 94). Tronto's surprisingly tentative answer is that 'it may be possible to avoid the need for special pleading while at the same time stopping short of universal

moral principles; if so, an ethic of care might be viable' (Tronto 1987: 661, 660).<sup>30</sup>

Other care theorists, however, construe the 'existing web of relationships' in a more expansive way. Like Tronto, Gilligan says that 'each person is embedded within a web of ongoing relationships, and morality importantly if not exclusively consists in attention to, understanding of, and emotional responsiveness toward the individuals with whom one stands in these relationships' (Blum 1988: 473). But as Blum notes, 'Gilligan means this web to encompass all human beings and not only one's circle of acquaintances' (Blum 1988: 473). As one of the women in Gilligan's study puts it, we are responsible to 'that giant collection of everybody', so that 'the stranger is still another person belonging to that group, people you are connected to *by virtue of being another person*' (Gilligan 1982: 57, my emphasis; cf. Gilligan 1982: 74, 90, 160). For Gilligan, what joins people in this giant web of relationships is not necessarily any direct interaction, but rather a shared humanity. Since Gilligan's conception of the web of relationships *already* includes everyone, her commitment to preserving the web of relationships entails, rather than conflicts with, her claim that the motivation of the care ethic is 'that everyone will be responded to and included, that no one will be left alone or hurt' (Gilligan 1982: 63).

Of course, once care theorists say that each person is connected to us 'by virtue of being another person', then it seems that they too are committed to a principle of universality. As soon as care and concern 'are detached from the demands of unique and historically rooted relationships—as soon as they are said to be elicited merely by the affected parties' common humanity, or by the fact that those parties all have interests, or all can suffer', then 'we completely lose the contrast between the particularity of relationship and the generality of principle. Having lost it, we seem to be left with an approach that seeks to resolve moral dilemmas through sympathetic identification with all the affected parties.' And this sort of universality 'is at least closely related to that of the familiar impartial and benevolent observer' we find in Kantian and utilitarian theories (Sher 1987: 184). While Gilligan avoids the language of universality, her studies 'indicate that women's care and sense of responsibility for others are frequently universalized' (Okin 1990: 27; cf. Bubeck 1995: 193–4; Broughton 1983: 606; Kohlberg 1984: 356).

So the commitment to 'preserving the web of relationships' may or may not conflict with the commitment to universality, depending on how we interpret it. Much of the ethic of care literature has centred on the 'conflicted but creative tension' between the universalistic and more localized conceptions of our connection to others (Ruddick 1984b: 239). On the one hand, there is the impulse towards universalization: care theorists argue that we 'make moral progress . . . by expanding the scope of the injunctions to give care and to

maintain connections' (Meyers 1987: 142), even if this requires 'transforming' and 'generalizing' existing practices for caring for the particular people in one's local setting (Ruddick 1984a: 222, 226). On the other hand, there is the impulse to defend existing connections from the requirements of universality: care theorists emphasize that 'the sense of responsibility at the core of the care perspective' tries to avoid 'imposing impartiality at the expense of ongoing attachment' (Meyers 1987: 142).

It seems then that most care theorists accept Gilligan's commitment to a universalistic web of relations, but prefer to emphasize its continuity with Tronto's more localized web of relations. However, as Blum notes, 'how this extension to all persons is to be accomplished is not made clear' (Blum 1988: 473).<sup>31</sup> As Okin notes, Gilligan's studies do not confront the question of 'how women think when confronted with a moral dilemma involving a conflict between the needs or interests of family and close friends and the needs or interests of more distant others' (Okin 1990: 158), and so it is difficult to judge how these dilemmas are to be managed within the care perspective.<sup>32</sup>

(ii) *Respect for humanity and respect for individuality*

According to some care theorists, the problem with justice is not that it responds universally to all those who share our common humanity, but that it responds solely to people's common humanity, rather than to people's distinct individuality. Care theorists claim that for justice-based theorists, 'the moral significance of persons as the objects of moral concern is solely as bearers of morally significant but entirely general and repeatable characteristics' (Blum 1988: 475). Justice is concerned with the 'generalized other', and neglects the 'concrete other':

The standpoint of the generalized other requires us to view each and every individual as a rational being entitled to the same rights and duties we would want to ascribe to ourselves. In assuming this standpoint, we abstract from the individuality and concrete identity of the other. We assume that the other, like ourselves, is a being who has concrete needs, desires and affects, but that what constitutes his or her moral dignity is not what differentiates us from each other, but rather what we, as speaking and acting rational agents, have in common . . . The standpoint of the concrete other, by contrast, requires us to view each and every rational being as an individual with a concrete history, identity and affective-emotional constitution. In assuming this standpoint, we abstract from what constitutes our commonality . . . In treating you in accordance with the norms of friendship, love and care, I confirm not only your *humanity* but your human *individuality*. (Benhabib 1987: 87; cf. Bowden 1996: 164–74; Meyers 1987: 146–7; Friedman 1987a: 105–10)

As Benhabib stresses, the standpoints of the general and concrete other are both fully universalized (indeed, she calls them 'substitutionalist universalism' and 'interactive universalism', respectively). But care, unlike justice, responds to our concrete differences, rather than our abstract humanity.

This contrast seems overdrawn in both directions. First the ethic of care, once universalized, also appeals to common humanity. As Sher notes, as soon as care and concern are 'said to be elicited merely by the affected parties' common humanity, or by the fact that those parties all have interests, or all can suffer', then they are 'viewed as appropriate responses to shared and repeatable characteristics' (Sher 1987: 184).

Secondly, theories of justice are not limited to respect for the generalized other. This is clear in the case of utilitarianism, which must attend to particularity in order to know whether a policy will promote people's various preferences. It may seem less clear in the case of Rawls's theory, and, not surprisingly, many feminists point to his original position as a paradigm of justice-thinking. Because the original position requires individuals to abstract from their particular selves, it is said to exemplify a tradition in which 'the moral self is viewed as a *disembedded* and *disembodied* being' (Benhabib 1987: 81). But this misrepresents the original position. As Okin notes,

The original position requires that, as moral subjects, we consider the identities, aims, and attachments of every other person, however different they may be from ourselves, as of equal concern with our own. If we, who *do* know who we are, are to think *as if* we were in the original position, we must develop considerable capacities for empathy and powers of communicating with others about what different human lives are like. But these alone are not enough to maintain in us a sense of justice. Since we know who we are, and what are our particular interests and conceptions of the good, we need as well a great commitment to benevolence; to *caring* about each and every other as much as about ourselves. (Okin 1989a: 246)

Therefore, 'Rawls's theory of justice is itself centrally dependent upon the capacity of moral persons to be concerned about and to demonstrate care for others, especially others who are most different from themselves' (Okin 1989a: 247). Care theorists often say that conflict resolutions 'should be arrived at through the contextual and inductive thinking characteristic of taking the role of the particular other' (Harding 1987: 297). But this is precisely what the original position requires of us.

Benhabib questions whether 'taking the viewpoint of others' is truly compatible with reasoning behind a veil of ignorance, because justice is 'thereby identified with the perspective of the disembedded and disembodied generalized other . . . The problem can be stated as follows: according to Kohlberg and Rawls, moral reciprocity involves the capacity to take the standpoint of the other, to put oneself imaginatively in the place of other, but under conditions of the "veil of ignorance", the *other as different from the self*, disappears' (Benhabib 1987: 88–9; cf. Blum 1988: 475; Gilligan 1986: 240; 1987: 31). But this misrepresents how the original position operates. The fact that people are asked to reason in abstraction from their own social position, natural talents,

and personal preferences when thinking about others does not mean that they must ignore the particular preferences, talents, and social position of others. And, as we have seen, Rawls insists that parties behind the original position must take these things into account (Ch. 3, s. 3 above). Benhabib assumes that the original position works by requiring contractors to consider the interests of the other contractors (who all become 'generalized others' behind the veil of ignorance). But in fact the effect of the veil is that 'it no longer matters to the [contractor] in the original position who, if anyone, occupies the position with him or what its occupants' interests are. What matters to him are the desires of every actual member of his society, because the veil forces him to reason *as if he were any one of them*' (Hampton 1980: 335). As we have seen, Hare's ideal sympathizer imposes the same requirement (Ch. 2, s. 5). Both devices, impartial contractors and ideal sympathizers, work by requiring people to consider concrete others (cf. Broughton 1983: 610; Sher 1987: 184).<sup>33</sup>

### (iii) *Accepting responsibility and claiming rights*

Since both ethics are universal, and both respect commonality as well as individuality, the difference (if there is one) lies elsewhere. One final distinction offered by Gilligan is that justice reasoning thinks of concern for others in terms of respecting rights-claims, whereas care reasoning thinks of concern for others in terms of accepting responsibilities. What is the difference between respecting rights and accepting responsibilities? The central difference, according to Gilligan, is that accepting responsibility for others requires some positive concern for their welfare, whereas rights are essentially self-protection mechanisms that can be respected by simply leaving other people alone. Thus she equates talk about rights with individualism and selfishness, and says that rights-based duties to others are limited to reciprocal non-interference (Gilligan 1982: 22, 136, 147; cf. Meyers 1987: 146).

This may be true of libertarian theories of rights, but all of the other theories I have examined recognize positive duties concerning the welfare of others.<sup>34</sup> So while the justice framework emphasizes people's rights, one could say that these rights impose responsibilities on others. And indeed that is how some of Gilligan's respondents describe their ethic of care. For example, one woman says that 'People suffer, and that gives them certain rights, and that gives you a certain responsibility' (quoted in Broughton 1983: 605). It is true that some women 'think less about what they are entitled to than about what they are responsible for providing'. But they may regard themselves as responsible for providing care to others precisely because they regard others as being entitled to it—'To suppose otherwise would be to conflate the well supported claim that women are less concerned than men with the protection of *their* rights with the quite different claim that women are less inclined to think that

people have *rights* (or to hold views that are functionally equivalent to this)' (Sher 1987: 187).

Once we abandon the libertarian construal of rights as non-interference, the whole contrast between responsibilities and rights threatens to collapse (Okin 1990: 157). As Broughton puts it, 'Gilligan and her subjects seem to presuppose something like "the right of all to respect as a person", "the right to be treated sympathetically and as an equal", and "the duty to respect and not to hurt others"'. Hence 'it is difficult to see in what way she is not here recommending more or less binding rights and duties or perhaps even "principles" of personal welfare and benevolent concern' (Broughton 1983: 612). Indeed, many care theorists accept that rights must play an essential role within a care theory (Tronto 1993: 147–8; Held 1993: 75).

And while Gilligan insists that the two ethics are fundamentally different, she herself seems undecided about their relationship. She 'shifts between the ideas that the two ethics are incompatible alternatives to each other but are both adequate from a normative point of view; that they are complements of one another involved in some sort of tense interplay; and that each is deficient without the other and thus ought to be integrated' (Flanagan and Jackson 1987: 628). These shifts should not be surprising if, as I have argued, the key concepts Gilligan uses to distinguish the two ethics do not define genuine contrasts.<sup>35</sup>

While rights and responsibilities are not contrasting moral concepts, there may be a difference in the kind of responsibility each ethic imposes on us. According to Sandra Harding, Gilligan's research shows that 'subjectively-felt hurt appears immoral to women whether or not it is fair', whereas men 'tend to evaluate as immoral only objective unfairness—regardless of whether an act creates subjective hurt' (Harding 1982: 237–8; cf. Harding 1987: 297). For example, men are less inclined to recognize any moral obligation to ameliorate subjective hurts that arise from someone's own negligence, since they are her own fault. Here there is a subjective hurt, but no objective unfairness, and so men tend to recognize no moral obligation. For women, on the other hand, the moral obligation to respond to subjective hurts does not depend on the presence of objective unfairness.

There is a genuine contrast between taking subjective hurts or objective unfairness as the grounds for moral claims. Is this the fundamental difference between care and justice? It is certainly true that most justice theorists tie moral claims to objective unfairness rather than subjective hurt. As we have seen, this underlies the liberal idea that people are responsible for their own choices (Ch. 3, s. 3).<sup>36</sup> It is less clear whether the care ethic says that subjective hurts form the basis for moral claims, whether all subjective hurts, and only such hurts, ground moral claims. To care for somebody does not necessarily mean that one feels a moral obligation to attend to their every wish, or to

spare them from all subjective hurts or disappointments. Care theorists have not in fact said much, so far, about how they understand the connection between subjective hurt, objective unfairness, and moral claims, and it is likely that different conceptions of ethical caring would arrive at different conclusions. So it is premature to assume that care and justice have fundamentally opposed views on this matter.

However, while the exact points of disagreement are unclear, it seems true that care theorists are more likely to emphasize subjective hurt rather than objective unfairness as the basis for moral claims.<sup>37</sup> Before considering some of the reasons care theorists have for emphasizing subjective hurt, I will examine some of the reasons justice theorists have for preferring objective unfairness as the basis for moral claims. I will argue that the emphasis on objective unfairness, while initially plausible, is only legitimate in certain contexts—namely, interactions between competent adults. Indeed, it may be legitimate only when our interactions with competent adults are sharply separated from our interactions with dependants. If so, then the debate between care and justice reasoning becomes inextricably linked to the debate over the domestic–public distinction.

Why do justice theorists think it is important to limit our responsibility for others to the claims of fairness? If subjective hurts always give rise to moral claims, then I can legitimately expect, as a matter of ethical caring, that others attend to all of my interests. But for justice theorists, this ignores the fact that I should accept full responsibility for some of my own interests. In the justice perspective, I can legitimately expect, as a matter of fairness, that others attend to *some* of my interests, even if it limits the pursuit of their own good. But I cannot legitimately expect people to attend to *all* of my interests, for there are some interests which remain my own responsibility, and it would be wrong to expect others to forgo their good to attend to things which are my responsibility.

Consider someone who is generous with his time and money when his friends are in need, but is also exceedingly careless in his expenditures. As a result, he is often (unnecessarily) in need of help, and he relies on others to spare him the consequences of his imprudence. Does he have a legitimate expectation that others help him—should we feel morally bound to spare him the results of his carelessness? The subjective hurt approach says that we are irresponsible if we do not attend to his suffering. If he feels a subjective hurt, then we are required to attend to him, even though the hurt is the result of his own careless planning or extravagance. The justice ethic, however, says that he is irresponsible in expecting us to spare him any suffering. His actions are his own responsibility, and it is immoral to make others pay for the costs of his carelessness.

Viewed this way, the debate between subjective hurts and objective

unfairness is a genuine one, for there are importantly different positions we can take on the issue of responsibility for our own well-being. For some care theorists, the emphasis on objective unfairness sanctions an abdication of moral responsibility, because it limits our responsibility for others to claims of unfairness, and thereby allows people to ignore avoidable suffering. For justice theorists, the emphasis on subjective hurts sanctions an abdication of moral responsibility, because it denies that the imprudent should pay for the costs of their choices, and thereby rewards those who are irresponsible, while penalizing those who act responsibly.

The debate between care and justice, therefore, is not between responsibility and rights. On the contrary, responsibility is central to the justice ethic. The reason why my claim on other people is limited to fairness is not that they have rights, but that I have responsibilities—part of my responsibility for others involves accepting responsibility for my own desires, and for the costs of my choices. As Rawls puts it, his theory ‘relies on a capacity to assume responsibility for our ends’ (Rawls 1982*b*: 169). Conversely, those who tie moral obligations to subjective hurts rather than objective unfairness must deny that we are responsible agents: they ‘must argue that it is unreasonable, if not unjust, to hold people responsible for their preferences and to require them to make out as best they can’ (Rawls 1982*b*: 168). Since Rawls thinks we have the capacity to assume this responsibility, his theory requires people to live within their means, to adjust their plans to the fair share of resources they can rightfully expect. As a result, a careless and extravagant person cannot expect those who have been more responsible to pay for the costs of his imprudence: ‘it is regarded as unfair that they now should have less in order to spare [him] from the consequences of [his] lack of foresight or self-discipline’ (Rawls 1982*b*: 169). If we are obligated to spare people all subjective hurts, then those who have responsibly attended to their own well-being will be asked to make continual sacrifices to aid those who have been irresponsibly careless or extravagant, and that is unfair.<sup>38</sup>

The view that subjective hurts always give rise to moral claims is not only unfair, it can hide oppression. Subjective hurts are tied to expectations, and unjust societies create unjust expectations. Consider traditional marital relationships, in which ‘men do not serve women as women serve men’ (Frye 1983: 9, 10; cf. Friedman 1987*a*: 100–1; Grimshaw 1986: 216–19). Men expect women to attend to their needs, and so they feel subjective hurt whenever they are required to share the burdens of domestic life. Indeed, ‘in all attempts to change exploitative or oppressive relations, someone is going to be deprived of something. They may be deprived of some attention, service or amenity to which they are accustomed. They may undergo some hardship or difficulty and experience this as lack of care’ (Grimshaw 1986: 218). The oppressors will keenly feel any loss of privilege. Conversely, the oppressed are often socialized

not to feel subjective hurt at their oppression: they adapt their preferences so as not to desire things they know they cannot get.

Wherever this process of adaptive preferences takes place, focusing on subjective hurts as the grounds for moral claims makes oppression harder to see. Within the justice perspective, on the other hand, the oppressors’ subjective hurts have no moral weight, since they arise from unfair and selfish expectations (see Ch. 2, s. 5 above). Claims of justice are determined by people’s rightful expectations, not their actual expectations. This explains why justice theorists say not only that subjective hurts lack moral significance in the absence of objective unfairness, but also that objective unfairness is immoral even when unaccompanied by subjective hurt, as when people are socialized to accept their oppression (cf. Harding 1987: 297). In this sense, ‘morally valid forms of caring and community presuppose prior conditions and judgments of justice’ (Kohlberg 1984: 305).<sup>39</sup>

There is another problem with using subjective hurt as the basis of moral claims. While it imposes too little responsibility for our own well-being, it imposes too great a responsibility for others. If subjective hurt always calls forth a caring response, there seems to be nothing which limits our obligation to attend to others. There is always something more that we can do for others, if we attend closely enough to their desires—there is always some frustrated desire we can help fulfil. And this becomes self-reinforcing, for once someone knows that we are attending to them, they will come to expect attention, and then be even more hurt if our attention is withdrawn.<sup>40</sup> As a result, the agent always faces moral claims on her time and energy, claims which leave no room for the free pursuit of her own attachments (Dancy 1992).

So the idea that subjective hurts give rise to moral claims threatens both fairness and autonomy. Care theorists are well aware of this problem of overload. After all, the idea that women should always sacrifice their own interests and projects for those of their husbands and children is part of the ideology of male dominance, which has been used to justify the exploitation of women for centuries. Care theorists obviously do not want to endorse that ideology, or perpetuate women’s exploitation. So they emphasize that their conception of ethical caring is very different from the traditional sexist stereotype of the self-sacrificing woman who puts everyone else’s interests ahead of her own. According to Gilligan, we need to distinguish a ‘self-less’ conception of caring, where women always subordinate their interests to others, from a ‘self-inclusive’ conception of caring, where women learn to care for themselves, not just for others (e.g. Gilligan 1982: 149; Bubeck 1995: 194).

Indeed, this shift towards a ‘self-inclusive’ conception of caring is often said to be what distinguishes a ‘feminist’ ethic of care from a ‘feminine’ ethic of self-sacrifice (West 1997; Gilligan 1995: 122; Tong 1993). To qualify as a feminist ethic, it is not enough for the ethic of care to value women’s caring activities, it

must also ensure that these activities do not come at the price of women's freedom and equality. The ethic of care must ensure that women are not isolated, disadvantaged, or exploited for undertaking caring activities, that being care-givers does not prevent women from participating fully and equally in public and political life, and that women have equal control over the terms and conditions under which care is provided.<sup>41</sup> In the traditional feminine ethic of self-sacrifice, women had a limitless responsibility to provide care, but had little power over the conditions under which it was provided or rewarded (Sevenhuijsen 1998: 84). In a feminist ethic of care, the responsibility for care is shared more fairly with men, as is the power to shape the social conditions under which it is provided.

So care theorists recognize the need to put limits on what others can legitimately expect of care-givers. Some theorists say that care-givers should attend to their own need for autonomy, or that genuine caring involves some kind of reciprocity or mutuality, so that there are limits on how much others can expect of us without helping us in return (Ruddick 1984b: 238; Gilligan 1982: 149; Noddings 1984: 12, 98–100, 105, 181–2). In these and other ways, care theorists distance themselves from any simple equation of subjective hurt and moral claims.<sup>42</sup>

But how much autonomy can we claim for ourselves, and how much reciprocity can we demand from others, without irresponsibly neglecting the subjective hurt of others? In line with their general methodology, care theorists say that the conflict between autonomy and responsibility for others must be decided contextually. Unlike one of Gilligan's male respondents, who said that we should treat this conflict as a 'mathematical problem' whose solution lies in a formula like 'one quarter for others, three quarters for me' (Gilligan 1982: 35, 37), care theorists say we should judge the appropriateness of any demand for autonomy or reciprocity 'on the grounds of what is reasonable to expect from the individual being cared-for, along with what should be expected from such an individual given the nature of the caring relationship at hand' (Wilson 1988: 20). Care theorists, unlike justice theorists, do not try to resolve these issues by developing a comprehensive system of abstract rules that runs roughshod over the particularity of persons and their relationships. As Monique Deveaux puts it, to expect care theory to come up with a formula or principle for resolving this conflict is to assume that it seeks to provide a 'grand theory' on a par with other moral theories, when the whole point is to question the need or utility of such theories (Deveaux 1995a: 117).<sup>43</sup>

There is obviously much wisdom in avoiding simplistic formulas like 'one quarter for others, three quarters for me'. For one thing, as care theorists emphasize, there are in fact many different forms of care, each with its own moral logic. A mother's care for her children is different from the care shown amongst friends, which is different yet again from ethical caring by a nurse

or social worker.<sup>44</sup> As Peta Bowden notes, 'Varying shifts from relatively non-voluntarist to more freely chosen relations, from informal to formally organized contexts, from intimacy to public accessibility, bring with them significantly different liberties, responsibilities and constraints on the possibilities of caring' (Bowden 1996: 144). Since there is no 'essentialist' or 'unitary' conception of care (Bubeck 1995: 222–36), so there cannot be any abstract rule about how to balance autonomy and responsibility within an ethic of care.

However, this is one of the places where abstract rules may be important. If our aim is to ensure that the free pursuit of one's projects is not entirely submerged by the requirements of ethical caring, then we do not simply need limits on our moral responsibilities, we also need *predictable* limits. We need to know *in advance* what we can rely on, and what we are responsible for, if we are to make long-term plans. It is not much good being told at the last minute that no one needs your moral help today, and that you are free to take a moral holiday, as it were. We can only take advantage of holidays if we can plan them, and that requires that we can determine *now* which interests we will be held responsible for *later*. And that, in turn, requires that when deciding at that later date who is responsible for attending to others, we do not make a fully context-sensitive decision.

For example, when my vacation day comes up at work, we do not ask who is least needed in the office. We ask whose turn is it under the system of rules. The result may be that some people will suffer the frustration of desires that a more contextual decision-making process would have fulfilled (other people in the office really would be less missed). But if we want to be able to make genuine commitments to our projects, then our claims must be insulated, to some extent, from the contingent desires of those around us. Abstract rules provide some security in the face of the shifting desires of others.

Of course, care theorists are right to say that some kinds of relationships must invoke different standards for balancing autonomy and responsibility. For example, we can't expect children to have the same respect for autonomy and reciprocity as adults (I'll return to this below). But for interactions between competent adults, an important way to reconcile responsibility and autonomy is to codify some of our responsibilities in advance of particular situations, rather than determining them through constant assessment and reassessment of particular situations.

Does this appeal to abstract rules mean that justice ignores our 'distinct individuality'? It's true that justice, in this context, doesn't require us to adjust our notion of 'what is reasonable to expect' to the particular needs of those around us. Our rights and obligations in these contexts are fixed in advance by abstract rules, not by context-sensitive assessments of the needs of those around us. But this shouldn't be seen as evidence of an insensitivity to those particular needs. For the net result of this abstraction from particularity is to



more fully protect particularity. The more our claims are dependent on context-sensitive calculations of everyone's particular desires, the more vulnerable our personal projects are to the shifting desires of others, and so the less we will be able to make long-term commitments. Meaningful autonomy requires predictability, and predictability requires some insulation from context-sensitivity.

This still leaves the possibility that some people will have strong desires that are frustrated by the application of abstract rules. But, as we've seen, the justice ethic assumes that competent adults are capable of adjusting their ends in the light of public standards. Assuming that the rules are publicly known, and confining our attention to competent adults for the moment, then the people who will suffer from the application of abstract rules are those who, through extravagance or carelessness, have formed desires which cannot be met within their rightfully allotted means. There may be such people in any particular situation, and their suffering may receive less notice in a society that appeals to abstract rules rather than context-sensitive assessments of particular needs. But this is their own responsibility, and it is unfair to ask others to make sacrifices to spare them from their irresponsibility.

The difficulty of staking out ground for personal autonomy within the care ethic is reminiscent of a similar problem within utilitarianism (Ch. 2, pp. 25–6). In both cases, the moral agent faces a seemingly 'unlimited responsibility' to 'act for the best in a causal framework formed to a considerable extent by the projects [of others]'. The agent's decisions become 'a function of all the satisfactions which he can affect from where he is: and this means that the projects of others, to an indeterminably great extent, determines his decision', leaving little room for the independent pursuit of his own desires and convictions (Williams 1973: 115).<sup>45</sup> This parallel should not be surprising, for while care theorists reject the utilitarian commitment to maximization, both theories tend to ground moral claims in subjective hurt and happiness, rather than objective unfairness. As a result, both theories interpret concern for others primarily as a matter of responding to their already given needs. But we can only protect fairness and autonomy if we view concern for others not solely in terms of responding to pre-existing preferences, but as something that should enter into the very formation of our preferences. Rather than taking into account people's specific aims in deciding on just distributions, people should take principles of justice into account in deciding on their aims and ambitions. As Rawls puts it, within the justice ethic, individuals are responsible for forming 'their aims and ambitions in the light of what they can reasonably expect'. Those who fail to do so may suffer the frustration of strong desires, but people know that 'the weight of their claims is not given by the strength or intensity of their wants and desires' (Rawls 1980: 545). Thus we shift from

subjective hurt or happiness to objective unfairness as the basis for moral claims.

We can now see the kernel of truth underlying the two previous contrasts between care and justice. According to Tronto, justice emphasizes the learning of rules over the learning of moral sensitivities, and the applying of abstract principles over the making of context-sensitive assessments of particular needs. This debate over abstraction and context-sensitivity in our moral capacities and moral reasoning is often presented as distinct from the debate over rights and responsibilities as moral concepts. It is often viewed as an epistemological debate, as if justice theorists think that abstract principles are more 'objective' or 'rational', whereas care theorists reject notions of objectivity as epistemologically unsound (e.g. Jaggar 1983: 357; Young 1987: 60).<sup>46</sup> I earlier argued that the entire contrast is overdrawn, since the sort of abstraction involved in justice reasoning does not necessarily compete with context-sensitivity (e.g. moral sensitivity is required to be a good juror). But we can now see that even where justice is less context-sensitive, the explanation is moral not epistemological. The reason why justice emphasizes learning and applying rules is that this is required for fairness and autonomy. If we are to have genuine autonomy, we must know in advance what our responsibilities are, and these assignments of responsibility must be insulated to some extent from context-sensitive assessments of particular desires. As a result, some subjective hurts must be discounted. And if some subjective hurts do not give rise to moral claims, then people need to know in advance which these are, so that they can adjust their aims accordingly. For both these reasons, we need rules which are more abstract and less context-sensitive.<sup>47</sup> So any differences that do exist between justice theorists and care theorists concerning the importance of context-sensitivity in our moral capacities and moral reasoning are derived from more fundamental differences concerning the importance of fairness and personal responsibility as moral concepts. The first two contrasts are by-products of the third.

So if the world were solely composed of able-bodied adults, there might be strong reasons for endorsing the justice approach, with its public rules for balancing autonomy and responsibility. And as we have seen throughout this book, many justice theorists have written as if the world were solely composed of able-bodied adults, ignoring issues of how such adults were raised, and how the needs of dependants are met.<sup>48</sup> Justice theorists often implicitly follow Hobbes's suggestion that, in developing our theories, we should 'consider men as if but even now sprung up out of the earth, and suddenly, like mushrooms, come to full maturity, without all kind of engagement to each other'.<sup>49</sup> The nurturing of children and caring for dependants are either ignored, or assumed to be somehow 'naturally' dealt with in the family, which is seen as falling outside the scope of a theory of justice.

If adults did just pop out of the earth like mushrooms, then there would perhaps be no difficulty with the assumption that we are responsible for our ends, and that we should only be concerned with objective unfairness. But once we include care for dependants within the scope of justice, things become more complicated. Rawls rejects the view that subjective hurt is the standard of moral claims on the grounds that 'to argue this seems to presuppose that citizens' preferences are beyond their control as propensities or cravings which simply happen' (Rawls 1982b: 168–9). But this presupposition is of course quite true of many people. Rawls's rejection of subjective hurt as the basis for moral claims is plausible as long as we think only of (able-bodied and mentally competent) adults interacting in public life, while the sick, the helpless, and the young are kept safely out of view.<sup>50</sup> Rawls says that interactions between able-bodied adults are the 'fundamental case' of justice. But once we look beyond the public sphere, then the 'fundamental case' shifts, for as Willard Gaylin puts it, 'All of us inevitably spend our lives evolving from an initial to a final stage of dependence. If we are fortunate enough to achieve power and relative independence along the way it is a transient and passing glory' (quoted in Zaretsky 1982: 193).

On the other hand, the assumption that subjective hurts give rise to moral claims is plausible to the extent that we generalize from the caring relationships involved in child-rearing. A baby is not at all responsible for its needs, and cannot be expected to attend to its parent's welfare: 'Children cannot reciprocate care equally, they require a degree of selflessness and attention that is specific to them' (Grimshaw 1986: 251). But precisely for this reason, caring for infants is not a good model for interaction with adults. As Grimshaw notes, a parent's role 'may often require one to tolerate, accept, and try not to be hurt by, behaviour that would be quite intolerable or a cause for anger in most adult relationships . . . To see female "virtues" or priorities as arising mainly out of relationships with children may lead to a tendency to gloss over the ways in which resilience has become resignation and acceptance, attention has become chronic anxiety, and care and responsiveness chronic self-denial' (Grimshaw 1986: 251, 253).

In short, the justice and care models have been developed with different sorts of cases in mind, and neither seems well suited to deal with the full range of our moral obligations. Should we say then that the ethics of care applies to our relations with dependants, while the ethics of justice applies to relations amongst autonomous adults?<sup>51</sup> One problem is that the distribution of care is itself an issue of justice. Justice theorists have tended to assume that some people (women) will 'naturally' desire to care for others, as part of their plan of life, so that the work of caring for dependants is not something that imposes moral obligations on all persons. But as Baier argues, we cannot view caring as simply one possible life-plan, rather than a moral constraint on

every life-plan, for 'the encouragement of some to cultivate [the disposition to care] while others do not could easily lead to exploitation of those who do. It obviously has suited some in most societies well enough that others take on the responsibilities of care (for the sick, the helpless, the young) leaving them free to pursue their own less altruistic goods.' And, of course, 'the long unnoticed moral proletarians were the domestic workers, mostly female' (Baier 1987b: 49–50). If we want to ensure that 'free affectivity' for some people does not 'rely on and exploit the usually unfree affectivity' of those who care for dependants, then our political theory 'cannot regard concern for new and future persons as an optional charity left for those with a taste for it. If the morality the theory endorses is to sustain itself, it must provide for its own continuers, not just take out a loan on a carefully encouraged maternal instinct' (Baier 1987b: 53–4; 1988: 328).

This suggests that certain activities or practices of care should be seen as an obligation of citizenship—as important as the obligation to pay taxes or serve in the military—and one which applies to men as much as women.<sup>52</sup> Moreover, as we have seen, the elimination of sexual inequality not only requires the redistribution of domestic labour, but also a breakdown in the sharp distinction between public and domestic. We need to find ways to make it easier for people to integrate public life and parenting. But while this is required for sexual justice, it threatens to undermine the presuppositions of justice reasoning. For justice reasoning not only presupposes that we are autonomous adults, it seems to presuppose that we are adults *who are not care-givers for dependants*. Once people are responsible for attending to the (unpredictable) demands of dependants, they are no longer capable of guaranteeing their own predictability. Perhaps the whole picture of autonomy as the free pursuit of projects formed in the light of abstract standards presupposes that care for dependent others can be delegated to someone else, or to the state. It is interesting to note how little care theorists talk about the sort of autonomy that male justice theorists discuss at length—the setting of personal goals, the commitment to personal projects. According to Baier, the care perspective 'makes autonomy not even an ideal . . . A certain sort of freedom is an ideal, namely freedom of thought and expression, but to "live one's life in one's own way" is not likely to be among the aims of persons' (Baier 1987a: 46). Likewise Ruddick says that maternal thinking involves 'a fundamental metaphysical attitude' which she calls 'holding', 'governed by the priority of keeping over acquiring', in which preserving existing ties takes precedence over the pursuit of new ambitions (Ruddick 1984a: 217; 1987: 242). Other feminists have argued that we need to replace liberal 'autonomy' with 'agency' or 'integrity' as the relevant goal (Card 1996; Abrams 1999; Higgins 1997).<sup>53</sup> On these views, the commitment to women's freedom is not a commitment to staking out ground for the pursuit of personal projects, free from the shifting

needs of particular others, but is rather a commitment to meeting those needs in a courageous and imaginative way, rather than a servile or deferential way. Any more expansive notion of autonomy can only come at the price of abandoning our responsibilities.<sup>54</sup>

Can we meet our responsibilities for dependent others without giving up the more robust picture of autonomy, and the notions of responsibility and justice that make it possible? It is too early to tell.<sup>55</sup> Justice theorists have constructed impressive edifices by refining traditional notions of fairness and responsibility. However, by continuing the centuries-old neglect of the basic issues of child-rearing and care for dependants, these intellectual achievements are resting on unexamined and perilously shaky ground. Any adequate theory of sexual equality must confront these issues, and the traditional conceptions of discrimination and privacy that have hidden them from view.

## GUIDE TO FURTHER READING

For helpful overviews of contemporary feminist moral and political theory, see Alison Jaggar and Iris Marion Young (eds.), *A Companion to Feminist Philosophy* (Blackwell, 1998); Claudia Card (ed.), *On Feminist Ethics and Politics* (University Press of Kansas, 1999); Card (ed.), *Feminist Ethics* (University Press of Kansas, 1991); Alison Jaggar, *Feminist Politics and Human Nature* (Rowman and Allanheld, 1983); Rosemary Tong, *Feminist Thought: A More Comprehensive Introduction*, 2nd edn. (Westview, 1998); Judith Butler and J. W. Scott (eds.), *Feminists Theorize the Political* (Routledge, 1992); and Anne Phillips (ed.), *Feminism and Politics* (Oxford University Press, 1998).

For feminist critiques and reinterpretations of the history of political thought, see Mary Lyndon Shanley and Uma Narayan (eds.), *Reconstructing Political Theory: Feminist Perspectives* (Pennsylvania State University Press, 1997); Ellen Kennedy and Susan Mendus, *Women in Western Political Philosophy* (Wheatsheaf, 1987); Mary Lyndon Shanley and Carole Pateman (eds.), *Feminist Interpretations and Political Theory* (Pennsylvania State University Press, 1991); Susan Okin, *Women in Western Political Thought* (Princeton University Press, 1979); Arlene Saxonhouse, *Women in the History of Political Thought* (Praeger, 1981); Carole Pateman, *The Sexual Contract* (Polity, 1988); Nancy Hirschman and C. DiStefano (eds.), *Revisoning the Political: Feminist Revisions of Traditional Concepts in Western Political Theory* (Westview, 1996); Jean Bethke Elsh-tain, *Public Man, Private Woman: Women in Social and Political Thought* (Princeton University Press, 1981).

For the purposes of this chapter, I have organized feminist concerns about mainstream political philosophy under three headings. The first is the so-called *equality/difference* debate, about the ways in which allegedly sex-blind laws or policies can disadvantage women. For important contributions to this debate, see Catherine MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard University Press, 1987); Deborah Rhode, *Speaking of Sex: The Denial of Gender Inequality* (Harvard University Press, 1997); Susan Okin, *Justice, Gender, and the Family* (Basic Books,

1989); Eva Feder Kittay, *Equality, Rawls and the Inclusion of Women* (Routledge, 1995); Martha Nussbaum, *Sex and Social Justice* (Oxford University Press, 1999); Anne Phillips (ed.), *Feminism and Equality* (Blackwell, 1987); and Deborah Rhode (ed.), *Theoretical Perspectives on Sexual Difference* (Yale University Press, 1990).

A second area of debate concerns the *public/private* distinction, and the way it has been used historically to disadvantage or marginalize women. For a helpful overview of the debate, see Ruth Gavison, 'Feminism and the Public/Private Distinction', *Stanford Law Review*, 45/1 (1992): 1–45; Susan Okin, 'Gender, the Public and the Private', in David Held (ed.), *Political Theory Today* (Polity, 1991); Joan Landes (ed.), *Feminism, the Public and the Private* (Oxford University Press, 1998); Susan Boyd (ed.) *Challenging The Public/Private Divide: Feminism, Law and Public Policy* (University of Toronto Press, 1997); Anita Allen, *Uneasy Access: Privacy for Women in a Free Society* (Rowman and Allanheld, 1988); and the symposium in *William and Mary Law Review*, 40/3 (1999): 723–804. For more general discussions of the public/private sphere, see Maurizio Passerin and Ursula Vogel (eds.), *Public and Private: Legal, Political and Philosophical Perspectives* (Routledge, 2000); and S. I. Benn and G. F. Gaus (eds.), *Public and Private in Social Life* (Croom Helm, 1983).

On issues of the *ethic of care*, the starting point of the debate is Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Harvard University Press, 1982), followed quickly by Nel Noddings's *Caring: A Feminine Approach to Ethics and Moral Education* (University of California Press, 1984). These two books initiated a voluminous debate amongst moral philosophers on the ethic of care, and its relationship to justice. Important contributions to this debate include Peta Bowden, *Caring: Gender-Sensitive Ethics* (Routledge, 1996); Daryl Koehn, *Rethinking Feminist Ethics: Care, Trust and Empathy* (Routledge, 1998); Susan Hekman, *Moral Voices, Moral Selves: Carol Gilligan and Feminist Moral Theory* (Polity Press, 1995); Eva Feder Kittay, *Love's Labor: Essays on Women, Equality and Dependency* (Routledge, 1998); Marilyn Friedman, *What Are Friends For? Feminist Perspectives on Personal Relationships and Moral Theory* (Cornell University Press, 1993); Diemut Bubeck, *Care, Gender, and Justice* (Oxford University Press, 1995); Grace Clement, *Care, Autonomy and Justice: Feminism and the Ethic of Care* (Westview, 1996); and the symposium on Noddings's book in *Hypatia* (1990), 5/1. For collections of readings in this debate, see Virginia Held (ed.), *Justice and Care: Essential Readings in Feminist Ethics* (Westview, 1995); Eva Kittay and Diana Meyers (eds.), *Women and Moral Theory* (Rowman and Littlefield, 1987); M. J. Larabee (ed.), *An Ethic of Care: Feminist and Interdisciplinary Perspectives* (Routledge, 1993). Much of the literature is more focused on personal ethics than political theory, but for attempts to develop the political implications of an ethic of care, see Selma Sevenhuijsen, *Citizenship and the Ethics of Care: Feminist Considerations on Justice, Morality and Politics* (Routledge, 1998); Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (Routledge, 1993); Virginia Held, *Feminist Morality: Transforming Culture, Society, and Politics* (University of Chicago Press, 1993).

The two most important journals of feminist theory are *Hypatia* and *Signs*.

For helpful websites, see (a) the 'Feminist Theory Website', with sections on various subfields of feminist theory, feminisms in different national/ethnic groups, and biographical information on individual feminists ([www.cddc.vt.edu/feminism/](http://www.cddc.vt.edu/feminism/)

enin.html); (b) the 'Society for Women in Philosophy' (SWIP) website, with course syllabuses, bibliography, and a discussion listserv ([www.uh.edu/~cfreelan/SWIP/index.html](http://www.uh.edu/~cfreelan/SWIP/index.html)). The Canadian branch of SWIP also has a good website ([www.sbrennan.philosophy.arts.uwo.ca/cswip/](http://www.sbrennan.philosophy.arts.uwo.ca/cswip/))

## NOTES

1. For introductions to these diverse strands of feminist thought, see Tong 1998; Jaggar 1983; Nye 1988; Charvet 1982.

2. In accepting this prevailing view that there is 'a Foundation in Nature' for the rule of the husband 'as the abler and the stronger' (Locke, in Okin 1979: 200), classical liberals created a serious contradiction for themselves. For they also argued that all humans are by nature equal, that nature provides no grounds for an inequality of rights. This, as we have seen, was the point of their state of nature theories (Ch. 3, s. 3). Why should the supposed fact that men are 'abler and stronger' justify unequal rights for women when, as Locke himself says, 'differences in excellence of parts or ability' do not justify unequal rights? One cannot both maintain equality amongst men as a class, on the grounds that differences in ability do not justify different rights, and also exclude women as a class, on the grounds that they are less able. If women are excluded on the grounds that the average woman is less able than the average man, then all men who are less able than the average man must also be excluded. As Okin puts it, 'If the basis of his individualism was to be firm, he needed to argue that individual women were equal with individual men, just as weaker men were with stronger men' (Okin 1979: 199).

3. My focus in this chapter will be on feminism in the Western democracies, but it should be noted that the condition of women elsewhere is often much worse. In its recent declaration of the 'Decade of Women', the United Nations noted that:

women constitute half of the world's population;  
perform nearly two-thirds of its work hours;  
receive one-tenth of the world's income;  
and own less than one-hundredth of the world's property

(quoted in Bubeck 1995: 2). For a philosophically informed discussion of the issues facing women in non-Western contexts, see Nussbaum 2000; Okin 1994.

4. A similar issue has arisen regarding the accommodation of people with disabilities. For example, many office jobs require that people be able to go from one floor to another, to attend meetings or get supplies. Unless there are elevators or ramps, which many small office buildings lack, this means that people in a wheelchair are unable to compete for the job. This inequality need not be a matter of prejudice against people with disabilities: it is simply a matter of the requirements of the job. But again, we need to ask why was the job designed to require moving between floors, and why was the building built with only stairs, not elevators or ramps? The answer is that both the job and the building were designed by able-bodied people on the assumption that the employees would be able-bodied. And so true equality requires redesigning buildings and jobs where possible on the assumption that people with disabilities should also be able to work. And indeed employers and public agencies have a legal obligation to undertake this sort of job and building redesigning in both Canada and the United States.

5. The precise numbers regarding the economic consequences of divorce are a matter of dispute. In her 1985 book, Lenore Weitzman suggested that the disparity was even worse: she calculated a 42% rise in men's standard of living after divorce in California, and a 73% decline in women's standard of living (Weitzman 1985). Richard Peterson has shown that this was a

miscalculation, and I have cited his more conservative—but still distressing—estimate of the gender inequality involved in divorce (Peterson 1996).

6. As Littleton puts it, the goal of equality should be to make gender differences 'socially costless'. Women should not have to 'pay' for the fact that men and women differ: 'Differences should not be permitted to make a difference in the lived-out equality of those persons' (Littleton 1987: 206; cf. Minow 1991).

7. For more thorough discussions of the tension between feminism and communitarianism, see Frazer and Lacey 1993; Frazer 1999; Greschner 1989; Okin 1989b: 41–62; Friedman 1989; 1991; Weiss and Friedman 1995; V. Held 1993: 188–91.

8. For a libertarian critique of anti-discrimination laws, see Epstein 1995a. For the conflict between libertarianism and feminism, see Okin 1989b: ch. 4.

9. Indeed, Littleton's idea that difference should be 'costless' (see n. 6 above) is just another way of stating liberal equality's commitment to endowment-insensitivity (see ch. 3, s. 2–3). MacKinnon argues that the dominance approach is beyond the ken of liberalism because liberals aim at 'formal' or 'abstract' law that is 'transparent of substance'. I do not understand her contrast of 'form' and 'substance', or how it relates to liberal principles of equality and freedom. MacKinnon often seems to equate liberalism with a particular stream of American constitutional interpretation. For the relationship between MacKinnon's view and liberalism, see Langton 1990; Schaefer 2001; Nussbaum 1999: ch. 2; Bassham 1992.

10. Okin offers two broad strategies for achieving gender equality. The short-term response is to 'protect the vulnerable'. The marriage contract must be modified to protect those who subordinate their careers to perform the unpaid work of the family. One way to do this is to ensure that 'both partners have equal entitlement to all earnings coming into the household', and, in cases of divorce, 'both postdivorce households should enjoy the same standard of living' (Okin 1989b: 180–3). The long-term response aims at the creation of a gender-free society: 'A just future would be one without gender. In its social structures and practices, one's sex would have no more relevance than one's eye color or the length of one's toes. No assumptions would be made about "male" and "female" roles; childbearing would be so conceptually separated from child rearing and other family responsibilities that it would be a cause for surprise, and no little concern, if men and women were not equally responsible for domestic life or if children were to spend much more time with one parent than the other.' This would require fathers to take more responsibility for childcare, mothers to have more sustained labour-force attachment, the provision of high-quality day care, and the redesigning of workplace and school schedules so as to accommodate parenting. The ultimate goal is a gender-free society, and so we 'must encourage and facilitate the equal sharing by men and women of paid and unpaid work, or productive and reproductive labor. We must work toward a future in which all will be likely to choose this mode of life' (Okin 1989b: 171). For discussions of Okin's suggestions, see Kleingeld 1998; Sehon 1996; Russell 1995; Kymlicka 1991; Greene 1996.

11. See Rawls 1971: 128, 246. Rawls's account of the family is discussed in Okin 1987; Green 1986; English 1977; Kearns 1983; Kittay 1995. The 'Aristotelian hangover' of treating individuals as 'heads of households' remains common in both political science and political theory (Stiehm 1983).

12. Van Parijs argues that one of the central advantages of the basic income scheme I discussed in Chapter 3 (p. 83) is that it would lessen women's economic dependence (Van Parijs 2000, 2001).

13. Defenders of the traditional family often argue that the gendered division of domestic labour is rational, since it works to the overall good of the household, and fully consensual. But, as Okin notes, studies indicate that women do not like the existing distribution of domestic labour. Women know that they do more hours of work (paid and unpaid combined)

than men, and that their work has less intrinsic interest (as judged by both men and women), and they resent their economic dependence on men, and the fact that men do so little of the domestic work (Okin 1989b: 151–4). The domestic division of labour, therefore, is not consensual. Rather, ‘the major reason that husbands and other heterosexual men living with wage-working women are not doing more housework is that they do not want to, and are able, to a large extent, to enforce their wills’ (Okin 1989b: 153).

14. One explanation is that liberals maintained the same dismissive attitude towards the domestic realm as the ancients. Just as the ancients viewed the domestic sphere as something to be transcended in order to free men to participate in political life, so liberals viewed domestic life as something to be mastered in order to be free for social life. This seems to be part of the explanation for why Mill and Marx did not consider reproduction to be a realm of freedom and justice. They viewed the traditional woman’s role as a merely ‘natural’ one, incapable of cultural development (cf. Jaggar 1983: ch. 4; Okin 1979: ch. 9; Donner 1993).

15. Many feminists say that the domestic–public distinction arose with, or was reflected in, liberalism’s separation of public and private spheres (e.g. Nicholson 1986: 201; Kennedy and Mendus 1987: 6–7; Coltheart 1986: 112). But this is historically inaccurate, for ‘the assignment of public space to men and [domestic] space to women is continuous in Western history’ (Eisenstein 1981: 22). Liberalism inherited, rather than created, this public–domestic distinction. It may be true that by emphasizing the distinction between public and private within civil society, liberals obscure the more fundamental distinction between public and domestic (Pateman 1987: 109). But if so, it is a pre-liberal distinction between male and female domains which is being obscured (Eisenstein 1981: 223; cf. Green 1986: 34; Nicholson 1986: 161).

Why has this original liberal understanding of the private sphere been lost, so that ‘to talk of an ideal of the private world within the context of contemporary American society’ is to talk about the family’ (Elshtain 1981: 322; cf. Benn and Gaus 1983: 54)? Perhaps because people assume that ‘public’ and ‘private’ must mark a division in space. If so, then the most plausible location of private space is the family household. But the liberal public–private distinction is not a distinction between two physical areas, since society and polity are essentially coterminous. It is a distinction between two different aims and responsibilities. To act publicly is to accept responsibility for promoting the common good, defined in terms of the impartial concern for each person’s interests. When acting privately, one is not required to act impartially, but is free to pursue one’s own ends, consistent with the rights of others, and to join with others in the pursuit of shared ends. Both of these activities can occur anywhere in society. The fact that one goes out in public does not mean that one is responsible for acting impartially or obliged to account for one’s actions. The fact that one is at home does not absolve one from respecting other people’s rights.

16. There are feminist critics of the liberal state–society divide, even when it is distinguished from the patriarchal domestic–public divide. Pateman, for example, says that unlike republican critics who seek only to ‘reinstate the political in public life’, feminist critics ‘insist that an alternative to the liberal conception must also encompass the relationship between public and domestic life’ (Pateman 1987: 108). But she does not explain why feminists who reject the public–domestic distinction should also be concerned with the liberal state–society distinction. Her own comments suggest that we have no clear idea why collapsing the distinction between the state and civil society would benefit women (Pateman 1987: 120). Fran Olsen gives a feminist critique of the state–society distinction, drawing on Marx’s comments on alienation (Olsen 1983: 1561–4).

17. Similarly, the Aristotelian republican conception of politics is in contradiction with feminist conceptions of politics based on an ethic of care, which I will discuss in the next section. Classical republican politics would have no room for Joan Tronto’s conception of a

politics of care, which she defines as ‘a species activity that includes everything that we do to maintain, continue, and repair our “world” so that we can live in it as well as possible. That world includes our bodies, our selves, and our environment, all of which we seek to interweave in a complex, life-sustaining web’ (Tronto 1995: 142).

18. For discussions of how liberals have failed to deal adequately with the problem of adaptive preferences amongst women due to oppressive cultural norms and representations in civil society, see Kernohan 1998; Hampton 1997: 191–209; Sunstein 1996; 1999; Okin 1994; 1999; Nussbaum 2000: ch. 5. For Rawls’s recognition of the problem of adaptive preferences, see Rawls 1971: 259–60.

19. For the importance to self-development of being able to occasionally seclude oneself from society—to make oneself inaccessible to others—see Hefferman 1995; Allen 1999.

20. This Romantic view of privacy has become so integrated into modern liberalism that some people take it as the original liberal conception (e.g. Benn and Gaus 1983: 57–8). However, while the idea of retreating from society can be found in classic liberals (e.g. Locke’s *Letter of Toleration*), it is primarily an adopted liberal position. Viewing privacy in terms of a retreat from all roles of civil society, far from being the original liberal position, means that ‘the personal and private have been dissociated from virtually every institutional setting. The result is a dramatic collapse of the traditional liberal distinction between public and private as between government and society’ (Rosenblum 1987: 66).

21. It is remarkable how policies that were justified on the grounds that the family was the man’s private property are now justified on the grounds that men and women have an equal right to privacy (see, e.g., Benn and Gaus 1983: 38). As Taub and Schneider note, ‘The state’s failure to regulate the domestic sphere is now often justified on the ground that the law should not interfere with emotional relationships involved in the family realm because it is too heavy-handed . . . The importance of this concern, however, is undercut by the fact that the same result was previously justified by legal fictions, such as the woman’s civil death on marriage’ (Taub and Schneider 1982: 122; cf. Seigal 1996: 2142–70).

22. For feminist defences of the importance of privacy, once separated from patriarchal notions of paterfamilias or family autonomy, see Allen 1988; 1997; 1999; McClain 1995; 1999a; Stein 1993.

23. Some liberal feminists have started to challenge the traditional family. The characterization of liberal feminism as concerned only with access to the public sphere ‘has become increasingly problematic. Liberal feminists, like many others, have steadily focussed their attention on women’s personal lives’ (Nicholson 1986: 22–3; cf. Wendell 1987). Paradoxically, when liberals endorse reforming the family, they are often accused of the ‘devaluation of the private sphere’ (Elshtain 1981: 243; cf. Nicholson 1986: 24). Jean Elshtain claims that the ‘liberal imperative’ is ‘to thoroughly politicize or publicize the private sphere’ (Elshtain 1981: 248). By making issues of child-rearing a public responsibility, liberalism would ‘denude the private sphere of its central *raison d’être* and chief source of human emotion and value. Similarly, to externalize all housekeeping activities, to make them public activities, would vitiate the private realm further. “All persons would, so far as possible, be transformed into public persons, and the sundering of the forms of social life begun by industrialization would be carried to completion by the absorption of the private as completely as possible into the public”. This is the completion of the liberal imperative’ (Elshtain 1981: 248, quoting R. P. Wolff). For a discussion of recent feminist concerns about ‘liberalizing the family’ (e.g. the extension of contractual thinking to marriage and the family), see Kymlicka 1991.

24. We have seen this repeatedly in earlier chapters: issues about reproduction and child-rearing are ignored in Nozick’s account of self-ownership (Chapter 4), or Marx’s account of the primacy of labour (Chapter 5); or the civic republican account of the good life (Chapter 7).

25. There is also some debate over the explanation for any gender difference in moral reasoning. Proposals range from sex-role socialization (Meyers 1987: 142–6) to our early infant experience of being mothered (Gilligan 1987: 20). There are also less gender-specific explanations. Powerless groups often learn empathy because they are dependent on others for protection, and ‘as subordinates in a male-dominated society, [women] are required to develop psychological characteristics that please the dominant group and fulfill its needs’ (Okun 1990: 154). For example, ‘a woman who is dependent on a man may develop great skill in attending to and caring for him, in “reading” his behaviour and learning how to interpret his moods and gratify his desires before he needs to ask’ (Grimshaw 1986: 252). This may explain why the male members of oppressed classes or races also exhibit some manifestations of a caring ethic (Tronto 1987: 649–51; Harding 1987: 307).

26. My typology of contrasts is adapted from Tronto 1987: 648. For other typologies, see Sher 1987 (who draws five contrasts); and Dancy 1992 (who draws eleven contrasts). Bubeck notes, correctly I believe, that these typologies tend to focus too much on alleged differences in the formal properties of the two ethics, rather than on the differences in their substantive values (Bubeck 1995: ch. 5).

27. Other care theorists who dispute the need for principles include Ruddick 1984a: 223–4; Noddings 1984: 81–94; Heckman 1995; Deveaux 1995a: 115; 1995b: 87.

28. Bubeck argues that the women in Gilligan’s own studies are appealing to principles, and indeed to principles of justice, particularly principles of minimizing harm, and of equality (Bubeck 1995: 199–214).

29. For the need to integrate concern for distant others into a theory of care, see Hoagland 1991; Card 1990: 102, both of whom criticize Noddings’s claim that the ethic of care privileges ‘proximity’ in caring relationships (Noddings 1984: 7, 86, 152).

30. In her later work, Tronto suggests that principles of justice might be needed, as a supplement to the care ethic, to avoid the problem of ‘parochialism’ (Tronto 1993: 170–1).

31. Ruddick’s answer to this question is to say that ‘mothers can . . . come to realize that the good of their own children is entwined with the good of all children’ (Ruddick 1984b: 239; cf. Held 1993: 53). But it is doubtful whether the good of one child is connected with the good of all children, however distant. And even where it is ‘entwined’, the connection can be competitive rather than complementary. Their good can be entwined in such a way that resources spent on one child must be denied to another. If the mechanism for expanding the web of relationships is the realization that one’s good is entwined with that of others, then it may be a very limited expansion. It seems hopelessly optimistic to say that attending to distant others imposes no costs on ongoing attachments, or that ‘inequity adversely affects both parties in an unequal relationship’ (Gilligan 1982: 174). These claims by Ruddick and Gilligan are, in effect, an attempt to say that the problems which theories of justice are intended to resolve simply do not exist. It is a feminist version of the Marxist/communitarian claim that we can transcend the circumstances of justice. Once we drop this naive assumption, only an explicit commitment to impartial concern, and not simply to preserving existing connections, could sustain the sort of generalization that Gilligan and Ruddick desire (Deveaux 1995b: 93).

32. For one attempt to grapple with this problem in the specific context of immigration policy, see Baier 1995. She contrasts a care perspective, which would admit immigrants based on whether they belong to ‘a network of affiliative relationships that is already in place’, with a liberal perspective which would admit immigrants based on need. Her conclusion is that the latter is more humane, and that the former runs the risk of endorsing exclusionary immigration policies, such as the former ‘White Australia’ policy, in which Australia recruited only (white) people with whom they felt some sense of kinship and common culture. See also

Hutchings 1999 and Robinson 1999 for discussions of the relevance of care theory to issues in international relations.

33. Iris Young offers a more general argument for the claim that ‘the impartial point of view’ denies differences: ‘Impartial reason must judge from a point of view outside the particular perspectives of persons involved in interaction, able to totalize these perspectives into a whole, or general will . . . The impartial subject need acknowledge no other subjects whose perspective should be taken into account and with whom discussion might occur . . . From this impartial point of view one need not consult with any other, because the impartial point of view already takes into account all possible perspectives’ (Young 1987: 62). But, as we have seen, Rawlsian impartiality consists precisely in the requirement that we attend to all the possible viewpoints. It seems that Young is confusing the moral requirement of impartiality with an epistemological requirement of impersonality or objectivity: ‘As a characteristic of reason, impartiality means something different from the pragmatic attitude of being fair, considering other people’s needs and desires as well as one’s own. Impartiality names a point of view of reason that stands apart from any interests of desires. Not to be partial means being able to see the whole, how all the particular perspectives and interests in a given moral situation relate to one another in a way that, because of its partiality, each perspective cannot see itself. The impartial moral reasoner thus stands outside of and above the situation about which he or she reasons, with no stake in it, or is supposed to adopt an attitude toward a situation as though he or she were outside or above it’ (Young 1987: 60). However, one can accept the moral claims of the original position as a mechanism for considering other people’s distinct interests without accepting the epistemological ideal of standing above the situation. (Conversely, rejecting that ideal of impersonality does not guarantee that people will attend to other people’s interests.)

34. And even libertarian theories need not deny the existence of positive moral duties to care, although they would deny these are legally enforceable.

35. According to some commentators, the difficulty in reconciling the two ethics is not conceptual, but developmental. According to Gilligan, different components of moral development are rooted in different childhood experiences—i.e. the child’s experience of inequality/powerlessness gives rise to the search for independence and equality; whereas the experience of deep attachment and connection gives rise to compassion and love (Gilligan 1987: 20; 1995: 124). If so, then differences in infant experiences of being parented may affect their ability to learn different components of morality (Flanagan and Jackson 1987: 629).

36. However, most justice theorists recognize Good Samaritan obligations which are unrelated to objective unfairness (Ch. 2, n. 17 above).

37. Consider the following passage from Gilligan: ‘a justice perspective draws attention to problems of inequality and oppression and holds up an ideal of reciprocity and equal respect. A care perspective draws attention to problems of detachment or abandonment and holds up an ideal of attention and response to need. Two moral injunctions—not to treat others unfairly and not to turn away from someone in need—capture these different concerns’ (Gilligan and Attanuci 1988: 73).

38. A related concern is that the ethic of care could license paternalistic intervention to save people from what the care-giver regards as foolish or imprudent choices, or as likely subjective hurts. This is perfectly appropriate in the case of children, but worrisome in relations with competent adults. To avoid this, some care theorists emphasize that caring for others involves acknowledging and respecting their capacity for responsible self-direction. But if so, this pushes us back towards the view that our obligations to others are more a matter of objective unfairness than subjective hurts, at least in the case of competent adults. Narayan suggests that this potential for paternalism is present in care discourse, not only in terms of relations with individual members of one’s society, but also in terms of relations with entire groups of



people around the world. She suggests that European colonization of Africa and Asia was typically justified in a care-based discourse about the white man's responsibility to care for the welfare of backward races (Narayan 1995: 133–5).

39. Some commentators argue that Gilligan, by neglecting the issue of oppressive relationships, runs the danger of 'moral essentialism'. She 'separates the qualities of care and connection from their context of inequality and oppression and demands that they be considered in their own right, according to their intrinsic merit' (Houston 1988: 176). As Tronto notes, 'If the preservation of a web of relationships is the starting premise of an ethic of care, then there is little basis for critical reflection on whether those relationships are good, healthy, or worthy of preservation' (Tronto 1987: 660; cf. Wilson 1988: 17–18).

40. See Bubeck's discussion of the problem of the 'egoist king'. In a community of carers, she notes, an egoist can not only free-ride on the care-giving of others, knowing he will always be taken care of, but will actually come to possess power over the care-givers (Bubeck 1995: 176).

41. On the danger of women being exploited by societal norms of caring, see West 1997; Bubeck 1995: 174–35, 245–9; Card 1990; 1996; Hoagland 1991; Houston 1987; 1990; Bowden 1996: 180.

42. Some authors worry that the traditional doctrine of maternal self-sacrifice is so deeply embedded in our notions of 'care' that it is better to base feminist ethics on a different concept, such as 'trust' (Baier 1986; 1994; Govier 1997; 1999), 'empathy' (Meyers 1987), or 'vulnerability' (Mendus 1993). All of these share the same starting point as the ethic of care—i.e. that mainstream ethics and political theory reflect a typically 'male' way of approaching moral problems, and that we can learn important insights by attending to the way that women deal with these issues. And they all share the same emphasis on a more 'relational' conception of persons, a more 'contextual' approach to ethics, and a more realistic attention to human dependency. For this reason, as Koehn notes, these alternative accounts of feminist ethics tend to share the same basic strengths and weaknesses. In particular, they all face the difficulty of protecting those people who are trusting/caring/empathic from being exploited or manipulated (Koehn 1998).

43. 'Liberals continue to treat the care perspective as a grand moral theory and raise criticisms accordingly. In response, care proponents say that their approach is antithetical to grand moral theorizing, that it's about seeing the world in terms of context, attachment, and actual, not hypothetical, experience. They reject the suggestion that they need to match liberalism concept for concept, and suggest that this very expectation obfuscates the broader critique of moral philosophy and ethical practice made by feminist care writers' (Deveaux 1995a: 117).

44. For a helpful exploration of the logic of these three different forms of caring, see Bowden 1996. While many care theorists have looked to mothering as the paradigm of ethical caring (e.g. Noddings 1984; Ruddick 1984a; Held 1993), Marilyn Friedman suggests that women's intimate friendships might be a more promising (and less dangerous) model for a feminist ethics (Friedman 1993).

45. Hence it is quite misleading to say that Gilligan shares Williams's belief that impartiality is 'too demanding', or his hope that by emphasizing the importance of 'the personal point of view' we can free personal projects from the constraints of morality (contra Adler 1987: 226, 205; Kittay and Meyers 1987: 8). As Blum notes, personal concerns are seen by Williams 'as legitimate not so much from the point of view of morality, but from the broader standpoint of practical reason. By contrast Gilligan argues . . . that care and responsibility within personal relationships constitute an important element of morality itself, genuinely distinct from impartiality. For Gilligan each person is embedded within a web of ongoing relationships, and morality importantly if not exclusively consists in attention to, understanding of, and emotional responsiveness towards the individuals with whom one stands in these relationships . . .

Nagel's and Williams's notions of the personal domain do not capture or encompass (though Nagel and Williams sometimes imply that they are meant to) the phenomenon of care and responsibility within personal relationships and do not explain why care and responsibility in relationships are distinctively moral phenomena' (Blum 1988: 473). Blum concludes that Gilligan's critique is 'importantly different' from Williams's critique of impartiality, but 'is not at odds' with it (Blum 1988: 473). But this still understates the problem, since Williams clearly wants to emphasize the *non-moral* value of personal projects, and wants to contain morality so as to protect these non-moral values. Gilligan wants to moralize the very attachments which Williams says have non-moral importance.

46. This is related to the widespread tendency to distinguish care and justice in terms of their formal properties rather than substantive values—a tendency noted and criticized in Bubeck 1995: ch. 5.

47. The argument for public standards is also relevant to democracy. The care ethic's claim that moral problems should be solved, not by appeal to public rules or principles, but through the exercise of moral sensitivities by the morally mature agent, has a strong similarity to conservative arguments that political leaders must not be held too accountable to the democratic process (e.g. Oakeshott 1984). Wise political leaders must be trusted, rather than scrutinized, for their reasoning is often tacit, and impossible to present systematically. As with rules of justice, we may want political leaders to employ clear public standards of justification, not because they are more objective, but because they are more democratic. See Dietz 1985 for a critique of maternal thinking for ignoring political values like democracy.

48. One explanation for this, mentioned earlier, is that male philosophers had a self-interested reason for not questioning a gendered division of labour they benefited from. But Annette Baier suggests another reason as well: she notes that the great moral theorists in the Western tradition 'not only are all men, they are mostly men who had minimal adult dealings with (and so were then minimally influenced by) women'. They were mostly 'clerics, misogynists and puritan bachelors', whose philosophy reflected the fact that their own adult lives involved 'cool, distanced relations between more or less free and equal adult strangers' (Baier 1986: 247–8). She suggests that had more of these theorists been husbands and fathers, even in traditional patriarchal marriages, they would have paid more attention to issues of the family, dependency, and the sorts of virtues and relationships needed to sustain an intergenerational human community.

49. Hobbes, 'Philosophical Rudiments Concerning Government and Society', quoted in Pateman 1991: 54. In her 1989 book, Okin has shown in detail how communitarians, libertarians, and liberal egalitarians all assume the existence of the 'gendered family', yet treat it as outside the scope of justice. In each case, theorists 'take mature, independent human beings as the subjects of their theories without any mention of how they got to be that way. We know, of course, that human beings develop and mature only as a result of a great deal of attention and hard work, by far the greater part of it done by women. But when theorists of justice talk about "work" they mean paid work performed in the marketplace. They must be assuming that women, in the gender-structured family, continue to do their unpaid work of nurturing and socializing the young and providing a haven of intimate relations—otherwise there would be no moral subjects for them to theorize about. But these activities apparently take place outside the scope of their theories. Typically, the family itself is not examined in the light of whatever standard of justice the theorist arrives at.' Hence, Okin concludes, 'the "individual" who is the basic subject of their theories is the male head of a fairly traditional household . . . to a large extent, contemporary theories of justice, like those of the past, are about men with wives at home' (Okin 1989b: 9, 10, 13).

50. While most liberal theories recognize that we have obligations towards dependent

others (Ch. 3, s. 4*b* above), they write as if these obligations are a matter of ensuring that a fair share of resources is allocated to children and the infirm. They do not discuss our obligation to provide *care* for dependants (V. Held 1995*b*: 130).

51. Tronto calls this the 'containment' strategy, used by mainstream theorists to contain or diminish the challenge that care theory poses to traditional political theory (Tronto 1993).

52. For the idea that care for dependants or the vulnerable should be seen as an obligation of citizenship, see Held 1993; Tronto 1993; Bowden 1996: 154; Bubeck 1995. This is obviously a dramatic revision to the traditional conception of citizenship which assumed that a good citizen was 'independent', meaning neither a primary care-giver nor in need of care (Young 1995*b*). A stronger claim is that citizenship in general should be defined as a relationship or practice of care, and should be informed by the same values and virtues as are found in more traditionally caring relationships, such as mothering or friendship (e.g. Sevenhuijsen 1998: 66; Bowden 1996: ch. 4). This claim is often associated with 'maternalist' accounts of citizenship, mentioned in Chapter 7, which suggest that mothering provides a model for citizenship in general (e.g. Nedelsky 2000; Held 1993; Ruddick 1987). Other feminists argue that, while citizenship may include as one component an obligation of care, it also includes virtues and practices which are distinct from, and even in conflict with, those found in mothering or other relations of care (e.g. Dietz 1985; 1992; Nauta 1992; Mendus 1993; Mouffe 1992*a*).

53. This preference for a more modest notion of 'agency' (or even 'partial agency') is partly rooted in care-based thinking about our obligation to sustain relationships, but also in post-modernist critiques of the very idea of a coherent self or choosing subject. For attempts to link care theory with postmodernism, see Hekman 1995; Sevenhuijsen 1998; White 1991; Flax 1993. For the view that feminists should maintain a (revised) conception of autonomy, see Nedelsky 1989; Friedman 1997, and the essays in MacKenzie and Stoljar 1999.

54. For example, Leslie Wilson says that the reason why the 'ethical self of a person requires a certain sort of autonomy' is that it enables us 'to become the sort of person who can be genuinely one-caring'. Hence an autonomous person exercises her autonomy 'trying to determine ways in which one could become a better caring individual' (Wilson 1988: 21–2). Likewise, Ruddick says that the reason why attentive love requires 'realistic self-preservation', rather than 'chronic self-denial', is that we can become better caring individuals that way (Ruddick 1984*b*: 238). This is some distance from the traditional picture of autonomy as the free pursuit of projects that matter to one for their own sake, and which occasionally compete for time and energy with one's moral obligations.

55. For tentative suggestions about what such an integration would look like, see V. Held 1995*b*: 130–1; Narayan 1995: 138–40; Bubeck 1995; Clement 1996. As Narayan emphasizes, in many real-world circumstances, justice and care are mutually reinforcing, rather than competitors. Improved care can be seen as an 'enabling condition' for more adequate forms of justice; and greater justice can be seen as the enabling condition for more adequate forms of care. Hence the two can be seen 'less as contenders for theoretical primary or moral and political adequacy and more as collaborators and allies in our practical and political efforts to make our world more conducive to human flourishing' (Narayan 1995: 139–40).

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