

THE PROSPECTS FOR FEMINIST LIBERALISM

BY

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**A Thesis/Practicum submitted to the Faculty of Graduate Studies of The University of  
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## Abstract

The principles at the heart of the liberal tradition are criticized in contemporary feminist thought for their apparent incompatibility with the goals of feminism. The fundamental problems which feminists identify within the liberal tradition are its focus on individualism and autonomy, and its emphasis on rationality and the abstract ideal of equality.

Of particular interest in this paper will be the charge that an emphasis on abstract equality renders liberal theory incapable of addressing gender difference. Unless it can address this, liberal theory can do nothing to resolve persistent social inequalities which prevent women from leading full lives and reaching their full human potentials.

Two possibilities for addressing this inadequacy will be considered. The first is the argument that a care-based theory should be adopted as a more suitable alternative to justice-based theories. The second is the proposal that a reformulation of liberal theory with particular attention to gender, based on a capabilities model, could bring the theory into line with feminist ideals. Through an examination of various critiques of liberal theory, and an assessment of these two proposals, this thesis will consider whether full human flourishing would indeed be possible for women in a society founded on liberal principles, or whether a different model such as the care-based approach would be better able to achieve this end.

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# The Prospects for Feminist Liberalism

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## Introduction:

Justice-based models of political thought are founded on the view that autonomy and security from harm are the most basic human desires. This view is given expression through formal laws which set out the boundaries of just conduct and are thought to represent and protect our most basic desires and needs, expressed in terms of rights. On this view, if boundaries of justice are maintained by law, through a process of reasoned and objective deliberation, a just society will be encouraged. Feminists raise the question, however, whether justice so conceived really does reflect human desires and values, or whether it merely represents a male perspective about human nature which excludes women from its scope.

If a justice ethic is a reflection of male ideas about what is valuable, it will serve to maintain the political, economic and social dominance of men by simply failing to identify and consider the interests of women. In order to address the resulting imbalance, the adoption of a new ethic would seem to be required. Accordingly, some feminists propose a care-centered approach, which they see as encompassing a distinctly feminine moral perspective, and which seeks to end social and political oppression of women by establishing new ideologies to replace or

complement existing male versions.

Other feminists reject the claim that the values reflected in justice theory are exclusively male, and argue instead that women's values can be found within or incorporated into justice-based political theories. There are thus conflicting feminist perspectives on this question, which for the purposes of this paper will be narrowed to the specific lines of argument raised by liberal and care-centered feminism.

Liberal feminists aim to ensure equality of opportunities and political rights by exposing and attacking the rules and laws that are the primary cause of women's subordination in the public world. This is to be achieved not by dismantling or replacing liberal social and political structures, but by reformulating them and broadening their scope in order to address issues of gender inequality.

By contrast, arguments based on a care ethic, and in particular maternalist feminism, characterize justice-based systems as being unsuited to a consideration of certain values which they identify with women, such as care and nurturance. Care arguments are directed towards the reconstruction of justice based systems upon a model which emphasizes care and connection over individuality and autonomy, and which recognizes the necessity of considering actual lives, experiences and interpersonal relationships in

political and ethical deliberation, rather than focusing primarily or exclusively on abstract ideals and rational argumentation. It is argued, for example, that the model of "rational economic man" used in justice discourse is less suitable than one based on the parenting or mothering relationship. The parenting model is seen as more appropriate to considerations of areas of ethical concern which are of particular importance to women but which justice-based theories cannot address, such as the relationships between individuals in the home. This is of paramount concern because relationships in the home are traditionally balanced in favor of male family members and this impacts not only on the quality of a woman's life within the home, but also on her potential to pursue self-realizing activities outside of the home, including work and the resulting economic freedom.

Both care feminists and liberal feminists aim to generate systems from which non-sexist moral and political principles, policies, and practices can be derived. It will be the task of this paper to determine whether a care approach is necessary in order to address the main problems which feminists identify within liberal theory, or whether as I will argue, feminist aims are compatible with liberal ideals. I take the position that a liberal framework is the best position from which to encourage well being and human flourishing at present, because it provides means for protecting individual rights to equal treatment under the law.



It is for this reason also the best means for promoting equal treatment of women in particular and is therefore a good position for feminists to take. However, the failings within the theory, in particular those raised by care arguments, suggest ways in which the theory might be incapable of fully addressing the interests of women and other groups who are not in fact in positions of equal status within society. It is therefore necessary to determine whether and how the theory might be made to address these concerns.

In the first chapter, I will outline the basic tenets of liberal theory which give rise to the feminist critiques examined in chapter two. In chapter three I will examine the role that care might play in addressing the feminist concerns I have raised in chapter two, and I will assess the relative merits of the care and justice approaches to ethics. While there is much that the care approach can offer in terms of illuminating values which are and ought to be of primary concern in any political theory, these values are neither as absent from, nor as incompatible with liberal theory as is often claimed by care theorists. As I will argue, some of the problems arising out of the care/justice debate can be neutralized by rejecting the dichotomy between care and justice, and by looking instead at the importance of focusing on individual differences generally rather than on female differences specifically. In chapter four, I will consider whether the capabilities approach adopted by Martha Nussbaum as

the core of her liberal theory can serve as a means of satisfying the feminist concerns raised in chapter two. I will look at how successful she is at addressing problems of inequality by providing an alternative view of what is required for human well being than other liberal approaches, and I will argue that she does address some of the main failings of the theory by focusing on human capabilities as a means of measuring the welfare of individuals.

As I will conclude, liberal theory which incorporates a capabilities approach is well suited to address problems of inequality without requiring a foundational shift to a care-based theory. While care is to be valued, it is best seen as one primary human value rather than as a necessary moral framework for political thought.

\* \* \*

## Chapter 1

### The Liberal Tradition

#### Liberal Ideals

There is no single, coherent theory which can be taken as a definitive expression of liberalism. The term refers both to a strictly political philosophy and to a general philosophical theory encompassing metaphysical, ethical, epistemological, and value theories. Critiques of liberalism are often in truth only critiques of particular versions or aspects of liberal theory, and it is therefore necessary in the interests of clarity to identify some of the various strands of liberal thought and their common features before proceeding to an examination of the feminist critiques of the theory.

In the broadest sense, it can be said that liberal theories share the values of equality, individuality, rationality and autonomy. For Kant, Rawls and Nussbaum, whose theories will form the primary focus of this paper, these values are connected to a deontological view of the person according to which all persons have an irreducible moral status. They are, by virtue of being human, of equal moral worth:

at the heart of this tradition is a twofold intuition about human beings: namely, that all, just by being human, are of equal dignity and worth, no matter where they are situated in society, and that the primary source of this worth is a power of moral choice within them, a power that consists in the ability to plan a life in accordance with one's own evaluation of ends...and this equality gives them a

fair claim to certain types of treatment at the hands of others (*Justice*, 57).

The moral worth of each individual transcends any differences in culture, history, or geographical situation, and since each individual is accorded the same moral status, there can be no justification for a hierarchical ordering of society based on differences in moral worth.

Kant locates this equal worth in the universal quality of rational choice shared by all persons. From this equal worth is derived the equal right of each person to pursue her own aims and interests without interference from others. This in turn demands the protection of certain individual rights, including rights to personal security, civil, and property rights. The idea that these rights must be protected in order that individuals may pursue their interests and develop their capabilities in accordance with their own ideas of what is valuable is of central importance in contemporary liberal theory. The good life is a life that is freely chosen in which a person pursues her own capacities as part of her own plan.

The view of persons seen in Rawls and Kant is not the only ground upon which individual freedom is justified in liberal thought. John Stuart Mill is also a liberal theorist in that he sees the protection of individual freedoms as an absolute requirement for the good life, but he provides a utilitarian justification for

this claim, according to which freedom is merely the instrument by which the utilitarian principle of the 'greatest happiness for the greatest number' can be achieved. The rights which serve to protect these freedoms are, then, also merely tools for the promotion of utilitarian happiness:

To have a right...is, I conceive, to have something which society ought to defend me in the possession of. If the objector goes on to ask why it ought, I can give him no other reason than general utility (Mill *Essays*, 189).

According to Mill, a political system which ensures the protection of individual freedoms will tend to promote the greatest degree of satisfaction across its members as compared to one that does not and thus is better able to promote utilitarian happiness.

This idea is criticized by Rawls, who justifies fundamental liberties by a contractarian rather than a utilitarian argument. The liberties to which all autonomous persons are entitled are those they would choose and enjoy under a system which they would consent to in the 'Original Position'. In this hypothetical situation, rational agents make decisions from behind a veil of ignorance, in which state they know nothing about their particular social status, their history or any other details about themselves. They do know that they exist in a world with many people where there is a moderate scarcity of resources, that they are rational, free, and self-interested, and that outside the original position, individuals have varying interests, moral,

and intellectual capacities. Under such circumstances, Rawls claims that two principles of justice would be generated:

(1) Each person has a right to the most extensive basic liberty with like liberty for others; and

(2) inequalities in the distribution of wealth and power are just only when they can be reasonably expected to work to the advantage of those who are worst off.

According to Rawls, this process of deliberation will produce a society in which liberties will be maximized for all individuals, and inequalities will be justified only in circumstances where the least well off will benefit. The basic principles are meant to serve as guidelines for determining how basic political and social institutions are to balance the values of freedom and equality. They "provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation" (Rawls *Justice*, 4).

Because Rawls' model is based on a view of the fundamental moral worth of the individual, it provides the groundwork for a strong theory of political rights. Mill's utilitarianism does not ground such a theory, because it allows for freedoms to be traded off for the sake of utility, and because there is nothing which

is viewed as intrinsically unjust. The utilitarian account therefore cannot make a claim for the inalienability of particular individual rights:

On the utilitarian view, there is nothing which is intrinsically unjust, and there is no moral principle which is valid in itself; all moral principles and judgments regarding justice depend upon existing conditions in society and how they might be manipulated to produce the maximum aggregate satisfaction (Talissee, 27).

Rawls and Mill differ not only in this regard, and in their justifications for the primacy of liberal freedom, but also in their positions as to the extent to which interference and restrictions on individual freedoms may be permissible. Whereas for Rawls liberties can be limited only where they conflict with other liberties in accordance with the First Principle of Justice, for Mill, it is only where there is the possibility of harm being caused to other individuals that a liberty can be restricted:

The only purpose for which power can be rightfully exercised against any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant (Mill *Essays*, 197).

The extent to which a government can be justified in interfering with individual freedoms is the primary concern for Mill in *On Liberty*. He recognizes the power that public opinion has on individuals, and sees that if the role of government is not restricted by the harm principle, the result will be a situation in which too much control is held by the few with political power, and their views are simply imposed upon all. This outcome

would be fundamentally at odds with the promotion of individual freedom.

Public opinion is itself a subtle and coercive power because individuals will generally adopt positions that conform to the majority view rather than deal with the difficulty of standing against the majority. They will therefore conform to the majority position because it is easiest to do so, whether or not it is a position they would otherwise accept. In this way, the opinions of the majority eventually become internalized by the population. It is the views of those with power, and therefore voice, which are heard and reflected in the views of the wider society. The result is that members of a democratic society may believe that they are participating in their own governance and therefore have a false sense of control or empowerment. In reality, the decisions that are made on society's behalf are made on the basis of values which belong to the majority of politically active members of the society.

Mill sees freedom as encompassing freedom of thought, feeling, tastes, pursuits and expression as well as freedom of "the inward domain of consciousness". A person is free only if she is able to pursue her own aims without interference from external regulation, coercion or interference. This means that she must be free to evaluate and determine her own ideas and values rather than following custom or public opinion. Once the views of the



majority are adopted as law, individuals who might otherwise stand against custom and public opinion are prevented from expressing their own views and from pursuing their interests by formal restrictions which are in truth no more than a formalization of the views of the powerful majority. If the power of government is used to enforce a particular opinion or set of beliefs about what should constitute the good life for all, the freedom and autonomy of individuals will be hindered.

An account of the principles of justice should therefore never presuppose a doctrine about what constitutes a valuable, good life because any such doctrine would be merely a reflection of the dominant opinion rather than a truth about fundamental values. Liberal freedom is necessary in order to prevent the preferences of the majority from being enforced by law. In this way, the harm principle protects individuals against

the tyranny of the prevailing opinion and feeling, against the tendency of society to impose...its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development and, if possible, prevent the formation of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own (Mill *Essays*, 7).

Without such an established limit, the prevailing preferences of a society will create the rules by which it is governed, as individual opinion will always differ as to the correct limit to be placed on the influence of the majority. Each individual will view her own opinion as the correct one, but her opinion, like everyone else's, will have been influenced by self-interest and

by various external pressures to conform of which she may not even be aware. In the end, the religious beliefs, the beliefs of the powerful majority and the interests of the society will influence the *moral* sentiments of the society as a whole. It is in this sense the preferences of the society that create the rules by which it will be governed. By adopting the harm principle, a balance can be established between liberty and authority, by setting a limit which will serve as a control against the imposition of society's conformity of opinion on individuals by force of law.

Both Mill's and Rawls' positions express the fundamental liberal principle that freedom is to be accorded primacy as a political value, and that no *unjustified* limitation on freedom by the government is permissible. Therefore, under neither view can a government be justified in forcing citizens to accept any particular plan of life or specific idea of what would constitute the good life.

Requiring justification by those who seek to limit a given freedom enables a liberal society to reasonably maintain the fullest possible individual freedom for its members. Most contemporary liberal thinkers recognize as Rawls does that freedom entails a degree of active interference into individual lives and that the aim under a liberal political system is to

balance various conflicting individual rights through limited and careful government intervention.

Liberal Freedom and the Difference Principle:

For feminists, the concern over the extent to which intervention may be a necessary condition for freedom is of particular importance. A system which would protect freedoms only on the basis of the harm principle would also prevent forms of legal or governmental intervention that would be beneficial. A system which recognizes equal freedoms only in a formal sense, but does not consider further the particular constraints faced by particular groups would also fail to address real issues of equality and would therefore be incapable of promoting real freedom.

It is not enough to simply assert that all individuals are equal and to ensure that there are no formal constraints preventing equal access to employment or education, for example, when certain individuals are already prevented from pursuing these 'equally accessible' endeavors by existing informal constraints arising from gender, race or economic status. For feminists, an account of freedom must also provide a basis for the justification of formal intervention, such as affirmative action programs, and initiatives intended to protect against domestic violence. These forms of interference are meant to balance

against informal restrictions on freedom, and are necessary means of addressing existing gender-based imbalances.

Construed in this way, the idea of freedom is connected to a view of equality which requires recognition of individual difference. A person cannot be free to pursue her own interests under a political system which fails to recognize the ways in which she is differently constrained than other people from doing so. The ideal of freedom should therefore require recognition of these different constraints, whether they are the result of differences in access to resources, in social status, in education or other factors. Rather than treating all people as though they are essentially the same, the ideal of freedom should enable some differential treatment in the application of laws and in the fair distribution of resources.

Rawls recognizes the importance of acknowledging different constraints generally and attempts to strike a balance between individual freedom and the fair distribution of goods across society. He proposes the redistribution of primary goods in accordance with the difference principle as a means of reconciling egalitarian redistribution with the libertarian position that such redistribution is an unacceptable limit on individual freedom.

Distribution in accordance with the difference principle allows inequalities in social primary goods (which include liberty and opportunity, wealth, and income), provided that any such inequality would be to the benefit of the least advantaged in society. Equal distribution is the rule, except where unequal distribution would be to the benefit of the least advantaged members of a society.

Rawls' approach to fair distribution is modified by Nussbaum in such a way as to address, among other things, the different constraints placed on women by virtue of their gender. Rather than basing fair distribution on a calculation of resources, she adopts a list of basic human capabilities which will serve to guide in determining how best to promote liberal equality. The success of this project in addressing feminist concerns about liberal theory will be discussed in chapter four.

#### Narrowly Defined Liberalism:

Feminists often adopt a very narrow definition of liberalism in framing their critiques, which makes it appear inflexible on the relationship between equality and freedom. In regard to recognition of differences in promoting equality, however, there is an important distinction between differential treatment and the use of difference merely as a basis for a hierarchical ordering of society. The former may be consistent with liberal equality, whereas the latter would defeat its aims by producing

or reinforcing social inequality. As I will examine in the following chapter, this is a distinction which has great impact on women. Many feminists maintain that gender is a fundamental difference which should not be ignored by an understanding of equality which requires all persons to be treated in the same way. According to this view, equal treatment which denies difference will fail to produce the equality of respect required by liberal theory.

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## Chapter 2

### Feminist Critiques of Liberal Theory

#### Liberal Equality & the Difference Principle:

The formal assumption of equality required by liberal theory entails a position of neutrality from which gender is viewed as morally and politically irrelevant. According to this view, observable differences between the sexes are merely manifestations of social conditioning under sexist social structures, rather than natural or essential differences which should be recognized in moral or political discourse. Any acknowledgment of difference on this basis would therefore serve only to reinforce sexist ideas and to justify discriminatory treatment towards women. The goal of feminism on this view is to encourage equality by ensuring that women's interests are represented within existing social and political structures. For liberal feminists, this requires a focus on equality of opportunity and rights which would be inconsistent with any gender-based differential treatment.

Many feminists reject this position, and maintain that fundamental differences exist between men and women, and that these must be recognized in moral and political discourse in order to ensure that all interests are included. Differences must be identified and valued rather than ignored and devalued as they are, it is argued, by liberal theories.

Care theorists, in particular, associate such qualities as nurturance, care, emotion and love with women, and contrast these with the characteristics they identify as male, such as autonomy, rationality and an emphasis on self-interested pursuits. They argue that while women also value these characteristics, they do not represent the full picture of what women value, or more importantly, they do not express the qualities that are most valued by women. Since they are, however, the same values that are associated with liberal theory, then liberal theory is inherently male-centered. Care feminists argue that because women and men are in this way fundamentally different, it will not suffice to merely try to add women into the scope of the existing, male-centered social and political order as liberal feminists propose. Rather, they argue that it will be necessary to replace this order with one that reflects distinctly feminine values, in other words, to reformulate the existing justice ethic within liberal thought with one which places value on women's particular interests and perspectives.

Difference theorists, whether or not they adopt a care approach, identify certain problems that arise as a result of the liberal assumption of fundamental equality. Primarily, they argue that this assumption will prevent the development of principles which could address real inequalities. Liberal theory cannot give attention to differences like gender because its principles are



based on an abstract notion of equal selves, defined prior to any social arrangements by their equal capacity for rational choice. It is this capacity which defines the individual who is the subject of liberal thought. Features such as size, race or gender are irrelevant, because considerations of such properties would undermine the liberal principle that all individuals are to be considered to be fundamentally equal and thus must be treated in the same way.

Gender is more than merely a quality possessed by a person, however. Rather, it is a component of identity, developed throughout one's life within a gendered social structure. The way in which a person develops within her society will be connected to the roles she is expected to play, the qualities she is expected to possess and the way in which she is treated by the members of her society. When one develops within a context of gender inequality, and is part of the subordinate group, her own perceptions and expectations will be negatively influenced. This will inhibit the development of her individual potentials and interests.

It is in this sense that women's identities reflect their socially depicted roles. As Mill comments in *The Subjection of Women*, women's so-called nature is an "eminently artificial thing: the result of forced repression in some directions, unnatural stimulation in others" (22). Rather than experiencing

the degree of separate and independent existence postulated by the liberal view, women have characteristically viewed their identities in terms of the roles which have attached to their persons, such as 'mother', for instance. This is a problem for women because these roles have been developed from within a gender-biased system in which they have traditionally played subordinate roles not associated with autonomy and individuality but with self-sacrifice and concern for others. The idea of an abstract, equal individual is not consistent with the actual roles of women and therefore women are by definition not liberal individuals. A liberal individual must be free to engage in intellectual, rational or spiritual pursuits, but this kind of freedom has not consistently been available for women. Liberal freedom has traditionally been open only for men to enjoy, since in reality, women have been disproportionately responsible for the physical, practical tasks associated with domestic life. The more involved in these tasks one is, the more one is excluded from such pursuits.

Conditions of gender inequality exist in reality, and for this reason many argue that liberal theory must adapt its underlying assumption in order to provide the means to address this. However, to do so would render the theory inconsistent, since it must be premised on the idea of equal individuals deserving of equal rights and protections.

Though in many ways formal equality has been successful in removing restrictions on women's freedom, the problem has not been fully addressed. Women's subordination is systematized within a structure which continues to fail in its liberal obligation to ensure justice and equal treatment within all institutions including, for example, the family. This is an area of particular concern, which will be considered in a later section. Another example of how women continue to be disadvantaged through a failure of formal systems to address gender inequalities is in the selective funding of public services. Publicly funded daycare, for instance, is often unavailable, though it would be a necessary means of ensuring that women, who continue to be the primary or sole caregivers in the majority of families, are not economically disadvantaged by diminished opportunity to devote time and effort in the workplace.

There continues to be an unequal division of labour within the family, which directly relates to a diminished opportunity for women to pursue economic independence. The reality of this situation is brought into focus through debates about reproductive ethics. The recent publication of information regarding the reproductive potentials of women over thirty, for example, led to intense debate over women's status in the workplace and home. In the past few decades, women have increasingly chosen to pursue careers as a primary focus, leaving

the decision whether to have children aside as a secondary consideration. If later in life they decide to have children, they may find that they are by then at a much greater biological disadvantage for doing so than was previously assumed. In the course of the recent discussions, much attention was given to the ethical issues surrounding decisions to have children late in life, and related questions surrounding reproductive ethics generally. The concern was raised that Western societies continue to expect women to have children, and judges those who do not as having failed in some way. However, comparatively little attention was given to the much more fundamental problem that for women, it continues to be a choice between two alternatives - a fulfilling career or a family. Choosing to pursue both a career and children will require significant sacrifices in one or the other arena.

Arguably this is also a choice for men, but the bias in most cases would tend to favor the furtherance of career combined with less responsibility for daily family concerns. A smaller sacrifice is necessary in order for men to have both, whereas for women, at least those pursuing demanding careers, the sacrifice may be total - one must be given up for the other.

In particular ways, then, significant inequalities persist which affect women's freedom to pursue self-realizing activities. In order to address problems of inequality from within a liberal

framework, it would be necessary to identify the ways in which women are constrained on the basis of gender. The problem in recognizing this fact within a liberal theory is that such recognition would be inconsistent with the liberal assumption of fundamental equality, which requires that all be treated in the same way regardless of particulars such as gender. For this reason gender cannot fall within the normal scope of liberal discourse, and these inequalities can therefore not meaningfully be addressed.

This failure of liberal theory give attention to gender serves to justify existing inequality: Gender neutrality "functions ideologically to mask the gendered reality behind the concepts of political theory" (Frazer, 37). The discrepancy which exists between the theory and the reality maintains an illusion of equality, which is never actualized in reality, as Frazer notes:

Modern political theory now assumes formal gender equality, and the full citizenship of women. But this assumption is never cashed out in the elaboration of a theory of politics which would genuinely give men and women equal access to political processes and goods, power and authority (37).

Unless liberal theory can consistently turn its focus to gender difference in theoretical calculations of principles of justice, it will remain incapable of addressing actual problems of inequality.

By an extension of this argument, since liberal theory addresses only equal persons in the abstract it not only fails to address

feminist concerns, but it also actively reinforces male views, thus perpetuating male social dominance. As Alison Jaggar argues, liberalism's failure to specifically address gender indicates either that the theory applies in exactly the same manner to women as to men, or that it does not apply to women at all. This in turn implies either that there are no fundamental differences between men and women that are relevant to the realm of political philosophy, or that women do not properly form part of the subject matter of political philosophy. Since there are fundamental differences, the theory cannot apply in the same way to women as to men and therefore, by this argument, the theory does not apply to women at all.

If women do not form part of the subject matter of political philosophy, then justification of liberal values by reference to abstract equal individuals serves only to reassert male values, making them appear to be objectively grounded. If liberal values are grounded in male perspectives, then the ideal of equality serves not as a vehicle for equal justice but rather as a vehicle for formalizing and legitimizing a male account of human values.

Modern liberal theorists recommend equality as the remedy for relations of domination. However, it is increasingly uncertain whether equality, however defined, is adequate to or even appropriate for overcoming gender-based relations of domination. It is not clear that equality can mean anything other than assimilation to a pre-existing male norm...differences are reduced to either confirmation of the superiority of the (masculine) same or deviations from it (Flax, 113).

Gender must be made a key component of political theory if it is to accord in any way with the social reality that actually exists: "To encourage a flourishing of diverse human potentials, as well as to be fair to women themselves, law and policy should take women into account" (Nichols, 171). By treating women as though they are equal individuals without recognizing the ways in which their lives and identities have been shaped by social structures of male dominance, liberal theory fails to address real inequalities. Women are not actually equal in society, and treating them as though they are fails to provide means to address pervasive underlying inequalities. The result is that women are socially, politically and economically disadvantaged, and society as a whole also loses the input of distinctly feminine perspectives. As Nichols notes, ignoring difference "leads women to ape men and deprives the community of the distinctive contributions that women might make" (171).

Given the actual structure of society, differential treatment may be the only way to ensure that all members of society are fairly treated. The problem of balancing between equal treatment and special recognition in law is a difficult one, because the legal system is founded on the impartial application of laws:

If women are treated by the law in abstraction from the fact that they are women, their unequal status is rendered invisible and remains unchanged. But if they ask to be treated as 'women' they provide justification for unequal treatment by admitting they are different from men...thus...feminism seems to be divided against itself...feminism cannot decide whether women want equality or 'special treatment' (Schaeffer, 702).

Although the expression of the formal ideal of equality in legislation has resulted in various advances and protections for women, purely formal equality can be detrimental because it is premised on the idea of sameness, where likes must be treated as like. Since women are differently situated, and have been in fact the subject of detrimental differential treatment throughout the history of western society, pretending that the subjects of liberal theory are equal or similarly situated does not make them so. The result of doing so will enforce inequality rather than remove it. For example, when gender-neutral criteria such as level of income are applied by courts in determining child custody, men will often

look like better parents...because men make more money and initiate the building of family units. In effect they get preferred because society advantages them before they get into court, and law is prohibited from taking that preference into account because that would mean taking gender into account (MacKinnon "Difference", 81).

Nussbaum provides another example of how formal equality may lead to legal injustice. She considers a sexual harassment case in the United States, which involved one woman and several of her male co-workers. A lower court judge, after considering the facts of the case, abstracted from the asymmetry of power existing between the woman and her co-workers, and concluded that their constant use of obscenities towards her was no different than her own use of the occasional swear in their presence. The



lower court judgment was overruled, and the higher court judge held that

the asymmetry of power - including its social meaning in historical terms - was a crucial part of the facts of the case. Their use of language was harassing and intimidating in a way that hers could not be (Nussbaum *Justice*, 68).

This recognition of difference was necessary to promote fair and equal treatment in terms of actual respect for persons, and the result that was achieved in this case ultimately would not have been reached by application of abstract, formal principles of equality, as the lower court ruling clearly shows.

The danger in admitting differences in this way, however, is that doing so would provide grounds for the justification of harmful discriminatory treatment. Given the history of women's subordination any systematization of differential treatment would tend to intensify existing social inequalities which favour men. The belief that women are less suited to life outside the private realm of the home, for example, was historically grounded on the argument that women are biologically different from men. Men were viewed as possessing traits of strength, reason and intelligence, and the implication was that women, being different, did not possess such attributes. There is a valid concern that stereotypes of this kind would be reinforced by a formal acknowledgement of difference.

Although differential treatment has the advantage of enabling such initiatives as affirmative action programs and the legal right to maternity leave, which help to ensure that women are not disadvantaged in the work force, it may also in some cases create further inequalities for women. Protective labour legislation designed to protect women by keeping them from performing jobs considered to be too dangerous is an example of how this may occur. As Wendy Williams has argued, certain jobs may be dangerous or undesirable, and not in themselves particularly important positions, but they may be necessary steps towards other more desirable employment opportunities and therefore should not be denied to women on grounds of protection. Further, as she notes:

The protective labor legislation that limited the hours that women could work, prohibited night work and barred them from certain dangerous occupations such as mining may have promoted their health and safety and guaranteed them more time with their families. But it also precluded them from certain occupations requiring overtime, barred them from others where the entry point was the night shift, and may have contributed to the downward pressure on women's wages by creating a surplus of women in the jobs they are permitted to hold (196).

Women end up being denied access to some of the benefits they might otherwise be entitled to by the very legislation that was intended to promote their interests. If it were reasonably possible that in each case, the potential benefits of such differential treatment could be intelligently weighed against the potential harms in actual situations, there might not be so great a reason for concern. However, this is not a practicable

possibility, and it is far more likely that existing situations of inequality would simply be reflected and amplified through differential treatment.

Feminist theory is in this way divided because, if we treat women differently there is a danger of discrimination, and if we do not, the feminist concerns about existing gender inequality will not be effectively addressed. It remains a difficult problem to find a means of reconciling the feminist goal of equality with its desire for recognition of women's distinctness.

Liberal theory thus faces problems in addressing difference in practical terms, because the ideal of equality requires a de-emphasis on differences. However, the liberal ideals do not in themselves support discriminatory practices, so are not in theory in direct opposition to feminist theory, but are simply insufficient. Liberalism is also less static than the critiques would suggest. The principles upon which it relies are continually applied in relation to particular situations and questions, and are thus re-examined within liberal analysis. As Schaeffer notes:

It is obvious that liberalism relies on some basic, abstract ontological and political claims, but it is also the case that these claims are and must be continually articulated with respect to the specific questions they are intended to address. This process of articulation produces a diverse range of possibilities and attaches different meanings and implications to those claims (706).

If liberal theorists pay attention to issues of inequality then liberalism clearly can play an important part in feminist dialogues despite the inconsistencies which appear to render the theory incompatible with feminism.

MacKinnon argues that although liberalism may be insufficient, this does not necessarily mean that liberalism and feminism are incompatible. Rather than rejecting liberalism altogether, it should simply be supplemented by "feminist critique of the gendered social reality that liberal neutrality takes as a given" (Schaeffer, 702). As examined above, the rejection of liberal abstract principles which many feminists propose may have as damaging results as their acceptance and it is therefore not productive to simply take the extreme view that liberalism and feminism are incompatible.

Nevertheless, some would contend that the problem of inherent contradiction could be avoided altogether by rejecting the liberal equality model completely, rather than trying to incorporate gender considerations within it, and adopting a care-based approach which would restructure the underlying tenets of liberalism at the most basic level. This possibility will be considered in more detail in the following chapter, where I will consider how care theorists attempt to reconstruct political and social theory with attention to difference.

Abstract Reason:

Just as the formal ideal of equality is criticized for failing to address particulars of women's status, the liberal idea that principles of justice are derived from the perspective of an impartial moral reasoner is criticized as being too abstract. Feminists question whether such a model could provide a basis for an adequate set of principles. Criticism of the liberal emphasis on abstract reason is generally focused on whether the justice tradition represented in the work of Kant and Rawls gives an accurate representation of what individuals, and in particular women, truly find meaningful. If not, then it cannot be as effective means of determining principles for a just society, and should not be solely relied upon for this purpose.

For Kant, justice and morality are co-extensive. The foundation of morality must be sought solely in the concepts of pure reason, and moral agents must be led only by moral laws which can be consented to rationally. Moral theories which focus on a consideration of ends, such as "the greater good" or "happiness" cannot provide a foundation for moral theory because moral actions are demanded for their own sake, without a view to the results they might bring about. The imperatives of morality must be categorical, which is to say that they cannot serve as means to any given ends, but rather, they command unconditionally that something be done for its own sake. Moral decisions must be based on the absolute, unconditional categorical imperative that

a person "act only on that maxim which will enable you at the same time to will that it be a universal law" (Kant, 38). Just as the categorical imperative is the test for individual action, the social contract is the test for social principles, or laws. Each agent is equal in capacity to act in accordance with the categorical imperative, in other words, to act autonomously.

This view of the person is necessary for the argument that justice is primary. Justice has primacy in the liberal model rather than being merely one value among many, because its principles are derived independently. The rational being himself is the ground for all principles of justice, so the subject capable of an autonomous will is the basis of the moral law. The capacity to choose our own ends is what matters, and this capacity to choose is prior to any particular aims that it might generate. In other words, the subject is prior to his ends.

This notion of the rational chooser as prior requires that a moral self must, in making any judgments, consider all relevant facts from an impartial, detached position and by application of objective rules and principles. In order for justice to be primary, it is necessary for persons to view themselves as subjects of experience and as the agents of their own pursuits. The agent must exist separately from any particular conditions or circumstances. Decisions are not arrived at within a context of personal preference therefore and the chooser's own ties and

personal history are not seen as relevant or useful to the process. The impartial moral reasoner "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 and above it" (Young "Politics", 60).

Rawls' interpretation of Kantian autonomy leads to his postulation of the Original Position and his two principles of justice. He accepts the Kantian view that the capacity for rational choice is a fundamental characteristic of being human. Individuals are considered to be potentially (if not actually) rational, and they have the capacity to make choices independently of whatever particular characteristics or social circumstances may attach to them. This defining feature of rational choice exists prior to, and transcends, social existence.

Rawls also finds the disembodied, reasoning subject described by Kant to be too abstract, and thinks that such a model could not serve to generate principles of justice which would not be purely arbitrary. In the choice situation Rawls proposes, first principles can be derived that will be appropriate for real, embodied persons in actual societies.

Rawls' basic idea is that the correct principles of justice are those which would be chosen by rational individuals, in a position of equality, to govern the basic structure of their society. This situation of equality is the original position. This position would seem as Rawls thinks to remove the problem of choosing principles that would unfairly advantage a particular group, since each chooser in the situation is unaware of his group membership or other characteristics. The result is a fair agreement entered into by equal persons - equal in the sense that each rational chooser has the same information and status in the original position as any other chooser. The position from which principles of justice are chosen is in this sense one of equality.

Persons will be risk-averse in making choices in this position, because there is a relative scarcity of goods, and each will aim to ensure that she will have access to primary goods regardless of what position in society she ends up in. Therefore principles are chosen which protect the basic liberties of those in the worst possible situation in society - because each will want to maximize their own position should they be in this situation.

Rawls' position seems well suited to address feminist concerns, since it would remove the problem of social inequality from the deliberative process. When determining principles of justice, we do not base our decisions on what we know about our own status or



position in society. The positions of women in society would be improved by decisions made on this model, because existing inequalities would not serve as a background or motivation in the process. The position of all persons will be maximized in the same way.

Rawls' model, however, is subject to the same criticism as Kant's. Despite the fact that part of Rawls' purpose in designing the model was precisely to address the level of abstraction he finds in Kant, he also turns to an abstract model as a means of generating principles of justice. Although this kind of abstraction is a necessary component of any theorizing about social theory and practice, and is necessary in the course of considering how any theory relates to the practices and institutions it generates, it is criticized as being incapable of fully addressing real aspects of human life and experience. Individuals in the original position are isolated, disconnected entities who take no interest at all in the aims of others, and are ignorant of their own ideas of the good, their tastes and their social positions. Yet from behind this 'veil of ignorance' they are believed able to deliberate about and select principles of justice.

As Elizabeth Frazer argues, the idea that such individuals could exercise choice in any meaningful way is questionable, since by choice is usually meant choice from among concrete possibilities

within an understandable context. Without any background of perceptions and understanding of context, without social norms or personal attachments and commitments, real choice cannot be exercised. If decisions about social justice are being made, then they surely must be made within a context of material social existence, otherwise there would be nothing to frame or guide the deliberative process:

In the real world 'choice' always implies a concrete context of options, our perceptions and understandings of these, norms and our understandings of these...This is to say, choice only occurs in a social context. We might ask why the original position is in any sense a suitable starting point for reflection about the just society(Frazer, 55).

Social principles simply cannot be properly chosen without knowledge of the conditions of one's life and identity. Since we experience life as embodied, not disembodied beings, and as socially connected rather than abstracted and separate, as a starting point for the generation of ideas about social justice, Rawls' choice situation appears to be insufficient.

Instead, as Frazer argues, political theory should begin with and be generated from within a context of social connectedness rather than transcendent autonomy, and society should be viewed not simply as an association of separate individuals, but as a community. The subject matter of political theory should be actual people, whose identities are connected with their culture, history and gender:

political theorists should not seek to transcend or stand outside of their own social location, any more than individuals should make transcendence of their social existence a prime political value...a person's critical, political consciousness can only be explained in terms of (a) socially situated conception of the self in which individual agency is not fully analyzable in pre-social terms (Frazer, 57).

Such abstract reasoners as the parties to Rawls' original position cannot serve to represent actual individuals, because they are disembodied, atomistic entities while real human identities are formed from within context and embodiment.

Rawls responds to this criticism by arguing that the original position is not meant to imply a particular view on the nature of the self, but rather that it is meant only as a device of representation. Parties to the original position should therefore not be taken to represent actual human beings, but merely "rational agents of construction, mere artificial personages, inhabiting our device of representation" (Rawls *Liberalism*, 106).

Nevertheless, underlying the original position is a particular assumption about the nature of moral reasoning. Rawls accepts the idea that decisions can be reached by consensus among agents without any knowledge of particular facts or social context - in other words, moral reasoning transcends social context. Although there are differences among individual persons, when they enter into moral deliberation, they remove themselves from all

particularity and take on an "unsituated moral point of view" (Young *Justice*, 104). The criticism therefore would stand, despite Rawls' insistence that the original position be considered only as a device of representation.

It is not necessary to read the original position as being based on this kind of abstract, transcendent self however. As Susan Moller Okin argues, it is not the case that the reasoning parties are taking on a position devoid of any social position. They are meant to be taken as representing all possible social positions rather than any particular one, or as representing none at all. According to Okin's interpretation, Rawls' original position is to be viewed as a standpoint from which moral agents reason from all perspectives. She responds to the critiques by asserting that parties in the original position

cannot think from the position of nobody as is suggested by those critics who then conclude that Rawls' theory depends upon a "disembodied" concept of the self. They must, rather, think from the perspective of everybody, in the sense of each in turn. To do this requires, at the very least, both strong empathy and a preparedness to listen carefully to the very different points of view of others (Okin *Justice*, 100).

If it is read in this way, Rawls' theory is more suited to address feminist concerns about liberal abstraction.

However, a further problem arises from this reading, in that men and women arguably do not think alike. Rawls justifies his concept of justice on the grounds that it represents values that

all individuals would accept upon due reflection. The principles of justice would stand if citizens tested them through a process of reflective equilibrium. However, it can be questioned whether women would, upon such reflection, affirm the principles of justice.

Because our society is structured along gender lines, there is in this regard a distinct standpoint for each gender. Therefore, although it might be possible to accept a situation in which like persons might deliberate together in the original position, and to assume that they could generate representative principles for all persons, it is not plausible that persons who do not think alike could do so. If men and women do not think alike, then it is unlikely that consensus could be reached among all parties to the deliberative process. As Okin argues:

The coherence of Rawls' hypothetical original position, with its unanimity of representative human beings...is placed in doubt if the kinds of human beings we actually become in society differ not only in respect to interests, superficial opinions, prejudices, and points of view that we can discard for the purpose of formulating principles of justice, but also in their basic psychologies, conceptions of the self in relations to others, and experiences of moral development (*Justice*, 106).

An individual's reasoning process is an extension of her identity, and if identity is shaped by the influence of gender roles, then abstract models like Rawls' cannot be used to provide a model for all real individuals, both male and female. Or, as Okin argues, it will be necessary to encourage a more uniform moral development among individuals which would naturally be the

case if the influences of an unjust social structure were removed. This would begin with raising children within homes to which principles of justice apply. Since liberalism requires that the private realm of the home be exempt from public interference, however, the possibility of justice within the home is problematic, as I will examine in the following section.

### Feminism and the Liberal Individual:

#### Public/Private Realms:

In order to maintain the individual freedom of citizens from governmental restraints, liberalism has been constructed around a distinction between the public realm which includes politics and the marketplace, and the private realm of personal life. Restraints upon freedom have always been justified in the public realm, but not in the personal, where freedom is required in order to pursue self-realizing goals of the individual. If an individual is to be free to pursue her interests without interference, there must be a limit on the scope of government intervention. Liberal theory casts social and civic life as private and condemns interference into the individual's freedom of activity therein. It does not make reference, however, to the place and role of the family, which from a feminist perspective would render liberal theory inadequate. The family is not considered by liberal theory, and since women have been primarily involved in roles within the sphere of the family, they are in this sense excluded from liberal thought:

in traditional liberal thought the distinction between the public and the domestic realms rests on the assumption that men inhabit both, easily moving from one to the other, but that women inhabit only the realm of family life, where they are properly subordinate to their husbands. Thus, women were long denied most of the crucial political and legal rights defended by liberals (Okin *Humanist*, 39).

The reality is that family life is of central importance in the development of every individual, and ought to be seen as relevant to 'the political'. One way in which this is true is that the family is itself a main source of sex-role reinforcement. The fact that children are predominantly parented by women rather than men ensures the continuance of existing ideas about gender-appropriate roles and characteristics. If female parenting leads to this kind of sex-role reinforcement, it is unrealistic to maintain the liberal view that family life has no real relevancy *vis a vis* public life, and "liberal theorists cannot continue to regard the structure and practices of family life as separate from and irrelevant to 'the political'" (Okin *Humanist*, 40)

Although it pretends that women are included under the heading 'liberal individual', liberal principles have not been applied to women in their roles within the family. A liberal individual is an entity who is free to pursue her own aims and interests without interference, and who has the right to make claims for resources and protection from the government in order to continue to be free to pursue these interests. This does not describe the roles and experiences of women within traditional families, to

which liberal ideals of equal treatment and protection of individual rights do not apply.

By failing to apply principles of justice to the family, the pattern of inequality is continued. The workforce, for example, continues to be based on the assumption that families are traditional nuclear families, and that women have primary charge of all domestic responsibilities. In reality, women continue to be disadvantaged in terms of pay and opportunities in the workplace, are largely absent from positions of political or corporate power, and generally tend to be economically disadvantaged by comparison to men. They also continue to maintain responsibility for most of the domestic work, even when they also work outside the home. This arrangement means that women remain disadvantaged in both the workplace, and in terms of their 'bargaining power' within the family - they do not have the freedom to fully pursue their positions in the public sphere because of their responsibility within the home, and this prevents any possibility of developing economic independence which would provide them with status within the home. The gendered structure of family life in this way has an impact on the relative positions of women and men in the public world, and this in turn affects their positions in the family.

'Public' and 'private' life are inextricably intertwined, not only for women as individuals, but for women as an entire 'sex-class'...Public life is far less distinct from personal and domestic life for women than for men. Their experience in each radically affects their possibilities in the other. The claim that the two spheres are separate is



premised upon, but does not recognize, both a material and a psychological division of labour between the sexes (Okin *Humanist*, 42).

The unjust nature of the family results in a diminished capacity for women to develop their full human potentials, and it further perpetuates patterns of gender inequality, since it is within this family structure that children develop as moral agents.

Rawls recognizes the central role that the family plays in individual moral development:

the family is part of the basic structure, since one of its main roles is to be the basis of the orderly production and reproduction of society and its culture from one generation to the next (Rawls "Public", 788).

However, his theory requires that the principles of justice be applied only within the public sphere and not in the private sphere of the family, in order that it can apply towards the ordering of a pluralistic society which is able to accommodate various conceptions of the good. The problem is that this enables the continued tolerance of principles which do not respect the equality of women. As Okin argues, this will prevent a movement towards a non-gendered society in which all children will be parented equally within the home, and will then develop into moral agents who are similarly constituted. This, she thinks, is what is required in order that all individuals, men and women, could participate in the kind of reasoning described by the original position.

It is therefore necessary to reject the liberal distinction between public and private and to apply the principles of justice to the family. This is necessary for consistency, as it would eliminate the unrealistic division whereby women are to be viewed as deserving of equal respect and treatment in the public realm, but not in the home or within other 'private' realms, such as religious institutions for example.

While it may be argued that such interference is wholly unacceptable under liberal tenets, it is in reality inaccurate to suggest that the principle of non-intervention into private life is or has ever in truth been followed. The family has always been subject to legal intervention, but in ways that support patriarchal arrangements. Marital property laws, for example, once deprived women of the freedom to own property upon marriage, and made them legal non-persons. In the public workplace, women have in the past been denied employment or equal pay on the grounds that they were supported by husbands, and ought to focus on their roles as domestics in the home. In fact, the question of what constitutes a 'family' is determined not by individuals, but by law and convention. The private family realm is therefore not actually exempt from public interference. The argument that liberal theory cannot accommodate any blurring of the distinction between the public and private is therefore unfounded, since in reality it has always done so. If intervention were instead turned towards eliminating patriarchal practices within the home,

it would become plausible that a gender-free society could exist in which social institutions are no longer unjust for women. In such a society, gender would no longer be a relevant moral consideration, and it would then be possible for individuals to reason from the perspective of all persons, as Rawls' model would, on Okin's interpretation, have it.

Conclusion:

In a general sense, the three areas of feminist criticism considered in this chapter focus on the problem that liberal theory appears to reinforce the continued subordination of women by failing to accurately portray women's social reality, and when attempts are made to bring it in line with this reality, internal contradictions arise which seem to make its own aims impossible to achieve. Specifically, liberal theory requires (and pretends) equality between the sexes, but simultaneously requires women's continued subordination in the home. Women are excluded from liberal theory, and attempting to merely add them in as 'individuals' would appear to create fundamental inconsistencies within the theory. For these reasons many feminists have rejected both the theoretical basis and the practical implications of liberalism, viewing it as antithetical to the basic tenets of feminist thought.

Rather than arguing as Okin does that the problem lies in the liberal reservation of its ideals for the public realm, and

proposing that certain basic liberal rights should be extended to the family, care theorists instead take the family itself as reflecting the principles of care-based thinking, and argue that it is an appropriate model for social institutions. They suggest that "the public sphere should be recast in terms of care and connectedness, which would entail a reevaluation of women's voices, work and ways of being in the world" (Schaeffer, 701). From this perspective, the virtues traditionally relegated to the (feminine) private realm should replace the traditional (masculine) liberal model of the public realm structured around atomistic individualism. This possibility will be examined in consideration of the care theories discussed in the following chapter.

\* \* \*

## Chapter 3

### Care & Justice Ethics

#### Moral Reasoning & the Ethic of Care:

Arguments for an ethic of care are generally based on the claim that women have a distinct moral perspective from that described by the ethic of justice. On this view, women's values are largely shaped by a desire for connection and community with others rather than by a desire for autonomy and protection from harm. Their distinct interests are therefore not represented by the emphasis on rights and autonomy characteristic of liberal thought, but are better described in contextual terms, focusing on relationships, care and responsibility for others. Care-based theories would treat meaningful connections with and care for others as ideals which more accurately represent these supposedly natural interests.

Arguments for an ethic of care developed out of research conducted by Carol Gilligan on women's psychological and moral development. Prior to this research, the dominant model of human moral development was based on the work of Lawrence Kohlberg, who claimed on the basis of empirical study that moral development proceeds through six separate stages. The culmination is a stage which reflects a Kantian moral perspective, where moral agents operate in accordance with self-regulating and self-imposed universal principles, and consider moral issues from an objective

point of view like that of the detached and dispassionate 'view from nowhere' criticized by liberal feminists.

Gilligan noted that in Kohlberg's model, women would rarely proceed past the third stage of moral development. Since male subjects did proceed past this level, and sometimes to the highest level, it appeared as though women were morally stunted by comparison. When Gilligan conducted research with female subjects facing particular ethical dilemmas, however, she noted that they adopted a distinct pattern of reasoning from the kind described by Kohlberg. This suggested that, rather than being stunted by contrast to men, male and female subjects were simply applying two distinct modes of reasoning. Whereas the male subjects in Kohlberg's studies tended to use a traditional justice approach exclusively when making moral judgments, the women studied by Gilligan tended to use either a care approach, or a combination of both care and justice approaches. Gilligan concluded from her studies that women employ methods of thinking that can be collectively characterized as a distinct mode of reasoning from the mode of reasoning characterized by justice.

According to Gilligan's observations, women and men view the world in fundamentally different ways: The male view represented by the ethic of justice arises from a perspective which sees the world as being organized in response to a hypothetical natural state of conflict which would exist between individuals in a pre-

contractual society. It is formulated in terms of universal, abstract principles, and emphasizes rationality and individual rights. By contrast, the female view represented by the ethic of care is based on a view of the world as a network of interrelated people and events, and sees co-operation among individuals as necessary for the resolution of problems. From this latter perspective, moral decision-making is not separated from concerns about the self, nor from relevant social surroundings and experiences. Rather than abstracting away from particulars by resort to universal moral rules, women would consider the context giving rise to a particular moral dilemma, and would treat as relevant such details as personal experiences and relationships among the involved parties.

Gilligan's conclusions led many theorists to accept a dichotomy between male and female moral thinking, which corresponds to a split between care and justice. The argument followed that, given this dichotomy, and given the correspondence of the male mode of thought with the justice ethic which grounds liberal thought, a new paradigm would be required in order to accommodate the distinctly feminine moral voice.

The conclusions reached by Gilligan can be criticized as being based on questionable evidence, and are not in themselves empirically solid. It is not really clear whether men and women speak in different moral voices, and if they do, it is not clear

whether (as theorists like Catharine MacKinnon have suggested) the feminine voice is not merely a reflection of conditioning from within an unequal social structure, in which case it would be counter-productive to give it too much moral weight. Nevertheless, Gilligan's conclusions provide a means of questioning the validity of the justice ethic by identifying those elements that are missing from it which might be filled in by care values.

The degree to which the adoption of care values could address feminist concerns about liberal theory will be considered with attention to the problems raised in the previous chapter. The specific concerns to be examined are the abstraction of liberalism which requires that moral issues be generalized and considered in terms of impartial, principled deliberation rather than by attention to particularity; the liberal emphasis on individualism which makes it prone to encourage social disconnectedness and self-interest to the exclusion of mutual care and responsibility; and the liberal emphasis on equality and rights, which cannot ensure that individuals, and specifically women, will be equally valued.

#### The Care Paradigm:

Care theorists argue that a justice ethic does not provide a basis for considering relationships other than those characterized by a contract model, where individuals are equally



situated and engage in fair bargaining within boundaries of protected rights. This does not account for many relationships including those we generally find most meaningful - namely, relationships between family members, between parents and children or between any individuals of unequal status, such as relationships of care for the ill or the vulnerable. As theorists like Virginia Held argue, a model other than this contractual model must be adopted as a paradigm for human relationships and conduct. She argues that a "morally acceptable polity" will not be made possible by social justice, and it is necessary to adopt models of caring as a basis for public interactions.

According to Held, the public sphere should be transformed by modeling it on relationships between individuals in families and other private relationships rather than on contractual relationships. In particular, she would see the mother-child relationship as the appropriate model upon which to base care and feminist ethics. She notes that contractual thinking, according to which human beings are autonomous, independent and self-interested, has come to characterize our social, cultural and political beliefs. Along this line of thought, just as economies are viewed in terms of a free market governed by contractual agreements between participants, culture is sometimes seen as a free market of ideas. This view is used to justify the assumption that it is appropriate to base social arrangements and

morality on contractual ideas. In reality, however, it is not at all clear that societies in fact develop out of a social contract, through the voluntary participation of all autonomous individuals:

Actual societies are the result of war, exploitation, racism, and patriarchy far more than the result of social contract. Economic and political realities are the outcome of economic strength triumphing over economic weakness more than of a free market. And rather than a free market of ideas, we have a culture in which the loudspeakers that are the commercial mass media drown out the soft voices of free expression. As expressions of normative concern, moreover, contractual theories hold out an impoverished view of human aspiration (Held *Feminist*, 194).

In this sense the contractual model is not only an ineffective tool for addressing some of our most morally relevant relationships, but it is also based on an erroneous assumption about how societies actually develop. If the contractual model is seen as the paradigm for human conduct, then all of human experience is being filtered through a very narrow and historically specific view of humanity, represented by "economic man". This overlooks a great deal of meaningful human experience, including the experience of women who, being traditionally relegated to the private realm of the family, have not been addressed by the contractual model which applies only to the public domain.

The ethical concerns relevant in contractual models relate to the control of voluntary interaction between relatively equal individuals, and the maintenance of mutual noninterference. The

model of the mothering relationship by contrast is characterized by non-voluntary participation, mutual support, dependency and irreplaceability. These relationships cannot be addressed from the theoretical framework of contractual relations and thus a much more complete picture of moral conduct can be found in a maternal model, according to Held. Contractual models suggest that morality is limited to providing governance at a base level, or as a matter of

keeping to the minimal moral traffic rules, designed to restrict close encounters between autonomous persons to self-chosen ones...For those most of whose daily dealings are with the less powerful or the more powerful, a moral code designed for those equal in power will be at best nonfunctional, at worst an offensive pretense of equality as a substitute for its actuality (Baier *Essays*, 114).

In adopting a model of maternal caring, the mother-child relationship would instead be recognized as the primary social relationship. The point of this, Held notes, is not to think of mothering in terms only of being an actual mother but rather as a means of describing the kind of relationship we might do better to look than the model of contracting relationships.

Held thinks that it is plausible to view this relationship as primary, since it is one which is causally and conceptually primary to other social relations, such as the contractual relations of independent adults or 'economic men'. There is, of course, no single social relationship that is truly paradigmatic. Rather, as Held suggests, we will need to

conceptualize different types of human relations differently, and to make different moral recommendations for such different domains as those of family living, cultural production, economic activity, and law though...all should be embedded in the kind of understanding of persons and of moral considerations that feminist moral inquiry can provide (195).

Though there may be no absolute paradigmatic relationship, it is a useful exercise to view the mother-child relationship as though it were, as a means of breaking out of the pervasive view of contractual relationships. If the characteristics of the mother and child relationship were to be exported as a model for public relationships, these would come to be characterized by care, concern, trust and other qualities characteristic of mother-child relationships. The model of the family would replace the 'marketplace' as the central model for social relationships.

It may, however, be difficult to make such a model seem plausible, given the long-standing view of individuals as self-interested and fundamentally separate from others common to liberal thought. In a society based on this view, there are great difficulties in trying to develop any trust or cooperation among members who are interested primarily in pursuing their own interests. Social cohesion seems impossible in a purely contractual society, unless persons have a sense of their connection to one another through relations of care, concern, and trust, rather than by contracts which they may or may not uphold, depending on how their interests will be best served. And just as easily as contractual relations can be destroyed by self-

interest, so can the mechanisms by which those relations are meant to be enforced. As Held notes, "at some point contracts must be embedded in social relations that are non-contractual" if this disintegration of social relations is to be avoided (*Feminist*, 204).

Accepting that there are relationships which require us to trust others, even strangers, to care for us without oppression or exploitation, could be seen as providing a fuller acknowledgement of the reality of human interaction rather than as requiring blind trust and acceptance of unequal treatment. On this view, a greater acceptance of the role that trust and dependence play, even in relation to strangers would be needed, and these kinds of relationships would then be encouraged by our social and political structures, along with the autonomous, independent, contractual relationships which have always been the sole focus.

Held argues that the mother-child relationship is the best example of this *kind* of non-contractual relationship. It has a more universal application, because whereas the contractual model leaves many out of its scope, the mother-child relationship is one which all persons have experienced prior to adulthood. Each of us has experienced the role of child, and most of us will also at some time experience a care-giving role that could be broadly characterized as a "mothering" role.

Alternative approaches to care would adopt a more general model, such as 'friendship', but as Michelle Moody-Adams argues, the mothering relationship provides a better source for moral reform because "the relationship between a mother and the child is 'not chosen' while friendships...are a matter of choice" (160).

Both views highlight the way in which contract models are limited to consideration of the very narrow scope of freely-chosen relationships between equals, and suggest that a care approach could provide a better model by focusing on a much broader and richer range of human relationships and experiences. By focusing on care values, it may be possible to address the feminist concerns about the emphasis in liberal theories on individualism, formal equality and abstract reason.

#### Care and Liberal Individualism:

As Held's arguments exemplify, the care ethic would generally see the model of private relationships extended to the public sphere. Rather than extending liberal principles of justice to relationships in the home, these private relationships are taken to be proper models for relationships outside the home. The contributions and experiences of women within the private realm are in this way given value rather than ignored. The concern that liberal individualism requires a split between public and private realms which leaves women's interests and experiences out is to this extent addressed.

A more compelling reason for considering a care approach is that it provides a means of addressing the problem of self-interested egoism to which an emphasis on individualism makes liberal theories prone. Care theorists argue that the liberal emphasis on individualism prevents it from promoting what are most meaningful to human beings, namely, our connections with others. The more individualistic people become, the less of a shared experience they have with one another. In this situation, society takes on a secondary role as a mere tool for providing the individual with the means for pursuing his or her goals. As Held among others has argued, social connectedness is in this sense necessary in order to avoid creating a circumstance of self-centered, fragmented and alienated social co-existence, where special interests and power seeking dictate the social order. If social connectedness is in this way essential for a fulfilling life, it would appear that by following the liberal model, people will become less happy and fulfilled. Care theorists, among other critics of liberalism, thus argue that liberal individualism cannot capture the essential social nature of human beings, and seems instead to encourage an undesirable kind of egoism which would not allow for true human fulfillment.

The care approach shifts the focus from rights to responsibilities, and characterizes individuals as being fundamentally connected to, rather than separate from, others.

The focus therefore shifts from generating rules in order to regulate the actions of each autonomous individual with respect to every other, to an emphasis on the responsibility that each interconnected person has to every other.

It can be argued that although liberal theories characterize individuals as essentially autonomous and separate, this view does not require or imply such self-interest. In actuality, a view of individuals as inter-connected rather than essentially autonomous and separate does underlie liberal notions of fair redistribution. If individuals were truly self-interested then there would be little to motivate ideas of fair distribution of goods to maximize the position of the least well off. If the liberal focus were solely on individual rights, there would be no real basis for this - we are motivated towards this idea of fairness because we care about and feel a sense of social responsibility towards others. In other words, though liberalism formally excludes a care paradigm, care values do operate within the theory. Arguably, what is necessary is a shift in perspective to match what is, in reality, already in line with desired social practices.

#### Liberal Equality vs. Equal Consideration:

The ethic of care does not focus on concerns about formal equality, emphasizing instead the paramount importance of equal consideration of persons. In particular contexts, this kind of



equality may well have a more useful application than the idea of formal equal rights. In the family, for instance, each member's input may be relevant and valuable in calculating a given course of action. Equality here is thought of in terms of equal interests - the interests of each person should be equally valued. The feminist commitment to equality and equal rights in other contexts where appropriate need not be altered, but in some circumstances, it is equal interests that should be regarded as most important. By focusing on interests, emphasis can be placed on responding to individual needs, rather than on principles of equal treatment and equal access to opportunities and resources alone, which assume a false underlying equal status among citizens.

A care approach could thus provide a basis for addressing differences in access to resources and opportunities by considering each person's actual needs. This is akin to the kind of consideration individuals give to one another in particular relationships, like that of a parent and child for instance. The idea of rights is perceived very differently when viewed within this kind of care relationship rather than from within the framework of the social contract. In the mother-child relationship, for example, the issue of rights does not, strictly speaking, play a role:

the equality at issue in the relation between mothering person and child is the equal consideration of persons, not a legal or contractual notion of equal rights (Held *Feminist*, 206).

Calculations of rights or of interests do not represent the only two approaches for addressing moral concerns, however. Martha Nussbaum for example, places central importance on the idea of equal capabilities, as I will examine in Chapter four.

Care and the Liberal Primacy of Abstract Reason:

By assuming the central role of the rational, self-interested individual in the context of the social contract, justice models force the moral agent to reason from a distanced position, outside of social contexts and networks. Concerns about particular experiences are thought to belong outside the scope of moral theorizing, as Virginia Held notes:

ideal theories of perfect justice or purely rational theories for ideal societies leave the problems of what to do here and now unsolved, even unaddressed. They usually provide no way to connect moral theory with our actual experience, except through suggestions that once we have a clear view of our goals, we can take up, separately, questions about how to reach them. The moral theory seldom goes on to tell us how such means to our goals should be evaluated in moral terms, rather than merely in the instrumental terms of efficiency (*Feminist*, 23).

Justice models are appealing because they are capable of generating consistent and broad general principles, and therefore have universal application. Though this gives them objectivity and simplicity, however, it also means that they deal in abstract principles. Care theorists see this as preventing any moral weight being from attached to those considerations that arise out of interpersonal relationships and responsibilities. Kohlberg's

articulation of the ethic of justice for example requires that a moral rule must apply in the same way in all circumstances, defining the rights of any person in any situation. This would preclude considerations of factors of concern to care theorists, who therefore criticize this failure in justice models. As Alisa Carse explains:

Broadly construed, the care ethic poses a challenge to prevailing models of moral knowledge and responsibility, especially the tendency in ethical theory to construe as paradigmatic those forms of judgment and response that abstract away from the concrete identities of others and our relationships to them. An adequate grasp of the moral contours of specific situations, especially as they concern other people and our responsibilities to them, requires an acute attentiveness to particularity and to the situation-specific nature of others' needs (19).

A care ethic can address real persons in actual situations because its underlying assumption is that self-development is best promoted through meaningful connections and relationships with others, rather than through the protection of individual autonomy and rights. The care ethic does not require a paradigm of an abstract reasoner deliberating from outside a situated context and does not assume that universal principles are more in accord with a universal reality, but rather sees reality as best represented by concrete, particular knowledge.

Care arguments like this are, however, based on an extreme and narrow construal of justice ethics, and as Judith Squires notes, such a narrow view is also rejected by most proponents of justice theories:

the rejection of this narrow definition of moral relevance is not specific to feminists, but is also to be found among mainstream theorists defending impartiality (150).

In reality, it would be difficult to find any theorist who would require that moral conduct meet such a narrow test. Though a few care theorists, Nel Noddings in particular, have advocated a complete rejection of impartiality, arguing for an exclusive reliance on an ethic of care, most recognize that such a position would lead to unacceptably negative implications and instead advocate some form of reconciled combination of care and justice approaches. This is true as well of many justice theorists, like Okin, who would adopt elements of care within a context of impartiality.

If an ethic of care were to be incorporated into existing justice-based moral and political systems, the precise circumstances under which the principles of care would be brought into play would need to be determined. It is not clear whether the very different care and justice approaches could combine to form a coherent approach, or if they could operate only in separate and limited circumstances. Justice could, for example be viewed as applying only to the public realm and care to the private, or it could serve to establish a base or minimum for moral conduct, with issues above this base minimum being addressed through a care-based approach. Alternately the two perspectives could be seen as lying on a continuum, where individual issues would be addressed from one or the other

standpoint based on such factors as time availability or population size.

As most care theorists would argue, it is misleading to draw a strict dichotomy between care and justice in any event, and to suggest that they are entirely incompatible. As Robin West argues, neither care nor justice is defensible on its own if all interests are to be protected. If either approach

is to be regarded as an even remotely defensible ideal of private and public life...it is clearly a precondition of such an ambition that all of us are capable of employing both these overly polarized moral voices (West, 20).

Uma Narayan argues that there is a dynamic relationship between care and justice. In some circumstances improvements regarding rights and justice might provide the "enabling conditions" for providing adequate care, while in others, attentiveness to care could provide the enabling conditions for more adequate forms of justice. For instance, when we pay attention to the needs and suffering of those who are poor or destitute, we may develop social policies that institutionalize welfare rights, and rights to reasonable medical care as a result. In particular situations like these, she argues, care and justice perspectives should be

seen less as contenders for theoretical primacy 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, 39).

The debate surrounding care and justice has in this way become focused on how the two should relate, and how care should be

applied, rather than on why one should be adopted in favor of the other. Whichever particular approach to care is adopted, each reflects an attempt to reconcile the care and justice perspectives rather than to reject one in favour of the other.

There are several problems inherent within care theories which might be addressed by a model which balances between care and justice values. The main concerns are that care values have the potential to be used as a means of subordinating and exploiting care-givers, and that care cannot be effectively applied in relation to strangers.

#### The Problem of Exploitation:

Although the care ethic seems in many ways able to address feminist concerns about particularity that justice models ignore or minimize, it also runs the risk of creating the very conditions that would lead to a continued subordinate social status for women, and in this sense would run contrary to feminist interests. As Alisa Carse notes, a care ethic lacks the normative constraints necessary to direct and limit its scope. Inherent power imbalances between social groups, and between men and women in particular, create a continued risk of exploitation of the less powerful by the more powerful, and a care ethic without constraints would likely serve only to reinforce roles which are exploitative of women. As Carse explains:

There is a vital need for an ethic that takes the experiences of women seriously, and the ethic of care does just that, capturing certain features of our moral lives that other, more standard approaches to morality underplay or ignore. On the other hand, the ethic threatens to support and sustain the subordinate status of women in society, contributing to the exploitation and denigration of women with which feminist ethics is more broadly concerned (19).

Qualities and skills that would be validated by the ethic of care can clearly be damaging for women, as they provide morally acceptable labels to describe what are in truth self-destructive behaviours. While care might value qualities of selflessness or self-sacrifice, for instance, these behaviours may also be described as detrimental from a feminist point of view. In actuality, to behave selflessly may mean to behave in such a way as to be taken advantage of or victimized, and this should not be lauded as desirable behaviour which is justified by a care ethic. Rather, it should be described as what it really is - exploitation of a caring nature. If care becomes merely a kind of service or exploitation, it can have no moral justification in any relationship.

The role of providing care has long been expected of women, and this has both reflected their unequal status and also led to the creation of roles which are unequal, unfair and often exploitative or demeaning. Responsibilities are already divided between men and women in accordance with the public/private split, with the private realm responsibilities being primarily caring responsibilities. In addition, as Noddings has argued,

men do not possess the skills of caring that women do, because ideals of masculinity have tended to preclude their development. Caring is already a burden which is placed primarily on women.

Avoiding the problem of exploitation would require "the systematic prevention of the type of situations where carers find themselves trapped by such dilemmas" (Bubeck, 249). Some ways which Bubeck suggests for avoiding this dilemma are ensuring the distribution of care burdens more equally, so that the division of caring work is not weighted in favor of men, or limiting the scope of care to private arrangements with some minimal intervention to prevent exploitation within those spheres. However, the fact remains that care responsibilities are primarily left to women and to adopt an ethic of care in structuring social arrangements when existing arrangements already serve to exploit women would only institutionalize the problem. The argument that "caring ought not to be understood as gendered, that it ought to be taken as a model for public institutions, and that it is an irreplaceable element in creating and maintaining just institutions" would only be plausible if existing arrangements did not already make caring a gendered activity (Kaplan, 518).

In order to incorporate care values without continuing or encouraging patterns of exploitation and subordination of women, some notion of fairness, conceived in terms of rights, is



necessary. Normative constraints on care can in this way be located within the justice framework. Not only care and interconnectedness, but also rights must come into play in order for relationships to be mutually beneficial. A balance must be struck between concern for others and a desire to further their interests, and the rights of each member of a relationship to be benefited where possible, and never to be merely the instrument of another. In other words, it is necessary to establish a balance between care and justice.

An attempt to create such a balance is suggested in the proposal that a contractarian test be applied within the context of a care perspective, to set limits on relationships in order to recognize and prevent exploitation. In this test,

The point is not to ensure relations of equal reciprocity where this is impossible, but to prohibit relational arrangements in which one party exploits another by taking advantage of his or her affections. This test is intended in effect to introduce the Kantian constraint that no member of a relationship be treated as a mere instrument of others (Carse, 2).

Persons in a relationship which is the subject of a freely entered and informed agreement, in which they see themselves as motivated by self-interest, can accept the costs and benefits that result from the relationship because these are not the result of any duty-based or affective connections between them.

The main problem with this idea is its apparently limited use in only those relationships in which there is relative equality

between the parties. It could not effectively apply to where there is a necessary and extreme imbalance or inequality, where one party cannot provide any reciprocal benefit to the other. Caring for one who is mentally ill, for instance, would require the carer to give more than he receives, and in this sense, would appear to make the carer merely a means to another's ends.

However, in considering the justice of given relationships it would be necessary to consider the *kind* of care being given by each member to the other, and not merely the more quantifiable *balance* of care. The idea of what it means to benefit from a relationship of strictly unequal care might then be expanded. A care-giver in an apparently unequal relationship may well receive indirect benefits which are not immediately apparent, such as the simple knowledge that a loved one is being cared for, or through the affection that is returned. Such a view though seems again to be at odds with the concern that carers, mainly women, will be encouraged to behave in selfless ways to their own detriment. At any rate, it would seem a valid argument to say that there is a need for justice within an ethic of care, whether the context is one of intimate relationships or of relationships between strangers. Otherwise the vulnerability which accompanies care, mutual concern, or intimacy will too easily lead to exploitation. A care-oriented ethic should presuppose a preexisting condition of justice in relationships - otherwise there would be no boundaries of fairness to limit the extent of any person's

obligation to another. As Carse suggests, a care ethic could be seen as a complement to "our notions of relational justice, thereby better accommodating the different kinds of relationships and roles we inhabit" (3).

It will not be sufficient for a fully just relationship, however, to merely ensure that the interests of each member of a relationship are given weight and consideration. There must also be active encouragement of the other's interests. Where one person does more to support and assist another, it is not sufficient that his efforts simply be appreciated and that he be allowed to carry on unimpeded. It is also necessary that his interests be actively promoted. The care perspective should go beyond the requirement that individuals be "respected directly, as concrete, particular selves, not because they are taken universally to possess an abstract and generic capacity for rational autonomous agency", and place moral focus as well on their individual "idiosyncrasies and vulnerabilities and on the quality and particularity of specific interpersonal relationships" (Carse, 4).

The problem of exploitation affects the care-giver in a relationship, but a separate problem can be anticipated which would affect the recipient of care, which also requires limits on the kind of care to be given to others. A practise of caring for others whether or not they wish to be cared for would be

oppressive and limiting on one's freedom. Caring for others without their consultation can also be merely selfish and self-serving, as for example, when an extremely religious person forces care on another because it is in his own interests as part of his service to the church. In order to avoid this kind of oppressive or self-serving care, a caregiver would have to view other individuals not as simply the objects of his care, or the means to his own ends. Rather, the caregiver must be empathetic and involved in the needs of the recipient. This requires the caregiver to consider the other person's own framework of experience in order to determine what those needs truly are, rather than imposing his own framework on the other, and attempting to make appropriate decisions from this standpoint.

This position also requires limits, however, since without limits it is possible to conceive of the caregiver who simply loses himself in another person's perspective, rather than maintaining his own ideas or principles. Again, a need for balance between care and justice seems to be needed, as Carse has argued. A person must include herself within the scope of care, so that her own interests are cared for as well as others' interests. This would also require that she be aware of her own moral position and have a commitment to and respect for her own moral judgments. She would need to recognize her own position as a social being who has a responsibility to others for her moral judgments, and also as an individual in relationships with others. This means

that where conflict arises between an individual's own moral principles and the interests of another with whom she is in a relationship, while the conflicting interests of the other will be given serious consideration, the commitment to moral principles can take precedence.

Unrelated Strangers:

While care may be effective in encouraging just relationships in particular situations, it may be less able to address broader issues of justice or the rights of unrelated strangers. It is criticized as being incapable of addressing problems on a large scale because it does not articulate how care should be extended beyond ideals relevant to particular, proximate relationships:

In the absence of principles that can show us toward whom our care ought to be directed, we can only care for those with whom we happen to be in relation, and although a care ethic might bid us individually to care for those social causes we find most worthwhile, it cannot help us revise the institutions and ideological and economic forces that play a large role in such evils as world hunger or homelessness (Carse, 29).

Without specific ideas about how care ought to be directed it is difficult for individuals to extend care broadly, and an inability to expand the scope of one's attention makes generalizations nearly inevitable. Thus patterns of sexism, racism and homophobia for example are easily fallen into. For this reason, although a care ethic may be appropriate to the particular and the personal, it is criticized for failing to

provide a means of addressing larger problems posed by social justice.

As Carse argues, however, while each person cannot possibly care for others who are not proximate, the care ethic requires only that one care *about* others, including strangers, in the sense that they are included within one's mental scope. 'Caring for' is a kind of activity which involves moral skill, whereas 'caring about' "can be seen to presuppose a position in value theory - i.e., What makes x worth caring about? And this position need not be divided along intimate/stranger or private/public lines" (Carse, 29).

The point is to reject indifference to the problems faced by others, by giving these problems attention and response. While notions of justice would tend to encourage such indifference by requiring that particulars such as race, nationality or gender be ignored in order to prevent prejudiced and unfair treatment, care would require that we consider these particulars and respond compassionately to particular needs of others. The requirement that we 'care about' others involves a rejection of indifference, and a concern and compassion for the welfare of others in general. In practical terms, such response would be expressed through various kinds of instituted interventions. As Marilyn Friedman suggests:

In its more noble manifestation, care in the public realm would show itself...in foreign aid, welfare programs, famine

or disaster relief, or other social programs designed to relieve suffering and attend to human needs (103).

Care can in this sense be applied to relationships among strangers, rather than being limited only to relationships of proximity.

Conclusion:

Care theorists argue that moral theory must be capable of focusing on particular relationships and situations. If a theory is too abstract, as justice theories are accused of being, it will not have any useful practical application. The main strength of care theories their recognition that moral theorizing requires more than merely a determination of the constraints to be placed upon individuals in the interests of justice. What is necessary for a full moral theory is a method by which individual interests and values can be actively promoted. This can be assisted by care, which allows a shift from considerations of how we can best protect our individual rights from interference by others, to concerns with how we actually do and should live with others in relationship of interconnectedness. This reflects a fuller picture of the proper scope of any moral theory. As Gilligan argues, moral inquiry from a care approach would not turn on

the question of how to live with inequality - that is, how to act *as if* self and other were, in fact, equal or how to impose a rule of equality based on a principle of equal respect. Instead, moral inquiry deals with questions of relationship pertaining to problems of inclusion and exclusion - how to live in connection with oneself and with

others, how to avoid detachment or resist the temptation to turn away from need (Gilligan "Origins", 123).

Several problems remain for care theories, however. Though it is not necessary to base care theorizing upon the claim that women have distinct patterns of moral reasoning from men as Gilligan suggested, the adoption of a care ethic as a feminist argument would tend to validate the pattern of dichotomous thinking between categories of justice/care, private/public, equal/different and male/female. The practise of thinking in terms of such dichotomies may itself be both a symptom and a reinforcement of the patterns of thinking to which feminists object. To debate in this manner requires an assumption of two positions, each of which reinforces male norms: either the assumption of a masculine liberal idea of equality as gender-sameness (justice), or the acceptance of feminine difference (care). The equality perspective maintains masculine terms of justice, extending the discourse of rights and autonomy to 'female' realms without significant restructuring. Adopting a difference perspective entails acceptance of female values and norms as a means of countering rights and autonomy with responsibility and mutual interdependence. Each perspective reinforces and works within the assumption that the scope of theorizing extends only to two opposing and mutually exclusive possibilities. As Squires argues:

The feminist literature on the ethic of care might itself have worked to reinforce the symbolic association of woman with caring. It certainly worked to mask the diversity of



perspectives within mainstream political conceptions of justice (164).

If care arguments reinforce the association of care with women, it would be counter-productive to continue debating in terms of the care/justice dichotomy, and would be more productive to move beyond this line of thinking. Even if care is to be viewed not just as a feminine ethic, but as an ethic arising from differences in values of the subordinated members of society (as Joan Tronto suggests), these are perhaps not the voices that should be reflected in our principles or policies - at least not in the sense that they should be thought to represent an ideal social situation or state of being which principles and policies should be directed towards achieving. They should be recognized as indicators of problems to be addressed, and as means of thinking about those problems, rather than being taken as a reflection of what we should value.

Catharine MacKinnon expresses a related sentiment when she argues that it is a mistake to conclude from existing social situations that women have a 'different voice', or more accurately, to conclude that any voice women have been speaking in can be relied upon as providing a true account of women's interests. Having been in a situation of gender-based subordination for so long, women's desires and preferences have themselves been altered by their status. The current voice reflects this, and as MacKinnon notes, "if you will take your foot off our necks, then you will

hear in what voice women speak" (MacKinnon *Unmodified*, 45). Rather than viewing the 'different voice' as a tool for addressing women's inequality and subordination within liberal societies, some improvement in their status would seem to be a condition precedent to identifying this voice. In short, inequality and subordination must be addressed *before* women's true voices can be identified.

As I will consider in the following chapter, an alternative approach which gives attention to basic human functioning and capabilities may provide a means of addressing concerns of liberal feminists and care theorists from within a liberal framework.

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## Chapter 4

### The Prospects for Feminist Liberalism

#### Capabilities and Human Functioning:

An alternative means of addressing the feminist concerns about liberalism raised in chapter two from within a justice framework, which does not require a shift to a care paradigm, is suggested by the capabilities approach.

This model also starts with the liberal view of persons as being fundamentally equal, and locates this equality in human dignity and worth: All human beings,

just by being human, are of equal dignity and worth, no matter where they are situated in society, and...the primary source of this worth is a power of moral choice within them, a power that consists in the ability to plan a life in accordance with one's own evaluation of ends (Nussbaum *Justice*, 57).

This equality entitles each person to be treated within society in a way that will "respect and promote the liberty of choice, and...respect and promote the equal worth of persons as choosers" (Nussbaum *Justice*, 57).

In keeping with the liberal tradition of Rawls, Nussbaum recognizes that it is the human capacities for choice and reasoning that makes all humans worthy of equal concern and respect. In her view, the aim of a moral or political theory should be to produce a world in which fully human functioning

will be available to all persons. To this end, what is required of our principles of justice is that they ensure the protection of a minimum level of what a respect for human dignity requires. These principles would be based on a consideration of human capabilities, an idea Nussbaum adopts from Amartya Sen:

Ultimately, the focus has to be on what life we lead and what we can or cannot do, can or cannot be. I have elsewhere called the various living conditions we can or cannot achieve, our 'functionings', and our ability to achieve them, our 'capabilities' (Sen, 16).

In determining social principles and distribution practices, it is necessary to consider not just resources and individual preferences, but rather, it is necessary to identify the specifics of how the resources that are to be distributed will actually be used in the project of encouraging full human development. In other words, it is necessary to identify the particular needs of individuals and their particular abilities to use the resources available to them in order to function. As I will examine in this chapter, this focus enables the capabilities model to address various feminist concerns about liberal theory's abstraction and universality, in a way that is more effective than care arguments.

In developing her version of the capabilities approach, Nussbaum accepts certain aspects of Rawls' position, but sees it as lacking in several respects. She argues that because of its focus on wealth, income, and level of resources as measures of human welfare it falls short of measuring real human well-being.

Nussbaum recognizes that resources have no value in themselves, but derive value from their use: They are valuable only in that they may be used by an individual to promote human functioning. A group or individual may have sufficient resources and therefore be considered to be well off from a financial perspective, but this does not ensure their well-being in the broader sense of social well-being. As Nussbaum illustrates:

One might argue...that gays and lesbians in our own society, while not the least well off with regard to income and wealth, are very badly off with regard to the social bases of self-respect, in that such fundamental social institutions as the structure of marriage deny their equal worth. But Rawls's difference principle would not recognize them as a group in need of special attention to remove the inequalities that they suffer ("Enduring", 2).

Similarly, merely considering the wealth and resources available to women in any given nation will not ensure a resultant reduction of oppression or exploitation where these are present. In considering whether women in a particular nation are receiving the same standard of treatment as others, we would not measure their comparative levels of income, or resources but rather, their status would be measured by determining what each is able to do and to be, and by examining how well these potentials are being met by provision of the things necessary to reach them.

In a general sense, then, Nussbaum adopts Rawls' account of the fair distribution of primary goods, but in such a way as to address its unsuitability for resolving particular problems of inequality. In determining the relative well-being or quality of

life of individuals, it is the central capabilities rather than resources that will serve as the measure. These capabilities will be used to identify the most and least well off individuals in a group, and from this a threshold can be set in terms of basic human functioning which identifies the minimum level of capability that must be ensured for all citizens. Justice would then demand that any individuals who systematically fall below the threshold would be seen as needing immediate attention, regardless of how they might measure up based on a resource analysis:

if people are systematically falling below the threshold in any of these core areas, this should be seen as a situation both unjust and tragic, in need of urgent attention - even if in other respects things are going well (Nussbaum *Women*, 71).

In determining the threshold, a scale of functions is considered. The extent to which certain functions can be seen as measures of humanity begin at the lowest extreme where the absence of a given function could be equated with the absence of human life. Measuring capabilities relates to what is minimally required, not for mere presence of human *life* (which would require only food, water and shelter, for example), but for minimum human *functioning*. To say that one is not truly human would be to say that a person's capability falls below the threshold of what is worthy of a human being: "beneath a certain level of capability, in each area, a person has not been enabled to live in a truly human way" (*Women*, 74).

Rather than setting out a list of primary goods as Rawls does, the capabilities approach establishes a list of central human functional capabilities. Nussbaum's current list contains ten central capabilities, but is flexible and can be adapted to include different capacities if these appear to be appropriate measures. The current ten include: Life; health; bodily integrity; senses imagination and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment, politically and materially. Each capability is a separate component, which cannot be satisfied by a greater quantity of a different component, so that, as with Rawls, there can be no trade-offs which could justify injustice in respect of any particular capability. The threshold includes a minimal requirement that each capability be present. If there is a total absence of one capability, then even if there is an abundance of the others, the threshold will not be met.

Nussbaum, like Rawls, finds that utilitarian arguments cannot provide a basis for adopting an adequate moral position, because they are "unable to adequately account for the pressures of tradition in the measurement of individual preferences or desires" (Charlesworth, 65). Nussbaum recognizes that individual preferences may be shaped by culture and tradition and that individuals are often forced into choosing lifestyles or belief systems as a result of social pressure. As examined in Chapter one, the social conditioning of preferences was of concern to

Mill, but he was not able to provide a satisfactory answer to the problem from a utilitarian perspective. Although the harm principle could protect against the institutionalization of public opinion, it could not prevent public opinion from exerting more subtle influence over individual choice and preferences.

Individual preferences are in many ways shaped by our culture, traditions, and by public opinion. When the opinions of a suppressed group are heard, it is not always clear that these present a complete picture of the beliefs that group might have if they weren't in a subordinate position. As Nussbaum notes,

Empirically, it has been amply demonstrated that people's desires and preferences respond to their beliefs about social norms and about their own opportunities. Thus people usually adjust their desires to reflect the level of their available possibilities: They can get used to having luxuries and mind the absence of these very much, and they can also fail to form desires for things their circumstances have placed out of reach (*Justice*, 11).

Nussbaum illustrates how preferences can be altered by entrenched norms by reference to a group of women living in an area of India in conditions of severe malnourishment and without clean water, who express no anger or complaint about their situation: "They knew no other way. They did not consider their conditions unhealthy or unsanitary, and they did not consider themselves to be malnourished" (*Women*, 113). Such entrenched preferences can in this way clash with universal norms at even the most basic of levels, concerning minimal health and nutritional expectations.



This issue poses a challenge because it is difficult to account for the fact that not all women profess to value the ideals that Nussbaum would see as universal norms. How, then, can imposing these ideals universally be justified? In many cases, for example, women may assert the primacy of traditional roles and cultural norms over the ideals of freedom and equality, and this seems to run counter to what Nussbaum would hold to be universal ideals.

Given the ways in which preferences can be shaped, it is tempting to argue that whenever women choose to accept norms that are limiting on their individual freedom, they are simply acting on the basis of desires that have been twisted and altered by a lifestyle of subordination and exploitation, and that their acceptance of such norms cannot be viewed as being based on freely chosen beliefs. This is a difficult argument to maintain, however, because it seems to suggest that any time a woman accepts a set of norms that are at odds with liberal principles, she must simply be misguided or incapable of real choice.

Liberal feminists do not have to take the position that universal standards or liberal ideals should simply be imposed upon a woman when she chooses to follow traditions which demean her status and value, however. It is only where it seems apparent that a person has been coerced or forced into accepting such traditions that

the situation might call for intervention in the interests of justice. Even accepting this point of view, however, creates the problem of deciding in which circumstances an individual has freely chosen a belief system, and when she has merely accepted entrenched preferences as given. While we would want to prevent the continued subordination of women by various forms of social coercion in the interests of justice, upon what basis is it possible to decide which beliefs or choices are true indicators of individual choice, and which are the result of social pressure and twisted desires?

Pluralism & Liberal Equality:

Rawls could not satisfactorily address this problem, particularly as concerns the issue of religious freedom. Religious precepts are frequently at odds with liberal ideals, and individuals are free to choose to adopt religious beliefs which assert the existence of natural inequalities between men and women. Although such inequality runs counter to liberal tenets, Rawls cannot justify interference with these beliefs, because such interference would be in contravention of the right to religious freedom. He therefore unsatisfactorily accepts a somewhat qualified account of equality, according to which men and women are to be viewed as equal citizens formally, but not necessarily as equal by nature. Though Nussbaum argues that Rawls may be right to "show people the respect of letting them sort out for themselves how to integrate their political and moral ideals",

she finds that his account of equality is not on the whole satisfactory, and a better means of addressing this concern might be found in the capabilities approach ("Enduring", 5).

Nussbaum suggests that the way to determine which choices are being made on the basis of beliefs one truly has accepted as one's own, and which choices are being made based on imposed or coerced beliefs, is to examine the way in which a given decision has been reached. Provided that an individual has engaged in a process of reasoned deliberation in deciding to adopt a particular belief system, any particular choice made on the basis of that belief system would be a freely made choice with which no one should interfere. One can choose to act in ways that would run contrary to liberal ideals, provided this choice is made freely and through reasoned consideration. If it is not, then intervention by social institutions and government is justifiable as a means of remedying injustice.

An example of how such an analysis might take place is in the legal determination of whether medical intervention can be required for individuals who refuse blood transfusions on religious grounds. Unless there is evidence of actual coercion or duress, there is no ground for legal intervention, despite the fact that the majority of people might view such a choice as merely conditioned by religious teaching and as fundamentally wrong. The assumption that any belief which is outside the norm

is wrong or improperly chosen is not sufficient ground for interference. A similar example is where women have joined religious cults in which they accept formal roles of servitude and often abusive treatment which would not be tolerated according to liberal ideals of equal treatment. There is no legal ground for interference unless there is clear evidence that an individual was induced to join these groups by force or coercion. In both cases, the Court would have to consider whether a reasoned decision was made by examining an individual's reasons for his or her decision, and the process that was engaged in when coming to that decision.

The same principles would apply to questions on an international level, where issues arise within the context of human rights legislation and treaties, and it is here that Nussbaum's approach is perhaps of most benefit. Provided that each person has the things minimally required for human functioning, any choices made as to lifestyle or belief systems based on a process of reasoned deliberation, whether or not they run contrary to liberal ideals, would be seen as freely made choices with which interference is not justified.

In this way, Nussbaum emphasizes the role of practical reason and choice as they are used in converting capabilities into human functioning. Provided one has the capabilities needed to function, she can make her own choices as to how to use them

through reasoned consideration. It is therefore not necessary to ensure that each individual has a particular level or type of functioning, but only to ensure that all individuals have the basic threshold capabilities available to them:

a person who lacks any of the capabilities cannot be said to have a good human life. Thus development and preservation of the capabilities must be the central goal of all public policy making. In the context of the inequalities women experience...the capacities become claims that can be made by women, which generate concomitant political duties (Charlesworth, 66).

The capabilities approach Nussbaum advocates is in this way able to emphasize the role of choice and reasoning without creating a system which would be too abstract to address particular situations of inequality. She is also able to avoid reservations in her equality claims, unlike Rawls, which she sees as important because "the situation of women in the contemporary world calls urgently for moral standtaking" (*Justice*, 31). Accordingly, she adopts a foundation based on Aristotelian principles of human functioning, and argues that in all cases, justice demands that that individuals be able to function at a level which could, at minimum, be considered human functioning.

Whereas looking only at resources and rights in addressing issues of social injustice can still allow inequality to continue, a capabilities model can be used to address problems of injustice in concrete ways. An example of this concerns international treaties and the ways in which parties to them may employ liberal justifications to uphold formal practices of inequality. Parties

to international treaties can claim exemptions to legislation such as the "Convention on the Elimination of All Forms of Discrimination against Women of 1979" which was designed to ensure the equal treatment of women by entering a formal reservation on grounds of religious or cultural beliefs. These parties are then able to both maintain their status as participants in the treaty, while also maintaining their right to continue to employ oppressive practices. Hilary Charlesworth notes for example that Egypt has in effect exempted itself from the requirement of observing equality in marriage and family rights, by making this requirement subject to Islamic law. Similarly, Australia has made reservations which make certain religions exempt from the equality requirements under the treaty. Although such reservations are not technically valid under international law, there are currently no mechanisms in place to effectively challenge them, and as a result they have the effect of modifying a state's obligation to implement the treaty.

It is not a simple matter to require reservation practices to stop, because these reservations are grounded in claims of tradition, culture or, most commonly, religion, so that efforts to forcibly remove reservations would be characterized as interference with religious freedom. Religious intolerance is unacceptable by the same equality principles that the treaties are themselves founded on and there is thus an apparently

irreconcilable conflict between pluralism, particularly with regard to religious beliefs, and equality rights.

By applying the requirements of the capabilities model, it becomes possible to dispute the use of tradition or religious freedom as means of justifying unequal treatment. As Charlesworth argues: "The capabilities approach...offers a detailed method to challenge invocations of culture in international law to justify the denial of women's equality" (68). In assessing the validity of reservations based on claims of tradition or culture, what should be considered is what the real effect of the reservations will be. If the effect will be to limit women's possibilities of living lives of fully human functioning, the reservation should be struck out as being incompatible with the requirements demanded by the treaty.

Religious or cultural arguments can then be used to justify inequality only where the belief system in question is accepted by a woman claimed to be governed by it. As Nussbaum argues:

a woman's affiliation with a certain group or culture should not be taken as normative for her unless, on due consideration, with all the capabilities at her disposal, she makes that norm her own (*Justice*, 46).

In order to accept a claim that a woman is bound by particular cultural norms it will be necessary in each case to establish that she has accepted the norms, through the exercise of

practical reason, from a situation in which all the central human capabilities are available to her.

In what circumstances it will become necessary to question whether an individual has made a norm her own is not specifically spelled out by Nussbaum. She may intend that there be a *prima facie* assumption that a woman has not made a norm her own wherever the norm mandates unequal status for women. Alternately, she may mean that, if women governed by a norm voice any rejection of it, this would be sufficient to show that it has not been freely adopted. Either way, the capabilities model would provide a means of preventing claims of religious freedom from trumping claims of equality as they frequently do. In cases involving treaty reservations specifically, it would seem likely that in many cases the member state raising an argument for unequal treatment on the basis of cultural norms would be unable to meet the capabilities aspect of the test in any event so that the determination would be made quite readily. In other words, it is unlikely that those states seeking to actively reinforce unequal treatment would have practices in place to ensure that the central capabilities are available to the women living under their systems. It would not be necessary to pursue the additional part of the question, as to whether the norms are actually accepted by those women, because the requirement that individuals have access to basic capabilities would already be missing. In this way, the capabilities approach is able to



address issues of gender-based inequality in a way that resource based liberal theories like Rawls' could not.

Individualism and Connection:

This approach is also able to address the concern raised by care theorists, among others, that liberal individualism prevents real consideration of women's interests. Nussbaum argues that liberal individualism is not only compatible with women's interests, but because it emphasizes our separate existence as individual units of political thought, it is the best way of meeting them.

She notes that liberal thought has often placed care, compassion and love in central positions within normative programs, while still maintaining an emphasis on individualism. Each individual can therefore be treated as equally valuable rather than merely a means to others' ends or as a mere component of a larger organic whole. This is as Nussbaum notes

a very good position for women to embrace, seeing that women have all too often been regarded not as ends but as means to the ends of others, not as sources of agency and worth in their own right but as reproducers and caregivers (*Justice*, 10).

This is a main problem with advocating a care ethic, because it too regards women as caregivers, and therefore creates the risk of justifying the treatment of women as means to others' ends.

The form of liberalism Nussbaum endorses maintains a commitment to individualism but also treats care as both a goal of social

planning and a major moral ability within a life governed by the critical use of practical reason. The capabilities model requires consideration for the well being of each person, but in such a way that is not incompatible with individualism:

Putting things this way does not require us to deny that X might love Y intensely and view his life as worthless without Y; it does not require that Z and Q do not plan their lives together and aim at shared ends; it does not require us to hold that all four do not need one another profoundly or vividly hold the pleasure and pain of one another in their imaginations. It just asks us to concern ourselves with the distribution of resources and opportunities in a certain way, namely, with concern to see how well each and every one of them is doing, seeing each and every one as an end, worthy of concern (*Justice*, 63).

If capabilities for love and affiliation are given consideration as a central social role, then liberal individualism does not really encourage people to put "their own concerns first and those of others second, or to pursue a solitary conception of the good, in which deep attachments to others play no role" (*Women*, 246). The individual is to be viewed as the primary unit of political distribution (of liberty/goods) but each person is also to be viewed as an end.

The concern that liberal emphasis on individualism will lead to egoism seems in this way to be effectively addressed. In any event, it is perhaps not as significant a problem for liberals as is suggested by some critiques. Human beings are seen in Rawls, Mill and Kant as having non-egoistic (as well as egoistic) motives for their actions. It is not common within the liberal framework to adopt an account of human psychology that would lead

to the conclusion that individuals will be primarily led by self-interested concerns to the exclusion of any real concern for others.

As Nussbaum argues, it is not really the liberal emphasis on individualism that is a problem for women but rather, it is the fact that women have not been treated as individuals and as ends in themselves. Liberal individualism doesn't need to be abandoned, but the tradition of equal concern and respect for each individual must extend to women and to the family setting, as Okin has also argued. Since a capabilities approach does not depend upon a distinction between private/public, focusing as it does on capacities rather than protection of rights, it is able to extend to women in all situations. In order to ensure that women are protected within the home, consideration is to be given to determining whether resources and opportunities are distributed equally within the family, on the basis of ensuring basic human capabilities. Each member of a family is to be considered as an end and has the same right to basic capabilities as the other members. This addresses the problem Rawls did not address, because he could not consistently apply principles to the family without violating the principle requiring privacy. It also provides a more tenable option for addressing inequality in the family than care arguments which would not readily address women's disproportionate responsibility for domestic duties, but would only seek to place value on these duties of care. As

argued earlier, since women already do most of the caring work, making care a requirement for justice would merely reinforce the existing imbalance.

Care and Reason:

The list of capabilities can address concerns raised by care-based critiques of liberal theory from within the justice tradition. In particular, both the value of reason and the value of care are reflected in the capabilities of 'practical reason' and 'affiliation'. These capabilities are in fact thought to be of central importance to all human endeavours, and to suffuse all the other capabilities. Any human activity represented in the list of capabilities should be able to be pursued in a way that will involve reason and affiliation. In this way, these capabilities provide strict limits on the threshold to set for each capability. For example, if work is to be a truly human mode of human functioning, it must involve "being able to behave as a thinking being, not just a cog in a machine; and it must be capable of being done with and toward others in a way that involves mutual recognition of humanity" (*Women*, 82). (Again, though, this is connected to an idea of choice, and if an individual should choose to work in ways that do not meet this description, that is not a problem for Nussbaum, but if it is not by choice but by necessity or coercion, this will not meet the required respect for individual choice).

Conclusion:

The major strength of Nussbaum's model is that it provides a concrete focus for legal and political projects of international reform. It serves as a tool for identifying real factors which serve as barriers to women's equality, rather than trying to fit unequal persons into a model based on an assumption of existing, formal equality. As the examples discussed demonstrate, formal equality based on balancing between competing rights will not be sufficient, because whenever the competition involves women's equality rights, these will almost always be trumped by whatever other rights claim is at issue. Equality for women is in effect only guaranteed, then, in so far as it doesn't conflict with another fundamental right such as religious freedom.

By identifying the ways in which women's capabilities are impeded by culture or religion, it is possible to address inequalities on a more fundamental level than is possible through a rights based analysis alone. By focusing on capabilities rather than resources, real inequalities including those lurking under the guise of religious belief or tradition can be brought into focus, so that it becomes possible to redress those inequalities arising from the subtle mechanism of social conditioning.

A capabilities model is also able to address global problems of injustice, rather than being limited only to the scope of particular, local issues. This does suggest a criticism,

however, in that the capabilities approach makes a universal claim for justice which therefore requires that it apply across all cultures. The degree to which the capabilities approach can actually reconcile its commitment to universal values with an acceptance of pluralism remains a problem. Nussbaum recognizes the need to attend to differences, but it might be argued that the approach still reflects Western values and would seek to institute these as national and international policies for human welfare.

However, the universal standard Nussbaum would set is, I would argue, one which does not limit choice of belief systems and does not require that individuals reject belief systems where they do not conform to Western, liberal standards of justice. She would set a *minimum* threshold for basic human functioning, and since the capacity to choose what specifically one will adopt as a plan for full human functioning, there wouldn't seem to be much that is being lost by imposition of such a universal claim.

Since in many cases, justifications based on culture serve to support abuse, degradation or even murder of women, it might appear that the only thing being lost is an excuse for institutionalized exploitation and unjust treatment of women. These claims need to be carefully analyzed in terms of their real purpose rather than being protected out of a blind adherence to liberal principles of religious tolerance. In truth, as Nussbaum

notes, such justifications rarely have support in the religious texts which have been adopted by a culture as the basis for their beliefs. Rather, they turn out to be self-serving misapplications of belief systems, which were never accepted by the culture in the first place. They may become entrenched social values over time, or they may simply be imposed upon a culture by force. While there may be no justification for interfering with a culture's chosen traditions even where these are restrictive on women's freedoms or individual freedom generally, it seems reasonable to limit this view by the requirement that certain basic human capabilities be protected regardless of particulars of tradition of culture. In Nussbaum's view, the basic capabilities transcend all such particulars, and the minimal or threshold conditions set by the capabilities model would be protected regardless of culture, religion or history.

These ideas, however, remain subject to the criticism that such a universal liberal approach constitutes the imposition of Western ideals. Nussbaum recognizes this problem, but maintains that it is necessary to take some position on the issue of tradition versus liberal ideals on a global level:

To say that a practice endorsed by tradition is bad is to risk erring by imposing one's own way on others, who surely have their own ideas of what is right and good. To say that a practice is all right whenever local tradition endorses it as right and good is to risk erring by withholding critical judgment where real evil and oppression are surely present. To avoid the whole issue because the matter of proper judgment is so fiendishly difficult is tempting but perhaps the worst option of all" (*Justice*, 30).

It is perhaps worth the risk to take a stand in order that the situation of women across the world can be improved. This is in itself by no means a Western project, nor are the ideals described by liberal theory fundamentally Western in themselves. All cultures in all times have held beliefs about how individuals should treat one another in the interests of fairness, and these have often been the same beliefs described here as liberal or Western thought. In discourse with women of other nations (as with women of various backgrounds in Western cultures) there is a widely expressed desire for improved welfare and status. However, in the stated positions of the political or religious leaders of any given nation these same interests may be declared to be contrary to cultural belief or merely given secondary consideration. Those stated positions would then seem to be fair targets of criticism. If they are what are being represented as the "culture" or "tradition" of a group, it is perhaps not a real violation of cultural or religious freedom to take a stand on any injustice arising from those positions, and to impose minimal limits on the basis of a capabilities model as Nussbaum suggests. She would further argue that in any event, the requirement that human functioning be protected supersedes any tradition, Western or otherwise:

There are universal obligations to protect human functioning and its dignity, and...the dignity of women is equal to that of men. If that involves assault on many local traditions, both Western and non-Western, so much the better, because any tradition that denies these things is unjust" (*Justice*, 31).



Whether or not this is a satisfactory answer to the charge of Westernizing or imperialist thinking, the capabilities approach does provide a possible alternative to rights and resource based liberal models, which do not effectively address problems of gender inequality. The capabilities model is able to address problems of inequality not just at a theoretical level, but also by providing a universal standard of justice which can serve as a useful tool in social planning as well as in formulating political critique and discourse. The capabilities model as a form of political liberalism is not inconsistent with feminist aims and therefore provides a basis for feminist thought within a liberal framework.

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