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### CHAPTER

## 19 Gender

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### Abstract

This article critically surveys some of the most prominent issues of justice raised by gender and the main debates about how to address them. It begins by examining the concept of gender itself. It argues that although the ideal of gender equality is widely accepted in theory in the developed democracies, this ideal is still contested in many parts of the world. Moreover, in practice in many developing countries women and girls are less likely to be educated, vaccinated, or even fed than males. Even in the societies in which the ideal of gender equality is accepted, men and women do not enjoy equal opportunities.

**Keywords:** [justice](#), [gender](#), [equality](#), [developing countries](#), [equal opportunities](#)

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The subordination of women characterizes virtually every society in the world. Facts about this subordination differ from place to place: In some countries, there are extensive inequalities in the mortality and morbidity rates for men and women, women cannot hold political office, women are brutalized by rape and violence, and girls are last on the list to get an education or even food (Joshi 1998, 169–77; Nussbaum 2000). Even in the most gender-equal societies, while matters are less extreme, men and women still face very different life prospects. In the United States, for example, working women still face a “second shift” in the home, are paid less than men for comparable work, are more likely than men to be poor, and have substantially lower prospects of being selected for top levels of employment or political leadership. In 2010, only fifteen CEOs of Fortune 500 companies were women (“Top Women CEOs,” 2010).

Political philosophies offer different theoretical tools that we can use to evaluate women’s unequal position. It is important to note, however, that for the majority of its long and venerable tradition, much of political philosophy simply took gender inequality as a *given*, either ascribing it to nature or simply ignoring it. This was especially true with respect to the family: The gendered division of labor in the family was justified by an appeal to brute biological differences, or theorists failed to notice women’s subordination in the home at all. Some theorists who did notice such subordination viewed the family as outside the concerns of political

philosophy or as a private domain inappropriate for public intervention. A number of influential philosophical accounts of social justice explicitly legitimated men's rule over women by appeal to patriarchal norms.

p. 355 John Stuart Mill (1988 [1869]) was an important exception, arguing in *The Subjection of Women* that the unequal position of women in the family could not be justified by appeal to "women's nature," about which he insisted on complete agnosticism. ↪ Such appeal could be fairly evaluated, he contended, only *after* the constraints on women's opportunities had been fully lifted and we had the chance to see what men and women who were equally free were really like.

Moreover, Mill argued that inequality in the family has damaging effects on men and women's equality in the wider social world. Consider, he asks, the consequences of "the self-worship, the unjust self preference" nourished in boys growing up in male-dominated households in which "by the mere fact of being born male he is by right the superior of all and every one of an entire half of the human race" (Mill 1988 [1869], 86–87). How will such boys grow up into men who treat women as equals?

Feminist scholarship has continued, extended, and deepened Mill's attack on the conception of the family as a private personal realm off limits to those concerned with promoting justice. Attention to gender has revealed the complex interpenetration of "public" and "private." Indeed, the idea that "the personal is political" is a core thesis that has been brought to the fore of political philosophy by feminism. Another central claim, now widely acknowledged in political philosophy, is that the status of women does in fact raise significant issues of justice. Because of pioneering feminist scholarship, it is no longer possible to judge a theory of social justice as satisfactory if it ignores the gendered family and its implications for the division of labor and the structure of opportunity in the wider society. This means that many contemporary theories of justice are in need of reform. Some liberal egalitarians betray their own principles of commitment to autonomy and equal opportunity by their failure to explicitly question the traditional gendered division of labor, both within the family and within the society as a whole (Okin 1989; Kymlicka 2002, 386).

The prevalence of gender inequality gives rise to a number of distinct questions. Some of these questions are normative: What, if anything, makes the inequalities that obtain between men and women unjust? Are all such gender-based inequalities unjust? What role is there for gender differences in a just society; that is, what would count as (full) justice for women? What are legitimate means for combating gender injustice? What framework(s) should we use to think about these issues?

There are also perplexing empirical questions. While feminists agree that gender hierarchy is unjust, they offer very different analyses of its sources and main features. Is the "linchpin" of women's subordination their role in the domestic division of labor within the family (Okin 1989)? Is it the structure of the labor market (Bergmann 2002; Folbre 1994)? Is it the product of males' tendencies to sexual violence and domination (MacKinnon 1989)? Or is it a consequence of women's biological role in reproduction (Firestone 1970)? Arguably, all of these factors are important contributors to gender inequality, and it is doubtful that any one of them can be fully reduced to the others. Nonetheless, some factors may be more causally important than others. Deepening our understanding of the influence and interplay of these multiple factors and also the ways that gender interacts with other axes of social disadvantage, such as race, disability, and class, is clearly important to the project of advancing gender justice.

p. 356 Answers to these empirical and normative questions are often connected insofar as those who think that differences between men and women reflect only differences ↪ in their biology will be less likely to condemn those differences as unjust than others who think those differences are a legacy of workplace discrimination, sexist laws, and constrained opportunities. Nevertheless, the relationship between these two domains is not one of entailment: It is possible to think that socially caused gender inequalities are

justified and that biological differences between men and women can raise questions of justice. For example, as I explain below, some people think socially caused gender inequalities are justified if they are freely chosen. Additionally, the fact that a disadvantage has a biological origin says nothing in itself about whether or not society has an obligation to accommodate it or redress it.

Feminist and nonfeminist political philosophers give different answers to both the normative and the empirical questions. Some feminists have questioned whether standard philosophical accounts of social justice actually have the resources to address woman's subordination, arguing that we need an explicitly feminist philosophy.<sup>1</sup> But there are as many differences *within* feminism as *between* feminist and nonfeminist accounts of social justice. In this chapter I critically survey some of the most prominent issues of justice raised by gender and the main debates about how to address them. Before doing so, however, it is important to examine the concept of gender itself.

## 1. What is Gender?

Starting in the 1960s, a standard way of understanding gender referred to the socially constructed roles, behaviors, and characteristics that a given society considered appropriate for men and women (see World Health Organization 2012). On this conception, while sex is biologically determined, gender is solely a function of culture and social structures. Underlying this distinction has usually been the premise, implicit or explicit, that the most significant differences between men and women are a function of culture, can be changed, and are subject to moral criticism. Simone de Beauvoir (1973/1949) captured this assumption in her pithy remark that one is not born but rather *becomes* a woman. In other words, being a "woman" is not a physical destiny produced by female reproductive organs: Social causes are needed to bring "men" and "women" with different characteristic identities into being. Moreover, only once these characteristic identities are socially created does subordination on the basis of gender becomes possible. Physical differences alone, some contend, cannot explain this subordination (see Haslanger 2000). Feminism's rejection of biological determinism as the basis for gender inequality has been supported by work in history and anthropology that has shown the historical and cultural variability of gender (Scott 1986) as well as laboratory and clinical research that has documented the dismal history of exaggerated or imaginary physiological differences (Fausto-Sterling 1992).

p. 357 By the late 1970s, a number of scholars were pointing to difficulties with the sharp divide between sex and gender, stressing the mutual interaction between ↴ biology and social forces. For example, they pointed out that we could not even understand sex-based differences in height, weight, and physical strength without taking into account diet and the social division of labor (Jaggar 1983, 106–13). Thus, in societies where neither men nor women perform hard physical labor, the gender gap in strength and size is smaller than in those in which men alone perform such labor. It has also been argued that the causal arrow can go the other way: Biological differences can influence men and women's social behaviors.

This blurring of the divide between sex and gender resurrected the debate about the extent to which women are fundamentally the same as or different from men. On the one hand, many feminists continue to argue that there is nothing of great importance—and certainly nothing that can explain women's social subordination—to presocially distinguish men from women (Okin 1989; Haslanger 2000; MacKinnon 1989). They maintain that it is not biology but the cultural significance given to biological difference that is the problem. They argue that the fact that so many biological differences are socially influenced only strengthens their position.

Alternatively, some feminist scholarship has argued that there are indeed significant essential differences between men and women—whether nature, nurture, or both best explain these differences—but that these differences are in need of revaluation. This viewpoint accepts that men and women's differences may lead

them to take up different roles in life but insist that the set of their respective opportunities must be equally good. These “difference” feminists have sought recognition for, and appreciation of, the characteristics historically associated with women, stressing the positive value of care, empathy, and nurture (Gilligan 1982; Noddings 1984; Ruddick 1990). They have argued, for example, that, given its evident importance, the caring labor that goes on in the family should be given greater public recognition (Kittay 1999). The fact that such work is currently denigrated does not show the real value of such work; rather, these feminists argue that the denigration itself is due to the fact that childcare is seen as “women’s work” and thereby accorded less importance. They have also pointed out that there are undesirable consequences of modeling women’s opportunities on those of men’s: For example, it is a bad thing to be unable to spend time with one’s children.

Despite the undistinguished history of the attempt to locate significant gender differences in biology as an explanation of women’s inequality, the search continues. The issue continues to be whether characteristic differences in men and women’s traits are best explained by biological differences between men and women. Consider the question of why there are far fewer women mathematicians than men. Some argue that women are innately predisposed against being good at mathematics or abstract reasoning; others argue that the causal story is crucially about social causes such as gender stereotyping, lack of role models, and so on. This debate is fueled by recent fMRI studies that purport to show significant processing differences in male and female brains, leading to different cognitive strengths and weaknesses, as well as by, on the other hand, a slew of studies showing the effects of gender stereotyping on K–12 math education. Unfortunately, it is all too easy to overemphasize the influence of biological factors. Women are a diverse category, as are men, and what commonalities the genders share across time and place might be largely the result of an unfortunate history of unfairness and constraint and not biology.

In the end, however, the critical issues are normative. Even when there appear to be biological differences between men and women that explain some gender choices and gender patterning—such as the fact that men cannot give birth to or nurse children—it is a different thing altogether as to whether—and to what extent—such differences justify inequalities in social circumstances. Nothing about women’s economic prospects or social roles *logically follows* from the fact that gender may have some biological underpinning in sex. Indeed, one of the great innovations of modern liberal thought is the idea that differences between people—on the basis of religion, sex, race, or social class—cannot by themselves *justify* unequal political, civil, and social rights and opportunities. For the most part, current debates in philosophy about gender do not question liberalism’s “egalitarian plateau,” which affirms that justice requires treating people as equals (Kymlicka 1990). Rather, they concern the means and ends of gender justice, including the legitimacy of arrangements that, while seemingly arising on this egalitarian plateau, instantiate inequalities and the appropriate means for rectifying those inequalities that are deemed to be unjust.

## 2. Justice and Gender

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### Ends

Which gender inequalities, if any, are just? Is there anything unjust about the gender inequalities that attach to family roles? Is there anything unjust about the gender inequalities that attach to social roles outside the family? While it seems obvious to some people that gender inequalities are unjust, others see the issue differently. The latter advocate evaluating gendered practices in terms of their relationship to individual choice and decision. On this view, what matters is whether men and women *choose* to lead different kinds of lives: Gender differences that result from their different choices are justified; those that issue from coercion are not. However, we can quickly see that it is not obvious how to extrapolate from this view to gender. Coercion is a contested concept in political philosophy (Wertheimer 1987). Rarely does a coerced individual face a situation in which there are literally no choices. Even the decision to surrender one's money to a robber rather than forfeit one's life has a voluntary aspect. Given that even under constraints we make choices, and that in fact all choices are constrained, how do we determine which constraints are legitimate? What makes a constraint an instance of illegitimate coercion?

p. 359 Consider how the choice/coercion dichotomy plays out with respect to the assumption of gender roles within the family. First, we need to place this question in context: Despite the advances prompted by the feminist movement during the last quarter of the twentieth century, most families remain based on an unequal division of labor. Around the globe, women do the vast majority of domestic labor—not only tending the house but also raising and caring for children. Feminist economists and sociologists have further shown how women's role in parenting constrains their ability to pursue careers and compete for demanding jobs (Folbre 1994). Many women therefore remain economically dependent on their male partners and vulnerable to poverty in the event of divorce. Women's economic dependency in turn gives their husbands/male partners considerably more power and bargaining advantage within marriage (Sen 1990a).

Nevertheless, could it not be argued that these discrepancies issue from women's own choices? Childrearing may be an expensive lifestyle choice in terms of its opportunity costs, but it is usually a choice nonetheless. Men and women have different aspirations that lead women to value caring for children over the additional income that is available in the market economy. Many people make choices that disadvantage them on the labor market or have otherwise high opportunity costs, but philosophers have argued that we have no obligations of justice to beach-bum surfers or to lovers of very fine claret. We are not obligated, on grounds of justice, to subsidize the expensive tastes of others (Dworkin 2000). If women freely choose to spend their time caring for their children, then they must take responsibility for assuming the costs, including the opportunity costs, of their choices.

Those emphasizing the choice dimension of contemporary gender differences point out that the traditional family has already seen many changes in the last seventy years, changes that make it more plausible to see women's current employment and family situations, at least in the developed world, as freely chosen.<sup>2</sup> In the decades following World War II, increasing numbers of women entered the labor force. The development of the birth control pill made it easier for women to avoid unwanted pregnancies and to plan when to have children, and there are a growing number of single-parent families, gay families, and extended families. Economic, technological, and social factors have together made the full-time stay-at-home housewife and mother with a working husband a statistical minority.

Laws governing families have also changed. In almost all developed nations, legal restrictions on marriage, divorce, and abortion were relaxed in a relatively short time, between the mid-1960s and the mid-1980s (Glendon 1987). In *Loving v. Virginia*, for example, the U.S. Supreme Court struck down state laws preventing

people from different races from marrying; *Roe v. Wade* legalized abortion. Of course, many of these changes have been contested, and there remain serious constraints on a woman's reproductive choices, including her choice about whether to end her pregnancy, nor can gay people usually marry. But it is nevertheless true that the family has increasingly evolved from a hierarchical institution based on fixed-status assignments to a set of relationships among individuals based on their own consent.

p. 360 Those who emphasize the role of choice in explaining and justifying gender inequalities might acknowledge that legal constraints on choice remain but argue ↪ that this simply means that we should further extend the domain of choice and fully allow individuals themselves to determine what kinds of families they want to create. Thus, those advocating a choice perspective would allow people to make their own agreements about procreation, work, and family without state restriction. These arrangements could include not only rights to abortion and contraception but also rights to contract away parental bonds and to sell and buy gametes and reproductive labor; choices in favor of polygamy and polyandry, gender hierarchical families, and workplaces side by side with more egalitarian ones; and families in which women do all domestic labor and those in which it is shared. As long as such arrangements are chosen, then there is no objection to any person participating in them.

However, these recommendations for the future do not show that women in current circumstances have freely chosen their own life trajectories. In many parts of the globe, girls and women enjoy a second-class status: Within the family, they are the last to be fed, last to be educated, and last to receive medical care. They face other obstacles outside the family: They do not have the same property rights as men, there are restrictions on their participation in political life, and they are vulnerable to violence and sexual abuse.

The idea that most women currently choose their gender roles, even within the developed democracies, has been disputed in three ways. First, some feminists have argued that key aspects of women's roles and paths in life are largely set *before* they have developed the capacities of choice. We can call this the "there is no choice" objection. In *The Reproduction of Mothering*, Nancy Chodorow (1978) argued that the fact that children's primary nurturers are today mothers itself leads to a sexually differentiated developmental path for boys and girls. Girls identify with the same-sex nurturing parent and feel more connected to others; boys, by identifying with the absent parent, feel themselves to be more "individuated." Girls are primed to care for others, while boys are primed to attend to themselves. Chodorow argued that mothering is thereby reproduced across generations by a largely *unconscious* mechanism that, in turn, perpetuates the inequality of women at home and at work.<sup>3</sup> Moreover, not only is the mechanism unconscious, but it traces back to a past in which women's choices to mother were not free, a time when women were excluded by law from many professional opportunities.

p. 361 Chodorow's work has been the subject of much controversy, but it is undeniable that girls and boys grow up facing different expectations of how they will behave. Children receive strong cultural messages—from parents, teachers, peers, and the media—about sex-appropriate traits and behaviors. Girls are supposed to be nurturing, self-sacrificing, nonaggressive, and attractive; boys should be rambunctious, self-confident, and capable of taking charge. "Caring" is largely seen as a feminine characteristic to be promoted in girls and discouraged in boys. Such signals about appropriate gender behavior are everywhere—beginning at birth—often implicit and subtle and largely unconscious but in other cases quite overt. If we bring the observation that boys and girls respond to different expectations to bear on the fact that capability and even talent are shaped by environment and culture, then it ↪ becomes less plausible to see "choice" as the driving factor in the assumption of unequal gender roles.

Some critics of choice-based perspectives on family and reproduction further argue that some choices are not and cannot be fully informed. Marriage and childbearing have implications that are not easily known in advance. Can a woman who has never been pregnant accurately predict the effects of ceding her parental rights to a child? Can an eighteen-year-old woman who agrees to a traditional gendered division of labor in

her marriage know what she will feel like as a fifty-year-old woman without market-valued skills suddenly left by her husband?

Note that this line of argument has the implication not only that girls' choices are shaped by patterns of childrearing and weak information but also so are boys.' The fact that many of our choices are shaped in childhood or made with uncertain information does not by itself tell us what is objectionable about those choices: At most, it leads us to be cautious about fully basing our views of what people deserve in life on what they choose. To show that some ways of shaping or making choices are objectionable we have to say more about either the ways these choices are shaped—by arguing, for example, that women face greater constraints on their choices than men do—or that some choices are actually morally problematic or otherwise inferior to others. Thus, the “there is no choice” argument that proceeds on the basis of unconscious gender socialization and diverse psychological paths in life does not by itself establish the wrong of gender inequality; but it does block one possible line of defense of that inequality: that it was freely chosen.

A second response stresses the ways that women's choices with respect to family and children interact with unjust social structures *outside* the family, in particular, with the sex segregated division of labor in the economy, where women still earn only about 75 percent of what men earn for comparable work. We can call this the “unfairly constrained choice” objection. Given women's lower wages, it is *rational* for families who must provide for their own childcare to choose to withdraw women and not men from the workforce. Once these women withdraw, they find themselves falling further behind their male counterparts in skill development and earning power. Childcare is an immensely time-consuming activity, and those who do it single-handedly are unlikely to be able to pursue other goals such as education, political office, or demanding careers. The structures of work and family thus form a “cycle of vulnerability” that conditions the lives and choices of women (Okin 1989).

Even those who do somehow manage to combine work and family face serious obstacles, including the lack of good-quality subsidized day care for children; jobs with little flexibility for those who need to care for a sick child; school schedules that seem to be premised on having a parent at home; and the social expectation that working women will continue to work a “second shift” (Hochschild 1989), assuming the responsibility for the bulk of household labor. Statistical analysis shows that motherhood tends to lower a woman's earnings, even if she does not take any time off from paid work (Folbre 1994; Correll, Benard, and Paik 2007). Why should mothers pay an economic price simply for giving birth to a child when fathers do not pay any comparable economic cost? Why should the opportunity sets of men and women be so different with respect to the possibilities of combining work and family?

If the constrained set of choices facing a woman is unfair, then even a choice that is the best one available within this set might nevertheless not be legitimate. To take an extreme example: Even if slavery is a slave's best choice when faced with the alternative of death, this does not make slavery justified. Thus, the second response allows for choice but argues that choice does not justify in this particular context. Rather, it is the context of choice—and the fact of unequal choice sets and unequal opportunities for men and women—on which we need to focus.

Over a century ago, Mill pointed out that women's decision to marry could scarcely be called “free,” given women's low wages and dim employment and educational prospects. Although the situation of women in many parts of the world has dramatically improved, marriage remains an economic necessity for many women today as well. For example, the odds of being poor in the United States are greatest for single women with children.

Women's choices are constrained by the fact that most jobs and most men assume that women will be the primary caretakers of children and perform the majority of the domestic labor. Additionally, empirical

research shows that the jobs done by women are undervalued *because* women do them. This suggests that, at least to some extent, women's diminished opportunities are the result of conscious or unconscious bias. In countless controlled studies, individuals give lower ratings to the same resumes, scholarly articles, or artistic works when they carry a female rather than a male name (Paludi and Strayer 1985; Martell 1996). Discrimination takes many forms, including stereotyping and statistical discrimination (Valian 1998). The choice perspective obscures the social context in which choice takes place and is particularly inattentive to the background inequalities that give rise to differential constraints on men's and women's choices. It is insensitive to the fact that gender discrimination—whether intentional or not—is still a fact of life in many employment contexts.

This is not to say that all men have it easy or are not also disadvantaged by the current gender division of labor. Men who try to depart from their gender norms face social costs in terms of stigmatization and diminished opportunities, and there are social costs for adhering to those norms: Men have shorter life spans, less extensive social networks, and less time with their children than do women.<sup>4</sup> The assumption that women are better nurturers of children than men has, until fairly recently, meant that women and not men were overwhelmingly granted custody of their children in the event of divorce. But the “unfairly constrained choice” objection rests on the evidence that, on the whole, women have a less desirable set of opportunities than men do. If this evidence is weak, then the “unfairly constrained choice” argument will not be well supported. But is the evidence weak?

p. 363 Ultimately this depends on which opportunities we think are most valuable. As I suggested, on many significant measures of social well-being women fare worse than men: income and wealth; vulnerability in the face of divorce; access to prestigious ↵ social positions; and, for those women who work, less leisure time. In much of the world the consequences of disparities in opportunities are stark: Amartya Sen (1990b) estimated that over 100 million women are missing due to premature mortality and morbidity in the developing world. Trafficking, violence, and abuse are also parts of the lives of far too many women.

One other piece of *prima facie* evidence for unequal opportunities comes from the fact that women have organized themselves into a movement to contest gender norms and expectations while men, by and large, have not done so. Qualitative research also suggests that many women do try to get their male partners to do more household work and childcare but encounter resistance (Hochschild 1989). Finally, recent data has pointed to a decline in women's happiness in relation to men's as women both enter a gender structured workforce (which assumes that the worker is not also a primary caretaker) and attempt to care for their children. Although there is now broad subscription to the values of gender equality, in reality most couples do not live up to these principles even when they espouse them, and working women are continuing to bear an extra burden.

A third response to the choice justification of gender inequality argues that, because children are “public goods,” assets that contribute to the wealth and well-being of an entire society, the fact that women care for children without financial compensation is wrong. We can call this the “unfair compensation” objection. When women engage in mothering, they perform socially needed work: They raise the next generation of productive workers and citizens. Rather than a lifestyle choice, by providing for a stable population base, women contribute to social well-being (Folbre 1994). Given that less than 1 percent of private-sector employers provide childcare assistance, and that most child care is inadequate or too expensive for most families, some theorists have argued that the work women do in caring for children should be compensated according to its fair market value. On this view, the problem is not the gendered division of labor per se—not the structure of opportunities—but the unfair compensation for the labor of childrearing and other domestic work.

Would the gendered division of labor cease to be objectionable if women were simply paid to stay at home? If income and wealth were more equally distributed across men and women, would that remove the objections



to gendered families and activities? Are all the choices that women and men might in the future make with respect to gender and family roles unproblematic?

These are questions with disputed answers. Although it has been argued that paying women for childcare is an improvement over the status quo, and while the arguments of some philosophers would suggest that if men and women's opportunities were similar then having characteristic gender roles would be no problem (van Parijs 2001), it is likely that women (and men) would have more opportunities and more freedoms if work schedules and expectations were restructured to accommodate the need for dependent care on the parts of both men and women. The current division of labor in the larger society and in the home arguably imposes greater costs on both men and women than would be the case in a world where labor markets were structured to allow for more flexibility for both genders.

p. 364 Beyond these objections to the choice-based defense of gender inequality, a number of philosophers have raised concerns about deferring to gendered individual choices even in more equal contexts and even in the absence of such factors as unconscious psychology, exploitation, and coercion. Elizabeth Anderson (1993) and Michael Sandel (1998) have argued that some choices represent the *corruption* of important goods. They suggest, for example, that gendered practices such as female prostitution and commercial surrogacy are degraded forms of intimacy and human relationship. They argue that when women sell sex to men or sell their capacity to bear a child to others, they are alienating themselves from their own capacities and normal emotions, alienating themselves from their children, and alienating themselves from other people. If markets distort the appropriate bonds between mothers and children, or alienate women from their own sexuality, or objectify them as objects in the eyes of men, then choices that make use of the market can be problematic even if they take place against a background of equality and freedom. Of course, such arguments are controversial because views about sexuality and even motherhood differ. Some would contend that there is nothing wrong with prostitution per se but only with its criminalization and the desperate circumstances that may prompt some women to choose it (Nussbaum 1998).

There is also no consensus on whether the use of markets does degrade such goods. Markets are largely instrumental mechanisms that allow people with different values to engage in mutually beneficial trade. Two people do not have to agree on the proper way of valuing the Bible in order to exchange it (Satz 2010b). Nonetheless, these critics do have a point when they insist that a world in which all human relationships take the form of contractual relationships does not seem especially attractive. There is an evident difference between two people caring for each other out of love and concern and the same two people engaging in such care on a contractual basis.

Other theorists have pointed out that an individual's choices about his or her gender and family roles can have negative consequences for third parties, for example, for children or other adults. Ann Cudd (2006) argues that women who choose to be stay-at-home moms support a system of patriarchal domination that makes it more difficult for other women to make other kinds of choices. This is because the gendered division of the labor supports statistical discrimination, a form of indirect discrimination based on the fact that a person belongs to a group that has certain average characteristics. It is rational for these characteristics to be used by employers as proxies for the productivity of the members of that group. If the average woman bears greater responsibility for the household than her male counterpart, then she will also be more likely to be absent from the workplace. Even after entering the workforce, some women quit their jobs and stay at home to take care of their children (Gornick and Meyers 2003). All of these individual choices, when aggregated together, might make women as a group less attractive employees for demanding jobs.

p. 365 Others have argued that contractual practices like prostitution and commercial surrogacy can have third-party effects as well, promoting a view of women as baby machines or as sexual servants to male desires (Satz 2010b). These practices might themselves have some effects on women's employment prospects in

conventional labor settings, promoting stereotypes of women catering to men at work. Catherine MacKinnon (1994) has argued that practices like prostitution along with pornography silence women in other social settings: They make it harder for a woman's "no" to be heard as anything other than a "yes."

For egalitarians, while women and men's individual choices are a part of the story of what maintains gender inequality, the larger part is institutional. They point to the role of social structures that accommodate some identities and ways of life while excluding others. If the workplace and the social division of labor are structured in ways that systematically disadvantage women, or at least disadvantage mothers, then these structures need to be changed. Similarly, because gender identity is shaped at an early age, and because families powerfully shape the aspirations of children and thus play an important role in determining what children grow up to do and be, then the free choices of adult family members can have problematic consequences for children. Egalitarians argue that if gendered families encourage the subordination and deference of girls, then a just society must seek to redress those effects in some way, regardless of what the parents prefer.

Choice-based arguments and arguments concerned with ensuring equal opportunities or consequences for men and women likely differ on the nature of the families that they would allow. For example, while a choice-based contractual view favors plural marriages, arguments that look at egalitarian consequences do not straightforwardly imply a right to legalized polygamy. The crucial question would be whether polygamy is possible without the subordination of women. Similarly, a choice-based view might have no objection to traditional marriages as long as these were freely entered into, while egalitarians would worry about the effects on children, other women, and social norms. There is serious disagreement among political philosophers as to how to balance freedom, equality,<sup>5</sup> and, more specifically, values based on freedom of association and freedom of religion with the value of gender equality. This disagreement has implications, as we shall see, for the scope of legitimate state intervention in family life.

Some argue that gender itself would not exist in a just society. If gender is defined as a hierarchical institution that allows men to exercise power over women, then, as Susan Okin put it, "a just future would be one without gender. In its social structures and practices, one's sex would have no more relevance than one's eye color or the length of one's toes" (Okin 1989, 171; see also Shanley 2009). Okin and others have argued that the gender system is actually a caste system that locks women into disadvantaged social positions. The end of this caste system requires the end of gender—the end of the dichotomous roles assigned to men and women simply on account of their sex. On this view, a just society would break the link between childbearing and the raising of children and between having female reproductive organs and being a "woman."

p. 366 As I noted previously, however, some advocates of gender justice believe that women's differences from men should be acknowledged and valued. These theorists ↴ believe that gender injustice has consisted in not adequately valuing the practices and attributes associated with women: caring, altruism, and a sense of obligation to others. Of course, there is no logical inconsistency with valuing characteristics such as these and wanting to abolish gender. It can surely be argued that these are valuable characteristics but that they should not be viewed as the property of any one gender, or as defining a gendered identity. There is nevertheless a tension between these two positions. Those who celebrate women's differences from men may be skeptical as to whether the ideal of gender equality understood in terms of sameness is the best way to capture feminism's aspirations (Jaggar 1990). Many people reject the idea that justice requires the doing away with men's and women's different ways of being in the world, arguing that the problem is not gender difference but gender hierarchy.

## Means

Different theories disagree as to what counts as achieving justice for women. As we have seen, some view justice through the lens of choice, others through the lens of opportunities, and still others through the lens of exploitation. Even among those who agree on a given conception of justice for men and women, there is still the question of means. When is it legitimate for the state to interfere with the choices of individuals in the family? in the workplace? in religious institutions?<sup>6</sup> How we view the legitimacy of state action in these realms will depend on our views of the scope and importance of different freedoms, such as religious freedom, and the extent to which individual choices in these realms have important causal effects on women's equality, opportunity, and well-being.

Is the state even the best means for advancing gender justice as opposed to informal social sanctions, consciousness-raising, and nongovernmental organizations? If it is, how should the state act? Is gender justice best advanced through gender-neutral or gender-conscious policies and laws? In its treatment of individuals, to what extent should the state abstract from, accommodate, or seek to abolish gender differences? At the heart of these questions is the issue of how we should define and respond to sexual difference. On one hand, stressing the differences between men and women reinforces cultural stereotypes about femininity that some argue sustain gender inequalities (Williams 1998). On the other hand, treating women the same as men runs the risk of excluding women who do not conform to male norms, for example, those who engage in childbearing and childrearing as their primary activity.

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Consider how this debate about means plays out with respect to laws about divorce and workplaces. Starting in the late 1960s, American divorce laws were reformed to be consistent with gender neutrality in family law. Alimony became available to husbands as well as wives; what had been previously viewed as separate property within marriage became viewed in many states as joint assets; and either party on a "no-fault" basis could initiate divorce. By the 1970s, the Supreme Court was insisting that women workers have the same social security, welfare, and workers' compensation benefits for their families as did men and that women and men in divorce be viewed in a way that abstracted from their sex-based classifications.

Nevertheless, these changes did not issue equal outcomes for men and women following divorce and instead gave rise to different views about the acceptability and meaning of gender neutrality in law. Postreform divorce still leaves women in an economically more vulnerable position than men. Some of the reasons for this relate to what has been excluded from the division of assets: the intangible assets of professional degrees and qualifications, pensions, insurance, and related benefits of which, given women's unequal responsibilities in the family, men have had a disproportionate share. Another problem has been that spouses have been expected to become self-sufficient as quickly as possible, and so alimony was meant to be limited. For women who spent their entire working lives raising children, ensuring their future earnings has been a daunting task, nor is child support always paid, even when it is court mandated.

The cumulative effect of these factors is that after divorce men's discretionary income rises while women's steeply declines. For example, in the United States, women's standards of living have been found to decline between 13 percent and 35 percent after divorce, while men's standard of living increases by 11 percent to 13 percent (Peterson 1996). In Britain, the mean net income after divorce increases slightly for men, whereas it decreases 14 percent for women (Jarvis and Jenkins 1999). While many of these problems can be addressed within a gender-neutral framework, some have argued that the needs of displaced homemakers warrant special recognition given the disadvantages they face in the workforce stemming from their previous disproportionate responsibility for raising their children. Theorists have argued that gender neutrality in law, understood as equal formal rights and standards, cannot bring about gender justice and so should be rejected as a means.

The workplace is another domain in which philosophers have argued about the application of gender-neutral laws. Consider the status of laws protecting pregnant persons from workplace discrimination. Some states passed laws to protect women from being fired if they became pregnant and requiring employers to give such women reasonable maternity leave. If we assess these laws from a gender-neutral perspective, they look like a special privilege accorded to women, because only women can become pregnant. Such laws emphasize sex differences and not sex similarities. Those who advocate a gender-neutral standard argue that by basing what people are entitled to on their differences, the law tacitly reinforces cultural stereotypes about pregnancy and motherhood. Against this, theorists have argued that a formulaic insistence of gender neutrality is unable to counteract women's actual disadvantages. They insist that the focus must be on gender disadvantage and not gender difference.

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The workplace also raises the question of why sex-segregated employment continues, despite the removal of legal discrimination. Interestingly, although women have been moving into some male-dominated occupations such as bus driving and bartending, there has been no corresponding increase of interest by men in female-dominated job sectors such as housecleaning, day care, and secretarial work. Respecting choice and enacting antidiscrimination laws have enabled substantial progress for women, but they have not been fully effective policy responses to women's subordinate occupational status.

In addition to the question of whether or not laws should be gender neutral, there is the important issue of whether the state's intervention in different realms is justified if it promotes gender equality. This is a question likely to be especially controversial in the realm of religion. Religious freedom, for example, can undermine fair equality of opportunity. The Catholic Church does not ordain women as priests; some nations admit immigrants who practice (and continue to practice) polygamy; some orthodox Jewish schools refuse to admit girls. On their face, these practices are forms of sex discrimination, but the courts, at least in the United States, do not generally subject religious institutions to sex-discrimination law. Advocates of a prohibition on state intervention in such practices typically appeal to the importance of religious freedom and to the idea that this kind of intervention would impose an intolerable burden on many religious beliefs and practices. There is clearly force to this argument but whether it justifies an absolute prohibition on interfering with religious practices that support sex discrimination is another matter (Sunstein 2009). Many people think that it is completely appropriate for the law to regulate practices such as animal sacrifice and the use of peyote, even though such regulation clearly burdens some religions. Additionally, it may be that, in many cases, the burdens imposed are not serious, and there may be ways of ameliorating the conflict between gender equality and other values. In the end, the issue is how one balances claims of liberty and diversity against the claims of equality, a familiar source of tension between more egalitarian and more liberal political philosophies.

On a policy level, there are different proposals for achieving gender justice, proposals that differ considerably on how the choices within diverse institutions that undermine gender equality should be treated. Some feminists prefer to derail such choices *indirectly*, by creating incentives for people to act so as to maintain just social structures or by creating external counterweights to individual actions. Okin (1989) argues, for example, that to offset the disparity of power in marriage, spouses should be equally entitled to earnings, day care should be available to all families, work should be made more flexible, and, in the event of divorce, postdivorce households should enjoy the same standard of living. She believes that reconfiguring structures *outside* the family—the wage system, the childcare system, the availability of parttime work, maternity and paternity leave—is the most appropriate way to shape individual choice *inside* the family. This is because, in part, she views the concept of privacy and a sphere of personal life in which the state's role is limited as “essential” (Okin 1989, 128). Likewise, Anne Philips (1991) has argued for increasing the presence of women in decision-making bodies and Anne Alstott (2004) for publically provided subsidies for childrearing. All of these policies aim to change the context of choice-making without directly interfering with choices themselves. Alternative views give less room for individual choice within the family and are

p. 369 more likely to endorse policies that directly ↘ interfere with those choices. Catherine MacKinnon argues that respecting the choices that men and women make with respect to the family and sex and reproduction will continue to sustain the subordination of women and their unequal lives. She trenchantly remarks: “The right of privacy is an injury got up as a gift” (1988, 100). Theorists critical of privacy considerations might be willing to legally mandate shared domestic responsibilities or assign a regulatory agency to oversee the domestic division of labor. Some theorists consider such a remedy worse than the malady it is designed to redress.

### 3. Conclusion

Although the ideal of gender equality is widely accepted in theory in the developed democracies, this ideal is still contested in many parts of the world. Moreover, in practice in many developing countries women and girls are less likely to be educated, vaccinated, or even fed than males. In India, for example, girls are 50 percent more likely to die before the age of five than boys (Kristof and WuDunn 2009). Girls in South Asia, sub-Saharan Africa, and the Middle East receive fewer than two years of schooling, on average, for every three received by boys. These inequalities cannot be justified by appeal to biology or choice, and they fly in the face of any plausible theory of justice. These are urgent concerns that are changeable. Moreover, they are maintained not only by laws and formal workplace practices: Some of the worst violations take place within the home in the form of unequal access to food, domestic violence, and unequal control over sexuality, which is manifested in the skyrocketing numbers of women affected by AIDS. These concerns cannot be addressed by policies that fail to pay attention to gender.

Even in the societies in which the ideal of gender equality is accepted, men and women do not enjoy equal opportunities. As we have seen, different theories offer different diagnoses of what, if anything, is unjust about unequal opportunity and other inequalities that attach to men and women in societies. I have considered the “there is no choice,” “unfairly constrained choice,” and “unfair compensation” criticisms of the contemporary gender division of labor in the household and in the wider society. If the gender division of labor is unjust, as feminists say it is and as I have suggested is a claim well supported by empirical evidence, then we need more work identifying what policies can best advance justice in both the affluent democracies and the undeveloped societies around the globe.

### Notes

1. Carole Pateman (1988), for example, has argued that contract theory cannot accommodate the equality of women.

p. 370 2. ↘ The following two paragraphs draw on Satz (2010a).

3. This paragraph draws on Satz (2010a).

4. Thanks to David Estlund for pressing this objection.

5. See the chapters by Pettit and Anderson in this volume.

6. See the chapter by Audi in this volume.

## References

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“Top Women CEOs.” 2010. *International Business Times* (May 20).

[WorldCat](#)

Alstott, Anne. 2004. *No Exit: What Parents Owe Children and What Society Owes Parents*. Oxford: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Anderson, Elizabeth. 1993. *Value in Ethics and Economics*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Bergmann, Barbara. 2002. *The Economic Emergence of Women*, 2d ed. New York: Palgrave/St. Martin's Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Chodorow, Nancy. 1978. *The Reproduction of Mothering*. Berkeley: University of California Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Correll, Shelley, Stephen Benard, and In Paik. 2007. “Getting a Job: Is There a Motherhood Penalty?” *American Journal of Sociology* 112: 1297–338.

[WorldCat](#)

Cudd, Anne. 2006. *Analyzing Oppression*. New York: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

de Beauvoir, Simone. 1973. *The Second Sex*. New York: Vintage Books. (Originally published 1949)

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Dworkin, Ronald. 2000. *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Fausto-Sterling, Anne. 1992. *Myths of Gender: Biological Theories about Men and Women*. New York: Basic Books.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Firestone, Shulamith. 1970. *The Dialectic of Sex: The Case for Feminist Revolution*. New York: William Morrow.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Folbre, Nancy. 1994. *Who Pays for the Kids? Gender and the Structures of Constraint*. New York: Routledge.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Gilligan, Carol. 1982. *In a Different Voice*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Glendon, Mary Anne. 1987. *Abortion and Divorce in Western Law*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Gornick, Janet, and Marcia Meyers. 2003. *Families that Work: Policies for Reconciling Parenthood and Employment*. New York: Russell Sage Foundation.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Haslanger, Sally. 2000. “Gender and Race: (What) Are They? (What) Do We Want Them to Be?” *Nous* 34:1: 31–55.

[WorldCat](#)

Hochschild, Arlie. 1989. *The Second Shift: Working Parents and the Revolution at Home*. New York: Penguin Books.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Jaggar, Alison. 1983. "Human Biology and Feminist Theory." In *Beyond Domination: New Perspectives on Women*. Edited by Carol Gould. Totowa, NJ: Rowman & Littlefield.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Jaggar, Alison. 1990. "Sexual Difference and Sexual Equality." In *Theoretical Perspectives on Sexual Difference*. Edited by Deborah L. Rhode. New Haven, CT: Yale University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Jarvis, Sarah, and Stephen P. Jenkins. 1999. "Marital Splits and Income Changes: Evidence from the British Household Panel Survey." *Population Studies* 53(2): 237–54.

[WorldCat](#)

p. 371 Joshi, Heather. 1998. "The Opportunity Cost of Childbearing: More Than Mother's Business." *Journal of Population Economics* 11: 161–83.

[WorldCat](#)

Kittay, Eva. 1999. *Love's Labor: Essays on Women, Equality and Dependency*. New York: Routledge.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Kristof, Nicholas, and Sheryl WuDunn. 2009. *Half the Sky: Turning Oppression into Opportunity for Women Worldwide*. New York: Knopf.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Kymlicka, Will. 2002. *Contemporary Political Philosophy. An Introduction*, 2nd ed. Oxford: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

MacKinnon, Catharine. 1988. *Feminism Unmodified*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

MacKinnon, Catharine. 1989. *Toward a Feminist Theory of the State*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

MacKinnon, Catharine. 1994. *Only Words*. Cambridge, MA: Harvard University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Martell, Richard. 1996. "What Mediates Gender Bias in Work Behavior Ratings?" 35(3/4) *Sex Roles*: 153–69.

[WorldCat](#)

Mill, John Stuart. 1988. *The Subjection of Women*. Indianapolis, IN: Hackett Publishing. (Originally published 1869)

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Noddings, Nel. 1984. *Caring: A Feminine Approach to Ethics and Moral Education*. Berkeley: University of California Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Nussbaum, Martha. 1998. "Whether from Reason or Prejudice: Taking Money for Bodily Services" *Journal of Legal Studies* 27(2): 693–724.

[WorldCat](#)

Nussbaum, Martha. 2000. *Women and Human Development: The Capabilities Approach*. Cambridge, UK: Cambridge University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Okin, Susan. 1989. *Justice, Gender and the Family*. New York: Basic Books.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Paludi, Michelle, and Lisa Strayer. 1985. "What's in an Author's Name? Differential Evaluations of Performance as a Function of Author's Name." *Sex Roles* 12(3/4): 353–61.

[WorldCat](#)

Pateman, Carole. 1988. *The Sexual Contract*. Stanford, CA: Stanford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Peterson, Richard. 1996. "A Re-Evaluation of the Economic Consequences of Divorce." *American Sociological Review* (61): 528–36.

[WorldCat](#)

Phillips, Anne. 1991. *Engendering Democracy*. Cambridge, MA: Polity Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Ruddick, Sara. 1990. *Maternal Thinking: Towards a Politics of Peace*. Boston: Beacon Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Sandel, Michael. 1998. "What Money Can't Buy: The Moral Limits of Markets." In *The Tanner Lectures on Human Values*. Oxford: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Satz, Debra. 2010a. "Feminist Perspectives on Reproduction and the Family." In *Stanford Encyclopedia of Philosophy*, 2012 ed. Edited by Ed Zalta. Available from <http://plato.stanford.edu/entries/feminism-family>.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Satz, Debra. 2010b. *Why Some Things Should Not Be for Sale: The Moral Limits of Markets*. Oxford: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Scott, Joan. 1986. "Gender: A Useful Category of Historical Analysis." *American Historical Review* 91(5): 1053–75.

[WorldCat](#)

Sen, Amartya. 1990a. "Gender and Cooperative Conflicts." In *Persistent Inequalities*. Edited by Irene Tinker. New York: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Sen, Amartya. 1990b. "More Than 100 Million Women Are Missing." *The New York Review of Books* (December 20).

[WorldCat](#)

Shanley, Molly. 2009. "'No More Relevance Than Eye Color': Justice and a Society without Gender." In *Toward a Humanist Justice: The Political Philosophy of Susan Moller Okin*. Edited by Debra Satz and Rob Reich. Oxford: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

p. 372 Sunstein, Cass. 2009. "On the Tensions between Sex Equality and Religious Freedom." In *Toward a Humanist Justice: The Political Philosophy of Susan Moller Okin*. Edited by Debra Satz and Rob Reich. Oxford: Oxford University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Valian, Virginia. 1998. *Why So Slow? The Advancement of Women*. Cambridge, MA: MIT Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

van Parijs, Philippe. 2001. "Real Freedom, the Market and the Family: A Reply to Seven Critics." *Analyse und Kritik* 23(1): 106–31.

[WorldCat](#)

Wertheimer, Alan. 1987. *Coercion*. Princeton, NJ: Princeton University Press.

[Google Scholar](#) [Google Preview](#) [WorldCat](#) [COPAC](#)

Williams, Joan. 1998. "Do Women Need Special Treatment? Do Feminists Need Equality?" *Journal of Contemporary Legal Issues*



279(9): 279–320.

WorldCat

World Health Organization. 2012. “What Do We Mean by ‘Sex’ and ‘Gender’?” Available from <http://www.who.int/gender/whatisgender/en/index.html>.

WorldCat