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Introduction: Notes on Feminist Political Thought

*Cass R. Sunstein**

As the collection of essays in this symposium reveals, the recent growth of feminist thought has produced a wide range of work in political theory—as it has in most areas of the social sciences and the humanities. A large amount of feminist writing deals with various aspects of the social subordination of women. Much of it also discusses the ways in which that historical fact has affected political theory and political practice; and it explores the possibilities for reformulating both by eliminating gender biases. One of the most striking features of feminist political theory, however, is its diversity. It is difficult to describe the general tendencies in feminist political thought without eliding important differences.

Nonetheless, the essays in this collection, and most feminist work in political theory, can be organized around a set of common themes. Some of these themes have been developed into large-scale critiques, and in some cases reconstructions, of important strains in modern political thought. The critiques tend to emphasize that important aspects of traditional political thought are based on gendered ideas; the reconstructions attempt to develop alternatives that take account of women's experience. For example, feminist work challenges traditional views of sex and the family, contending that the emphasis on community and consent have created important errors (see the contributions in this symposium by Marilyn Friedman, Catharine MacKinnon, Susan Moller Okin, and Laurie Shrage). At the same time, some feminist work challenges certain forms of liberalism and of social contract theory by undermining its individualistic assumptions (see the contributions by Virginia Held, Okin, and Iris Marion Young). Feminist writings are often unified by attempts to enrich and alter conventional understandings of both community and individual autonomy; both individualistic and communitarian understandings have come under sharp attack.

For purposes of this introduction, it will be useful to outline some of the themes of feminist political thought and to discuss their relationship to the essays in this collection.

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CARE, JUSTICE, AND RIGHTS: THE QUESTION OF "DIFFERENT VOICE"

A good deal of feminist work is responsive to Carol Gilligan's influential challenge to Lawrence Kohlberg's theory of moral development.[1] In Gilligan's view, Kohlberg's theory, which purports to generalize across social differences, is in fact based on male norms. Gilligan's study argues that the moral development of young girls is different from that of young boys—that girls are inclined to focus on responsibility, context, and connection, whereas boys tend to favor abstractions, rights, autonomy, and separation.

Gilligan writes: "The moral imperative . . . [for] women is an injunction to care, a responsibility to discern and alleviate the 'real and recognizable trouble' of this world. For men, the moral imperative appears rather as an injunction to respect the rights of others and thus to protect from interference the rights to life and self-fulfillment. . . . The standard of moral judgment that informs [women's] assessment of self is a standard of relationship, an ethic of nurturance, responsibility, and care. . . . Morality is seen by these women as arising from the experience of connection and conceived as a problem of inclusion rather than one of balancing claims."[2]

For political theory, this account is noteworthy above all because Kohlberg's theory of the stages of moral development is closely connected with prominent approaches to questions of social justice. If Kohlberg's theory of development is based on male norms, and ignores an important alternative, the same may be true of (to take a not entirely random example) contractarian theories of politics. Thus Gilligan's "ethic of care" is opposed, in much feminist work, to the "ethic of justice" associated with social contract theory, most notably that of John Rawls. Views in this general category—many of them diverging from Gilligan—have led to feminist challenges to approaches that purport, for normative or explanatory purposes, to treat people as self-interested maximizers of private or existing desires. Such approaches, it is contended, are false to the experience of many women.

It is important to emphasize that there is no necessary connection between Gilligan's discussion of moral development and any particular approach to politics. A rights-based system of politics might provide the necessary conditions for community; it might protect against the abuse of public and private power; it might be defensible on any number of other grounds. But the divergent moral development of men and wom-

1. C. Gilligan, *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982). L. Kohlberg, "The Development of Children's Orientation toward a Moral Order. 1: Sequence in the Development of Moral Thought," *Vita Humana,* vol. 6 (1963), "Stage and Sequence: The Cognitive Developmental Approach to Socialization," in *Handbook of Socialization and Research,* ed. D. A. Goslin (Chicago: Rand McNally, 1969).

2. Gilligan, pp. 100, 159–60.

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en—if it can be established—seems especially interesting if there is a relationship between conventional approaches to politics and distinctly male ethical norms.

In some respects, feminist critiques of contractarian approaches to justice might be thought to overlap with arguments made by modern communitarian critics of liberalism.[3] In both critiques, systems based on rights and autonomy, and seeking to provide well-defined constraints on the private and public spheres, are distinguished from systems that emphasize the possibility of making political choices through a form of political deliberation that includes empathy. But there are significant differences as well.[4] The capacity for connection and care is, in some feminist accounts, treated as an ordinary part of women's personality—at least in this culture, and perhaps partly as a result of the social subordination of women—rather than as the precious outcome of a hard-won battle to be achieved through struggling against existing premises and institutions. Moreover, the feminist approach tends to be quite skeptical about the authority wielded by communities over individuals.

Marilyn Friedman's essay, "Feminism and Modern Friendship: Dislocating the Community," is a critical encounter with some of the communitarian critics of liberal thought. Stressing the experiences of women in private and public collectivities, Friedman argues that there are numerous problems with the communitarian's affirmative case. This is so particularly in light of the exercise of oppression by private and public groups—including religious groups and the family—that are so celebrated by many communitarians. In these circumstances, the communitarian's enthusiastic approval of the "embedded" self has ironic albeit unintended dimensions (on which, see also Catharine MacKinnon's contribution to this symposium).

Observing that attempts to overcome atomism take the form of reviving community, Friedman argues that such attempts must incorporate some of the aspirations of those forms of political liberalism against which communitarians rebel. Thus she distinguishes sharply between voluntary and ascriptive communities, emphasizing the importance of "exit" as a constraint on local tyranny. A norm of individual autonomy, to operate in both public and private spheres, appears to underlie Friedman's critique of communitarianism and her endorsement of voluntary association. Autonomy is understood not in economic terms (as respect for given or purely private preferences) but, instead, as a belief in individual immunity from collective control by large and small organizations.

Susan Moller Okin's contribution, "Reason and Feeling in Thinking about Justice," is a response to the numerous feminist critiques of social

3. See, e.g., M. Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982); A. MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame, Ind.: University of Notre Dame Press, 1981).

4. See R. West, "Jurisprudence and Gender," *University of Chicago Law Review* 55 (1988): 1–72.

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contract theory in general and of Rawls in particular. Such critiques typically challenge the abstraction of the original position, its foundations in rational choice theory, and its asserted inattentiveness to differences between individuals and groups on the one hand and to concrete social contexts on the other.[5] Okin's response takes the form of an interpretation of social contract theory, and of Rawls's effort more specifically, so as to accommodate some of the concerns of the feminist attack on (liberal?) conceptions of justice.

The foundations of Rawls's theory in rational choice theory have led to a variety of challenges. One response, often coming from rational choice theorists themselves, is that Rawls's principles—most importantly the difference principle—would not emerge from the original position as he defines it. By contrast, feminists (among others) have argued that Rawls's approach is tied to an egoistic conception of human nature and that it is excessively rationalistic and acontextual. On the other hand, the abstraction of Rawls's approach might be counted a virtue. In some circumstances, the fact that political actors must be blind to individual characteristics—of race, gender, religion, and political belief—is surely a significant advantage.

In Okin's view, the original position need not and should not be understood either abstractly or in terms of rational choice. On the contrary, she argues that Rawls's approach can be recast in terms that immunize it from the feminist critique. Above all, Okin contends that the original position forces political actors to be empathetic. In the original position, those who are in a position to choose principles of justice are deprived of knowledge of their place in society. As a result, the original position forces the choosers to take the position of (among others) the disadvantaged. For this reason, Okin argues, the choosers are not required to be or to think as if they were "disembodied nobodies" but are instead required to "think from the position of *everybody,* in the sense of *each in turn.*" On this view, the original position is not at all abstraction from difference and contingency but is instead rooted in "an appreciation and concern for social and other human *differences.*"

This understanding of the original position serves largely to collapse the distinction between an ethic of care and an ethic of justice and to recast in a new light the goals, central to contractarian and liberal thought, of impartiality and universalizability. Okin emphasizes as well that Rawls's theory ignores problems of gender structure and above all the question of justice within the family, which, she claims, leads to tension for his theory. In her view, the logic of the original position draws the traditional family and gender structure into severe question.

If Okin's general argument is correct, it is possible to bridge the division between the feminist critique of social contract theory and at

5. See, e.g., S. Benhabib, "The Generalized and the Concrete Other," in *Feminism as Critique: On the Politics of Gender,* ed. S. Benhabib and D. Cornell (Minneapolis: University of Minnesota Press, 1987).

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least some forms of contractarianism: the dichotomy between an ethic of care and an ethic of justice seems to dissolve. But other pieces in this collection—notably Iris Marion Young's essay, discussed below—attempt to provide reasons for skepticism about this strategy.

THE NATURE OF EQUALITY AND INEQUALITY

In arguments made in the 1970s for the Equal Rights Amendment, the principal norm underlying much feminist work was one of formal equality. In this view, distinctions between men and women should (almost always) be abolished. More recently, norms of formal equality have been thrown into sharp question—and the resulting debate has produced an outpouring of work on the appropriate meaning of equality in this and other contexts. The major problems here are twofold.

First, formal equality—defined as a refusal to permit women to be treated differently from men—will sometimes undermine rather than promote the cause of equality (understood in more substantive terms) as between men and women. Consider, for example, the fact that the achievement of formal equality with respect to alimony, child custody, and divorce has in many settings aggravated the real world inequality of women. Second, some aspects of the social inequality of women are entirely unaddressed by formal equality as it is usually understood. The principal problem has to do with the application of norms of formal equality to settings of "real differences" between men and women. How, for example, ought one to think of equality and discrimination in the settings of reproductive rights, sex-related violence, and the continuing differences in the domestic and economic responsibilities and welfare of mothers and fathers? Formal equality often considers these issues to raise no problem of inequality at all; but if that view is accepted, many arenas of sex discrimination will be unaddressed.

One consequence of questions of this sort is to draw into doubt the idea (or at least usual applications of the idea) that the function of an equality norm is to require that those similarly situated be treated similarly.[6] (Of course this idea—like the norm of formal equality itself—is highly ambiguous, and it might well be possible to reconceive both in ways responsive to the feminist critique.) Another consequence is to suggest that the question of equality is not whether there are "differences" between the two groups subject to comparison but is instead what sort of political and social difference the actual difference makes. In this view, the ultimate goal should be to develop an understanding of inequality as the systemic subordination of certain social groups.

Such an understanding would call for a novel conception of the nature of inequality and discrimination; and it remains for this understanding to be worked out in detail. But the contributions to this collection

6. See C. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* (New Haven, Conn.: Yale University Press, 1979).

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by Catharine MacKinnon and Iris Marion Young, both outlined in more detail below, are centrally concerned with the problem. MacKinnon examines the relationship between sexuality and inequality; Young explores the relationship of reproductive capacities to that problem.

THE RELEVANCE OF REPRODUCTION

Some feminist work attempts to analyze the consequences of practices distinctive to women—most notably, the experiences associated with reproduction—for political and social theory. For example, it is sometimes said that women's reproductive functions, and male responses to those functions, have played a large role in the creation of a split between the public and private spheres; in the devaluation of domestic roles; in certain conceptions of the distinction between reason and passion (often described along gender lines [see Okin's contribution to this collection]); and in the emphasis, most prominent in republican thought, on the creation of public spheres for the expression of male solidarity and sometimes for the achievement of a kind of immortality.

Virginia Held's contribution to this collection, "Birth and Death," belongs in this category. Held argues that the act of giving birth—unlike the act of dying—has often been described as an essentially natural process not involving elements of human choice. In her view, the decision to give birth is a self-conscious one over which women have frequently exercised control. In Held's view, the alternate devaluing and disregarding of the reproductive act and of reproductive choice has both reflected the social subordination of women and distorted political thought. Held contends that attention to the act of giving birth will lead to greater understanding of human experience.

UNIVERSALITY AND PARTIALITY

The feminist critique of universality takes the form of an emphasis on the importance of differences among social groups for political deliberation and political interaction. This critique is represented by Iris Young's contribution here, "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship." Sometimes the critique of universality is relatively specialized, emphasizing that social and legal practices are based on partial norms that they deem universal. Here some of the challenges to formal equality, noted above, become relevant. Consider, for example, the fact that workplaces, insurance policies, and educational systems tend to be tailored to male career patterns and that changes in those systems are often considered to provide "special benefits" or "affirmative action" for women. Young argues that rights sometimes thought to be "special" from one point of view might well be necessary in order to ensure equal citizenship. In this sense, and perhaps in others, the distinction between affirmative action and nondiscrimination tends to dissolve.

In other forms, the critique of universality amounts to a challenge to contractarian approaches insofar as they suggest that unanimity or

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consensus might be reached by political deliberators. Sometimes the critique is an attack on political conceptions—associated with some forms of liberal, republican, and even radical thought—that emphasize the duty of the citizen to the "common good." In the face of sharp differences in social experience, the idea that political actors should look to the interests of the community as a whole seems alternately mystical, tyrannical, or perverse. For feminists in particular, the problem is that universalist claims have tended to exclude women or to make women's claims appear deviant when measured against established norms.

This attack has some resemblance to challenges to notions of the "public interest" as those challenges appear in the work of Schumpeter and in the writings of many economists and economically oriented political scientists.[7] But the goal of Young's essay is hardly to celebrate approaches to politics that seek to find an equilibrium among the prepolitical "interests" of private actors. Her purpose is instead to develop approaches to citizenship and to structure political institutions, so as to ensure that disadvantaged groups are not erased, or deemed partial and parochial in their emphasis, in politics, on private interests and private injuries. It is in this spirit that Young argues in favor of developing mechanisms to ensure group representation in political life.

A number of questions are of course raised by proposals for group representation, including the risks of political instability, the dangers of marginalizing the disadvantaged, and the potential problem of entrenching current minorities as such. There are further questions about identifying the groups to be represented, the institutionalization of group differences, the nature of political deliberation among those differently situated, and the possibility of reaching closure. On this score, as on others, there is some tension between Young's and Okin's contributions to this symposium.

PUBLIC/PRIVATE; COERCION AND CONSENT; SEXUALITY

a) Many feminists have dealt with the allocation of social power in areas that have been studied relatively infrequently. Relations between men and women provide the foundation for an inquiry into ways of understanding such notions as coercion, power, and consent. Some of this work can be connected with various attacks, prominent in the 1970s, on pluralist conceptions of power.[8] Here the problem is to explore not only how one group is able to force another to do what it wants but also how certain issues come to be put on the political agenda and, more generally, how preferences and beliefs are formed.

Nancy Fraser's contribution to this collection, "Talking about Needs: Interpretive Contests as Political Conflicts in Welfare-State Societies," is

7. See J. Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper & Row, 1975).

8. See, e.g., S. Lukes, *Power: A Radical View* (New York: Macmillan, 1974).

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a good example. Fraser's goal is to trace the social construction of needs: the ways in which needs come to be recognized as such, and are placed on the political agenda, as a result of the efforts and understandings of different social movements. In Fraser's view, needs cannot be seen as prepolitical or as independent of culture and politics. Fraser offers a number of illustrations, many of them coming from feminist work, of practices currently described as "needs" that have assumed that status only recently and as a result of a particular constellation of social forces.

Fraser's essay raises two further questions, on which she touches briefly. The first has to do with the precise mechanism by which social needs are recognized as such. The second involves the normative problem of how to decide which harms—of the multiple injuries that society does or does not recognize as "needs"—ought to receive a response from the political community. Fraser's ultimate goal is to contribute to a discussion of the processes by which that question might be answered.

b) From a slightly different direction, a large amount of feminist work has attempted to show the ways in which the private sphere contains mechanisms of oppression. The family is of course the principal example here. Frequently treated, in law and theory, as an autonomous realm deserving protection from public intervention, the family often contains a variety of mechanisms for subordinating women. Principal objects of study here include domestic violence and the allocation and valuation of work associated with child care and housekeeping. Here the traditional household, usually celebrated in communitarian terms, is subject to feminist critique.

Much of this work argues that modes of interaction that appear consensual in fact reflect forms of social coercion. This claim fits comfortably with recent developments in social choice theory that stress that private preferences are not exogenous and prepolitical but, instead, adaptive to available opportunities.[9] The phenomenon of endogenous preferences, or of preferences that are a product of limited options, finds a good test case—and strong confirmation—in studies of gender relations. That phenomenon in turn has consequences for usual understandings of autonomy and welfare, and the possible need for public intervention to support both. If preferences are adaptive to available opportunities, collective intervention designed to shape preferences might promote both autonomy and welfare.[10] Catharine MacKinnon's contribution to this collection, to be discussed shortly, bears on this problem.

c) Some feminist work asserts that the social subordination of women and sexuality are closely intermingled. In this light, it is no puzzle that

9. See J. Elster, *Sour Grapes: Studies in the Subversion of Rationality* (Cambridge: Cambridge University Press, 1983); J. Roemer, "Rational Choice Marxism," in *Analytical Marxism*, ed. J. Roemer (Cambridge: Cambridge University Press, 1986).

10. See C. Sunstein, "Disrupting Voluntary Transactions," in *NOMOS XX: Markets and Justice*, ed. J. Chapman and J. Pennock (1989), in press, and "Legal Interference with Private Preferences," *University of Chicago Law Review* 53 (1986): 1129–74.

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a large part of the feminist movement has concentrated on the social and legal treatment of rape, prostitution, male control of reproduction, and sexual harassment. The empirical work here has attempted to show the pervasive and systemic quality of all these practices; the theoretical work considers the implications of the fact that legal and social systems tend to treat them as infrequent or marginal. Consider in this regard the fact that sexual harassment has been recognized as a legal category only in the last decade or so and that marital rape was not treated as a crime until quite recently (and even now the law here is in a primitive state). Some of the relevant work emphasizes the analogies between rape and prostitution and forms of interaction between men and women that are taken as normal and unobjectionable. The same argument is the source of the controversy over the definition of and appropriate response to sexual harassment.

Laurie Shrage's contribution to this collection, "Should Feminists Oppose Prostitution?" deals with the question of prostitution. She argues that prostitution both reflects and perpetuates the social subordination of women. Shrage endorses and amplifies the feminist critique of the claim that prostitution is an unobjectionable exercise of contractual liberty. In Shrage's view, prostitution is a product of particular, identifiable beliefs and attitudes, and the industry of prostitution is sustained and organized by principles that "underlie pernicious gender asymmetries in many domains of our social life."

Political theory has often dealt uneasily or not at all with the relationship of sexuality to political power. Freud of course attempted to explore the problem, but his discussion of gender relations is notoriously inadequate. The most prominent modern example is the work of Michel Foucault, which stresses the variability of social mechanisms for understanding, creating, and controlling sexual behavior; but Foucault's lengthy work on the subject (astonishingly) deals not at all with questions of power as between men and women. Catharine MacKinnon's contribution here, "Sexuality, Pornography, and Method: 'Pleasure under Patriarchy,'" explores the social and political meaning and consequences of sexuality for issues of gender and equality. The essay provides the theoretical underpinnings for MacKinnon's well-known efforts to regulate pornography.

MacKinnon's basic argument is that sexuality ought to be seen as socially constructed rather than as natural; that sexuality, as currently constituted and practiced, is a central though overlooked ingredient in the subordination of women; that theories that celebrate the liberation of sexual drives disguise this fact and often serve—in purpose, in effect, or both—to increase the sexual availability of women to men; and that the case of pornography cannot be treated as marginal or deviant but, instead, reveals something significant about the nature of sexuality and gender relations. MacKinnon's basic argument is that political theory must deal with questions of sexuality if the sources of inequality as between men and women are to be understood. The argument bears as well on the relationship of objectification to ethics and politics.

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MacKinnon's analysis helps to explain why some feminists have found the control of pornography to be an important subject. If widespread physical abuse of women occurs in and results from pornography, and if pornography plays a role in reflecting and perpetuating conceptions of sexuality that are an ingredient in sexual inequality, then efforts to understand and regulate pornography might be thought central to feminist theory and practice.

Cheshire Calhoun's essay, "Responsibility and Reproach," deals with a problem that cuts across many of the questions discussed in this collection. That problem has to do with the attribution of responsibility or blame in "abnormal" moral contexts, in which the criteria for making moral judgments are not generally available and understood. The central case here is sexist behavior engaged in by people whose wrongdoing is widespread or even pervasive, and who are responding to widely held social norms.

Calhoun contends that people who engage in such behavior are not themselves blameworthy but that their moral failings should nonetheless be reproached. She claims that a moral reproach is necessary in order to publicize the relevant standard and to convey the obligatory force of normative commands. Calhoun's essay—like the other contributions to this symposium—attests to the ways in which feminist work in political theory has cast light both on the social subordination of women and on the wide range of ethical and political issues that are implicated by efforts to promote equality on the basis of sex.

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