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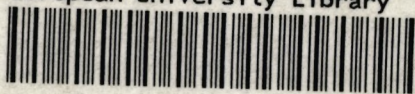
**The Idea of Feminism From a Kantian  
Perspective  
An Exercise in Practical Reasoning**

**VÉRONIQUE MUNOZ DARDÉ**

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**BADIA FIESOLANA, SAN DOMENICO (FI)**

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Printed in Italy in November 1992  
European University Institute  
Badia Fiesolana  
I – 50016 San Domenico (FI)  
Italy



***The Idea of Feminism from a Kantian  
Perspective.***

***An Exercise in Practical Reasoning***

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## *The Idea of Feminism from a Kantian Perspective.*

### *An Exercise in Practical Reasoning.<sup>1</sup>*

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*'Can we meet our responsibilities for dependent others without giving up the more robust picture of autonomy, and the options of responsibility and justice that make it possible? It is too early to tell. Justice theorists have constructed impressive edifices by refining traditional notions of fairness and responsibility. However, by continuing the centuries-old neglect of the basic issues of child-rearing and care for dependants, these intellectual achievements are resting on unexamined and perilously shaky ground. Any adequate theory of sexual equality must confront these issues, and the traditional conceptions of discrimination and privacy that have hidden them from view.'*<sup>2</sup>

The aim of my paper is to show that there is no reason to consider that it is 'too early to tell' on the question of whether a theory of justice can meet the requirement of sexual equality. Moreover, it will be argued that a commitment to the Kantian notion of respect for persons —the second imperative: treating persons as ends and not simply as means<sup>3</sup>— is an adequate foundation for a working notion of feminism. In this perspective, feminism starts from a 'robust' concept of autonomy and responsibility, in which persons are conceived as free and equal; i.e. capable of acting reasonably and rationally. Thus understood, persons participate in society, in the two meanings of the term: each person share rights and duties, and is a partner in the basic institutions of society. The relevant features of persons are considered to be those capacities, rather than their belonging to a certain race, culture, creed or sex.

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<sup>1</sup> In all quotations in this paper, I have kept the emphasis already present in the text in the form of *italics*; the underlining is mine. I would like to thank Ian Carter, Maurice Glasman, John Stanton-Ife, Charles Larmore, Steven Lukes and Katherine O'Donovan for reading and commenting on earlier versions of this paper.

<sup>2</sup> Kymlicka, Will. *Contemporary Political Philosophy. An Introduction*. Oxford: Clarendon Press, 1990, p. 285-286. This is one of the few political philosophy books where a critical reading of recent feminist theories is achieved, and its connection to problems of justice analysed thoroughly. I share many of its insights, if not its final conclusion.

<sup>3</sup> 'Treat humanity whether in your own person or in the person of any other never simply as a means, but always at the same time as an end.' *Groundwork of the Metaphysics of Morals. (The Moral Law)*. London: Hutchinson, 1953, p. 429.



The idea of justice from which I want to start, for this notion of feminism, is therefore abstract and universal. It stresses the need to abstract from the particularities of persons, be they gender, ethnicity, culture, class or community, in order to construct an adequate standpoint for the principles of justice. It is opposed to relativist accounts which ground the principles of justice in particular languages and traditions, giving emphasis to differences and boundaries. As opposed to a 'communitarian' view of feminism, the Kantian interpretation on which I will base my argument deduces the principles of justice behind what John Rawls has called a 'thick veil of ignorance', in which prejudice and self-interest are eliminated by ruling out not only information about people's natural talents and abilities, their social role or class position, but also about race and sex.<sup>4</sup>

'For this journey, you did not need so much luggage' says Dulcinea to Don Quichotte. Many would argue that understood in Kantian terms, feminism has no role to play, either because its specificity is denied, or because its goals, being specific, are nevertheless sufficiently integrated within the overall liberal theory. According to this objection, liberal theory addresses itself to abstract individuals and is blind to the particularities of persons; this seems to deny the very ground on which *feminism* stands, which starts from the difference between men and women.

What I want to argue, however, is that a strong feminist position is one which starts from a conception of justice which takes no account of the differences between persons, in the realm of general principles—I am essentially referring here to the Kantian notion of persons as ends, and which makes, in a second move, this understanding of the person effective through the conception of redistribution given by the Rawlsian difference principle.<sup>5</sup> This second, Rawlsian move, concerns the just distribution of social,

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<sup>4</sup> On this point see Rawls, John. 'Fairness to Goodness,' *Philosophical Review*, N. 84 (1975): pp. 536-554. My contention is that the 'thick' veil of ignorance thus defined is closer to a Kantian interpretation. This definition is already contained in *A Theory of Justice* (Cambridge Mass.: Harvard University Press, 1971. Hereafter *TJ*.) In effect, Rawls writes that from the standpoint of persons similarly situated in an original position which is fair, racial and sexual discrimination is 'not only unjust but irrational.' (*TJ*, p. 149). This interpretation is in opposition to Nozick, who holds that redistribution means treating one person as the means to others well-being.

<sup>5</sup> The Rawlsian difference principle is based on the idea of equality of concern and of distributive justice. It is submitted, in 'lexical order', to a first principle, the principle of liberty. In other words, liberty can be only restricted for the sake of liberty and not for social and economic equality. As to this second aspect, the difference principle states that 'Social and economic inequalities are to be arranged so that they are both: a, to the greatest benefit of the least advantaged, consistent with the just savings principles, and b, attached to offices and positions open to all under conditions of fair equality of opportunity.' (*TJ*, p. 302; there are other formulations in more recent articles, but the variations do not affect the application which is made here.) The general formulation of the difference principle which is central to my argument would be that 'All social primary goods—liberty and opportunity, income and wealth, and the bases of

*Footnote continues on next page.*

economic and symbolic goods (primary goods, understood as the social basis for self-respect, income and power). It obliges us to take into account the specificity of women's condition and, as Kymlicka correctly points out, to re-evaluate our ideas about the institution of the family. It stresses the need to devote attention, on one hand to the challenges that child-bearing and child-rearing pose to the conception of individuals of both genders as free and equal citizens, and on the other hand to the family as a place for the education of future citizens.

It is my contention that this specificity is not only sufficient to constitute the basis of a definite body of theory, but that there is also a good case for the making of a feminist identity, based on an opposition to violent and abstract definitions of femininity—abstract here because stereotyped. Women have been, are, and, one fears, will be, submitted to definitions of what they are, definitions that are truly abstract, because they do not acknowledge differences among women, and that in addition to a biological difference with men, women are united by nothing more than a shared domination, both material and symbolic. Thus, there has been and is a denial of liberty and autonomy to women which has taken place both in the material arrangements imposed by parenthood, and in the symbolic way these arrangements have been conceived of and legitimised.

The definition of feminism I am putting forward here is grounded on the assumption that the conflict over the definition of roles between men and women will not vanish in the foreseeable future. If we think of politics as a never ending task—and of social conflict as indissoluble; if we believe, that is, that there is no future ideal community where the need for politics will disappear, then there are good reasons to attribute a long life to feminist discourse. Whatever else changes, women will keep on having children—unless science radically revolutionises procreation. A discourse on maternity, on motherhood, on parenthood, will therefore still be made by both women and men, which will be the place both of reproduction of inherited prejudices about the feminine condition and of the struggle to change it.<sup>6</sup> Feminism is in this view the conceptual means through which the specificity of woman's domination is conceived of and, inseparably, an identity is elaborated on one hand by female individuals who feel a link to each other in virtue of this shared domination, and on the other hand by women and men who want to modify this state of affairs over time.

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self-respect—are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured.' (*TJ.*, p. 303).

<sup>6</sup> Notice that I do not mean to say that 'maternity' is or should be confined to gestation and birth. Rather, I say that this is the only completely biological aspect of the problem, and therefore not modifiable at a general level by the actual state of our scientific knowledge and practice. Maternity is, in a sense, a 'pure' category.



It will be noticed that there is, in this conception, a tension between a specification and a universalisation of values. In Kantian terms, there is a constant attempt by the finite, by the particular, to abolish its own determinations and become the formal universal, or rather to be part of the universal (The faculty of judgement consists in 'thinking of the particular as comprehended in the universal.' —*Critique of Judgement*. Introduction. § IV). On the other hand, one of the necessary preconditions for this is precisely the conception of the finite in terms of limited identity, in order to make, in a reflective manner, the move from the natural particular to the universal.

In what follows, I will begin by examining why there is a need for a feminist theory, what its specific task and difficulties are. I will then go on to see what the objections to contractarian theories of justice are, and more particularly the objections to Kant's essential concepts, put forward by two types of feminist discourse: one which starts from a radical difference between men and women's discourses and ethical thinking, and a second which addresses what it sees as a necessary 'sexual contract' on the basis of all theories of justice. The sphere of the family is in this second view improperly abandoned beyond the reach of just relations. In a third section I will address the specific problem of the family, in order to draw the main features of a feminist policy which starts from an androgynous conception of reason, as well as the necessity of the availability to both genders of equal access to primary goods.



***I - The need and specificity of a feminist theory. Its difference with other differences. The particular difficulty of its coherent elaboration.***

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Before defining this specific view of feminism and the challenges it poses to abstract conceptions of justice, particularly when using a strong notion of autonomy, it would be useful to ask what it is to be a feminist —what the term means— to find a minimal definition that could apply to all feminists. In effect, people who call themselves feminists fight for different and sometimes incompatible outcomes. Even a minimum definition like the one given by the *Oxford English Dictionary*, namely that feminism is the ‘advocacy of the rights of women (based on the theory of equality of sexes)’ would not be accepted by some feminists, who challenge the very notion of rights.

We therefore have to begin with what is wrong with the arrangement of things at the moment, that is, with the fact that the actual social state of affairs is universally to women’s disadvantage (considered collectively). What all feminists share is a criticism of the relations between members of the two genders, and an attempt to *redefine* them on an alternative basis, not based on the power exercised by one over the other. Moreover, feminists think that there is a *specificity* to the type of domination women are submitted to, both in terms of its analysis and of the ways applied to change it: some deny class struggle, others believe in it, but none think that woman’s domination can be fully explained through class studies. One of the specificities of this domination is precisely its *universality*. There is no example, historically or socially, of a non sexist society: there are more or less sexist ones, but none is neutral or favourable in the treatment of women. (The myth of matriarchy is precisely that : a myth.<sup>7</sup>) A further attribute is that it affects *almost* half of humanity.<sup>8</sup>

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<sup>7</sup> No society described as ‘matriarchy’ can be said to alter the fact that the distribution of roles between the two genders attributes the most valued tasks to men (besides maternity, understood as a combination of pregnancy and motherhood), and therefore a subordinate role to women.

<sup>8</sup> This requires an explanation: until very recently, demographers thought that women made up the majority of world’s population, but they do not. Although at birth there is a proportion of 52 male children for 48 female, women seem naturally harder than men. Given similar health care and nutrition, they not only live considerably longer than men, but they have better survival rates, at every age, including in the womb; they therefore would outnumber men, if treated in the same manner. However, due to unequal care between men and women in many parts of the world, this proportion is reversed, as the economist Amartya Sen has shown, in an article titled: ‘More than 100 million women are missing.’ (*New York Review of Books*. December, 20, 1990, pp. 61-66.) He writes: ‘A great many more than hundred million women are simply not there because women are neglected compared with men. If this situation is to be corrected by political action and public policy, the reasons why there are so many “missing” women must be understood. We confront here what is clearly one of the more momentous, and neglected, problems facing the world today.’

*Footnote continues on next page.*

In spite of these *reasonable* features (opposing female domination), the prevailing image of feminism is that of women as relentlessly antagonistic to men, and as behaving in a manner that is described as both unconscionable and unfairly ready to find male domination where it does not exist. The Amazons, the Valkyries, those women more male than men, who also wilfully fight them provide a mythical resource always at hand. On this it is interesting to note that *feminism* appeared in etymological origin as a word used not only to demand women's rights, but also in a discourse fearful of women's 'male' attitude, of the risk of confusion between roles. In effect, even if the term 'feminism' is said to have been coined as early as 1837 by Charles Fourier, *feminism* was also in the nineteenth century a medical term that described the underdevelopment of a male body —considered 'feminine'<sup>9</sup>—; it subsequently was applied to the political sphere, to define a 'virilisation' of women, whose insistence that the public sphere was also theirs was seen as contrary to 'femininity'. (Similarly, definitions in political dictionaries of the beginning of the 19<sup>th</sup> century reflect uses of the adjective *public* that in combination with *women* create new depreciative meanings: a public woman is a 'citoyenne', a 'tricotteuse', a prostitute.) Only much later would the positive meaning of *feminism*, as a position advocating for women's rights, be definitely fixed. It is however obvious that a fear of confusion between gender roles, or at the very least a sheer resistance to the position described under the general term of *feminism* never completely disappeared. (The negative features associated with the term are visible in uses such as 'I am not a feminist but ...', made by women who want to advance what could be described as 'feminist' demands, without having to face the antagonistic reactions that the word still provokes.)

The violence of the adjectives and images projected on to *feminists* comes as a surprise when one begins by recognising the obvious inadequacy of the actual structure of roles between men and women in our and all societies, to greater or lesser extents. A first hypothesis explaining the irate or at least cynical attitude provoked by the mere mention of the word feminism in people of very different beliefs and commitments could be that it implies a definition of masculinity which is instinctively refused. There is some irony, if my hypothesis is right, in the fact that the same persons who have quietly listened to statements about what women are, or even created new definitions of the

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Gainful employment, women's education and economic rights, including property rights are among the 'crucial variables' affecting women's chances of survival, according to the survey Sen has made comparing countries of same economic and cultural development, and yet different ratio of women to men. This constitutes a further empirical reason to devote attention to those factors.

<sup>9</sup> See Fraisse, Geneviève. *Muse de la Raison. La démocratie exclusive et la différence des sexes*. Paris: Alinéa, 1990. 'Feminism' was in 1892 Guérin's term for the arrest of development of the male toward the age of puberty 'which gives to it somewhat the attributes of the female.' —cf. *Tresor de la langue française. Dictionnaire de la langue du XIX<sup>ème</sup> et du XX<sup>ème</sup> siècles (1789-1960)*. Tome 8. Paris: Ed. du CNRS, 1980.



essence of femininity themselves, find it so disturbing that the mirror be turned the other way. At any rate, this image of enraged, frenzied women making immoderate claims 'against' men misses a fact which, as I said, unites all feminists: that at some point in their life they have been faced, either personally or as witnesses, generally both, with unfair treatment on the sole basis of a condition of birth, treatment which submits women as such, both to discrimination and to domination. There is no example of a country where professional opportunities, salaries, and responsibilities are open in the same way to both men and women, among other reasons because the rearing of children is everywhere still heavily carried by women, and because much effort is not made, in most places, to facilitate the compatibility of child-rearing and paid labour. Domestic violence and the degradation of women have nowhere been eradicated. In many parts of the world, the fact that women are neglected compared with men still affects their chances of survival.<sup>10</sup> A strong sense that current social arrangements are everywhere unfair to women is unavoidable. Hence the conviction that any theory of justice which does not offer an answer to this cardinal question is incomplete and therefore unconvincing. To return to the formulation of the Rawlsian difference principle given before, none of the primary goods, liberty and opportunity, income and wealth, and the bases of self-respect, are distributed equally along gender lines, a state of affairs which it would be difficult to describe as being to the greater advantage of the least well off —even if some would indeed describe it as such.

I would argue that a good way of defining feminism would be to conceive of it in the first place as a struggle for *recognition*: recognition that women are not a sub-category of men, recognition that they legitimately have a say about their own identity and about its modification, recognition of their role, place and needs in society, but more than anything else, recognition as full autonomous *members* of society. It must however immediately be emphasised that the peculiarity of feminist debate consists in the fact that this struggle for recognition cannot start from a denied culture affirmed, but rather from the fact of a culture of domination which supposes, inseparably, a definition of what women are. In all cultures, women who want to challenge the fact of discrimination and domination are faced with the dilemma that the culturally inherited meaning of what they are is inseparable from the relationship of domination through which they have been defined. What it *means* to be a woman, the positive and negative values attached to it, are rooted in the gender division of roles passed on from one generation to the other. The

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<sup>10</sup> See note 8, above.



vindication as well as the rejection of traditional feminine values<sup>11</sup> —sensitivity, affectivon, gentleness, care, delicacy, lack of agressivity— are bound to be built on claims about women's nature with no point of comparison, virtually no alternative historical practice to refer to. Women are therefore left with the false choice between vindicating 'femininity', that is the traditional value which legitimises their subordinate role, or leaving aside this femininity and playing in the masculine world, with its rules, which means a constant fight against their second 'cultural' nature, on the psychological level, or against prejudices of all sorts, on the social level.

Moreover, the particularity of the problem faced by feminism concerning other differences (cultural or ethnic), is that it crosses boundaries —there is no society without women, who constitute the largest dominated minority on earth. Women are condemned, as such, always to be a sub-version of the considered culture. (By which I mean that they are fragmented in different cultures and social roles, in which they always have, considered collectively, a subordinate position to men, but that they do not have a cultural model of their own, apart from the fact of subordination.) This obviously raises particular problems on the theoretical level, as the effort of imagination women have to make is entirely constructivist: there is no tradition other than one of the conquest of parcels of citizenship to look back on, no shared language other than the universal fact of domination to refer to. In other words: the starting point is only negative.

This poses at least two philosophical difficulties. One is that the lack of a feminist tradition, in the strong sense of the term, means the absence of the usual way paradigms are revised inside each tradition, by both rational mechanisms and unconscious progressive adaptation to new or recently visible realities. 'Femininity' is not a tradition, but each tradition has its own definition of femininity. 'Femininity' implies therefore no autonomous self-understanding: it is only the set of stereotyped characters attributed to women in each culture, which work as a legitimization of their confinement to certain tasks and spheres. This means that the critical revision of femininity that feminism implies lacks a basis in a consistently self-understood tradition: feminism seems to start every time anew, perpetually to have to find a legitimacy for its existence, to constantly fight the same battles and reproduce identical confrontations.

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<sup>11</sup> Throughout this paper, the word 'traditional' will be used to describe an idea of women that consigns them to the private rather than to the public sphere, to children's up bringing rather than to paid work performed in the market-place, and to care of others rather than to the development of their own, autonomously defined, talents. This definition does not correspond to any 'tradition' in particular, and is simply meant as an ideal-typical point to be opposed to the idea of autonomy and individuality on which I will base my argument. Accordingly, it does not imply a preconceived negative idea of traditions, their role and effects.

The second, and for the purpose of this paper more central difficulty, concerns the problem of applying, on ethical ground, the Kantian idea of *universalisability*. How are women to adopt the point of view of the other when the genetic difference between men and women is reproduced, without possibility of 'métissage'? This is the essential contrast with race, but a contrast which makes all the difference: the 'métis' is a reality, the androgynous is not, and will not be within the foreseeable future. Are we then to think in androgynous terms, knowing that it is an abstraction with no possible representation in reality, or are we to define roles in a way that they will discriminate between men and women, and make assumptions concerning a dualist human essence, on the basis of the ineradicability of a biological difference?

Posed in those terms the question does not look hopeful; we seem faced with an impossible choice between the denial of the fact of difference and turning it into an indisputable and unchallengeable basis for the definition of a clearly different telos in life for men and women. It is however my contention that these apparent aporias can be resolved by answering this question in two stages. At the abstract level, principles should be worked out in an *androgynous* way, so that they lead to institutions justifiable to both men and women. In the second move, however, those abstract principles should be applied in a way which addresses the specific difficulties that the indissoluble natural difference between men and women, especially concerning procreation, pose to a theory based on the ideas of autonomy and individuality.

To achieve this, it is important to begin by asking what is the exact extent of the biological<sup>12</sup> difference between women and men, and its subsequent implications for social organisation, institutions and roles. In effect, most of the reflection on women's condition start from postulates on women's nature, without always making them explicit, and with little subsequent effort to justify them. Women's 'nature', child-bearing and child-rearing, sentiments and feelings, love and care as opposed to rational abstract thinking, devotion to others versus career achievement, all those aspects appear in definitions of what women are, conflating discrete aspects, in a way that tells us more about the belief of people who utter them than about the 'true nature' of the problem. A reflection on natural or biological differences is however necessary, because it lies behind the legitimisation of women's domination, but also because imperfect deliberation on the limited natural differences between men and women provokes a differential response to

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<sup>12</sup> I prefer the term 'biological' to 'natural', because the second is generally used in the context of a reflection opposing nature and culture. To say that women have a biological difference does not mean that this difference is not culturally lived and structured: it is biological and cultural rather than natural.



racial and gender discrimination. The complete rejection of the former is widely shared; putting the latter in the list of priorities for a reflection on justice which still has to be argued for. Many would be willing to be defined as anti-racists, far fewer as feminists or anti-macho. Rawls claims that racial and sexual discrimination are 'not only unjust but irrational'; the latter category does not however come to consciousness in the same crude way as the former, because many aspects of it are unreflectingly seen as 'natural'. To give but one example, if advertisements which use a stereotyped vision of women treated ethnic minorities in the same way, the chances are that they would produce a higher level of indignation and debate.

As for men and women's nature, it seems that only one thing is certain: women have a womb and men do not, and this will remain, given the current state of scientific knowledge. (I do not mean to commit myself on the question of whether we should hope that science may free women from child-bearing). As such, this fact does not tell us much about abstract reason, nor about child-rearing. Once children are outside their mother's womb, nothing is left to women alone, on the basis of their nature, as even breast feeding can be substituted by artificial milk. (Again: this is not to be read as a statement in favour of, or against breast feeding.) On the sole basis of this biological difference, it seems difficult to make assumptions about women's role in life as regards children and family. Yet those assumptions are made and reproduced. Hence the feeling some women have that society has used them to reproduce itself, that they never had the possibility of reconsidering the consequences of a choice which has severed them not only from the full development of their capacities but also from an involvement in society, including public participation in it (and therefore of the control over decisions that affect them and those they care for); a conviction that something very unfair and unreasonable has occurred to them.

How should a just society meet the problems of natural and social inequality, so as to provide the widest possible basis for women to be full autonomous subjects? In what follows, I want to put forward a view of feminism based on Kant's notion that principles central to justice should be universalizable, that is that they should be defined so that they could be adopted by all rational agents, male and female, and to do so using the reconstruction made by John Rawls of this notion, in the sphere of public justice, under the title: 'Kantian constructivism'.<sup>13</sup> However, as it seems undeniable that neither Kant nor Rawls have set it as one of their primary tasks to propose a theory addressing in

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<sup>13</sup> See Rawls, John. 'Kantian Constructivism in Moral Theory. Rational and Full Autonomy.' *The Journal of Philosophy*. Vol. LXXVII, n. 9 (September 1980).



specific form the problem of women's subjection, it will be my aim at the end of this paper to point out the directions in which Kantian feminism can develop.

I shall begin by examining two lines of objection to contract theory at large, one which affirms that the irreducible duality of humanity has implications for the way men and women relate to the spheres of public and private life and to justice, reason, love and care, and the other which argues that blindness to the problem of male domination in classical contract theory has had the effect of describing as gender-neutral roles and institutions which have in fact been defined to suit men's interest. I will then propose an alternative to both views in terms of Kantian ethics. Here, as Rawls would put it, the adjective *Kantian* 'expresses analogy and not identity', especially as I want to distance myself from Kant's conception of the state. On this Kantian view of feminism all members of society should be enabled to make mutually acceptable to one another their shared institutions, including the institution of the family. This means that all social institutions, including basic arrangements concerning the family, have to be conceived in a way that can be justified to all citizens, whatever their position, their particular interests, and their gender.

## *II - Feminists' objections to contract theory.*

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The objections presented by feminists to contract theory —both classical (mainly Locke, Rousseau and Kant) and neo-contractarian (Rawls)— and hence to the perspective I am adopting here are generally of two sorts.

1. The first concerns the problem of identity. On this view, liberals start from the assumption that they can elaborate a theory that does not take into consideration embodied and embedded differences. They deny, among other things, gender difference. Though they claim to have a universal discourse, they are bound to generalise an idea of the self which is in fact gender, or rather male coded (or structured), and therefore to deny, oppress and mask female identity and specificity. Consequently, they present female qualities and inclinations as inferior, when they acknowledge them at all.

2. The second concerns the problem of exploitation and domination, camouflaged behind a discourse of universality of values. This second objection does not start from different identities, but rather from the gender division of labour. On this view, the principles of justice at which classical and neo-contractarian theorists arrive are presented as universal, but they do not challenge the specific site of male domination, namely the family. Moreover, by making assumptions about individuals as heads of families on the one hand, and by neglecting the issue of child-rearing on the other, they leave the problems of the gender division of labour unexamined, and legitimise it instead of challenging it.

In the following two sections, I will examine each of those two objections in turn, in order to answer two questions: 1. Is abstract reasoning bound to deny or disguise women's difference? and 2. Do the assumptions about the role of women in the family invalidate contract theory as a philosophical tradition? This second question will be answered in connection with the first set of problems concerning women's identity. It will be my contention in this second section that the question of identity is better posed in terms of the recognition of women as full autonomous subjects. This poses radical challenges to the family as an institution which reproduces gender division; it also gives rise to definite problems for an education policy committed at the same time to a protected sphere of privacy, intimacy and individuality (and, consequently, to a certain idea of toleration), and to the availability of the same resources and space for the autonomous definition and revision of each individual's idea of the good life for both genders.

### **1. The 'gynaeceist' conception of feminism.**

Some contemporary feminists claim that only a gendered account of rationality, as opposed to a universal one, is valid. Women care not for abstract but for particular others; this is dismissed as moral immaturity by contract theory. Justice and rights are male; love and care are female. Care and love are on this view not only different but opposed to justice and rationality, and there is therefore an imposition of the second as the only legitimate (male) discourse. To the vision of the universalised ghetto which some communitarians seem to convey, this version of feminism adds a vision of the universalised gynaeceum, of a women's quarters in rationality, as well as in the tasks in life.

This view is most powerfully expressed in Carol Gilligan's famed work on the different moral development of women and men, and their subsequent different moral orientations.<sup>14</sup> Gilligan starts with the differentiation between two types of 'responsibility', a central notion in contract theory, one which has a commitment to abstract obligations, and the other as responsive to particular relationships. She claims that 'The values of justice and autonomy, presupposed in current theories of human growth and incorporated into definitions of morality and the self, imply a view of the individual as separate and of relationships as either hierarchical or contractual, bound by the alternatives of constraint and co-operation'<sup>15</sup>, an opposition she wishes to deny. Gilligan's work is by now widely known, as is the fact that her main aim was to prove that women's moral responses were not inferior but different. I will therefore only summarise in what follows some of the *problems* that can derive from (a.) the affirmation of a clear segregation between two types of moral development and ethics, and (b.) the assignation of some superiority to what are seen by ethics of care theorists as 'female' moral dispositions, that is an attitude seeking responses to particular cases, in the context of concrete care responsibilities and relations.

The first problem which derives from the ethics of care is that *women* are seen as a coherent moral category, opposed to another undistinguished moral category of self and agents: *men*. A second, related problem is that the public sphere, which is the place of diversity, of the confrontation of a plurality of discourses, and ideally a common world

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<sup>14</sup> Gilligan, Carol. *In a Different Voice: Psychological Theory and Women's Development*. Cambridge Mass.: Harvard University Press, 1982.

<sup>15</sup> Gilligan, Carol. 'Remapping the Moral Domain'. In: Heller, T., Sosna, M. and Wellbury, D (eds.) *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought*. Stanford: Stanford University Press, 1986, p. 242.



of dialogue between different 'voices' is in this view beyond the reach of women in general. Some theorists have recently argued that there is some public significance to Gilligan's approach; in effect, they assume that it could constitute the basis for an alternative public morality, in which attention to concrete, particular cases would be developed in contrast with the abstract and uncontextualised morality that right based theories elaborate. However, it remains unexplained how the concrete care moral principles applies in the political sphere, that is, in a sphere characterised by the fact that people do not know or see each other, where the ethical community is an 'imagined community' and where principles must be arrived at through a process of abstraction that Gilligan and her followers would a priori reject, and describe as male rationalist.

As to the vision of women's moral dispositions that the ethics of care authors are proposing, it tends to reduce feminine cultural orientations to the classical Christian vision embodied in the virgin Mary (as opposed to Mary Magdalena). Mary does not create or procreate, she does not give meaning, which is left to the masculinised figure of God, but she protects in her womb, she is the bearing, nurturing and caring figure.<sup>16</sup> This new traditionalism, which turns traditional feminine virtues into *the* feminine virtues and, moreover, the virtues of feminism, can be seen as the exaltation of the status quo. Sociologically, however, its relative popularity could be read as the expression of a real sense of uneasiness that women experience when confronted on the one hand with the fact of domination, and on the other hand with the incapacity to successfully argue against it, without shifting to what are seen as 'male' values. Women are faced with personal and generational investments—which, rather than viewed in terms of the values of care and love, are better described in concrete material terms: number of plates washed, of beds made, of shirts ironed and of other accessory, and unconsidered jobs, which receive virtually no compensation either at the material level, nor, which is worse, at the symbolic level of prestige or recognition. Women do develop 'moral dispositions' of care, appropriate to particular cases rather than seeking universal applicability when they are confined, either really or conceptually, partly or totally, to the private sphere. One obvious virtue of the ethics of care is therefore to turn those investments into something positive, to reconcile women with a role which society is all too ready to give them. This theory does so through a move which transforms such oppression into a virtue, and eventually, through choice, into a new, domestic version of 'female is beautiful'. However, it does not prepare women placed in a traditional role to understand what I would call the 'reasonable egoism' of their children and other relatives they 'care'

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<sup>16</sup> Note that this does not mean that Christian thought only plays with this image of femininity. Among Christian saints and female 'heroes' there are some active and perhaps even proto-feminist women, like Santa Teresa of Avila or Sor Juana de la Cruz.

for, that is, that caring for persons does not reasonably imply the right to dictate what others should do with their life.

Leaving aside this sociological explanation, it does not seem enough to emphasise the similarity between traditional society division of roles and the ethics of care. The question is whether this vision of the woman's role has some plausibility and some consistency. We saw that one of the effects of exclusion—here an exclusion from the world of abstract reason, and, to a large extent, from the public sphere—is that the excluded, here women, are viewed as a single, undifferentiated category. This leaves men free to define their identity in a plural way, inherent in the political public sphere and to use reason against natural determinations, whereas women are locked up in one single identity. The division of roles is therefore not the real problem, but rather the denied capacity to contest an a priori identity made essence, which is imposed on each female individual. As the two images of self and of thinking of responsibilities defined by the 'ethic of justice'—based on rights and reason—and the 'ethic of care' are, according to Gilligan 'fundamentally incompatible'<sup>17</sup>, no room is left, precisely, for rational engagement with the latter. Women who believe that the world of abstract reason is also theirs would therefore be described by using a new version of 'false consciousness'; they would be said to ignore the real roots of their domination.

There is however no reason to think that justice and care are gender coded. Men and women can and often do share concern for rights, and care for their children. Justice and care do not stand on the same ground, do not have the same logic, do not address the same issues but can and do cohabit in people's lives and minds. Only a theory which sees an incompatibility between virtuous caring and justice can make this radical segregation, though it is still left with the problem of explaining how these two logics coexist in the same culture, in the same lives. Besides, 'Children need love to develop properly'—which seems to be the general assumption behind the ethics of care—is as abstract a proposition as 'People have equal rights.'; and the latter demands as much attention to particular situations as the former.

In this respect, the mistake on which the ethics of care rests is the assumption that abstract principles are fundamentally context insensitive. However, what is implied by the notion of abstract right is simply that no matter how little sympathy one can evoke in one's neighbours, parents, and other concrete persons one is in contact with, one can count on certain benefits and rights, which are granted only on the basis that one is a person. Abstract reasoning implies no subsequent detachment from reality. Principles

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<sup>17</sup> Gilligan, Carol. 'Remapping ...', op. cit., p. 238.



are intended to apply to particular situations: they are supposed to provide a test for judging reality and a standard from which to decide, particularly when a particular situation makes conflicting concrete demands. Only animals make strict context sensitive responses, the superiority of human reason being precisely the ability to abstract from concrete situations in order to rank demands made by reality, and also to respond in a way that takes into account the predictable evolution of this reality. (Kant would say that, unlike animals, human beings are not linked to a single role or pattern of conduct, because they can make conjectures, and give themselves law.<sup>18</sup>) If all is left to responsiveness in relationships, the weakest in all societies, the outsiders, the marginal, the emigrants, would be the object of little sympathy and attention; it is on the basis of general and abstract principles that they are guaranteed some rights and benefits.

By requiring that in matters central to justice (and those only) people think for themselves, from the standpoint of others, Kant and Rawls do not shift to a transcendent point with no contact with reality; rather they insist on the availability and accessibility of principles to all, in concrete situations. They require that everyone (for Kant) and all behind the veil of ignorance (for Rawls) reason according to principles that others can adopt. That is, to return to our subject matter, they ask that all men reason as if they could be in the concrete situation women are in, and that they adopt principles women could act upon (not should, or even would), and, clearly, the other way round. They therefore devote particular attention to the problems posed by concrete, embedded and embodied others.<sup>19</sup> At the same time, they assume that people take responsibility for their own choices, and that they should be given the necessary sphere of autonomy to make those choices. Translated into feminist terms, this means that each female individual be given the space and autonomy to make those choices, without a dominant male culture making them or precluding some of them for her. It therefore seems that neither the concrete descriptions of the different psychological development between women and men, nor the deduced superiority of the ethics of care over justice based ethics pose a definite challenge to a Kantian or Rawlsian perspective.

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<sup>18</sup> Those considerations start from the notion of negative freedom in *Metaphysics of Morals*, op. cit., p. 42: 'That which can be determined only by *inclination* (sensible impulse, *stimulus*) would be animal choice (*arbitrium brutum*). Human choice, however, is a capacity for choice that can indeed be *affected* but not *determined* by impulses, and is therefore of itself (apart from an acquired aptitude of reason) not pure but can still be determined to action by pure will. *Freedom* of choice is this independence from being *determined* by sensible impulses; this is the negative concept of freedom. The positive concept of freedom is that of the capacity of pure reason to be of itself practical.'

<sup>19</sup> I borrow this expression from Sheyla Benhabib: 'The Generalised and Concrete Other: The Kohlberg-Gilligan Controversy and Feminist theory', in Benhabib and Cornell (eds.), *Feminism as Critique*, Minneapolis Minnesota: University of Minnesota Press, 1987.



Before I turn to the second category of feminist critique of the Kantian perspective I adopt here, I think necessary to stress that I chose the example of Gilligan's work because of its relative importance in current feminists debates. However, the same objections would apply to any conception starting from similar assumptions (clear segregation between two types of moral development and ethics, and subsequent assignation of some superiority to a female over a male 'culture' or conception of life and ethics). In addition to what has been said so far, it seems important to stress that the 'gyneceist' conception of feminism does not seem to acknowledge that gender conflicts arise in a *common culture*, shared by women and men, and in the different experiences defined by this common culture, an aspect which I will return to latter.

## **2. Women in the limbo of pre-individualist feminism.**

The other objection made by feminist critics to classical and neo-contractarian theories is that they do not challenge the family, and leave all the problems of the gender division of labour unexamined, defined as beyond the reach of just relations. While the public sphere is governed by principles of justice, the private sphere remains the place of paternalism and potentially of male tyranny over women's bodies and lives.

This view is paradigmatically expressed in Carole Pateman's book on the *Sexual Contract*, presented as a feminist critique of contract theory.<sup>20</sup> Carole Pateman claims that the health of the public sphere has been said to depend on the exclusion of women by 17<sup>th</sup> and 18<sup>th</sup> century thinkers. Her critical reading of those authors leads her to the conclusion that the social contract is a 'fraternal contract' which depends on a sexual contract made for the purpose of subjugating women. From there she moves to the claim that all theories based on the idea of freely contracting individuals must rest on the subjection of women, whose inclusion as full members of the contract would render the theory incoherent. She therefore sees an 'incongruous character' in the alliance between feminism and contract. 'The victory of contract has a considerable appeal for feminists, given the long sway of coverture and the various social and legal means still used to deny women ownership of property in their persons. The conclusion is easy to draw that the denial of civil equality to women means that the feminist aspiration must be to win acknowledgement for women as "individuals". Such an aspiration can never be fulfilled. The "individual" is a patriarchal category. The individual is masculine and his sexuality

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<sup>20</sup> Pateman, Carole. *The Sexual Contract*. Cambridge: Polity Press, 1988.

is understood accordingly ...': the social contract is only a sexual or fraternal contract, a contract of brothers for equal access to the female body.

Surprisingly, however, after having left women in a pre-individualist limbo, the book does not seem to abandon the idea of women as autonomous citizens as concerns the horizon of expectation that a feminist theory should look at. [This is the essential problem in Pateman's and other similar views: it criticises contract theory with a vocabulary essential to it, sawing off the branch on which it stands.] In the critical review she devoted to Pateman's *Sexual Contract*, Susan Okin showed that 'Pateman gives up too easily on the potential uses of contract for feminism.'<sup>21</sup> However, Okin, who has written an important book to show that Rawls 'can readily be put to feminist uses'<sup>22</sup> also gives up rather facily on the validity of classical contract theory, promptly jumping to Rawls. This does not prepare her to acknowledge that the three authors whose theory of contract Rawls intends to carry to a higher level of abstraction and coherence —Locke, Rousseau and Kant— developed the vocabulary which constitutes the strength and originality of this tradition.

My position here is that concepts such as liberty, equality, independence and autonomy allow contract theory not to have to choose one of the two terms of the false dichotomy between community and individual. They give the richest account of the person, one which precisely provides the needed means to criticise the classical thinkers who elaborated its foundation (and whose work needs to be submitted to inquiry with this object). Contract theory carries in itself the resources for its own modification, essentially because of its commitment to giving reasons, but also because it conceptualises a relationship between individuals and society which presupposes that neither is prior to the other. The main originality of social contract literature is that it conceives of society as a mutual phenomenon, in which the autonomy of each is essential to all, in which the uniqueness of each person is affirmed through a mutual recognition of each member by the others.

This is what has constituted the basis of what Carole Pateman sees as a dead-end: the claim that women as persons are entitled to the same recognition of rights and liberties as men. Pateman as well as Okin, who follows her on this point, affirm the 'falsity of the "add women and stir" method of reading history'.<sup>23</sup> The cooking metaphor is

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21 Okin, Susan Moller. 'Feminism, the Individual and Contract Theory'. *Ethics*. Vol. 100, (April 1990): pp. 658-669.

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

23 Okin, Susan Moller. *Justice*, op. cit., p. 11.



however both inadequate and misleading. Removing the basis on which women have been denied the consideration of full or 'active' citizenship is not equal to seasoning the theory with some new spice. It obliges a reappraisal of the inconsistencies and historically situated inadequacies of the Social Contract tradition, and reconsidering of institutions such as family, labour structure and education, so that they can be seen to give full membership—and not only the vote—to women. But this is done through starting from a conception of the person and of just institutions which has been framed in contract theory, in its conception of citizens as free and equal and in its commitment to 'Lawful freedom, the attribute of obeying no other law than that to which he [she] has given his [her] consent; civil equality, that of not recognising among the people any superior with the moral capacity to bind him [her] as a matter of Right in a way that he [she] could not in turn bind the other; ... and civil independence of owing his [her] existence and preservation to his [her] own rights and powers as a member of the common wealth, not to the choice of another among the people.' The echo of those words of the *Metaphysics of Morals* still resonate in feminist vindication.

#### Active and passive citizenship.

Let us come back to the texts. How is women's identity to be conceived in contract theory? What are the reasons given for not recognising women as full autonomous subjects, as active citizens? What are the conceptual means to be found in Kant (and, before him, in Locke and Rousseau) to revise this exclusion? The first observation one would make is technical: it is not really the health of the public sphere which been said to depend on the exclusion of women by those thinkers, rather it has been said to depend on the independence of individuals. Women are excluded, because depicted as non independent, in that they are not 'their own master'. The argument of independence, which stems from the idea of alienation, serves to explain what is intrinsically unacceptable with slavery, and stresses the idea of liberty: 'When a man renounces his liberty he renounces his essential manhood, his rights, and even his duty as a human being.', says Rousseau.<sup>24</sup> The idea is that somebody who is not independent cannot have an independent will, and is therefore not a full citizen. Rousseau draws in this aspect from Grotius and Pufendorf, but mainly from Locke, and the idea of the link between self-legislation and liberty (*Second Treatise*, § 63: 'The freedom then of man and liberty of acting according to his own will, is grounded on his

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<sup>24</sup> Cf. Rousseau, *On Social Contract*: 'Renoncer à sa liberté c'est renoncer à sa qualité d'homme, aux droits de l'humanité, même à ses devoirs.'



having reason, which is able to instruct him in that law he is to govern himself by, and make him known how far he is left to the freedom of his own will.' From this is deduced the principle expressed at § 95: Men are 'by nature free, equal, and independent'.) Rousseau and then Kant deepened Locke's idea and rendered it more problematic, by claiming that liberty is acting in accordance with laws we give to ourselves, as a political body. It is in this context that Kant's division between active and passive citizen has to be situated.

Kant does exclude women from active citizenship. In the first instance unreflectedly, and in the second, basing his argument on the idea of independence. In the early essay *On the Common saying: 'This May be True in Theory, but it does not Apply in Practice'* Kant says: 'The only qualification required by a citizen (apart, of course, from being an adult male) is that he must be his own master (*sui iuris*), and must have some *property* (which can include any skill, trade, fine art or science).'<sup>25</sup> As ever, when a philosopher says 'of course', we should take it as a clear sign of something that has not been analysed properly, and is the expression of unrationalised prejudices. Philosophy is the discipline that takes it as its task to show what is not obvious in what seems evident, and there is clearly an unphilosophical turn in Kant's claim that women are 'obviously' excluded from citizenship.

Kant did in fact come back to this problem later, in the *Metaphysics of Morals*, in a way that needs to be analysed more carefully. He writes that the attributes of citizen are 'Lawful *freedom* ...; civil *equality* ... and civil *independence*. From his independence follows his civil personality, his attribute of not needing to be represented by another where rights are concerned.' Those are attributes that all, women included, share, but full citizenship (voting) can only be given to '*active* citizens', in contrast with a wide category of *passive* citizen: 'an apprentice in the service of a merchant or artisan; a domestic servant (as distinguished from a civil servant); a minor (*naturaliter vel civiliter*); all women and, in general, anyone whose preservation in existence (his being fed and protected) depends not on his management of his own business but on arrangements made by another (except the state). All these people lack civil personality and their

<sup>25</sup> Kant, Immanuel. 'On the Common saying: "This May be True in Theory, but it does not Apply in Practice"', in *Kant's Political writings*. London: Cambridge University Press, 1971. The idea of property has to be understood in this rather large context of 'skill, trade, fine art or science' and comes directly from Locke (See *Second Treatise*, § 85: 'These men ... not capable of any property, cannot in that state be considered as any part of civil society'). Clearly the problem, from a feminist point of view, is precisely to define child-rearing as a skill, and potentially as paid work, equivalent to any other work performed in the market place.

existence is, as it were, only inheritance.<sup>26</sup> Conscious himself that this distinction between active and passive citizens 'seems to contradict the concept of a citizen as such' Kant wants nonetheless to preserve civil independence from the arbitrary will of somebody else. Women 'in general' are said to depend for their subsistence on others and cannot therefore be considered to have a full civil personality (that is, in Kant's terms, 'the attribute of not needing to be represented by another where rights are concerned'), in the same manner as servants and minors cannot.

There are two sides to Kant's notion of the independence of women. One is the remnant of a prejudice against women, which clearly appears in his first formulation and which an analysis of his second statement reveals: some women of his time had a personal fortune, did not depend for their subsistence on others, and should, following his own reasoning, be given full active citizenship. This prejudice cannot be said to be only the effect of a certain time, where certain ideas were inconceivable. Some of Kant's contemporaries were in fact in favour of equal citizenship for men and women. An obvious example, close to Kant's positions on citizenship on other aspects, is the Marquis de Condorcet, who wanted to extend 'to all those who have property, who are householders', and explicitly active citizenship (the 'droit de cité') to women as well.<sup>27</sup> But the important theme Kant introduces —important because structural to his argument and not to be dismissed as a prejudice unnecessary to the theoretical construct— is that people need independence, including material independence for food and subsistence, to be 'their own masters' and not to be submitted to the arbitrary will of somebody else. The submission Kant has in mind is not only material but has effects on people's capacity to think autonomously for themselves. Thus formulated, the argument is not unfamiliar to feminists, who have consistently maintained that women who do not have entitlements of their own are vulnerable to coercion when conditions do not allow for a consent to domination.

We cannot have the criticism both ways: both because the theory is blind to subjection (that is: it takes it as obvious), and because it takes it to be a problem to be analysed. If my reasoning is correct, the only thing that is missing from Kant's second discussion is not the consciousness of the problem, but rather the will to change it. There

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<sup>26</sup> Kant, Immanuel. *Metaphysics of Morals*. Introduction, translation and notes by Mary Gregor. Cambridge: Cambridge University Press, 1991, pp. 125-126. I share the translator's view that 'For the most part, it would be philosophically correct throughout Kant's moral philosophy to translate *der Mensch* as "a human being", but she keeps the term 'man' instead, to avoid being anachronistic (Translator's note on the text, p. xii).

<sup>27</sup> Marquis de Condorcet. 'Sur l'admission des femmes au droit de cité'. *Journal de la Société de 1789*. 3 juillet 1790.



is therefore definitely something lacking in Kant's theory, from a feminist point of view, but Kant's notion of independence can on the other hand perfectly be taken as an adequate starting point for a certain view of feminism, primarily concerned with the conception of women as full and autonomous subjects. The idea of independence, put forward by Locke and Rousseau, but given full content by Kant, is in this view an essential tool for women who do not want to give up on their 'civil personality' and an existence which is not 'only inheritance'. More generally, the scope of feminist theory should be to examine how political, social and economic institutions should be arranged to allow every woman to enjoy lawful freedom, and to obey 'no other law than that to which she has given her consent; civil equality of not recognising among the people any superior with the moral capacity to bind her as a matter of right in a way that she could not in turn bind the other; and civil independence of owing her existence and preservation to her own rights and powers as a member of the common wealth, not to the choice of another among the people.' Feminist theory cannot give up on consent, civil equality and civil independence.

I would add here that in this respect, what has just been written could apply to Rawls almost as much as it applies to Kant. Rawls' writings succeed in taking Kant's theory further, by applying to it concerns with toleration and the necessary limits to be imposed on the State, which produces the substitution of comprehensive liberalism by political liberalism<sup>28</sup>. But it seems undeniable that Rawls has not set it as one of its primary tasks to propose a theory addressing in specific form the problem of women's subjection<sup>29</sup>, and therefore that while there are useful principles to start from in his theory, there is also a need to develop them in a coherent way, showing the concrete problems and solutions that the feminist challenge poses.

### Kant, women and marriage.

The place identified by Pateman, Okin and many feminist theorists as the locus of subjection of women, that is of the denial of lawful freedom, civil equality and independence, is the family. A contract applied to the family and therefore opposed to a 'fraternal contract', to an agreement 'of the brothers for equal access to women's bodies'

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<sup>28</sup> See III - 2. below for a development of this point.

<sup>29</sup> In other words, in developing his principles of justice in reflective equilibrium, Rawls did not take enough account of the "considered judgement" that certain relations between men and women are unjust.



(Pateman) is in fact the essential idea expressed in Okin's *Justice, Gender and the Family*.<sup>30</sup>

Part of this conception of a contract applying to the sphere of the family is already present in both Locke and Kant. As for Kant, he has an idea of a contract between husband and wife which is explicitly mutual, precisely starting from the problem of the other's body. Through marriage, one gives one's body to the other, but is given exactly the same right of access by the other. Through this exchange, one avoids treating oneself, or the other, only as a means, and restores its full personality. Kant begins with the problem of dealing with one's body as an object: he describes sexual intercourse as 'giving oneself up to the other,' and adds 'In this act a human being makes himself into a thing, which conflicts with the Right of humanity in his own person.' As said, the recovering of the integrity of the person (not only as means but also as end) is through mutuality: 'There is only one condition under which this is possible: that while one person is acquired by the other *as if it were a thing*, the one who is acquired acquires the other in turn; for in this way each reclaims itself and restores its personality.'<sup>31</sup> (For this very reason, polygamy is impossible in Kant's terms — 'in polygamy the person who surrenders herself gains only a part of the man who gets her completely, and therefore makes herself into a mere thing' —, as is prostitution —elegantly called *pactum fornicationis*. I suppose the argument could be extended to any agreement involving the commodification of one's body, against surrogate motherhood, for example.) In the rest of his considerations, Kant will speak of partners, and not of man, precisely to make absolutely clear this mutuality (which, as we saw, does not however imply, according to him, mutuality in the public sphere). Let us add that in this respect he goes further than many 19th and even 20th century civil codes —Napoleon's code is the paradigmatic example— in that he thinks that if there is adultery, this is equally unjustified for both man and woman, and also because he stresses the equality of possession not only of each other but of material goods (*Metaphysics of Morals*. On the Right of Domestic Society. § 26: '[T]he relation of the partners in a marriage is a relation of *equality* of possession, equality both in their possession of each other as persons ... and also equality in their possession of material goods.') There is, however, a limit to this equality: the man, as *head of household* represents the common interest, from which is derived a 'right to

<sup>30</sup> In this paper I will not address the rest of Okin's discussion of liberal and communitarian authors from a feminist point of view. I share some of her conclusions but the detailed analysis of my disagreements with her, especially on her reading of Alasdair MacIntyre, which she describes, I believe, wrongly, as a 'reactionary' would have to be the object of a separate paper. At any rate, Okin does stress, resting on MacIntyre's ideas, the need of conceiving feminism as a 'tradition' —in the sense of a living argument—, a point of view to which I would subscribe.

<sup>31</sup> Kant, Immanuel. *Metaphysics of Morals*, op. cit., p. 96-97.

direct'. We will see later that Rawls also uses this idea of head of household as the representative of others interests —of children, not of the wife—, though he does not assume the same argument of authority.

This Kantian idea, which draws on Locke, of a contract between husband and wife<sup>32</sup> has the virtue of offering an adequate standpoint against the conception, best expressed in Rousseau's *Social Contract*, and still to be found in many theories and practices, that the family is *natural*, that it is the only human institution which is not based on conventions. The family, Rousseau says, is 'the oldest form of society and the only natural one': natural and therefore unquestionable, both in its inherited structure and division of roles.<sup>33</sup> The line I will develop, hereafter, will be to see what 'rethinking the [natural model of] family', to borrow Kymlicka's expression, and more generally rethinking the assumptions behind the presentation of individuals as head of household imply, from a feminist perspective.

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<sup>32</sup> See Locke's *Second Treatise*. Marriage is a 'compact', which can be revised (§ 81) even if 'The society between parents and children ... is far different from a political society.' Authority 'naturally' falls to the man —the resort to nature is always to justify the status quo— which does not mean that he is entitled to absolute authority: § 82: 'But the husband and wife, though they have but one common concern, yet having different understandings [that is: different minds], will unavoidably sometimes have different wills too. It therefore being necessary that the last determination (*i.e.*, the rule) should be placed somewhere, it naturally falls to the man's share as the abler and the stronger. But this, reaching but to the things of their common interest and property, leave the wife in the full and true possession of what by contract is her peculiar right, and at least gives the husband no more power over her than she has over his life; the power of the husband being so far from that of an absolute monarch that the wife has, in many cases, a liberty to separate [not granted, on the contrary, by Kant] from him where natural right or their contract allows it ... and the children, upon such separation, fall to the father or mother's lot as such contract does determine.'

<sup>33</sup> See *On Social Contract*, I. 1. Apart from this aspect, the *Social Contract* provides, from a feminist perspective willing to challenge the received views of women's natural role, an understanding of the way in which citizenship is achieved through reason and liberty, in a constant opposition to nature. This notion of the self production of human beings as the result of a process, through meaningful work, is in effect one of the key elements of the *Contract*.

### **III - Individuals, heads of households and the family from a feminist perspective.**

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Before Kant, the basis for morals was sought in the order of nature, in the idea of happiness or in divine will. The Copernican turn which Kant makes allows us not to ground morality in the determination of nature—here gender division—and to substitute the idea of happiness for the notion of autonomy, of self-legislative will. The Kantian standpoint is therefore adequate for a feminism which does not want to be relativistic, sceptical, or dogmatic.

My claim at the beginning of this paper has been that feminism addresses a specific domination. The definite question which must be answered by feminist theory is under which conditions women can be considered to have given authentic consent<sup>34</sup> to institutions in the society, and therefore to enjoy recognition as autonomous members of society. Some of the main aspects that specifically limit women's autonomy are:

**1.** The assumptions made by social, economic and political institutions about the 'natural' structure of the family, and of the roles in it. This is where the authentic consent given to one's role in life as a woman plays a crucial part. It is important as a means 'to enjoy lawful freedom, and to obey no other law than that to which she has given her consent'.

**2.** The reproduction, through education, of inherited prejudices about women's role in life, which legitimise their subjection. This affects the conception of female persons as free and equal human beings, or, in Kantian terms, woman's 'civil equality of not recognising among the people any superior with the moral capacity to bind her as a matter of right in a way that she could not in turn bind the other'.

**3.** The subsequent problem of independence through paid work: women who do not have earnings of their own are exposed to coercion, give their consent to domination and cannot enjoy the 'civil independence of owing her existence and preservation to their own rights and powers as members of the common wealth, not to the choice of others among the people.'

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<sup>34</sup> 'Authentic consent' must be revisable and given in conditions of balanced capacities between partners. For a development of this point, see p. 38.



4. The problem of child-bearing; this aspect is what I have singled as the insoluble difference between men and women.

I will examine those four points, devoting, however, most attention to the first two. The basic assumption that family constitutes the locus of reflection that has to be developed is, as I said, an idea I share. However, I would define the need of 'rethinking the family' as the need to expand and give greater coherence to the Kantian theory of autonomy. My contention is therefore that the sense of many feminist criticisms aimed at liberal contract theory can be described as justified complaints because the theory is not liberal enough; because, that is, it gives up on the essential idea of the autonomy of female as well as male individuals, particularly in the sphere of the family. I shall not focus my attention in what follows on Kant's own conception of the family, of which I have already given a short overview. Rather, I will use Rawls' ideas on the matter as expressing one of the most up-to-date elaborations of a theory of justice on a Kantian basis, and try to define the areas where political liberalism still needs to develop, in order coherently to address the problem of women's autonomy.

At this point, some would argue that perhaps the title of my essay should be: 'The Idea of Feminism from a Rawlsian Perspective'. In fact, part of what follows works with what I find to be one of the most creative tensions in Rawls' theory, namely, the attempt to make compatible the requirements of *justice* and those of *toleration* (that is, reading Kant through Locke's eyes). However, an important part of Rawls' work draws on ideas concerning the moral development of children (see chapter VIII of *A theory of Justice*), which fall outside the Kantian view I want to develop here<sup>35</sup>. My assumption is that by providing what Susan Okin calls 'an arid rationalist account', Kant precisely allows us to reflect on the institution of the family in such a way as to attach a lesser weight to prejudices and traditional models about what children 'need', when attempting to arrive at moral norms. By separating the two problems, moral learning and the rational principles of justice, the imaginative effort which has to be made to think of just institutions from the perspective of gender equality is rendered, if not easy, possible. I therefore leave to a further stage—and, perhaps, to another discipline than political theory—the task of describing children's development, and will try to address only those

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35 Rawls himself seems to have recently adopted a similar position of avoidance of considerations on moral psychology. See for instance 'Justice as Fairness: Political not Metaphysical.' *Philosophy and Public Affairs*. Vol. 14, n. 3 (Summer 85), note 2, p.224. Rawls emphasises the idea that the title of his lectures 'Kantian Constructivism in Moral Theory' 'was misleading'. He concludes by saying that 'since the conception of justice discussed is a political conception, a better title would have been "Kantian Constructivism in Political Philosophy"'.

of Rawls' idea of justice and the family which, without being strictly Kantian, do not fall outside the Kantian framework.<sup>36</sup>

Another objection that could be made to my attempt here would be that this task has already been developed by Susan Moller Okin in her *Justice, Gender, and the Family*, where she clearly claims to attempt to put Rawls to feminist uses. To put things simply, I suppose that I begin where her book finishes. (That is, her book falls short of providing concrete/realistic prescriptions for state action.) However, a thorough examination and critique of the public/domestic dichotomy does mean that this distinction needs to be carefully redefined, in order to answer two basic questions: whether it makes sense to keep it, and if so, to what extent and in which spheres. (Which entails indicating where privacy and intimacy conceal domination, and what public policies should do to modify it.). The fact that what Rawls would call 'the basic structure' is not clearly defined in Okin's book has the consequence that she does not show in detail how she conceives of 'liberalising the family'. A liberal attitude from each member of the family towards the others would mean that they do not exercise the power they have, through either authority or love, and that they respect the fact that others have different ideas of the good life, that they might even find evil, and let them act accordingly. This is however something that falls out of the reach of political liberalism, which simply cannot legislate on love. It also falls outside a Kantian conception of right, and would be left to the realm of virtue. A liberal attitude towards other members of the family might at any rate be the consequence of a liberal education, but cannot be enforced by the State. It is not possible, if we want to keep the coherence of the rest of Rawls' theory, to just 'add family and stir' —to retake the metaphor that Okin borrows from Dale Spender. This is so, not because women's subjection is essential to the coherence of *A Theory of Justice*, but because it is impossible in the frame of Rawls' political liberalism to think of a state which would require that the values of autonomy and individuality govern all aspects of family life and children's education. Accordingly, Okin does not really go very far in her analysis of how the model of 'liberal' family she wants would work. This has been quite thoroughly analysed by Will Kymlicka, who writes: 'Okin has shown that justice in the family must be put at the centre of a theory of sexual equality. ... But the issue of family justice opens up a host of questions that she seems reluctant to discuss. The overall impression she gives is that child-rearing in a just society will be done within traditional groupings —monogamous heterosexual couples. ... But to assume that justice requires

<sup>36</sup> For a detailed and critical discussion of the differences and analogies between a Kantian and a Rawlsian perspective, see Höffe, Otfried: 'Dans quelle mesure la théorie de John Rawls est-elle kantienne?', in *Individu et justice social. Autour de John Rawls*. Paris: Seuil, 1988, pp. 54-72. See also O'Neill, Onora. 'Constructivism in ethics', in *Constructions of Reason. Explorations of Kant's practical philosophy*. Cambridge: Cambridge University Press, 1989, pp. 206-218.



fairness between 'mothers' and 'fathers' in the raising of 'their' children is to have already assumed much of what a theory of family justice needs to determine. Indeed, it is to assume too much of the old ideology of the natural family that Okin herself wishes to defeat.<sup>37</sup>

One of the questions which is consequently insufficiently developed in Susan Okin's book concerns the problem of a contract applied to children. There can be discussions as to when the 'age of reason', or 'age of discretion' (Locke<sup>38</sup>), or age of mastering 'the use of one's members and understanding' (Kant<sup>39</sup>) commences. It is however obvious that the age of reason does not begin at birth. Therefore, children cannot be said to have, either really or ideally, 'signed' a contract with their parents. (Even though Rawls is willing to consider the family, through contractarian eyes, as 'a small association, normally characterised by a definite hierarchy, in which each member has certain rights and duties.'<sup>40</sup>) Children have, in Kantian terms, for some time no 'civil personality', in that they lack the attribute of not needing to be represented by another where rights are concerned. This obliges a consideration as to how far parents can represent their children's interest, for how long, and how the choices they make can be revised by their children when 'they come of age'.

There are also aspects where I disagree with Okin's theory, mainly her idea of a 'genderless society' (p. 171: 'A just future would be one without gender'). This expression, as she formulates it, suggests a line of progressive emancipation of women which could sound both utopian —gender is not going to disappear— and as peremptory as 'challenging the public/private distinction'. The idea is counter intuitive, because many people neither want it nor believe in its possibility, and authoritarian —since surely some women want to retain different attitudes to men, and define themselves in a

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<sup>37</sup> Kymlicka, Will. 'Rethinking the Family.' *Philosophy and Public Affairs*. Vol. 20, n. 1 (Winter 1991): pp. 96-97. For a different critical perspective on Okin's book see also Joshua Cohen. "Okin on Justice, Gender, and Family". *Canadian Journal of Philosophy*. Vol 22. n. 2, June 1992, pp. 263-286.

<sup>38</sup> See *Second Treatise*, § 64 and following. The authority of the father (and of the mother: 'in his power the mother, too, has her share with the father.') stops when children arrive at adulthood. § 86: '[T]he master of the family has a very distinct and differently limited power both as to time and extent over those several persons that are in it; ... he has no legislative power of life and death over any of them, and none too but what a mistress of a family may have as well as he. ... And he certainly can have no absolute power over the whole family who has but a very limited one over every individual in it.' and § 118: Children are under their father's authority till they come to 'age of discretion'; then they choose 'at liberty', what government they will put themselves under.

<sup>39</sup> For Kant there is, from that moment on, no duty of *right* for the children to obey the parents, but only a duty of *virtue*, to feel gratitude towards them.)

<sup>40</sup> Rawls, John. *TJ.*, p. 467. The problem is clearly how the 'definite hierarchy' is defined and justified.

traditional way. (This Okin would not deny. But then she cannot claim that the future is of a 'genderless' society). In Rawlsian terms it would be difficult to adopt principles leading to a genderless society behind the veil of ignorance, because it would not express a 'reflective equilibrium' —that is reasonable conditions and principles which match 'our considered judgements duly pruned and adjusted'.<sup>41</sup>

This is the reason why, rather than a genderless society, I prefer the much dismissed idea of a gender-neutral society —that is not a society where genders disappear but a society where the principal of abstract equality is applied when thinking of gender in public policy. Many feminists (Catharine MacKinnon and Susan Okin, for example) argue against the gender-neutral way of looking at the problem of equality of opportunities. On this view, which is shared by Will Kymlicka in his latest book<sup>42</sup>, almost all important roles and positions have been structured in gender-biased ways, so that women participate in a race which they have already lost, a reality which the gender-neutral discourse on equal opportunities veils. One way of understanding the implications of the inefficiency of the gender-neutral discourse underlined among others by Okin and Kymlicka is that it legitimises unfair socially built differences, by naturalising them. (This is the same logic of reasoning adopted by Bourdieu in his book *La Distinction*: different legitimacy attributed to ways of dressing, speaking, and to tastes in general tend to 'naturalise' class division.<sup>43</sup>) In effect, women are made to believe that they do worse in fair professional competition, on the basis of their inferior talents or commitments to it. They enter the race as severely handicapped both by the way they have been socialised so far, and by the social consideration of their labour as secondary to their self-realisation in life. This line of reasoning I find sociologically convincing as a

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<sup>41</sup> I suppose this justifies Rawl's words in *TJ.*, p. 99: 'As far as possible ... justice as fairness appraises the social system from the position of equal citizenship and the various levels of income and wealth. Sometimes, however, other positions may need to be taken into account. If, for example, there are unequal basic rights founded on fixed natural characteristics, these inequalities will single out relevant positions. Since these characteristics cannot be changed, the positions they define count as starting places in the basic structure. Distinctions based on sex are of this type, and so are those depending upon race and culture. Thus if, say, men are favoured in the assignment of basic rights, this inequality is justified by the difference principle (in the general interpretation) only if it is to the advantage of women and acceptable from their standpoint. ... On the other hand, these inequalities are seldom, if ever, to the advantage of the less favoured, and therefore in a just society the smaller number of relevant positions should ordinarily suffice.' The paragraph is however confusing in more way than one, essentially because it begins with fixed natural characteristics but mentions culture in the course of the argument, and also because Rawls does not sufficiently define the 'smaller number of relevant positions' he is willing to grant, from the point of view of 'unequal rights founded on fixed natural characteristics'. It would seem enough to say that each party, behind the veil of ignorance, knows that there is a reasonable chance she/he will be a parent.

<sup>42</sup> Kymlicka, Will. *Contemporary Political Philosophy*, op. cit., chapter 7.

<sup>43</sup> Bourdieu, Pierre: *La Distinction. Critique Sociale du Jugement*. Paris: Minuit, 1984.



description of the social mechanisms of legitimation and reproduction of inequalities. However, the conclusion which seems logically to follow from it is not that gender-neutral principles are pointless, but rather that they have to be applied more consistently, for example when rethinking the socialisation of children of both genders. (This applies essentially to education.)

I will hereafter develop those lines of argument, turning first to the problem of head of households in liberal theory at large, to see whether a certain idea of the family has to be kept and if so, what a non nature-based definition of it would be; I then will deduce the concrete aspects that a liberal feminist idea of education should address, with some final considerations on labour and child-bearing.

### ***1. A different idea of the family and of the Rawlsian head of household.***

Many feminists have argued that, following traditional thought, Rawls preempts the question of intra-familial justice. He does so in two ways: one is by assuming a family structure which secures identity of interests between distinct individuals. Secondly, even if there is no crude statement in Rawls saying that heads of family are male, the presumption of a sexual division of labour does indeed underpin his conception of the family. That is: Rawls has not revised Kant's view of identity of interest between wife and husband, and the subsequent division of gender roles.

The conception of individuals as heads of households is introduced by Rawls as a device for people behind the veil of ignorance to care about their successors —so that they can represent a kind of everlasting moral agent: '[The] good will [of the parties] stretches over at least two generations. Thus representatives from periods adjacent in time have overlapping interests. For example we may think of the parties as heads of families and therefore as having a desire to further the welfare of their nearest descendants. It is not necessary to think of the parties as heads of families, although I shall generally follow this interpretation. What is essential is that each person in the original position should care about the well-being of some of the next generation, it being presumed that their concern is for different individuals in each case.'<sup>44</sup>

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44 Rawls, John. *TJ.*, pp. 128-129; my emphasis. I suppose, however, that the expression 'Head of households', which is retaken from Locke and Kant, in whom it serves to describe the duties of the [male] person in charge of an extended family, including adult children and servants, is not exactly adequate as a description of what Rawls is thinking. (See esp. *Metaphysics of Morals*, op. cit., p. 100-101, Right of Head of Household: '[A] society under the head of the household (*societas herilis*) [is] formed by a contract through which the head of the household establishes a domestic

Footnote continues on next page.

The first thing that should be observed here is that this view does not depend on the family as an institution, and less as a just institution. Very shortly afterwards, when listing the elements of the initial situation and their variation, Rawls defines the parties as 'continuing persons (family heads, or genetic lines)'.<sup>45</sup> Finally, when considering the morality of authority, the idea of questioning the institution of the family is clearly expressed, though not developed: 'I shall assume that the basic structure of a well-ordered society includes the family in some form, and therefore that children are at first subject to the legitimate authority of their parents. Of course, in a broader inquiry the institution of the family might be questioned, and other arrangements might indeed prove to be preferable.'<sup>46</sup>

Nothing in the idea that individuals behind the veil of ignorance should care about future generations precludes changes—and indeed radical changes—in the institution of the family. On the other hand, the necessity of this notion seems clear: it is important not to have 'egotistical generational choices' (perhaps the right of children to have a clean environment would be a good example, in this context). Secondly, as no assumption is made either about the gendered nature of child-rearing, the true problem here is whether there can be an identity of interest between parents and children.

However, Rawls takes two positions here: *1.* He speaks of heads of family 'caring for the well-being of some in the next generation' (that is: caring for children's interests when they are beyond the 'age of reason'); here the definition of children's interests falls entirely on the adults' side. *2.* But Rawls does also introduce the idea that the interest of representatives from periods adjacent in time should 'overlap' (see quotation above). Clearly here, the idea of conflict between interests is taken further, and as in the rest of the theory, the idea is to find an institution which could be justified to people of both generations, whose ideas of the good can be conflicting and indeed incommensurable (as would, for example, the idea of the good life of a liberal girl brought-up in a very traditional and religious family conflict with those of her parents). Those two aspects could be seen as appearing chronologically, in children's development.

Working with the idea of 'Heads of households' therefore poses two problems: firstly, how justified it is that some represent others' interests in matters concerning

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society with the children who have now attained their majority ... Servants are included in what belongs to the head of household.")

<sup>45</sup> Rawls, John. *TJ.*, pp. 145-146. The idea of 'continuing persons' is interesting, and could serve to define the duties towards the previous generation (pensions) as well as the following.

<sup>46</sup> Rawls, John. *TJ.*, pp. 462-463; my emphasis.



justice; secondly how it is that the revision of choices which have been made for the represented when they were 'beyond the age of reason' is rendered possible. To see exactly what has to be reconsidered in the theory, we can adopt several lines of criticism.

1. It is not true that the heads of households are only men. Most contemporary liberals would not be bothered by this view, and this seems to be the case with Rawls. However some contract theory authors have denied this premise (see above). As to Rawls, as I said, it does not seem that the problem of gender domination has been a priority for him. He does not address this problem specifically, but he also sometimes writes as if he did in fact make assumptions about the gendered nature of heads of families.<sup>47</sup> We can see those cases and the fact that he writes using the generic 'he' for both women and men as semantic usages that do not affect the body of his view of a just society. However, it is important to ask of the theory that it make clear the minimum assumption that men are not heads of households, because this has substantial consequences. The first and most important is that the state should not assume that the child carer is a woman. This has the logical consequence that adequate institutional measures and procedures should be adopted that avoid making the child-carer pay a heavy price in terms of life opportunities. (In other words that both men and women can choose to be co-heads of households, with a set of feasible roles opened to them). It therefore presupposes that all adults in a 'family-structure' are to be considered as co-head of households (that is: adults behind the veil of ignorance can only represent the interests of the children of the following generation, but not each other's interest, because both have reached the 'age of reason').

2. It is not true that individuals are head of households. I suppose that this second view goes beyond feminism, even if some feminists are willing to adopt it. It can in turn be divided into two positions:

a. It is not true that individuals should be considered as heads of households, because children are to be considered as individuals, in that they are potential adults. The space to develop their own judgement and choices must be protected against their parents. The feminist side of it is, as I said, the protection of the space and resources of girls to develop as full adults, in equality of conditions at the age of adulthood with the males of their generation. The concern of feminism would be that children of both sexes be brought up in a non gender coded (and

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<sup>47</sup> See *TJ.*, pp. 208-209, on interests between generations: '[W]ere a father, for example, to assert that he would accept the principle of equal liberty, a son could not object that were he (the father) to do so he would be neglecting his (the son's) interest.'

structured) way, with the common availability of symbolic resources, and the possibility, for both girls and boys, of revising their parents choices, at a similar cost.

**b.** It is not true that households are to count as the basic unit, because the family should disappear as an institution. Again, this is not a specifically feminist dream.

I will examine the concrete aspects that a feminist position from a Kantian perspective involves, taking into consideration **1** and **2a**. That is, I will see what it means to have institutions justifiable to both men and women in that no assumptions are made as to who is the primary carer, that they consider both men and women in charge of children as 'heads of households' (**1**), and that they give sufficient resources and space for young girls (and boys) to revise the choices made in good faith by their parents (**2a**). This will make it necessary to consider the tension between the requirements of *distributive justice* made by gender equality and those of *toleration* of different ideas of the good life, and therefore of the "good education" to be given to children.

Before going into this possibility, however, I will explain why I do not take into consideration here the desirability of the abolition of the family (**2b**, above). It is not an unjustified thought to imagine the dissolution of the family as a necessary condition of having a truly gender-equal society. This implication is drawn, for example, in Philippe Van Parijs' thorough study of the basic features of a just society, in his examination of contemporary Anglo-american philosophical debate (*Qu'est-ce qu'une société juste?*). In the book, in which the problem of justice from the perspective of gender equality is not specifically addressed (and, virtually, not mentioned), we find the idea, dropped in passing, that 'real equality of access to privileged positions and functions would ultimately require the abolition of the family.'<sup>48</sup> The author uses this argument not to argue in favour of the abolition of the family; on the contrary, he presents without further explanation the implication of the abolition of the family as evil enough to justify that we should renounce the desire for real equality of access to privileged positions and functions. His sentence deserves further scrutiny.

The inquiry can be conducted by opposing two ideal-types of institutions for the bringing-up of children. On the one hand, we can think of *state or societal institutions* in which the parental link with children is completely absent, and substituted by bureaucratic, impersonal procedures, which give exactly equal education to all children.

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<sup>48</sup> Van Parijs, Philippe. *Qu'est-ce qu'une société juste? Introduction à la pratique de la philosophie politique*. Paris: Seuil, 1991, p. 90. My translation.



On the other hand, what we will call '*family*', by which we will only mean that a parental link of some sort, whether biological or through adoption, still exists. Notice that thus defined, the range of models for '*family*' structures is very wide, from absolutely traditional models to more '*imaginative*' ones. The definition which has been given does not make assumptions about any '*natural*', and therefore unchallengeable feature of the family, as to its structure, composition and distribution of roles. What is a constant though, and constitutes the essential difference with the first model, is that '*parents*', of whatever kind, still have a sphere of autonomous definition for the bringing-up of '*their children*', with no more state intervention than the limits imposed by child abuse and obligatory education.

Once these two ideal-types for raising children have been defined, the reasons for opting for the first model—that is: for radically dissolving the family—or for the second (keeping a certain sphere of autonomous definition of children's education for parents) can be analysed as follows. The desirability of the first model from a gender equality point of view rests on the fact that family has traditionally been a sphere where women were supposed to devote their life, efforts, energy and resources to others, their children and husband merely, and that this model still has considerable weight, including many unspoken assumptions and prejudices, at both the cultural and institutional level. Besides the naturalisation of domination (women are naturally destined to this role) only a narrow utilitarian argument (i.e. average utility maximisation) could justify the perpetuation of this state of affairs, by saying that women might be sacrificed in families, but that the average well-being of society is higher than when this institution is challenged. I therefore take it that women's subjection inside the family is neither justified nor reasonable.

There are however compelling reasons for wanting to retain a certain idea of the family. The first and decisive one is that the complete elimination of the family can only be achieved through a very authoritarian state: most people want to bring up their children and keep a certain capacity to decide about aspects of the education they give to them, a sphere where the state does not intervene. The second reason is that the traditional sacrifice of women in the sphere of the family can be challenged, putting into question the inherited roles and structures attributed to it, without putting an end to the actual idea of giving adults the possibility of defining autonomously, within the bounds of reason, how they want to educate '*their*' children. This is precisely the minimum basis on which the family has been defined in the second ideal-type.

Apart from the two arguments already given, there seem to be positive reasons for preferring this second model, as the basis of reflection from which to start for the task of rethinking the family from a feminist perspective. First of all, families are the place

where stories are told about previous generations, traditions and beliefs, their continuities and discontinuities, that give some individual roots to children. Children are not only treated as abstract persons, in the family, but also as actual individuals, who are loved and cared for in a specific way, because they have a special, concrete link with the adults who represent the previous generation in their family, which therefore specifically situates them at a certain social-historical place. This has the effect that children are given unequal resources, depending on what their family is; it also implies that the stories told carry their weight of prejudices legitimising an unequal repartition of power between genders. However, what we know (practically and theoretically) about impersonal institutions, and the effects that failure of treating them as particular persons have on children's development, justifies the application, in this case, of the Rawlsian difference principle. That is, the retaining of some form of family-institution, defined as a space where adults can have a certain autonomy in giving what they consider the best possible education to their children, with all the inequalities this implies as to the distribution of material and symbolic resources between families, including different self-understanding given to people of the two genders, is preferable to absolute or imposed equality. In effect, children brought up without the degree of individuality and of continuities which are given by traditions that families provide, children, that is, who grow up in bureaucratic impersonal institutions, are worse off, generally speaking, in all aspects of development, than the least favoured of children brought up in families. For this reason, the inequalities tolerated between different kinds of up-bringing in families can be said to be to the greatest benefit of the least advantaged.

In what follows, I will therefore accept the necessity of thinking of the basic institutions of society as having to make compatible the family, as defined before, with arrangements that render feasible the *possibility* that women have real equal access to all the primary goods men have, and in the same degree.

Accordingly, the conception of feminism I am putting forward does not imply the dissolution of the family-institution, both for reasons of justice given above (the non desirability of its substitution because the inequalities it generates between people are, compared to the consequences of impersonal up-bringing in bureaucratic institutions, to the advantage of the least well-off in society), and because it would inevitably have the authoritarian effect of not respecting the desire that a considerable part of society have of not losing a certain idea of the family. Besides, it seems that if people were completely severed from the up-bringing of their own (adopted or genetic) children, to which they would not be able to give an education in great part chosen by them, without the interference of the state, this would have the effect of dramatically diminishing the desire to have children. One of the most powerful reasons for making the sacrifices that having children implies seems to be the possibility of perpetuating oneself, by passing one's



traditions, family-stories, beliefs and resources of all sorts to one's children. To purpose the complete disappearance of the family does therefore seem undesirable. On the other hand, however, the possibility of a drastic redefinition of the inherited and 'naturalised' models of family still prevailing is necessary from the point of view of feminism: this was the aim of the non-nature based definition given previously.

As said, the benefit of the minimum definition of the family as a space where adults can have a certain autonomy to give what they consider the best possible education to children of the following generation (with the normal guarantees that their health and needs are secured), is that it allows for the diversification of models of family, without imposing authoritarian changes to people who hold a traditional view of it. If the state stops unreflectedly imposing the ideology of the 'natural family' (father, mother and their biological children), this opens an institutional space for the redefinition of parenthood, as concerns its composition and structure. The diversification thus allowed would result in seeing the traditional 'natural' model of family, with its hierarchy and division of labour, as one among different possible choices, depending on one's idea of the good life, and more generally monogamous heterosexual couples as one of the possible models of groupings for the bringing-up of children. In time, this would alter the stereotyped roles attributed in family—and hence in society at large—to men and women. In effect, those stereotypes would be exposed to a range of possible options, allowing for comparisons and the adoption of alternatives.

The definition of the family adopted here entails a drastic reconsideration of the legal conception of marriage and family: we still live in states that somehow work with a combination of Kant's idea that marriage is 'the union of two persons of different sexes for ... possession of each other's sexual attributes' and of Rousseau's contention that the family is a natural institution (with a certain natural structure and hierarchy). If liberal, the state should be neutral, starting from the idea of separation between public and private, as to the structure of parental groupings, be it a man and a woman, a man and a woman of which neither is a parent of the child, two women, two men, etc., as long as the health and basic needs of children are secured. This imposes a revision of *adoption methods*, so as to avoid the projection of an even more stereotyped model of a 'normal couple' candidate as adoptive parents. The only condition stipulated as to who has the right to form a family, be it by direct genetic parenting or by adoption, should be the ability to provide a reasonable minimum standard of living, over a period of time equivalent to the child's period of growth. One of the advantages of this lifting of limits to parenting and adoption would be that the need to decide whether or not they have natural progeny, and the necessary concessions in terms of career, would not play such a heavy role in women's life. (I come back to this aspect later.)

This position can be described as an authentically liberal position concerning the state and conceptions of the good family that people hold true. It gives a standpoint for both women and men to judge and adopt what they find the best model of parenting. In that context, the choice of traditional 'feminine' roles could be described as genuine, and not as the inevitable result of alienation. In effect, provided they have been given, through education, the knowledge that revising their parents', their family's, their community's choices is possible and does not constitute a social crime, women who choose to devote themselves to tasks traditionally considered 'feminine', including child-rearing, could be seen as the result of genuine consent. Because they would have been allowed the capacity to dissent, their consent could be regarded as morally significant, and therefore not be described as the result of oppression or domination alone.

However, this poses the problem of the requirements that the state can impose on parents in terms of children's education, so that the space for young girls and boys to develop a certain capacity to dissent is protected, and their adhesion to a certain way of life identical to their parents' cannot be described as coming from mere ignorance, a problem which I have already described (see 2.a. above) and which I will examine in more detail in the following section.

## **2. Education. School as an agnostic place for the public use of reason.**

Some parents disapprove entirely of the values of autonomy and individuality on which the idea of genuine consent and capacity to dissent (on which my version of feminism is based) are grounded. They would therefore protect their children, sometimes especially their girls, from educational influences oriented to giving them a minimum idea of those concepts and values. Moreover, some would think that any attempt to make such concepts accessible to their children is equivalent to aggression, because it threatens the very survival of the culture to which they belong, by posing a core challenge to its essential values.

We touch here on the limits imposed by the state on the sphere of autonomy given to parents to define the education they want to give to their children (that is: where their sphere of autonomy conflicts with the development of the potential autonomy of children). Inseparably, this poses the question of the limits that an idea of justice which does not want to lose sight of the requirements of toleration of different and conflicting ideas of the good, would have to impose on state action directed at meeting the requirements of justice. (The requirements of justice are here identified with the capacity of autonomy for girls, and with their benefiting from the Rawlsian difference principle of equal distribution of liberty and opportunity, bases of self-respect and power and income,



unless it is to the greatest benefit of the least advantaged—here women barred both from education and wage earning, women whose material independence and independent judgement are both under threat).

We have seen that there are good reasons to keep a space where parents—or parental groupings—can define autonomously the kind of education they want to give to their children. In some closed communities, in which one of the essential values is the rejection of concepts such as autonomy and individual choice, this space could be used to shut a tight circle around children, brought up according to the idea that the rejection or even the mere divergence from principles transmitted in a univocal manner constitutes a sin. The perpetuation of those principles by members of the following generation could therefore not be described as the effect of genuine consent, because it would come from ignorance concerning other ways of life that exist and are indeed legitimate in society at large. In other words, perpetuation of certain practices would come from the absence of knowledge that it is possible to cease believing in one's parents principles without losing one's place in society. It would not be the result of autonomous reasoning, but rather of the heteronomous imposition of a certain idea of the good. The ability to dissent, the capacity to leave, through knowledge that this is an option and that a person can be rejected by her or his original community and family and yet be a full member of society has therefore to be protected. This question goes beyond feminism but, when traditional views of feminine and masculine roles form part of the views of communities of this sort, which is generally the case, gender equality considerations have to be made. This is especially so as the price which has to be paid by girls and boys for dissenting is often different, because access to education has been given to the latter rather than to the former, who therefore lack not only the ideological but also the cultural resources to re-integrate themselves into society at large. Securing mainly a 'right to leave' when arrived at the age of reason is not enough: physical possibility to leave must be complemented by a conceptual ability to conceive it as an option, and by the resources not to pay a discouraging price for doing so.

In Kantian terms, there are two types of ungenuine consent, which do not give legitimacy to the arrangements which spring from them, and are to be considered unreasonable. Firstly, an unrevisable consent, a consent for ever, with no possibility of dissent or revision at a future point. Secondly, consent arising from what Onora O'Neill has called 'impaired capacities to consent.' (This can also be phrased in terms of impaired capacities to dissent.). Education must therefore aim at securing that the equal capacity to give a revisable genuine consent exist for girls of all backgrounds, when they come of age. The consequences of this, as O'Neill shows, when others—women—are not treated as persons, when their autonomy is jeopardised, are twofold: the victims

cannot agree, nor share the coercers' end, even in the case in which it is probable that they would have chosen the same outcome through a genuine autonomous process.<sup>49</sup>

If we start from a Kantian idea of the person as free, equal, and able to act reasonably and rationally, that is, from a conception of autonomy and responsibility which implies that both women and men have full civil personality as to their rights and duties with regard to the basic institutions of society, we need to enable persons to have the required knowledge to do so. The notion of autonomy, which means that human reasoning be not subject to alien or heteronomous authorities, presupposes that people can guide their actions through the use of their understanding, and that they can reach reasonable judgement, through both individual reflection and public deliberation, on the basis of knowledge. However, this knowledge can, as said, be seen in itself, without any further state action, as a threat not only to the values of certain communities, but also to their very survival. A religious grouping which has meaningfully reproduced itself but sees its essential beliefs as menaced by the modern world, cannot contemplate any attempt to give to its children a minimum understanding of basic rights and liberties, and of their effects on the space given to persons to develop their own judgement. This would be seen as an imposition of a certain idea of the good, identified with the priority of right, on to others. This question has led to well known criticism of liberalism as sectarian, as trying to present itself as a mere reflection on the instrumental compatibility of incommensurable conceptions of the good, while holding a hidden conviction of the superiority of its own conception of the good.

This tension is central to John Rawls' work, especially in his recent articles, in which he has tried to avoid a 'metaphysical' view of the person, by stressing that 'The search for reasonable grounds for reaching agreement rooted in our conception of ourselves and in our relation to society replaces the search for moral truth interpreted as fixed by a prior and independent order of objects and relations, whether natural or divine, an order apart and distinct from how we conceive of ourselves. ... What justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realisation that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us.'<sup>50</sup>

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<sup>49</sup> O'Neill, Onora. 'between consenting adults.' *Constructions of reason*, op. cit., p. 109.

<sup>50</sup> Rawls, John. 'Kantian Constructivism in Moral Theory. Rational and Full Autonomy', op. cit., p. 519.



The difficulty with this position, even if limited to modern liberal societies (as Rawls' recent articles do) is that the concern with the toleration of other conceptions of the good seems to lead to relativism, in what some have seen as a 'communitarian' reading by Rawls of his own *Theory of Justice*. In the problem we are here considering —the intervention of the state in children's education to secure a minimum knowledge that gives them an actual and not only a theoretical possession of their rights and liberties when they come of age— the difficulty of finding a secure philosophical starting point is acknowledged by John Rawls in an important passage of a 'The Priority of Right and Ideas of the Good':

*'[V]arious religious sects oppose the culture of the modern world and wish to lead their common life apart from its foreign influences. A problem then arises about their children's education and the requirements the state can impose. The liberalism of Kant and Mill has led to requirements designed to foster the values of autonomy and individuality as ideals to govern much if not all of life. But political liberalism has a different aim and requires far less. It will ask that children's education include such things as knowledge of their constitutional and civic rights, so that, for example, they know that liberty of conscience exists in their society and that apostasy is not a legal crime, all this to ensure that their continued membership in a religious sect when they come of age is not based simply on ignorance of their basic rights or fear of punishment for offences that do not exist. Moreover, their education should also prepare them to be fully co-operating members of society and enable them to be self-supporting; it should also encourage the political virtues so that they want to honor the fair terms of social cooperation in their relations with the rest of society. Here it may be objected that requiring children to understand the political conception in these ways is in effect, though not in intention, to educate them to a comprehensive liberal conception. Doing the one may lead to the other, if only because once we know the one we may of our own accord go on to the other. It must be granted that this may indeed happen in the case of some. And certainly there is some resemblance between the values of political liberalism and the values of the comprehensive liberalism of Kant and Mill [Rawls adds in a footnote 'And that of Raz in *The Morality of Freedom*']. But the only way this objection can be answered is to set out carefully the great differences in both scope and generality between political and comprehensive liberalism. The unavoidable consequences of reasonable requirements for children's education may have to be accepted, often with regret. A full account of political liberalism itself must provide a sufficient reply to the objection.'*<sup>51</sup>

The definition of what reasonable requirements for a child's education are seems to be the appropriate starting point for a reply to those objections. Here the problem is to make the entitlement to educational resources of all children —boys and girls— compatible with the toleration of different conceptions of what 'reasonable requirement' for children's education demands.

<sup>51</sup> Rawls, John. 'The Priority of Right and Ideas of the Good'. *Philosophy and Public Affairs*. Vol. 17, n. 4 (Fall 1988): pp. 267-268.

The first aspect which has to be emphasised is that Rawls does not fully apply the important Kantian distinction between virtue and right<sup>52</sup>, which has already been used here. The object of Kant's Doctrine of Right is to define the characteristics of right so that they pose the *conditions of possibility* for the coexistence of free human beings: they do not require that those be *virtuous*. They define, that is, the conditions in which external *constraints* are imposed so that this coexistence is possible, but not the self-constraints in accordance with moral laws. Accordingly, the Introduction to the *Metaphysics of Morals* distinguishes between legality and morality: 'In contrast to laws of nature, ... laws of freedom are called *moral* laws. As directed merely to external actions and their conformity to law they are called *juridical* laws; but if they also require that they (the laws) themselves be the determining ground of actions, they are *ethical* laws, and then one says that conformity with juridical laws is the *legality* of an action and conformity with ethical laws is its *morality*.'<sup>53</sup> Clearly, Rawls' project is oriented towards the conditions of possible coexistence rather than to a doctrine of virtue, but this is defined in terms of the compatibility of the same *entitlements* for all rather than in terms of external constraints and of obligations, as the formulation of the main principles suggests (equal rights, basic liberties compatible with like liberty for all, and the arrangement of social and economic inequalities to the greatest benefit of all).<sup>54</sup> This therefore situates his project on uncertain ground, apparently limited to Kant's doctrine of Right but without a clear definition of the constraints imposed, so that those principles be effective.

In the case that occupies us, the constraints imposed on parents, whatever their beliefs and background, by a state in which arrangements start from an idea of justice based on a Kantian conception of the person has to guarantee the development of children as independent persons, so that a standard be provided for distinguishing genuine from forced consent. Moreover, it has to avoid the 'naturalisation' of the relation of domination described above, and guarantee that the cultural capital given to girls and boys, their self image, self esteem and abstract knowledge be as equal as possible. Public education must therefore compensate for the unequal distribution of resources of this kind which take places in families. However, in a morally pluralistic society, if we do not want to adopt what Joshua Cohen has called a 'rationalist fundamentalist'

<sup>52</sup> Otfried Höffe even claims that this distinction is absent from *TJ*: 'Rawls does not adopt ... the evident distinction between right and virtue. For that reason, his principles of justice are visibly *categorical* imperatives, but their character of *juridical* categorical imperatives is not so evident.' (Höffe, Otfried, op. cit., p. 66, my translation).

<sup>53</sup> Kant, Immanuel. *Metaphysics of Morals*, op. cit., p. 42.

<sup>54</sup> See O'Neill, Onora. 'Constructivism in ethics'. *Constructions of Reason*, op. cit., p. 214.



position<sup>55</sup>, we need to clearly limit those constraints, so as not to slip to the ground of virtue, and to make through state power a certain idea of justice coincident with absolute truth. This is the meaning of Rawls' attempt: not to convert liberalism into a new state religion. This means the adoption of only minimal reasonable requirements in education. For example, those minimum requirements have to preserve what has been defined here as an autonomous space for parents, or parental groupings, to define, to a great extent, the content of the education given to children they are in charge of.

What are those 'reasonable requirements' according to Rawls? The quote given above does not suggest that they are so minimal. In effect, next to conditions such as the *knowledge* of rights and liberties, education should according to him prepare children to be 'fully co-operating members of society' and enable them to be 'self-supporting' [which carries the echo of Kant's words on active citizens not having to depend for food or subsistence on others]; moreover, it should encourage 'political virtues' so that children, once citizens 'want to honour the fair terms of social cooperation in their relations with the rest of society.'

The encouragement of political virtue goes beyond the scope of this paper. However, the active knowledge of rights and liberties, a minimum idea of their own person as members of society and of independence, both symbolic and material (so that people are 'self-supporting' conceptually and in fact), seems to be the minimum resources that young girls, as well as young boys, should receive from education, in order to be active citizens, with full civil personality, able to give genuine consent to the arrangements that govern their life. By genuine consent we understand here not the fact that those arrangements are chosen in the world of pure reason, without any social or cultural determination, but that they *could* have been refused or conceived in a different way. Genuine consent presupposes the possibility (but not probability) of dissent and to have chosen otherwise; it only arises in a context in which women are not left without the means to be 'self-supporting' in society.

It seems that those limited but essentially 'reasonable requirements' can only be secured through a certain idea of education, in schools, that supplements the education given by parents, without having to exert authoritarian intrusions on family life. That is, there must be minimum resources that are given to all children, boys and girls, through a public education protected, funded and promoted by the state. This does not mean that private and religious schools chosen by parents have to disappear, but it does mean that

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<sup>55</sup> Cohen, Joshua. 'Moral pluralism and political consensus', forthcoming in *The Idea of Democracy*. (Copp, Hampton and Roemer ed.) Cambridge: Cambridge University Press, 1992.

the state has some control over the education they give, so that those minimum resources are given to all, and so that the early learning of a radically different conception of the person, depending on the gender, does not predetermine the subjection of women to men when the generation now in schools come of age. Schools are therefore here conceived of as a space where resources and knowledge to develop as full members of society is given equally to both girls and boys. They are also conceived of as a space where the right that children have to the resources necessary to modify, challenge or reject their parents' choices and idea of the good life, of their community's beliefs, is applied and secured.

Schools should therefore be defined to some extent as an agnostic space as regarding conceptions of the good life. They should be the place for developing the public use of reason, and for the development of the necessary capacities for what John Rawls calls 'reasonable disagreement': 'We say that reasonable disagreement is disagreement between reasonable persons, that is, between persons who have realised their two moral powers [capacity for a sense of justice and capacity for a conception of the good] to a degree sufficient to be free and equal citizens in a democratic regime, and who have an enduring desire to be fully cooperating members of society over a complete life. We assume such persons share a common human reason, similar powers of thought and judgment, a capacity to draw inferences and to weigh evidence and to balance competing considerations, and the like.'<sup>56</sup> This means that there is some state intervention to secure that all receive the necessary cultural means to develop and weigh competing conceptions of the good and ideas of justice (which supposes that even private schools are not given absolute freedom of definition of the way children are educated; certain minimum standards are imposed).

Clearly, this conception of education will be held by some to represent an unacceptable threat to cultural difference. An alternative liberal position would be to only secure at the 'age of reason' the ability to leave a certain community, when and if women stop believing in the legitimacy of their being relegated to certain tasks. The physical ability to leave is important and has to be protected as well. It must however be complemented by a conceptual capacity to do so, and at a price which is not greater than the price boys of the same generation have to pay to make the same move. The state has the responsibility not to abandon individuals in the closed circle imposed by the educational choices of parents. In effect, this would mean accepting that some be brought up to believe that they are naturally inferior and that their nature prepares them to

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<sup>56</sup> Rawls, John. 'The domain of the political and overlapping consensus'. *New York University Law Review*. Vol. 64, n. 2 (May 1989), pp. 233-255.



serve others. Stating that respect for cultural difference implies that other beliefs are not to be challenged, where it is central to the meaningful reproduction of a certain culture and way of life, is equivalent to arguing that if the belief that a race is inferior to another and naturally fit to serve is vital to the reproduction of a culture, it has to be respected.

Furthermore, identifying one moral principal with the survival of the whole culture seems to enter into contradiction with the way cultures change and reproduce themselves. Cultures are made of pluralities of beliefs, moral principals and even conceptions of the meaning of life, and it is a sign of their vitality that some or all of those are altered over time, without losing their capacity to give a means of recognition to people that belong to them. The challenge that the notion of equal access to knowledge for boys and girls poses to any culture is limited. A school truly conceived as the agnostic place of public use of reason does not have to make intrusions, for example, in the religious terrain. Scientific knowledge must not be given in a different way to male and female children, but religion may. What has to be secured is equal access to maths, not to the Torah.

Besides what has been said so far, the controversies that arise in society about the role of women, and that are described as disagreement between traditions are perhaps better described as the experience of *shared conflicts*.<sup>57</sup> This is why better than 'respecting a tradition', which is therefore largely stereotyped in describing it as unitary, one should be concerned with the protection of personal autonomy from state authoritarianism, and, inseparably, from family or community tyranny. The tension between those two concerns constitutes a difficult philosophical and practical problem, which is not resolved through facile claims about respecting 'otherness'.

*Meaningful work or loss of the self.*

What has been said so far has some consequences for the concept of work, and domestic labour, a question on which I will only make some remarks directly linked to my argument here.

For the understanding of the threats to independence that the traditional conception of division of labour has supposed for women, it is useful to begin with what Steven Lukes has called the 'Kantian' concern of Marxism with exploitation, as well as

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<sup>57</sup> The following example can make this concept clearer. The arguments about the way to treat Muslims in western societies should acknowledge that an important part of the controversies around the place of, say, Algerians in French society arise from the *shared conflicts* constituted in the colonisation, in the war of Algeria, in the emigration, rather than from the inherent different understandings that arise from a Muslim culture.

its 'perfectionist' concern with alienation.<sup>58</sup> Following Rousseau, Marx reconstructs the concept of labour as a process made meaningful through the species being objectifying itself in an object, in a product, and then recognising itself in the product. Alienation and estrangement intervene inseparably when not only the object of labour, but the definition of its orientation, of its meaning, is taken from the species being: 'Just as in religion the spontaneous activity of the human imagination [*Phantasie* ], of the human brain and the human heart, operates independently of the individual ... so is the worker's activity not his spontaneous activity. It belongs to another; it is the loss of his self.'<sup>59</sup>

It is the loss of *her self* that is experienced by the woman whose vocation has already been defined and 'naturalised' by others, society, her community and/or her relatives and companions, in a way which leaves her without control. In the sphere of labour genuine consent matters; again, genuine consent means only that it has been *possible* to choose otherwise. For example, devoting oneself to domestic labour or subordinating one's possibilities of meaningful work to the care of others is a possible choice, but no choice is unrevisable. The idea that there is one worthy way of life which should be encouraged, that lies at the heart of the perfectionist dimension of the idea of alienation, is therefore here re-formulated in that labour should switch from the estrangement, which implies a loss of self-meaning, to *meaningful work* as a claim to civil personality. ('Work' designates here *any effort directed to being self-supporting and/or contributing in any manner to the well-being of others*, which includes any effort of this sort made in the domestic sphere and generally, in Kant's terms 'any skill, trade, fine art or science'.<sup>60</sup> Thus defined, what makes it meaningful is not its content but the fact that significant consent has been given to it).

As I said, an unrevisable consent, a consent for ever to a certain contract, in this case a relegation of domestic tasks, is unreasonable. Further to what has been said so far, necessity of revision arises because people at one moment of time cannot even imagine what their future selves will be. Those future selves will have the memory of previous experiences, and will keep and rearrange some of the previous commitments: there is

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<sup>58</sup> Lukes, Steven. *Marxism and Morality*. London: Oxford University Press, 1985, p. 87.

<sup>59</sup> Marx, Karl. *The Economic and Philosophic Manuscripts of 1844*. Dirk J. Struik ed. New York: International Publishers, 1964, p. 111.

<sup>60</sup> It will be noticed that the definition of work adopted here aims at not distinguishing between paid work performed in the market place and domestic labour. It is definitely one of the most striking paradoxes of the definitions of femininity that the interpretation of female nature as fragile and sensitive is rendered compatible with an idea of inborn vocation for the fatiguing, monotonous and routine domestic tasks, deadening to any sensibility, not even defined as 'work' –and therefore not paid as such.



therefore a continuity of the self, and a basis for moral reflection, but we cannot sign a contract for ever, that precludes the changes we make. The degree of solidarity that we feel with some of our previous commitments varies, even when we still are able to identify ourselves as us, as the person who has been all those selves that are going to die all at once. When Charles Swann is at the peak of his distress for the love of Odette de Crécy, he realises with renewed anguish that he cannot even desire this painful love to disappear, because that would mean that his present self would no longer live. When, in the first moment of love, some men and women make agreements for the rest of their life, the desire to never revise it can only be understood as the impossibility of even imagining—and at any rate desiring—the death of their present loving self, not as a clause to be enforced. Revisability is therefore essential, as should be the opportunities for any person who has decided to relegate himself or herself to the domestic sphere for a time to revise this choice, and to be given, among other things, the educational and institutional possibility to do so.<sup>61</sup>

*A short word on women and their nature. The problem of child-bearing.*

Most aspects of child-rearing and domestic work have been examined above. There is however a question which I have defined as the ineradicable difference between men and women, and which has not been specifically mentioned so far, namely the problem of child-bearing.

An assumption is often made, either explicitly or implicitly, that women are more inclined to want children than men, and to 'care' about them. Sociologically, the impression could be that this is the case, but it does not survive a second analysis. Men cannot be said to renounce so easily the perpetuation of themselves through children to which they can pass on resources of all sort. The persistence of their identity, their culture, their beliefs, through their descendants seems to be as important for them as for women. The relevant aspect of the difference of desire for children must therefore lie elsewhere.

A dimension of the explanation must be through the biological difference between the two genders as to the age in which they have the ability to have children. Each young woman knows that the use she can make of her own body to have children is not

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<sup>61</sup> Payment is significant both as a practical foundation of autonomy and the most powerful recognition of worth provided by modern society. Payment for housework, however, is too complex an issue to be dealt with adequately here.

unlimited—it seems that in medical terms the ‘best’ age is between 20 and 25 and that after 40 risks of all sort for the baby and the mother increase. As no decision is equivalent to a negative decision, women have to *decide* in a period which is much more limited than for men, a period which coincides with intense career investments. If they answer negatively, their possibility to revise their choice will be limited. This is especially so as adoption is almost everywhere structured on the model of the ‘natural’ family: a fifty years old active woman will encounter more than trivial difficulties if she opts for adoption. Knowing that there is a choice to be taken and that, whatever the answer, it will in the long run be unrevisable, means that it takes place in women’s heads, at an age where their generational male mates can devote all their intellectual worries to studying and career achievement, and postpone on a rational planning way the problem of children until later.

This biological determination creates here a clear distinction between men and women, but not one which can be interpreted in terms of women being more naturally inclined towards the perpetuation of themselves through having children. This tangible difference in nature obliges us to consider that everything be done for women to be able to choose, where limits are not imposed by their beliefs or religion, the moment in which they want to have children, and to give all the possibilities not to have to make crude and/or unrevisable choices between children and meaningful achievements other than through those children. However this seems barely enough. Equality of parental leave; introduction of a right to be given half-time devotion at any responsibility level at work, for both men and women with children of young ages; modification of the laws of adoption so that women can contemplate not having children at the ‘biological’ age, and to adopt some at later moment of their life ... This is the ground in which it seems ‘too early to tell’, because the demand on institutions go as far as our knowledge and our imagination go. It seems an urgent task of any feminist reflection to provide these considerations both with a firm philosophical basis from which to start, and with horizons of requirements for new institutional practices.



## *Conclusion*

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The idea of feminism from the Kantian perspective developed here argues that:

- a.* Abstract reason is a concrete way of conceptualising the possibility of just relations between members of society. In a society characterised by identity, ethical, religious and regional pluralism, the terms of justice and the reasoning that underpins it are of greater and not lesser relevance; and that
- b.* The specific nature of female domination is tied to the biological fact of pregnancy and the powerful presence of prejudices and stereotypes linked to an essentialist duality, which distinguishes between the nature of men and women. Such a context obliges a stronger content and role for universal reason as the basis for defining and defending real autonomy, based on the idea that each person is a free and equal moral being and is to be treated as such.

This conclusion led to a recognition that there is a tension between justice and toleration, which can be reduced to the basic questions of who is the subject of justice and who is to be treated as an end. It was argued that if a community is made the subject of justice, then it leaves all individuals, but most particularly women without protection. The idea of citizenship, so essential to Locke, Rousseau, Kant and Rawls; the concrete recognition of the moral autonomy of each person as a free and equal being limits the power of both state and community to control the life horizons of children. This is most important when a metaphysical distinction between boys and girls is institutionalised in educational structures.

The power of Kantian ethics is that it situates feminism within a perspective that surrenders neither its roots in the enlightened tradition of reason and justice, nor the concrete application in its demands for institutional reform. To rephrase Kant, sociology without ethics is blind; philosophy without applicability is empty.

Véronique Munoz Dardé,

Florence, 19th June 1992.



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