

Université de Montréal

More than Just Voices: The Concept of the Political Self in
Liberal Democratic Theory

par

Monique Lanoix

Département de Philosophie

Faculté des Arts et des Sciences

Thèse présentée à la Faculté des études supérieures
en vue de l'obtention du grade de
Philosophiae Doctor (Ph.D.)

Octobre, 1999

© Monique Lanoix, 1999



B
29
U54
2000
v.008



Université de Montréal
Faculté des études supérieures

Cette thèse intitulée:

More than Just Voices: The Concept of the Political Self in
Liberal Democratic Theory

présentée par:

Monique Lanoix

a été évaluée par un jury composé des personnes suivantes:

M. Michel Seymour, président rapporteur

M. Lukas K. Sobel, directeur de recherche

M. Daniel M. Weinstock, membre

M. Joseph Heath, examinateur externe
(Univ. de Toronto)

M. André J. Bélanger, représentant du doyen
(Sc. Politique)

Thèse acceptée le: 13 mars 2000

SOMMAIRE

Au départ, précisons qu'en cette fin de millénaire le sujet a retrouvé une place d'importance dans la philosophie politique, même s'il demeure controversé. Le questionnement de l'héritage des Lumières, le discours anti-humaniste, en plus des atrocités commises sur les personnes au nom d'une nationalité nous portent à nous demander qui est cette personne qui a des droits?

Il nous est apparu évident que même si l'on avance que les droits de la personne sont d'une importance primordiale, il n'en demeure pas moins que ce personnage politique, car il s'agit bien de personnage politique, n'est pas véritablement défini. Voilà justement l'objet de notre réflexion qui cherchera à préciser ce concept de la personne politique. Bien que nous pensions que ce concept soit fondamental pour toute pensée politique, il se révèle cependant ambigu.

Pour débattre de cette question, nous nous pencherons, dans un premier temps sur l'évolution et la prise de conscience politique qui s'est effectuée aux Etats-Unis et en France avec les mouvements étudiants et féministes. Après avoir mis en relief le fait qu'une prise de conscience se soit élaborée durant les années soixante et que le personnage politique ne se voit plus comme personne isolée mais plutôt solidaire, nous posons un regard critique sur les processus théoriques qui relèvent de la philosophie politique. En particulier, nous mettrons en lumière

le processus d'abstraction qui fait que nous pouvons isoler certaines caractéristiques pertinentes de l'être humain pour en arriver à un certain idéal qui se veut représentatif de toute personne.

La personne politique est un personnage, on le reconnaît bien. Mais il ne faut pas, sous prétexte d'abstraction qui se veut neutre, évacuer toute particularité de ce personnage. Ce débat sur la légitimité de l'abstraction nous amène au cœur des débats féministes contemporains anglo-américains. Faut-il se défaire de la différence ou peut-on en arriver à un concept du sujet qui peut s'accommoder de certaines particularités? Nous utilisons 'sujet' ici pour bien démontrer que ce débat se situe aussi dans l'univers postmoderne. Pour bien le capter et le garder dans la problématique politique, nous jetterons un regard critique sur deux concepts qui ont été au centre des débats féministes, en particulier, l'autonomie et la différence.

Les critiques féministes nous montrent que l'autonomie morale est souvent mise en équation avec l'autonomie en général. Les féministes soulignent donc que toute autonomie comporte un élément social. L'autonomie est un apprentissage et l'idéal d'autonomie, un peu dans le sens de Kant, se veut comme un idéal qui n'est pas nécessairement atteint. Ce que les féministes oublient aussi bien que les autres philosophes, c'est que l'autonomie prise dans ce sens, se définit toujours par la

volonté pure. L'autonomie semble évacuer tout sens de corporalité, même chez les féministes. Nous soutenons que cette lacune a des effets nocifs, car il y aura des répercussions dans le domaine du politique qui feront que certaines personnes seront d'emblée marginalisées. Par exemple, lorsqu'un individu qui a des entraves physiques veut s'approcher de cet idéal du personnage politique, ces entraves deviennent des lacunes qui renvoient nécessairement au privé.

Nous analyserons ensuite le concept de la différence et les implications de ce concept sur le plan politique. Les écrits postmodernes sont très révélateurs à ce sujet. Ils démontrent la binarité de l'identique/différent qui s'insinue dans la pensée politique et contribue à la marginalisation du différent. Nous nous inspirons d'Iris Marion Young qui analyse certains débats qui portent sur la différence. Nous soutenons que les théories démocratiques libérales peuvent difficilement tenir compte de la différence, et ce, malgré l'attention particulière que John Rawls porte à la différence. Il est certain que John Rawls élabore deux principes de justice dont le deuxième se nomme le 'principe de la différence'. Celui-ci justifie un certain potentiel différentiel au niveau des acquis et des bienfaits d'individus d'une société juste. Mais nous affirmons que ce principe ne traite pas de la différence que nous nommons 'différence profonde', c'est-à-dire, la différence entre les êtres humains au point de vue de leurs capacités.

Ces différences ne peuvent qu'être remises dans le domaine du privé. C'est à ce moment que nous analyserons le public et le privé dans les théories libérales. Les théories traditionnelles, même celle de Rawls, conçoivent ces deux domaines comme étant complètement séparés et indépendants l'un de l'autre. Cela est une idéalisation qui est difficile à justifier si l'on conçoit la personne politique comme une personne à part entière. Nous ne nions pas que la personne politique doit avoir un côté privé, intime. Comme Hannah Arendt l'a remarqué, la vie serait très pauvre si elle était vécue seulement publiquement. Cependant, nous avançons que ce caractère intime de l'individu a été caché au détriment du personnage politique de certains individus marginaux, tels que les femmes.

La personne politique n'est pas un sujet de discussion explicite très fréquent. Par contre, John Rawls, afin de clarifier sa théorie, a décrit son concept de la personne politique dans *Political Liberalism*. Nous reconnaissons cet effort comme étant valable, mais celui-ci reste dans les limites de la théorie libérale traditionnelle. La personne politique est toujours conçue sans corps et sans besoins domestiques. En fait, ces besoins existent, mais ils relèvent du privé et n'ont aucun effet sur le domaine public. La personne politique est incorporelle (disembodied) et la théorie de Rawls n'échappe pas à cette accusation.

Dans notre dernier chapitre, nous analyserons comment la théorie libérale gère certains problèmes qui sont associés au corps, tels que la discrimination et le harcèlement sexuel. Ces problèmes sont compris dans le sens de droits. Lorsque le corps est brimé, un droit a été lésé. Par conséquent, le corps est une possession. Certaines féministes, dont la juriste Jean L. Cohen, propose un autre paradigme qui remplacerait celui de la propriété: celui du droit à la vie privée (privacy rights) qui implique une conception de l'autonomie décisionnelle (decisional autonomy). Ceci nous permet de considérer le corps comme étant dans le domaine du public sans toutefois le laisser vulnérable aux mains de l'état.

En guise de conclusion, nous élaborerons un schème où la personne politique est conçue comme une personne à part entière, c'est-à-dire une personne qui a des besoins et non seulement des intérêts. Le corps est une condition essentielle à notre participation politique et non une entrave. Une société qui se veut juste doit non seulement écouter ses citoyennes et citoyens, elle doit aussi les voir.

ABSTRACT

The political self is a concept which is fundamental to political theory. This work focuses on liberal democratic theory because this type of political theory privileges the individual. It is ideal ground for rethinking a concept of the political self.

I propose to look at abstractions and idealizations which are theoretical tools used in determining a concept of the political self. These valuable theoretical manoeuvres are not value-neutral. A critical stance must always be taken when such conceptualizations are undertaken. The conception of the political person in the theory of John Rawls will be examined through the lens of the concepts of autonomy and difference. This will focus our attention to the particular theoretical endeavours which have excised certain features from the concept of the political person. I argue that the fiction of the 'persons in the original position' in Rawls's theory has been extended to an ideal of the political person which excludes certain individuals. This extension is unwarranted and detrimental to some individuals.

I analyze the categories of the public-private since these are tied to a notion of the self. I claim that profound difference cannot be accommodated within the public realm of traditional liberal theory; it forces the concerns of certain individuals, such as care givers and persons with severe

incapacities, into the private realm. These individuals are relegated to the private sphere only and consequently suffer from a devalued moral status. This devalued moral status within political society comes from the fact that they can not approximate the ideal of a fully cooperating member of society. This, I argue, goes against the ideal of a just society which values selves as individuals of equal moral worth.

Finally, I suggest that our theorisation has always involved a certain detachment from bodily concerns. These have been erased from our theoretical considerations; I claim they have theoretical import. I suggest that we need to think of the political self as a whole self. The liberal focus on interests or goods should be supplemented by an understanding of needs. The latter address our interdependency as well as our vulnerability. The call for political presence is more than just a call to be heard, it a call to be seen and recognized in the flesh.

ACKNOWLEDGEMENTS

I would like to thank my supervisor Lukas Sosoe for his help, critical comments, encouragement and faith in me and this project. I would also like to express my gratitude to Daniel Weinstock for his help and encouragement. Louise Marcil was very helpful in the early stages of this work; she is greatly missed.

Writing a thesis is never an easy task; it was especially difficult due to unforeseen circumstances. I am deeply grateful to my family and friends who have helped me during my recovery and provided support during this particularly difficult time in my life. To M. Jackson, a special thank you.

I wish to acknowledge the support of a Social Sciences and Humanities Research Council of Canada scholarship for the first two years of this thesis.

Pour

Paul, Germaine
et Michael

What moves men of genius, or rather what inspires their work, is not new ideas, but their obsession with the idea that has already been said is still not enough.¹

¹Eugène Delacroix quoted in *The Artist's Way: A Spiritual Path to Creativity*, Julia Cameron, (New York: Penguin Putnam, 1992), 182.

TABLE OF CONTENTS

Introduction.....	xiv
Chapter 1 The importance of the Concept of the Political Self.....	1
Chapter 2 The Abstract Individual.....	23
Chapter 3 Autonomy.....	45
Chapter 4 Difference.....	99
Chapter 5 The Private and the Public.....	168
Chapter 6 Embodiment.....	215
Conclusion.....	267
Bibliography.....	274

INTRODUCTION

Life teaches us to use pronouns well. To set them all about the I in order to recognize, within us, the others, without too many collisions. ⁴

Human beings are the building blocks of societies. It would seem obvious that a fundamental question for political philosophers would be to understand what is implied by the concept of the citizen or the political self. When it comes to questions about the 'self', 'person', or 'subject' we are usually ready to ask psychologists or sociologists. It is felt that questions about persons are best answered by those disciplines which study the evolution and interactions of human beings. Nonetheless, political theories map out duties and rights for persons; it is unfortunate that these persons are seldom explicitly defined. This work is born out of the belief that it is of primordial importance that we understand the concept of the political self, or, put differently, what is understood to be the relevant features of the political self for the purposes of political theory. This is important whether the concept of the political self is used explicitly or implicitly within a theory since such a concept is fundamental to any political theory.

The 'self' or 'person' or 'subject' or 'I' or 'other' has

⁴Nicole Brossard, "Green Nights in Labyrinth Park, la nuit verte du parc Labyrinthe", Lou Nelson, trans., in *Sexy Bodies*, Elizabeth Grosz and Elspeth Probyn, eds. (New York: Routledge, 1995), 129.

been of great interest in virtually all strands of philosophy of late. By way of the death of the subject claimed by postmodernism, to feminist critiques of canonical philosophy which focus on male theoretical models of citizenship, to recent growing concerns about the status of human rights, the subject or self has been widely discussed. To simply state that one wishes to rethink the self may seem at first to be a profoundly general, ambiguous as well as enormous project. Furthermore, it may seem futile.

Historically, little attention has been paid to the conceptual analysis of the political self; it was mainly taken for granted. Since the focus of much early liberal theory had to deal with the state and the problems of political obligation, early theorists did not have much cause for debating the political person in great detail save to casually assume him to be a full-grown, rational, propertied man.

Recent communitarian concerns have brought the subject forward again into political debates ². Their critiques of the liberal self lost and without context show us that the person or self has not been debated theoretically to everyone's satisfaction. A study of the political self is also timely. The

²For example, Michael J. Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982). Charles Taylor *Sources of the Self: The Making of Modern Identity*. (Cambridge, Massachusetts: Harvard University Press, 1989).

recent troubles in the world have brought the issue of human rights to the forefront of theoretical reflections. A revision of the concept of the political self would also benefit from all the contemporary debates on subjectivity in other branches of philosophy.

The self or subject or person or individual has been thought and rethought in psychological terms, analytical terms, lacanian terms and so on, and one may well ask why another philosophical inquiry into the elusive yet fertile concept of the self? It is a subject so simple and complex it seems to defy sound philosophical inquiry. As it is, the political self is simply an accessory to the rights and duties defended by a particular theory. The individual is the locus of rights and duties; the latter are merely appendages to something which we have omitted from our theoretical discussions. By focusing exclusively on these appendages we have forgotten, what I claim to be the more fundamental reason for our theoretical discussions, the political self. Who is this political self?

This theoretical endeavour needs to be delineated. Firstly, I would like to clarify which terms I will be using. There have been many nouns used to indicate the person : individual, subject, political person and citizen. I will use the term 'political self' or 'political person' as opposed to the term 'citizen'. Citizen (citoyen) is used by Charles Larmore in his

writings on liberal theory; he uses it in opposition to man (homme) which is the person in the private sphere.³ Rawls on the other hand uses the term 'political conception of the person'.⁴ This latter term I find more correct as it disengages itself from a possible binary term such as man/citizen. Furthermore, citizen/man leads us into language which is blatantly sexist. I want to focus on the concept of the whole person as it pertains to political philosophy. Furthermore, I find it cumbersome to use two terms: one for the private sphere, man/homme, and one for the public, citizen/citoyen. I will use political person when I am addressing the writings of Rawls, and political self when I am suggesting a broader concept. The term political person or self retains a wholeness which I believe is important: the wholeness of the self is brought into political focus without excising any of its vital parts.

Conceptualising the political self has important theoretical implications. I hope to show that the concept of the political self is the corner stone of a political theory. I will claim that we cannot try to redress injustices by practical means; this will always lead us back to problems until we have thoroughly

³ See, "Liberal Justice as Modus Vivendi" in Chapter 4 "The Political Order and Personal Ideals" in Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

⁴ See the chapter entitled "The Political Conception of the Person" in John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

reconceptualized fundamental premises such as the political self.

I will be studying the political person in the theory of John Rawls. Liberal theory, more than any other political theory, values the person or, more aptly put, the individual. Our ideas and assumptions about the political self have been strongly influenced by the liberal tradition; this tradition has also defined some key concepts that are associated with the person such as autonomy and individuality. I will also focus on democratic theories because democratic theories, by definition, embrace plurality. Pluralism is an equivocal concept but it can at least be said to accept a variety of individualities.

My aim is to understand the political self from a theoretical standpoint; I want to examine some of the properties which pertain to the political self but have been dismissed as mere contingencies that do not have any theoretical import. Differences stemming from material contingencies have been assumed to be unproblematic theoretically because liberal theory tries to level out differences. Some differences are important. For example, feminist critiques of political theories have emphasized the problems associated with thinking that a particular theory could be enlarged to encompass women as full citizens. Many feminist theorists have argued that the problem of women for political theory cannot be redressed by simply changing the language of a theory from 'he' to 's/he'; there are

fundamental sexist premises within political theories that make them inherently exclusive of women. ⁵ Feminist theory has also questioned what is taken to be a mere contingency and what is considered to be an essential aspect of the person.

I fully agree with the feminist premise that patriarchal theory cannot be simply redressed to accommodate women and minority groups. Current conceptualizations of the political person cannot be broadened to include outcast and minority members of society. Instead, I claim that we have to rethink the political self completely. I do not want to make this an ontological exploration of the human being. My work is solidly situated within political philosophy and not meant to be metaphysics or ontology. Nonetheless, the reconceptualisation called for will have epistemological, ethical and ontological dimensions.

⁵The literature is quite extensive on this but some feminist critiques of political theory include Lorenne M.G. Clark and Lynda Lange, eds. *The Sexism of Social and Political Theory: Women and Reproduction from Plato to Nietzsche*. (Toronto: University of Toronto Press, 1979); Susan Moller Okin, *Women in Western Political Thought*. (Princeton: Princeton University Press, 1979); Cass R. Sunstein, ed. *Feminism and Political Theory*. (Chicago: University of Chicago Press, 1990); and Barbara Laslett, Johanna Brenner, and Yesim Arat, eds. *Rethinking the Political: Gender, Resistance and the State*, (Chicago: University of Chicago Press, 1995). Feminist critiques of liberal theory in particular include Carole Pateman, *The Sexual Contract*. (Stanford: Stanford University Press, 1988); Carole Pateman, *The Disorder of Women: Democracy, Feminism and Political Theory*. (Stanford: Stanford University Press, 1989); Susan Moller Okin, *Justice, Gender, and the Family*, (New York: Basic Books, 1989).

The work will proceed as follows. First, I will examine the aims of political philosophy as well as the events which have influenced political philosophy in the last decades. This will show why a study of the political self is important. I will clarify what is meant by liberal theory for my purposes; I will also examine briefly relevant concepts such as pluralism and democracy. These concepts being defined for the scope of this work, I will then analyze briefly the 'abstract individual' and various understandings we have of such a concept. This will bring us to look at the definitions and the uses of abstraction and idealization. These two terms are not interchangeable, although we have often conflated our usage of them. This, I believe has led us to think that all abstractions necessarily lead to simple idealizations. We must be clear as to when an abstraction is clearly so and not simply an idealization; in this way we can be certain as to when abstraction of contingencies is merely a useful tool and not a surreptitious way of excluding features out of a concept and thereby biasing that concept against certain persons.

Our conceptual tools being defined, I will examine the concept of the political person in the theory of John Rawls since he has been careful to define this conception. This analysis will be done by way of looking at the rawlsian person through the lens of key concepts, autonomy and difference. How these concepts are treated reveals the inherent conceptualization of the political

person within Rawls's theory. The fiction of the persons in the original position is a procedural device that has been misunderstood by many critiques of Rawls. I will argue that such a procedure is not epistemically misguided if we take it to be a procedural ideal of reflection. The feminist critiques of autonomy, I will argue, centre on the fact that the ideal of kantian moral autonomy has been extended to mean that the moral agent is radically autonomous. This is an ontological conclusion about the social status of the individual which is unwarranted. Kantian autonomy need not imply such social isolation. Thus, I do not find fault with the fiction of the persons in the original position, but with the fact they are required to reflect on principles of justice for persons who are fully cooperating only. This, I will argue, is extending falsely the procedural requirements of the persons in the original position. The social status of the moral agent is not premised by the procedural requirements of autonomous moral reflection; this should be also the case for autonomous political reflection.

The idealisation of the political person as a fully cooperating member of society implies that some individuals will not be politically autonomous within Rawls's theory. Furthermore, this means that profound difference, such as that between fully cooperating persons and those who cannot be involved in cooperation, is occluded from the political sphere. This, I claim, is problematic since such cases are relevant to political

justice. To focus on this I will examine difference.

Especially fruitful for the discussion of difference will be the vast postmodernist writings on that topic. The notion of difference, I will claim, is not usually understood very well in liberal writings. The liberal ideal of reciprocity tends to erase difference from the public sphere. I will argue that this can only confine difference to the private sphere. The traditional liberal understanding of the public-private split is perpetuated in the theory of Rawls. I will examine the concepts of the public and private as they are intimately tied to our notion of the person. Again feminist critiques of these categories will prove invaluable to my analysis.

Finally, I will examine the role and place of the body within liberal political theory. Embodiment is not usually deemed relevant for political theory. I will argue that if we are to understand the political self, we must make room in our theoretical investigations for the reality of lived embodied experience. Otherwise we cannot hope to elaborate principles of justice which are inclusive of, and applicable to a plurality of individuals. By plurality, I understand a variety of individuals who not only hold various religious views or different formulations of the good life, but who also exemplify the true variety of humanity: persons who have widely varying capabilities and capacities.

The theoretical absence of the body cannot be recuperated later by practical means. Traditional liberal theory has understood the body mostly as a possession. Embodied experience is more subtle than this simplification implies. The body holds promise of an intersubjective dimension of being which needs to be recognized by political theory. By valuing interests and not needs, liberal theory has emphasized the view of the person as radically autonomous which can be interpreted as 'atomistic'. Rawls' principles which call for goods, although these imply some kind of social recognition, stand firm within this liberal tradition. Finally, by looking at the treatment of persons with disabilities within the context of liberal theory, I argue that such individuals suffer from a devalued moral worth. This is the necessary implication of the ideal of the political person as fully cooperating only. A society that makes such arbitrary accidents pernicious to a person's moral worth cannot be fair.

My argument is that Rawls's persons in the original position should not also be understood as the ideal of the political person. The persons in the original position exemplify the procedural requirement for thinking about justice. This is but one facet of the political person. We need to understand the political self as comprising more variance than this, just as we understand that the moral agent is not a radically autonomous person. She is one who cares in some way about others and justice; her reflective distance is not ontological. This does

not imply that the social fabric must now encompass an element of mutual interest. This calls our attention to the fact that the political self needs to be understood as a complex concept. The persons in the original position need to reflect on principles of justice which are to include all persons. In this way, persons in the original position will truly be 'empathic', to use Susan Moller Okin's term. This will lead to a reformulation of the principles of justice. Such a reformulation will not have to assume that the public and private spheres are independent of each other; the intertwining of the two spheres will be rendered visible. This rethinking might imply that a concept such as decisional autonomy is needed to supplement our ideas on privacy; or that a notion of capability should replace that of primary goods. The reconceptualization of the political person will have an effect on our theories.

I hope to show that we cannot use bold idealizations for theorising the political self that simply suppress the body and regard all persons as disembodied voices. The call for political presence is more than just a call to be heard, it is also a call to be seen in the flesh.

CHAPTER 1

THE IMPORTANCE OF THE CONCEPT OF THE POLITICAL SELF

INTRODUCTION

In this chapter, I want to show why it is important to study the concept of the political self for political theory. In order to do this, I will first examine the aims of political theory. Secondly, I will briefly look at the events which have shaped political theory in the past decades so as to provide a better understanding of the current concerns of contemporary political theory. The aims of any political theory can never be dissociated from the events shaping the world. These events influence what is deemed theoretically crucial and they may well highlight problematic biases in our theories.

Thirdly, since my work is situated within a feminist theoretical framework, I will examine the feasibility of conceptualization from a feminist theoretical standpoint. Feminist criticism has been important in pointing out inconsistencies and assumptions in traditional political theory. However, one may well ask if there can be a feminist conceptualization of the political self. It might be thought that feminist theory, at best, can only criticize; it might also be argued that feminist theory is meant to deconstruct concepts and its emphasis should be on pragmatic concerns such as

consciousness-raising and social mobilization. Feminist theory has certainly played an important role in mobilizing grassroots action for equality amongst persons, but feminist theory does have its place in the larger theoretical endeavour of conceptualization. Because of its critical stance, feminist theory generally remains sceptical of having arrived at concepts that are beyond all reconsideration. This does not imply that we should refrain from theorizing. Therefore, I believe that reconceptualizing the political person can be a feminist theoretical endeavour.

Taking all these facets into consideration, I hope to show that the concept of the political self is a cornerstone of political theory, though one that is often unacknowledged. Finally, a reconceptualization of the political person is something which is not only feasible but needed.

THE AIMS OF POLITICAL THEORY

Political theorizing was in crisis in the fifties and sixties. In fact, the aims and reasons for political theory were being questioned. In 'The Nature of Political Philosophy', McCloskey stated, "much of what has passed as political philosophy is not philosophy but bad science"¹. A recurrent

¹H. J. McCloskey, "The Nature of Political Philosophy," *Ratio* 6, no.1, (June 1964), 50.

concern would be that political theories simply tended to be bad science about human nature. Political philosophy is understood to be theorizing about how persons should get along in a political society; therefore, it must make some assumptions about the nature of persons. With the positivist emphasis in Anglo-American philosophy, there came an acute, almost fanatical, awareness even that political philosophy could no longer continue to parade as pseudo-psychology. Further in his article, McCloskey wrote

[I]t is therefore not surprising that political philosophy has fallen into disrepute and that there has been such a strong move in English-speaking philosophical circles to make it a respectable and genuinely philosophical discipline by restricting it simply to the activity of clarifying and elucidating political concepts—concepts such as those of the state, democracy, rights, liberty, equality, justice, the common good, etc. And clearly, such an activity is genuinely philosophical in a way which much of the writing of the celebrated political philosophers of former centuries is not. ²

McCloskey concluded that, although political philosophy involves conceptual clarification, it also involved other theoretical exercises; therefore, political philosophy can be considered an autonomous discipline.

In *Political and Social Philosophy: Traditional and Contemporary Readings*, King and McGilvray write that if someone acquainted with political philosophy were to ask philosophers "for an explicit definition of the terms 'political philosophy' or 'political philosopher' [he could not] entertain [any] hopes

²Ibid., 56.

of even general agreement"². They proceed to define their subject matter by listing the concerns of political philosophy. They identify the outstanding questions as that of political obligation, evaluation of social and political institutions, ideals of society, and the nature and justification of social change.³ It is clear that the elucidation of concepts is important in any discipline. Political philosophers, in general, study the questions relating to the organisations of persons in political societies. Nevertheless, as a survey of the literature shows, the concept of the person itself seems to be taken for granted.⁴

Since political theory is tied to political events, I propose now to turn to some of the political events of the past decades. This will help to show why the concept of the political person is now being considered a subject worthy of theoretical debate.

²Charles J. King and James A. McGilvray, eds., *Political and Social Philosophy: Traditional and Contemporary Readings*. (New York: McGraw-Hill Book Company, 1973), 2.

³Ibid., 1-13.

⁴Recent debates between communitarians such as Michael Sandel and egalitarian liberals such as John Rawls have sparked debates about the political person. To clarify confusion, John Rawls explains his concept of the political person in *Political Liberalism*.

THE SIXTIES

According to Alfred Cobban, liberal democratic principles had stopped evolving in the nineteenth century.⁶ He attributed the problem to the fact that

[political theory] has become instead an academic discipline, written in various esoteric jargons almost as though for the purpose of preventing it from being understood by those who, if they did understand it, might try to put it into practice.⁷

He stressed that political theory had become disengaged from political fact. The events of the World Wars, the Holocaust, and Hiroshima seemed to imply that political theory was a futile weapon against the excesses of human beings. With such a grim atmosphere surrounding political theorising, it is not surprising that when Peter Laslett declared in the introduction of the first series of *Philosophy, Politics and Society*, "For the moment, anyway, political philosophy is dead", these words became the most cited quote from this first series. It seemed that everyone had been waiting for those words to confirm the sorry state of political theorising.

Nevertheless, at the time there were others, at least in the analytical tradition, who were emphasizing a way back to practical matters and a reconciliation of political reality with

⁶Alfred Cobban, "The Decline of Political Theory," *Political Science Quarterly* (September 1953), 325.

⁷Ibid., 331.

political theory. Margaret Macdonald wrote in 'The Language of Political Theory' that

[t]he value of the political theorists, however, is not in the general information they give about the basis of political obligation but in their skill in emphasizing at a critical moment a criterion which is tending to be overlooked or denied.■

She rightly notes that what is crucial is the ability of theorists to emphasize something which may have been overlooked or taken for granted.

In the mid-sixties, the gloom dissipated for political theorists, as Laslett confirms in the fourth series of *Philosophy Politics and Society*. But there were also events on the world scene which stirred the interests of ordinary persons as well. Changes in society or the world cannot be ignored; these will influence our way of thinking and eventually theorising. I will examine briefly the impact of writings from students and civil-rights leaders, first in the United States of America, and then in France, as I believe this will help shed some light on the evolution of political theorising.

In the sixties in the United States, the struggle of the Black population for equality gained momentum. The war in Vietnam also challenged the acceptance of state policy towards other countries. The events in their own country and abroad could no

■Macdonald, Margaret, "The Language of Political Theory," in *Essays in Logic and Language*, First Series, Anthony Flew, ed. (Gregg Aldershot Revivals, 1993), 186.

longer be ignored by students at colleges and universities. 'The Port Huron Statement', written in 1962, gives us an insight into the changes in consciousness that were taking place amongst the students. To quote briefly from Tom Hayden's draft of 'The Port Huron Statement':

As we grew, however, our comfort was penetrated by events too troubling to dismiss. First, the permeating and victimizing fact of human degradation, symbolized by the Southern struggle against racial bigotry, compelled most of us from silence to activism. Second, the enclosing fact of the Cold War, symbolized by the presence of the Bomb, brought awareness that we ourselves, and our friends, and millions of abstract "others" we knew more directly because of our common peril, might die at any time .²

This declaration and other events in the United States exemplify the growing consciousness of these 'abstract others'. Solidarity was surpassing not only class lines, but also national boundaries. Students became aware of their communities; not only did they recognize this alliance as a community of students fighting for a cause, they also became aware of their solidarity with unknown peoples in their own country and elsewhere.

The changes brought about by the civil rights movement in the United States are of primordial importance. Not only did it show the impact of resistance on a political system, it also brought important considerations into theoretical focus. The implications of resistance and the universality of rights could no longer be ignored. One of the foremost activists, leaders and

²Tom Hayden, "The Port Huron Statement" in *Political and Social Philosophy: Traditional and Contemporary Readings*, Charles J. King and James A. McGilvray, eds., op. cit., 505.

theorists of the civil rights movement was Dr. Martin Luther King Jr. In his 'Letter from Birmingham City Jail', he explains his actions as an outsider from a particular community going over to another community to protest the situation there.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere.¹⁰

Community is emphasized here: both community in resistance and solidarity for political change. These were crucial to the civil rights movement. The political person was no longer a sole agent watching over his property; he was an engaged person fighting for the recognition of his own or someone else's rights.

This is a brief summary of complex events, but I think it shows us at least one thing: an increasing consciousness amongst individuals of the implications of some political terms which had formerly been taken for granted. Human rights applied to everyone in America regardless of colour or class. The political person was starting to have a concrete face; his features might vary but he begged recognition, nonetheless.

The prevalent spirit in the sixties in the United States was an impetus for change in social conditions and this was based on a certain solidarity. Interestingly enough, in the early part of

¹⁰Martin Luther King, Jr., "Letter from Birmingham City Jail" in *Political and Social Philosophy : Traditional and Contemporary Readings*. Charles J. King and James A. McGilvray, eds., op. cit., 464.

that decade, Isaiah Berlin wrote about the general apathy of political philosophy even when it is faced with changing world events.

It is a strange paradox that political theory should seem to lead so shadowy an existence at a time when, for the first time in history, literally the whole of mankind is violently divided by issues the reality of which is, and has always been, the sole *raison d'être*, of this branch of study.¹¹

He was mostly writing in reference to the rise of Communism and the popularity of Marxism in relation to liberal theory in the West. Nonetheless, it is surprising that theory should have been so silent when the world was generally in turmoil. Perhaps it simply takes time before social unrest can translate itself into political thinking and theorising.

Amongst all the doom and gloom about political theorising, John Rawls was developing his political thought. Rawls's writings are recognised as having given political philosophy a much needed theoretical revival. The writings of political philosophers like Rawls and Dworkin, I believe, reflect this movement toward the concretization of an egalitarian ideal for society. Political theorists are influenced by the events that shape their world. The growing recognition of the variability of world views, as well as the tolerance shown toward the various possible expressions of a good life are embodied in Rawls's and Dworkin's writings. Their theories reflect this awareness and growing

¹¹Isaiah Berlin, "Does Political Theory Still Exist?" in *Philosophy, Politics and Society*, Second Series, Peter Laslett and W.G. Runciman, eds. (Oxford: Basil Blackwell, 1972), 33.

acceptance of the inherent variability of humanity. Very generally, in the sixties, rebellion against universal claims became translated into an assertion of the individual. There was a tendency towards proclaiming individualism as a sublime value which needed to be respected. This can also be seen in the events which took place in France.

There was much student unrest in France culminating in what is called 'May 68'. This was a student-led reform which soon swept the nation. A quote from a placard in the Sorbonne gives us an indication of the demands of the students:

La révolution qui commence remettra en cause non seulement la société capitaliste mais la société industrielle.
 La société de consommation doit périr de mort violente.
 La société de l'aliénation doit périr de mort violente.
 Nous voulons un monde nouveau et original. Nous refusons un monde où la certitude de ne pas mourir de faim s'échange contre le risque de périr d'ennui.¹²

The student movement has been analyzed by Ferry and Renaut in the chapter 'Interpretations of May 1968' in *French Philosophy in the Sixties*, in which they review the literature on the various interpretations of the student rebellion. To summarize

¹²Affiche à la Sorbonne in *Les Citations de la Révolution de Mai*, Alain Ayache ed., (Montreuil: Jean-Jacques Pauvert editeur, 1968), 102.

The revolution which is starting will not only question capitalist society, it will also question industrial society. The society of consumerism must die a violent death. The society of alienation must die a violent death. We want a new and original world. We refuse a world where the certainty of not dying of hunger is attained at the risk of dying of boredom. (author's translation)

briefly, the students' rebellion was an act of the individual rebelling against the state. The movement of the students was not one that had been influenced by French contemporary theoreticians, but it proved that there was a validation of individualism, American style, and that it was not necessarily a validation of the subject per se. More generally, Ferry and Renault have taken a critical look at the development of the various philosophies in light of May 1968, and they argue convincingly as to the reasons for what they term to be 'the death of the subject':

As a result, by denouncing the illusions inherent in the ideal of a willed consciousness, which carries with it the classical notion of subjectivity, the philosophies of 1968, like their contemporary movement, participated in a no doubt unprecedented promotion of the values of individualism, which at least some of the intellectually dominant figures of the sixties believed they were combatting. ¹²

Such an individualism was more appropriate to an antihumanist thought where "[t]he subject dies with the birth of the individual" ¹⁴. This left french political thought in a precarious position as Renault explains in *The Era of the Individual*,

Philosophy-indeed society-was faced with the imperative task of reexamining the familiar condemnation of the subject (and the values accompanying it), which had provided most currents of contemporary thought with their most conspicuous

¹²Luc Ferry and Alain Renault, *French Philosophy of the Sixties*, Mary H.S. Cattani, trans. (Amherst: University of Massachusetts Press, 1990), 67.

¹⁴Ibid., 66.

leitmotif ¹⁵

The question remained: what happens to such ideals as human rights if there is no bearer of rights?

Both the American and French students questioned the status quo and both, in some form, required a validation of a stronger individualism. But the theoretical implications of the student unrest took different forms in France and in America. In France, the intellectual development led to a suspicion of the concept of the subject and to a radical rethinking of this concept. In the Americas, this led to a rethinking of society. From communitarians like Sandel, to libertarians like Nozick, to egalitarians like Rawls, the questioning went in the direction of society: what kind of societal arrangement could best promote the person?

The person is validated in Anglo-American political philosophy in the sense that theorists try to solve a puzzle which focuses on the arrangement of society that can best promote the person's interests. Communitarians emphasize the role of traditions and liberals emphasize that of property rights in encouraging the flourishing of persons. There is no question that the person is, at least minimally, a bearer of rights and that he 'exists' as a foundational premise. In France, the intellectual

¹⁵Alain Renaut, *The Era of the Individual: A Contribution to a History of Subjectivity*, M.B. DeBevoise and Franklin Philip, trans. (Princeton: Princeton University Press, 1997), xxvi.

developments have led to a suspicion of subjectivity in general. This, in turn, has fostered the development of post-structural and postmodernist thought. It may not have been particularly felicitous for the development of political theories, but it did have an important impact on the theoretical tools used for critical examination of accepted concepts, such as difference and the subject. This became extremely important for feminist theory. I will now look briefly at the women's movement.

FEMINISM

The various student rebellions and the civil rights movement brought to the forefront the need to reassess the person's place in society. The call for egalitarian treatment found resonance in the consciousness of women. Thus, another movement for women's equality began in the sixties. In the United States, it became very militant in the late sixties and early seventies; this was followed by an explosion of feminist writings. Feminist writers drew their inspiration from all strands of philosophy. In political theory, feminists started to deconstruct the accepted political canon. The intent was the radical questioning of everything from theories to the acts of theorizing. Important influences came from the Marxist and French philosophical movements.

The development of the women's movement is interesting

because it had a strong practical side. That is, consciousness raising became a primary tool for stirring women into political action. This political action had, in turn, an influence on theoretical considerations. MacKinnon, in *Toward a Feminist Theory of the State*, discusses 'consciousness-raising' as a tool for a feminist way of knowing.¹⁶ Basically, consciousness raising was the way in which women came to share their experiences, and to realize that their histories had not been isolated incidents. This had practical implications: women were realizing that they had been oppressed. This could not be resolved solely by practical means; there were theoretical implications.

Theorists realized that the practical experiences of women needed to be addressed and that the concrete situations of women had theoretical importance. Liberal theory and the prevalent political climate had been based on traditional theories which had completely excluded the experiences of women. Thus the distinction between the public and the private, for example, which seemed so natural and unproblematic to traditional western liberal theory was argued to be based on a fiction that oppressed women.¹⁷ As the women's movement grew it also became accused of

¹⁶See chapter II, section 5 in Catherine A. MacKinnon, *Toward a Feminist Theory of the State*. (Cambridge: Harvard University Press, 1989).

¹⁷For a discussion of this see Carole Pateman, "Feminist Critiques of the Public/Private Dichotomy" in *The Disorder of Women: Democracy, Feminism and Political Theory*, op. cit., 118-

addressing issues pertaining to white middle-class women. Feminist theory needed to listen to minority groups and had to become suspicious of grand narratives which claimed to express the same thing for everyone. The charges of essentialism had to be taken seriously. The 'concrete other', that is the person in her reality, a term used by Benhabib in *Situating the Self*, had epistemological import. ¹⁰

Therefore, for feminist theory, events and theory can never be dissociated. Theory and events are tied even more so than they were in May 1968 or during the student rebellions in America. So much so that at some point feminist theorists wondered if it was possible even to talk about feminist theory. As Hirschmann and Di Stefano ask in the introduction of *Revisioning the Political*,

Is the visionary dimension of political theory something that feminists must in the end avoid? Is the very term "feminist political theory" an oxymoron, and is "political theory" per se something feminists should avoid except from the perspective of tearing it apart? ¹¹

Certainly some feminists might want to say that feminist

140.

¹⁰Benhabib discusses the epistemological importance of the 'concrete other' in *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics*. (New York: Routledge, 1992), 13-14.

¹¹Nancy J. Hirschmann and Christine Di Stefano, "Introduction: Revision, Reconstruction, and the Challenge of the New" in *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory*. Nancy J. Hirschmann and Christine Di Stefano, eds. (Boulder, Colorado: Westview Press, 1996). 3.

theory should not involve itself in abstract theory but always keep close to social movements, and situate itself at the level of debate such that it never strays far from its social roots. But I would rather echo the importance of feminist reconstruction felt by many feminist theorists. The role of feminist theory has been to look critically at the traditional political theories and point to omissions and lacks. I believe that its role does not need to stop there.

There are many divergent aspects of feminist theories and perhaps it would be a little risky to say that they have something in common, but I will venture to do so, nonetheless. A premise of feminist theory is that a segment of society has been omitted from theoretical discussions; another premise is that our social movements and our theories need to be made inclusive of all human beings. Taking this as a starting point, I will agree with Hirschmann and Di Stefano and state that feminist theorizing is possible and important. Theoretical considerations need not be foreign to grassroots movements. Perhaps this is where feminist theorizing can gain by its critical stance: since theory and practice are so closely related, theoretical assumptions can be kept in constant check by their eventual concrete applications. Open discussion amongst groups and persons allows for reassessment. Feminist theory implicitly recognizes the importance of this step as a part of theorizing.

CONCLUSION

Agreeing with McCloskey, I will say that political philosophy is an autonomous discipline; however, until now it has not been about 'the nature of man' but about an idealized and unrealistic version of the political person. This, in turn, has been reflected in other key concepts used in particular political theories. There has been an inherent circularity involving a theory and its implicit theorisation of the person. Thus, a political theory does not necessarily start with certain premises of what constitutes or should constitute the political person, but, instead, imports the necessary virtues needed for the political person into its implicit concept of the person in order that it fit the overall scheme of the theory. The concept of the political person is usually never clarified from the beginning; it is merely instrumental in accommodating the particular aims of a theory.²⁰

For example, as Macpherson's analysis has shown in *The Political Theory of Possessive Individualism*, the theories of Hobbes and Locke are not completely neutral in their conceptualization of the political person. They emphasize some particular qualities of the person. As Macpherson demonstrates, the political person in these liberal theories is first and foremost a person with property which needs to be protected, a

²⁰The theory of John Rawls is a notable exception to this.

'possessive individual'. Hobbes' and Locke's theories had been around for centuries, but Macpherson's controversial analysis first appeared in 1962. This shows, I believe, how we often accept a political theory without looking at its implicit concept of the political person. Whether an individual's autonomy, or her rationality, or her propensity for being an acquisitive being is emphasized, this, in turn, is reflected in the type of political community that is being theorized. Ultimately this has a bearing on the particular theory and the principles of justice which are formulated.

If political theory must start from a study of existing societies, then it cannot profess to have a purely objective point of view. It will necessarily be influenced by the type of society that is studied and from which it emanates. Consequently, it will be biased. For example, if a particular theory is conceptualized in order to emphasize human rights, then the political person will have to be conceptualized so that it can be the bearer of such rights. It is of utmost importance that political theory acknowledge its biases because it cannot claim to do what even hard science is unable to do: retain a detached, objectivist outlook. Rawls writes:

[p]olitical philosophy does not, as some have thought, withdraw from society and the world. Nor does it claim to discover what is true by its own distinctive methods of reason apart from any tradition of political thought and

practice.²¹

Recognising the possibility of bias does not weaken theories, it simply makes them more transparent.

In *The Terms of Political Discourse*, Connolly attempts to show why there are 'essentially contested concepts' in political philosophy, at least in the Anglo-American tradition. This term had been introduced by Gallie in a 1955 article entitled 'Essentially contested Concepts'. Gallie proposes that "...there are disputes...which are perfectly genuine; which, although not resolvable by argument of any kind, are nevertheless sustained by perfectly respectable arguments and evidence."²² Far from simply acknowledging that there are differences in the interpretation of some concepts, this article contains strong implications. One implication is that there are 'essentially uncontested concepts'. Those would be concepts upon which there is agreement. Other concepts, the ones in particular that are 'appraisable', are essentially contested concepts. For such concepts, the implication is that no amount of debate will resolve the question about these concepts and that, therefore, all parties should agree to disagree.

²¹John Rawls, *Political Liberalism*, (New York: Columbia University Press, 1993), 45.

²²W.B. Gallie, "Essentially Contested Concepts", *Proceedings of the Aristotelian Society*, 56 (1956), 169.

I find this view disturbing because it implies that we cannot effectively criticize a particular concept; we will always be lost in the limbo of the contestable. The line of argument defended by Connolly and Gallie is positivist in the sense that it is saying that if we are dealing with some concepts which are contestable, then we must settle for endless debate. This is far from the feminist concern with essentialism, for example. In feminist theory, there is always attention paid to who is speaking and for whom. Feminist theory remains sensitive to context and open to reappraisal of concepts. This is very different from the positivistic outlook which claims there is either one agreed upon concept or endless debate. Feminist theory situates itself in the theoretical endeavour of acknowledging ambiguity, yet it recognizes the need for theoretical conceptualisation.

Without wanting to claim a definite answer to a question, I think it is possible to think of particular concepts as open ended, that is, subject to further revision. Such concepts could remain fluid. The concept of the political person could be deemed simply an essentially contestable concept and be kept at that. Also, Connolly notes that this is not necessarily bad; it can simply enlighten the adversaries into being more tolerant of each other. ²³ Nevertheless, as mentioned above, the implications is

²³William E. Connolly, *The Terms of Political Discourse*, (Princeton : Princeton University Press, 1983), 40.

that such concepts are doomed to uncertainty. This should not prevent us from looking at the concept of the political person. Even though the political person may not be a concept that will bring about unanimous agreement, we should not shy away from discussing it and reappraising it. The political person is a concept which is highly debated, and I would even go further and say that it is a concept that needs far more theoretical discussion than it has garnered in the past.

The sixties drew our attention to the individual. It became crucial to realize both the importance and variety of human beings as equal participants in political society. Practical concerns about human rights demanded that we examine our concept of the political person. Fundamental concepts could no longer be uncritically accepted.

My work would then situate itself within the conceptual clarification of key concepts of political philosophy. Underlying the central questions of obligation and rights is the question of who is politically obliged, and who has rights. I do not want to indulge in a study of the nature of the political person but I want to locate the politically relevant features of the person amongst those of the broader human being. I want to remain especially careful not to jettison any features that might be deemed merely contingent without appraising them thoroughly.

Even if the political person has not been discussed extensively, it has been written about nonetheless. I will now turn to the concept of the political person as it is understood in liberal theory, that is, the abstract individual.

CHAPTER 2

THE ABSTRACT INDIVIDUAL

INTRODUCTION

I discussed the importance of studying the concept of the political person in the previous chapter. Since this concept is crucial to liberal democratic theory, I will focus on this particular type of political theory. In this chapter, I will broadly define liberal theory by drawing out some of the key elements that are constitutive of liberalism. By examining the goals of liberal theory, we will see that particular emphasis is placed on certain aspects of the political person as opposed to society in general.

The emphasis on the individual, because it is so fundamental to liberal theory, has led to the emphasis of certain virtues which should have been restricted to the political person. Liberalism has been accused of theorizing about human nature in general. Nonetheless, liberal theory has had to formulate some broad generalities about what it expected human beings to want from civil society. In trying to do this, liberal theorists developed what has been referred to as the concept of the 'abstract individual'. As the name implies, this concept of the political person has been theoretically shaped and unburdened of certain contingencies. The reasons for the particular

abstractions are tied to the goals of liberal theory.

The abstract individual is fundamental to liberal theory and has been praised by its adherents and despised by its critics. This concept is as ubiquitous as it is undetermined. I will look at the possible meanings of the term abstract individual in order to attempt a synthesis of its various meanings into a congruous whole which can be defined explicitly. Obviously, the meaning of 'abstract individual' will vary according to the type of liberal theory in which it is formulated; nonetheless, I believe we can extract some broad terms which are characteristic of all formulations of the abstract individual. This has been sadly lacking in much writing about the political person in liberal theory; the liberal individual is usually not defined explicitly within a theory.¹ Critics of liberal theory have been no less vague about the concept of the abstract individual and this has led to much argument which has often turned out to be misdirected.

Once the abstract individual is defined, I will turn to the theoretical manoeuvres involved in formulating such a concept. Those tools are abstraction and idealization. Abstraction is a conscious mental exercise that can lead to useful generalities

¹It is to be noted though that John Rawls does define his concept of the political person in *Political Liberalism*. This was done to clarify much controversy and false accusations concerning his device of the original position.

which, in turn, can be applied to further the aims of a political theory. Idealization can also be deemed a useful theoretical tool, but it can lead to the misappropriation of certain features as well. That is, idealization is often paraded as value-neutral abstraction with the aim of simplifying. I want to call attention to these exercises as they are not value-neutral and can lead to serious biases in our political theories, in general, and in our conceptions of the political person, in particular.

There are two key concepts essential to the idea of the abstract individual: autonomy and individuality. These concepts are related to the idea of agency and freedom. Finally, it will be seen that much of the criticism of this concept rests on the premise that it is the only way in which liberal theory conceives of the individual. Whether this is true remains to be seen, but if the abstract individual is taken to mean a representational aspect of the person for political purposes, then the concept serves a useful purpose.

LIBERAL THEORY

Liberalism is one of the political theories which has prized the person most. Democratic theory also emphasizes the importance of the person. There are many variants to liberal and democratic theory. I will focus on liberal, democratic theory because it emphasizes the individual and equality amongst individuals. This,

I believe, makes our inquiry into the concept of the political more straightforward. In order to elucidate the broad principles of liberal democratic theory, the first part of this discussion will be focused on what makes a particular political theory liberal. The second part will briefly elucidate the concept of democracy.

A precise definition of a liberal theory cannot be given because it can encompass many variations, but certain goals which are typical of a liberal theory can be broadly stated. Judith Shklar defines liberalism succinctly as a political doctrine which has "one overriding aim: to secure the political conditions that are necessary for the exercise of political freedom".² Liberalism is also concerned with equality. As Dworkin notes "liberals tend to favour equality more and liberty less than conservatives do"³. Therefore, a theory is understood to be liberal when one of its overriding concerns is the sanctity of the political person or, put differently, the individual's liberty; such a theory will also rely on some broad egalitarian principles. Since the concepts of liberty and especially equality are not unequivocal, various theories will emphasize different aspects of liberty and different formulations of equality.

²Judith N. Shklar, "The Liberalism of Fear", in *Liberalism and the Moral Life*, Nancy L. Rosenblum, ed. (Cambridge: Harvard University Press, 1989), 21.

³Ronald Dworkin, "Liberalism" in *Liberalism and Its Critics*, Michael Sandel, ed. (New York: New York University Press, 1984), 60.

The focus of a liberal theory is always what it conceives to be the primary element of society: the individual or person. One of its goals is to maximize the individual's liberty while at the same time maintaining equality amongst all its citizens. Because liberal theory is concerned with the person, it will make assumptions about the person in civil society. Society is thus secondary to the individual; it is the sum of its individuals. Liberal theory has no teleological goals for society, no conceptions of the good life; its primary concern is with justice and the welfare of the individuals as citizens. The particular articulation of welfare will depend on the theory. As Locke reiterated in his 'Letter Concerning Toleration': "Political Society is instituted for no other end but only to secure every man's Possession of the things of this life"⁴. The individual is the primary concern of liberal theory; therefore, it is ideal ground for a conceptualization of the political person.

"Democracy is by definition the rule of the people".⁵ Thus democratic theory is the ideal companion for liberal theory which understands that all its citizens are equal. Chantal Mouffe's definition of a modern liberal democracy articulates well the commonalities between liberalism and democratic theory:

⁴John Locke, *A Letter Concerning Toleration*, James H. Tully, ed., (Indianapolis: Hackett Publishing Co., 1983), 48.

⁵Agnes Heller, "On Formal Democracy" in *Civil Society and the State*, John Keane, ed. (London: Verso, 1988), 129.

Liberal democracy in its various appellations- constitutional democracy, representative democracy, parliamentary democracy, modern democracy-is not the application of the democratic model to a wider context, as some would have it; understood as a regime, it concerns the symbolic ordering of social relations and is much more than a mere form of government. It is a specific form of organizing human coexistence politically that results from the articulation between two different traditions: on one side, political liberalism (rule of law, separation of powers and individual rights) and, on the other side, the democratic tradition of popular sovereignty.⁶

The goals of democratic theory are completely compatible with the goals of liberal theory in general. In fact it could be said that the democratic principle is a continuation of the egalitarian principle implicit in liberal theory.

Since much of liberal theory rests on what has been termed the liberal psychology of the individual, it is worthwhile to examine this before going on to look at the concept of the abstract individual.

HUMAN NATURE ACCORDING TO LIBERAL THEORY

As mentioned in the previous chapter, political theorists such as McCloskey deplore the fact that political philosophy seems to have been mainly bad science about human nature.⁷

⁶Chantal Mouffe, "Democracy, Power, and the Political" in *Democracy and Difference Contesting the Boundaries of the Political*, Seyla Benhabib, ed. (Princeton University Press, 1996), 245-246.

⁷J.H. McCloskey, "The Nature of Political Philosophy", op. cit., 50.

McCloskey gives as an example Hobbes' writings on the state of nature and man. The state of nature seemed an appropriate fiction for early liberal theorists because it seemed to allow them to get at an essential human nature. Locke also postulated an individual that is essentially similar to Hobbesian man. Although for Rousseau the state of nature was not such a dismal environment, it remains that the prevalent view of the person in liberal theory was "as he appeared in the state of nature: free, equal, but lonely and in fear for his life"⁸. McCloskey notes later in this article that we cannot really fault Hobbes or the other early theorists for this was the only type of speculation in which they could engage.

Nonetheless, the liberal understanding of the person has had a tremendous impact on how we view society and its ideal citizen. This view has coloured our understanding of the person in general. Speculation aside, the liberal understanding of the person is now prevalent in contemporary theorising and only recently have there been attempts to confine the relevant traits of the political person within civil society.⁹ Let us now examine the psychological traits of the liberal person.

⁸Anne Phillips, *Democracy and Difference*, (Pennsylvania: Pennsylvania University Press, 1993), 38.

⁹I am thinking of the work of Charles Larmore which addresses this point specifically. See in particular Charles Larmore, *The Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

Barber writes in *Strong Democracy*, that "[t]he liberal psychology of human nature is founded on a radical premise no less startling for its familiarity: man is alone"¹⁰. The liberal individual is not tied to anyone or anything except when he wills it. Man as citizen is never dependent on others; he is always fully capable. At least this has been the primary reading of the person as conceptualised by Hobbes and Locke.¹¹

Barber draws some further conclusions from this isolation of the individual: "[b]ecause man is solitary...he is also hedonistic, aggressive, and acquisitive. Man is defined not simply by liberty...but also by needs...power...and property"¹². Therefore, we can see in these broad psychological traits of the liberal person the emergence of the modern concept of the individual. In *Moral Prejudices*, Annette Baier explains this idea of the individual:

The noun individual is a relative latecomer to the English language, not occurring until the seventeenth century. The earlier adjectival form has the sense of indivisible. Individualism, as Tocqueville defines it..., is not so much a determination to be one unified self, not to divide oneself up into plural personae, as a disposition of

¹⁰Benjamin R. Barber, *Strong Democracy: Participatory Politics for a New Age*, (Berkeley: University of California Press, 1984), 68.

¹¹I do not fully agree that this is necessarily an accurate reading of 'man' as 'citizen' in Locke's political theory. I have argued elsewhere that there is a concept of duty towards others in Locke's political writings and that this duty is of significant import. See Monique Lanoix, *Labour in Locke's Two Treatises of Government*, M.A. thesis, University of Guelph, 1992.

¹²Benjamin R. Barber, op. cit., 72.

each member of the community to sever himself from the mass of his fellow-creatures; and to draw apart with his family and friends. ¹³

Tocqueville identified well the isolation of the individual and understood this to be of crucial import for the evolution of civil society.

This fiction of the individual is not appealing. However, it should be remembered that one of the goals of the early liberal tradition was to make all contingencies unimportant and to formulate the terms of a society which could satisfy basic human needs regardless of a person's power or ability. As Phillips writes "Inotwithstanding any social differences of wealth or status, notwithstanding any biological differences or ability or strength, as citizens we should be treated the same. Whatever the differences, they do not matter"¹⁴. Thus, underlying this fiction of the individual is a strong egalitarian premise which makes liberalism compatible with democratic theory as seen earlier.

This compatibility can also be traced in the psychology of the liberal individual. As Barber also writes:

The hedonist, the aggressor, and the proprietor share characteristics vital to democratic man. Radically isolated individuals are autonomous individuals, capable of voluntary

¹³Annette C. Baier, *Moral Prejudices: Essays on Ethics*, (Cambridge, Massachusetts: Harvard University Press, 1994), 250.

¹⁴Anne Phillips, op. cit., 39.

choice and thus capable of self-government; they are rationally and thus able to envision and choose among commensurable options; and they are psychologically interchangeable, which traits provide the egalitarian base upon democracy rests.¹⁵

This notion of a common denominator of a basic rationality does move us toward the premise that all persons are, in effect, interchangeable. The idea of a basic human essence can be pushed to the point where everyone is seen as constituted of this essence combined with differing additional contingencies. Radical egalitarianism, in this sense, implies that if we are all equal it is because we are fundamentally the same. This becomes essential to the concept of the individual: individuals, as rational beings, become interchangeable. Rationality and individualism become intertwined. This point is exemplified by Oakeshott as he writes in *Rationalism in Politics*: "[the rationalist] is something also of an individualist, finding it difficult to believe that anyone who can think honestly and clearly will think differently from himself".¹⁶ Liberal society is populated by a multiplicity of individuals who are essentially made up of the same basic unit of human essence.

This brief survey has brought into focus some compelling traits of the liberal individual. Nevertheless, what has been taken to be the liberal conception of the person in the vast

¹⁵Benjamin Barber, op. cit., 76.

¹⁶Michael Oakeshott, *Rationalism in Politics and Other Essays*, (London: Methuen and Co. Ltd., 1962), 2.

literature is often that of several views conflated into one vague notion. Central to these is the concept of the abstract individual.

THE ABSTRACT INDIVIDUAL

The usual label that is used to describe the concept of the liberal person is that of an 'abstract individual'. This concept has been the object of much criticism both outside and inside liberal theory. In particular, criticism from communitarians has centred on the importance of society for the individual; feminist theorists have criticized the gender blindness of the liberal individual; and, finally, marxist criticism has been aimed at the very premise of the existence of the individual outside of society. Given the importance of all these criticisms to the concept of the political person in general, it is necessary to define as exactly as possible what the term 'abstract individual' implies. It will be interpreted differently in various formulations of liberal theory, yet there are certain features that are common to these conceptualizations and this is what I hope to emphasize.

Lukes surveys the historical developments in the concept of individualism in his book *Individualism*. In particular, he defines the abstract individual as

This givenness of fixed and invariant human psychological features [which] leads to an *abstract* conception of the

individual who is seen as merely the bearer of those features, which determine his behaviour, and specify his interests, needs and rights.¹⁷

In liberal theory, as Phillips states "the individual is abstract and deliberately so"¹⁸. Because all contingencies are removed, the possibility of equality is at hand. Liberal theory, at least in its early stages, wants to look at a core human essence. As Lukes makes explicitly clear, the person is the bearer of features. It seems as if the contingent features are added on to a certain permanent, invariant core; it can be construed that the features are somehow separate from the core.

The problem communitarians see with the abstract individual is that the person is lifted out of its social circumstances. Bradley expresses this clearly. Even though he was not a communitarian, his critique of the individual is nonetheless pertinent here: "the individual apart from the community is an abstraction. It is not anything real, and hence not anything that we can realize, however much we may wish to do so"¹⁹. What is understood by abstract individual, then, is that the individual is lifted out of his social circumstances. The abstract individual is understood to be 'atomistic', having no

¹⁷Steven Lukes, *Individualism* (New York: Harper and Row, Publishers, 1973), 71.

¹⁸Anne Phillips, *op. cit.*, 38.

¹⁹F.H. Bradley, *Ethical Studies* (Oxford: Oxford University Press, 1962), 173.

relationship with anyone, essentially alone.²⁰ Since this is an impossibility, the abstract individual is a theoretical illusion.

As Lukes makes clear, the abstract individual is really about how we articulate the features of the individual. It does not concern what is postulated about society, nor does it address the relationship of the individual with society. I would say that the communitarian critique may be well founded if we take it to be directed at liberal theory in general; however, if we focus on the abstract individual proper, what is crucial is how the individual bears his specificity. The particularities of the individual seem to be removable, and not really part of his identity; this point is not specifically addressed by the communitarian critique.²¹

The abstract individual carries his contingencies in a disposable bag of sorts. Thus to enter society, everyone must leave their bags at the door. Specificity is removable and once removed reveals a human core which all citizens share. Civil society is populated by individuals who are not similar but, rather, identical to each other. Feminist critiques of the

²⁰For a discussion of 'political atomism', see Charles Taylor, "Atomism", in *Powers, Possessions and Freedom: Essays in Honour of C.B. Macpherson*, Alkis Kontos, ed. (Toronto: University of Toronto Press, 1979), 39-61.

²¹This point is also addressed in Rainer Forst, "How (not) to speak about Identity: The Concept of the Person in *A Theory of Justice*", *Philosophy and Social Criticism*, 18, nos. 3/4 (1992), 293-312.

abstract individual touch on this issue specifically. They claim that the abstract individual is gender blind since gender is also part of the baggage that must be left at the door of civil society. If the abstract individual is a core human essence shared by all human beings, then this core essence is invariant and must necessarily exclude all contingencies such as social position, gender, body type, race, and belief systems. Feminist theorists have argued that a gender blind theory is not necessarily egalitarian. ²² This core human essence consists mainly of mental properties such as rationality, freedom of the will and autonomy. Lastly, since particularities such as sex or gender are unimportant and since these require a body, then, some feminists claim, the abstract individual is disembodied. ²³

Very generally, then, it can be said that the abstract individual is a core human essence which is shared by all human beings. Various contemporary liberal theorists try to adjust the concept of the abstract individual to make it more reflective of contemporary concerns. Now I propose to look at the theoretical exercises which are used to get at the concept of the abstract individual. This, I believe, will draw out even more explicitly some of the fundamental traits inherent in the concept of the

²²For feminist references dealing with this issue, see the introduction of this work, footnote 6.

²³Carole Pateman, "The Fraternal Social Contract", in *The Disorder of Women: Democracy, Feminism and Political Theory*, op. cit., 46.

abstract individual.

ABSTRACTION

In these next pages, I want to examine the tools which have permitted theorists to arrive at the concept of the abstract individual. Obviously, abstraction is the main exercise employed. At times, idealization is also used but we must be careful not to conflate these two terms. It is not my purpose here to criticize abstraction, as it is central to the process of thinking, but merely to draw attention to the fact that mental exercises are often fraught with inadvertent biases.

In *Reproducing the World*, Mary O'Brien specifically addresses the issue of abstraction. She writes from a marxist tradition, yet some of her comments are of interest here:

Rigorous objectivity is just as often prejudiced abstraction-taking out of phenomena those qualities in accord with the theory or simply the interests of the observer; reality is coloured less by the objective mind than the ideological and abstract nature of patriarchy's most successful abstraction, the notion of universal man. ²⁴

O'Brien's critique stems from her argument that reproduction is an important dialectal process which has been left out of marxist theory in favour of wage labour. Still, her point is well-taken that abstraction can be so pervasive as to be practically

²⁴Mary O'Brien, *Reproducing the World: Essays in Feminist Theory* (Boulder, Colorado: Westview Press, 1989), 35.

invisible. Such abstraction can then have ideological implications.

The purpose of abstraction, as Onora O'Neill writes, is to simplify a concept so that it is of a useful generality. She distinguishes between abstraction and idealization:

Abstraction *brackets* contentious predicates whereas models of man that impute idealized forms of rationality and self sufficiency do not bracket but predicate falsely. Whatever the theoretical advantages of idealizing models of man, practical reasoning that assumes this sort of idealization relies on assumptions that are nearly always repudiated in acting. ²⁵

By taking O'Neill's point on idealisation we are in fact refining O'Brien's critique of abstraction. Mere abstraction, which has turned out to be biased, will lead to idealization. This may or may not be readily obvious. Idealization can lead to false premises which in turn can bias a theory where it may not have intended any bias.

In his discussion of abstraction in *Political Liberalism*, Rawls writes that

The work of abstraction, then, is not gratuitous: not abstraction for abstraction's sake. Rather, it is a way of continuing public discussion when shared understandings of lesser generality have broken down... Seen in this context, formulating idealised, which is to say abstract, conceptions of society and person connected with those fundamental ideas is essential to finding a reasonable political conception of

²⁵Onora O'Neill, *Towards Justice and Virtue : A Constructivist Account of Practical Reasoning* (Cambridge: Cambridge University Press, 1996), 110, note 29.

justice. ²⁶

For Rawls, 'idealised' has the meaning of ideal in the sense of 'worth striving for'. I prefer O'Neill's use because it calls our attention to the fact that abstractions are not value-neutral.

She warns,

[a] theory simplifies if it either leaves things out (i.e., abstracts) or smooths out variations. If it incorporates predicates that are not even approximately true of the agents to whom the model is supposed to apply, it does not simplify. If idealizations do not "simplify" the descriptions that are true of actual agents, then they are not innocuous ways of extending the scope of reasoning.²⁷

The positivist claims have long been repudiated in science and the humanities, and this should be explicitly recognized and acknowledged in a theory.

Nonetheless, as Phillips notes, "every oppressed group has found a lifeline in the abstractions of the individual and has appealed to these in making its claims to equality"²⁸.

Abstraction has been useful because its primary purpose has been to make unimportant contingencies irrelevant to civil society. It could be argued, then, that the only way to put abstractions into check is to look at their practical applications. Kymlicka calls attention to the fact that an abstract concept will need to be

²⁶John Rawls, *Political Liberalism*, (New York: Columbia University Press, 1993), 45-46.

²⁷Onora O'Neill, *Constructions of Reason: Explorations of Kant's Practical Philosophy*, (Cambridge: Cambridge University Press, 1989), 210.

²⁸Anne Phillips, *op. cit.*, p.49.

interpreted and that this can be done in various ways. Particular interpretations may be contestable since they may not be as defensible as others. ²² But this is time consuming, after all how many centuries did it take for women to obtain the right to vote, or for slavery to be abolished?

We cannot simply divide a theory into its various assumptions without considering the impact these will have on the whole. All premises within a theory have some kind of internal arrangement which creates a coherent entity. To change one of the premises has an effect on the entire theory. This point is relevant to liberal theory. If the notion of the individual is found to be flawed, then it will have a direct bearing on the rest of the theory. One cannot hope to reformulate the concept of the individual without somehow changing other important premises within the theory. This point has been made by some feminist critiques of liberal theory. For example, the theoretical implications of the individual will be felt in the conceptualizations of the private and public realms as well as the scope and goals of justice.

Therefore, the concept of the abstract individual entails two levels of abstraction. First, the notion of the abstract individual itself: it is crucial that we examine which features

²²Will Kymlicka, *Contemporary Political Philosophy : An Introduction*, (Oxford: Clarendon Press, 1990), 49 note 10.

have been deemed irrelevant and why. Abstraction can lead to unrealistic idealization. Second, the concept of the individual cannot be completely extracted from a theory. Concepts are interwoven; therefore, reconceptualizing the individual may entail major readjustments to a theory.

CONCLUSION

The very use of a concept such as that of the abstract individual has been criticized as nonsensical and useless, but it does have a purpose in liberal theory. As we have just seen, it has played a vital role in liberal theory: women and marginalized groups have been able to claim a place in political society by using this concept and making the case that if all contingencies were deemed irrelevant to political society, then this would include race as well as sex. Nonetheless, abstraction can also lead to idealisation which can have pernicious effects; idealization may mean that a particular type of individual is privileged. This will effectively bias a theory. The claim of the feminist critiques of the abstract individual in liberal theory is that the abstract individual resembles a propertied white male and that the scope of justice is biased toward the ideal embodied by such a person.

Of relevance here is Larmore's discussion of liberal theory and the concept of the person. As he writes in *Patterns of Moral*

Complexity,

[c]onceptions of what we should be as persons are an enduring object of dispute, toward which the political order should try to remain neutral. We do better to recognize that liberalism is not a philosophy of man, but a philosophy of politics.³⁰

Larmore argues that the emphasis on individuality and autonomy by Kant and Mill was not restricted to the political realm and this in fact betrayed the spirit of liberalism.³¹ Larmore argues that liberalism, indeed, more specifically political liberalism, must restrict its focus to the political realm. Liberal theory is about the political realm and not all human spheres of interaction.

In our discussion of abstraction, it has become apparent that abstraction could be applied to a concept but also to the role of the concept within a theory. We cannot simply abstract a component of a theory without expecting major repercussions on the whole of the theory. A theory has an internal organisation and its various elements are in harmony; by changing one concept we may have to change other components of the theory. This point was also made in the first chapter. The goals of a theory may influence the type of person which is posited for that theory. It can be argued that there is a limit to what a concept can achieve without major revisions; Kuhn has discussed this idea in

³⁰Charles E. Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987), 129.

³¹Ibid., 129.

reference to the scientific process in *The Structure of Scientific Revolutions*: at some point, there is a need for a paradigm change. The various critiques of the concept of the abstract individual may be calling for this. Liberal theory may be in need of a paradigmatic change in its conceptualization of the individual.

In conclusion, the concept of the abstract individual has been a useful one. Nonetheless, abstraction is never value-neutral; we should be aware that it can lead to false idealization. This, in turn, will affect the entire political theory. The abstract individual is one facet of the individual for political theory. It is legitimate to ask if it is necessarily the only concept of the political person that should be used in political theorising. Could the critiques of communitarians be directed not at the abstract individual itself, but at the fact that the liberal theory relies solely on this concept?

Finally, I have examined the processes which are used to arrive at the concept of the abstract individual, but I have not examined the meaning of this concept directly because it varies according to the particular theory which uses it. I want to examine the concept of the political person in the theory of John Rawls; the concept has been charged with being a formulation of the abstract individual. Whether this is accurate will be seen.

First, it must be acknowledged that there are two key concepts that are engaged in the conceptualization of the abstract individual: autonomy and individuality. I will examine the abstract individual through the lens of these constitutive concepts. Since autonomy engages notions of freedom and capacity, I will analyze it first.

CHAPTER 3

AUTONOMY

INTRODUCTION

Autonomy and individuality are two qualities which are central to the political person in liberal theory. Individuality implies a certain freedom of the will and autonomy. Autonomy is then a necessary condition for individuality. Because of the primacy of autonomy, it will be the focus of this chapter.

Autonomy not only has substantive value within liberal theory, it is also a normative ideal of contemporary western society. Literature on autonomy abounds but it is often unclear because autonomy is a concept that can be used in various realms of human endeavour. For example, the moral meaning of autonomy is quite distinct, and entails different consequences from the social meaning of autonomy. It is not always readily obvious which meaning of autonomy is used in critical texts. For this reason, I will divide this chapter into two parts.

The first part will deal with moral autonomy. I will review the kantian notion of autonomy and John Rawls's use of kantian autonomy. I will then turn to feminist criticisms of mainstream autonomy with particular attention to the type of autonomy discussed in each text. Because so much has been written on autonomy in feminist theory, I will focus mainly on the critiques

of autonomy by Lorraine Code, Marilyn Friedman and Christine Di Stefano. The latter two review much of the contemporary writing, both feminist and mainstream, on autonomy. Code's writing is pertinent because her critique is aimed at moral autonomy.

We will see that the criticisms of Code, Friedman and Di Stefano are aimed, consciously or not, at social autonomy. In this, they converge with Larmore's critique that liberalism has overflowed its primary purpose, which is to theorize the political sphere and not the whole of human endeavour. Nonetheless, these criticisms are valuable because they direct our attention to some important facets of autonomy which need clarification or transformation.

The second part of this chapter will focus on the notion of political autonomy in John Rawls's writings. Political autonomy engages the concepts of the political person and society. By examining these concepts and their internal coherence, I will argue that Rawls's conception of the political person is inconsistent with his concept of society. His idea of society is quite open, but that of the political person quite restrictive. This is necessarily so because the principles of justice are developed following a kantian model. Because of this kantian ideal, the political person needs to be a fully autonomous and cooperative person; this is then postulated for all persons in society. This, I will argue, is biased against dependent

individuals and their caretakers. Consequently, the principles of justice cannot accommodate all persons in society.

The feminist critiques of moral autonomy show that the ideal of moral reflection cannot be extended to an ideal of the moral person. The procedural process does not necessarily make any ontological assumptions about the person. The ideal of the persons in the original position, who represent the kantian ideal of uncoerced reflection in Rawls's theory, has been extended as an ideal of the political person in general. Rawls makes the move from procedural ideal to normative ideal for the case of political persons. This, I argue, is problematic as it excludes persons who cannot approximate this ideal. Since these persons cannot leave society, they must reside in a society which de facto excludes them.

Finally, it will become clear that autonomy points to a particular feature of the political person, that is, he is disembodied. I will suggest that our thinking of autonomy always entails the question of wilful mind and never of material conditions. Such material conditions are always thought to be addressed by legislative means only outside the principles of justice proper. The notion of autonomy relies excessively on a notion of will as if this will can only be disembodied. If we are to take some of the feminist criticisms of autonomy seriously, then we must look to an embodied autonomy. This means taking

interdependence into account, as feminists have suggested.

PART I MORAL AUTONOMY

DEFINITION OF AUTONOMY

In western society, we are encouraged to be autonomous. Baier defines such an ideal as an independence of thought and action which is a concept of rugged individualism as a virtue.¹ This is a personal ideal, yet the concept of autonomy is used in many ways. We can discuss moral autonomy, political autonomy as well as social autonomy and these have different implications depending on the context in which they are used. We should be clear about which type of autonomy is being discussed. In *The Morality of Freedom*, Raz points to another crucial misunderstanding about autonomy: we must not conflate the concept of autonomy with the ideal of self-realization.² This is often the way autonomy is understood; since the beginning of modern times, western society has stressed this part of an individual's capacity.

Larmore traces this conflation of the various notions of autonomy to the prevalent views of Kant and Mill who "coupled

¹Annette Baier, *Moral Prejudices: Essays on Ethics*, (Cambridge, Massachusetts: Harvard University Press, 1994), 250.

²Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 375.

their political theory with a corresponding notion of what in general ought to be our personal ideal"³. Thus, according to Larmore, their emphasis on individuality and autonomy has betrayed liberal theory. The latter should limit itself to political theory and not become an ideal of human nature. Perhaps the fault does not lie specifically with Kant or Mill, but in the way their views have been interpreted and the general evolution of analytic thought about the concept of the person.

In his survey of the meanings of individualism, Lukes defines autonomy as the quality "according to which an individual's thought and action is his own, and not determined by agencies or causes outside his control"⁴. The main theorists of autonomy, according to Lukes, are Kant and Spinoza. Kant stressed autonomy from external causes as the basis of a morality; autonomy was to be thought of in opposition to heteronomy. Spinoza understood autonomy more as being a human capacity that could accommodate a certain determinism.

There is no denying that our current understanding of autonomy relies on a notion of 'freedom of choice'.

The autonomous person's life is marked not only by what it is but also by what it might have been and by the way it became what it is. A person is autonomous only if he has a variety of acceptable options available to him to choose

³Charles E. Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987), 129.

⁴Steven Lukes, *Individualism*, op. cit., 52.

from, and his life became as it is through his choice of some of these options. A person who has never had any significant choice, or was not aware of it, or never exercised choice in significant matters but simply drifted through life is not an autonomous person.²⁵

Can we hold Kant's idealization of the rational autonomous will solely accountable for this view, or are there other factors which make our understanding of autonomy so centred on the will and freedom of choice?

Much writing in analytic philosophy focuses on the problem of freedom of the will and what it is to be a person.²⁶ The two concepts are often considered together. This can be traced to Mill's ideal of a person who will not blindly conform. Leaving the problem of interpreting Mill's ideas on individuality aside, I would argue that in much of the secondary literature and in some feminist criticisms of autonomy, Kant's notion of autonomy has been stretched beyond its initial role. Nonetheless, this ambiguity in the concept of autonomy can help us uncover some problems inherent in the concept of autonomy as it is used in political writings.

²⁵Joseph Raz, *op. cit.*, 204.

²⁶See for example, Harry G. Frankfurt, "Freedom of the Will and The concept of A Person", *The Journal of Philosophy*, 68, (1971), 5-20. A landmark discussion is also Strawson, Peter Frederick, *Individuals: An Essay in Descriptive Metaphysics*, (London: Methuen, 1959). From a feminist perspective Diana T. Meyers argues that "...the major accounts of personal autonomy prove sterile because they construe autonomy as a special case of free will". Diana T. Meyers, *Self, Society, and Personal Choice*, (New York: Columbia University Press, 1989), 42.

The kantian notion of autonomy is often invoked but seldom expressed properly. I want to look first at this, and then discuss how Rawls uses this notion because he makes a clear and consistent use of it in his political theory. After this I will examine the feminist critiques of autonomy in light of a well-defined kantian notion of autonomy.

KANTIAN AUTONOMY

Onora O'Neill writes that "[m]uch contemporary work in ethics and political philosophy, including 'Kantian' writing, relies on a family of broadly empiricist theories of action in which reasons and desires, or preferences, are the key elements".⁷ These uses miss the crux of kantian autonomy: it is an essential capacity of human beings. As O'Neill is careful to state :

Autonomy is not the special achievement of the most independent, but a property of any reasoning being. The capacity for autonomy goes with the capacity to act on principles even when inclination is absent, with being able to adopt maxims of action that do not sit well with our desires. Kantian autonomy is not existentialist radical freedom; it is not even a diluted version of existentialist freedom. ⁸

There is a certain notion of detachment involved in kantian autonomy, but not in a 'social' sense. The agent must be detached

⁷Onora O'Neill, *Constructions of Reason: Explorations of Kant's Practical Philosophy*, op. cit., 66.

⁸Ibid., 76.

from her preferences but that is only so that she can properly reflect on the right course of action. As O'Neill explains, the fundamental maxim of autonomy which requires the agent to act on maxims that can be willed universal laws is "merely a commitment not to base action on anything contingent or arbitrary that would limit its intelligibility"⁹. The agent is invited to reflect on her particular situation and then, by the process of practical reasoning, determine a proper course of action.

Autonomy is crucial in the historical development of our concept of the person because as Renault writes "man [can be seen] as that dimension of autonomy that humanism had wanted to be the essential mark of what is not a thing"¹⁰. Autonomy is an essential trait of what it means to be human. Thus what needs to be emphasized is that autonomy is a capacity that all reasoning beings share. How such a capacity is developed is not important for the kantian notion of autonomy. If we concentrate purely on the activity of the autonomous person, there is no need to conjecture as to how that person developed into an autonomous being. Also, such a capacity does not necessarily mean that we are isolated from each other in the sense of a person, by virtue of possessing such a capacity, not needing another person. Kant

⁹Idem.

¹⁰Alain Renault, *The Era of the Individual: A Contribution to the History of Subjectivity*, op. cit., 209.

understood that it was a person's duty to be social.¹¹ His version of autonomy does not preclude social interaction but, in fact, makes social interaction better. The problems of how we achieve autonomy and how we use it are social problems and need not be directly tied to a notion of kantian autonomy.

This brief discussion is meant to focus our attention on the fact that kantian reflection is a process. It does not tell us who is the moral agent, only the type of reflection in which she should be engaged. This view is defended by O'Neill. Nevertheless, the question of interpreting Kant's moral philosophy is an open one, although O'Neill makes a strong case for her interpretation. These considerations on kantian autonomy do not imply that such a notion is not without problems. Kant did stress freedom from external causes, and this, in turn, can be interpreted quite stringently. Rawls has used a kantian notion of autonomy in his writings to develop his principles of justice; I will now turn to this.

RAWLS'S INTERPRETATION OF KANTIAN AUTONOMY

Rawls uses a kantian notion of autonomy to develop the principles of justice for a well-ordered society in *A Theory of*

¹¹See "On the Virtues of Social Intercourse" in "The Metaphysical First Principles of the Doctrine of Virtue", Immanuel Kant, *The Metaphysics of Morals*, Mary Gregor, trans. (Cambridge: Cambridge University Press, 1996), 218.

Justice and Political Liberalism. For this, he uses the fiction of 'persons in the original position'. Agents are autonomous when they are not coerced and when they can exercise their deliberative powers. Thus, the persons in the original position are idealized in that they are detached from their real positions in society, yet retain the capacities of rational autonomous agents. As Rawls explains in *Political Liberalism*, "rational autonomy is modeled by making the original position a case of pure procedural justice".¹² Rational autonomy is a quality of judgment of the persons in original positions which permits them to arrive at the principles of justice.

Rawls specifies that "there are two ways in which the parties are rationally autonomous".¹³ The persons in the original position can deliberate on the principles of justice. This is the first instance of their autonomy which is a moral power. The second is that the persons in the original position are able to form a vision of the good life for themselves.

Rawls is careful to state that this rational autonomy differs from full autonomy.¹⁴ Rational autonomy is artificial because it is "an artifice of reason, for such is the original

¹²John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 72.

¹³Ibid., 73.

¹⁴Ibid., 75.

position" ¹⁵. It is a device of representation only. This is but one element of autonomy; rational autonomy is important for Rawls's purposes in order to arrive at the principles of justice.

Citizens in the political sphere will also be rational in this way, and more fully autonomous in that they will act from the principles of justice.

Following the Kantian interpretation of Justice as fairness, we can say that by acting from [the principles that regulate the moral practises of moral instruction in a well-ordered society] persons are acting autonomously: they are acting from principles that they would acknowledge under conditions that best express their nature as free and equal rational beings. ¹⁶

Full autonomy is achieved "by citizens when they act from principles of justice that specify the fair terms of cooperation they would give to themselves when fairly represented as free and equal persons"¹⁷. Rawls specifies that this version of autonomy is political only.¹⁸

One of the essential traits of autonomy which Rawls has preserved is the modern idea that

forme d'indépendance, l'autonomie (qui signifie l'auto-institution de la loi) ne se confond nullement avec toute figure concevable de l'indépendance: dans l'idéal de l'autonomie, je reste dépendant de normes et de lois, à

¹⁵Idem.

¹⁶John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1971), 515.

¹⁷John Rawls, *Political Liberalism*, op. cit., 77.

¹⁸Ibid., p.78.

condition que je les accepte librement.¹⁹

We see in Rawls the kantian notion of arriving at universal principles deduced from the agents' rational capacities. This rational autonomy then translates into civil society, because citizens will express their autonomy by complying willingly with the principles of justice.

There are two main objections that can be offered here. One is that principles of justice cannot be arrived at in what seems to be an 'ex nihilo' type of reflection. This objection has been raised by many feminists and Rawls has tried to answer these criticisms in his writings by specifying that the original position is simply a device of representation. Nonetheless, it has been charged that thinking that such a reflection can arrive at principles of justice is epistemically false. For a succinct and clear exposition of the problem posed by this first objection, Seyla Benhabib has developed, in *Situating the Self*, a criticism of universalistic moral theories and the original position. This will be examined in the next chapter in more detail when difference is examined.

The second problem is that the procedural ideal of the

¹⁹Alain Renaut, *L'Individu: Réflexions sur la Philosophie du Sujet*, (Paris: Hatier, 1995), 46.

"As a type of independence, autonomy (which means self regulation) should not be conflated with independence; in the ideal of autonomy, I remain dependent on norms and rules but I freely accept them." (author's translation).

original position gets translated into an ideal of the political person in general. Is this appropriate? Feminist critiques question this very type of move: the ideal of moral reflection is usually translated into an ideal of the moral agent. From epistemological considerations, certain ontological traits about the agent are deduced. This is problematic and unwarranted as we will see in the feminist critiques of moral autonomy.

FEMINIST CRITIQUES

Lorraine Code has written mostly in epistemology, although in *What Can She Know?* she engages problems of moral philosophy. Autonomy is a central concern of hers because of the related concepts of subjectivity and agency; these are not only crucial to epistemology but also to ethical theory.

Code writes:

Autonomous man is an abstraction: neither all men nor all avowedly autonomous men exhibit all of his characteristics all of the time. Nor are such characteristics the exclusive preserve of men. But autonomous man occupies the position of a character ideal in western affluent societies. Characterizations of this abstract figure lend themselves to a starkness of interpretation that constrains moral deliberation while enlisting moral theories in support of oppressive social and political policies.²⁰

Her point is that such a radical version of autonomy is problematic because it has become a social ideal. She does not

²⁰Lorraine Code, *What Can She Know? Feminist Theory and the Construction of Knowledge* (Ithaca: Cornell University Press, 1991), 78.

engage the notion of kantian autonomy as such here, although elsewhere she takes up the issue of the notion of a self regulating knower proceeding from universalistic criteria; she also criticises the hegemony of reason to the detriment of desire, emotion and even embodiment in moral deliberation.

Nonetheless, in the chapter 'Second Persons', she emphasizes that such a notion of autonomy is detrimental to political theory as it makes the ideal citizen a radically autonomous person. Citizens cannot approach this ideal without serious prejudice to certain other citizens. She uses Baier's notion of 'second persons' in order to accent the fact that persons are relational beings²¹. Code calls for a less 'autonomous' agent, one that recognises its situation. Thus for Code,

...[a critical, deliberative morality]...has a greater potential to accommodate the subtleties of the experiences of real, gendered, historically located subjects, for whom the traditionally autonomous, impartial moral agent is a seriously flawed character. ²²

Again, I would like to stress that such a radically autonomous individual is not necessarily implied by the ideal of

²¹Baier develops the concept of second person as in the pronoun 'you': "Persons are self-conscious, know themselves to be persons among persons. Knowledge of this shows in the grasp of all the pronouns, none of which has sense except in relation to others, but there are several ways in which the second person is the key person". Annette Baier, "Cartesian Persons" in *Postures of the Mind: Essays on Mind and Morals* (Minneapolis: University of Minnesota Press, 1985), 74-92.

²²Lorraine Code, op. cit., 109.

kantian autonomy. Certainly there are maxims that need to be universalized but that does not preclude the agent from taking into account her situation and circumstances. As O'Neill reads Kant:

Hence the fundamental maxim of autonomy, as of morality, is to act only on maxims through which one can at the same time will that they be universal laws. This meagre principle is merely a commitment not to base action on anything contingent or arbitrary that would limit its intelligibility. ²³

Such a requirement does not necessitate a complete withdrawal from the circumstances which the agent is facing.

Code's understanding of the autonomous person in traditional theory is of a person who is alone, by himself. Certainly that can be said of certain views of social autonomy, which take the kantian ideal of moral reflection and apply it to all of social life. This need not be the consequence of kantian moral reasoning. O'Neill uses kantian practical reasoning in *Towards Justice and Virtue* and expressly recognizes the connection between individuals: "we view others as connected as soon as we see a real possibility of activity by either party as bearing on the other, even if no actual activity, let alone interactivity, now connects them or is planned".²⁴ Code is not talking about autonomy in morality only but, rather, social autonomy in

²³O'neill, op. cit., 76.

²⁴O'neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* (Cambridge: Cambridge University Press, 1996), 114.

general. This converges with Larmore's point that the ideal of autonomy has translated itself in all realms of a person's life.

Code's critique points to the confusion that has happened by conflating an ideal of moral autonomy with autonomy in general.²⁵ Assumptions about the agent are not warranted by the ideal of moral reflection. Code does question this ideal of rational reflection, but, leaving this aside, Code's point is relevant because it is difficult to analyse moral reflection without some understanding of the moral agent.

I will now turn to two review articles by feminist writers that deal with social autonomy. In 'Autonomy and Social Relationships', Friedman makes it clear that she is talking about social autonomy; she reviews much of the feminist criticisms of autonomy over the past decade. Her focus is the

charge that mainstream conceptions of autonomy ignore the social nature of the self and the importance of social relationships to the projects and attributes of the self. Mainstream autonomy, according to this criticism, is allied with liberalism, and in particular with liberal abstract

²⁵There are many debates involving autonomy and feminist criticism which I cannot engage here as they are not relevant. However it should be noted that the kantian ideal of autonomy as expressed in rule abiding and developed in the studies of Kohlberg was challenged by Gilligan. See Carol Gilligan, *In Different Voices: Psychological Theory and Women's Development* (Cambridge, Massachusetts: Harvard University Press, 1982). The Kohlberg-Gilligan debate has been fruitful in enlarging our understanding of how actual persons confront moral dilemmas.

individualism.²⁶

Nevertheless, she feels there is a certain convergence of the mainstream and feminist thinking.

[Leading philosophers] tend to regard autonomy as involving two main features; first, reflection of some sort on relevant aspect(s) of the self's own motivational structure and available choices; and, second, procedural requirements having to do with the nature and quality of the reflection.²⁷

Friedman understands autonomy as involving the thinking process and she quotes Gerald Dworkin to this effect: "autonomy does not require that people's choices be substantively independent; they need only be procedurally independent"²⁸. We can see here that Friedman also agrees that autonomy should be understood as a deliberative process and not as an ideal in general. According to Friedman, mainstream accounts of autonomy "acknowledge the role of social relationships"²⁹.

Nevertheless, Friedman charges that "mainstream accounts of autonomy are not sufficiently relational because they tend to

²⁶Marilyn Friedman, "Autonomy and Social Relationships: Rethinking the Feminist Critique" in *Feminists Rethink the Self*, Diana Tietjens Meyers, ed. (Boulder, Colorado: Westview Press, 1997), 42.

²⁷Ibid., 47.

²⁸Gerald Dworkin, *The Theory and Practise of Autonomy*, (Cambridge: Cambridge University Press, 1988) quoted in Marilyn Friedman, op. cit., 48.

²⁹Ibid., 58.

regard social relationships merely as causal conditions promoting autonomy but do not construe autonomy as inherently social"²⁰. This is an important point. She calls for autonomy as a feature of our being because it engages a notion of social interaction. This can also be seen in the kantian ideal. Moreover, Friedman directs our attention to the fact that autonomy is a 'social' quality.

The ideal of the autonomous person has been interpreted as implying that relationships are arrangements which are freely entered into. The paradigmatic example would be contractual relationships. Such contractual types of relationships involve thinking about justice. Other types of relationships would not necessarily involve thinking about justice. Since Gilligan's famous study, there can be seen in the literature a new debate which centers on the ethics of justice versus the ethics of care. Some feminists argue that care should be the paradigmatic model for moral thinking; others see justice and care not as opposite but as complimentary ways of thinking.²¹ I would agree with the latter; relationships of duty involve some thinking about justice. The relevant feature of this debate for autonomy is that 'care' thinking has not been traditionally understood as

²⁰Ibid., 58.

²¹This is a huge topic in the literature; a good example of the current debates can be found in *Justice and Care: Essential Readings in Feminist Ethics*, Virginia Held, ed. (Boulder: Colorado: Westview Press, 1995).

involving 'autonomy'. This is a false interpretation of the kantian ideal of uncoerced reflection.

This last point is important, and feminist theory, in particular, has focused our attention on it. As it is usually taken, for an autonomous person, all relationships are understood to be entered into willingly. Somehow the ideal of uncoerced reflection has been construed to imply that a person must always be free to enter into a particular relationship. When taken to its extreme, it implies that the reflecting agent is not tied to anything or anyone. Kantian autonomy has been falsely related only to the contractual type of relationships. Feminists have pointed to the fact that many relationships, such as the parent-child relationship, do not fall under such a paradigm. Therefore, such relationships need another type of thinking because the person involved in such a relationship should not be thought of as 'not autonomous'. Whether another paradigm is needed for moral theory is beyond the scope of this work; of relevance is the fact that contract-type relations are not the only type that should be associated with autonomy.

Thus as Hirschmann and Di Stefano write "the masculinist construction of the self as inherently opposed to the Other yields a concept of autonomy as separation and abstract

independence, a concept that many feminists have rejected" ²². Recent scholarship has tried to adapt thinking about rights and duties to all the facets of human endeavour whether in the public domain or the private one. This feminist attention to family relationships has led to the development of the notion of 'relational' autonomy.

Di Stefano writes about autonomy, in general, and appraises relational autonomy, in particular, in her article 'Autonomy in the Light of Difference'. She warns about rethinking autonomy simply in terms of object relations theory. It might seem that such thinking could render autonomy 'friendly' for women by theorizing it in terms of relational autonomy. According to Di Stefano, this would be insufficiently radical because we would just be switching labels: thus the paradigm of autonomy would be the self as involved in relation to others. What is called for is not only the rethinking of the self in relation to others but the questioning of fundamental assumptions about the "theoretical status of selves".²³ She writes

Relation between subjects and their others is significantly at stake in this enterprise. Whether identity is postulated

²²Nancy J. Hirschmann and Christine Di Stefano, "Introduction: Revision, Reconstruction, and the Challenge of the New", in *Revisioning the Political: Feminists Reconstructions of Traditional Concepts in Western Political Theory*, Nancy J. Hirschmann and Christine Di Stefano, eds. (Boulder: Westview Press, 1996), 11.

²³Christine Di Stefano, "Autonomy in Light of Difference", in *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory*, op. cit., 111.

as a formation based on (repressed) connections or as a formation based on (repressed) exclusions, the unified, discrete subject of autonomy no longer serves as a credible model of emancipated self-rule. Revisioning autonomy in the light of this discomfiting and exhilarating awareness is the challenge-in-process. ²⁴

I agree with Di Stefano that rethinking autonomy entails rethinking the self.

IMPLICATIONS OF THE FEMINIST CRITIQUES

First, let us examine what the feminist critiques have highlighted about autonomy. It was noted that the ideal of autonomy in the moral domain has seeped into all realms of human agency. Thus we are faced with a paradigm of independence of thought which has evolved into a radical separateness. Here feminist criticism converges towards the current thought in political liberalism that questions the prevalent assumption that the ideal of the rational autonomous citizen has become the ideal of the person in general. Liberal theorists, such as Larmore, claim that autonomy in the political sphere need not affect how we view the person. They propose this, in part, to accommodate feminist criticism of the autonomous individual as radically separate. Thus the paradigm of the citizen as rational autonomous agent is applicable in the political sphere only.

Feminist criticisms though go deeper. Feminists are trying

²⁴Idem.

to show that persons are inherently social and that we are not free to enter into all relationships. One needs to be raised by someone. This does not mean we are not autonomous but that we are interdependent. Somehow a concept of autonomy should reflect this reality.

Traditionally, relationships such as those of duty are understood as impinging on our autonomy. We are more or less autonomous depending on whether we are involved in fewer or more of these types of relationships. Traditional theory does not understand the person as inherently social. The notion of relational autonomy tries to address this social aspect of the person, but some feminists claim this is not enough. For example, Gail Weiss argues

that the critique of the autonomous individual mounted by contemporary feminist ethicists, has often been too narrowly focused upon social autonomy and has not addressed the corresponding corporeal autonomy that is also presupposed in traditional theories of justice.²²

The ideal of autonomous reflection does not imply that all persons are separate; it does not say anything about the social aspects of persons. This freedom from external factors does not imply radical isolation. But feminists are right in pointing out that autonomy is a social skill which has to be learned. The kantian 'ideal' is just that: an 'ideal'. In the following quote,

²²Gail Weiss, *Body Images: Embodiment as Intercorporeality* (New York: Routledge, 1999), 169.

Meyers is referring to social autonomy but her comments are applicable to moral autonomy. She writes, "it is plausible to suppose that autonomy is a competency"⁹⁶. One is more or less autonomous. As Lindley writes, "...autonomy is like baldness. We know what perfect baldness would consist in, but we use the word bald to describe people who have lost a substantial amount of hair." ⁹⁷ The ideal of autonomy is there to guide us.

PART II POLITICAL AUTONOMY

In the previous section, I examined the concept of moral autonomy and the way in which Rawls uses kantian moral autonomy to develop the principles of justice. Feminist criticisms of autonomy point to the problem of identifying moral autonomy with social autonomy and making ontological assumptions about the moral agent based on the procedural demands of autonomous reflection. Rawls uses the kantian ideal for his fiction of the persons in the original position. He then takes this procedural ideal and uses it for his concept of the political person. It is legitimate to ask, in light of the feminist critiques of moral autonomy, whether Rawls is making certain ontological assumptions about the political person based on his procedural demands for thinking about justice. Despite Rawls's explicit statement that

⁹⁶Diana T. Meyers, *Self, Society, and Personal Choice* (Columbia University Press, 1989), 57.

⁹⁷Richard Lindley, *Autonomy* (Atlantic Highlands, New Jersey: Humanities Press International, Inc., 1986), 69.

he is not making any metaphysical claims about the political person, he is making some implicit assumptions about the ontological status of the political person. It can rightly be asked whether this ideal is appropriate for the political person. This will become more obvious as we examine political autonomy in Rawls's writings.

Rawls makes a case for thinking about justice as fairness for the political realm. He notes "justice as fairness is intended as a political conception of justice for a democratic society"³⁹. He is clear in stressing that his conceptualization of justice is for the political realm only: "justice as fairness is not intended as the application of a general moral conception to the basic structure of society" ⁴⁰. In this section, I want to address Rawls's development of the concept of political autonomy specifically as it pertains to his goal of justice as fairness. I want to do this in order to examine whether Rawls's concept of political autonomy can be said to be applicable for all citizens. As Rawls states, "the principles of practical reason-both reasonable principles and rational principles-and the conceptions of society and person are complementary"⁴⁰. Not only are the principles of practical reason involved in Rawls's

³⁹John Rawls, "Justice as Fairness: Political not Metaphysical", *Philosophy and Public Affairs* 14, no.3, (1985), 225.

⁴⁰Idem.

⁴⁰John Rawls, *Political Liberalism*, op. cit., 107.

reasoning but also the conceptions of society and of the person.

Rawls's concept of political autonomy will be valid if all the terms used to derive the principles of justice, which compose the politically autonomous view, are congruent. If they are not, then it will be problematic to claim that the principles of justice are principles which make up a politically autonomous view. I will claim that ideally independent persons can apply such principles but that less than ideally autonomous persons, such as those involved in dependency relations, cannot. The latter cannot fully realise their autonomy. In examining these terms, I will be careful always to maintain the focus of justice as fairness as a political doctrine, and not as a more generally moral doctrine. This is because some of the objections which I raise might be said to belong to the a category of morality which is outside considerations of justice.

PRINCIPLES OF PRACTICAL REASON, SOCIETY AND THE PERSON

In *Political Liberalism*, in the section 'called Kant's Moral Constructivism' in Lecture III 'Political Constructivism', Rawls examines differences between Kant's moral constructivism and the political constructivism of justice as fairness. He writes :

...for political liberalism whether a political view is autonomous depends on how it represents political values as ordered. A political view...is autonomous if it represents, or displays, the order of political values as based on principles of practical reason in union with the appropriate

political conceptions of society and person.⁴¹

As seen earlier, Kant's ideal of rational autonomy understood as procedural autonomy is an ideal which the device of the original position is meant to approximate. There are various objections that have been raised about the original position, and I do not want to look at these now. Rather, the kantian ideal for procedure will be accepted as providing a model for autonomous reflection. This being said, I will examine whether Rawls's statement that a political view is autonomous, such as the one arrived at by using the original position, is internally coherent given the premises he uses in developing the criteria for arriving at the principles of justice.

Apart from the principles of practical reason, there are two other premises which are required for a political view to be autonomous. These are the "appropriate political conceptions of society and person"⁴². If these conceptions are erroneous, then the political view which is built upon them will not represent political values as 'well-ordered'. I will argue that the principles of justice do not institute a politically autonomous view if there are serious problems with the conceptions of political society and the political person. If such conceptions are problematic, then these principles could be said to

⁴¹John Rawls, *Political Liberalism*, op. cit., 99.

⁴²Idem.

constitute an autonomous view for some citizens in society but not for others. If these others are necessarily part of political society, then such a society will comprise citizens who have politically autonomous views and others who do not. Such an arrangement could hardly be qualified as fair.

The need to examine these companion ideas can be explained by the fact that justice, society and the person are all ideas that are intuitively tied together. As Rawls states: "[j]ustice as fairness starts from the idea that society is to be conceived as a fair system of cooperation and so it adopts a conception of the person to go with this idea."⁴³ These concepts are all woven together in such a way that one concept has consequences on another. Rawls explains the general purpose of the conception of the person as follows,

from the start the conception of the person is regarded as part of a conception of political and social justice. That is, it characterises how citizens are to think of themselves and of one another in their political and social relationships as specified by the basic structure.⁴⁴

Therefore in Rawls's view, these concepts are all tied to each other and, moreover, they are primordial in shaping the way in which we think of the citizen, society and the principles which regulate the latter.

⁴³John Rawls, "Justice as Fairness: Political not Metaphysical", op. cit., 232-233.

⁴⁴John Rawls, "The Basic Liberties and Their Priority" in *The Tanner Lectures on Human Value III*, Sterling M. McMurrin, ed. (Cambridge: Cambridge University Press, 1982), 14.

First, it is important to note that Rawls distinguishes between a concept and conception. The latter implies further principles and criteria than the former. ⁴⁵ 'Idea' is a more general term which includes both a 'concept' and a 'conception'. Thus the conceptions of society and the person will be defined with the aim of political justice as fairness in mind. I propose to examine first Rawls's political conception of society and cooperation, then his conception of the political person.

POLITICAL CONCEPTION OF SOCIETY

In *Political Liberalism*, when Rawls initially discusses society he calls it "a fundamental idea"⁴⁶; I interpret this as implying a fairly broad notion of society since he does not later refine into a concept or conception. He then defines society more specifically as a fair system of cooperation. ⁴⁷ He also specifies that society is a fair system of cooperation over time, from one generation to the next ⁴⁸. Thus society involves a plurality of persons over extended periods of time since various generations are involved.

In his discussion of the person, Rawls further defines

⁴⁵John Rawls, *Political Liberalism*, op., 14 note 15.

⁴⁶Ibid., 14.

⁴⁷Ibid., Lecture 1, Section 3, 15ff.

⁴⁸Ibid., 15.

society. "Society is not only closed but also ... a more or less complete and self-sufficient scheme of cooperation, making room within itself for all the necessities and activities of life, from birth until death."⁴⁹ Thus society is seen as necessarily continuing in time. Rawls does not exclude any segment of society such as the very young or the very old. He further states that society makes room for all the necessities of life from birth until death; therefore, the necessities can be understood to vary according to individual needs since the necessities of the very young will differ from that of mature adults, for example. Rawls's conception of society is very large. As he writes in 'Justice as Fairness: Political not Metaphysical', "[a] society is not an association for more limited purposes; citizens do not join society voluntarily but are born into it, where, for our aims here, we assume they are to lead their lives" ⁵⁰.

It is relevant that Rawls specifies that citizens are born into society. This indicates that all persons are not only part of society but, I would add, also part of political society since Rawls is talking about citizens. It is clear that the principles of justice affect everyone. Conversely, when Rawls discusses the conception of the person he specifically talks about the

⁴⁹Ibid., 18.

⁵⁰John Rawls, "Justice as Fairness: Political not Metaphysical", op. cit., 233. This is also discussed in Section 7, Lecture 1 in *Political Liberalism*, op. cit., where Rawls contrasts the idea of society with the ideas of community and association.

political conception of the person. Nevertheless, I believe we can say that his concept of society is that of a political society or at least of society for the purposes of justice as fairness. Finally, all persons, that is everyone from new-borns to the very old, are to be considered citizens. This can be deduced from the text since the only way to enter society is to be born and the only way to leave society is to die. This is also necessary if society is to be considered closed.²¹ If all persons are citizens, not all persons fit into the conception of political person as will be seen later.

Rawls does not specify whether his conceptualisation of society is an idea, a concept or a conception; he uses the terms interchangeably. His concept or conception of society is very broad and does not need any principles or criteria to delineate it. Because Rawls leaves the idea of society fairly broad and does not distinguish between his idea and his conception of society, it seems that these terms can be used interchangeably. However, there is more clarification of the conception of society in his discussion of social cooperation. This discussion borders on a discussion of who is actually a member of society; it characterises the activity of the citizens. Citizens are defined by their capacity to cooperate. I want to examine cooperation at this point because it also centres on the conception of society

²¹John Rawls, "The Basic Liberties and Their Priority", in *The Tanner Lectures on Human Value III*, op. cit., 15.

since society is the place where cooperation happens.

Rawls distinguishes three elements of social cooperation. First of all, cooperation is guided by rules and procedures which are freely accepted by citizens.⁵² Second,

[f]air terms of cooperation specify an idea of reciprocity: all who are engaged in cooperation and who do their part as the rules and procedure require, are to benefit in an appropriate way as assessed by a suitable benchmark of comparison.⁵³

Third, an idea of each participant's advantage is required by social cooperation.⁵⁴ At this point Rawls mentions explicitly all who can be involved in social cooperation that is:

"individuals, families, or associations, or even the government of peoples"⁵⁵. Thus, no one is de facto excluded. Rawls includes all persons within his conception of society.

A cooperating member can be an infant or an adult; there are no restrictions as to who can be considered a fully cooperating member of society. This reflects the reality that all persons will be affected by the basic structure of society which is the subject of justice, as Rawls states.⁵⁶ Nevertheless, I would have expected the demands of cooperation to involve a subsequent

⁵²John Rawls, *Political Liberalism*, op. cit., 16.

⁵³Idem.

⁵⁴Idem.

⁵⁵Idem.

⁵⁶John Rawls, *A Theory of Justice*, op. cit., 7.

narrowing of the concept of the citizen; yet, this is not the case. In defense of this position, it could be argued that persons too young to be cooperating members have the potential to become such individuals. Rawls does admit that it is an idealization to consider all persons as fully cooperating and puts aside "temporary disabilities and also permanent disabilities or mental disorders so severe as to prevent people from being cooperating members of society in the usual sense"⁵⁷.

Rawls also talks about advantage: all who are involved in cooperation "benefit in a appropriate way as assessed by a suitable benchmark of comparison"⁵⁸. Society is to benefit everyone sooner or later. Obviously, there can be no immediate reciprocity involving cooperation between an infant and an adult in the political sphere. Yet, the fruits of cooperation need not be immediate; there can be inequalities within a certain time frame. This is certainly true in the case of future generations which Rawls treats under the principle of 'just savings'. This is specifically discussed in *A Theory of Justice* and later revised in *Political Liberalism*. The problem can be stated as follows: it is a fact that a preceding generation can never profit from the goods produced by the generation that comes after it. To cope with this seeming inherent injustice, Rawls initially stipulated

⁵⁷John Rawls, *Political Liberalism*, op. cit., 20.

⁵⁸Idem.

that "each person in the original position should care about the well-being of some of those in the next generation" ⁵⁹. He later removed this by saying that everyone would be involved in just savings; thus, he could eliminate the element of caring and the generations could be mutually disinterested.⁶⁰

Rawls stipulates that all citizens are fully cooperating members of society over a complete life. ⁶¹ This is not realistic and Rawls acknowledges this explicitly; the reason for this stipulation is that he wishes to keep things simple. Yet, if we are to admit that the very young are not fully cooperating members of society, then we could look for ways of resolving this problem. The problem of the very young as fully cooperating members of society could perhaps be resolved in the same manner as that of just savings between generations. That is, members of rawlsian society would not mind that some members, like the very young, are not fully cooperating since they 'care' about these future members of society. A case could be made that since such members are needed if society is to continue in time, then, they need to be cared for. The very young are necessary for society to be closed and continuing in time and their dependency could perhaps be accommodated in this way. For the case of other

⁵⁹John Rawls, *A Theory of Justice*, op. cit., 128.

⁶⁰John Rawls, *Political Liberalism*, op. cit., 274 , and 274 note 12.

⁶¹Ibid., 18.

members who are not fully cooperating and cannot contribute to society the reasoning would be more difficult.

This way of resolving the dilemma is problematic as it involves inserting an element of interest between two members of society and Rawls tries to avoid this. Thus, instead of all members being mutually disinterested now they need to care about the very young in order to accommodate them in society. But it could be resolved by saying that everyone will be involved in being dependent at the beginning of their lives; in this way there is an acceptance of inescapable dependency for the very young. Yet, unlike the just savings principle, this is not explicitly discussed about in Rawls's writings; therefore, we are to assume that dependency considerations are not primordial.

Another way of addressing this problem would be to restrict the notion of 'over a complete lifetime'. Rawls avoids this because he views society as a closed and a self-sufficient scheme of cooperation.⁶² He wants to keep society as open as possible without restrictions. Also he considers the case of social cooperation between free and equal citizens the "fundamental question of political justice"⁶³. Yet, problems such as the one noted above will arise again taking on greater importance when the conception of the person is discussed as we will see next.

⁶²Idem.

⁶³Ibid., 20.

POLITICAL CONCEPTION OF THE PERSON

Rawls first talks about the person populating society as "the idea of the citizen (those engaged in cooperation) as free and equal persons" ⁶⁴. He uses the concept of the person

understood, in both philosophy and law, as the concept of someone who can take part in, or who can play a role in, social life, and hence exercise and respect its various rights and duties. Thus, we say that a person is someone who can be a citizen, that is, a normal and fully cooperating member of society over a complete life. ⁶⁵

The determination of over a complete life is needed here so that it complements the view of society as closed and self-sufficient scheme of cooperation. ⁶⁶

Unlike his concept of society, Rawls refines his concept of the person to give a precise account of the political conception of the person. ⁶⁷ The conception of the person is tied to that of social cooperation and not society as such. If all citizens populate rawlsian political society, not all citizens fit into the category of political persons.

Citizens are free persons in three respects and by this representation of citizen's freedom, Rawls indicates the way in

⁶⁴Ibid., 14.

⁶⁵Ibid., 18.

⁶⁶Idem.

⁶⁷See Lecture 1, Section 5 in *Political Liberalism*, op. cit., 29-35.

which the conception of the person is political. ⁶⁸ First, citizens are free because they have the moral power to have a conception of the good. ⁶⁹ Second, "they regard themselves as self-authenticating sources of valid claims" ⁷⁰. Finally, "they are viewed as capable of taking responsibility for their ends" ⁷¹.

There is obviously an inconsistency in Rawls's view of society and his political conception of the person. Since society includes all citizens one would expect his conception of the political person to reflect this fact, but it does not. His conception of society seems to reflect reality; that is, all persons are included in society and the terms of cooperation do not involve undue altruism or concern for others.

Rawls describes the fully participating members of society as follows: the persons who are full participants throughout their lives have a basic capacity for "honouring the principles of justice". On the basis of this and

together with each person's being a self-originating source of valid claims, all view themselves as equally worthy of being represented in any procedure that is to determine the principles of justice that are to regulate the basic

⁶⁸Idem.

⁶⁹Ibid., 30.

⁷⁰Ibid., 32.

⁷¹Ibid., 33.

institutions of their society.⁷²

Rawls's stipulation that members of society be fully cooperating over a complete life is an idealization and he acknowledges this explicitly.

But at this initial stage, the fundamental problem of social justice arises between those who are full and morally conscientious participants in society, and directly or indirectly associated together throughout a complete life. Therefore, it is sensible to lay aside certain difficult complications. If we can work out a theory that covers the fundamental case, we can try to extend it to other cases later. Plainly a theory that fails for the fundamental case is of no use at all. ⁷³

The conclusion here is that the case between two fully cooperating members of society is the most fundamental case of justice.

Rawls believes that by considering the ideal case we can later expand it to include problem individuals. His premise is that the case of justice between fully cooperating members of society is the most fundamental case. Other more difficult cases can simply be adjusted once the principles of justice are found for the primary case. I would claim otherwise; it is an assumption to say that the case of similarly situated persons is a more fundamental case of justice. It may be a simpler case of justice, but it is not necessarily more fundamental. Such a view

⁷²John Rawls, "Kantian Constructivism in Moral Theory", *Journal of Philosophy* 70, No. 9 (1980), 546.

⁷³Idem.

implies that the relation between a non-cooperating member and one who is fully cooperating does not have any elements of justice as fairness. Rawls would not deny that such a relationship involves some justice, but he does not consider that such a case involves political justice.

In the next chapter, I will discuss difference and I will argue that the case between two differently situated person is a fundamental case of political justice and not necessarily a case of non-political moral justice or charity. By using this ideal of fully cooperating members of society, Rawls is biasing the principles of justice towards those who best approximate this ideal. This will become clearer as we discuss difference.

Taking these objections into consideration, three arguments can be developed to address them. It could be argued, firstly, that there is no inconsistency here between Rawls's conceptions of the person and society; secondly, that if there is an inconsistency, it has no profound effects; and thirdly, that the idealization can be justified. Each of these counter objections will be examined in turn in the following manner. I will claim, first, that there is an inconsistency between Rawls's conception of society and the person; second, that this inconsistency has profound implications; and third, that it cannot be justified.

It could be said that Rawls's view of society is indeed very

broad and that the restriction involving the concept of the political person simply, in turn, narrows the concept of society without causing any undue incoherence. Thus the idealization of the political person reflects an idealization of political society which then becomes implicit. I counter this claim; indeed, the restriction of the political person does in fact affect the concept of society. If persons are fully cooperating members of society, then society cannot be viewed as a closed system that makes room for all the necessities of life from birth to death. All the necessities of life for a fully cooperating member of society are quite different from the necessities for a member who is not a fully cooperating one. This will be reflected in the basic structure and social arrangements. Social arrangements that can accommodate members who are not fully cooperating will be different from ones that accommodate only fully cooperating members. Rawls's society is neither closed nor complete.

A society populated only by fully cooperating members is not closed because it cannot reproduce itself. Are fully cooperating members going to be imported? Hardly. It may be argued that this is not a matter for political society; yet how are new members going to be introduced into political society if no one is born into that society? Surely the issue of citizens and where they come from is an issue that has political relevance. This is not often discussed because it is usually understood that this is

'natural' and will simply happen; it is a 'private' matter. New members will appear when they are needed. Hobbes's famous suggestion resonates loud here: society is destined to be a place where we must "consider men as if but even now sprung out of the earth, and suddainly (like mushrooms) come to full maturity without any kind of engagement to each other"⁷⁴. But since Rawls attempts to define a society which explicitly makes room for all the activities from birth to death somehow the issue of the very young must be of relevance. Since he specifies all the activities from birth to death, the issue of reproduction and the very young, for instance, must be addressed explicitly.

Therefore, a society populated only by fully cooperating members of society cannot address the special issue of the very young, to name one group of not fully cooperating members. If such members are to be left out of considerations of justice then such a society applies mainly to those who can afford to appear as fully cooperating members of society. I conclude, then, that there is an inconsistency in Rawls's conception of the person as fully cooperating member and society because such a society cannot be closed nor can there be room for all the activities of all its members. There is room only for the activities of fully cooperating members.

⁷⁴Thomas Hobbes, *De Cive*, English Version, in *The Clarendon Edition of the Philosophical Works of Thomas Hobbes*, Howard Warrender, ed. (Oxford: Clarendon Press, 1987), 117.

Secondly, I claim that this fundamental inconsistency in Rawls's account of society and his view of the political person has serious implications. It is true that Rawls states that he is talking about an idealization in the case of the person. As he writes in 'Social Unity and Primary Goods':

It is best to make an initial concession in the case of special health and medical needs. I put this difficult problem aside in this paper and assume that all citizens have physical and psychological capacities within a certain normal range. I do this because the first problem of justice concerns the relations of citizens who are normally active and fully cooperating members of society over a complete life. Perhaps the social resources to be devoted to the normal health and medical needs of such citizens can be decided at the legislative stage in the light of existing social conditions and reasonable expectations of the frequency of illness and accident. And if a solution can be worked out for this case, then it may be possible to extend it to the hard cases. ⁷⁵

He always assumes that the special needs of a person are temporary and will bring this person back to her status of fully cooperating member of society.

Rawls thinks that justice as fairness as a political conception can be extended to cover the case of normal health care but perhaps not the harder cases⁷⁶, the reason being that such cases may fall outside the scope of political justice. In the case of health care, Rawls is interested in restoring people so that they can be fully cooperating members of society again.

⁷⁵John Rawls, "Social Unity and Primary Goods" in *Utilitarianism and Beyond*, Amartya Sen and Bernard Williams, eds. (Cambridge: Cambridge University Press, 1982), 168.

⁷⁶John Rawls, *Political Liberalism*, op. cit., 21.

He does not consider people who simply cannot be cooperating members. Yet these persons are still within political society because the only way they can leave political society is by dying.

Daniels has written extensively on the possibility of including health care within the list of primary goods and of justifying this as a defense against the departure of the idealization assumed by Rawls. He argues that this can be done, but that for the cases of persons who are or become severely disabled "moral virtues other than justice become prominent"⁷⁷. Justice involves fully cooperating members of society and if members are not fully cooperating, then one has to view their disability as temporary. In this case, justice is only a matter of time. My question is this then: what happens to persons who cannot be fully cooperating members of society?

In 'Taking Dependency Seriously', Eva Feder Kittay argues that Rawls's understanding of social cooperation seems to suggest that

...[he] does not extend *citizenship* to those who are permanently and so sufficiently incapacitated that they cannot be expected to restrict their freedoms in relevant ways or to participate and so reciprocate in relevant ways. But why should the contingent fact that someone is born, let us say, sufficiently mentally disabled necessitate his or her exclusion from citizenship? There are some political

⁷⁷Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice* (Cambridge: Cambridge University Press, 1996), 194.

activities the mentally disabled may not engage in-for example, they may be incapable of enough political understanding to vote - but surely they need to receive the protection of political justice all the same.⁷⁸

The other way of seeing this problem is to say that a case involving radically different persons such as that between persons who are cooperating members and others who are not becomes an issue not of justice but of charity. Rawls has clearly stated that his view of justice is political only and not moral. Nonetheless, we are dealing with political society and as such we must acknowledge the differences that can arise within such a society. This is a political problem. To restrict justice to persons who have certain qualifications only is to restrict justice, not to the political realm as such, but to a special case between specific political persons. If we are to work out a conception of political justice we need to acknowledge all persons within political society. To leave society open and then to restrict the type of person that can be considered a citizen is to bias justice towards that ideal. It is not a useful abstraction but an idealization that can bias the principles of justice.

Rawls recognizes that

[t]he natural distribution is neither just nor unjust; nor

⁷⁸Eva Feder Kittay, "Taking Dependency Seriously: The Family and Medical Leave Act Considered in Light of the Social Organization of Dependency Work and Gender Equality", *Hypatia* 10, no. 1 (Winter 1995) 15.

is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts. ⁷⁹

And Daniels further explains Rawls's reasoning:

The point is that none of us *deserves* the advantages conferred by accidents of birth-either the genetic or social advantages. These advantages from the [natural lottery] are morally arbitrary, and to let them determine individual opportunity-and reward and success in life-is to confer arbitrariness on the outcomes. ⁸⁰

Surely this is applicable not only to ideals of the good life and opportunities but also to a person's capabilities.

Rawls restricts his conception of the person to fully capable persons but he does not restrict his concept of society to an association of fully capable persons only. In order to fix this inconsistency, Rawls must either open his conception of the person to less fully capable persons or restrict his concept of society to only those who are fully capable. Another way of resolving this dilemma is to say that the inconsistency is irrelevant. I will examine this latter claim now.

I believe the inconsistency has serious repercussions and in order to examine this I will turn to Rawls's discussion of slaves. Rawls discusses the problems of slaves as persons who are not sources of self-authenticating claims. ⁸¹

⁷⁹John Rawls, *A Theory of Justice*, op. cit., 102.

⁸⁰Norman Daniels, op. cit., 192.

⁸¹John Rawls, *Political Liberalism*, op. cit., 33.

Laws that prohibit the maltreatment of slaves are not based on claims made by slaves, but on claims originating from slaveholders, or from the general interests of society (which do not include the interests of slaves. ^{e2}

Thus a society that comprises slaves is a society that includes individuals who are not politically autonomous. That much is readily obvious, but it is also a society populated by persons who have instrumental value. Such a society is a society that uses a segment of its population as instrumental not as ends in themselves.

I want to compare this situation with the case of non cooperating members of society. If we examine Rawls's and Daniels's discussion of health care, they always assume that health care needs can be addressed by making the case that the needy person can be restored to the status of cooperating member. A conclusion that could be drawn is that health care needs are not addressed because it is for the person's own good but because this will redress the person's status. The person's needs become instrumental; that is, health care needs can only be seen in the light of the person's status of cooperating member, not in the light of giving that person more opportunity for their development.

Perhaps this is necessary since the fundamental premise here is that of a contract situation. The persons posited in a

^{e2}Idem.

contract situation need to be similarly situated otherwise it would be difficult to defend the arrangement as fair.

Nonetheless, a contractual arrangement implies certain assumptions:

On the contract interpretation treating men as ends in themselves implies at the very least treating them in accordance with the principles to which they would consent in an original position of equality. For in this situation men have an equal representation as moral persons who regard themselves as ends and the principles they accept will be rationally designed to protect the claims of their person. The contract view as such defines a sense in which men are to be treated as ends and not as means only. ⁸²

To give persons primary goods such that their status can be elevated again to that of cooperating member implies that they are not ends in themselves. Thus a society that comprises members who have instrumental value cannot be a just society because a just society is populated by persons who are all ends in themselves. It can be argued that a society which comprises members who are not fully cooperating, and as such are excluded from the original contract, is a society that comprises members who are not ends in themselves.

I want to suggest that if we take Rawls's view to its logical limit then we have individuals within society who are not treated as ends but as means. Take the case of a disabled person as posited by Kittay. If that person cannot become a member of society because her disabilities are too severe does she not have a right to an education or to some other goods or opportunities

⁸²John Rawls, *A Theory of Justice*, op. cit., 180.

nonetheless? Is it not a matter of justice that this person be given the opportunity to realize the basis of her self-respect? Is it a matter of justice or of charity? I would say justice although in Rawls's scheme one would be tempted to say charity.

The problem for Rawls is as follows. Only capable persons will be able to accept the principles of justice because the latter are based on principles of practical reason and everyone will be able to be in a situation that will be somewhat advantageous. Persons that fall below a certain minimum level will not be able to be in a contract situation since others might see a contract with them as disadvantageous. Thus the variations between individuals will be minimal in terms of rationality and basic capabilities. This seems straightforward enough. As Daniels explains,

What is not driving Rawls's view, however, is some underlying, comprehensive moral view: that positive freedom or capability, in all its dimensions, is of concern for purposes of justice. This point is analogous to Rawls's insistence that his concern for basic liberties is not the result of allegiance to some comprehensive moral view about the importance of autonomy or liberty. Basic liberties as well as fair equality of opportunity derive their moral importance from their relationship to the political ideal of citizens as free and equal moral agents with certain basic powers.²⁴

The problem of the conception of the political person then has serious repercussions on how we understand justice as fairness. Perhaps the ideal of contract is simply not applicable

²⁴Norman Daniels, *op. cit.*, 217.

to cases outside those of persons who are similarly situated, that is fully capable. It could be argued that the special case of differently able persons can be dealt with by considerations other than justice. There is an additional problem though. Eva Feder Kittay argues in 'Human Dependency and Rawlsian Equality' that dependency workers are left out of political society because they have to take responsibility for others. "[T]hose within relations of dependency fall outside the conceptual parameters of Rawls's egalitarianism." ⁸⁵ So the fact that there are less than capable persons in a society has implications not only for these persons but for their caretakers as well. Kittay argues that Rawls's principles of justice cannot accommodate 'dependency workers'.

Therefore the idealization in the conceptualization of the political persons creates problems for the members who are not fully cooperating and for those who take care of these persons. This has profound implications since

we start by viewing the basic structure of society as a whole as a form of cooperation. This structure comprises the main social institutions - the constitution, the economic regime, the legal order and its specification of property and the like, and how these institutions cohere into one system. ⁸⁶

How we view the person will affect the way in which we define the

⁸⁵Eva Feder Kittay, "Human Dependency and Rawlsian Equality", in *Feminists Rethink the Self*, Diana Tietjens Meyers, ed. (Boulder, Colorado: Westview Press, 1997), 224.

⁸⁶John Rawls, "The Basic Liberties and Their Priority", *op. cit.*, 15.

parameters of cooperation which in turn will affect the basic structure and how it is conceived. There is no alternative in society to social cooperation as Rawls writes

...while cooperation can be willing and harmonious, and in this sense voluntary, it is not voluntary in the sense that our joining or belonging to associations and groups within society is voluntary. There is no alternative to social cooperation except unwilling and resentful compliance, or resistance and civil war.⁶⁷

Rawls's view of the self is larger than the above discussion implies. He does discuss in the section 'Unity of the Self' in *A Theory of Justice*, that everyone's reasonable life plan should be given the opportunity to be realized.⁶⁸ I would like to stress here that if we take the view of the political person as fully cooperating only, that is we privilege this view as Rawls does in his discussion, then we come to the above conclusion. It is not that Rawls's view of the ideal political person is wrong but that it is the only view of the political person which is taken to be relevant to considerations of justice. I would rather claim that the ideal of the political person is multi-faceted.

IMPLICATIONS OF THE RAWLSIAN VIEW

There is an incompatibility between the concepts of society and political person. Either society is too open or the political

⁶⁷Idem.

⁶⁸John Rawls, *A Theory of Justice*, op. cit., 560-567.

person is too restrictive. Therefore, there is also a problem with the idea of political autonomy. The persons who can be considered politically autonomous are only the ones who fit into the conception of the political person as fully cooperating members of society over a complete lifetime. Since society comprises all persons from birth to death, everyone will have a problem fitting in since no one is fully cooperating from birth to death. Rawls's view of the person is more refined than this discussion implies. I only want to suggest that if we confine our understanding to that of the political person as expressed by the ideal Rawls uses, then we are led to such conclusions. It is not that Rawls's view is wrong, only that it needs to be supplemented by other facets.

Amartya Sen's suggestions about changing some of the primary goods in Rawls's theory to those that can address capabilities²² does open the possibility of simply enhancing a person's capabilities for her own sake, as well as including a notion of interdependency within the concept of the political person. The needs of the cooperating member of society are always viewed in the light of the member's value as cooperating member, and capabilities are more interactive than goods. This still entails supplementing the view of the political person.

²²See Amartya Sen, "Equality of What?", in *The Tanner Lectures on Human Value I*, Sterling M. McMurrin, ed. (London: Cambridge University Press, 1980), 195-220.

Nevertheless, it must be understood that the political person is an ideal. As Schneewind writes:

We may not live in a well-ordered society; indeed, by Rawls's principles we certainly do not. Insofar as we do not, we are not autonomous. We can and ought to try to make our society more just, and if we succeed we will be increasing the degree of our autonomy.⁹⁰

I would add that if we are to increase the degree of autonomy in all persons within society we must address the issue of differently situated individuals. That is, we must consider the case of difference.

CONCLUSION

Feminists, with their critique of moral autonomy, have pointed out the problem in conceptualizing relationships understood for the autonomous person. They have charged that the ideal of contractual relationships has been applied to all relations. This comes from the fact that autonomous reflection has been traditionally associated with wilfully entered relationships and not contingent relationships. This need not be the conclusion reached. If we look at other types of relationships such as those involving duties, they are not wilful contractual relations and can accommodate a notion of autonomy. The kantian concept of autonomous reflection can be applied to

⁹⁰J.B. Schneewind, "The Use of Autonomy in Ethical Theory", in *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought*, Thomas C. Heller, Morton Sosna, and David E. Wellbery, eds. (Stanford: Stanford University Press, 1986), 70.

any kind of relationship; no criteria inherent in this type of reflection precludes certain types of relationship. Moral reflection is incurred in any type of relationship and the kantian ideal of reflection can be applied there. The ideal of reflection should not be applied to an ideal of the moral agent.

In their criticisms, feminists develop several types of autonomy; the one of interest here is that of relational autonomy. Such an 'autonomous' person has relationships which are freely entered into and others which are not. There is a distinct acknowledgement of the social nature of human beings. But is this enough? The danger is in conceptualizing the person as tied to others and, if extended to an ideal of political autonomy, making this person situated without the possibility of change. Communitarians with their ideal of a socially embedded person risk tying such an individual to contexts which cannot be surpassed. Therefore, in order to rethink the political person as relational, we need to address certain issues first.

I have argued that the kantian ideal of moral reflection used by Rawls is extended to the ideal of the political person. This I believe is a mistake; not because the moral ideal cannot be extended to the political realm, but because the ideal of the kantian thinker, that is the person in the original position, becomes the ideal of the political person. As feminist critiques have shown us, the ideal of moral reflection does not entail

ontological assumptions about the moral agent. Rawls's theory privileges the concept of the political person solely as person in the original position. I claim that we need to supplement such a view with other facets to make the concept of the political person more inclusive of all persons in society.

The ideal of kantian reflection for the principles of justice cannot be extended to comprise all the facets of the political person. In order to rethink the political person or at least add other facets to this concept, we need to address two related issues. The first is that the person so conceived is necessarily disembodied; the second is that the separation between the private and public spheres, or private and political concerns is too radical.

The rationally autonomous person is obviously disembodied. Since he has to be extracted from contingencies, his body needs to be left behind. I do not want to delve into epistemological considerations of embodied knowledge here, but I want to simply emphasize the fact that our kantian thinker need not be without a body. Particular embodiment is contingent but the fact we are all embodied is a fundamental part of our reality. Perhaps, the persons behind the veil of ignorance are so absorbed by their deliberations that they also forget they are embodied. This is most unfortunate as there is a notion of particularity associated with the body which, I believe, is crucial.

Our bodies are all different: they embody particularity. Thus if a notion of the particular has to be excised, the body will be the first element to be removed from our conceptualization. In trying to make all his persons in the original position identical Rawls has made their bodies, as sources of difference, disappear.

No one would deny that embodiment can affect one's autonomy on a practical level, and that this involves our social environment. A handicapped person is seen as less autonomous physically, but not in a political sense. As Rawls sees it, we can compensate for disabilities with legislation; therefore, according to Rawls, disability is not a problem for the principles of justice as they are stated. It is not obvious that this is the case, as we shall see in the next chapter when we examine caretakers in the context of the principles of justice. Suffice it to say now that autonomy, as we have seen it, is necessarily disembodied. It need not be thought of in this manner. Why could we not think of autonomy as having a corporeal dimension? In fact this might be the way in which we can effectively bridge the private and public spheres.

CHAPTER 4

DIFFERENCE

Institutional rejection of difference is an absolute necessity in a profit economy which needs outsiders as surplus people. As members of such an economy, we have *all* been programmed to respond to human differences between us with fear and loathing and to handle that difference in one of three ways: ignore it, and if that is not possible, copy it if we think it is dominant, or destroy it if we think it is subordinate. But we have no patterns of relating across our human differences as equals. As a result, those differences have been misnamed and misused in the service of separation and confusion.¹

INTRODUCTION

In the previous chapter we saw how autonomy does not necessarily imply being isolated from others but it does imply a capacity to self direct one's life and to make decisions. There is a certain amount of freedom from the interference of others and in one's general life condition which is needed for autonomous reflection. This ideal of unfettered autonomous reflection is crucial to the notion of kantian moral autonomy. In turn, political autonomy is not so straightforwardly abstracted from an ideal of isolated reflection. As I have argued in the previous chapter, the concept of political autonomy is inseparable from the concepts of society and the person with which it is meant to articulate principles that legislate a fair

¹Audre Lorde, "Age, Race, Class, and Sex: Women Redefining Difference", in *Sister Outsider*, (Freedom California: Crossing Press, 1984), 115.

and just public space. Moreover, political autonomy, as it is understood in traditional liberal theory, hinges on the ideal that all political persons have virtually similar capacities.

As a result of our thinking of autonomy as primarily meaning independence, it is a natural conclusion to affirm that various autonomous persons will choose different outcomes for themselves. Difference stems from choice; it is the result of autonomous beings asserting their individuality. This is the notion of difference which is usually implied in the concept of plurality.² Various persons will have different views of the good life and society must adjudicate between these views. This is how we primarily encounter difference.

Society comprises individuals who want different things and it must accommodate these people who have different wants. Persons who have differing views can still enter into reciprocal relations. I will call this view of difference the 'shallow' understanding of difference. This view of difference primarily relies on an understanding of difference as involving a variety of possibilities generated from similarly situated individuals.

As I have argued earlier, all persons who populate rawlsian

²In the *Morals of Modernity*, Charles Larmore carefully distinguishes between reasonable disagreement and pluralism. See his chapter 7 in *Morals of Modernity*, op. cit. Here I use the term plurality to indicate a plurality of views which is much akin to Larmore's definition of reasonable disagreement.

society, in particular, and liberal society, in general, have basically similar capacities; this is seen in the notion of the abstract individual or the persons in the original position. Nevertheless, the society in which these persons are acknowledged to live in encompasses all types of individuals from the very young to the very old. The traditional view of the political person glosses over the reality that these individuals have varying capabilities. This is another instance of difference: various persons will have profoundly different abilities, from the ability to reason properly to an inability to reason at all, from the ability to meet one's needs completely to complete dependence upon a caretaker. This understanding of difference will be called 'profound' difference.

Profoundly differing persons are not always able to enter into reciprocal arrangements. Several questions arise if we take this into consideration. Is it an appropriate goal for a theory of justice to accommodate such individuals? If it is, how does the public sphere, then, accommodate people with profoundly differing abilities? Is this addressed on a practical level or must it be attended to on a theoretical level? This was not addressed purposefully by Rawls, for example, because he wanted to first address the idealized situation of fully cooperating members of society. Of crucial importance, then, is whether such an idealisation is useful for a theory of justice and whether it can accommodate profound difference if it is deemed relevant.

The prevalent view in liberal theory is that society must adjudicate between competing claims. Therefore, difference is a source of competition or tension. This tension is the result of conflict either because we do not agree on our goals, so our views of the good life clash, or because we have limited resources and these resources must be adjudicated fairly. This is the usual sense in which we understand difference: it is a source of conflict and society plays the role of arbitrator to these conflicts.

In this chapter, I propose to take a look at difference because it has important implications for our conceptualizations of the political person and society. The purpose of this chapter is to understand how the concept of difference has been used in liberal political theory. I will maintain that difference, even if it is found in liberal writings, has not been addressed properly. It has always been confined to an understanding of 'shallow difference'. Moreover, difference, as it is usually understood in liberal theory, is addressed by practical means. This, unfortunately, leads to certain assumptions about the concept of difference which, I will claim, are erroneous. Difference does have theoretical import and postmodernist writings on difference can give us valuable insights.

The issue of difference is discussed in a twofold way by Rawls. First, the persons in the original position are said to

take into account the variety of possibilities which might be some persons's actual lived reality. Therefore, they have to think about difference although they, themselves, do not embody difference. Second, the principles of justice address difference specifically, in particular the second principle. Both the fiction of the original position and the difference principle take into account social and economic differences. Moreover, these differences can be adequately represented by any participant in society. These differences constitute what I call shallow differences.

In Rawls's theory these types of differences can be addressed by practical considerations. I will argue that they have theoretical import. By focusing on the issues of difference such as social position or view of the good life only, we leave a large segment of society that cannot conform to a certain ideal out of the considerations of justice. Profound difference, which involves varying capacities, is excluded from Rawls's theory. I will argue that profound difference must be constitutive of the considerations of political justice.

This chapter will be in three parts. First, I will give a brief overview of the postmodernist contribution to thinking about difference and the relevance of postmodernist insights for thinking about difference in political terms. In light of postmodernist critiques, we can question the adequacy of our

understanding of difference. Second, I will look at the idea of difference as it is represented by the persons in the original position. The critiques of Seyla Benhabib and Iris Marion Young will be addressed. Third, the principles of justice and the difference principle itself will be examined critically in light of the above critiques.

The persons in the original position are a representational fiction which may serve its purpose to deduce principles of justice, but, because these persons embody an ideal, they cannot represent differently situated individuals who are unable to be involved in reciprocal relations, for example. Profound difference cannot be accommodated within Rawls's theory. I hope to show that difference needs to be thought of in a non-reductionist way if we are to implement principles of justice that are inclusive of all participants in society. This may also allow us to think of difference not as a source of conflict but as a way of thinking inclusively about diversity.

POSTMODERNIST DIFFER(A)NCE

It is certainly not the case that liberal theory has no understanding of difference. In fact, liberal theory acknowledges, in some instances explicitly, that difference exists. But the liberal tradition deliberately ignores difference in order to render it invisible in the public sphere. One of the

reasons for this is to affirm egalitarian ideals. As Jane Flax explains in 'Beyond Equality: Gender, Justice and Difference',

... liberal theorists accepted or incorporated a fundamental tenet of their medieval forefathers (differences, inequalities and domination are inseparable) but insisted that an essential sameness existed which overrode, at least in the public sphere, these natural differences.³

These liberal guidelines have brought about consonant developments in our attitudes towards difference. Our fears of difference and oppression have caused us to neglect the issue of difference. As Lorde expresses it so well in the introductory quote, we do not have the tools to encounter difference. Our medieval and liberal forefathers may have been right that to acknowledge difference is to inevitably edge towards oppression on the basis of difference. Lorde also points to another way in which difference can lead to oppression: by simply ignoring it.

This expresses what Minow calls the 'dilemma of difference'.

In Making All the Difference, she asks

when does treating people differently emphasize their differences and stigmatize or hinder them on that basis? and when does treating people the same become insensitive to their difference and likely to stigmatize or hinder them on that basis? ⁴

She calls this 'the dilemma of difference' in that "[t]he stigma

³Jane Flax, "Beyond Equality: Gender, Justice and Difference", in *Beyond Equality and Difference: Citizenship, Feminist Politics and Female Subjectivity*, Gisela Bock and Susan James, eds. (Routledge: London, 1992), 194.

⁴Martha Minow, *Making All the Difference: Inclusion, Exclusion, and the American Law*, (Ithaca: Cornell University Press, 1990), 20.

of difference may be recreated by ignoring and by focusing on it."⁵

Indeed difference poses a problem for political theory. We can no longer assume that difference is irrelevant in the public sphere. As the writings of women, people of colour, people with disabilities, marginalized workers, gays, lesbians and queers have pointed out: difference is important and we need to incorporate it in our thinking. It is not enough to address difference by practical means; difference must be recast within our theoretical endeavours.

It may be a truism to state that difference is usually thought of as the simple opposite of identity, but this thinking is quite insidious to a lot of political writing. It is useful to uncover the ways in which this assumption arises and the political consequences it can entail. In traditional liberal theory, difference is seen as overlying a basic sameness. Everyone possesses this same core and differences are merely superimposed on top of this core; they are deemed unimportant. Difference in this sense can be seen as something that can be shed, peeled off to expose a basic sameness or identity.

⁵Idem.

This has been challenged in recent writings.⁶ What is claimed is not that identity is basic and difference somewhat secondary but, rather, that the issue of difference has fundamental implications both for challenging certain normative assumptions about sameness, and for rethinking our understanding of inclusion in societal terms. In these writings, the inherent differences between persons or groups are not to be thought of as making the different persons or groups simply outcasts and thereby marginalized. The assumption that 'since the different cannot be reconciled with the accepted same, it should be cast out' is exposed and challenged. This is not merely a matter of practicality but of theoretical import. What is called for is a move out of the paradigm of the binary term identity/difference.

Grosz explains the meaning of difference in postmodernism as it was borrowed initially from Saussure and has evolved from this starting point.

The concept of difference in the context of Saussurian linguistics refers to the fact that no sign has any positive characteristics in and of itself. Each sign can only be defined in terms of what it is not. This concept of linguistic difference has served as a useful metaphor for defining the relations between the sexes without privileging one sex and defining the other as its opposite. Moreover, unlike binary oppositions, terms related by difference can admit a third, fourth, etc, term. Where dichotomies take on the A/not-A form, differences take the form of A/B

⁶For various writings about difference see the works of Iris Marion Young in particular *Justice and the Politics of Difference*, (Princeton: Princeton University Press, 1990) and also *Democracy and Difference: Contesting the Boundaries of the Political*, Seyla Benhabib, ed. (Princeton: Princeton University Press, 1996).

relations.⁷

Poststructuralist and postmodernist thought has held some promise for feminists because of the possibility of deconstructing socially accepted categories like male/female, masculine/feminine, nature/nurture and so on⁸. But there is nonetheless a strong debate amongst feminist theorists about the promise of postmodernism. Some see it as an ally to feminist theory others as essentially problematic because it denies any possibility of constructing narratives that pertain to women and because it also relies on some vague utopian aspirations that make it difficult to theoretically challenge the political status quo. Thus, it is claimed, negating the category of women can be just another way of glossing over women's experiences, and often means the possibility of a strong critical stance is lost.⁹

Nevertheless, postmodernism, because it has paid explicit attention to difference can yield useful insights on the concept of difference for political theory. If nothing else,

⁷Elizabeth Grosz, *Sexual Subversions: Three French Feminists*, (Sydney: Allen and Unwin, 1989), xvii.

⁸See, for example, the works of Elizabeth Grosz, Judith Butler, Drucilla Cornell, Nancy Fraser and Linda Nicholson to name a few theorists.

⁹See, for example, *Feminism/Postmodernism*, Linda J. Nicholson, (New York: Routledge, 1990); for a more explicit debate see *Feminist Contentions: A Philosophical Exchange*, Seyla Benhabib, Judith Butler, Drucilla Cornell and Nancy Fraser, (New York: Routledge, 1995).

postmodernism focuses our attention on the fact that blatant oppositional terms are constructed and that such a construction does not necessarily express a real black and white dichotomy. Scott explains in 'Deconstructing Equality-Versus-Difference: Or, the Uses of Poststructuralist Theory for Feminism', that "fixed oppositions conceal the extent to which things presented as oppositional are, in fact, interdependent-that is, they derive their meaning from a particularly established contrast rather than from some inherent or pure antithesis".¹⁰

Identity and difference are often seen as opposed values. If something is different from something else, then it is understood to be excluded from that other category. This has usually been understood as a relatively simple opposition. Identity and difference are not necessarily opposed as Connolly explains in his book *Identity/Difference*, they are in fact crucially intertwined. He calls this the 'paradox of difference'.

Identity is thus a slippery, insecure experience, dependent on its ability to define difference and vulnerable to the tendency of entities it would so define to counter, resist, overturn, or subvert definitions applied to them. Identity stands in a complex, political, relation to differences it seeks to fix. This complexity is intimated by variations in the degree to which differences from self-identity are treated as complementary identities, contending identities, negative identities, or nonidentities; variations in the extent to which the voice of difference is heard as that with which one should remain engaged or as a symptom of

¹⁰Joan W. Scott, "Deconstructing Equality-Versus-Difference: or, the Uses of Poststructuralist Theory for Feminism", in *Theorising Feminism: Parallel Trends in the Humanities and Social Sciences*, Anne C. Herrmann and Abigail Stewart, eds. (Boulder: Westview Press, 1994), 361.

sickness, inferiority, or evil; variations in the degree to which self-choice or cultural determination is attributed to alter-identities; variations in the degree to which one's own claim to identity is blocked by the power opposing claimants or they are blocked by one's own power; and so on.¹¹

Connolly thus brings to our attention the fact that identity and difference as such do not have some kind of independent existence. There is, implicit within such concepts, a matter of degree not unlike what was encountered in the concept of autonomy. One is more or less autonomous; certainly the kantian ideal can be seen as the epitome of autonomous reflection. But it is just that, an ideal. Things can be more or less different and, as Connolly points out, there is a construction of difference; the category of identical rests on such a construction. The terms are then relational and this is of crucial importance. In order to have the identical, there needs to be a different.

Thus we have a 'dilemma of difference' and a 'paradox of difference'. Minow's concept calls for an understanding of the political importance of either emphasizing or ignoring difference. Connolly draws our attention to difference as an implicitly relational category as well as one that is socially constructed.

Traditional liberal theory has emphasized identity over

¹¹William E. Connolly, *Identity/Difference: Democratic Negotiations of Political Paradox*, (Ithaca: Cornell University Press, 1991), 64-65.

difference. Iris Marion Young specifically uses the ideas developed by Adorno to criticize the western repression of difference in preference for a logic of identity. This "logic of identity expresses one construction of the meaning and operations of reason; an urge to think things together, to reduce them to unity."¹² This is not necessarily bad as it is part of the thought process. It is similar to abstraction and idealisation. These thought processes are not problematic in themselves.

The problem arises when such a process somehow excludes something that is vital to what is being theorized. As Young writes further

[a]ny conceptualization brings impressions and flux of experience into an order that unifies and compares. But the logic of identity goes beyond the attempt to order and compare the particulars of experience. It constructs totalizing systems in which the unifying categories are themselves unified under principles, where the ideal is to reduce everything to one first principle.¹³

According to Young the effect is to deny difference. In fact she states, "[t]he irony of the logic of identity is that by seeking to reduce the differently similar to the same, it turns the merely different into the absolutely other"¹⁴. The logic of identity means that if the problematic different cannot be reconciled with the ideal of the prevalent same, then it will be

¹²Iris Marion Young, *Justice and the Politics of Difference*, op. cit., 98.

¹³Idem.

¹⁴Ibid., 99.

excluded.

Young does show us, at least, that there can be a threat of exclusion when something falls into the category of different. This is not simply on a practical level but on a theoretical level as well. The different falls outside theoretical consideration because it becomes obscured; it no longer matters, nor is it relevant. This, I believe, is an important point that postmodernist thinking has revealed. Not only are difference and identity related terms, but there is always the threat of forgetting the different because it cannot be subsumed under the identical. Therefore, if something falls outside our theoretical categories, even the best of practical intentions cannot redress this omission because the different has simply been erased, rendered invisible from our thinking.

By trying to define a common ground upon which differing individuals can live together, we may institute a unified public space where difference is understood only as secondary to an ideal of uniformity. If such a public space cannot accommodate difference, then the different is deleted completely from the public sphere and thereby confined exclusively within the private sphere. This is the pernicious effect the logic of identity can have for political theory.

Difference needs to be thought of in ways other than

'different from'. This expression implies that we are judging the different by an accepted norm. Usually, it is assumed that deviance from the norm can be addressed by practical means; adjustments can be made at the level of application. What postmodernism shows us is that such attempts at unification may be exclusive. Once the different is excluded from our theoretical framework, it cannot be recuperated by practical means because it has simply been rendered invisible.

We cannot manage difference when we try to sublimate it under an ideal of identity or sameness. How can practical means address the invisible? It is simply impossible. I propose first to rethink difference by looking at how it has been addressed in liberal writings, then to reconceive difference with the broadened perspective given to us by postmodernist thought. Rethinking difference allows us to view society as a place where all individuals can flourish as opposed to a place where they nervously guard their property and their lives. As Connolly writes "...a good society...enables the paradox of difference to find expression in public life"¹⁵. This implies trying to understand difference. In 'The Discourse of Others: Feminists and Postmodernists', Craig Owens proposes that "[w]hat we must learn, then, is how to conceive difference without opposition" ¹⁶.

¹⁵William E. Connolly, op. cit., 94.

¹⁶Craig Owens, "The Discourse of Others: Feminists and Postmodernism", in *The Anti-Aesthetic: Essays on Postmodern Culture*, (Port Townsend, Washington: Bay Press, 1983), 62.

Difference as conceptualized by liberal theory carries with it the threat of exclusion; this was alluded to by Lorde in the initial quote. With this in mind, let us now turn to difference as it is conceptualised in Rawls's theory. This will be done, firstly, by looking at persons in the original position and secondly, by the looking at the principles of justice.

PERSONS IN THE ORIGINAL POSITION AND THE VEIL OF IGNORANCE

Fundamental to Rawls's theory is the fiction of persons in the original position behind a veil of ignorance. The original position is

understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice. Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I even assume that the parties do not know their conceptions of the good or their psychological propensities. The principles of justice are chosen behind a veil of ignorance.¹⁷

The fiction of persons in the original position as posited by Rawls has been greatly misunderstood. I find that Larmore's explanation and illustration of persons in the original position as well as the veil of ignorance is instructive. He writes:

a general feature of rational discussion is that when parties disagree about how to solve a problem (e.g., what common political principles to institute), they retreat to a common ground, to the views they continue to share despite

¹⁷John Rawls, *A Theory of Justice*, op. cit., 12.

their differences, with the hope that this common basis either will provide the means for resolving the disagreement one way or the other or at least will yield some neutral principles for solving the ulterior problem they continue to face. The veil of ignorance in Rawls's theory need be taken as no more than just such a common ground.¹⁸

Persons in the original position reflect on the differing circumstances of life which might be theirs. Rawls has been accused of not taking into account how actual people might think in such a type of situation. People with a high tolerance for risk might not come to the principles of justice. Rawls is careful to stress that this fiction is not a theory of moral psychology.¹⁹ By focusing on such objections, a crucial point is often lost: the persons in the original position are not empirical subjects. They are ignorant of their particular circumstances so they can reflect unbiased; by being ignorant of their particularities, they are "not affected by the contingencies of the social world" so that bargaining advantages are eliminated.²⁰ The persons in the original position do know that they have some basic capacities such as rational thought and an ability to form a concept of the good life and that they are fully cooperating members of society.²¹

¹⁸Charles Larmore, *Patterns of Moral Complexity*, op. cit., 124.

¹⁹John Rawls, *Political Liberalism*, op. cit., 28.

²⁰John Rawls, *Political Liberalism*, op. cit., 23.

²¹John Rawls, *Political Liberalism*, op. cit., 29-35.

As such, the persons in the original position are quite similar. They have no idea of their difference as it pertains to them because they are behind a veil of ignorance. The persons in the original position can think of different circumstances or different types of situations but they have not experienced such situations. They also know that they all possess the same basic capacities. Because of their common ignorance and same basic capacities, they are inherently similar.

One of the objections to the fiction of the original position is that principles of justice cannot be arrived at in what seems to be an 'ex nihilo' type of reflection. This objection has been raised by many feminists and Rawls has tried to answer these criticisms in his writings by specifying that the original position is simply a device or representation. Nonetheless, it has been charged that there is an inherent epistemic fallacy in claiming that the fiction of the original position can generate principles of justice.

BENHABIB'S CRITIQUE OF THE ORIGINAL POSITION

For a succinct and clear exposition of the problem posed by this objection, I propose to look at Seyla Benhabib's criticism of universalistic moral theories and the original position which she has developed in *Situating the Self*. She questions

the assumption that "taking the viewpoint of others" is truly compatible with this notion of fairness as reasoning

behind a "veil of ignorance". The problem is that the defensible kernel of the ideas of reciprocity and fairness are thereby identified with the perspective of the disembodied and disembodied generalized other.²²

Benhabib calls for taking the standpoint of a 'concrete other' to supplement moral and ethical theory. She tries to show that "ignoring the standpoint of the concrete other leads to epistemic incoherence in universalistic moral theories"²³.

Classical moral theory uses a concept of the individual which is considered universally applicable. This is what Benhabib, amongst others, refers to as the 'generalized' other. This ideal ensures that a moral theory is universalistic and that individuals are not discriminated against because of their particularities. The same can be said about a political theory that uses a concept of the 'generalized' other.

Benhabib's main criticism of classical moral theory is that the restriction of the moral point of view to the perspective of the 'generalized' other is wrong. Taken alone this perspective leads to the exclusion of marginalized individuals' experiences. The universalistic point of view needs to be completed by what she terms 'the standpoint of the concrete other'²⁴.

²²Seyla Benhabib, *Situating the Self : Gender, Community and Postmodernism in Contemporary Ethics*, (New York: Routledge, 1992), 160.

²³Ibid., 161.

²⁴Ibid., 163-164.

According to Benhabib, these two ways of seeing the individual can also be applied to political theory. Her proposal is regulative: the principles acquired from a universalizable point of view must be assessed by applying them to a particular situation. This does not imply that such a view only has practical implications. The concept of the individual should be bi-faceted and each facet plays an important theoretical role.

The role played by the standpoint of the concrete other is the basis of Benhabib's critique of Rawls. There is a danger, according to Benhabib, that

in not making room to confront the 'otherness' of the other, the original position, despite all of Rawls' own intentions to the contrary, can leave all our prejudices, misunderstandings and hostilities in society, just as they are, hidden behind a veil. By contrast, only a moral dialogue that is truly open and reflexive and that does not function with unnecessary epistemic limitations can lead to a mutual understanding of otherness.²⁵

Benhabib's model of moral dialogue is based on Habermas's discourse ethics but, unlike his model, Benhabib claims that individuals would not try to reach 'a consensus' but rather 'an understanding'. Benhabib sees consensus as a normatively regulative ideal but not a goal in itself. Thus consensus would be something worth striving for, but it need not be reached. Instead individuals involved in negotiations would try to understand each other's points of view. There would be room for

²⁵Ibid., p.167-168.

progress as individuals involved in the process came to an agreement, but there would always be room for criticism of this agreement and consequently changes could be made to it.

Benhabib argues that we need to think of the individual in more than one way. Her concept of the individual is two-faceted: concrete and generalized. The concrete individual can be used as a check on principles of justice and the generalized concept is used to regulate our discussion. By proposing such a structure Benhabib wishes to accomplish two things. First, she situates the self "more decisively in contexts of gender and community" and second, because her concept insists "upon the discursive power of individuals to challenge such situatedness in the name of universalistic principles, future identities and as yet undiscovered communities", she gives individuals the means to act on their environment.²⁶ Individuals can criticize the structures or arrangements in the communities. Therefore, she attempts to avoid one of the pitfalls of the more conservative communitarian views, which is to locate the individual so precisely in a context that the individual can never leave the particular context behind without changing her status as individual.

Yet the viewpoint of the situated or concrete individual needs to be complemented by that of the generalized other. We

²⁶Ibid., 8.

cannot simply call for a non-violent relation to the other.

...[T]hat injunction alone cannot serve as the basis of justice: quite to the contrary, it presupposes a universalistic justice insofar as it implies that every human person, no matter how different from us, must be treated as one to whom I owe respect.²⁷

For this we need the standpoint of the generalised other. Social criticism must have normative foundations meaning "the conceptual possibility of justifying the norms of universal moral respect and egalitarian reciprocity on rational grounds; no more and no less".²⁸

Benhabib attempts to give us concrete norms from which to proceed. She also sees the understanding between individuals as evolving; thus the dialogue between individuals evolves. In this she shares the same goal as some postmodernists: our norms can be challenged and can develop. The strength of the concrete standpoint is that it cannot be defined, whereas the generalized standpoint can be defined. There is some ambiguity in the sense that the subject as concrete must be left open to interpretation. Yet the standpoint of the generalized operates within certain boundaries and imposes limits on the concrete. Ultimately the generalized view point can impose restrictions on the concrete.

²⁷Seyla Benhabib, "Subjectivity, Historiography, and Politics" in *Feminist Contentions*, Seyla Benhabib, Judith Butler, Drucilla Cornell and Nancy Fraser, (New York: Routledge, 1995), 117.

²⁸*Ibid.*, 118.

Benhabib claims her proposal for a new concept of the subject is bi-faceted. I would argue rather that there is a dichotomy. Her subject is not unified: when confronted by Benhabib's other we must think of her as concrete and deal with her particularities and yet confront her concreteness by applying rules that are universal. Benhabib does not apply any idealizations or abstractions to her concrete subject but she needs to confront this subject with universal rules. This view is not necessarily unkantian. That is, as interpreted by Onora O'Neill, kantian practical reasoning gives us guide lines to accomplish this. Thus the generalization demanded by kantian autonomy need not be extended to sever the individual from all ties with reality.

Benhabib's criticism applies to a very restricted view of the kantian autonomous person involved in moral deliberation. A broader understanding of kantian reasoning would allow the generalised other to play the role of adjudicator and for particular circumstances or the concrete other to be the ground in which the question arises. As it pertains to the device of the persons in the original position, Benhabib's point is that persons in the original position cannot arrive at principles of justice since they are cut off from their contexts.

It is important to understand how the notion of rational autonomy is used in the original position. Benhabib objects to

the fact that persons in the original position do not know of their social circumstances. That does not necessarily imply that persons in the original position are completely unaware of difficult circumstances. For example, it does not mean that they cannot know what it is to be a person with disabilities only that they do not know if they will be such a person in the society for which they are deliberating. Thus persons in the original position are blind to reality as it pertains to them but not to society in general.

The point of the rational autonomous persons in the original position is that their reflections are uncoerced by their circumstances. This is the crux of kantian autonomy: a reflection which is meant to be intelligible and therefore unfettered by bias and personal preference. Yet it is difficult to think of such an individual; as O'Neill notes this is an ideal and most certainly cannot be achieved by finite beings ²⁹. The strength of kantian autonomy, as interpreted by O'Neill, is its emphasis on practical reasoning. This seems readily applicable as an ideal for the autonomous reflection of a solitary moral agent. The question is: is such an ideal an appropriate tool for reflecting on principles which will regulate a society of differing persons? The answer is clearly 'no' for Benhabib.

This ideal of the fiction of the original position brings

²⁹Onora O'Neill, *Constructions of Reason*, op. cit., 77.

forth another problem as identified by Benhabib: because persons are devoid of particularities, they are all the same. Thus the capacity for reasoning has smoothed out all the differences between the agents. Her call for the standpoint of a concrete other is an attempt to bring back the issue of difference. Her agents are involved in deliberation from differing circumstances. Benhabib's point should be well taken that individuals in the same position might not be the ideal candidates to arrive at principles of justice. Certainly this seems true enough for an actual, lived scenario; nonetheless, it misses the point of Rawls's astuteness: the point of the original position is to emphasize the practical process of this reasoning on justice.

Rawls posits the persons in the original position as ideal thinkers. Benhabib's criticism is that, firstly, such a thinker is devoid of all context, secondly, this person is deliberating with someone identical to herself. She understands moral, and, by extension, political deliberation as involving at least two different persons. As she states in *Situating the Self*,

...my critique of Rawls is a procedural one: I am critical of the construction of the 'original position' as an implausibly restricted process of individual deliberation rather than an open-ended process of collective moral argumentation.²⁰

This is a crucial point. Unlike the feminist critiques which we saw earlier in the third chapter, where it was charged that

²⁰Seyla Benhabib, *Situating the Self*, op. cit., p. 169.

the procedural ideal of moral deliberation had been extended to an ontological ideal of the moral agent, here Benhabib is taking issue with the type of deliberation that the original position entails. According to Benhabib this ideal is useless. Persons in the original position, by virtue of their sameness, cannot be confronted by difference since they are pure rational thinkers. Not only are they missing social contexts, they are missing bodies. Faithful not only to the cartesian legacy, but also to the complex role embodiment plays in our experiences by means of its absence, Rawls's persons in the original position are just reflective minds.²¹

Rawls wants to insure that all contingent circumstances are rendered invisible so as not to bias the deliberation of the persons in the original position. For this reason, persons in the original position are taken out of their contexts such that no external forces can affect them. Difference needs to be addressed concretely at this early theoretical level, according to Benhabib, and Rawls's theory fails to do this.

Susan Moller Okin defends Rawls's position by saying that

[t]hose in the original position cannot think from the position of *nobody*, as is suggested by those critics who

²¹In *The Absent Body*, Drew Leder argues that not only are we under the influence of cartesian dualism but that this is supported by our experiences of embodiment. He refers to such experiences as that of 'bodily absence'. The body recedes from experience. Drew Leder, *The Absent Body*, (Chicago : University of Chicago Press, 1990).

then conclude that Rawls's theory depends upon a 'disembodied' concept of the self. They must, rather, think from the perspective of *everybody*, in the sense of each in *turn*. To do this requires, at the very least, both strong empathy and a preparedness to listen carefully to the very different points of view of others.²²

The question remains though how would the different points of view be generated since all the persons in the original position seem to be virtually the same?

Minow also questions this ideal of the original position.

She writes

[a]n especially telling remnant of particularity within Rawls's failed attempt to posit an individual removed from particular circumstances is that the very form of his questions presumes that the person behind the veil of ignorance is not the worst-off person. It assumes some essence of a self preexisting one's situation, and anyone would approach the possibility of being worst off in the same way. Like the assumption of an unsituated perspective that contributed to the dilemma of difference, this approach ignores contrary perspectives while denying that it is partial. Rawls's question is put only to the particular person who is not the worse off, a particular person who is not likely to understand fully the situation of the worst-off.²³

In fact, the persons in the original position know that they are fully cooperating members of society. They are privileged in this way because they know that they are not really sick or minors, and, therefore, they are not in dire need of protection.

Rawls has proposed this on purpose. He states that the

²²Susan Moller Okin, *Justice, Gender and the Family*, (New York: Basic Books, 1989), 101.

²³Martha Minow, *Making All the Differences: Inclusion, Exclusion, and the American Law*, op. cit., 154.

original position is "a purely hypothetical situation characterized so as to lead to certain conception of justice"²⁴. There is a bias which is fully acknowledged by Rawls. The persons in the original position are persons who are arriving at contractual terms. The ideal of contract is based on the ideal of persons involved in a reciprocal situation. Fundamentally differing individuals might not be involved in a contract or a reciprocal arrangement. Therefore, the public space is theorised for similarly situated persons. Rawls makes room for diverging interests and conceptions of the good and even differing social circumstances and abilities to a certain extent. But as he himself states, the hard cases such as members of society which cannot cooperate are left out of his initial discussion.

Any difference that arises between the persons in the original position can be represented by anyone. This is what Benhabib rejects. As she writes "Rawls falls back upon 'substitutionalist' reasoning when in fact he assumes that we can, for purposes of distribution, identify 'the expectations of representative men'"²⁵.

There are two main objections then. The first one raised by Benhabib is that the fiction of the persons in the original

²⁴John Rawls, *A Theory of Justice*, op. cit., 12.

²⁵Seyla Benhabib, *Situating the Self*, op. cit., 168.

position is useless. The second one raised by Minow is that persons in the original position understand themselves and the persons for whom they are formulating principles of justice to be fully capable beings.

I will turn to the first one now. I would not necessarily agree with Benhabib that Rawls's project is inherently flawed and that communicative ethics holds the only hope of resolving matters of political justice. In fact, Young, who is sympathetic to communicative ethics, calls attention to the fact that even within communicative ethics, difference can be repressed. She argues that "identifying moral respect and reciprocity with symmetry and reversibility of perspectives tends to close off the differentiation among subjects that Benhabib wants to keep open"²⁶. Even communicative ethics can have a tendency to erase difference. Careful attention should be given to how difference is treated within a political theory. The standpoint of the concrete other is not a guarantee that difference has been attended to. How deliberation is undertaken is also important. It may seem that Benhabib's proposal is more respectful of difference than Rawls's but it still can be guilty of ignoring difference. I would not, therefore, immediately concede that communicative ethics can address difference whereas Rawls's

²⁶Iris Marion Young, "Asymmetrical Reciprocity: On Moral Respect, Wonder and Enlarged Thought", *Constellations* 3, No. 3., (January, 1997), 343.

theory cannot.²⁷

More fundamental is Minow's critique of Rawls. Not only does she object to the fact that an ideal of similarly situated persons could reflect on principles of justice that would regulate a society of differing persons, she also objects to Rawls's use of the type of abstract individualism which is inherent in the fiction of the original position and the contract tradition in particular.

Despite the implied aspiration to universal inclusion, the social contract approach has been deeply exclusionary. It is not only that any sign of difference, any shred of situated perspective, threatens the claim to similarity, equality, and identity as an abstract individual-although these problems are serious enough; it is that this conception amounts to a preference for some points of view over others; it takes some types of people as the norm and assigns a position of difference to others (thus adopting the assumptions behind the difference dilemma).²⁸

Minow calls attention to the fact that Rawls's idealization of the persons in the original position as a certain type of person, that is as contracting individuals who are fully cooperating persons, is not neutral and that it is extended to be the ideal of all persons in society.

It is clear from Rawls's writings that his fiction is

²⁷For a critique of Habermas's communicative model as it pertains to difference see Carol C. Gould, "Diversity and Democracy: Representing Differences", in *Democracy and Difference: Contesting the Boundaries of the Political*, op. cit., 171-186.

²⁸Martha Minow, *Making All the Differences: Inclusion, Exclusion, and the American Law*, op. cit., 152.

intended to simplify the case of society so we can focus on

...the fundamental question of political justice: namely, what is the most appropriate conception of justice for specifying the terms of social cooperation between citizens regarded as free and equal, and as normal and fully cooperating members of society over a complete life? ³⁹

In reality society is not like this, and Rawls acknowledges this:

[b]ut given our aim, I put aside for the time being these temporary disabilities and also permanent disabilities or mental disorders so severe as to prevent people from being cooperating members of society in the usual sense. Thus, while we begin with an idea of the person implicit in the public political culture, we idealize and simplify this idea in various ways in order to focus first on the main question.⁴⁰

It is fundamental to ask, then, whether Rawls's idealization is a useful one or if it simply renders the problematic invisible. It must also be pondered whether such a problematic situation is to be addressed by considerations of justice or if it falls outside considerations of justice altogether. It is important to get an answer to these questions as they are fundamental premises upon which Rawls's theory is built upon.

Because the principles of justice "are to regulate the institutions of the basic structure itself"⁴¹, these principles will be confronting difference and how they will manage difference will make the society just or unjust. Let us, then,

³⁹John Rawls, *Political Liberalism*, op. cit., 20.

⁴⁰Idem.

⁴¹John Rawls, *Political Liberalism*, op. cit., 23.

examine the principles of justice in light of an understanding of difference. Perhaps we can get a clearer idea of the scope of political justice within Rawls's theory by such an analysis.

PRINCIPLES OF JUSTICE

In Rawls's theory, in order to be sensitive to the different circumstances of the various individuals in society and in order to institute a fair system of cooperation, principles of justice must be articulated. The purpose of the fiction of the original position is to arrive at such principles of justice which will serve as guidelines for the 'basic structure of society'. "They are to govern the assignment of rights and duties and to regulate the distribution of social and economic advantages" ⁴². In *Political Liberalism*, the principles are reformulated by Rawls as follows:

- a. Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.
- b. Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society. ⁴³

There is an implicit acknowledgement of difference in each of the principles. In the first one, it is understood that

⁴²John Rawls, *A Theory of Justice*, op. cit., 61.

⁴³John Rawls, *Political Liberalism*, op. cit., 291.

various individuals will have differing projects and needs. In the second principle, difference, understood in terms of inequality of social and economic advantages, is explicitly granted. I will examine the implied concept of difference and the consequences it entails in each of the principles.

FIRST PRINCIPLE OF JUSTICE

The first principle of justice is fairly broad and seeks to accommodate the needs of differing individuals by taking into consideration their abilities and their right to fulfil their ambitions within the context of a cooperative social scheme. From this principle, a list of primary goods is deduced.⁴⁴ The list of which goods are necessarily primary can be quite varied and is open to certain interpretations.

Rawls is favourable to a list of primary goods that is not solely the result of considerations pertaining to the individual's basic needs only.⁴⁵ In his writings he engages Amartya Sen's criticisms, for example, which focus on

⁴⁴For the actual list of primary goods see John Rawls, *Political Liberalism*, op. cit., 181. For a broader discussion see, 178-190.

⁴⁵It is interesting that the list of primary goods can be interpreted in a large way. The interpretation can be quite minimalistic or fairly broadly socialist. See, for example, R. G. Peffer, *Marxism, Morality and Social Justice*, (Princeton: Princeton University Press, 1990), 14, and 416 ff.

capabilities. Sen's view does call for an understanding of varying capabilities but the variation of capabilities is still within the range understood for a fully cooperating member of society. Sen's argument is then, as I see it, on par with Rawls's and both are not irreconcilable.⁴⁶ Nonetheless, the concept of capabilities is more relational than that of goods and could accommodate an understanding of profoundly different persons with caretaking needs, for example. Therefore, the first principle could be altered without jeopardizing Rawls's whole argument.

Of relevance is the fifth primary good which calls for 'the social bases of self-respect'⁴⁷. In *A Theory of Justice*, Rawls discusses at length self-respect and even shame and the importance of self-respect which in turn "increases the effectiveness of social cooperation"⁴⁸. He defends this primary good not only on the basis that it is essential for a person, or that it has value in itself, but also because it increases social cooperation. It must always be understood that this primary good is intended for a member of society who is a

⁴⁶See Amartya Sen's discussions "Capability and Well-Being" in the *Quality of Life*, Martha Nussbaum and Amartya Sen, eds., (Clarendon Press, 1993), 30-53, and "Equality of What?" in *The Tanner Lectures on Human Value I*, op. cit. As well Rawls's discussion of Sen's criticisms in *Political Liberalism*, op. cit., 181-186, and "Social Unity and Primary Goods", in *Utilitarianism and Beyond*, Amartya Sen and Bernard Williams, eds., op. cit., 168, n.8.

⁴⁷John Rawls, *Political Liberalism*, op. cit., 181.

⁴⁸John Rawls, *A Theory of Justice*, op. cit., 178. For the discussion of 'Self-Respect, Excellences, and Shame', 442-446.

fully cooperating member.

Education and even health care could be defended as an essential part of the primary good of self-respect since they are necessary for the members of society to be or to regain their status as fully functioning members. One could argue that self-respect, in certain instances, requires caretaking. If a member of society has certain disabilities which require the care of another, this requirement could be added because it is instrumental to a persons self-respect and could be of eventual benefit to the whole of society if it enhances this person's self-worth.⁴⁹ A similar argument was made by Rawls for education.⁵⁰

It would seem that physical disabilities could be attended to but perhaps not mental handicaps and certainly not if any of these are severe. Eva Feder Kittay argues in 'Human Dependency and Rawlsian Equality' that even a generous interpretation of this primary good does not and cannot account for the caretaking needs of certain individuals especially if the individuals are not cooperating members of society such as children.⁵¹

⁴⁹Norman Daniels argues for health care needs in *Justice and Justification: Reflective Equilibrium in Theory and Practice*, op. cit., especially in Part II.

⁵⁰John Rawls, *A Theory of Justice*, op. cit., 101 and 107.

⁵¹Eva Feder Kittay, "Human Dependency and Rawlsian Equality", in *Feminists Rethink the Self*, op. cit., 219-266.

Therefore, the first principle attends to difference by allocating primary goods to individuals on the basis of their needs as long as it is compatible with the needs of everybody else. As such it regards everyone equally in the sense that all are understood to have equal self-worth; no one is placed above the other. Different needs can be addressed as long as they are for fully-cooperating members of society and compatible with a fair scheme of cooperation.

It is conceivable that a person in the original position could become an advocate for persons with disabilities and somehow advocate that health care needs should be included in primary goods. Again the point that would need to be stressed is that such individuals would see their status as cooperating members of society enhanced and thus all of society would benefit. If such a case could not be made, then it simply could not be a subject relevant to a discussion of regulative principles for a fair social scheme, understood in Rawls's terms.

With the first principle of justice, it seems that difference is attended to as long as a case can be made for a positive contribution to society. Always engaged in the fairness of the distribution of resources allocated to primary goods is the notion of cooperation and everyone's gain. In his discussion about education, Rawls does say that the role it plays in enriching the personal and social life of the individual is

important, and that we are not to gauge education solely in terms of the benefit for society.⁵² In this discussion, Rawls's position is ambivalent as he considers education as a good for the person in-itself. Yet, he never claims that self-worth is good in-itself, and he always ties it to the broader perspective of social cooperation.⁵³

It is clear that allowing a person to form a life plan is an important goal for Rawls ⁵⁴, but the notion of social cooperation is also central. For the sake of simplicity, Rawls chooses to ignore persons who cannot fit into a restrictive notion of social cooperation. Therefore, he leaves the dichotomy of whether education is a good that enhances a person's self-worth and actualizes his life plan, or whether it makes social cooperation better, unresolved. It is clear that both goals are important for Rawls but it seems that social cooperation is more so because he posits persons as fully cooperating. This makes it difficult to retrieve individuals who cannot cooperate into the social equation formulated by the principles of justice.

Because Rawls does not want to posit individuals as

⁵²John Rawls, *A Theory of Justice*, op. cit., 101.

⁵³For example, in his discussion of self-respect, Rawls writes that "self-respect is reciprocally self-supporting". John Rawls, *A Theory of Justice*, op. cit., 179.

⁵⁴John Rawls, *A Theory of Justice*, op. cit., 'The Unity of the Self', 560-567.

altruistic or overly caring of others, he deems the contract situation as the best way to exemplify a social arrangement for a plurality of individuals. The political relationship between individuals is a reciprocal one understood as one of mutual benefit. The idealisation of persons as fully cooperating is meant to render Rawls's theory simpler. Rawls claims that the harder cases can be dealt with at the legislative level⁵⁵; nonetheless, it is difficult to see how this can be done since these harder cases are excluded from the original premises of his argument; they simply do not exist in the public sphere. Because the relationship between individuals needs to be reciprocal and because social cooperation must be enhanced, relations of caretaking are simply excluded from the discussion of political justice. Profoundly differing cases, such as non-cooperating individuals, are simply not thinkable within Rawls's scheme. Thus any effort to bring them back at the legislative level will fail since they have been obliterated from the initial considerations of justice.

In Rawls's theory it is simply not a matter for political justice to deal with non-cooperating individuals. Principles of justice as fairness cannot give such individuals the social basis of self-respect since their status as reciprocating social entities or cooperating members of the public sphere is non-

⁵⁵John Rawls, "Social Unity and Primary Goods", in *Utilitarianism and Beyond*, Amartya Sen and Bernard Williams, eds., op. cit., 168.

existent. Since the principles of justice are to regulate our rights and duties in the public sphere, such individuals have no rights or duties and, more importantly, cooperating persons have no duties towards them; this, of course, is for the public sphere. Because there is no room for such needs or duties in the public sphere, such rights and duties must devolve from the private sphere.

Alternatively, such rights and duties could be matters of the public sphere but would not devolve from a principle of justice; some other principle would have to be invoked. A case could be made that such rights and duties are required by charity. For example, the needy were attended to in Locke's theory because of the principle of charity.⁵⁶ However, it is difficult to see how the principle of charity could be made part of the public sphere and not remain within the confines of the private realm. Certainly this has been the case for Locke's theory; although he deemed the principle of charity to be as important as that of justice it has been forgotten from his political theory. Finally, it would be difficult to argue for such rights and duties as arising from the public sphere if these non-cooperating individuals are not seen as contributing to the public sphere.

⁵⁶John Locke, *Two Treatises of Government*, Peter Laslett, ed., (Cambridge: Cambridge University Press, 1963), Part I, Section 42.

The first principle does allow for an understanding of difference in terms of the needs of differing cooperating individuals; these needs are addressed in terms of goods. Profound differences are excluded because the principles of justice are formulated for individuals involved in reciprocal arrangements. Unlike Benhabib, I do not contend that the fiction of the original position is responsible for the obfuscation of difference. I agree instead with Minow that the ideal of the persons of the original position, as fully capable persons, who are formulating principles of justice for persons like themselves masks difference.

Rawls's idealization is problematic if we want to include in our understanding of political justice any elements of social harmony. By this, I mean an understanding within our concept of justice that allows for all individuals the possibility to optimise, as much as possible, their self-worth without tying such self-worth to an ideal of social cooperation as reciprocity for mutual benefit. Within Rawls's theory, therefore, caretaking and some health care needs and even special education needs, are difficult to address. Nonetheless, there is an element of valuing a person's life plan. Rawls's theory could perhaps be amended by Sen's notion of capabilities. The ideal of the persons in the original position is also the ideal of the political person. If primary goods or capabilities are given to persons who fit this ideal, then some individuals will be left out of the social

contract.

DIFFERENCE PRINCIPLE

Difference is addressed specifically with the second principle of justice which is also called the difference principle. The differences are seen in terms of social and economic inequalities. The reason these inequalities matter in the public sphere is because, as Rawls writes,

[t]he two principles are equivalent...to an undertaking to regard the distribution of natural abilities as a collective asset so that the more fortunate are to benefit only in ways that help those who have lost out. ⁵⁷

Of relevance are the abilities which are greater than those of the average person's.

The reason this is acceptable has to do with Rawls's view of justice and what is accountable to justice.

The natural distribution [of talents] is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just or unjust is the way in which institutions deal with these facts. ⁵⁸

Therefore, talents do not make a person more worthy than another. A fair society will not value a talented person more than another less talented one; the basic structure must also reflect this. Societal advantages due to undeserved talents must be justified

⁵⁷John Rawls, *A Theory of Justice*, op. cit., 179.

⁵⁸Ibid., 102.

and are allowed if they enhance everyone's lot. This is the reason why talents can cross the line, in a manner of speaking, from the private realm to the public one.

In traditional liberal theory everyone is equal in the public sphere; talents or disabilities are the property of the individual and do not have any public import. This is what is quite radical in Rawls's theory: it is his interpretation of political justice and his reasoning that the public sphere can make certain arbitrary attributes more valuable and thus more worthy of monetary and social rewards. The result would then be an unjust scheme of cooperation. In order to make up for this, Rawls posits the difference principle. This principle basically relies on an understanding of social justice that renders inequalities generated by social and economic institutions unacceptable unless the least advantaged are helped.

The fact that abilities can become part of the common lot of society is an innovation which is unusual for liberal theory and this has been deeply criticised by various theorists, most notably Michael Sandel. In his sustained critique, *Liberalism and the Limits of Justice*, he questions the implicit concept of the self in Rawls's theory of justice. Sandel targets the difference principle, in particular, as exemplifying this troublesome concept of the self. He writes

the difference principle acknowledges the arbitrariness of fortune by asserting that I am not really the owner but

merely the guardian or repository of the talents and capacities that happen to reside in me, and as such have no special moral claim on the fruits of their exercise. ⁵⁹

Not directly receiving all the fruits of one's labour is seen by Sandel as an indication that the individual is somehow no longer the proprietor of labour or her talents. This is yet another instance, according to Sandel, of Rawls's concept of the unencumbered self.

Sandel's critique assumes a very narrow understanding of property tied to an equally narrow understanding of what devolves from the private and public spheres. To assume that being the proprietor of one's labour or talents implies that an individual must have complete control over the fruits of her labour in order to remain the proprietor of this labour or the talents which make the labour possible is not necessarily to have a concept of the individual as embedded or encumbered. It is to conceive of a self as having to have complete control of her labour or talents in order to own them; moreover, this control is understood to translate into economic and social gains.

Sandel finds problematic that fact that

[o]n Rawls's conception, the characteristics I possess do not *attach* to the self but are only *related* to the self, standing always at a certain distance. This is what makes them attributed rather than constituents of my person; they

⁵⁹Michael J. Sandel, *Liberalism and the Limits of Justice*, (Cambridge: Cambridge University Press, 1982), 70.

are mine rather than me, things I have rather than a». ⁶⁰

Sandel would have to agree that not all labour results in direct ownership of one's object of labour or of having complete control over one's object of labour. This is certainly the case for labour involved in performing duties. The talents and labour involved in parenting do not result in the ownership of one's object of labour, yet this does not imply that such skills are not the property of the parents, nor does it imply that parents are unencumbered selves. It simply means that some types of labour are required for some tasks which do not directly result in ownership. This is more a matter of which acts are required by duty and whether such acts of duty devolve only from the private sphere or if they belong to the public sphere.

Therefore, just because the fruits of one's labour can become the lot of all does not imply that they are separable from the self and that this self is no longer considered as the proprietor of her labour or talents. In fact it is not unusual in liberal theory to have a principle that makes the sharing of one's overabundance an imperative. Locke certainly had this in his political theory, yet Locke's understanding of the individual is certainly that of a primarily possessive individual. ⁶¹ I would claim instead that the underlying assumption is not about

⁶⁰Ibid., 85.

⁶¹C.B. Macpherson, *The Political Theory of Possessive Individualism: from Hobbes to Locke*, (Oxford: Oxford University Press, 1962).

the self but really about what constitutes matters of justice and what is appropriate to the public and private realms. A society that calls for a sharing of the fruits of one's labour is not a society that necessarily assumes that the individual does not own his talents and that they are mere appendages to the self, but, rather, it is a society that makes certain assumptions about the dealings of individuals with each other. The distribution of the fruits of one's labour is more a matter of the implied conception of justice rather than about the implicit assumption of the metaphysical status of the self.

Sandel's criticism has been addressed by Kymlicka in *Liberalism, Community and Culture*. According to Kymlicka, Sandel's view is mistaken.

The reason Rawls denies that people are entitled to the fruits of the exercise of their natural talents is that no one deserves their place in the lottery of natural talents, no one deserves to have more natural talents than anyone else. Differential natural talents, and corresponding differential earning power, are undeserved, and undeserved inequalities should be compensated for. This position is entirely consistent with the claim that natural talents are constituents of the self. ⁶²

Sandel has a very narrow understanding of property, labour and the public sphere, which make his criticisms coherent. Yet I agree with Kymlicka that Sandel's accusations about the lack of control over the fruits of one's labour are irrelevant to the status of the self.

⁶²Will Kymlicka, *Liberalism, Community and Culture*, (Oxford: Clarendon Press, 1989), 71, note 3.

Sandel's point is helped by the additional critiques that accuse Rawls's concept of the individual and the person in the original position of being disembodied. I would agree with this, but I find little evidence that Sandel's encumbered self is embodied. If Rawls's person suffers from the lack of a body so does Sandel's. Nonetheless, it is a feature of Rawls's theory, not unlike most political theories, that individuals seem to lack bodies. Kymlicka's claim that Rawls's theory is capable of recognizing embodiment ⁶³ is difficult to sustain since Rawls's theory seems to have difficulty in accounting for difference, given the problems already encountered with the original position and the first principle of justice.

For our purposes, suffice it to say that Sandel's criticisms do point to a legitimate concern over the implied understanding of the person in Rawls's theory. And I would not say it is because the talents or the fruits of the labour of one person are shared by everyone but because only the talents can become relevant to the public sphere. If talents and therefore some features of the individual can cross from the private to the public realm why can't other features? Why stop at the ideal of fully cooperating? This has to do with the implicit requirements of social cooperation based on a reciprocal arrangement.

One of the primary aims of the difference principle is to

⁶³Idem.

adjudicate inequalities as fairly as possible given the context of a social scheme of cooperation which relies primarily on reciprocity. Of critical importance is the fact that the difference principle is not a principle of redress. As Rawls explicitly states

[the difference principle] does not require society to try to even out handicaps as if all were expected to compete on a fair basis in the same race. But the difference principle would allocate resources in education, say, so as to improve the long terms expectations of the least favoured. If this end is attained by giving more attention to the more endowed, it is permissible; otherwise not.⁶⁴

I find this to be a rather dichotomous view. Some properties of the individual are relevant to the public sphere and some are not. Where is the line drawn? In more libertarian theories, a person's assets are considered his own property regardless of what they are. If they are great talents which can translate into economic advantage then wonderful; if not, well it certainly is not a matter for political justice.⁶⁵ In *Anarchy, State and Utopia*, Nozick's view is coherent in that all personal talents or capabilities belong to the private realm. Difference for the public sphere is totally irrelevant.

Brian Barry claims there is a "conflict between justice as

⁶⁴John Rawls, *A Theory of Justice*, op. cit., 101.

⁶⁵See Nozick's discussion of distributive justice in Sections I and II of *Anarchy, State and Utopia*, (New York: Basic Books, 1974), 149-231.

impartiality and justice as mutual advantage" in Rawls's theory.⁶⁶ From this perspective, he calls into question Rawls's restriction of citizens to fully cooperating members of society which is at odds with a concept of justice as impartiality.⁶⁷

The matter of abilities becomes a public sphere matter because of the element of reciprocity which is deemed crucial to the concept of contract. If it can be to everyone's advantage that the exercise of someone's greater abilities translates into economic gain, then this gain becomes permissible, otherwise it is not. This is the sense in which the talents and consequent gain become relevant to the public realm. As Rawls explains, "...the difference principle expresses a conception of reciprocity. It is a principle of mutual benefit".⁶⁸ Without reciprocity as mutual benefit, there could not be an understanding of the difference principle as an expression of justice as fairness.

Rawls writes,

[o]nce we decide to look for a conception of justice that nullifies the accidents of natural endowment and the contingencies of social circumstance as counters in the quest for political and economic advantage, we are led to

⁶⁶Brain Barry, *Theories of Justice: A Treatise on Social Justice I*, (Berkeley: University of California Press, 1989), 213.

⁶⁷Ibid, "Why Mutual Advantage?", 241-254.

⁶⁸John Rawls, *A Theory of Justice*, op. cit., 102.

these principles [of justice]. ⁶⁹

Rawls talks about advantage here. When he discusses the least advantaged persons it is in the context of such persons gaining from the advantages incurred by the more talented which makes such advantages permissible. There is no discussion of attending to the non-cooperating because this might fall under a principle of redress which is beyond justice as fairness. ⁷⁰

The lack of ability is irrelevant in the public sphere because the difference principle is not a principle of redress and it is not meant to address incapacity. Since it cannot be to anyone's advantage to be less fortunate in the natural lottery, then such an inability cannot have relevance to the public sphere. If talents have public relevance, incapacities have none. And whatever does not matter in the public sphere becomes a matter of the private sphere. The individuals themselves and their caretakers will have to assume the consequences of the public irrelevance of their lack of capacity. In the public sphere, if gain due to ability must be justifiable, lack due to incapacity is of no import.

Yet, as Rawls has stated, the natural lottery is neither

⁶⁹John Rawls, *A Theory of Justice*, op. cit., p. 15.

⁷⁰Rawls explicitly states that "...the difference principle is not of course the principle of redress". *A Theory of Justice*, op. cit., 101.

just nor unjust, it is how the basic structure deals with these accidents which renders such attributes just or unjust. The contingencies due to talents such as economic advantage are relevant for the public sphere since everyone can stand to gain but this is certainly not the case for the lack of abilities. The contingency of poverty due to a person's complete lack of capacity and reliance on a caretaker is not relevant. This must necessarily be so because the basic structure must be one that requires reciprocity first and foremost.

Reciprocity is conceptualized by Rawls in narrow terms which is actually the accepted view in social theory. Gouldner gives a good explanation of the norm of reciprocity:

[Moreover, the norm (of reciprocity) may lead individuals to establish relations only or primarily with those who can reciprocate, thus inducing neglect of the needs of those unable to do so. Clearly, the norm of reciprocity cannot apply with full force in relations with children, old people, or with those who are mentally or physically handicapped, and it is theoretically inferable that, other, different kinds of normative orientations will develop in moral codes.⁷¹

It is not an obvious conclusion though, that society, and the public realm, in particular, need to be conceived exclusively in terms of reciprocity as defined in these narrow terms. Rawls, by associating reciprocity with mutual benefit, gives an economic leaning to his understanding of reciprocity. This, in turn, obscures the idea of society as an association of persons living

⁷¹Alvin W. Gouldner, "The Norm of Reciprocity: A Preliminary Statement", *American Sociological Review* 25, no.2 (April 1960), 178.

together with interactions that go beyond mere economic exchanges.

Carol Gould enlarges the notion of reciprocity; for her, the notion entails more than just mutual benefit. As she explains in *Rethinking Democracy*,

[t]hus the requirements of justice include not only extensional equality, in terms of an external standard of distribution, but also an intentional social relation among agents, which entails a shared understanding and a mutual consciousness of each others equal rights.⁷²

Further she defines reciprocity

as a social relation among agents in which each recognizes the other as an agent, that is, as equally free, and each acts with respect to the other on the basis of a shared understanding and a free agreement to the effect that the actions of each with respect to the other are equivalent. Insofar as each recognizes the other equally as an agent, each takes the others rights as equal to his or her own. Beyond this, such a reciprocal relation involves the recognition by each of the others differences.⁷³

What is crucial is that this mutual recognition, which makes room for an understanding of difference, is required by justice. By enlarging the notion of reciprocity, Gould makes way for a theory of justice that not only adjudicates between competing claims but also theorizes a public space where individuals can live in harmony. Such an ideal is not foreign to Rawls either. As he writes, "[t]hus a desirable feature of a conception of justice is that it should publicly express men's respect for one another.

⁷²Carol C. Gould, *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy, and Society*, (Cambridge: Cambridge University Press, 1988), 158.

⁷³Idem.

Now the two principles achieve this end."⁷⁴ They may achieve that end but only for fully cooperating members of society.

Reciprocity as thought of by Gould holds more promise than Rawls's narrow understanding because it does not require the agents necessarily be fully cooperating. It can be more inclusive of the real variety of individuals which inhabit society; individual who have a wide range of capabilities. As Kittay remarks in 'Human Dependency and Rawlsian Equality',

[u]nless the needs of the caretaker are to be met through or by means of some other form of reciprocity, the only available moral characterization of the caretakers function is that it constitutes exploitation or supererogation.⁷⁵

Therefore, an understanding of reciprocity not solely based on the ideal of mutual benefit is needed to address the case of persons who are not fully cooperating as well as the case of the persons who are taking care of these individuals. As Kittay argues clearly in her article, caretakers, who are fully cooperating members of society, are left out of the considerations of justice because they must assume the care of those left out by society. Rawls's theory not only ignores the persons who are not fully cooperating, it also leaves out those who care for them.

There is another ambiguity in Rawls's scheme because tied to

⁷⁴John Rawls, *A Theory of Justice*, op. cit., 179.

⁷⁵Eva Feder Kittay, "Human Dependency and Rawlsian Equality", in *Feminists Rethink the Self*, op. cit., 233.

the ideas of cooperation and reciprocity is also the notion that a person must be fulfilled in society. As Rawls remarks about education

the value of education should not be assessed solely in terms of economic efficiency and social welfare. Equally if not more important is the role of education in enabling a person to enjoy the culture of his society and to take part in its affairs, and in this way provide for each individual a secure sense of his own worth. ⁷⁶

Implicit is the understanding that society must enhance everyone's self-worth. We must also be aware that Rawls is talking about fully cooperating members of society. If one is to acknowledge that society comprises others that are not fully cooperating, then there is obviously a problem since a society that conceives of its public space as a place which is populated only by fully cooperating individuals cannot be a space that will promote the well being of all individuals.

Rawls does find it desirable that society be a place where individuals can be fulfilled but it is not the primary goal of justice as fairness as he understands it. The principles of justice as fairness will regulate the basic structure of society such that society becomes a place where there is cooperation and mutual benefit. By relying on the ideal of persons as fully cooperating members, Rawls is emphasising the notion of benefit as individualistic. That is, mutual benefit is understood as benefitting the persons who are themselves involved in social

⁷⁶John Rawls, *A Theory of Justice*, op. cit., 101.

cooperation. There is no room for an understanding of benefit for society or for a group; mutual benefit is understood for the lone individual. This makes the requirement for cooperation all the more stringent since the benefit must accrue to the person herself.

The common aim of society is, therefore, seen through the filter of individual benefit. The persons involved in such a social scheme will have to be fairly alike, in terms of capacity and autonomy, in order to mutually benefit one another. The primary purpose of society is to enhance this mutual benefit; gone or, practically subsumed, is the ideal that society should be a place that fosters individuals's respect for one another.

Rawlsian society is a place best perceived as populated by intrinsically similar individuals. The difference principle does engage difference; the difference which is attended to is the contingent difference generated by social and economic circumstances. It is a difference created by external factors: which talents happen to have more value and which capacities have more worth at a particular time, for example. The difference inherent in the individual is irrelevant to the public sphere; it is how the basic structure deals with these talents that is pertinent. Obviously, this is reflective of how Rawls understands the role of justice for the public realm. Thus, difference is understood primarily in terms of social and economic difference.

As Rawls maintains, the difference principle is not a principle of redress; it is not meant to give all persons the same starting point. The ideal of contract and Rawls's understanding of reciprocity demand that all persons must be conceptualized as fully cooperating individuals. While it may seem that the difference principle addresses difference, it addresses it in very restrictive terms. The differences are seen as generated by the social and economic structures; this difference is treated as extrinsic to the individual. I would claim that profound differences have no conceptual place in the public sphere.

This seems to connect with Sandel's criticism that the talents do not belong to the person and the self is thus unencumbered. But this is not quite the case. In Rawls's theory, only the difference generated by the basic structure is addressed by the difference principle. This does not imply that the self is unencumbered as Sandel would have it, but that the features inherent to the self are irrelevant to the public sphere. Only of relevance is the gain allowable due to the basic structure. The self owns his talents and capacities; these are simply immaterial in themselves, separate from the basic structure.

The difference principle reserves itself for the very narrow range of differences occurring between fully cooperating individuals. Therefore, Rawls's idealization of persons as fully

cooperating restricts our thinking of difference to that of difference as generated by contingencies such as social circumstances. Difference is then the difference that occurs in a secondary manner, that is, because of the basic structure only. If Rawls's theory were to take into account difference as such, the principles of justice would include a type of principle that would address capacity; perhaps Sen's suggestions of enlarging primary goods to capabilities could be used here.

Lastly, Barry claims that if we take Rawls's view of justice as mutual advantage to its logical limit, then persons with severe incapacities will be left out of the social contract. This situation is not unlike David Gauthier's view in *Morals by Agreement*: "[a]nimals, the unborn, the congenitally handicapped and defective, fall beyond the pale of morality tied to mutuality".⁷⁷ As Barry notes, Rawls's view on justice also relies on impartiality and this creates tension especially when such hard cases as non-cooperating persons are considered. Because of this dichotomous view, for Rawls the advantages and talents of one person become part of the common lot, but the disadvantages such as a non-cooperating status, are the property of the person only. This, in turn, means that the implicit conceptualizations of the public and private spheres remain very traditionally liberal.

⁷⁷David Gauthier, *Morals By Agreement*, (Oxford: Clarendon press, 1986), 268.

One question remains: does the public sphere have a prescriptive role to foster good will and respect amongst its citizens or is its role primarily to safeguard the interests of its citizens? Some traditional liberal theories have such an ideal. Locke incorporated the principle of charity in his political theory which he deemed as important as justice. The difference principle could have such a role if it were more largely interpreted. Yet this is not possible because the difference principle relies on a concept of reciprocity understood as mutual benefit only. This implies an individualistic ideal with an understanding that the person will get a direct return for her efforts in social cooperation with similar others. This makes it difficult to foster respect in the public sphere for a true plurality of individuals, from the fully capable to the completely dependent. The latter simply disappear from the public sphere. It is unfortunate that Rawlsian justice has not escaped this tendency to understand difference in primarily acquisitive terms and relegate other differences to the private realm.

CONCLUSION

Rendering difference invisible in the public sphere seems a very simple way towards an egalitarian ideal. Yet ignoring

difference can be as pernicious as overemphasising it. Political theory has had a difficult time adopting a comfortable position towards difference. As we all know, what is most inconvenient is often most rewarding. Difference offers many challenges to theoretical conceptualization which can help push the limits of our understanding of justice.

Aristotle's insight that justice involves treating the like alike and the unequal according to their relevant inequalities is a good starting point for thinking about justice. Rawls has adopted this as a starting premise, but as Barry argues Rawls's view of justice is two-fold and this creates tension.

In very simplistic terms, in traditional liberal theory, justice has been understood in the public sphere as primarily insuring that each person keeps what belongs to him. It would seem fairly straightforward to apply a principle of justice to a public space that understood its purpose as that of a primarily economic adjudicator. This denotes that the underlying concept of the individual is one that is mainly acquisitive; this is not a new observation. I believe that Rawls's theory, in spite of the many criticisms that can be addressed to it, endeavours to make the public sphere a place where justice means more than economic justice. There is an understanding of civil society as a plurality of persons joining together. It is an attempt to make the public sphere a place where respect for others is fostered,

although ultimately it falls short of this goal.

Thinking about difference has sensitized us to various forms of differences, and, moreover, to the manner in which we think of difference. Postmodernism has alerted us to the social construction of difference and to the way in which it is easily rendered invisible. As Young argues, there is a logic of identity that tends to obliterate the different so as to think of a uniform whole. This might be a valid theoretical tool at the appropriate time but it becomes especially problematic for thinking about an inclusive public space. Difference alerts us to the threat of exclusion. For a society that wishes to formulate principles of justice that apply to everyone, this is of crucial importance.

As Minow argues in *Making all the Difference*, it is not neutral when difference is deemed relevant and becomes incorporated into our thinking about justice and when it is deemed irrelevant and is simply left out. Such a decision has consequences, often leading to the exclusion of the different. There can be instances where difference is irrelevant, but not always. Rawls has postulated a theory that purports to be inclusive of all persons in society and formulates principles of justice which can adjudicate fairly between all persons and their vision of the good life. As I have argued in this chapter, Rawls's idealization of the political person, that is the fiction

of the persons in the original position as fully cooperating members engaged in a reciprocal relation as mutual benefit, excludes an important segment of public society and necessarily relegates these persons to the private sphere.

The original position as defined by Rawls means that difference is thinkable by anyone; it remains at the level of possible scenarios which can be represented up by anyone. This exemplifies well what Phillips terms 'the politics of ideas'. In 'Dealing with Difference: A Politics of Ideas or a Politics of Presence?', she writes,

difference has been perceived in an overly cerebral fashion as differences in opinions and beliefs, and...the resulting emphasis on what...I call a politics of ideas has proved inadequate to the problems of political exclusion. The diversity most liberals have in mind is a diversity of beliefs, opinions, preferences, and goals, all of which may stem from the variety of experience, but are considered as in principle detachable from this. Even the notion of interests, which seems most thoroughly grounded in differential material conditions, lends itself to at least semidetachment.⁷⁰

In politics, the issue of difference is confronted by calling for a politics of presence. That is, various groups living various conditions are represented politically by members of their own groups. Phillips, Gould and Young, to name a few theorists, have written about this. Certainly, this is a way of dealing with difference at the practical level. Nonetheless, the

⁷⁰Anne Phillips, "Dealing with Difference: A Politics of Ideas or a Politics of Presence?", in *Democracy and Difference: Contesting the Boundaries of the Political*, op. cit., 140.

invisibility of difference at the theoretical level needs to be accounted for. Rawls clearly thinks that the principles of justice, once formulated, will allow for legislative interpretations which will deal with differing circumstances. Yet, as I have claimed in this chapter, if difference is not included in our initial premises, then it simply cannot be recuperated later on at the legislative level. Once the ground work has been set for our thinking, the framework cannot be changed and profound differences are eradicated.

The theoretical importance of difference is usually understood to imply that difference means differing interests in the public sphere. As Phillips points out, the consequence of this is that interests can be represented by anyone. This is certainly the logic behind the ideal of the persons in the original position. They can think up any possible scenario for themselves; it never addresses their lived reality since there is no such reality for them. If we want to grant that difference entails mainly difference of interests and visions of the good life, then the persons in the original position can be understood as the 'ultimate empathic thinkers', as Moller Okin describes them.

This ideal has been criticised by Benhabib, amongst others, because it is not the way in which real people can think of difference with regards to political justice. Her claim is that

difference needs to be thought of in concrete terms. Rawls's astuteness is that this ideal is not meant to be the ultimate human person thinking about justice but an ideal in Kant's sense. Rawls transposes the kantian ideal for moral reflection to the political sphere. Nevertheless, the principles of justice that the persons in the original position will agree on will be principles that will address difference as it is implied by such an idealization. It will be a difference that can be detached from the persons reflecting on it; it will never be difference as it is embodied or lived by a person. It will also be difference within the boundaries that Rawls sets up. That is, all the persons know that they are fully cooperating members of society. They will never think of difference beyond those limits.

This ideal is the result of Rawls's interpretation of the autonomous kantian thinker. Yet is such an ideal appropriate for reflection upon principles of justice for a plurality of individuals? The charge that Rawls's fiction of many persons in the original position deliberating together amounts to the fiction of a lone person reflecting is difficult to dismiss, especially since the persons in the original position are virtually the same. There needs to be a greater understanding of difference at this initial reflective level if the public sphere is to be a place that includes all individuals.

The criticism that Young levels against communicative ethics

is applicable here. She charges that postulating that individuals take a narrow reciprocal stance towards one another implies that they need to take a reflective stance that relies too greatly on a similarity of perspectives, thus suppressing difference. Such a reciprocal stance involves substitutionalist thinking which relies too much on a similarity of perspectives. She calls for an enlarged view which could accommodate difference. The persons in the original position are also involved in a reflection which is symmetrical. That is, because the persons in the original position are similarly situated, in that they are unknowing of their circumstances, they will adopt a similarly reflective stance. They, too, will suppress difference.

As it stands, Rawls's idealization can be defended by saying that all those who cannot fit into the ideal of fully cooperating must remain in the private realm and there is nothing unjust about this. As I have mentioned above, this is the traditional interpretation of the demarcations between the public and private spheres; it also implies that both spheres must remain separate. This is ultimately problematic as we will see in the next chapter. I persist in saying that civil society should be inclusive of all individuals, be they cooperating or non cooperating. Any other social arrangement, such as relegating non cooperating persons exclusively to the private sphere, will be unjust, especially if the public sphere is seen as a place that adjudicates more than economic rights.

The contract ideal for a public space implies certain restrictions on who is able to enter into this contract. Contract and reciprocity as mutual benefit are coherent but are they too restrictive for conceptualizing a fair public space? A goal for Rawls is to be neutral towards individuals's interpretations of the good life. The difference allowable for the public sphere is conceived mainly for this plurality of ideas and interpretations of the good life. In this sense, respect is fostered because all ideas have their place in society and no one is favoured. But conceiving of a public sphere that accommodates the needs of those who are non-cooperating members of society becomes difficult as these individuals are excluded from the original premises. The problem is further exacerbated by Rawls's understanding of reciprocity as mutual benefit. I find such a restriction on reciprocity detrimental to the greater social project of fostering respect in the public sphere.

The principles of justice formulated by the persons in the original position try to attend to the various needs of citizens within certain limits. The list of primary goods, which can be deduced from the first principle, can be interpreted to be sensitive to the needs of particular individuals. Always present, though, is the proviso that these individuals be fully cooperating members of society. Thus it becomes difficult to include health care and the care giving needs of individuals who are not actively involved in cooperation. These needs must fall

under a principle other than justice as fairness or simply become relegated to the private sphere.

The second principle claims to address difference directly. Yet as I have argued, it attends to a narrow understanding of difference. The underlying assumption about the individual, I claim, is not that it is unencumbered, as Sandel argues, but that the differences inherent in the individuals are irrelevant in themselves to the public sphere. Of import is the way in which the basic structure enhances such differences. The basic structure cannot deal with non cooperating members since they are initially excluded from being involved in the basic structure. Difference is of significance only as it is played out by the basic structure. The second principle of justice amounts to acknowledging that various individuals can be in differing circumstances but that the fundamental capacities of these individuals is intrinsically similar. There is no understanding of individuals as differing beings in themselves apart from the basic structure.

The idealisation of the political person in Rawls's theory leads to a repression of difference. The individuals are fully cooperating and involved in reciprocal relations. The ideal of fostering self-respect and respect amongst various citizens is limited to fully cooperating members of society. This is a desirable but not an essential goal for Rawls. Thus the fact it

is limited to cooperating members of society does not render his theory incoherent, it simply impoverishes it. Finally, the ideal of reciprocity as mutual benefit results in a society which primarily protects the interests of persons but not the persons themselves. There is no concept of self-worth in itself only of self-worth as it is involved in the greater play of social cooperation.

Of course, there is always the threat that difference can be used against individuals in the public sphere; thus this irrelevance may be seen as a guarantee of just treatment. As Minow points out, the invisibility of difference can be unjust as well and, even more so, because it is insidious. We must find a way of incorporating difference in our considerations of justice. It is not that justice is an exhaustive virtue for social institutions but, as Okin explains, "...justice takes primacy because it is the most *essential*, not because it is the *highest* of virtues."⁷⁹ If we render difference invisible from justice, then we are making a fundamental mistake which essentially skews all our other considerations.

Rethinking Rawls's theory in terms of difference is not impossible, although it involves some amendments to his principles of justice. For example, in 'Human Dependency and

⁷⁹Susan Moller Okin, *Justice, Gender, and the Family*, op. cit., 28.

Rawlsian Equality', Kittay proposes a third principle of justice which would take into consideration the differing abilities of persons throughout their entire lives, as is the case in reality. Whether this is entirely coherent with the rest of Rawls's theory, she leaves to rawlsians to discuss. Her proposal is nonetheless interesting as it explicitly makes room for dependency relations. Such relations are typical of relations for non cooperating members of society. Her proposal also relies on an enlarged understanding of reciprocity which is amenable to enhancing the self-respect of all individuals and respect amongst all citizens. She writes,

[t]he social position of the citizen gives rise to the first principle of justice. The social position of the least advantaged gives rise to the difference principle with fair equality of opportunity. If we were to amend the theory of justice as fairness to include the social position of the participants in a dependency relation, it would most likely give rise to a third principle of justice, based not on our equal vulnerability or on our having some minimal powers of rationality, a sense of justice, and a vision of our own good, but, rather, on our unequal vulnerability in dependency, on the moral power to respond to others in need, and on the primacy of human relations to happiness and well-being. The principle of the social responsibility for care would read something like this: *To each according to his or her need for care, from each according to his or her capacity for care, and such support from social institutions as to make available resources and opportunities to those providing care, so that all will be adequately attended in relations that are sustaining.* ⁶⁰

Kittay's proposal calls for an understanding of the political person which is embodied. It also calls for an understanding of civil society as a place which understands the

⁶⁰Eva Feder Kittay, "Human Dependency and Rawlsian Equality", in *Feminists Rethink the Self*, op. cit., 252.

coming together of individuals, not as a rigid contractual agreement based on mutual benefit, but as an agreement to protect not only the interests but also the self-worth of persons regardless of their capacities.

Rawls's attempt is laudable but it falls short of including all persons in civil society and it should as we saw in the third chapter. The persons in the original position are the starting premise for reflecting on principles of justice. This is not problematic as such. It can be defended as a procedural ideal as was done by Onora O'Neill for moral kantian reflection. The problem is that the persons are reflecting for citizens understood as only those who fully cooperating members of society. Here the procedural ideal is translated into an ideal of the political person. Rawls goes from epistemological requirements to ontological presuppositions about the political person and this is only partially warranted by his concept of reciprocity as mutual benefit. It is in blatant conflict with his ideal of justice as impartiality. If the persons in the original position were understood to be one facet of the political person, then this ideal would not be so problematic.

Rawlsian society retains its emphasis on justice as mutual benefit. Since ability can generate well being for everyone it has public importance, but the body, as such, remains private. With its emphasis on a basic similarity of individuals as fully

cooperating, problematic others are relegated to the private sphere. If rawlsian individuals were embodied they might be able to exhibit publicly relevant difference. In the next chapter, we will examine the concepts of the private and public spheres in liberal theory.

CHAPTER 5

THE PRIVATE AND THE PUBLIC

INTRODUCTION

Rawls states explicitly in *Political Liberalism* that, for the purposes of justice as fairness, the public sphere is populated by persons who are fully cooperating members of society over a complete lifetime.¹ Other political theories may not express this as precisely, but they generally assume a similar view of the political person.² Thus the political person, even if she is conceived in fairly broad terms, denotes a rather uniform type of individual: an autonomous, capable and rational adult. This idealization has been defended by Rawls as being necessary for the purposes of elaborating just principles to regulate a society. As was argued in the previous chapter, given such constraints, difference is not easily accommodated within the considerations of political justice; difference, when it is acknowledged, is usually understood in narrow terms. Therefore, the public sphere, as it is usually conceived in liberal theory, is uncomfortable in dealing with difference. It seems, then, that

¹John Rawls, *Political Liberalism*, op. cit., 29-35.

²Certainly this is the case for the liberal theories of Robert Nozick, *Anarchy, State and Utopia*, and Charles Larmore, *The Morals of Modernity*, and for the writings of Will Kymlicka even though Kymlicka is critical of Rawls on many points. Perhaps Habermas's view is more subtle in this respect, but very generally it can be said that he also assumes the person to be a fully independent and autonomous rational agent.

difference is more at home in the private sphere than the public one.

The issue of difference and whether it necessarily belongs to the private sphere could be discussed more easily if there was a unanimous view of what the public and private spheres entail. These categories, although fundamental to liberal theory, are far from being precise and generally agreed upon concepts. In fact, they are ambiguous terms which have been used often and, surprisingly, when they are used are usually not defined explicitly. In much of liberal theory, these categories are assumed to exist without further clarification. It is considered satisfactory to state broadly that the private sphere concerns the individual herself and the public sphere concerns a plurality of individuals. Moreover, the term public is variously differentiated from the term political in different liberal theories which serves to further confuse our understanding of the public-private.

Feminist critiques have concentrated on the categories of the public-private as being particularly problematic for women and the role women have played or have been assumed to play in society. These critiques have been instrumental in clarifying what role these categories play in political theory by elucidating how much of the current understanding of the public-private rests on assumptions which are not realistic and are

sexist. Feminism has brought to light the presuppositions patriarchal liberal theory has built into the division between these two categories. Thus any thorough investigation into the categories of the public and private must take into account the feminist writings on them.

Although ambiguous in political writings, it cannot be assumed that the problem of the public-private is of no concern to political theory. The public and private relate to the person; it is she who is a person with private concerns and she who has a public representation. The person and our concepts of the public and private are all intertwined. As Pitkin writes in 'Justice: On Relating Private and Public', the transition between the private and public realms has been a concern for western political theory. She summarizes this concern by putting it into a question: how do "we understand ourselves as simultaneously private and public beings?"³. Furthermore, she believes that the way to better understand this question "goes by way of conceptions of what a person is"⁴. A concept of the political person must be able to incorporate within it the fact that a public conception of the person must also engage a conception of the person as a private being. The political person, although not a metaphysical concept, still needs to be grounded in the fact

³Hanna Fenichel Pitkin, "Justice: On Relating Private and Public", *Political Theory* 9, No. 3 (1981), 348.

⁴Idem.

that such a person is also a private being.

In this chapter, I will be looking, first, at the traditional understanding of the public and private realms in liberal theory. I will then focus on feminist critiques of this understanding. The writings of Carol Pateman are particularly relevant as she argues for the importance of the domestic sphere which has been extirpated from traditional liberal theory. Susan Moller Okin's vast writings on this will also be examined as she addresses the theory of John Rawls specifically. I will also look at the writings of Arendt because she pays attention to the categories of the private and public in a most enlightening way by adding the categories of the social and the intimate. Benhabib's critique of Arendt's writings as well as her concerns regarding liberal theory will be examined. Generally, political theory has treated the public person and the private one as completely separate beings, and has had little need to think that these two concepts should be associated. Whether the two concepts must be mutually exclusive or intimately related will be explored during the discussion.

I will bring into focus the forgotten category of the domestic sphere which plays an important role not only in our thinking of the private sphere but also the public sphere. Concerns of the body, or bodily needs have been traditionally hidden away in the domestic sphere and then conveniently put

aside. A political theory cannot afford to simply leave out such concerns; such an omission may have been thought to be justified on the grounds that this would protect from state intervention. Political theories may assume that by simply neglecting a category such as the domestic sphere, one could be assured of a safeguard from state interference. This is not the case; paying attention to the domestic sphere does not necessarily imply that the intimate sphere of the person will be violated. Obliteration is no guarantee from intervention; in fact, it leaves us more vulnerable to insidious intrusion. We may have the illusion of a private sphere devoid of public intrusion but social structures affect the private and domestic realms, nonetheless.

I will argue that the forgotten category of the domestic plays a role in liberal theory and that it should also be understood as encompassing more than just the concerns of family life. In some feminist critiques of traditional liberal theory the focus has been on the unjust relations that can occur within the family. My aim in this chapter is to argue for the importance of the body in itself and not just as the provider of ability, and instrumental to our interests. In line with feminist critiques, I argue that the public and private are intertwined and that where the lines are drawn may vary, and finally that the body has import in our theoretical considerations. The political person is not separate from the private one: both are integrated constituents of the person and this should be taken into

consideration in the elaboration of our theories.

THE PUBLIC AND THE PRIVATE

One the most important goals for liberal theory is to protect the individual's interests. For such a goal, it becomes primordial to clarify which concerns are of a private nature and which are of a public one. In liberal theory, it is also of critical importance to keep the state out of the private affairs of the citizen. Because of such concerns, liberal theory has been instrumental in defining how we understand the division of the public and private today. In 'Liberalism and the Art of Separation', Walzer suggests "that we think of liberalism as a certain way of drawing the map of the social and political world".⁵ Further he writes that "[c]onfronting this world, liberal theorists preached and practised an art of separation. They drew lines, marked off different realms, and created the sociopolitical map with which we are still familiar"⁶. Walzer's remarks bring out two important points.

The first point is that a liberal theory draws lines separating the public and private. Where a liberal theory draws these lines can thus be a contentious issue. The second and

⁵Michael Walzer, "Liberalism and the Art of Separation", *Political Theory* 12, No. 3 (1984), 315.

⁶Idem.

equally crucial issue is that the public and private are completely separate realms. Liberal concerns are usually focused on keeping the public out of the private, safeguarding the realm of private interests from unwanted public intrusion. Generally it can be said that in liberal theory the private is not understood to have any effect on the public or to be intrinsically related to the public. This last point will be widely discussed when we look at feminist critiques of the public-private.

Walzer's points are compelling because they show us that liberal theory does in fact take for granted that social aspects of human life, whether they be religious belief, sexual orientation, economic power or political preference, can be separated and kept apart. The operative ideal is that certain aspects of a person's life should not affect her political representation. As discussed in the previous chapter, all differences are to be neglected in the public realm or at least appear to be unimportant. Therefore, difference is relegated to the private realm. How liberal theories have conceived the public-private split has varied and this can have a bearing on where and how difference is to be situated and conceived.

Historically, the differentiation between the public and private spheres has evolved in two different ways. As Kymlicka explains, there are two conceptions of the public-private distinction in liberal theory. "...[T]he first, which originated

with Locke, is the distinction between the political and the social; the second, which arose with Romantic-influenced liberal, is the distinction between the social and the personal".⁷ For theorists in the lockean or contractarian tradition, the social belongs to the private realm when it is not political. Thus concerns of an economic nature are seen as private. For theorists in the Rousseau-Hegel or romantic tradition, what is personal is private and issues that are social pertain to the public sphere.⁸

Obviously it seems rather difficult to navigate all these different conceptions of the public-private split if there is no one accepted definition. One of the reasons that these categories have remained so unclear is that they rely on an implicit conception of the person. Liberal theory has been very reluctant to theorize a concept of the person explicitly. Most theories simply assume some version of the political person as an autonomous adult with some private attachments. The notable exception to this is John Rawls who has carefully explained his conception of the political person; yet he remains well within traditional liberalism with this concept.

⁷Will Kymlicka, *Contemporary Political Philosophy*, op. cit., 250.

⁸This is also discussed from the continentalist perspective of humanité (humanity) by Robert Legros, *L'Idée d'Humanité: Introduction à la Phénoménologie*, (Paris: Grasset, 1990).

In *The Modern Liberal Theory of Man*, Gerald F. Gaus argues that there are two liberal conceptions of individuality. In line with social psychologist Zevedei Barbu's idea, he states that "in the uniquely democratic personality the individual sees himself both as a unique manifestation of humanity, an end in himself, and as a member of a group"⁹. This duality is also reflected in S.I. Benn and Gaus's discussion of liberal models of the public and private. In 'The Liberal Conception of the Public and the Private', they write

that liberalism draws on two very different models of the public and private: a dominant individualist one and a secondary organic one. No single model of public and private can provide a coherent account of all aspects of the public and private in liberal theory and practice.¹⁰

They acknowledge that there are two conceptions at work in liberal theory. These two concepts are somewhat parallel to the two understandings of the public-private split mentioned above. Yet it does not seem that there is room in either of these conceptualizations for an acknowledgement of difference save for difference understood in terms of interests.

As Benn and Gaus note, no one concept seems to be able to capture the complexities of liberal social life which is both public and private life in its various forms. Whether the private

⁹Gerald F. Gaus, *The Modern Liberal Theory of Man*, (New York: St. Martin's Press, 1983), 2.

¹⁰Stanley I. Benn and Gerald F. Gaus, "The Liberal Conception of the Public and the Private", in *Public and Private in Social Life*, S.I. Benn and G. F. Gaus, eds. (London: Croom Helm, 1983), 58.

is also the social and under which circumstances, and whether the public is necessarily social are questions that need to be resolved at least within a particular theory. It remains that neither the anglo-american nor the romantic liberal distinction seems to be able to capture the complexities of contemporary life on its own.

In 'Feminist Critiques of the Public/Private Dichotomy', Pateman specifically addresses Benn and Gaus's account of the liberal conception of the public and private. She writes,

[their account] illustrates very nicely some major problems in liberal theory. They accept that the private and the public are central categories of liberalism, but they do not explain why these two terms are crucial or why the private sphere is contrasted with and opposed to the 'public' rather than 'political' realm. Similarly, they note that liberal arguments leave it unclear whether civil society is private or public but, although they state that in both of their liberal models the family is paradigmatically private, they fail to pursue the question why, in this case, liberals usually also see civil society as private. Benn and Gaus's account of liberalism also illustrates its abstract, ahistorical character and, in what is omitted and taken for granted, provides a good example of the theoretical discussions that feminists are now sharply criticizing.¹¹

Even if there are two traditions defining the public-private realms in liberal theory, political/social-personal or political-social/personal, neither of them pays any attention to the family or the domestic sphere more generally. Locke saw the family under the rule of the head of the household; the family was not a

¹¹Carol Pateman, "Feminist Critiques of the Public/Private", in *The Disorder of Women*, (Stanford: Stanford University Press, 1989), 119.

political society. Sometimes he used the term 'man' and 'family' interchangeably.¹² Hegel divided society into three parts: state, civil society and the family, but he completely neglected the latter.¹³ Kymlicka summarizes this omission in the following manner:

[n]either [tradition] treats the family as wholly private, or explains or justifies its immunity from legal reform. However, liberals have not applied these distinctions to the family, and have generally neglected the role of the family in structuring both public and private life. ¹⁴

I want to look at the feminist critiques of the public-private as they can elucidate the assumptions underlying the current formulations of these categories. They also question not only why the domestic sphere is absent from the private realm but also why the private and the public are always thought of as completely dissociated.

FEMINIST CRITIQUES OF THE PUBLIC-PRIVATE

Virginia Held explains the historical significance of the public-private for men and women and points to the current

¹²John Locke, *Two Treatises of Government*, Peter Laslett, ed., (Cambridge: Cambridge University Press, 1963), Book II, 36.

¹³Hegel, *Philosophy of Right*. For a discussion of Hegel's concept of society see Jean L. Cohen and Andrew Arato, *Civil Society and Political Theory*, (Cambridge, Massachusetts: MIT Press, 1992), chapter 2 especially footnote 48, 628-631.

¹⁴Will Kymlicka, *Contemporary Political Philosophy*, op. cit., 250.

problems women face with such an understanding of these categories.

The concepts have had different associations with men and women at different periods of history. The Greek polis was a male domain; women were confined to the household. But before the rise of liberal democracy, the family, with its clearly designated male ruler, was often seen as a model for the wider society. With the Lockean renunciation of political patriarchy, the family was relegated to a peripheral status outside of and irrelevant to the political organization of "free and equal men". Since then, liberal concessions toward equality for women have usually expected women to enter a political sphere structured by concepts designed for a male polis.¹⁵

The women's liberation movement of the sixties was propelled in part by the fact that women realised that they had to act in the public sphere according to male rules. Yet, they had the burden of the concerns of the private sphere, such as domestic concerns, which somehow did not exist for men. This dichotomy made it obvious that hidden beneath the ideal of universal suffrage were assumptions that certain tasks would be performed by women. This led to an examination of the categories of public-private which are so crucial to political theory.

Following the two points brought out by Walzer's previously quoted article, I will first examine feminist critiques that have called into question where the separation is drawn between the private and public and then I will focus on critiques that have challenged the notion that the two realms are to be thought of as

¹⁵Virginia Held, *Feminist Morality: Transforming Culture, Society, and Politics*, (Chicago: University of Chicago Press, 1993), 128.

completely separate. These two points are not completely dissociated in the critiques but I will, nonetheless, divide the discussion into these two sub-sections in order to more easily bring out some salient facts uncovered by the relevant feminist critiques.

DRAWING THE LINES BETWEEN THE PUBLIC AND PRIVATE

One political theorist who has closely examined the public-private dichotomy in liberal theory is Carol Pateman. She has analyzed the works of Hobbes, Locke and Rousseau and has written extensively on the public-private split and its significance for women. She argues that the problem lies with the invisibility of domestic life from theoretical considerations.

Precisely because liberalism conceptualizes civil society in abstraction from ascriptive domestic life, the latter remains "forgotten" in theoretical discussion. The separation between private and public is thus re-established as a division *within* civil society itself, within the world of men. ¹⁶

The reason for this omission is deeply rooted in patriarchal ideology. Pateman argues that there exists a fundamental patriarchal assumption within liberal theory that was not eradicated by Locke or other contract theorists. It may seem that

¹⁶Carol Pateman, "Feminist Critiques of the Public/Private Dichotomy", in *The Disorder of Women*, (Stanford: Stanford University Press, 1989), 122.

the ideal of an all powerful male ruler was convincingly destroyed by Hobbes and later by Locke in *The Two Treatises of Government* but Pateman makes a case for the hidden assumptions of a patriarchal system that still exist today; this patriarchal system rests on the subjugation of women.¹⁷ This is what Pateman refers to as the 'sexual contract'.

If the domestic sphere can remain invisible it is because women have the sole burden of attending to it and it is a 'natural' function, thus irrelevant to both the political and private spheres. The further assumption that the public sphere is separate from the private makes the concealment of the domestic sphere even more complete, as will be seen later. The reason for this, according to Pateman, is that "[t]he civil body politic created through the fraternal social contract is fashioned after only one of the two bodies of humankind".¹⁸ Because men did not have to attend to their needs, they were free to become 'unencumbered' citizens. I would add that the social contract was not even fashioned after the male body of humankind; it was fashioned after an ideal of the person which was devoid of embodiment. The private concerns of the body become completely irrelevant to the public sphere because they hail from a sphere of animality that simply cannot have any place within the public

¹⁷This is discussed at length in Carol Pateman, *The Sexual Contract*, op. cit.

¹⁸Carol Pateman, "The Fraternal Social Contract", in *The Disorder of Women*, op. cit. 34.

realm or even a properly private realm of 'interests'. Not only are domestic interests irrelevant to the public realm, they are also irrelevant to the private realm.

A political theory can thus be free of 'trivial' matters such as reproduction and tending to one's own body and natural functions. The manner in which the domestic realm also disappears from Rousseau's theory is analyzed by Moira Gatens. She writes that

[i]n Rousseau's account of the transition from the natural and primitive stages of human development to the more advanced stages, the inevitable conflicts between the social and the natural are resolved in three stages. First, by advocating an educational programme that promotes the containment of these contrary aspects of human life by making the natural and the passionate the province of woman and the cultural and the rational the province of man. Second, by an appeal to woman's reproductive capacity, Rousseau presents this division as natural. Finally, by constructing woman as both the natural support for and the possible subverter of cultural life, he justifies her privatization and exclusion from civic life. The submission of woman to this role is further rationalized by the necessity of reason (or man) to govern passion (or woman).¹⁹

Essentially Gatens and Pateman are in agreement. Theorists critical of lockean or contractarian liberalism may have claimed to have surmounted the 'abstract individual' inherent in these theories and thereby have been able conceive the individual more correctly but Pateman argues this is false.

Rousseau, Hegel and Marx each argued that they had left

¹⁹Moira Gatens, *Feminism and Philosophy: Perspectives on Difference and Equality*, (Cambridge: Polity Press, 1991), 20.

behind the abstractions and dichotomies of liberalism and retained individuality within community. Rousseau and Hegel explicitly excluded women from this endeavour, confining these politically dangerous beings to the obscurity of the natural world of the family; Marx also failed to free himself and his philosophy from patriarchal assumptions.²⁰

As Pateman points out, patriarchalism is an ideology that claims much more than the rule of the king over his subjects; part of this ideology is that the 'male' or 'reason' rules over the 'woman' or 'body'. Male rule is deemed natural and remains unquestioned. The work done by females is also seen as natural and thus politically insignificant. What is crucial here is that these assumptions are buried within a system that claims universality.

The fact that patriarchalism is an essential, indeed constitutive, part of the theory and practice of liberalism remains obscured by the apparently impersonal, universal dichotomy between private and public within civil society itself. ²¹

Feminist critiques show that the historical gender-based division of labour gets translated in liberal theory into concerns pertinent to the domestic sphere. These concerns have no political import or relevance because they are natural. This division rests on a long tradition of sublimating the body and it can certainly be argued that it is anchored in cartesian dualism. More explicitly, Flax writes:

Kant and other philosophers distinguish our phenomenal and

²⁰Carol Pateman, "Feminist Critiques of the Public/Private", in *The Disorder of Women*, op. cit., 136.

²¹Ibid., 123.

embodied self from a (higher) noumenal, rational and transcendental one. The noumenal self can be free precisely because it is removed from empirical contingency. The possibility and plausibility of such distinctions rest in part upon the prior existence of a gender-based division of labour. ²²

There have been two ways in which feminists have dealt with the problem of the domestic sphere. Initially it was argued that domestic concerns were a source of unfreedom for women. These concerns needed to be transcended if women were to be the true equals of men. Feminists, by adopting this view, were in fact adopting the hegemonic view that the domestic sphere should be eradicated or at least that it did not have any political significance save to subjugate women. This initial point of view was quickly challenged by other perspectives. Other voices needed to be heard in order to examine this issue more fully.²³ By acknowledging the fact that the domestic sphere had value in itself, feminists were ready to propose solutions to the current dilemma posed by the activities of the domestic sphere.

One theorist who wrote about the experiences of black women is bell hooks. She justly remarks:

Some white middle-class, college-educated women argued

²²Jane Flax, "Beyond Equality: Gender, Justice and Difference", in *Beyond Equality and Difference*, op. cit., 197.

²³For an analysis of feminism and the domestic sphere from a postmodern perspective see Dana Heller, "Housebreaking History: Feminism's Troubled Romance with the Domestic Sphere", in *Feminism Beside Itself*, Diane Elam and Robyn Wiegman, eds., (New York: Routledge, 1995), 217-233.

that motherhood was a serious obstacle to women's liberation, a trap confining women to the home, keeping them tied to cleaning, cooking, and child care. Others simply identified motherhood and childrearing as the locus of women's oppression. Had black women voiced their views on motherhood, it would not have been named a serious obstacle to our freedom as women. Racism, availability of jobs, lack of skills or education and a number of other issues would have been at the top of the list-but not motherhood. Black women would not have said motherhood prevented us from entering the world of paid work because we have always worked. ²⁴

The point hooks is making is that the domestic sphere is not necessarily in itself a source of unfreedom. In fact for black women it was often a source of fulfilment. "In contrast to labor done in a caring environment inside the home, labor outside the home was most often seen as stressful, degrading, and dehumanizing."²⁵

Later, there developed a body of work in feminist writings where feminine values came to be regarded as essential and a body of theory asserting the values of domesticity came to the forefront. The point was that the values of mothering were important in themselves.²⁶ I don't want to discuss whether we should compensate for centuries of devaluating the domestic sphere by making it the center of political thinking here. Rather, I wish to emphasize the role the domestic sphere plays

²⁴bell hooks, *Feminist Theory: From Margin to Center*, (Boston: South End Press, 1984), 133.

²⁵Ibid., 134.

²⁶For example, see the writings of Sara Ruddick, *Maternal Thinking*, (Boston: Beacon Press, 1989) and Joan Tronto, *Moral Boundaries*, (New York: Routledge, 1994).

within the greater articulation of human life.

Pateman also recognised the reality of work outside the home for some women.

... [L]arge numbers of working-class wives have always had to enter the public world of paid employment to ensure the survival of their families, and one of the most striking features of post-war capitalism has been the employment of a steadily increasing number of married women. However, their presence serves to highlight the patriarchal continuity that exists between the sexual division of labour in the family and the sexual division of labour in the workplace. Feminist research has shown how women workers are concentrated into a few occupational areas ('women's work') in low paid, low-status and non-supervisory job. ²⁷

Not only did women confront sexism in the type of work made available to them, they also often found themselves at a disadvantage because they had the concerns of their family which has to be negotiated with their paid employment; they are facing a dilemma their male counterparts do not have to face. ²⁸

A way to resolve the issue is to consider domestic labour as a type of labour like any other. Such labour would, therefore, need to be remunerated. As hooks argues in 'Rethinking the Nature of Work' this is not the way of thinking about domestic labour as

²⁷Carol Pateman, "The Public/Private Dichotomy", in *The Disorder of Women*, op. cit., 132.

²⁸For a discussion of sexual discrimination see Elizabeth Fraser and Nicola Lacey, *The Politics of Community: A Feminist Critique of the Liberal-Communitarian Debate*, (Toronto: University of Toronto Press, 1993), "Waged Work", 81-88.

it still thought of as 'woman's work'.²⁹ Marxist writers have also raised concerns over this solution. It does not guarantee that such work would be remunerated in a fair way; in fact experience has shown that it is typically low paid work. Kymlicka notes accurately that women's work is devalued; he writes, "[s]exism can be present not only in the distribution of domestic labour, but also in its evaluation"³⁰.

Jean L. Cohen and Andrew Arato address similar concerns in *Civil Society and Political Theory*. Although they are mainly talking within the framework of communicative ethics, their comments are applicable here.

The work performed by women within the family is unrecognized, unremunerated, and uncompensated, and it therefore disadvantages women even in the "official" labor market (reinforcing the image of dependency on a male "breadwinner"). Nevertheless it is unhelpful to describe childrearing as being just like the rest of social labor. The fact that it can and has been partially transferred to day-care centers or nurseries and remunerated does not mean it can be formally organized in the way that other work can be or that it is either desirable or possible to transfer childrearing in its entirety to system-integrated institutional settings.³¹

Some caring tasks such as education can be transferred but we must also be aware that the social structure on which these

²⁹Bell hooks, "Rethinking the Nature of Work", in *Feminist Theory*, op. cit., 95-103.

³⁰Will Kymlicka, *Contemporary Political Philosophy*, op. cit., 249.

³¹Jean L. Cohen and Andrew Arato, *Civil Society and Political Theory*, (Cambridge, Massachusetts: MIT Press, 1992), 536.

services are structured is based on a patriarchal system. Thus even with the best of intentions, simple solutions such as commodifying early childhood care cannot resolve the issues arising from the domestic sphere.

The complexities of the issues is also recognised by Okin in her article engaging Rawls's *Political Liberalism*. She writes

social justice for women has not been achieved, and is unlikely to be achieved, by formal legal equality, because so much of the way that society is structured is a result of a history in which women were legally subordinated and in which it was assumed that it was their natural role to exchange sexual and domestic services, including the crucial social task of child care, for economic security in the form of dependence on men. The hours and location of paid work and political activity, the location and type of housing, the hours and vacations of schools and the lack of public child care, all depended on this legal subordination of women and related assumptions about their natural role. Now the legal subordination has largely been overturned, and the assumptions are being questioned by many people, but **the social structures based on them have remained.** ⁹²
(emphasis my own)

There are two issues here. First, is the problem of commodifying an area of care; this will not solve the problem of its worth being devalued in society. The other issue is that the social structures are themselves, as Okin points out, based on patriarchal assumptions. Commodification relies on social institutions which are embedded in a tradition that has devalued such work because it is seen as 'natural' and the domain of women. Such assumptions and their ramifications must be

⁹²Susan Moller Okin, "Political Liberalism, Justice, and Gender", *Ethics* 105, No.1 (October 1994), 41-42.

understood if we are to proceed to a thorough re-examination of the issues of domestic care.

Cohen and Arato also write about the meaning of commodification and the imposition of market-type relations for the domestic sphere.

While it is certainly conceivable that more household tasks can migrate from the home to the market, surely there is and ought to be a limit to this. We do not agree with the notion that all creative, productive, or reproductive activities should necessarily take the form of wage labor. Even when they do, this does not mean that the institutional frameworks in which these activities occur can be analyzed as economic systems.²³

Commodifying the activities of the domestic sphere is fraught with many problems and this is particularly evident in the case of the commodification of the act of caring or taking care of another person.

The lived experiences of persons who have disabilities and who need someone to help them can help us understand the issues here. As numerous persons have testified, 'care' when it is commodified or institutionalized often involves power relations.²⁴ It is labour which is performed and which requires a high degree of intimacy, yet it is wage labor which is

²³Jean L. Cohen and Andrew Arato, *Civil Society and Political Theory*, op. cit., 537.

²⁴See for example the writings of Lorenzo W. Milam, "A Good Man is Hard to Find so Treat Him Right and Watch Your Wallet", *Utne Reader* 94 (July-August 1999), 38-39. See also periodicals such *The Disability Rag* and *New Mobility*.

renumerated by a low wage. The low wage makes this type of work not highly valued in a market dominated society and makes it undesirable because of being physically demanding as well as poorly renumerated. As Susan Wendell writes,

Dependence on others to meet some of the basic physical needs is humiliating in a society that so clearly prizes independence from that particular kind of help. Moreover, the help is too often provided on the condition that those providing it control the lives of those who receive it.²⁵

In a society that values highly independence and autonomy as some of the prime virtues of the public sphere, care cannot be seen as valuable or relevant for this area of human activity. Such an attitude must confine care to the private realm. The domestic sphere contains elements, such as 'caring' and 'dependence' that are not compatible with the values of the public sphere and this makes it very easy to dissociate the latter from the former. By doing this it is easy to simply leave out the domestic from any theoretical consideration.

The initial point of the feminist arguments was to highlight the fact that the domestic sphere was completely out of the political picture, although it was a necessity and it was assumed that women would take care of it. The domestic had no place in the private and certainly none in the public sphere. Feminist arguments were that concerns of the family are important and are not just natural relations. Any accurate theorizing of the

²⁵Susan Wendell, *The Rejected Body*, (New York: Routledge, 1996), 146.

private sphere must also include an awareness of a sphere of domestic activities, whether these be family or other type of intimate concerns. Thus there at least needs to be a rethinking of the boundaries of the private sphere to include domestic concerns.

The solution involving a type of remuneration for domestic labour brings out another point which is that commodification, that is imposing market, public-type of relations, is problematic for activities arising out of the domestic and thus the private realm. If market-type relations are to be brought into the area of the private then the boundaries between the private and public will be, minimally, called into question. This leads us to the second point, that the public and private are not separate realms.

THE SEPARATION OF THE PUBLIC-PRIVATE

The separation between the private and the public can be explained in part by the liberal ideal of safeguarding the individual's interests. This area must be free from public intrusion. Yet this ideal does not necessarily require a complete and unbridgeable gap between the public and private. To say that the affairs of the private have an impact on the public is not to invite public intrusion or to allow the hand of the public to insinuate itself into the affairs of the citizen. In fact,

assuming that there is a complete separation of these two realms is really to be under the illusion that social structures have no impact on the private affairs of the individual. Laws involving the legality of same sex marriages, for instance, do point to the blatant intrusion of the state into the lives of the individual. The private and the public are in fact intertwined; the idealization that they are not can cause serious injustice to some members of society. This is an area that has been well examined by feminist theorists.

Susan Moller Okin addresses several issues in *Justice, Gender, and the Family*; a central issue is the separation of the public-private realms.

Because of the past and present division of labor between the sexes, for women especially, the public and the domestic are in many ways *not* distinct, separate realms at all. The perception of a sharp dichotomy between them depends on the view of society from a traditional male perspective that tacitly assumes different natures and roles for men and women. It cannot, therefore, be maintained in a truly humanist theory of justice—one that will, for the first time, include all of us. ⁹⁶

Okin's argument is that if these realms are kept separate, justice cannot be prevalent in all spheres of life. If there is an injustice in one area it is bound to have repercussion on other areas. Okin's analysis is mainly from the point of view of justice and the social structure she examines is the family. She gives four reasons why the implicit separation between public and

⁹⁶Susan Moller Okin, *Justice, Gender, and the Family*, op. cit., 133.

private does not work and she shows that this assumed separation leads to the unjust treatment of women in the public sphere.⁹⁷

I believe that Okin's argument makes a strong point for rethinking the private and public as two spheres that are somehow engaged. Okin's analysis is strictly from the point of view of the family and she questions the assumption that the family is a natural realm and thus free from the considerations of justice. More generally, she is saying that the caretakers of the domestic realm will be at a disadvantage in the public realm. Thus some citizens will experience prejudice and this occurs because the ideal of the citizen is that of an unencumbered individual. Such an individual is one that does not have any domestic needs to take care of, be they children or needs of his own. The freer the individual from such needs, the more unencumbered and closer to the ideal of the citizen as fully cooperating, to use Rawls's terminology.

The division between the public and private has not gone unnoticed in traditional liberal theory. More social-liberals have tried to bridge the gap between the private and the public by attempting to theorize a concept of the community that would end the isolation of the 'abstract individual'. As quoted earlier, Pateman has shown that in the traditional theories of Rousseau and Hegel, women could not be part of a community of citizens.

⁹⁷Ibid., p. 134.

In contemporary writings, there have been attempts "to reintegrate the civil individual and the community (or to reintegrate the liberal division between private and public)" and this is done by the use of the concept of a "fraternity", according to Pateman.³⁸ This can be found in the theory of Rawls, for example³⁹. But the concept of a fraternity does not necessarily make room for the dependence or reliance of individuals towards each other. A fraternity can be understood as a free association of fully autonomous, unencumbered persons. The term, fraternity, is wisely chosen as it conveys the meaning of a social club reserved for men only. As Pateman writes, "the explicit use of 'fraternity'... means that the patriarchal character of civil society begins to come to the surface. Moreover, the masculine attributes of the individual begin to be exposed".⁴⁰ Even if the traditional attempts at bridging the gap between the private and the public have proven futile because they rest on patriarchal ideology, nevertheless, it has been recognized that there is a need for some kind of relation between the two realms.

³⁸Carol Pateman, "The Fraternal Social Contract", in *The Disorder of Women*, op. cit., 50.

³⁹In *A Theory of Justice*, Rawls states that "[a] further merit of the difference principle is that it provides an interpretation of the principle of fraternity". Later he adds that fraternity also implies "a sense of civic friendship and social solidarity". *A Theory of Justice*, op. cit., 105.

⁴⁰Carol Pateman, "The Fraternal Social Contract", op. cit., 50.

The feminist critiques I have examined focus on the gender based division of labour which has traditionally translated itself into domestic sphere concerns to be managed by women alone. Furthermore, it has been argued that such concerns have no public import. Can a political theory make the public and private accountable to each other? Certainly this cannot be answered until we have challenged some of the basic premises of liberal theory, as feminist theorists have argued. It remains to be seen if this can be done.

Joan Tronto, in her book *Moral Boundaries*, makes a case for the political relevance of care.

It is a fact of great moral significance that, in our society, some must work so that others can achieve their autonomy and independence. This fact, however, is obscured by the separation of public and private lives, and by the way care is parcelled out into different parts of private life. Here, the split between public and private refers to the ways in which some concerns are presumed to be the responsibilities of private individuals rather than society. Many aspects of women's lives, and of caring, are obscured by this distinction. ⁴¹

Why should the forming of future citizens be solely a matter of private concern? In a way it is not solely a private concern, since society takes the responsibility of educating its citizens. But the other requirements are deemed only private and they are as important as education. It is a dilemma that is not even acknowledged in traditional liberal writings. This stems in part from the ideal of the fully cooperating member of society and

⁴¹Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care*, (New York: Routledge, 1994), 165.

also the ideal of reciprocity which is used in liberal theory in general and in Rawls's theory in particular.

I want to turn now to the theory of John Rawls. Even if he remains well within the traditional understandings of the public and private, Rawls does address some concerns that emanate from the private sphere through his list of primary goods.

THE PUBLIC AND THE PRIVATE IN THE THEORY RAWLS

Contractarian liberal theory equates the public with the political; this is well exemplified by Larmore's definition. He writes,

The distinction between the public and the private is one that has been variously drawn, and often for polemical purposes having little to do with reality. I shall understand it as picking out different areas of social life: The public has to do with what belongs within the political system, whereas the private covers whatever belongs outside it.⁴²

Although Rawls does not give such a definition, I would say that his understanding of the public and private realms is similar to Larmore's.

Rawls explains:

The primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social

⁴²Charles Larmore, *Patterns of Moral Complexity*, op. cit., 42.

cooperation. By major institutions I understand the political constitution and the principle economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions.⁴³

Rawls is more vague than Larmore about the meaning of the public but we are to understand that for Rawls political justice involves "the most appropriate conception of justice for specifying the fair terms of social cooperation"⁴⁴. Thus the public pertains to the institutions that facilitate social cooperation.

The social, then, is a category that can be private or public. The private is a peripheral category that is simply defined by what it is not: it is not the public and it is not to be interfered with. Furthermore, the private is understood in terms of interests. This seems to be a satisfactory explanation within the theories of Larmore and Rawls as it does not cause any obvious contradictions. A private realm of interests is in harmony with a public space articulated mainly in legalistic terms. Nonetheless, it is a rather poor one compared to the more elaborate discussions of Habermas and before him, Arendt.

In Rawls's theory, the public sphere is populated by fully cooperating members of society. Thus any dependence is not seen

⁴³John Rawls, *A Theory of Justice*, op. cit., 7.

⁴⁴John Rawls, *Political Liberalism*, op. cit., 5.

in the public sphere; it must be handled by the private sphere. By using such an idealization, Rawls is perpetuating the traditional understanding of the public realm as populated by unconcerned adults with no attachments. He safeguards the private to be a sphere where the members of society can be free to express their sentiments and attachments.

Yet at the same time Rawls does show a willingness to understand that the circumstances of justice can be sensitive to individual needs. Two principles of justice are agreed to by the individuals in the original position; the first one gives a list of primary goods.⁴⁵ These goods can be interpreted as trying to adjudicate fairly the needs of different persons. If a person has a certain learning disability, for example, his special education needs might be addressed in the primary goods. In a limited way, the primary goods address the individual's needs and are not only instrumental to his interests.

The good calling for 'the social basis of self respect' is the most interactive of the primary goods as it entails an engagement with others and a recognition by others of a person's worth. If there is any understanding of interdependence it is located within this primary good. The social basis of self respect could be interpreted quite radically into meaning the

⁴⁵The index of these goods has been variously drawn, the latest index can be found in *Political Liberalism*, op. cit., 181.

availability of care for special needs. In Rawls's theory, therefore, there is a small instance of allowing needs, or concerns that have been traditionally thought of as private, to have public import as these are necessary for a citizen to have and keep her self-respect.

Even if Rawls's theory does contain a kernel of understanding of needs, this can not be interpreted very broadly and still remain within the larger scheme of his theory. By using the term 'primary good' Rawls addresses issues of needs such as education in terms of acquisitions. A good is something we have and that we own; also it implies a given and not an ongoing relation. The perception of the term good is that it is something that a person receives and can then dispose of as she pleases. It does not imply engaging another in any way. This point is also made by Sen in 'Equality of What?'. His proposal to focus on basic capabilities is argued to be "a natural extension of Rawls's concern with primary goods, shifting attention from goods to what goods do to human beings".⁴⁶

The notion of engagement is, however, present in Rawls's theory. Not only is it present in the primary good calling for the social basis of self respect, it is also expressed by the idea of cooperation and reciprocity. Nonetheless, these are very

⁴⁶Amartya Sen, "Equality of of What?", in *The Tanner Lectures on Human Value I*, op. cit., 218-219.

individualistically interpreted. Because members of the public sphere are fully cooperating members of society, dependence is precluded from the public sphere. Moreover, reciprocity, as Rawls understands it, entails a symmetrical relationship. Minimally, this means that Rawls does not allow for citizens to have a type of rapport which could be interpreted more largely to include the meeting of ongoing needs in the public sphere.

There is a lack of concern for the private in liberal theory, in general, and in Rawls's theory, in particular. The focus of Rawls's theory is to elaborate principles of justice which will enable various individuals, persons with different private lives, to form a cooperative society. The private's role is seen simply as an area of a citizen's life that needs to be safeguarded from public intrusion. This leaves persons who may have concerns that are not deemed of a public nature vulnerable to injustice if their concerns do in fact impede their participation in the public realm. Furthermore, the private is an area that is occluded from discussion as it always needs to be protected from public discussion.

This has been a criticism that has been applied to Rawls's theory with regards to his principles of justice and the family. Because it hails from the private realm, the family is not an institution deserving the considerations of justice, although it

is acknowledged as a social structure.⁴⁷ Even in *Political Liberalism*, Rawls has not rectified this problem, according to Okin. She argues, in 'Political Liberalism, Justice, and Gender', that "central aspects of *Political Liberalism* render the problem of applying the principles of justice to the family and the gender structure of society more intractable than they were in theory" ⁴⁸.

The fact that the family has been exempt from consideration is an important point. Specifically it exemplifies, firstly, Rawls's traditional understanding of the private and public spheres, and, secondly, the fact that they seem to be completely separate from another. In the chapter 'Feminist Challenge', in which he examines Rawls's theory in light of this, Shane O'Neill writes that

[t]o assume that the family is beyond the scope of a theory of justice is to deny that the traditional division of labor within the family is unjust. It is to deny that the public sphere of political and economic life is inextricably intertwined with the private domestic sphere of life. ⁴⁹

Rawls attempts to keep the two spheres separate and it becomes blatantly obvious that this cannot be done if the family is

⁴⁷See for example Susan Moller Okin, *Justice, Gender and the Family*, op. cit., and "Political Liberalism, Justice and Gender", *Ethics* 105, No. 1 (October 1994), 23-44.

⁴⁸Susan Moller Okin, "Political Liberalism, Justice, and Gender", op. cit., 25.

⁴⁹Shane O'Neill, *Impartiality in Context: Grounding Justice in a Pluralist World*, (New York: State University of New York Press, 1997), 42.

thoroughly examined and understood to be an important social structure.

Finally, it can be said that liberal theory more generally is concerned about justice and tends to articulate public debates in legalistic terms. Kymlicka and Okin are critical of Rawls's theory with respect to the forgotten category of the family; they address their concerns in terms of justice only. This can be defended by saying that Rawls's theory is aimed at political justice. Yet, terminology used to articulate debates intended for the public sphere may not be suitable to discuss concerns of the private sphere although these may be of political relevance.

This is a criticism that Benhabib addresses to liberal theory in general. For Benhabib, "[t]he liberal model of public space transforms the political dialogue of empowerment far too quickly into a juridical dialogue about the right."⁵⁰ Benhabib sees this as an expression of the poverty of liberal public space; she contends communicative ethics provides a much richer ideal of public space. It cannot be denied that Habermas has a strong vision of the public which is far more elaborate than

⁵⁰Seyla Benhabib, "Models of Public Space: Hannah Arendt, the Liberal Tradition, and Jurgen Habermas", in *Habermas and the Public Sphere*, Craig Calhoun, ed., (Cambridge, Massachusetts: MIT Press, 1992), 95.

Rawls's.⁵¹ Larmore has countered accusations like Benhabib's by arguing that liberalism and his ideal of neutrality are not antithetical to public discussion.

The recognition of our differences is necessary for exercising the equal respect we owe one another as beings capable of affirming a vision of the good life. But we must also be careful not to confuse these two separate functions of the public realm. Citizens of a liberal polity must be able to distinguish between the unconstrained activity of mutual disclosure and the self-limitation, arising from the norm of rational dialogue, that is required for making decisions about principles that will govern political life.⁵²

Beyond her criticism of liberal theory, Benhabib uncovers the consequences of endemic gender blindness in political theory.

While matters of justice and those of the good life are conceptually distinct from the sociological distinction between the public and private spheres, the conflation of religious and economic freedoms with the freedom of intimacy under one rubric of "privacy" or "private questions of the good life" has had two consequences. First, contemporary normative moral and political theory, Habermas's discourse ethics not excluded, has been gender blind, that is, these theories have ignored the issue of difference, the difference in the experiences of male versus female subjects in all domains of life. Second power relations in the intimate sphere have been treated as though they did not exist. ⁵³

⁵¹For a detailed discussion of the public sphere from the perspective of discourse ethics see Jean L. Cohen and Andrew Arato, *Civil Society and Political Theory*, op. cit., Section III, 345-604. For discussion of Habermas's discourse ethics from a feminist perspective see *Feminists Read Habermas: Gendering the Subject of Discourse*, Johanna Meehan, ed. (New York: Routledge, 1995).

⁵²Charles Larmore, *The Morals of Modernity*, op. cit., 136.

⁵³Seyla Benhabib, "Models of Public Space", in *Habermas and the Public Sphere*, op. cit., 92.

Shane O'Neill raises similar objections to Rawls's theory but he considers these from the point of view of trying to isolate the political. He claims that "[b]y seeking to take issues of private concerns off the political agenda, Rawls makes the unwarranted assumption that the line between the political and nonpolitical aspects of our identities can be fixed"⁵⁴. O'Neill acknowledges that this issue is not resolved as Rawls has countered such accusations in 'Reply to Habermas'⁵⁵. It remains that issues of the good life and the public sphere are not easily isolated from each other.

The Rawls-Habermas debate is too complex to be discussed here and beyond the scope of the present work.⁵⁶ Suffice to say that the relevant point highlighted by Benhabib and O'Neill is that it is ambiguous as to whether certain issues in fact arise simply out of one's concept of the 'good life' or actually have public import. Taking care of another person, for example, may not be simply a matter of interpretation of the 'good life'. It becomes a matter of public import as these caretaking activities will have 'public' consequences for the individuals involved in these tasks.

⁵⁴Shane O'Neill, op. cit., 31-32.

⁵⁵John Rawls, "Reply to Habermas", *Journal of Philosophy* 92, No. 3 (March 1995), 132-180.

⁵⁶Some of this debate is featured in the form of an article by Habermas and a reply by Rawls in *Journal of Philosophy* 92, No. 3 (March 1995), 109-180.

Another consideration is that issues arising from the private sphere may have public import but they cannot always be articulated using language which is endemic to the public realm. Take the case of remuneration for domestic labour. This is an attempt to understand relations arising out of the private sphere and articulate them in a language germane to the public sphere involving simple economic relations and value judgements arising out of economic considerations. As these unsuccessful attempts attest, when this is done something gets lost. We cannot simply impose a terminology or an understanding of one sphere onto the other. This is perhaps the problem with the feminist attempts to politicize care. They are attempting the reverse: to use language of the private realm for the public. The prevailing assumption seems to be that in order to understand one sphere, it has to be articulated in terms typical of the other. If this cannot be done then it is simply assumed that both spheres are to be considered separate. This is not to respect the integrity of either spheres. It must be understood that each sphere may have its own language yet this does not lead to the conclusion that both spheres are separate and isolated from each other.

Therefore, it remains that in Rawls's theory individuals are mutually disinterested, in fact they seem to be completely selfish individuals who simply wish to cooperate with others in order to guarantee the safety of their interests. In not wanting to postulate individuals with attachments, Rawls has completely

obliterated any inkling of a social fabric. The critics might be right here that a liberalism focused on the individual's interests must obfuscate the ideal of community and more generally the private sphere. I want to examine the ideas of Hannah Arendt next as she is one theorist who has analyzed the public and private spheres in detail.

ARENDR'S THEORY OF THE PUBLIC AND THE PRIVATE

Arendt argues in the *Human Condition*, that the whole of human affairs can best be explained in our contemporary society by three categories: the private, the public and the social.²⁷ She even distinguishes within the private an area of the intimate. By adding the categories of the social and the intimate, the complexity of the public and private realms are better rendered. Although Arendt's discussion of the public-private is often accused of being a mere nostalgic appeal for the richer life of the greek polis, she, nonetheless, identifies some key issues which are relevant to our contemporary understanding of public and private life. First, she distinguishes between the social and public, and stresses the rise of the social much to the detriment, in her opinion, of the public. Second, she sees within the category of the private the relevance of a sphere of

²⁷Hannah Arendt, *The Human Condition*, (Chicago: University of Chicago Press, 1989), section II, 22-78.

intimate concerns. These are important and useful observations as they point to the impoverished liberal understanding of these categories.

Benhabib states in the *Reluctant Modernism of Hannah Arendt* that

[w]e not only owe to Hannah Arendt's political philosophy the recovery of the public as a central category for all democratic-liberal politics; we are also indebted to her for the insight that the public and the private are interdependent.⁵⁰

Although what Arendt had to say about the private realm was not necessarily progressive, in the sense that it understood the plight of women or of workers, it nonetheless clarifies areas of social interaction which had been deemed politically irrelevant.

Arendt writes,

The distinction between the private and public realms, seen from the viewpoint of privacy rather than of the body politic, equals the distinction between things that should be shown and things that should be hidden. Only the modern age, in its rebellion against society, has discovered how rich and manifold the realm of the hidden can be under conditions of intimacy; but it is striking that from the beginning of history to our own time it has always been the bodily part of human existence that needed to be hidden in privacy, all things connected with the necessity of the life process itself, which prior to the modern age comprehended all activities serving the subsistence of the individual and the survival of the species.⁵¹

Arendt's concern is focused on the decline of the public and the

⁵⁰Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt*, (Thousand Oaks, California: Sage Publications, 1996), 211.

⁵¹Hannah Arendt, *The Human Condition*, op. cit., 72.

corresponding loss of a richness of 'political' activity which she deems so crucial to a person's valour.

This lament over the loss of public space has been variously analyzed in many areas of human activity, from political theory to architecture.⁶⁰ This loss is understood to be in favour of the private but, I would add, in favour of the private understood mainly in terms of interests. Thus if the private is understood as becoming more important it is primarily the area of the private as interests or acquisitions which becomes more and more sanctified. There is no understanding of the private in terms of needs. The latter have no import, in fact, they are understood to hinder acquiring and interests. This is where Arendt's analysis becomes crucial.

The public and private are binary terms as Benhabib identifies them.⁶¹ By taking the viewpoint of the private, Arendt shades this understanding; it is no a black and white demarcation. She takes the perspective of the private person as opposed to the traditional perspective which has been the public person as a starting point. In this manner she is better able to articulate the whole of human affairs. This permits her to

⁶⁰See for example, Howard Kunstler, *The Geography of Nowhere: The Rise and Decline of America's Man-Made Landscape*, (Touchstone, 1994), for a discussion of how large homes compensate for a lack meaningful of public space.

⁶¹Seyla Benhabib, "Models of Public Space", op. cit. , 93.

uncover the area of the 'hidden'.

Her observation of the hidden element of private is particularly enlightening. Usually one hides something for either of two reasons: because it is a 'treasured secret' and one wants to protect it, or because it is something shameful, a 'source of shame'. These two ways of understanding hiding are applicable to the private realm. That is, interests which are private are understood to be 'treasured secrets' things that must be protected. On the other hand, needs are a 'source of shame'. The latter, which are typical of the domestic sphere, must be hidden to the point of being completely forgotten.

Benhabib claims that Arendt's view of the hidden and the intimate connects with contemporary feminist concerns about the domestic sphere and areas of care.²² In a certain way she is right. Arendt shows us that an area of intimacy is part of private life and has been occluded from theoretical discussion. A life lived out in the public realm would not be a rich and meaningful life for Arendt, so she understands the necessity of such an area. Nonetheless, Arendt is not overly progressive. As Pitkin argues in her article, 'Justice: On Relating Private and Public', these problems can be accounted for in part because

²²Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt*, op. cit., 211-215.

Arendt had little to say about justice.⁶³

The relevant point here is that Arendt emphasizes the importance of the intimate. As Pitkin recognizes,

[o]ur public life is an empty form—at best a meaningless diversion for a few, at worst a hateful, hypocritical mask for privilege—unless it actively engages the unplanned drift and the private social power that shapes peoples lives. As we learned from the difficulties of Arendt's thought, the appeal to heroism for its own sake becomes trivial vanity, just as greed and need untransformed by considerations of justice and community become debilitating and dangerous. It is no use banishing the body, economic concerns, or the social question from public life; we do not rid ourselves of their power that way, but only impoverish public life.⁶⁴

The poverty of public life is not unrelated to the poverty of private life. Arendt uncovers a richness in both. The task now is to understand how these two complex areas of human life interact and to take this into account in our political cogitations.

CONCLUSION

Needs, because they do not come from rational decisions but are bodily imperatives, are seen as a source of contingency and unfreedom. This view, taken to the extreme, seems to advocate that we would be better off without bodies! But if one can hold a pencil, write, talk, and think, it is because one is embodied.

⁶³Hanna Fenichel Pitkin, "Justice: On relating Private and Public", op. cit., 327-352.

⁶⁴Ibid., 346.

The fear of scarcity has made needs a source of fighting and competition; certainly this view is true in the early liberal theories. The bodily imperative for food was easily transmuted into an ideal of property. With the theories of Locke and Smith, needs become further translated into acquisitions; property and its protection become a primary goal of liberal theory. The initial understanding of needs is completely left out in favour of an ideal of freedom of thought and religion and the sanctity of property.

Benhabib draws on Arendt's work and talks about the ambiguity in liberal theory of the term privacy. This ambiguity has led to a conflation of which issues pertain to matters of the good life or to matters of justice. Benhabib writes,

I would maintain that in the modern social-contract tradition beginning with John Locke and including Rousseau, Kant, and in our days John Rawls, there has been a fundamental ambiguity governing the term 'privacy' that has led to a silent conflation of these [issues of justice and the good life].⁴⁵

She distinguishes at "least three distinct dimensions". "First and foremost, privacy has been understood as the sphere of moral and religious conscience". Second, "privacy rights pertaining to *economic liberties*". "The final meaning of 'privacy' and 'privacy rights' is that of the intimate sphere. This is the domain of the household, of meeting the daily needs of life, of sexuality and reproduction, and of care for the young, the sick, and the

⁴⁵Seyla Benhabib, "Models of Public Space", op. cit., 90.

elderly".⁶⁶

What feminist critiques have emphasized is that the third dimension is completely occluded from liberal theory. It is mostly the first and second ways of understanding privacy which are translated into liberal theory as determining one's vision of the good life and having control over the fruits of one's wage labour. The interests of the individual are of primordial importance. One consequence of this, according to Tronto, is that "[c]are seems irrelevant to public life because politics has been described as only the protection of interests".⁶⁷

The domestic sphere brings into focus our bodily needs. Feminists have framed this in terms of care. As Tronto writes,

[c]are is not a parochial concern of women, a type of secondary moral question, or the work of the least well off in society. Care is a central concern of human life. It is time that we began to change our political and social institutions to reflect this truth. ⁶⁸

This is a starting point, I believe. More generally, we need to include the body in our political thinking.

This discussion does not advocate interference by the political or public realm, in the sense of policing or

⁶⁶Ibid., 91.

⁶⁷Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care*, op. cit., 178.

⁶⁸Ibid., 179.

restrictions, in the private or personal realm of the citizen. This is mainly to point out that the theoretical considerations of the public have been made without taking into account that there exists a private and personal realm, including a domestic realm, and this has repercussions on the public. The latter cannot be theorized in a vacuum as it were.

In order to integrate these two spheres, our perspectives need to change. Tronto calls for a shift in "our assumptions about human nature"⁶⁹. The first shift has to do with our ideas on dependence and autonomy.

A second shift in our conceptions of human nature appears if we connect our notion of 'interests' with the broader cultural concern with 'needs'. Too often moral and political thinkers conceive of human activity in terms that are either logically or culturally individualistic, such as 'interest' or 'project'.⁷⁰

In traditional liberal theory, needs have been hidden from the private sphere. This sphere, minus the understanding of needs, is what has been taken as needing to be protected from public incursions. Therefore, the area of needs has been completely occluded from political theory. Now, the question is: how do we render the public sensitive to the private sphere understood as an area of interests and needs? The various attempts at a rapprochement between the private and the public

⁶⁹Ibid., 162.

⁷⁰Ibid., 164.

have concentrated mainly on trying to bridge the gulf between 'public society' and the 'abstract individual'. These have included early romantic ideal of 'fraternité'. More recent attempts have been to theorize solidarity; the feminist discussions of including care in our political thinking explicitly address domestic concerns. These last two avenues hold hope for theoretical ventures which could prove fruitful but certain steps need to be taken. First, we must acknowledge that humans have needs and need each other and will need each other at different times in their lives. Second, that the public and private spheres have an effect on each other and where the lines between these two spheres are drawn may actually vary. Liberal theory may dabble in the art of separation but it must also understand that in any artistic endeavour, interpretation is key and may vary.

The attempts to find the 'trait d'union' between the private and the public have resulted in a variety of theoretical concepts. Fraternity, solidarity and care have been proposed. Perhaps care is the closest to what I feel is the imperative we must address: our bodies. In the next chapter, I will examine our concepts of embodiment.

CHAPTER 6

EMBODIMENT

A discursive look at the historical development of western philosophy reveals that it has been difficult for philosophy to grapple with the concept of embodiment. Writings have been few and when they occur embodiment is seen, at best, as troubling and disturbing. Perhaps this epitomises philosophy as the true love of the mind unsoiled by materiality. In 'Woman As Body: Ancient and Contemporary Views', Elizabeth Spelman explains the role of the body in Plato's philosophy. It is worth recalling as it exemplifies well the western philosophical stance towards corporeality: "[o]ur bodies are not essential to our identity; in their most benign aspect, our bodies are incidental appendages; in their most malignant aspect, they are obstacles to the smooth functioning of our souls".¹ This trend changed somewhat with the advent of phenomenology at the beginning of the century. It became possible and even necessary to consider embodiment; the work of Merleau-Ponty cannot be ignored for its systematic thought about the philosophical importance and relevance of the body.

The general theoretical impetus to discredit the importance of the body made it easy for political philosophy to ignore the

¹Elizabeth V. Spelman, "Woman As Body: Ancient and Contemporary Views", *Feminist Studies* 8, No. 1 (Spring 1982), 117.

body. As seen in the previous chapter, domesticity or concerns of the domestic sphere and more generally concerns of embodiment have been associated with women and nature. The theoretical importance of the domestic sphere in political theory has been argued by feminists. This sphere had been occluded from theoretical discussion. The reasons for this, as Carole Pateman argues, are the patriarchal assumptions which are built into liberal theory:

The patriarchal claim that there is a 'foundation in nature' for women's subjection to men is a claim that women's bodies must be governed by men's reason. The separation of civil society from the familial sphere is also a division between men's reason and women's bodies.²

Feminist theory has had to be concerned with the body in order to explicate the sex and consequent gender differences which must arise out of sexed bodies.³ This attachment to the

²Carole Pateman, "The Fraternal Social Contract", in *The Disorder of Women*, op. cit., 45.

³There is a vast amount of feminist writings on the sex/gender dichotomy. Suffice to say here, that I will consider sex and gender together. I do not make any essentialist pretensions as to the meaning of these categories, either biological or social, nor do I assume that these are immutably given. I will always consider them together to signify that this dichotomy is by no means free of assumptions. As Judith Butler asks "When the body is conceived as a cultural locus of gender meanings, it becomes unclear what aspects of this body are natural or free of cultural imprint. Indeed, how are we to find the body that preexists its cultural interpretation? If gender is the corporealization of choice, and the acculturation of the corporeal, then what is left of nature, and what has become of sex? If gender is determined in the dialectic between culture and choice, then what role does "sex" serve, and ought we to conclude that the very distinction between sex and gender is anachronistic?" Judith Butler, "Variations on Sex and Gender: Beauvoir, Wittig and Foucault", in *Feminism as Critique*, Seyla

body can be interpreted as limitation to theory but it can also be seen as a strength. Feminist theory, unlike western philosophy, cannot avoid the body; it must confront it. Feminist theory has had to start from virtually uncharted territory especially since the existing theories, for example the theories of Merleau-Ponty and Foucault, have tended to consider male bodies as the norm.*

Benhabib and Drucilla Cornell, eds., (Minneapolis: University of Minnesota Press, 1987), 129.

To consider the implications of the categories of sex/gender is beyond the scope of this work. For a discussion of these categories, please refer to the works of Judith Butler, in particular, *Gender Trouble: Feminism and the Subversion of Identity*, (New York: Routledge, 1990). Also see Moira Gatens, "A Critique of the Sex/Gender Distinction", in *A Feminist Reader*, Sneja Gunew, ed., (New York: Routledge, 1991), 139-157. For a critical look at the 'sex-gender system' see and Sandra Harding, "Why Has the Sex/Gender System Become Visible Only Now?", in *Discovering Reality: Feminist Perspectives in Epistemology, Metaphysics, Methodology, and Philosophy of Science*, Sandra Harding and Merrill B. Hintikka, eds., (Boston: D. Reidel Publishing Company, 1983), 311-324.

*For a feminist critique of Merleau-Ponty's work see the writings of Iris Marion Young, *Throwing like a Girl and Other Essays in Feminist Philosophy and Social Theory*, (Bloomington: Indiana University Press, 1990), Part Three: Female Body Experience, as well as Gail Weiss, *Body Images: Embodiment as Intercorporeality*, (New York: Routledge, 1999). For a general discussion of the body, and a critical look at sexuality in the work of Merleau-Ponty see Elizabeth Grosz, *Volatile Bodies: Toward Corporeal Feminism*, (Bloomington: Indiana University Press, 1994), 101-107.

For a critique of Michel Foucault's male bias of sexuality see Isaac D. Balbus, "Disciplining Women: Michel Foucault and the Power of Feminine Discourse", in *Feminism as Critique*, Seyla Benhabib and Drucilla Cornell, eds. ((Minneapolis; University of Minnesota Press, 1987), 110-127 and Elizabeth Grosz, *Volatile Bodies: Toward a Corporeal Feminism*, op. cit., 155-159. For more general discussions see *Feminism and Foucault: Reflections on Resistance*, Irene Diamond and Lee Quinby, eds., (Boston: Northeastern University Press, 1988).

With the marxist imperative to focus on considerations of class and the great drive towards universality of rights, issues of race and gender could no longer be ignored. As the theoretical canon evolved, it became obvious that issues of race, class and gender could not be neatly dissociated. Thus feminist theorists had to confront the reality of racism and classism as well as sexism. This made the body even more crucial to theory.

As I have argued all along in this work, liberal theory is incapable of dealing with profound differences. It also maintains a paradigm of the private and public spheres as separate; yet there are problems in trying to divide issues neatly between the private and the public spheres. As feminists have claimed, dependency relations which involve care have political import. These issues revolve around concerns of embodiment: whether one is too young or too fragile to care for oneself, dependency relations originate in human frailty.

The paradigm of the self-sufficient adult is troublesome as it biases society and political theory toward this ideal. The implicit concept of the body within such a view is that it is self-generated, autonomy is acquired ex nihilo; the body is strong and perfect as it never requires attention. Because of this, I think it is crucial to ask whether embodiment is politically relevant and if it is, then in what manner is it politically relevant.

In order to do this, in this chapter, I will first examine the feminist writings in political theory that touch directly upon the body. I will focus mainly on the feminist critiques of liberal theory which pertain to embodiment. These have emphasized issues of rights about the body or control over one's body. The main issues discussed will be sexual discrimination, reproductive issues, and sexual abuse (sexual harassment, rape and pornography). Catharine MacKinnon has written extensively on sexual harassment and pornography; her writings will be examined as well as the critique by Drucilla Cornell of MacKinnon's position. This will be telling as it reveals a certain stance by feminists and liberal theorists towards the body.

Second, I will look at feminist phenomenological and postmodernist writings about the body. These are crucial to a greater understanding of the body and its role within political theory. Postmodernist feminist writings have dealt mostly with issues of sex/gender, yet these writings are relevant to the present exploration. In particular, because they inform us of the active role embodiment plays in our being, both private and social. Such a role cannot be ignored by a theory that purports to be sensitive to the real experiences of persons in society. These experiences, which express a variety of bodily modes of being, cannot be disregarded by a call for idealisation or simplification in order to focus on allegedly fundamental issues of justice.

I don't want to turn this into an ontological discussion of the status of the body. It must be remembered that the work of Merleau-Ponty and the writings in postmodernist theory have either a critical or an ontological program. These, nonetheless, have import. First, they explicitly recognise the role of the body in discursive practises and secondly, they show us the intermingling of social practises and the subsequent investments in particular ideals of justice. Theory is not above corporeality; it is informed by bodily practises. Thus, the writings of feminists Elizabeth Grosz, Moira Gatens as well as Gail Weiss will be examined because they talk about 'bodily imperatives'. Nonetheless, we must ponder the political application of such theorizing and this is what will be done by specifically looking at feminist writings on disability. The reality of disability makes us confront 'bodily imperatives'. Either we choose to discount these as issues of charity and thus irrelevant to a just society or we delve into the complexities of non-ideal embodiment and expand our notions of what a just society entails.

I hope to show, finally, that embodiment has definite import on our theoretical perspectives. The body is not simply a static given that enables us to function idealistically in a reciprocal society. Our corporeality entails that we are at times weak and vulnerable beings and if we are to conceive of society as a place that not only protects our interests but also our selves, we must

make room for embodiment in our political thought.

THE BODY AT THE INTERSECTION OF LIBERALISM AND FEMINISM

In this discussion I will purposely ignore the issues surrounding care which were discussed in the previous chapter. Although these questions are important, I wish to address the specificity of female embodiment and the reaction to this specificity by liberal theory.

The first arguments made by the early feminists were that being female and having a female body did not mean that one was less rational. Thus they centred their arguments not around the explicit fact of sexual difference but on the premise that sexual difference did not matter; it was education and other factors which rendered women powerless and not an inherent feature of their body.⁵ In this way the body had to be evacuated from discussion; this in turn was in line with the philosophical values of the enlightenment.

As formal equality became more of a 'fait accompli' in the late nineteenth and early twentieth centuries, obstacles were still there to limit the social perspectives of women. Thus, it became obvious that even if equality was granted, there were

⁵This was the argument made by Mary Wollstonecraft in 1792. See Mary Wollstonecraft, *A Vindication of the Rights of Woman*, Miriam Brody Kramnick, ed., (New York: Penguin Books, 1978).

considerations which were of importance to women precisely because they had female bodies. Such considerations could not be accommodated easily by gender neutral policies. These can be summarized generally as: sexual discrimination, reproductive rights, and sexual abuse (sexual harassment, pornography and rape). Such issues made it obvious that the liberal idealisation of a gender neutral person did not lead to a greater understanding or resolution of these problems. I will examine sexual discrimination (affirmative action and maternity leave), sexual abuse and reproductive freedom in turn with the focus of corporeality.

Sexual discrimination is an issue that was the focus of much feminist writings and studies in the sixties. It revealed that women were often denied education or higher paying jobs. This was a simple matter of discrimination based on a person's sex. Therefore, the central claim was that all individuals deserved equal opportunities.⁶ In order to correct for this, affirmative action programs were at times put in place. Affirmation action programs were not limited to gender, they also encompassed programs for persons of different ethnic backgrounds. I do not want to discuss affirmative programs but only to say that the focus of the fight against discrimination, be it racial or

⁶For a discussion of paid labour and discrimination see Elizabeth Frazer and Nicola Lacey, *A Feminist Critique of the Liberal-Communitarian Debate*, (Toronto: University of Toronto Press, 1993), "Waged Work", 81-88.

sexual, was phrased in terms of rights. Thus the call for equality was really a call to ignore the particular embodiment of the potential worker, for instance. On the other hand, affirmative action plans call for an explicit recognition of embodiment.⁷

In 'The Affirmative Action Debate and Conflicting Conceptions of Individuality', Mary E. Hawkesworth argues "that opponents of Affirmative Action adopt a model of 'atomistic individualism' which assumes that identity is a matter of individual choice and will" whereas proponents of Affirmative action "adopt a conception of 'socialised individualism' which emphasizes the impact of cultural norms and group practises upon the development of individual identity"⁸. She is right in pointing to the link between the concept of individualism and the social measures one understands as just. The social policies adopted depend on the underlying political theory and its inherent understanding of individualism. In terms of corporeality, the issue is really whether the body should be

⁷For a discussion of affirmative action in relation to the dilemma of difference see Martha Minow, *Making All the Difference*, op. cit., especially pages 385-387. A stimulating discussion of affirmative action, the principle of nondiscrimination and the myth of merit can be found in Iris Marion Young, *Justice and the Politics of Difference*, op. cit., chapter 7, "Affirmative Action and the Myth of Merit", 192-225.

⁸Mary E. Hawkesworth, "The Affirmative Action Debate and Conflicting Conceptions of Individuality", in *Hypatia Reborn: Essays in Feminist Philosophy*, Azizah Y. Al-Hibri and Margaret A. Simons, eds., (Bloomington: Indiana University Press, 1990), 136.

recognized as specific or not. Thus the body becomes a static signifier of culture or sex or both. This tells us that bodies matter in the sense that they denote a particular background.

In societies where it is important to reflect the true diaspora of that society and where everyone is seen as equal, opportunity should be open to all and this should be reflected in the fact that higher paying positions have a variety of persons occupying them. Affirmative action plans can be seen as a redress principle for years of discrimination. This can be accommodated within Rawls's theory, for example, by a proper interpretation of the first and second principles of justice, since opportunities should be open to all.⁹ Embodiment then is only relevant as it denotes racism, classism and sexism. These can be compensated for by proper social practices such as affirmative action and such practises can be defended by a theory such as Rawls's.

The issue of maternity leave for workers calls into question the unwritten assumption that the worker has a male body. By trying to uphold an ideal of neutrality toward sexed bodies, liberal theory may in fact be biased against those who have bodies which do not conform to a non-pregnant norm, for example. Liberal theory has attempted to deal with this by considering

⁹Although not meant to be a principle of redress, education for less favoured individuals, for example, can be argued for. For a revised statement of the two principles of justice see John Rawls, *Political Liberalism*, op. cit., 291.

pregnancy as a 'dis-ease'. Such a resolution clearly shows the bias against female embodiment. As Ann Phillips remarks more generally,

Discussions of sexual equality have so far silently privileged the male body: what men and women are treated the same, it means women are treated as if they were men; when men and women are treated differently, the man remains the norm, against which the woman is peculiar, lacking, different. ¹⁰

It is a question of rights. The rights of female workers to have job security even though they may get pregnant. It is obvious here that the ideal of male worker is not suitable, thus policies towards workers have to reflect the reality that some workers may get pregnant, for example. The male norm is no longer viable for a fair and just treatment of all workers. This clearly, though, can be phrased in terms of rights and the ideal challenged in those terms. No actual fundamental premise of liberal theory need be challenged, save to say that the ideal of the worker as male breadwinner no longer holds.

Sexual harassment and pornography have been analyzed in detail in the works of Catherine MacKinnon.¹¹ She explicitly

¹⁰Ann Phillips, *Democracy and Difference*, op. cit., 45. A broader discussion is given on pages 43-48.

¹¹See Catharine MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination*, (New Haven: Yale University Press, 1979), *Feminism Unmodified: Discourses on Life and Law*, (Cambridge, Massachusetts: Harvard University Press, 1987), and *Toward a Feminist Theory of the State*, (Cambridge, Massachusetts: Harvard University Press, 1989).

situates women's subjection within the social construct of sexuality and sexual behaviour.

Inequality because of sex defines and situates women as women. If the sexes were equal, women would not be sexually subjected. Sexual force would be exceptional, consent to sex could be commonly real, and sexually violated women would be believed. If the sexes were equal, women would not be economically subjected, their desperation and marginality cultivated, their enforced dependency exploited sexually or economically. Women would have speech, privacy, authority, respect, and more resources than they have now. Rape and pornography would be recognised as violations, and abortion would be both rare and actually guaranteed. ¹²

It is again a matter of rights: rights to dignity, to a life free of the subjection of power relations entailed by a male/power paradigm of society where the female is in a subjective state. MacKinnon condemns femininity. Female bodies have no autonomy, no way of being liberated. This is what Cornell reproaches to MacKinnon: this impossibility of femaleness outside the bonds of subjection. As Cornell summarizes:

[w]e can only negate what we are, or we affirm our reality as sexualized objects. Therefore, MacKinnon must reject any attempt to affirm the feminine as it is manifested in the lives of actual women as having any normative significance. For MacKinnon, it is profoundly mistaken to emphasize feminine difference as having value. Such affirmations of feminine difference should instead be condemned as complicity in our oppression. ¹³

The strength of MacKinnon's position is her recognition that

¹²Catharine A. MacKinnon, *Toward a Feminist Theory of the State*, (Cambridge, Massachusetts: Harvard University Press, 1989), 215.

¹³Drucilla Cornell, *Beyond Accommodation: Ethical Feminism, Deconstruction, and the Law*, (New York: Routledge, 1991), 125.

sexuality is a social construct that has limiting and harmful effects on women. It is not only a question of rights; it is also a question of power relations which are all encompassing. The body is the locus of inscribing the sexism of society; its meaning is derived from society and cannot be changed. In MacKinnon's view the body is a limitation. Liberal theory and the social institutions derived from it cannot accommodate female bodies; in fact, it invites abuse toward female bodies. The body is an unchangeable, immutable given.

But for Cornell the reality of our sexed being is not a static given. It is a work in progress that, although influenced by social institutions, can also be resisted. Cornell's point is well taken that given MacKinnon's framing of the situation, no resolution can be achieved. MacKinnon adopts the traditional view that our bodies are given and unchanging although she readily inscribes them with social significance. For Cornell, though, the body and being female is not an end in itself but can be re-written. Thus her view of femininity is that of possible change and evolution which must be respected and "this can be done with a program of equivalent rights that seeks to value the specificity of the feminine".¹⁴ Cornell elaborates on such a program in her book *Transformations*.

¹⁴Drucilla Cornell, *Transformations: Recollective Imagination and Sexual Difference*, (New York: Routledge, 1993), 113.

As MacKinnon's argument goes, one cannot escape one's femaleness and one is doomed to the position of having one's rights trampled upon. Cornell has attempted to counter MacKinnon's view by positing a positive side to femaleness which is the possibility of reinventing one's place through a social imaginary. Although this is a creative solution, Cornell eventually remains within the liberal political paradigm and draws upon Rawls's theory to support her view. Ultimately she does not dissociate herself from the liberal framework but interprets Rawls' primary good of self-respect in large way. Even though her view is progressive, it does not challenge the liberal imperative of 'reciprocity' or self-respect as a 'good'.¹⁵

Even if Cornell states that

[She] do[es] not believe that we can ever simply "own" our bodies, and that the very idea that we do "own" them is in and of itself a fantasy. But this sense of one's body as one's "own" is a necessary projection for any sense of self.¹⁶

she uses this understanding as 'possession' and makes it the implicit understanding for political theory. Thus the body, although capable of being signified in various ways, remains a 'possession'. It may be reinvented but this remains purely in the imaginary domain and does not have any direct political impact, save to challenge the norms of self-respect. Cornell simply

¹⁵Drucilla Cornell, *The Imaginary Domain: Abortion, Pornography, and Sexual Harassment*, (New York: Routledge, 1995), 178-190.

¹⁶Ibid., 85.

demands that society be more tolerant of various modes of being embodied, and of living one's body but does not make any parallel demands of theory.

The important point is that liberal theory has attempted to deal with the issues that arise out the particularity of bodies, some being female others being male and therefore aggressive, in MacKinnon's view, in terms of rights. Thus the body and its inviolability are the bearers of rights. I am not denying that rights concerning one's body and body integrity are important. Only that the entire liberal discourse seems to centre around this view of the body.

Now this is problematic as it has been interpreted as meaning that the body is primarily a possession. Even Cornell's interpretation which is imprinted with postmodern leanings is still within the paradigm of our public body as being a private possession. The sense of shame which we can face for various reasons should be eliminated and, according to Cornell, this is done by providing all citizens with the good of self-respect. It can be demanded because our body is our own and we should be allowed to be creative with it. Policies can be enacted that ensure this but they cannot help us reinvent a notion of the body or corporeality for political purposes. Cornell's analysis has little to offer for a different political concept of corporeality.

In *A Feminist Critique of the Liberal-Communitarian Debate*, Frazer and Lacey make the case that

[L]iberals will tend to agree in the first instance that sexual harassment and other forms of sexual abuse are wrong, and that sexual practises are susceptible to liberal-political and moral analysis. However, when liberal arguments and concepts are brought to bear on issues of sexuality in general and sexual abuse in particular, it turns out that they do not capture the wrong that is experienced and understood, and even render it unclear that in liberal terms, any wrong has occurred at all. ¹⁷

In particular they are referring to the wrongs experienced by women who are sexually assaulted.

These wrongs cannot simply be understood in terms of a violation of rights. Bodily integrity goes further than just rights. To understand sexual harassment and the wrong done by such abuse as a simple matter of rights is a reductionist stance that overlooks crucial wrongdoing. In this sense, Cornell's analysis is useful as she makes room for the imaginary in her discussion. Thus, denial of reproductive rights and sexual abuse can be understood to hurt the individual in her sense of self that goes beyond mere rights. In this way, self-respect is a crucial right as it engages the imaginary as well as the domain of rights. Nonetheless, it is difficult to see the radical implications of such a reinterpretation.

The issue of reproductive rights from birth control to

¹⁷Elizabeth Frazer and Nicola Lacey, *A Feminist Critique of the Liberal-Communitarian Debate*, op. cit., 88.

abortion has been a rallying point of feminist writings. The corpus is extensive but for my purposes I wish to focus on a particular writer, Jean L. Cohen, because she engages explicitly the notion of embodiment within her argument.¹⁰ From a legalistic, 'liberal' perspective, albeit one that favours Habermas's communicative ethics, Jean L. Cohen considers the issue of abortion and claims that the previous ways of understanding this right to reproductive freedom in terms of privacy and privacy rights have been inadequate.

Cohen argues for rethinking privacy rights in terms of decisional autonomy. This comes in part from the need to address the fact that we are embodied. "[O]ur bodies, our symbolic interpretation of our bodies, and our sense of control over our bodies are central to our identity and our personal dignity".¹¹

¹⁰The fight for reproductive rights is often phrased in terms of having control over one's body. As Margaret Sanger wrote at the beginning of this century this right was a fundamental one for women. "Woman must have her freedom—the fundamental freedom of choosing whether or not she will be a mother and how many children she will have". Margaret Sanger, "Birth Control—A Parent's Problem or a Woman's?", in *The Feminist Papers: From Adams to de Beauvoir*, Alice S. Rossi, ed., (New York: Bantam, 1978), p. 536. I believe she captures the spirit of feminist writings about reproductive choice. As for abortion issues, again the central tenet is control over one's body. The pre-eminent essay on rights and abortion is undoubtedly Judith Thomson, "A Defense of Abortion", *Philosophy and Public Affairs* 1, (1971), 47-66.

¹¹Jean L. Cohen, "Redescribing Privacy: Identity, Difference, and the Abortion Controversy", *Columbia Journal of Gender and Law* 3, No. 1 (1992), 113. A shorter version of this discussion entitled "Democracy, Difference, and the Right to Privacy" can be found in *Democracy and Difference*, Seyla Benhabib, ed., op. cit., 187-217.

For Cohen, privacy rights are always "body mediated" and in this sense embodiment is of central concern. In order to best protect the individual and respect her embodiment, Cohen calls for privacy rights to "replace property as the symbolic principle around which the key complex of personal civil rights are articulated".²⁰

If we are to understand

why abortion rights among other procreative concerns are central to the concrete as well as the abstract dimension of ourselves, we must replace the possessive-individualist conception of the relation of self and body that has dominated our thinking for so long, with something better.²¹

Cohen understands, as Cornell also does, the role decisional autonomy plays within the concept of our self. It is not just a matter of rights, it is a matter of deciding how to live with and within our bodies. Cohen argues that decisional autonomy can protect and emphasize a full sense of self.

These critiques imply that our view of the body must change. I agree with Cohen that the body is no longer the passive locus of rights; when harm is done it is not to be viewed as if only physical damage has been perpetrated against some object I possess. Cohen's focus is on the right to decide and how this

²⁰Ibid., 116.

²¹Jean L. Cohen, "Democracy, Difference, and the Right of Privacy", in *Democracy and Difference*, Seyla Benhabib, ed., op. cit., 205.

affects one's sense of being. Since Cohen works within a legal framework she does not give any direct political insights into what this new view of the body might entail. Cornell, though, by demanding that self-respect be the atmosphere in which a person evolves could be interpreted as situating her demands within a political context. As she makes clear in *The Imaginary Domain*, she feels Rawls's theory is sufficient for this.

Nonetheless, what is lacking from both Cohen and Cornell is the sense in which our bodies are intersubjective. For Cohen our bodies remain under our control. For Cornell certainly our bodies must be respected, but there is no sense that our bodies have a connection to anyone else. Perhaps for Cornell this is too strong as shame and self-respect call for at least a tolerating attitude from our fellow beings. Nonetheless, the respect Cornell calls for is similar to Rawls's definition; it is a respect of our life plans.²² I would say that Cornell's and Cohen's views can be somewhat summarized by saying that bodies require 'the freedom to be'. Certainly I would like to think that decisional autonomy and the norms of self-respect demand more than just a cliché from a Calvin Klein commercial.

If there is a sense in which we are intersubjective beings, that we are persons inhabiting a society with others, it should

²²John Rawls discusses self-respect shame in *A Theory of Justice*, op. cit., 440-446.

be understood that this intersubjectivity is achieved primarily through embodiment. Yet it is amazing that so much writing focuses on how our persons, embodied or not, should be left alone. We should be free to express ourselves as we feel. Reading Cohen, MacKinnon and Cornell, one does not get the sense that bodies matter as the fabric of society. Corporeality matters only as a site indicative of dominance; bodies are the privileged site of negative freedoms.

Bodies focus our attention on issues of recognition, respect as well as opportunities. Discrimination and affirmative action make us scrutinize the availability of opportunities and who benefits from these in society. In particular, Cornell and MacKinnon concentrate on the issue of respect, or lack thereof, in a sexist society and the consequent harm such lack causes. Cohen calls for an understanding of embodiment and ties this to privacy rights and decisional autonomy. Her aim is to render privacy rights paradigmatic. What is missing is an examination of recognition and the intersubjective dimensions of recognition in society. Certainly, the demand for respect and the call for equal opportunities are underlain by the implicit assumption that there is a valid recognition of the 'other'. Nonetheless, this recognition is never explicitly expressed in corporeal terms. Bodies seem to be an obstacle to recognition; if we recognize the other it is in spite of her differing body. The obvious conclusion is that recognition should involve abstracting from

bodily particulars. This, I believe, is problematic.

To help us in our reflections, I suggest we turn to the writings of men and women of colour as they also had to confront the reality of embodiment in a racist society. I will focus briefly on the writings of feminists of colour as they have challenged mainstream feminist writing for its assumption that the experiences of white women were the experiences of all women. Women of colour brought to light essentialist assumptions about the meaning of 'woman' and the fact that issues of sex, race and class could not be neatly dissociated.

The abolitionist movement in the nineteenth century brought many women into the political arena. Black women in America in the times of slavery had to confront the open and cruel reality of sexism as well as racism. On occasion they would channel their plea to their abolitionist sisters who failed to recognize them as human beings; they challenged the essentialist view that women of colour were meant to clean and toil.²² They called for

²² Here is an excerpt from the writings of Maria W. Stewart, writing in the 1830's, who was at one point a servant. "O, ye fair sisters, whose hands are never soiled, whose nerves and muscles are never strained, go learn by experience! Had we had the opportunity that you have had to improve our moral and mental faculties, what would have hindered our intellects from being as bright, and our manners from being as dignified as yours? Had it been our lot to have been nursed in the lap of affluence and ease, and to have basked beneath the smiles and sunshine of fortune, should we not have naturally supposed that we were never made to toil?" Maria W. Stewart in *We Are Your Sisters*, Dorothy Sterling, ed. (New York: W.W. Norton & Company, 1984), 155.

recognition as human beings despite their differing bodies and histories. This call was also made by the early feminists but the abolitionists were challenging even deeper assumptions as they had to surmount a long tradition of both sexism and racism.

With the feminist movement and the civil rights movement of the sixties, black feminists began to analyze carefully the experiences of their foremothers. In 'Sexism and the Black Female Slave Experience', bell hooks summarizes,

In a retrospective examination of the black female slave experience, sexism looms as large as racism as an oppressive force in the lives of black women. Institutionalized sexism—that is, patriarchy—formed the base of the American social structure along with racial imperialism. Sexism was an integral part of the social and political order white colonizers brought with them from their European homelands, and it was to have a grave impact on the fate of enslaved black women. ²⁴

Black women recognized that the racism their brothers experienced was not the same as theirs.

If this was true in the times of slavery, it still holds for contemporary times. The Combahee Women's Collective declares that

[w]e believe that sexual politics under patriarchy is as pervasive in black women's lives as are the politics of class and race. We also often find it difficult to separate race from class from sex oppression because in our lives they are most often experienced simultaneously. We know that there is such a thing as racial-sexual oppression which is neither solely racial nor solely sexual, e.g., the history of rape of Black women by white men as a weapon of political

²⁴bell hooks, *Ain't I a Woman: Black Women and Feminism*, (Boston: South End Press, 1981), 15.

repression. ²⁵

Elizabeth V. Spelman explains in *Inessential Woman*,

[f]irst of all, sexism and racism do not have different "objects" in the case of Black women. It is highly misleading to say, without further explanation, that Black women experience "sexism and racism". For to say merely that suggests that Black women experience one form of oppression, as Blacks (the same thing Black men experience) and that they experience another form of oppression, as women (the same thing white women experience). While it is true that images and institutions that are described as sexist affect both Black and white women, they are affected in different ways, depending upon the extent to which they are affected by other forms of oppression. ²⁶

What is crucial here is that race, class and sex are all intertwined. Thus the body cannot be designated as only a female body, only a working-class body, only a body of colour. The body is the locus of many intersecting discourses. For one person there may a predominant feature, such as sex, but for another it may be different and these may differ at different times.²⁷

²⁵Combahee River Collective, The Combahee River Collective Statement, *Home Girls: A Black Feminist Anthology*, Barbara Smith, ed. (New York: Kitchen Table: Women of Color Press, 1983), 275.

²⁶Elizabeth V. Spelman, *Inessential Woman: Problems of Exclusion in Feminist Thought*, (Boston: Beacon Press, 1988), 122.

²⁷For more discussion on the intersection of race, class and gender see *Theorizing Feminism: Parallel Trends in the Humanities and Social Sciences*, Anne C. Herrmann and Abigail J. Stewart, eds., (Boulder: Westview Press, 1994); also "Part I Feminist Knowledge: Critique and Construct", in *A Reader in Feminist Knowledge*, Sneja Gunew, ed., op. cit., 3-41. For the importance of listening to different women's voices against essentialist presuppositions see Maria C. Lugones and Elizabeth V. Spelman, "Have We Got a Theory for You! Feminist Theory, Cultural Imperialism and the Demand for 'the Woman's Voice'", in *Hypatia Reborn*, op. cit., 18-33.

Taking this into consideration invites an understanding of the body as a plastic site of meaning. It has the possibility of change. The body is no longer the a priori given, universal and unchanging for all. Different bodies matter differently. Thus our theoretical understanding of the body needs to be able to accommodate this reality. Feminist phenomenological and postmodernist writers, to very broadly gather a large theoretical corpus under a dubious label, have paid explicit attention to the body and the changing quality of the body. Let us turn to these next.

THE LIVED BODY

Judith Butler locates the anxiety that theorists may feel toward such projects as those inspired by Foucault, Derrida or other theorists of a 'postmodern' vein as follows: "[t]o problematize the matter of bodies entails in the first instance a loss of epistemological certainty, but this loss of certainty does not necessarily entail political nihilism as a result".²² The greater fear of the loss of the subject can also be seen in the fear of reappraising the body. To effectuate a reappraisal of the status of the body, to question its universality, its meaning is needed since so much that we have taken for granted,

²²Judith Butler, "Contingent Foundations: Feminism and the Question of 'Postmodernism'", in *Feminists Theorize the Political*, Judith Butler and Joan W. Scott, eds., (New York: Routledge, 1992), 17 (note omitted).

especially in political theory, is being challenged. As seen above, racist, sexist discourses mark specific bodies. We cannot assume that a perfect society will erase all this and simply wait for that perfect unbiased society to arrive while maintaining that we can abstract from corporeal particulars. What feminists and persons of colour have been telling us is that the body is specific and its significance variable; not only is the body marked by social practices, these, in turn, are influenced by our view of the body.

If, as Butler and other theorists claim, a revision of the 'subject' is necessary, and that questioning the universality of such a given becomes a theoretical imperative, it is even more so for our concept of the body as an a priori, unchanging entity. This does not presuppose negating the necessity of coming to some concept of embodiment nor does it follow that theory will irremediably fall victim to endless particularities of embodiment. As Butler writes about the subject,

[t]o refuse to assume, that is, to require a notion of the subject from the start is not the same as negating or dispensing with such a notion altogether; on the contrary, it is to ask after the process of its construction and the political meaning and consequentiality of taking the subject as a requirement or presupposition of theory.²⁹

In the case of corporeality, I would interpret Butler's ideas as meaning that taking for granted the masculinist embodied paradigm of the person for liberal theory has made it biased towards other

²⁹Ibid., 4.

embodied types. Theoretical ideals have also been influenced by this paradigm. Work by feminists and persons of colour have rendered this paradigm visible and have challenged the assumption of this 'universalistic, pre-political' body. Now a notion of the embodied political person needs to be theorized.

Three feminist writers are relevant to our project at this point. Moira Gatens and Elizabeth Grosz have specifically argued for the importance of the body in theory. Gail Weiss claims that the importance and multiplicity of our body images is also crucial to theory.

Gatens's project is to use Spinozist philosophy to rethink the body and its role. The reason for this, according to Gatens, is that

[f]or Spinoza the body is not part of passive nature ruled over by an active mind but rather the body is the ground of human action. The mind is constituted by the affirmation of the actual existence of the body, and reason is active and embodied precisely because it is the affirmation of a *particular* bodily existence.²⁰

Gatens considers embodiment principally as it affects sexuality; in particular the significance of male and female embodiment. For Gatens,

A philosophy of the body that addresses the connection between representations of sexed bodies on the one hand and representations of the politico-ethical on the other is an

²⁰Moira Gatens, *Imaginary Bodies*, (New York: Routledge, 1996), 57.

essential component of any alternative view.²¹

That view being that of human culture. Gatens notes that women's experiences, which include embodiment, have been excluded from theory. But Gatens's project does not have an immediate political agenda, save to contest traditional theory. Although I agree with her view that the body should not be understood as a biological given, it is difficult to see what direct promises spinozist theory can yield for political theory.

Elizabeth Grosz agrees with Gatens that spinozist philosophy is interesting in its alternative view of the body but she sees problems which preclude a reconfiguration using spinozist terms. One of the conditions necessary for a feminist reconfiguration of the body, according to Grosz, is that

Human bodies have the wonderful ability, while striving for integration and cohesion, organic and psychic wholeness, to also provide for and indeed produce fragmentations, fracturings, dislocations that orient bodies and body parts toward other bodies and body parts.²²

This cannot be accommodated within Spinoza's holistic view of the body and subject.

Grosz finds more promise in the works of French feminists Kristeva and Irigaray.

[They] have shown that some concept of the body is essential to understanding social production, oppression and

²¹Ibid., 58.

²²Elizabeth Grosz, *Volatile Bodies: Toward a Corporeal Feminism*, (Bloomington: Indiana University Press, 1994), 13.

resistance; and that the body need not, indeed must not be considered merely a biological entity, but can be seen as a socially inscribed, historically marked, psychically and interpersonally significant product.²³

Grosz's work is mainly on sexuality and the lived body. Kristeva and Irigaray, as interpreted by Grosz, do call our attention to the changing signification of bodies. Yet how can this be relevant to a political theory that wants to be sensitive to differing bodies?

Gatens and Grosz are calling for the explicit recognition of the signification of differing bodies. They challenge the assumption of a universalistic, unchanging body both within traditional and feminist theory. Gail Weiss argues in her book *Body Images*, that "...human beings tend to have multiple body images and...these body images overlap with one another and are themselves constructed, reconstructed, and deconstructed through a series of ongoing, intercorporeal exchanges".²⁴ True to the spirit of Foucault's work, it is imperative to recognize, at the very least, that bodies and social practices cannot be dissociated.

Weiss addresses explicitly the importance of embodiment for

²³Elizabeth Grosz, "Philosophy, Subjectivity and the Body: Kristeva and Irigaray", in *Feminist Challenges: Social and Political Theory*, Carole Pateman and Elizabeth Gross, eds., (Sydney: Allen and Unwin, 1986), 140.

²⁴Gail Weiss, *Body Images: Embodiment as Intercorporeality*, (New York: Routledge, 1999), 167, (note omitted).

ethics. She considers what she terms the 'disembodied account of moral reasoning' of Kant and Rawls ⁹⁵ which she finds lacking. Instead, she advances the idea of an 'embodied' ethic which does not preclude other types of ethical stances. For Weiss, it is desirable to focus on an ethic that can recognize particularity. Even Benhabib, according to Weiss, with her call for the standpoint of the concrete other, is found guilty of relying on universalizable principles.

This is problematic because according to Weiss,

To emphasize the moral agency of particular bodies at once involves paying attention to how gender, race, ethnicity, age, and class status are embodied and to how these (differentially) affect the nature of interactions between individuals as well as the obligations that arise out of those interactions.⁹⁶

It is difficult to see how Weiss can defend herself against the charge of slipping into relativism. Nonetheless, she specifically considers the case of Simone de Beauvoir's actions as told in her book *A Very Easy Death*. According to Weiss, here de Beauvoir exhibits an 'embodied ethical' stance.⁹⁷ It is not clear, though, that a kantian might not have acted in the same way as de Beauvoir. It seems Weiss commits the same generalizations of Kant's universalizability as those who claim that for a kantian the resulting moral question has to be phrased in rigorously

⁹⁵Ibid., 141.

⁹⁶Ibid., 140.

⁹⁷Ibid., 146-157.

general terms. This need not be the case as Onora O'Neill argues; kantian ethics is not synonymous with gross overgeneralization and complete decontextualization. De Beauvoir's actions could still be said to be universalizable as the stance she assumed was one that created the least harm for her mother.

Nonetheless, the recognition of one's body is important and as Weiss argues all the body images which are reflected back upon us are constitutive of our sense of self. Again, the body is not just a biological given. For Weiss, the dimension of intercorporeality is that of communication. Our body images are incorporated within our sense of self and this in turn is communicated variously to others. I would say that this view is also that of Grosz and Gatens. The intersubjective dimension of bodies is predominantly that of communication done through our bodies. In turn, social practices are communicated and internalized through our bodies.

What these theorists don't discuss very much is Merleau-Ponty's famed metaphor of the hand touched and being touched. The double sensation of feeling and felt which is particular to bodies and indicates a fundamental reversibility.²⁰ Grosz addresses this reversibility of the 'flesh' briefly in *Volatile Bodies*. As she notes, the program of Merleau-Ponty is ontological

²⁰Maurice Merleau-Ponty, "L'Entrelacs-Le Chiasme", *Le Visible et L'Invisible*, Claude Lefort, ed. (Paris: Gallimard, 1964), 172-204.

and this cannot be forgotten. "Flesh is being's reversibility, its capacity to fold in on itself, a dual orientation inward and outward"³⁹.

However, this 'reversibility' can have political dimensions. David Michael Levin writes in 'Justice in the Flesh', that

...in his hermeneutical phenomenology of the flesh, Merleau-Ponty has cast a penetrating light on the depths and dimensions of this "human bond" [upon which is built the basic structure of a society], letting it be seen and recognized as justice in the flesh. The rule of justice depends on structures of reciprocity, an ethics of communicative rationality. But reciprocity, in turn, depends on the experience and understanding of reversibility: the reversing of roles and points of view. ⁴⁰

Levin goes on to mention Rawls's theory as one which stresses reciprocity.

I agree with Levin that reversibility is an antecedent of reciprocity. But I would not interpret reversibility as one person taking the point of view of the other. In fact, in the example of the hands touching, the hand being touched does not have the identical yet reversed experience of being touched. The experiences are not symmetrical. This, I believe is a crucial point and also one that was emphasized by Iris Marion Young in her critique of communicative ethics, seen earlier in the fourth chapter on difference. The ideal of symmetrical reversibility is

³⁹Elizabeth Grosz, *Volatile Bodies*, op. cit., 100.

⁴⁰David Michael Levin, "Justice in the Flesh", in *Ontology and Alterity in Merleau-Ponty*, Galen A. Johnson and Michael B. Smith, eds., 44.

too binding for an effective communication and cannot be realistically expected. What the reversibility of the flesh is showing is the necessary movement of one toward another; not of the symmetrical reversibility of experiences. This, I find, is more illuminating for the ideal of reciprocity. Reciprocal arrangements can allow for a dissimilitude of experiences. What is important is the binding relation that exists between the two parties. As in the hands, one cannot touch without being touched.

The lived body, considered from the points of view of these various theorists discloses itself as a theoretically rich field of speculation. Apart from the obvious conclusions that the body is necessary to our sense of self and that its significance cannot be reduced to that of a locus of rights, what other conclusions can the above reflections yield? The next step is to consider the writings of persons with disabilities. Philosophical writings on these are few. Yet, there are a few feminist writers who have contemplated the issue of disability and its philosophical implications for our thinking of the body, equality and reappraising the ethics of care.

DISABILITY

As Karen Fiser remarks in her article 'Philosophy, Disability, and Essentialism', there is a lack of philosophical

material on disability.⁴¹ She deplores the absence of mention of disability from such anti-essentialist discourses as those propounded by writers as Spelman. Fiser stresses that although writers have challenged orthodox writings from the perspectives of different sexually and gendered beings as well as the cultural imperialistic stance of western writers, there is a virtual silence on the experience of disability; this can only be explained by the acceptance of assumptions about disability. This must be challenged, according to Fiser. There are feminist writers who have addressed the issues surrounding disability. The reason for this is, as Susan Wendell suggests, in part because

Feminist thinkers have raised the most radical issues about cultural attitudes to the body...[and] [some of the same attitudes about the body which contribute to women's oppression generally contribute to the social and psychological disablement of people who have physical disabilities.⁴²

The body is crucial in writings about disability not only because less ideal embodiment makes it imperative that issues surrounding care and loss of ability be addressed but also because it situates our fears about the body. As Wendell notes

[something more powerful than being in a different body is at work. Suffering caused by the body, and the inability to control the body, are despised, pitied, and above all, feared. This fear, experienced individually, is also deeply

⁴¹Karen Fiser, "Philosophy, Disability, and Essentialism", in *Contemporary Philosophical Perspectives on Pluralism and Multiculturalism*, Lawrence Foster and Patricia Herzog, eds., (Amherst: University of Massachusetts Press, 1994), 83.

⁴²Susan Wendell, "Toward a Feminist Theory of Disability", *Hypatia* 4, No. 2 (1989), 105.

embedded in our culture.⁴³

The refusal of 'traditional' theory to address issues of disability can be located partly in this fear. John Rawls explains in 'A Kantian Conception of Equality', that the reason he presupposes that everyone has "physical needs and psychological capacities within the normal range" is that, firstly, it avoids difficult questions, and secondly, "...the consideration of these hard cases can distract our moral perception by leading us to think of people distant from us whose fate arouses pity and anxiety".⁴⁴ What is expressed here is convergent with Rawls's other writings; he is simply more explicit in this quote.

There are two things of note here. Indeed Rawls acknowledges that fear and anxiety could spoil our reasoning but he also qualifies persons who are 'hard cases' as 'distant from us'. Is Rawls simply accepting without question the fact that society has relegated 'hard cases' to the confines of institutions where such 'hard cases' can simply be ignored? Or is he advocating that a society of moral persons cannot accept these 'hard cases' as moral persons in themselves and their distance is actually a moral one?

⁴³Ibid., 112.

⁴⁴John Rawls, "A Kantian Conception of Equality", in *Collected Papers*, Samuel Freeman, ed., (Cambridge: Harvard University Press, 1999), 259.

This exemplifies well the fact that, according to Silvers who is here in agreement with Minow, "...persons with serious disabilities are among the most stubbornly limiting cases in respect to the homogenization of moral personhood".⁴⁵ Is this, then, a reason to cast aside the consideration of such persons? Are our moral theories so weak that they cannot withstand the assault of 'hard cases' and might crumble under the weight of such heavy burdens? Must our philosophical practices reflect our societal ones that dictate that when something is unpleasant it is best hidden away? As Barry remarks

[s]uch conditions are, we might think, the paradigm of undeserved misfortune whose translation into actual disadvantage Rawls describes as arbitrary from the moral point of view. From the perspective of justice as impartiality, it would seem that the issues raised by incapacity and disease are clear and central.⁴⁶

A society that sees itself as fair and just needs to consider such cases as they challenge theory. By doing this, it becomes evident whether such cases are beyond the scope of justice or not. But the question needs to be asked by confronting such cases and not by omitting them out of a need for 'simplification'. The status of moral person is important because only those individuals are owed consideration of justice.

⁴⁵Anita Silvers, "Reconciling Equality to Difference: Caring (F)or Justice for People with Disabilities", *Hypatia* 10, No. 1 (1995), 31.

⁴⁶Brian Barry, *Theories of Justice*, op. cit., 244.

I would initially say that Rawls's view as it is expressed in the above quote is in agreement with his understanding of individuals in society as reciprocally engaged with each other. The prevalent view is of 'justice as mutuality', to use Barry's term. The underlying assumption is that persons with disabilities cannot be engaged in reciprocal arrangements as he defines them. Yet the status of moral person is not dependent on this. In 'the Basis of Equality', Rawls examines "what sort of beings are owed the guarantees of justice".⁴⁷ He considers the case of animals who do not have moral personalities; it is this feature which distinguishes humans from other animals. Therefore, "...the capacity for moral personality is a sufficient condition for being entitled to equal justice".⁴⁸

The two features of a moral personality are a capacity of conceiving one's own good, and a capacity for a sense of justice. Rawls adds, that "...while individuals have presumably varying capacities for a sense of justice, this fact is not a reason for depriving those with a lesser capacity of the full protection of justice".⁴⁹ Variations in these capacities are not grounds for dismissing lacking individuals as moral persons, although Rawls

⁴⁷John Rawls, *A Theory of Justice*, op. cit. p. 505, the full discussion is on pages 504-512.

⁴⁸John Rawls, *A Theory of Justice*, op. cit., p. 505, (note omitted).

⁴⁹Ibid., 507.

does specify "once a certain minimum is met".⁵⁰ Would this minimum imply that if a person falls below it then she is not owed the strict duties of justice but some other duties such as compassion and humanity? This needs to be explored as I do not doubt that everyone would agree that persons with disabilities are moral persons but I do not believe our political practices accord them the full status of moral persons. The question must be raised to try to understand to which extent are such persons the subjects of justice and whether this is or should be comparable to fully cooperating persons.

In this discussion, I will focus on two aspects of disability. The first one will be the writings that consider opportunities for persons who have disabilities and what justice can afford persons with disabilities. The second aspect will be recognition toward person with disabilities. The latter entails examining whether persons with disabilities have the status of moral persons and to what extent they keep this status within our political theories.

I will argue that given our current understanding of disability and our lack of recognizing the importance and relevance of embodiment in general, our political theories treat persons with disabilities, who exemplify less than ideal embodiment, as having a lesser status.

⁵⁰Idem.

DISABILITY AND OPPORTUNITY

Persons with disabilities make us confront the reality of embodiment. We can no longer simply assume that autonomy is a matter of will.

The public world is the world of strength, the positive (valued) body, performance and production, the able-bodied and youth. Weakness, illness, rest and recovery, pain, death and the negative (de-valued) body are private, generally hidden, and often neglected.⁵¹

The public sphere assumes this paradigm of embodiment and this explains why needs can be so easily relegated to the private sphere, as was argued in the previous chapter. Disability challenges this.

There are social aspects to autonomy which become more visible with disability. They can no longer remain hidden or foisted off on other groups of individuals. The paradigm of the autonomous person who decides her life-plan outside of any physical constraints is obviously prejudiced against those who are not socially autonomous. That would hold for persons with disabilities as well as those involved in care giving roles. Their life-plans must always include physical or autonomy considerations which are irrelevant to the public sphere but, nonetheless, affect their performance in the public sphere.

⁵¹Susan Wendell, "Toward a Feminist Theory of Disability", op. cit., 111.

This lack of autonomy is not necessarily a biological given. For example, someone who cannot see can certainly read brail; signing is a language in its own right. Thus the biological facts of blindness or deafness have social ramifications which in turn impact on a person's autonomy. In a society that would not provide brail texts, a person's lack of sight is a negative trait because of the environment he is in; such a problem would not have the same social consequences in a society that had brail texts. As Wendell remarks in 'Toward a Feminist Theory of Disability', "[c]areful study of the lives of disabled people will reveal how artificial the line is that we draw between the biological and the social".²² Environmental factors are often determining in the consequences of a disability.

It is precisely this aspect of disability which advocates for the rights of persons with disabilities focus on. They argue that someone with a disability should be given the same opportunities as any other person in society. They also make the case that this does not involve astronomical costs for society.²³ In fact, the opposite, keeping persons with disabilities within the confines of a protected environment and away from society, thus marginalized, costs more for society. And this cost is not just in terms of money but also of in terms of

²²Ibid., 110.

²³Ron Amundson, "Disability, Handicap, and the Environment", *The Journal of Social Philosophy* 23, No. 1 (1992), 105-119.

the self-esteem of a segment of the population.⁵⁴

A strong piece of legislation in the United States, The American Disabilities Act (ADA), makes the case for recognising persons with disabilities as a segment of the population which deserves equal consideration. Silver writes that

The ADA seeks equal, not exceptional, treatment to secure protection of its subject class. ...Thus, the ADA designates the failure to provide such accommodation [as bus ramps, lifts, teletyping phones] as inequitable treatment in virtue of disability, even though the remedy itself is responsive to disability.⁵⁵

No provisions for compensation in salaries are demanded by the ADA and this indicates, according to Silver, the fact that the ADA seeks equal treatment not special treatment. Such legislation is congruent with Rawls's principles of justice since persons with disabilities should be able to actualise their reasonable life-plans. The good of self-respect may need to be interpreted more broadly but, nonetheless, the demands of the ADA remain well within the provisions of a liberal theory such as Rawls's.

The ADA puts forward the idea that persons with disabilities not only have rights, in terms of negative freedoms, but they also have the right to opportunities on an equal basis as other members of society. This is close to Sen's concept of 'capabilities' which shifts our attention "from goods to what

⁵⁴Anita Silvers, "Reconciling Equality to Difference: Caring (F)or Justice for People with Disabilities", op. cit., 30-55.

⁵⁵Ibid., 51.

goods to human beings".⁵⁶ Equality of rights in terms of opportunities goes a long way to change the social perception that persons with disabilities are essentially 'defective'.

EQUALITY OF RECOGNITION

Canadian and United States culture rarely include people with disabilities in their depictions of ordinary life, and they exclude their struggles, thoughts, and feelings of people with disabilities from any shared cultural understanding of human experience.⁵⁷

This makes persons with disabilities 'other' and devalues their experiences.

I propose to focus now on the issue of recognition. Recognition, for the purposes of political theory, entails being recognized as a person of equal moral worth. This is a fundamental tenet of a just society such as Rawls's where justice is understood to be the prime virtue of institutions that structure the public lives of persons of equal moral worth. Now, as mentioned above, Rawls states that variations in capacity should not affect the recognition of persons as having moral worth though he does say 'once a certain minimum is met'. The question that needs to be asked is: when do we cease to recognize the equal moral worth of a person for the purposes of justice?

⁵⁶Amartya Sen, "Equality of What?", in *The Tanner Lectures on Human Rights I*, op. cit., 219.

⁵⁷Susan Wendell, *The Rejected Body*, op. cit., 65.

This type of question is a difficult question which is not easily resolved and has plagued moral theory.

Rawls has explicitly stated that he does not consider extreme cases. I have argued in chapters three and four that this view is short sighted, as persons who are not self-sufficient adults in the paradigmatic sense, such as children or persons with certain disabilities, are still part of society and that their care will have to be assumed by some members of society. It is worth examining Silver's discussion in 'Reconciling Equality to Difference: Caring (F)or justice for People with Disabilities' of persons who require institutionalisation. Persons who require institutionalisation are usually extreme cases of lacking certain types of autonomy, physical, mental or both, and of requiring a great amount of care. Because of this, according to Silver, such individuals challenge our concepts of moral personhood.

The relationship between a care-giver and a recipient of care is asymmetrical. Silver writes, "[h]elp-givers choose how they are willing to help, but help-takers cannot choose how they will be helped."⁵⁰ The recipient of help lacks a certain autonomy because his relationship with the care-giver is not a matter of choice. This is one instance of asymmetry.

⁵⁰Anita Silver, "Reconciling equality to Difference: Caring (F)or People with Disabilities", op. cit. p.40.

In such cases, the area of privacy, the body, is a public concern since its care is organised by a social institution of a public nature. It may be argued that such institutions fall in the realm of the private sphere as they attend to needs that are of a private nature. They would not be considered on a par with educational institutions which are deemed public since they prepare future citizens for life. Yet such care institutions are moulded and shaped according to the prevalent public values of the society in which they reside. Depending on the type of liberalism one is ready to espouse, one can argue that such institutions are either private or public.

The point I want to make is that such institutions are shaped by prevalent ideals. Because the persons in such institutions are not involved in the public realm, their role in society as public persons is non-existent. Nevertheless, the rights of individuals have to be protected so there is an element of public accountability in these institutions. Thus the role of justice is to insure that such institutions do not harm the recipients, thus the negative freedoms of the persons are preserved.

Are such institutions part of the basic structure of society? Because of the way Rawls defines moral worth and his understanding of the political person as one involved in reciprocal relations, such individuals cannot be accepted in the

community of moral persons. Their capacities for defining their good and their sense of justice may fall below the required minimum. The institutions which take care of them are not to be understood as part of the major social institutions, in the way educational institutions are, for example. Thus justice does not apply to them, but other considerations can apply such as charity or compassion.

Yet intuitively, this is quite an insulting conclusion. Why is it so? Perhaps because of our belief that even a person in a coma is a person of equal moral worth; unable to actualise her capacity but a moral being nonetheless. Why is it so easy to exclude persons with extreme disabilities from a just society? Certainly the capacity to vote or hold a job are not the only criteria by which a citizen is judged. Because disability has been hidden in the private realm, its public view is difficult to rethink.

This ease by which we can repress persons with extreme disabilities is located partly in the relations of asymmetry which are exacerbated by institutionalization, according to Silver.

Of course, helping need not be repressive, for bonds of affection encourage mutual helping, and bonds of respect support reciprocal helping. This suggests that if being cared for is to advance those previously subservient, helping cannot itself be institutionalised but must instead be permitted to transpire within a frame of sharing or collectivizing or equalizing practice which corrects its

fundamental asymmetry. ⁵⁹

Silver's argument is that because of this fundamental asymmetry, institutionalized caring marginalizes those being cared for even further.

...[Although it is too strong to hold categorically that being cared for abrogates commanding respect, this is the regrettable repercussion when caring becomes conventional. Institutionalizing caring depersonalizes whoever is cared for by shifting the source of the care-giver's motivation from affectional, admirational, or reverential regard for the particular recipient of care to the diligent regard for the social role of care-giver. ⁶⁰

The expectation of symmetry and complete reciprocity in relations diminishes the person who cannot reciprocate in that manner. The care-giver-taker relationship, when institutionalized makes the care-taker's role a passive one of receiving only. Her status as a person worthy of moral respect diminishes regardless of her capacities. This does not mean that we should end all institutionalised care and go back to the system where women took care of persons with lesser capacities in the home though. This argument is only to show that this is the necessary conclusion that one must come to in a system that tries to accommodate itself within the liberal paradigm of the separation of the public and private spheres and its implicit assumption that the public person is necessarily autonomous and never the recipient of care. Persons who require a lot of care and the implications

⁵⁹Ibid., 41.

⁶⁰Ibid., 43.

such care may involve have no place in the public sphere.

Persons who have severe disabilities do not have the same status of equal moral as others because they are subjected to an asymmetrical relationship as part of their life condition. We are all involved in these but such persons cannot escape this condition; it is part of their lives.

To deny such individuals the status of equal moral worth is repugnant; then why are we involved in such a dilemma? It seems that the answer lies in part in our concepts of reversibility, recognition and reciprocity. Historically, differently embodied persons have been subjected to essentialist conclusions such as a black persons are not fully human and thus are not of equal moral worth, or women do not possess rational capacities and are less moral. These 'different' individuals have been recognized as human beings of moral worth equal to others regardless of their assigned social roles.

The ideal of recognition implies also a certain capacity for reciprocity. According to Rawls, the ideal of reciprocity for a just society requires symmetry; one gets what one gives. It is very important to stress the getting in a community of self-interested individuals. The fear of including dependent persons is that one will not be willing to give unless there is an emotional attachment and these are precluded from the public

sphere.

In the original position if there was an understanding of disability the principles of justice might differ. As Wendell suggests,

[I]f the able-bodied saw the disabled as potentially themselves or as their future selves, they would be more inclined to feel that society should be organized to provide the resources that would make disabled people fully integrated and contributing members. They would feel that "charity" is as inappropriate a way of thinking about resources for disabled people as it is about emergency care or education. ⁵¹

Reciprocal arrangements, as defined by Rawls, are a narrow instance of reciprocity. Here the idea of reversibility as brought out by Merleau-Ponty might be of use. It implies being open to an exchange yet, although both parties receive something, that something is not perfectly symmetrical, nor should it be. The beauty of the hand touching and being touched is that there is a reversibility; this reversibility does not imply that both hands have to have the exact same experience, but that there is an exchange. The fact of this exchange is the essence of reversibility not its quantitative content. Similarly, society is a place of exchanges. Some may be symmetrical or be construed to be but they need not be. Fundamentally, one cannot retract from the effects of the exchange, for better or worse.

⁵¹Susan Wendell, "Toward a Feminist Theory of Disability", op. cit., 110.

If we understand this when applied to person with severe disabilities we start to see that the exchange which is assumed to take place cannot take place. As Silver notes, this is in part the reason it is replaced by something more self-serving such as the self-gratification of the job of care-giving. However there is a dichotomy here that Silver did not take into account. Care-givers are usually quite low on the pay scale and in addition, "...these low-income care-givers have a low status in the bureaucratic hierarchies of institutions providing service for people with disabilities"⁶². This exemplifies, again, the low status of the body and its care in our social practices. It makes it even more imperative that the care-giver try to compensate for such low status with some kind of moral gratification, even if it is at the expense of the person being taken care of.

Still, Silver is critical that an ethic of care could be more useful to rethink this relationship. Wendell is less apprehensive about an ethic of care being able to theorise justly the relation between dependent and care-giver. Rethinking relationships of care within public institutions demands letting go of this ideal of equating symmetrical reciprocity and justice. Furthermore, this can help us rethink other types of relationship in general. Wendell believes

that if everyone with a disability is to be integrated fully into...society, without being "the Other" who symbolizes moral failure, then social ideals must change in the

⁶²Susan Wendell, *The Rejected Body*, op. cit., 142.

direction of acknowledging the realities of our interdependence and the value of depending on others and being depended upon. Perhaps such a change would improve the status of children and/or reduce the fear and shame associated with dependency and old age. ⁶³

The hard cases I have examined test the limits of our theories of justice. This is not just for the benefit of those 'distant from us' but of everyone. As Wendell emphasizes by making it the title of one of her sections in her article, 'Toward A Feminist Theory of Disability', "the oppression of disabled people is the oppression of everyone's real body".⁶⁴

CONCLUSION

Bodies materialize difference. Yet, as feminists and postmodernists have argued they do not constitute a biological given. The materiality of bodies does not necessarily imply that they are a biological entity that does have any social significance and that their opacity makes them immune to social construction. Bodies are a plastic site of meaning. The postmodernist feminist theorists I have examined call for a transcendence of the body/mind dualism and an explicit recognition of the role of the body in theory.

⁶³Ibid., 151.

⁶⁴Susan Wendell, "Toward a Feminist Theory of Disability", op. cit., 112.

Feminists that have analyzed sexual discrimination and other wrongs that persons have been subjected to because of sexual prejudice have shown, satisfactorily I believe, that these wrongs cannot be understood uniquely in terms of rights. The violation of one's body implies far more than just the idea of one's property being harmed. Corporeality engages one's sense of self in ways that cannot be captured by the ideal of property.

For this reason, Jean L. Cohen calls for a concept of privacy rights engaged with the notion of decisional autonomy to replace that of property. This shift is an interesting one as it yields possibilities for persons with disabilities. As seen previously, persons who require large amounts of care often suffer from a devalued moral status. This is, in part, because our ideal of the public person is one that does not require care. Thus persons who cannot approximate this ideal end up devalued.

Persons with normal capacities can approximate the ideal of a disembodied person more readily by hiring others who will perform domestic labour for them. But persons who cannot even perform the most basic tasks are obviously different than the ideal; this difference cannot be hidden. Their bodies are no longer a property which, for practical purposes, can be forgotten; their bodies require care and may require it in settings that are of a public nature, such as institutions. The private sphere of embodiment is rendered public.

This tends to make such persons, at best, marginal. We need to question our ideals because as Wendell states,

[t]he realization that 'autonomy' and 'independence' are unattainable goals for some people, even when they are defined in ways that take some kinds of disability into account, calls into question the value of these in any scheme of virtues and moral goals. Should a society have ethical ideals that are universally applied but which some people are precluded from attaining because they have certain kinds of bodies? ⁴⁵

If we take Cohen's suggestion to make decisional autonomy more central to our thinking, then dimensions of embodiment can be brought into the public sphere more readily and without shame.

Finally, the idea of reversibility as put forward by Merleau-Ponty can be fruitful for political theory. If we can appreciate the ideal of reversibility without demanding symmetry, we can start to understand that symmetrical, reciprocal relations need no longer be paradigmatic for the public sphere. One of the ideals of society is to have a multiplicity of individuals living together in harmony; it is not necessarily to insure that everyone gets exactly what he has put in. This ideal, which is based on market-relations, is a false one. First of all, one cannot measure the benefits one receives from an organization; there are always advantages that go beyond mere monetary or property considerations.

Reversibility is congruent with decisional autonomy. As the

⁴⁵Susan Wendell, *The Rejected Body*, op. cit., 149.

latter is not to be measured by property or rights to property, it leaves room for thinking relations as open, without the need for symmetry. Considerations of embodiment can have a place within the public sphere but this does not imply that the individual will be vulnerable to state intervention. Decisional autonomy still protects the individual and her body. Because these rights are not focused solely on material damage, they leave room for an interpretation of a sense of self as being crucial to all persons. This, regardless of the individual's capacities. This sense of self is what needs to be valued if we are to include all persons within our considerations of justice, whether they are fully capable or not. Understanding society as a multiplicity of differently capable persons makes the public sphere a richer place of activity where symmetrical reciprocity in all affairs is not the sine qua non condition, but the open reversibility of interaction is.

The body has traditionally been relegated to the private sphere. As the above discussion has shown, the theoretical implications of the variability of embodied persons for the public sphere yield a wealth of material. I have suggested the beginning of a discussion, I hope it will be pursued.

CONCLUSION

We understand that a society that would abandon those who are dying-of irreparable damage in collisions, of incurable diseases-to die alone would disintegrate as a society. Our association with one another is not only an association in health and enterprises. In associating with one another in health and for undertakings, we find ourselves exposed to the susceptibility, fatigue, and suffering of others. We sense that while we together extend the time of possibilities and undertakings, another time is being extended in the body of another, the time of suffering and patience in which we are together. Our society is also an association in our mortality.¹

Justice is a complex of three ideas "liberty, equality, and reward for contributing to the common good" and Rawls clarifies that "the important thing is not simply the announcement of [the] principles [of justice], but their interpretation and application, and the way they are related to one's conception of justice as a whole."² Brian Barry argues there is a tension at work in the concepts of justice in Rawls's theory. Justice as 'impartiality' and justice as 'mutuality' may clash. This is minimal because Rawls posits the ideal of the political person as a fully cooperating member of society.

The persons in the original position follow the ideal of kantian thinkers pondering principles of justice. Benhabib charges that such a fiction is epistemically false. I would not

¹Alphonso Lingis, *The Imperative* (Bloomington: Indiana University Press, 1998), 161.

²John Rawls, "Justice as Reciprocity" in *Collected Works*, op. cit., 193.

necessarily agree with her. If we interpret the detached thinker as a procedural requirement only, as Onora O'Neill suggests, we can counter Benhabib's charges. I situate the problem elsewhere, in Rawls's ideal of the political person. The persons in the original position are positing principles of justice for persons like themselves: fully cooperating members of society only.

The feminist critiques of moral autonomy are mostly directed at social autonomy. This demonstrates the mistake of making ontological assumptions about the moral agent based on procedural requirements. The kantian ideal of someone detached from his particularities does not imply ontological features of the moral agent; the moral agent is more than a detached thinker. She may be withdrawing from some of her personal concerns to think about a moral question, but this does not imply that she is alone in the world. This point is highlighted by feminist critiques of moral autonomy. Autonomy is also an ideal that we learn to approximate; this is true of moral autonomy and political autonomy.

The principles of justice arrived at by the persons in the original position are formulated for fully cooperating members of society. I charge that Rawls has translated the procedural ideal of unfettered reflection to an ontological feature of the ideal of the political person. This means that the principles of justice cannot accommodate profound difference such as difference

in capability. Because Rawls leaves his concept of society open to all individuals and makes this a fundamental premise of a just society, some persons will be left out of the principles of justice because they simply cannot be cooperating members of society.

Rawls claims that this idealisation is a simplification. I argue that it biases the principles of justice against such individuals. Therefore, the principles of justice cannot be adjusted after the fact by some practical manoeuvres because the principles of justice have de facto excluded certain individuals by erasing profound difference. Non-cooperating members cannot be involved in justice as mutuality. Because of the emphasis on this type of justice and on reciprocity as mutually advantageous, individuals who are not subsumed under the ideal are left out of the political equation. The problem remains that such persons are still part of political society. Rawls's assertion that the principles of justice express an autonomous political view for all members of society is false. Persons who cannot cooperate, children and some persons with certain disabilities, are left out. Moreover, as Eva Feder Kittay argues, the individuals taking care of these persons are also left out.

Furthermore, in Rawls's theory the separation of the public and private spheres remains traditionally liberal. All the concerns of the individuals who are not fully cooperating must be

relegated to the private sphere. This is problematic as feminists have shown. In particular, Carole Pateman argues that the division between the private and public sphere rests on sexist assumptions. Recent feminist work, such as that of Susan Moller Okin, calls for an understanding of the two spheres as related. This division between them may shift but the realms should not be understood as completely separate.

Finally, domestic concerns have been left out of the private and public spheres. Such concerns are usually associated with the body and are hidden away. One reason is to protect the person from state intrusion. Nonetheless, privacy rights are mostly understood in terms of interests and property. Liberal theory treats the body as a possession. We own our bodies and when they are violated, our rights have been violated.² Feminist work shows that this is a reductionist view. The body and its social meanings are a complex network of variability and signification which cannot be dissociated from the social structures in which they evolve.

Liberal theories such as those of Nozick and Gauthier would

²For a discussion of the problems encountered by this type of ownership of the body see Jennifer Church, "Ownership of the Body," in *Feminists Rethink the Self*, op. cit., 85-103. Sybil Schwarzenbach also discusses the ambiguity of the concept of ownership in Rawls's theory in "The Forgotten Category of Reproductive Labor" in *Science, Morality and Feminist Theory*, Marsha Hanen and Kai Nielsen, eds. (Calgary: University of Alberta Press, 1987), 139-167.

see us primarily as propertied persons who enter into contracts. I claim this view leaves out an important aspect of the person. We do not simply own our bodies and this is more than an ontological consideration; it has political implications. Since we learn to inhabit our bodies gradually, as it is a living process, we must understand this evolution as taking place somewhere. In Rawls's theory, this takes place in part in political society since the basic structure will affect our lives. Nevertheless, the fact that this process of living requires needs is occluded from his theory.

We must take into consideration not only that we have the ready made interests traditional theory assumes we have, but that we also have needs which devolve from our human embodiment. Needs have been neglected in political theory for many reasons. Usually they are relegated to the private sphere. Needs pose interesting problems that may seem too subjective for political theory, but also they acknowledge our interdependency. This point is crucial to political theory. In fact it is the reason we have political theory; humans must live with each other. The meeting of needs often requires others; it implicitly acknowledges that no one is completely self-sufficient. The feminist theories of care are a way of looking at needs and understanding this.

Persons with disabilities force us to consider less than ideal embodiment. Such individuals cannot live in society by

pretending that they do not have bodies. Their bodies matter, but this also shows us that able bodied persons have bodies that matter as well. The role of our bodies is complex, but if we can talk and write about political society it is because we are embodied beings. This blatant and obvious point does not seem to have a place within theorizing, but I claim the requirements of justice imply that it does.

Ultimately, bodies show us that there is a relation of recognition between individuals. Before reciprocity and justice as mutuality can happen, there needs to be a recognition of the other. This is done through embodiment. As Merleau-Ponty suggests there is always a reversibility between persons; the extent of the relation will be variable, but it is there, nonetheless.

This implicit recognition is what justice must take into account as primordial: not that we will enter into reciprocal arrangements but that we will be recognized as full moral selves. The object of political society is to allow each individual to thrive as much as possible. What is more integral to a person than her sense of self worth? The principles of justice are needed for society to protect our equality and liberty but also implicit in these concepts is our sense of self. Attending to the fact that we are embodied human beings is the first step towards this recognition.

By confining the persons in the original position to reflect on persons much like themselves, Rawls is falsely extending the procedural requirements of reflection to an ontological premise about all persons in society. This is a bias which is detrimental to thinking society as open and fair to all its members. I suggest that we need to consider the political self as a person who is embodied and vulnerable. Bodies matter theoretically.

To take this into account, we need to formulate principles of justice which reflect this. Thus instead of 'primary goods' we could be talking about 'basic capabilities' as Amartya Sen has suggested. Capabilities are more relational. Eva Feder Kittay suggest a third principle of justice; this is a possibility. This discussion is only starting, we can ponder the possibilities more.

The principles which will be reformulated will attend to our vulnerability. The persons in the original position will have to take into account the possibility of being a small child raised by a poor single-mother; or a person with disabilities. Care concerns will not be separate from the considerations of justice; as many feminist have argued, they can be joined. The body makes this an imperative. The concept of the political self must represent this, and, in turn, the principles of justice will reflect the true diaspora of humanity.

BIBLIOGRAPHY

- Arendt, Hannah. *The Human Condition*. Chicago: University of Chicago Press, 1958.
- Baier, Annette. *Moral Prejudices: Essays on Ethics*. Cambridge, Massachusetts: Harvard University Press, 1994.
- Baier, Annette. *Postures of the Mind: Essays on Mind and Morals*. Minneapolis: University of Minnesota Press, 1985.
- Barber, Benjamin. *Strong Democracy: Participatory Politics for a New Age*. Berkeley: University of California Press, 1984.
- Barry, Brian. *Theories of Justice: A Treatise on Social Justice I*. Berkeley: University of California Press, 1989.
- Benn, Stanley I. and Gaus Gerald F., eds. *Public and Private in Social Life*. London: Croom Helm, 1983.
- Benhabib, Seyla. *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics*. New York: Routledge, 1992.
- Benhabib, Seyla, ed. *Democracy and Difference: Contesting the Boundaries of the Political*. Princeton: Princeton University Press, 1996.
- Benhabib, Seyla and Cornell, Drucilla, eds. *Feminism as Critique*. Minneapolis: University of Minnesota Press, 1987.
- Benhabib, Seyla, Butler, Judith, Cornell, Drucilla and Fraser, Nancy. *Feminist Contentions: A Philosophical Exchange*. New York: Routledge, 1995.
- Bock, Gisela and James, Susan, eds. *Beyond Equality and Difference: Citizenship, Feminist Politics and Female Subjectivity*. London: Routledge, 1992.
- Bradley, F.H. *Ethical Studies*. Oxford: Oxford University Press, 1962.
- Brossard, Nicole. "Green nights in Labyrinth Park, La Nuit Verte du Labyrinthe". Lou Nelson, trans. In *Sexy Bodies*, 128-136. Elizabeth Grosz and Elspeth Probyn, eds. New York: Routledge, 1995.
- Butler, Judith. *Gender Trouble: Feminism and the Subversion of Identity*. New York: Routledge, 1990.
- Butler, Judith and Scott, Joan W., eds. *Feminists Theorize the Political*. New York: Routledge, 1992.

- Card, Claudia. "Gender and Moral Luck." In *Justice and Care: Essential Readings in Feminist Ethics*, 79-98. Virginia Held, ed. Boulder Colorado: Westview Press, 1995.
- Church, Jennifer. "Ownership and the Body." In *Feminists Rethink the Self*, 85-103. Diana Tietjens Meyers, ed. Boulder Colorado: Westview Press, 1997.
- Clark, Lorene G. and Lange, Linda, eds. *The Sexism of Social and Political Theory: Women and Reproduction from Plato to Nietzsche*. Toronto: University of Toronto Press, 1979.
- Cobban, Alfred. "The Decline of Political Theory." *Political Science Quarterly* 68 (September 1953), 321-337.
- Code, Lorraine. *What Can She Know? Feminist Theory and the Construction of Knowledge*. Ithaca: Cornell university Press, 1991.
- Cohen, Jean L. and Arato, Andrew. *Civil society and the State*. Cambridge, Massachusetts: MIT Press, 1992.
- Cohen, Jean L. "Redescribing Privacy: Identity, Difference, and the Abortion Controversy". *Columbia Journal of Gender and Law* 3, No. 1 (1992), 43-117.
- Cohen, Jean L. "Democracy, Difference and the Right to Privacy." In *Democracy and Difference*, 187-217. Seyla Benhabib, ed. Princeton: University of Princeton Press, 1996.
- Conolly, William E. *Identity/Difference: Democratic Negotiations of Political Paradox*. Ithca: Cornell University Press, 1991.
- Cornell, Drucilla. *Beyond Accommodation: Ethical Feminism, Deconstruction and the Law*. New York: Routledge, 1991.
- Cornell, Drucilla. *The Imaginary Domain: Abortion, Pornography and Sexual Harassment*. New York: Routledge, 1995.
- Crossley, Nick. *Intersubjectivity: The Fabric of Social Becoming*. London: Sage Publications, 1996.
- Daniels, Norman. *Justice and Justification: Reflective Equilibrium in Theory and Practice*. Cambridge: Cambridge University Press, 1996.
- Di Stefano, Christine. "Dilemmas of Difference: Feminism, Modernity, and Postmodernism." In *Feminism/Postmodernism*, 63-82. Linda J. Nicholson, ed. New York: Routledge, 1990.

- Di Stefano, Christine. "Autonomy in Light of Difference". In *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory*, 95-116. Nancy J. Hirschmann and Christine Di Stefano, eds. Boulder, Colorado: Westview Press, 1996.
- Dworkin, Ronald. "Liberalism." In *Liberalism and Its Critics*, 60-79. Michael Sandel, ed. New York: New York University Press, 1984.
- Ferry, Luc and Renaut, Alain. *French Philosophy of the Sixties*. Mary H.S. Cattani, trans. Amherst: University of Massachusetts Press, 1990.
- Fisher, Karen. "Philosophy, Disability and Essentialism". In *Contemporary Philosophical Perspectives on Pluralism and Multiculturalism*, 83-101. Lawrence Foster and Karen Herzog, eds. Amherst: University of Massachusetts Press, 1994.
- Flax, Jane. "Beyond Equality: Gender, Justice and Difference." In *Beyond Equality and Difference: Citizenship, Feminist Politics and Female Subjectivity*, 193-210. Gisela Bock and Susan James, eds. London: Routledge, 1992.
- Frankfurt, Harry G. "Freedom of the Will and the Concept of a Person". *The Journal of Philosophy* 68, (1971), 5-20.
- Frazer, Elizabeth and Lacey, Nicola. *A Feminist Critique of the Liberal-Communitarian Debate*. Toronto: University of Toronto Press, 1993.
- Friedman, Marilyn. "Autonomy and Social Relationships: Rethinking the Feminist Critique." In *Feminists Rethink the Self*, 40-61. Diana Tietjens Meyers, ed. Boulder, Colorado: Westview Press, 1997.
- Gallie, W.B. "Essentially Contested Concepts." *Proceedings of the Aristotelean Society* 56, 167-198.
- Gatens, Moira. *Feminism and Philosophy: Perspectives on Difference and Equality*. Cambridge: Polity Press, 1991.
- Gatens, Moira. *Imaginary Bodies: Ethics, Power and Corporeality*. New York: Routledge, 1996.
- Gaus, Gerald F. *The Modern Liberal Theory of Man*. New York: St. Martin's Press, 1983.
- Gauthier, David. *Morals by Agreement*. Oxford: Clarendon Press, 1986.

- Gilligan, Carol. *In A Different Voice: Psychological Theory and Women's Development*. Cambridge, Massachusetts: Harvard University Press, 1982.
- Gould, Carol C. *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy and Society*. Cambridge: Cambridge University Press, 1988.
- Gould, Carol C. "Diversity and Democracy: Representing Differences." In *Democracy and Difference*, 171-186. Seyla Benhabib, ed. Princeton: University of Princeton Press, 1996.
- Gouldner, Alvin W. "The Norm of Reciprocity: A Preliminary Statement." *American Sociological Review* 25, No. 2 (April 1960), 161-178.
- Grosz, Elizabeth. "Philosophy, Subjectivity and the Body: Kristeva and Irigaray". In *Feminist Challenges: Social and Political Theory*, 125-143. Carole Pateman and Elizabeth Gross, eds. Sydney: Allen and Unwin, 1986.
- Grosz, Elizabeth. *Sexual Subversions: Three French Feminists*. Sydney: Allen and Unwin, 1989.
- Grosz, Elizabeth. *Volatile Bodies: Toward a Corporeal Feminism*. Bloomington: Indiana University Press, 1994.
- Hawkesworth, Mary E. "The Affirmative Action Debate and Conflicting Conceptions of Individuality". In *Hypatia Reborn: Essays in Feminist Philosophy*, 135-155. Azizah Y. Al-Hibir and Margaret A. Simons, eds. Bloomington: Indiana University Press, 1990.
- Held, Virginia. *Feminist Morality: Transforming Culture, Society, and Politics*. Chicago: University of Chicago Press, 1993.
- Held, Virginia, ed. *Justice and Care: Essential Readings in Feminist Ethics*. Boulder, Colorado: Westview Press, 1995.
- Hirschmann, Nancy J. and Di Stefano, Christines, eds. *Revisioning the Political: Feminists Reconstructions of Traditional Concepts in Western Political Theory*. Boulder, Colorado: Westview Press, 1996.
- Hobbes, Thomas. De Cive, English Version. In *The Clarendon Edition of the Philosophical Works of Thomas Hobbes*, Howard Warrender, ed. Oxford: Oxford University Press, 1987.
- hooks, bell. *Ain't I a Woman: Black Women and Feminism*. Boston: South End Press, 1981.

- hooks, bell. *Feminist Theory from Margin to Center*. Boston: South End Press, 1984.
- Jaggar, Alison M. "Caring as Feminist Practice of Moral Reason." In *Justice and Care: Essential Writings in Feminist Ethics*, 179-202. Virginia Held, ed. Boulder, Colorado: Westview Press, 1995.
- Johnson, Galen A. and Smith, Michael B., eds. *Ontology and Alterity in Merleau-Ponty*. Evanston, Illinois: Northwestern University Press, 1990.
- Kant, Immanuel. *The Metaphysics of Morals*. Mary Gregor, trans. Cambridge: Cambridge University Press, 1996.
- King, Charles J. and McGilvray, James A., eds. *Political and Social Philosophy: Traditional and Contemporary Readings*. New York: McGraw-Hill, 1973.
- Kittay, Eva Feder. "Taking Dependency Seriously: The Family and Medical Leave Act Considered in Light of the Social Organization of Dependency Work and Gender Equality." *Hypatia* 10, No. 1 (Winter 1995), 8-29.
- Kittay, Eva Feder. "Human Dependency and Rawlsian Equality." In *Feminists Rethink the Self*, 219-266. Diana Tietjens Meyers, ed. Boulder, Colorado: Westview Press, 1997.
- Kuhn, Thomas S. *The Structure of Scientific Revolutions*. 2nd Edition. Chicago: University of Chicago Press, 1970.
- Kymlicka, Will. *Liberalism, Community and Culture*. Oxford: Clarendon Press, 1989.
- Kymlicka, Will. Review Discussion of Brian Barry's Theories of Justice. *Inquiry* 33, No. 1 (March 1990), 99-119.
- Kymlicka, Will. *Contemporary Political Philosophy: an Introduction*. Oxford: Clarendon Press, 1990.
- Lanoix, Monique. *Labour in Locke's Two Treatises of Government*. M.A. Thesis, University of Guelph. 1992.
- Larmore, Charles E. *Patterns of Moral Complexity*. Cambridge: Cambridge University Press, 1987.
- Laslett, Barbara, Brenner Johanna, and Arat, Yesim, eds. *Rethinking the Political: Gender, Resistance, and the State*. Chicago: Chicago university, 1995.
- Laslett, Peter and Runciman, W. G., eds. *Philosophy, Politics and Society*, Second Series. Oxford: Basil Blackwell, 1972.

- Leder, Drew. *The Absent Body*. Chicago: University of Chicago Press, 1990.
- Legros, Robert. *L'Idée d'Humanité*. Paris: Bernard Grasset, 1990.
- Levin, David Michael. "Justice in the Flesh". In *Ontology and Alterity in Merleau-Ponty*, 35-44. Galen A. Johnson and Michael B. Smith, eds. Evanston, Illinois: Northwestern University Press, 1990.
- Lindley, Richard. *Autonomy*. Atlanta Highlands, New Jersey: Humanities Press International, Inc., 1986.
- Lingis, Alphonso. *The Imperative*. Bloomington: Indiana University Press, 1998.
- Locke, John. *Two Treatises of Government*. Peter Laslett, ed. Cambridge: Cambridge University Press, 1960.
- Locke, John. *A Letter Concerning Toleration*. James H. Tully, ed. Indianapolis: Hackett Publishing Co., 1983.
- Lorde, Audrey. *Sister Outsider*. Freedom, California, Crossing Press, 1984.
- Lukes, Stephen. *Individualism*. Oxford: Basil Blackwell, 1973.
- MacKinnon, Catharine A. *Toward a Feminist Theory of the State*. Cambridge, Massachusetts: Harvard University Press, 1989.
- McCloskey, H.J. "The Nature of Political Philosophy." *Ratio* 6, No. 1 (June 1964), 50-62.
- Macpherson, C.B. *The Political Theory of Possessive Individualism: from Hobbes to Locke*. Oxford: Oxford University Press, 1962.
- Meehan, Johanna, ed. *Feminists Read Habermas: Gendering the Subject of Discourse*. New York: Routledge, 1995.
- Merleau-Ponty, Maurice. *Le Visible et L'Invisible*. Claude Lefort, ed. Paris: Gallimard, 1964.
- Meyers, Diana Tietjens. "The Socialized Individual and Individual Autonomy." In *Women and Moral Theory*, 139-165. Eva Feder Kittay and Diana T. Meyers, eds. Rowan and Littlefield Publishers, Inc., 1987.
- Meyers, Diana Tietjens, ed. *Feminists Rethink the Self*. Boulder, Colorado: Westview Press, 1997.

- Mouffe, Chantal. "Democracy, Power, and the 'Political'." In *Democracy and Difference*, 245-256. Seyla Benhabib, ed. Princeton: University of Princeton Press, 1996.
- Minow, Martha. *Making All the Differences: Inclusion, Exclusion, and the American Law*. Ithaca: Cornell University Press, 1990.
- Nozick, Robert. *Anarchy, State and Utopia*. Oxford: Basil Blackwell, 1974.
- Oakeshott, Michael. *Rationalism in Politics and Other Essays*. London: Methuen and Co. Ltd., 1962.
- O'Brien, Mary. *Reproducing the World: Essays in Feminist Theory*. Boulder, Colorado: Westview Press, 1989.
- Okin, Susan Moller. *Women in Western Political Thought*. Princeton: Princeton University Press, 1979.
- Okin, Susan Moller. *Justice, Gender and The Family*. New York: Basic Books, 1989.
- O'Neill, Onora. *Constructions of Reason: Explorations of Kant's Practical Philosophy*. Cambridge: Cambridge University Press, 1989.
- O'Neill, Onora. *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*. Cambridge: Cambridge University Press, 1996.
- O'Neill, Shane. *Impartiality in Context: Grounding Justice in a Pluralist World*. Albany, New York: State University of New York Press, 1997.
- Owens, Craig. "The Discourse of Others: Feminists and Postmodernism". In *The Anti-Aesthetic: Essays on Postmodern Culture*, 57-82. Hal Foster, ed. Port Townsend, Washington: Washington Bay Press, 1983.
- Pateman, Carole. *The Sexual Contract*. Stanford: Stanford University Press, 1988.
- Pateman, Carole. *The Disorder of Women: Democracy, Feminism and Political Theory*. Stanford: Stanford University Press, 1989.
- Peffer, R.G. *Marxism, Morality and Social Justice*. Princeton: Princeton University Press, 1990.
- Phillips, Anne. *Democracy and Difference*. Pennsylvania: Pennsylvania University Press, 1993.

- Phillips, Anne. "Dealing with Difference: A Politics of Ideas, or a Politics of Presence?" In *Democracy and Difference*, 139-152. Seyla Benhabib, ed. Princeton; University of Princeton Press, 1996.
- Pitkin, Hanna Fenichel. "Justice: On Relating Private and Public". *Political Theory* 9, No. 3 (1981), 327-352.
- Rawls, John. *A Theory of Justice*. Cambridge, Massachusetts: Harvard University Press, 1971.
- Rawls, John. "The Basic Structure as Subject." In *Values and Morals: Essays in Honor of William Frankena*, Charles Stevenson and Richard Brandt, 47-71. Alvin I. Goldman and Jaegwon Kim, eds. Boston: D. Reidel Publishing Co., 1978.
- Rawls, John. "Kantian Constructivism in Moral Theory." *Journal of Philosophy* 70, No. 9 (1980), 515-573.
- Rawls, John. "Social Unity and Primary Goods." In *Utilitarianism and Beyond*, 159-185. Amartya Sen and Bernard Williams, eds. Cambridge: Cambridge University Press, 1982.
- Rawls, John. "The Basic Liberties and their Priority." In *The Tanner Lectures on Human Value III*, 1-87. Sterling McMurrin, ed. Cambridge: Cambridge University Press, 1982.
- Rawls, John. "Justice as Fairness: Political not Metaphysical." *Philosophy and Public Affairs* 14, No. 3 (1985). 223-251.
- Rawls, John. *Political Liberalism*. New York: Columbia University Press, 1993.
- Rawls, John. "Justice As Reciprocity." In *Collected Papers*, 190-224. Samuel Freedman, ed. Cambridge, Massachusetts: Harvard University Press, 1999.
- Rawls, John. "A Kantian Conception of Equality." In *Collected Papers*, 254-267. Samuel Freedman, ed. Cambridge, Massachusetts: Harvard University Press, 1999.
- Raz, Joseph. *The Morality of Freedom*. Oxford: Clarendon Press, 1986.
- Renaut, Alain. *L'Individu: Réflexions sur la Philosophie du Sujet*. Paris: Hatier, 1995.
- Renaut, Alain. *The Era of the Individual: Contributions to a History of Subjectivity*. M.B. DeBoise and Franklin Philip, trans. Princeton: Princeton University Press, 1997.

- Sandel, Michael J. *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press, 1982.
- Schneewind, J.B. "The Use of Autonomy in Ethical Theory." In *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought*, 64-75. Thomas C. Heller, Morton Sosna and David E. Wellebery, eds. Stanford: Stanford University Press, 1986.
- Schwarzenbach, Sibyl. "Rawls and Ownership: the Forgotten Category of Reproductive Labor." In *Science Morality and Feminist Theory*, 139-167. Marsha Hanen and Kai Nielsen, eds. Calgary: Alberta, University of Calgary Press, 1987.
- Scott, Joan W. "Deconstructing Equality-Versus-Difference or, the Uses of Poststructuralist Theory for Feminism." In *Theorizing Feminism: Parallel Trends in the Humanities and Social Sciences*, 358-371. Anne C. Herrmann and Abigail J. Stewart, eds. Boulder, Colorado: Westview Press, 1994.
- Sen, Amartya. "Equality of What?" In *The Tanner Lectures on Human Values I*, 195-220. Sterling M. McMurrin, ed. Cambridge: Cambridge University Press, 1980.
- Sen, Amartya. "Capability and Well-Being". In *The Quality of Life*, 30-53. Martha Nussbaum and Amartya Sen, eds. Oxford: Clarendon Press, 1993.
- Shklar, Judith. "Liberalism of Fear." In *Liberalism and the Moral Life*, 21-38. Nancy L. Rosenblum, ed. Cambridge, Massachusetts: Harvard University Press, 1989.
- Silver, Anita. "Reconciling Equality to Difference: Caring (F)or Justice for People with Disabilities". *Hypatia* 10, No. 1 (1995), 30-55.
- Smith, Barbara, ed. *Home Girls: A Black Feminist Anthology*. New York: Kitchen Table Women of Color Press, 1983.
- Spelman, Elizabeth V. "Woman as Body: Ancient and Contemporary Views". *Feminist Studies* 8, No. 1 (1982), 109-131.
- Spelman, Elizabeth V. *Inessential Woman: Problems of Exclusion in Feminist Thought*. Boston: Beacon Press, 1988.
- Sterling, Dorothy, ed. *We Are Your Sisters: Black Women in the Nineteenth Century*. New York: W.W. Norton and Company, 1984.
- Strawson, Peter Frederick. *Individuals: An Essay in Descriptive Metaphysics*. London: Methuen, 1959.

- Sunstein, Cass R., ed. *Feminism and Political Theory*. Chicago: University of Chicago Press, 1990.
- Tronto, Joan. *Moral Boundaries: A Political Argument for an Ethic of Care*. New York: Routledge, 1994.
- Walzer, Michael. "Liberalism and the Art of Separation". *Political Theory* 12, No. 3 (1984), 315-330.
- Weiss, Gail. *Body Images: Embodiment as Intercorporeality*. New York: Routledge, 1999.
- Wendell, Susan. "Toward a Feminist Theory of Disability". *Hypatia* 4, No. 2 (1989), 104-124.
- Wendell, Susan. *The Rejected Body: Feminist Philosophical Reflections on Disability*. New York: Routledge, 1996.
- Wollstonecraft, Mary. *Vindication of the Rights of Woman*. Miriam Kramnick, ed. Penguin Books, 1978.
- Young, Iris Marion. *Throwing Like a Girl and Other Essays in Feminist Philosophy and Social Theory*. Bloomington: Indiana University Press, 1990.
- Young, Iris Marion. *Justice and the Politics of Difference*. Princeton: Princeton University Press, 1990.
- Young, Iris Marion. "The Ideal of Community and the Politics of Difference." In *Feminism/Postmodernism*, 300-323. Linda J. Nicholson, ed. New York: Routledge, 1990.
- Young, Iris Marion. "Asymmetrical Reciprocity: On Moral Respect, Wonder and Enlarged Thought." *Constellations* 3, No. 3 (January 1997), 340-363.