

# FEMINISMS AND THE FAMILY

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Feminism is like the Republican party. Although each has a central focus and expresses a core of more or less identifiable values, each also encompasses many sometimes conflicting movements.<sup>1</sup> Each is, as the expression goes, a "big tent." The only question is whether the tent is strong and broad enough to contain the conflict that often threatens to burst it.

My aim is to identify three major varieties of modern feminist thought and to explore their implications for the family. Although I will emphasize these theories' differences, it is important to realize the common concerns that animate them all. Each focuses on the subjugation of women, seeks to unmask its manifestations in culture, and works to correct what it identifies as injustice.<sup>2</sup> The conflict among them arises from the fact that they do all this differently. By making different assumptions about how men and women are situated, how they view themselves and others, and how they behave, these theories end up focusing on very different problems and propose very different reforms. At bottom, however, they all share the same aim: to end women's inequality.

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1. Division among feminists is not a recent phenomenon. See Cass R. Sunstein, *Feminism and Legal Theory*, 101 HARV. L. REV. 826-28 (1988) (reviewing CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987)) (identifying the three principal strands of feminism concerned with the law as "difference" feminism, which "argues that women should be permitted to compete on equal terms with men in the public world;" "different voice" feminism, which "asserts that there is a distinctly female way of approaching moral and legal dilemmas;" and "dominance" feminism, which "describes gender inequality . . . in terms of the social subordination of women."); Eileen Boris, *Beyond Dichotomy*, THE NATION, Oct. 18, 1993, at 433 (reviewing MARY FRANCES BERRY, *THE POLITICS OF PARENTHOOD* (1993); LISE VOGEL, *MOTHERS ON THE JOB* (1993); and ROBERT G. MOELLER, *PROTECTING MOTHERHOOD* (1993)); Catharine R. Stimpson, *Fretting Together*, THE NATION, Feb. 7, 1987, at 149 (reviewing *WHAT IS FEMINISM? A REEXAMINATION* (Juliet Mitchell & Ann Oakley eds., 1986)) (arguing that, since its beginnings, feminism has been "not a bloc, but clusters of lines of force" and that feminists "still have no common identity.")

2. See, e.g., CAROL GILLIGAN, *IN A DIFFERENT VOICE passim* (1982) (representing "difference" feminism); CATHARINE A. MACKINNON, *Difference and Dominance: On Sex Discrimination*, in *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 32, 33 (1987) (representing "dominance" feminism); Judith S. Murray, *On the Equality of the Sexes*, in *THE FEMINIST PAPERS: FROM ADAMS TO DE BEAUVOIR* 18, 21 (Alice S. Rossi ed., 1973) [hereinafter *THE FEMINIST PAPERS*] (representing traditional liberal feminism).

The first brand of feminism is the most familiar: traditional liberal feminism.<sup>3</sup> It identifies barriers to women's full participation in the public world as the central form of oppression.<sup>4</sup> To remedy it, this brand of feminism asks the public world to treat women the same as men. More broadly, liberal feminism claims for women the same values that men have traditionally claimed for themselves in the public sphere—values like autonomy, impersonality, objectivity, and universalism.<sup>5</sup> Liberal feminism basically identifies women as the same as men and demands that they be treated equally.<sup>6</sup>

The next brand of feminism, "difference" feminism, contests liberal feminism's fundamental assumption of sameness.<sup>7</sup> As its name indicates, difference feminism holds that women and men are basically different, and that treating men and women similarly can itself become a form of oppression.<sup>8</sup> To difference feminists, liberal feminism is not only mistaken, but also dangerous to women. By denying women's difference, it encourages women to behave like men and rewards those who best succeed in this impersonation.<sup>9</sup>

"Relational" feminism represents the most influential strand of difference feminism. According to Carol Gilligan, one of its leading proponents,<sup>10</sup> men and women, as groups, differ fundamentally in the ways they reason and see themselves.<sup>11</sup> This strand of feminism holds that women perceive themselves as less auto-

3. See, e.g., Murray, *supra* note 2, at 21; Virginia Woolf, *A Room of One's Own*, in *THE FEMINIST PAPERS*, *supra* note 2, at 627 *passim*. Liberal feminism is also known as assimilationist or sameness feminism.

4. See, e.g., MacKinnon, *supra* note 2, at 33; Murray, *supra* note 2, at 21.

5. See, e.g., Thomas E. Hill, Jr., *The Importance of Autonomy*, in *WOMEN AND MORAL THEORY* 129, 133-36 (Eva F. Kittay & Diana T. Meyers eds., 1987) (discussing autonomy as a right); Mary Wollstonecraft, *A Vindication of the Rights of Woman*, in *THE FEMINIST PAPERS*, *supra* note 2, at 40, 41; Kathleen Gasperini, *Beauty, Sports, and Power Feminism*, *WOMEN'S SPORTS & FITNESS*, Mar. 1994, at 24-25 (interviewing author Naomi Wolf); Karen Lehrman, *Women's Hour*, *NEW REPUBLIC*, Mar. 14, 1994, at 40, 41 (reviewing NAOMI WOLF, *FIRE WITH FIRE: THE NEW FEMALE POWER AND HOW IT WILL CHANGE THE 21ST CENTURY* (1993)).

6. See, e.g., Lehrman, *supra* note 5, at 41 (noting that author Naomi Wolf takes as her motto an inversion of the words of poet Audre Lorde, "it is *only* the master's tools that can dismantle the master's house.")

7. See Stimpson, *supra* note 1, at 149; see also MacKinnon, *supra* note 2, at 33; Carol Gilligan, *Moral Orientation and Moral Development*, in *WOMEN AND MORAL THEORY*, *supra* note 5, at 19.

8. Gilligan, *supra* note 7, at 19.

9. See Hill, *supra* note 5, *passim* (stating that the traditional moral philosopher's perspective portrays the responses of women to moral questions, which differ from those of men, as deficiencies in moral capabilities).

10. See Sunstein, *supra* note 1, at 827.

11. GILLIGAN, *supra* note 2, at 25-44; Gilligan *supra* note 7, at 25.

mous than do men.<sup>12</sup> Whereas men see themselves as free-standing individuals and think of themselves as sovereign rights-holders, women see themselves as nodes of connection in a complex web of relationships and think of themselves as bearers of responsibilities.<sup>13</sup> In this view, traditional liberal feminism's emphasis on women's individual agency and on individual rights serves neither women nor society.<sup>14</sup>

Instead of claiming for women the traditional norms of the public world, which it associates with men, relational feminism seeks to change those norms to incorporate women's different way of seeing.<sup>15</sup> In particular, it asks the public world to include responsiveness to aggregate human need on an equal footing with individual freedom.<sup>16</sup> The public world, in this view, should reflect both autonomy and interdependence, rights and responsibilities, caring and justice.

The third variety, "dominance" feminism, criticizes both its predecessors.<sup>17</sup> Like relational feminism, it deeply distrusts liberal feminism's sameness ideal, agreeing that true equality for women does not lie in making them live as men. Like liberal feminism, however, it also distrusts traditional claims of women's difference. Both liberal and dominance feminisms believe that most differences attributed to women deny them full equality.<sup>18</sup> In particular, dominance feminism claims that relational feminism's ethic of care represents a very dangerous form of false consciousness.<sup>19</sup> As Catharine MacKinnon explains it, "[w]omen value care because men have valued us according to the care we give them

12. See GILLIGAN, *supra* note 2, at 41-44; Robin L. West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 3 (1988); Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WISC. WOMEN'S L. J. 81, 140 (1987).

13. See Gilligan, *supra* note 7, at 19.

14. GILLIGAN ET AL., NATIONAL INST. OF EDUC., *THE CONTRIBUTION OF WOMEN'S THOUGHT TO DEVELOPMENTAL THEORY: THE ELIMINATION OF SEX BIAS IN MORAL DEVELOPMENT RESEARCH AND EDUCATION* iii, 30-31 (1982).

15. See West, *Jurisprudence and Gender*, *supra* note 12, at 71-72; see also ELIZABETH FOX-GENOVESE, *FEMINISM WITHOUT ILLUSIONS* 39 (1991) (noting that feminists have developed a critique of the male concept of justice).

16. FOX-GENOVESE, *supra* note 15, at 31; see also Shirley R. Letwin, *Law and the Unreasonable Woman*, NAT'L REV., Nov. 18, 1991, at 34 (stating that feminists want to replace objective, rule-based court decisions with a method of conflict resolution based on caring, compassion, and need).

17. See MACKINNON, *supra* note 2, at 33-34; Sunstein, *supra* note 1, at 828-29.

18. See MACKINNON, *supra* note 2, at 34; Beverly Horsburgh, *Redefining the Family: Recognizing the Altruistic Caretaker and the Importance of Relational Needs*, 25 U. MICH. J.L. REF. 423, 426 & n.5 (1992) (stating that the caring ethic has been seen as dangerous, enlisting women in their own oppression).

19. See MACKINNON, *supra* note 2, at 34-40.

. . . Women think in relational terms because our existence is defined in relation to men."<sup>20</sup> In this view, all relational feminists are doing is celebrating the traditional terms of women's oppression; and, although they may find dignity where before there was none,<sup>21</sup> they are still embracing an identity that men have imposed on women.<sup>22</sup> Although it may no longer denigrate, it is still not women's own.

Dominance feminism, then, sees both its competitors as making the same kind of mistake by simple-mindedly accepting an existing description of identity as appropriate for women without stopping to ask whether that identity really is women's own.<sup>23</sup> While liberal feminism accepts existing descriptions of men's lives as appropriate for women, relational feminism takes existing descriptions of women as nurturing and caring, rehabilitates them by endowing them with a new-found social respect, and then attributes them to women. Neither liberal nor relational feminism asks, however, whether women would have described themselves in either of these ways if they had been able freely to define themselves.

This is the question that dominance feminism asks. Rather than simply assuming that women and men are fundamentally alike or different,<sup>24</sup> it asks whether treating women in a particular way makes it possible for them to claim their own identities. It holds that we cannot even ask whether men and women are alike or different until we first allow women to understand themselves—something men have always had freedom to do.<sup>25</sup> More importantly, it subjects every aspect of life to scrutiny and asks of each institution, practice, or value whether it contributes to women's subordination.<sup>26</sup> Its analysis is both searching and straightforwardly political.<sup>27</sup> Unfortunately, it holds few easy answers. Unlike liberal and relational feminisms, which furnish across-the-board baselines from which to measure oppression, dominance feminism does not. Sometimes treating women the same as men

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20. *Id.* at 39.

21. *Id.* at 38.

22. *Id.* at 38-39.

23. *Id.* at 23-24, 39.

24. *Id.* at 34, 40 (stating that the issue is not difference or sameness, but the distribution of power in society).

25. *Id.* at 34, 36.

26. *Id.* at 34, 40. For examples of dominance feminism's scrutiny, see CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 126-54, 171-214 (1989).

27. See MACKINNON, *supra* note 2, at 34; see also Sunstein, *supra* note 1, at 828.

can oppress them; sometimes treating them differently can—every social practice has to be looked at separately.<sup>28</sup> In this sense, all politics is local.

Each of these three different brands of feminism holds quite different implications for the family. Liberal feminism's adoption of traditional male norms effectively imports values into the family that have traditionally ruled the world outside. Autonomy concerns, norms of impersonality, of objectivity, and of detachment, and rights-talk all come rushing in. In liberal feminism, the family loses its traditional status as a refuge from the workaday world and instead becomes just another one of its rights-oriented arenas. The family's functions, of course, are still distinctive, but its governing principles are now the same as those that govern all public activities.

Liberal feminism would also degender the family. It would at the very least sever the connection between traditional family roles, like the nurturing mother and the working father, and sex.<sup>29</sup> It would see the family first and foremost as a collection of equal persons and call for a possibly radical reallocation of family duties across them. The traditional family hierarchy of husband over wife would be replaced by a partnership of equals.<sup>30</sup>

Less obviously, the traditional hierarchy of parent over child would also come under pressure. Liberal feminism would grant all persons in the family, including children, some autonomy, which would conflict with traditional notions of parental authority.<sup>31</sup> Some forms of parental control would still be permissible, of course, but only those that could claim, from a disinterested perspective, to trump the child's rights. Public reaction during the 1992 presidential campaign to some of Hillary Rodham Clinton's writings as a law student shows how controversial some of the implications of liberal feminism would be.<sup>32</sup>

28. MacKinnon, *supra* note 2, at 44; Sunstein, *supra* note 1, at 833.

29. See, e.g., Stimpson, *supra* note 1, at 150 (stating that a goal of feminism is to break down the "preordained" divisions of labor); Boris, *supra* note 1, at 433 (examining how feminism approaches equality, working mothers, and having men share child-raising responsibilities).

30. See Frances E. Olsen, *The Family and the Market*, 96 HARV. L. REV. 1497, 1530-39 (1983) (describing implications for traditional husband-wife relationship).

31. See Richard Louv, *Toward a Family Liberation Movement*, MOTHERING, Summer 1993, at 100, 104 (discussing child advocacy groups and the successful campaign for the San Francisco Children's Amendment, in which the city guaranteed funds to children, and children delivered the requisite citizen signatures to city hall).

32. See, e.g., Daniel Wattenberg, *The Lady Macbeth of Little Rock: Hillary Clinton's Hard-Left Past and Present*, AM. SPECTATOR, August, 1992, at 29 (stating that after the author had

Relational feminism has exactly the opposite instincts. It tries to export the norms and values traditionally thought to rule the family outside the family itself.<sup>33</sup> In other words, if liberal feminism sees the family as an aberrant space which ought to be subjected to the universalizing norms of the outside world, relational feminism sees the public world as a realm to which traditionally private norms should apply. Rather than displace traditional private values like selflessness, love, and nurturing, relational feminism would expand their domain.<sup>34</sup> Its impulse is imperialistic.

Relational feminism, like liberal feminism, would degender the family to a large degree but not in the same way. Whereas liberal feminism demands that all members of the family be treated as "persons," which means that they should be accorded the kind of rights men have traditionally enjoyed in the public world, relational feminism would require both men and women to act according to the ethic of the private sphere.<sup>35</sup> Relational feminism would largely bar rights-talk from the family and expand the family's discourse of duties and responsibilities to the public sphere.<sup>36</sup> Most importantly, men would more often come to be judged according to the ethic of care both inside and outside the family.<sup>37</sup>

Inside the family, relational feminism would imply that all family members are equal in the obligations of care they owe to other family members and that family hierarchies are suspect, except where someone holds power over others in order to provide them with care. Outside the family, relationalism would imply even larger changes. Politics would become more strongly communitarian and suspicious of any autonomy claims. In the name

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read all Hillary Rodham Clinton had written on children's rights, he could only conclude that she "suffers from a massive misunderstanding of the function of parents.")

33. See, e.g., GILLIGAN, *supra* note 2, at 147; GILLIGAN ET AL., *supra* note 14, at 25, 30-31.

34. See GILLIGAN ET AL., *supra* note 14, at ii-iii.

35. See, e.g., GILLIGAN, *supra* note 2, at 147 (arguing that we all have a responsibility to care for one another); Janelle M. Rettler, *Women's Work: Finding New Meaning Through a Feminist Concept of Unionization*, 22 GOLDEN GATE U. L. REV. 751, 772-76 (1992) (arguing that male-created structures of labor relations are inadequate to meet women's needs).

36. See GILLIGAN, *supra* note 2, at 147; see also Sunstein, *supra* note 1, at 827 n.10 (noting the discussion of the possible consequences of reconstructing constitutional law to include women's distinctive morality).

37. For example, men would be judged for their ability to care for children. See Sara Ruddick, *Remarks on the Sexual Politics of Reason*, in WOMEN AND MORAL THEORY, *supra* note 5, at 237, 241-42 (arguing that the activities of motherhood are applicable to "any responsible adult," not just to women); see also Horsburgh, *supra* note 18, at 426 (arguing that the law should change to reflect the nature of caretaker values and altruistic caring).

of care, the state could become more interventionist.<sup>38</sup> In particular, relationalism would imply strong state support for the family and for child care.

Dominance feminism begins with an awareness that the family, like most other social institutions, can serve as a political arena.<sup>39</sup> It then analyzes all aspects of the family—its roles, its values, and its conventions—in terms of whether they serve men's oppression of women.<sup>40</sup> Assumptions of both difference and sameness come under sharp question, for both can work to subjugate women.<sup>41</sup> At times, however, both can also serve to free women from oppression.

Dominance feminism, for example, sometimes joins liberal feminism in demanding the same autonomy rights for women that men have traditionally claimed. In the case of domestic violence and spousal rape, dominance feminism demands that the state intrude within the family in order to protect women's safety. It demands, in other words, that the state treat women's safety within the family just as seriously as it has treated men's safety outside it.<sup>42</sup> In these particular contexts, dominance feminism claims that we should view women as rights-holders, for taking that view will suitably protect them.

In other respects, dominance feminism tracks difference feminism. Like relational feminism, for example, dominance feminism would demand that the state support the family and its individual members in order to make real choices available to women.<sup>43</sup> Thus, state-supported child care and state subsidies

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38. See, Horsburgh, *supra* note 18, at 429-30 (arguing that the law should help redefine the family and the workplace so that as a society, "we can choose to value caring more than commerce, enriching our lives as interrelated human beings.")

39. See, e.g., MacKinnon, *supra* note 26, at 61 ("Feminist theory sees the family as a unit of male dominance, a locale of male violence and reproductive exploitation, hence a primary locus of the oppression of women.")

40. See, e.g., MacKinnon, *supra* note 2, at 40-41.

41. See *id.* at 33-34. Criticizing assumptions about sameness and difference, MacKinnon says: "A gender-neutral approach . . . obscures . . . the fact that women's poverty, financial dependency, motherhood, and sexual accessibility . . . substantively make up women's status as women." MacKinnon, *On Exceptionality: Women as Women in Law*, in FEMINISM UNMODIFIED, *supra* note 2, at 70, 73, quoted in Sunstein, *supra* note 1, at 831.

42. See, e.g., MacKinnon, *Privacy and Equality*, in FEMINISM UNMODIFIED, *supra* note 2, at 101 (criticizing privacy doctrine for "shield[ing] . . . battery, marital rape, and women's exploited labor" from government redress).

43. See MacKinnon, *supra* note 2, at 37.

that enable women to exercise reproductive choice would become more widely available.<sup>44</sup>

Like the other varieties of feminism, dominance feminism would change the traditional family. It views family roles, at least as traditionally constituted, as potential instruments of oppression. Marriage, in its view, for example, constantly presents opportunities for exploitation.<sup>45</sup> Dominance feminism would demand reform of many aspects of the family, but many of the precise changes remain unclear. Not until women are free to find their own voices and create their own identities, can dominance feminism argue within its own terms how the family should operate.<sup>46</sup>

Dominance feminism's uncertainty about the details of reform may frustrate many people.<sup>47</sup> Those who demand to know in specifics what the world will look like once gender oppression disappears will be greatly disappointed. This is a weakness, to be sure, if only because it means that dominance feminism will fail to persuade many who might otherwise support it. Many will fear to tear down the existing structure without having at least a blueprint for the new. But demanding that dominance feminism at this moment outline all the eventualities of reform is itself unfair. If one believes that women have not been permitted freely to understand themselves, how can one prescribe in any detail right now how the world should change? In the view of dominance feminism, its competitors have more determinate implications for the family only because they claim to know, even before women themselves do, what women know and want.

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44. See generally MACKINNON, *Privacy versus Equality*, in FEMINISM UNMODIFIED, *supra* note 2, at 93, 97-99 (arguing that even rights to privacy and reproductive choice, as currently constituted, are designed to subordinate women to the imperative of male supremacy).

45. See Sunstein, *supra* note 1, at 831 (noting that women's financial dependency in marriage and motherhood are argued to be components of structural inequalities between men and women). Women's childcare responsibilities are one of dominance feminism's main targets because they are an aspect of women's sexual subordination and inequality. Sunstein, *supra* note 1, at 834-35.

46. MACKINNON, *supra* note 2, at 45 ("I say, give women equal power in social life. Let what we say matter, then we will discourse on questions of morality. Take your foot off our necks, then we will hear in what tongue women speak.")

47. The dominance approach might yield some results that are identical to current law; however, many legal practices currently taken for granted would be challenged. For example, laws about reproductive rights, abortion, battery of women, and prostitution would be treated as issues of sex discrimination. Sunstein, *supra* note 1, at 833. The approach is difficult to evaluate in the abstract, and requires an evaluation of the practical impact it will have on the lives of women and men. *Id.* at 837.