

Evaluating Rawls: Equality in the Family

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Devan Griffith
Dr. Richard Holtzman
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ABSTRACT

This paper examines the latest developments in feminist critiques of the seminal *Theory of Justice*, written by John Rawls, the late preeminent American moral philosopher. Rawls is recognized as one of the most influential moral political philosophers of the twentieth century and is increasingly relevant because of his discussions on pluralist societies. With the current diverging of liberal, conservative and libertarian philosophies among Americans, as well as the fragmentation of parties to accommodate an increasingly diverse public, a clear philosophy and understanding of liberal theory is necessary for its future in American politics. The current pressure to address the needs of oppressed groups such as women and sexual minorities has created a philosophical tipping point. What is to be considered equality, how the government should involve itself, and how this will be done feasibly and throughout generations need answers defined on all sides of the discussion.

Gender and sexual inequality, when considering what should be done, is one of the most significant challenges because of its effect on the traditional family, on centuries of preconceived notions of gender and sexuality, and the heavy commitment it may take to extinguish. To analyze the social contract approach and the theory of justice as fairness, I will examine and then follow Rawls' own method of the original position to determine in which manner the family should be situated within society to result in the best accordance to the two principles. Furthermore, the arguments on the reasonability of religion in a political conception will be used to promote a fair and stable society. The overall aim is to develop a Rawlsian solution to gender equality in society that is both fair and sustainable in a pluralistic society.

Focusing on the role of the family in society, I argue that Rawls' fundamental concept of justice – "justice as fairness" – does not develop a clear and convincing stance on how gender equality will be produced (and reproduced) in a pluralistic society. Debate has risen between feminist and liberal philosophers in distinguishing the relationship between Rawls' two principles of justice and their intervention in family hierarchy, duties, and responsibilities. The two principles are known as:

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First Principle: Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Social and economic inequalities are to satisfy two conditions:

They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;

They are to be to the greatest benefit of the least-advantaged members of society (the difference principle). (JF, 42-43)

The distinction between an indirect and direct interaction between principles of justice and the basic structures of society (family being one of them) will shape the way the political arena promotes equality. This is the case, provided that the procedure in which Rawls utilizes is fair in itself, which has come into contention among feminist thinkers. Once the family is situated in the original position, the feasibility of the theory will be discussed within the parameters of a property-owning democracy as well as, more specifically, a deliberative democracy. This solution should bring a reflective justification for the principles abilities to deal with injustices outlined by feminists.

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INTRODUCTION

The purpose of my study is to evaluate John Rawls' theory of a just society on its ability to create (and recreate) gender equality within a just society. To do this, this research examines John Rawls' "Justice as Fairness" concept as well as the critiques from contemporary studies in feminism. The goal of my analysis is to use the Rawlsian theory and method to develop his thoughts further in light of the most recent feminist critiques. I will provide justification by reflecting upon the gender and sexual inequalities known to us today. Feminist critiques are integral to this because they provide standards for gender and sexual relations that will shape the outcome of Rawls' procedure. To do this, it is necessary to take a critical look at the place of family in society.

The study will heavily depend on the concept of ethics. Ethics is the study of what is right and good. To be right, an act is judged on the way it follows moral principle. To be good, the consequences of an act are judged on their moral quality. The relationship between right and good is up to interpretation, just as justice is in its involvement in social institutions. Political philosophy deals with topics such as justice, law, liberties and rights which form to a certain relationship between the definition of right and good. Liberty, since the 1600's, has been at the forefront of the discussion to define justice because of the idea of the social contract. A social contract is the intellectual devise used to determine the relationship between individuals and the government that they form. This is based on the fact that individuals strive for their liberty and form governments to maximize it, but they also limit liberty in cases in which protection is needed in natural disputes. This limitation of liberty in exchange for rights. This type of idea on government has formed the basis of nearly all liberal (in the classical sense) democratic societies.

The late American political philosopher, John Rawls, formerly of Harvard University, addresses the concept of justice in modern liberal democratic society. Justice, as recognized in the contemporary social contract, is a mutual agreement, but in other perspectives it is understood as divine command, subordinate value, or even natural law (among others). John Rawls continues the tradition of the social contract, but does not use the tradition of defining human nature. Human nature was used by classical liberals as a device to show the

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relationship between how humans naturally act and think to the government that would best fit them. Rawls, instead, asks what principles of justice an individual would choose in a fair position. Rawls' premise for this approach is that these principles would be the primary foundation of all government and social institutions to come. This is where Rawls arrives at his theory of Justice as Fairness, which contains the principles he believes would create and maintain a just society. Maintaining the society is of the utmost importance, because individuals' interests must line up with the institutionalization of those interests in a stable society.

Modern attempts to find the purpose of government focus primarily on desirability and feasibility (Kukathas, 1990). Political Scientists and economic thinkers such as F.A. Hayek of the Austrian School of Economics believed in feasibility through market efficiency, whereas philosophers like Stanley Benn, wrote strictly about social principles, revealing a divide in political theory entering the twentieth century. Thinkers on both sides of the divide remained isolated while contributing little to the philosophic community. Then in the 1970's, Rawls attempted to bridge the gap using thought experiments to distinguish the desirability of a morally just society while evaluating its feasibility. Rawls, a moral individualist, believed in a good that is for the people, which means that it is not private in pleasure. Being for the people means that good is not judged democratically; good is something that should be defined prior to the accumulation of individual self-interests. This includes the sense of aggregate goods which include ideas like the harmony of relations of racial groups. Instead, good is judged in a fair position in which society's basic structures may be built.

John Rawls uses his concept of a fair or unbiased position in an attempt to determine justice through a pure procedure. Pure procedure is one of independent criterion that is setup for a similar outcome. Like a fair bet, the outcome over time will eventually be fair. Starting the procedure in the fair position, which he refers to as the original position, Rawls believes a decision can be made by presuming an unbiased individual has the choice to be randomly dropped into any particular society (and the principles which create them) of a created list. By considering a number of different distributions and systems, the individual would avoid all unjust systems. The individuals would be choosing the basic system (or structures) and the

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fundamental rights. Throughout all systems, they will always agree on equal liberties. The principles chosen would be universal and not particular or publically recognized. The individuals are only told they will be assigned random status and level of talent and placed in society. The motivation will be to secure rights and liberties, opportunity, income and wealth, and self-respect. Through this procedure, the correct principles of a just society would be chosen.

Returning to right and good, Rawls is deontological in that he believes right is independent from good, but that they are correlated. And in his support of justice, Rawls believes that a stronger sense of justice would provide for a weaker inclination to act unjustly. That means, if there was any reasonable means to improve upon the strength of a justice theory, it would be working for both the desirability and feasibility of justice. With that said, further development of Rawlsian theory, if possible, should be an important discussion moving forward. This development will be central to the argument for greater justice in gender and sexual equality.

Reading the following literature, it becomes apparent that feminist justice arguments have conflicted with the fair position and basic structures distinguished by Rawls. Overall, the thinkers have struggled to interpret Rawls in a way that fits their concerns. By reviewing different definitions of social structures and roles of principles, I will determine where development may be viable. A thorough understanding of the procedure used by Rawls is necessary to take into account the concerns brought forth by the feminist writers. Once this has been solidified, I also extend the influence of these thoughts to the idea of sexual inequality. The feminist arguments and contemporary sexuality studies have much overlap, and will be used to develop a stronger form of justice then put forth by Rawls (if that is deemed possible).

To delve deeper into understanding the need of further research, my literature review begins by exploring the terminology and exact process and explanations of stability in *A Theory of Justice* (1971) and then the use of his theory in a pluralistic society in *Political Liberalism* (1992). Once this is better understood, the social construction of sexuality and gender roles will be summarized to give a background to the feminist intellectual movement, and its expansion into the concept of justice. Then, the major critics of Rawls' theory will be

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formally recognized, and then provided with further support and additional research done in the field so far.

The goal of this analysis is to return to the reflective position of the unbiased individual put forth by Rawls. By considering the judgments of certain thinkers, I will return to the start of the pure procedure and determine what would create the most just outcome (see Appendix 1). The specifics will be outlined in the methodology.

This goal of creating a stronger sense of justice will entail determination of what the basic structures of society are. And once analyzing the feminist point of view, how will the basic structures and principles of justice interact? By looking at outcomes and using a sense of good, we may determine what is right. Moving further from this start, the pluralistic society of liberal democracies will also be considered. As part of Rawls latest developments, this sense of justice must be preserved while maintaining the liberty of reason of all individuals. To do this, we must examine all doctrines that are allowed (or not allowed) to participate in Rawlsian politics and determine if they are reasonable to sustain the justice put forth by the basic structures. Doctrines often considered by the feminists were those of major religions. The involvement of religion in political senses of right and good is central to this discussion.

The following methodology will explain explicitly how these considerations will be examined to produce a sense of justice that better fits the two principles outlined by Rawls. The literature review will then provide a deeper understanding of Rawlsian theory as well as provide the main criticisms of the feminists, such as: emotions in an unbiased position, the family, reasonable doctrines, a well-ordered society, and even modern contractarianism in itself.

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METHODOLOGY

The two discussions I found significant through the critique of *A Theory of Justice* and *Political Liberalism* are the role of the institution of family as a basic (or otherwise, indirect) structure and the just institutions within which Rawls' notion of Justice as Fairness may succeed. Using the most recent developments in feminist studies, I will weigh the analyses of family against the basic structures defined by Rawls and integrate it into the original (or unbiased) position to come across a clear role of government, family, and equality. Once this has been reached, I will return to the analyses of reasonable doctrines in the political conception. Looking at constraints and definitions of reasonability, the ability of an overlapping consensus of comprehensive doctrines to preserve the fairness reached in the role of the family institution will be evaluated.

The methodology used will follow Rawls' original position procedure, starting at the unbiased and rational position and slowly loosening its veil of ignorance (oblivious state to societal status and talents) to the opening of a pluralist and reasonable society. The final stage of the original position will have full knowledge of status and talents. Once this has been reached, we will use the public reason model that will allow for analysis of a society involving multiple comprehensive moral doctrines. To assist in our examination of feasibility, we can use the insights of John Rawls in his latest work on just institutions as a possible response to feminist critiques. Rawls' possibly inadequate role of family as an institution, undefined sense of reasonableness in moral doctrines, as well as brief description of just institutions leaves much room for possible philosophical development, as well as concrete support, or opposition, for certain stances.

A methodological approach derived directly from Rawls' original position procedure comes in steps:

1. Restate the screen of self-interest on individuals (hypothetical devise)
2. Determine what is chosen (including what constitutes basic structure)
3. Reaffirming the choice of Justice as Fairness
4. Reflect on the two principles involvement with basic structures and social institutions

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5. Determine how a constitution would be affected by choices of original position
6. Determine how laws would be effected on economic and social structures
7. Determine how rules of judges and officials would be affected
8. Explain how critiqued theory would gain its own support to provide a more stable and just society.

During each of these steps, I will reflect on its current use and make suggestions or clarifications where I see fit. At this point, the pure procedure used by Rawls will be complete. The last consideration will go along with Rawls' discussion on just institutions and assessing a property-owning democracy. The questions to answer while considering a property-owning democracy are:

- How well does this system reproduce equal opportunity (without gender discrimination)?
- How will care work and child-bearing be handled?
- When creating a more equitable distribution of wealth and opportunity, how is the primary good of self-respect taken into consideration?
- What possible problems may arise?

Once questioned, a property-owning democracy will be measured on its feasibility and desirability.

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LITERATURE REVIEW

Rawls: An Overview

In John Rawls' book, *A Theory of Justice*, he pursues his goal of finding principles of justice through a hypothetical state of nature using what he calls an original position. This is based on social contract theory and he proceeds to develop a procedure to build a society based on these principles. He begins with addressing the need for justice, because:

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override... (i)t does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining. (3-4)

In this description, Rawls makes the distinction that justice is an uncompromising element of society, setting up the start of his exploration of justice in a pure procedural fashion. He also distinguishes the thought of moral individualism and the important of equal individual liberties and rights, preventing the idea of any type of egoism (which is discussed more later). To begin in the discussion of what is just and unjust in society, Rawls suggests we set ourselves in the original position. This is a hypothetical situation where individuals in the discussion don't understand themselves in terms of class or social status, place in society, distribution of wealth, intelligence, strengths, or even conception of goodness. Rawls suggests that within, what he calls, a veil of ignorance, "the aim is to rule out those principles that it would be rational to propose for acceptance, however little the chance of success only if one knew certain things that are irrelevant from the standpoint of justice." (17) He then points out the idea that a wealthy man may find taxes to support welfare are unjust, which shows his point that he wants the parties in the original position to have no biases or interests from their own society influencing their conception of right. Rawls believes that every person is an innately moral and rational being, able to determine right from wrong (separating himself from communitarian thinkers; developing himself as a liberal thinker). He goes on to say that:

It seems reasonable to suppose that the parties in the original position are equal. That is, all have the same rights in the procedure for choosing principles; each can make proposals, submit reasons for

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their acceptance, and so on...to represent equality between human beings as moral personas, as creatures having a conception of their good and capable of a sense of justice.(17)

Establishing that the parties are impartial, equal in deliberation, and able to reach a sense of justice, Rawls uses the next step of proposing a short list of alternative conceptions of justice. He is able to cut this list down by declaring that:

Now obviously no one can obtain everything he wants; the mere existence of other persons prevents this. The absolutely best for any man is that everyone should join with him in furthering his conception of the good whatever it turns out to be. Or failing this, that all others are required to act justly but that he is authorized to exempt himself as he pleases. Since other persons will never agree to such terms of association these forms of egoism would be rejected. (103)

By simplifying the process to only alternatives which could be sensibly debated among the parties of the original position, equilibrium is much more easily reached, as Rawls proposes. The list that is proposed contains Rawls' contribution to moral philosophy and justice, his two principles stated at first:

First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all. (53)

This was then critiqued later in the book with explanation to priority:

(First Principle)Each person is to have an equal right to the most extensive total system of equal liberties compatible with a similar system of liberty for all.

(Second Principle)Social and economic inequalities are to be arranged so that they are both:

To the greatest benefit of the least advantaged, consistent with the just savings principle, and

Attached to offices and positions open to all under conditions of fair equality of opportunity (266)

The two principles are then held to the specifications that liberty can only be restricted for the sake of liberty (principle two can't override principle one), that being less extensive liberty must strengthen the total system for all, or a lesser liberty must be acceptable to those who have it. The second principle, or the difference principle, must follow that any inequality in opportunity must be advantageous to those with lesser opportunity, and "an excessive rate of

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saving must on balance mitigate the burden of those bearing this hardship.” (267) Before proceeding to the list of alternatives, it seems important to distinguish the just savings principle which has been added to the difference principle. Just savings is the idea that “(e)ach generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation.” (252) These savings is not just monetary, but also in means of production and education, for example.

So now Rawls, in his procedure, sets to show that “...the two principles of justice are the solution for the problem of choice presented by the original position.” (102) The list that is given to the parties consists of: the two principles of justice (in serial order), mixed conception (based on average utility, with/without social minimums), classical teleological conceptions, intuitionistic conceptions, and lastly egoistic (which are not really alternatives). (list seen in detail on page 107) So, this brings the parties to deliberation and Rawls suggests that his two principles which arise from his idea of justice as fairness (choosing principles from a fair position) would ultimately be chosen. He gives two reasons for his principles being chosen under what he calls the maximin. Maximin is the idea that the parties will choose the alternative that will end with the greatest benefit to the least well-off part of society. His reasons for this are:

First, since the rule takes no account of the likelihoods of the possible circumstances, there must be some reason for sharply discounting estimates of these probabilities... the second feature that suggests the maximin rule is the following: the person choosing has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of by following the maximin rule.

Both of these explanations are based on the veil of ignorance put upon the parties in the original position. Without knowledge of the probabilities that one could be placed into a particular area of society, there will be no ability to calculate likelihoods, nor great incentive to take a chance. Keep in mind, that the people in the original position do have knowledge of their family lines, in which would sharply lessen their thought of gambling. The most sensible solution, now, is the idea that one can experience the greatest outcome possible for the least well-off in society, so that there is little sense of gamble. The difference principle is fit

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perfectly for this outcome. Alongside this idea of maximin, the parties in the original position will also indulge in reflective equilibrium. Whenever a set of principles is thought to be chosen, they must exit their position and reflect on if the principles would allow for basic injustices (such as slavery) and make changes to the position to disallow these types of actions from happening in the next principles chosen. Using the maximin principle and acting in reflective equilibrium, Rawls believes that the original position would select his two principles.

Once the principles have been chosen, Rawls sets his 4-stage procedure for setting up a constitutional society. The second step, after the principles are chosen, is “(g)iven their theoretical knowledge and the appropriate general facts about their society, they are to choose the most effective just constitution, the constitution that satisfies the principles of justice and is best calculated to lead to just and effective legislation.” (173) Here we see the loosening of the veil of ignorance, transitioning the completely rational being to one more reasonable with the facts of society. The pure procedure that Rawls was using before has also transitioned to an imperfect procedure in which the political system won’t be correct all the time, but should have the smallest amount of injustices possible, based on the principles of justice. This shows Rawls deontological nature (opposite of communitarian thinkers) which points to goodness being separate from the right, but correlated which shows his thought of a political system never reaching a perfect procedure. Then, loosening the veil of ignorance further, Rawls’ next step “comes into play at the stage of legislation... social and economic policies be aimed at maximizing the long-term expectations of the least advantaged under conditions of equality of opportunity, subject to the equal liberties being maintained.” (175) Then once the more reasonable parties of the original position have gained knowledge of their society and how they will legislate it, “(t)he last stage is that of application of rules to particular cases by judges and administrations, and the following of rules by citizens generally.” All facts of society are now known and the society has in place a sense of goodness along with laws to reproduce it and judges to affirm that laws and actions are in correspondence with the principles.

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The last question for Rawls is whether a society with the two principles may be sustainable and stable. Rawls points to partial compliance theory in the assumption that there will be those who step outside of society's rules although the society is based on a strong sense of justice. He says that:

It is clear...that we need an account of penal sanctions however limited even for ideal theory... some such arrangements are necessary... the principle of liberty leads to the principle of responsibility. (212)

Here he expresses his opinion that a penal system is necessary to ensure responsibility of the citizens to comply with the allowance of equal liberty for all. But, he also points to a few reasons why his system would limit the chance of noncompliance more than the alternatives. First, he points to the Aristotelian principle which conveys "... (2) that the exercise of our natural powers is a leading human good. Further (3) the ideas that the more enjoyable activities and the more desirable and enduring pleasure spring from the exercise of greater abilities involving more complex discriminations..." (374) With the equality of opportunity and the continuation of a fair distribution of society for generations, Rawls believes his principles are compatible with the motivational principle of Aristotle, given that he holds his principle as truth.

The final thoughts of stability presented are based on the psychology of individuals in a just system. Rawls states that "(t)o insure stability men must have a sense of justice or a concern for those who would be disadvantaged by their defection, preferably both. When these sentiments are sufficiently strong to overrule the temptations to violate the rules, just schemes are stable." (435) This means that when individuals in society feel accountable and responsible for the goodness of the society, they regard their just actions in society to also be the correct actions to follow. Rawls follows, "(f)or given these natural attitudes and the desire to do what is just, no one wishes to advance his interests unfairly to the disadvantage of others; this removes instability of the first kind." (435) Proceeding from the thought that people in a society based on justice wouldn't want to be disadvantageous to others out of a feeling of guilt, Rawls presents a wider view that "a society regulated by a public sense of justice is inherently stable: other things equal, the forces making for stability increase... as times passes." (436) He then applies this to his theory of justice as fairness when he states that

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“justice as fairness is a reasonably stable moral conception...a decision in the original position... the preferred conception of justice is the most stable one.” (436)

The procedure taken by Rawls in his book is one that impartially chose principles of justice that are uncompromising in society, sets up a system in which to apply them, and then prove that they will be stable in society and can reproduce itself over generations with stronger stability. The scope of Rawls work here met criticism mostly (foundationally) from libertarians as an alternative, and communitarians as a different view of the self. Rawls, with his essays and later books (*Political Liberalism* and *Justice as Fairness: a Restatement*), separated himself from those criticisms, as well as developed his idea by moving away from the universal moral principles of Immanuel Kant and show his appreciation for diversity in human affairs and moral rationalism.

From Comprehensiveness to Pluralism

In 1993, John Rawls, after completing essays responding to critics and engaging in self-critiques, introduced *Political Liberalism* (updated version includes collected papers [CP] from Rawls). In this book, Rawls explores the thought of legitimate legislation. From *Theory of Justice*, one can recollect the idea that the political system developed from the two principles will be an imperfect process. Now, Rawls begins to separate himself from the Kantian method of universal principle and begin to express his theory in a pluralist system with multiple comprehensive doctrines of morality. In his discussion, doctrine is looked at as comprehensive like a religious text, while a conception is one which is reasonably reached through what he calls public reason. Public reason is “at the deepest level the basic moral and political values that are to determine a constitutional democratic government’s relation to its citizens and their relation to one another.” (CP, 441-442) Stated simply, the system is to find laws justifiable to all for their own reasons. Each group, religious and non-religious, will look to their own doctrines and reasonably reach an overlapping consensus on principles that can be the foundations of the constitution. Overlapping consensus is a term used by Rawls for the situation when a self-conception lines up with a political conception.

Progressing from these main terms, Rawls attempts to explain why religious and moral doctrines can’t specifically rule a nation. The main idea is that human reason will continue to

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be a force for a pluralistic society and the state would have to use excessive force to maintain conformity. This includes both religious and non-religious doctrines as he explains the scenarios, “of the Middle Ages, more or less united in affirming the Catholic faith, the Inquisition was not an accident... (or) on a reasonable form of utilitarianism, or on the reasonable liberalism of Kant or Mill, would likewise require the sanctions of state power to remain so. Call this ‘the fact of oppression.’” (PL, 37) Both religious and non-religious doctrines here are looked at as oppressive in a quest of conformity to them. In a just society, human reason and pluralism must be freely practiced. With this distinction, Rawls works in *Political Liberalism* to further clear his use of the rational and reasonable. In four points, Rawls makes this distinction, the highlights of which are:

Reasonable persons, we say, are not moved by the general good as such but desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others... (i)n justice as fairness the reasonable and the rational are taken as two distinct and independent basic ideas. They are distinct in that there is... no thought of deriving the reasonable from the rational. (PL, 50-51)

Rawls continues to explain that all best efforts to derive the reasonable were not a success and that reasonable is public, while rational is not. These reasons explain why, in terms of public reason, whole truths can't be used, and instead are "...replaced by an idea of the politically reasonable addressed to citizens as citizens." (CP, 481) In the political arena, those in representing parties must act as they had in the OP (original position) and bargain rationally for the good of the citizens. Rawls includes two examples in his *The Idea of Public Reason Revisited*: one, where the Catholic church showed its ability for public reason in its declaration that other religions should have a place in society with Catholicism, and two, when Joseph Cardinal Bernadin made his attempt to explain abortion through reciprocal terms for the good of all people and why it should be reasonable (his position) to all, which exemplified public reason. This should be within reason of what Rawls calls the background culture, which includes all of the churches, schools, and other institutions and those that influence them, such as media. Intertwined in this public reason is what Rawls calls the criterion of reciprocity. Rawls states:

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Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions – were we to state them as government officials – are sufficient, and we also reasonably think that other citizens might also reasonably accept those reasons.”(CP, 446-7)

Rawls continues to define what is then reasonable and in what case can we declare a doctrine unreasonable. Unreasonable doctrines are said to be a part of public reason, not included in discussion. Rawls states:

When political liberalism speaks of a reasonable overlapping consensus of comprehensive doctrines, it means that all of these doctrines, both religious and nonreligious, support a political conception of justice underwriting a constitutional democratic society whose principles, ideals, and standards satisfy the criterion of reciprocity...Thus all reasonable doctrines affirm such a society with its corresponding political institutions: equal basic rights and liberties for all citizens, including liberty of conscience and freedom of religion... comprehensive doctrines that cannot support such a democratic society are not reasonable. (CP, 482)

One last important point of the political conception which should be stated is what constitutes a political conception, so that we may be able to critique it later on when it comes to points brought up in my study of feminism, family, and so on. The political conception is made up of three features:

First, their principles apply to basic political and social institutions (the basic structures of society);

Second, they can be presented independently from comprehensive doctrines of any kind (although they may, of course, be supported by a reasonable overlapping consensus of such doctrine); and

Finally, they can be worked out from fundamental ideas seen as implicit in the public political culture of a constitutional regime, such as the conceptions of citizens as free and equal persons, and of society as fair system of cooperation. (CP, 453)

Specifically, for my purposes, I would like to emphasize the first feature in which he states that it is for the basic structures of society. This will leave open to interpretation what potentially qualifies as a basic structure and in what forms.

At this point, it is important to review analyses of Rawls offered by other scholars, starting with Burton Dreben from *The Cambridge Companion to Rawls*. According to Dreben, “if one does not see the benefits of living in a liberal constitutional democracy...then I do not know how to convince him...sometimes I am asked...what do you say to an Adolf Hitler? The

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answer is [nothing.] You shoot him.” (Dreben, 329) Here, Dreben emphasizes the point that arguing with the importance of a liberal constitutional democracy, at some point, becomes a waste of time. If any philosopher wants to make any gains in his theory and progress, he must ignore the basic arguments of human nature and instead, compare his final findings to the findings of other philosophers. Furthermore, Dreben explains *Political Liberalism* and Rawls’ focus on his two principles, as follows:

Justice-as-fairness in a Theory of Justice is a comprehensive doctrine...it gives you the comprehensive moral basis for a just society. And part of what Rawls is trying to do in the book Political Liberalism is to transform that comprehensive doctrine into a free-standing political conception. (PL, 331)

So, in the grasp of Rawls new concept of public reason, he is trying to persuade his readers that the two principles can be taken not only as doctrine in the OP, but as a political conception in the reasonable deliberation of parties in society. A political conception means that the two principles are simply one of a number of different conceptions that can be accepted by citizens on how society should be run. It is not a mandate that all citizens accept this conception, but Rawls believed it to be able to achieve wide acceptance. Before one can accept that the two principles are capable of being realized under public reason, it is important to see if public reason can exist in the American political system (a modern liberal constitutional democracy). Dreben believes that it is possible to realize public reason, and Rawls explicitly tries to prove it with “Supreme Court justices, particularly in our kind of system...appellate court decisions and Supreme Court decisions, when they are at their best, is what Rawls means by public reason.” (PL, 339) This can be examined further.

Fred D’Agostino, in *The Legacy of John Rawls* (2005), identifies three areas in which Rawls has planted himself in philosophy and contemporary politics: pluralism, incommensurability, and pragmatism. Pluralism, in this sense, is the way a society is shaped to maintain a co-existence of various cultural traditions among minority groups. D’Agostino explains that “(p)eople have different opinions, indeed from different deliberated judgments about what is good and even about what is right, and these differences in attitudes are likely to survive, if not entirely unchanged, all sorts of attempts to bring the parties involved to agreement.” (196) Looking aside on the ways in which diversity is created, whether through imperfections in

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human reason or as a deep reflection of the human situation, Rawls was strong to state that diversity may not “be eliminated except through coercion or manipulation.” (198) This is seen, as explained above, in *Political Liberalism* when describing the state of oppression, where it is impossible to create a political conception completely from one moral doctrine. Rawls, who was strongly opposed to forms of communitarianism, displayed this in how people make choices in a pluralist society. D’Agostino says this best as:

“...any given individual might be able to weight, indeed have a characteristic way of weighting, these metrics, of trading-off the values which they measure, there is no particular way of weighting or trading-off that is binding on all (say, rational and well-informed) individuals.” (198)

Basically, without a universally accepted way to measure values, there is no possibility for complete agreement on any given value, returning to the idea of oppression for those societies that attempt to apply a universal doctrine. D’Agostino ends with the idea of Rawls and the reasonable doctrines, which again will be explored later when discussing how to define a reasonable comprehensive doctrine.

Incommensurability is best described in mathematical terms. This is a logical exercise in which we try to demonstrate a certain condition X and we assume that “not X” is true. Through deduction “not X” then comes to a contradiction, which then states that “not X” is not true and shows that X must be true. The example of diagonals in a square is best in describing this, where the diagonal is contradictory to have a common unit that fits a whole number of times into both the side and the diagonal. The point of this is that there is still a rational choice (or answer) even when there is no neutral language or comparability. D’Agostino recognizes Rawls’ contribution to this with his original position and also decisional responsibility of individual citizens. D’Agostino states, “(i)f it is diversity that creates a difficulty of commensuration, then perhaps this difficulty can be overcome if we reduce diversity compatibly with giving its social recognition.” (200) This is exactly what Rawls had in mind in the original position. In *A Theory of Justice*, Rawls attempted to limit diversity by using the hypothetical device of the OP in order to reach a rational decision that avoided the incommensurability created by diversity of human reason, and the pluralistic reality in weights of values. The reasons outlined by D’Agostino are that the OP eliminates

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bias for the contractors, generates its own support through reflective equilibrium, and gives recognition to the diversity of reality.

Pragmatism, lastly, was majorly important to Rawls as he was monumental in the joining of the desirability and the feasibility of his principles. Values, in Rawls explanation, are hypotheses of what is good in action, and principles of which are used to secure one's own ends. The important factor of all of this, though, is the "circumstances, conditions, and constraints" (206) are put on these principles in order to secure a well-ordered society. This is all in efforts to produce a society in which individuals believe in and act in a way that is also good for society. This means that the individuals then don't necessarily need to understand the conception of justice nor justice as a fundamental state of nature. When people naturally feel they are bettering themselves, the theory of justice created by Rawls reproduces a stable society.

Lastly, I would like to look to Samuel Freeman's *Rawls* and what he understood as the summation of searching for a well-ordered society. In Rawls' book *Law of Peoples*, he states:

If a reasonably just Society of Peoples [and well-ordered society] whose members subordinate their power to reasonable aims is not possible, and human beings are largely amoral, if not incurably cynical and self-centered, one might ask, with Kant, whether it is worthwhile for human beings to live on the earth. (LP, 128)

Rawls here not only separates himself from the universal moral philosopher of Kant, but sets his belief in society. This brings light to the point that even if people are innately incapable of acting morally, there is still room for a reasonable (if not rational) sense of justice. This sense of justice is, going back to the first quote of *A Theory of Justice* in which justice is the first virtue of society. Ultimately, this enables Rawls to be a legitimate center of discussion when considering gender and sexual equality in a pluralist society. This also emphasizes Rawls' own terms of creating a reasonable utopian.

The Social Construction of Sexuality and Gender

Before proceeding to the critiques that I will focus on, I would like to demonstrate the contemporarily accepted conception of sexuality and gender. This is termed social constructionism which is the knowledge of a society formed through its social setting. This

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means that through social interactions, those involved in the culture or society will create categories of knowledge which contribute to a constructed reality. The collaborative nature of culture and meaning to its individuals has resonated (some argue since the beginning of our human nature) in the theme of sexuality. This means that ideas of gender and sexuality have transformed over time. When discussing justice in society, any theory should take into account possible changes to these social conceptions.

Steven Seidman's *The Social Construction of Sexuality* highlights the main themes necessary for critiquing the Rawlsian theory. This begins in the continued development of sciences throughout the nineteenth century as sexuality was considered "a fact of nature". (3) Sexuality at this point was treated as if it were part of our innate and biological functions which can be studied, understood, and categorized through scientific study. This was formed, in one way, to show that certain types of sexuality were normal and beneficial, such as interracial and as a tool for preserving love in marriages respectively. Although many sexologists fought against the oppressive laws of "unnatural" groups, like the homosexual community, they defined them as somehow stuck in a stage of sexuality (like Sigmund Freud or Karl Ulrichs). The idea of any sexuality that was different than the heterosexual experiences (or even reproductive functions) was deemed abnormal. Freud begins to alleviate from this as looking at pleasures as separate from a predecessor of heterosexual sex and more as an individual preference for desires, even in fantasies and wishes. The only piece holding back Freud from a contemporary sense of sexual drive (besides his clear sexism in analysis) is his stages, which again contribute to the idea that the aim is for a heterosexual lifestyle. The drives are started as completely open as a child, but then abnormalities are then rephrased to be being stuck in a prior stage, like homosexuals in the phallic stage (penis-centered).

Michel Foucault, in *Politics, Philosophy, Culture: Interview and other writings, 1977-1984*, makes a strong statement against the sexologist:

They [sexologists and therapists] basically tell us: 'You have a sexuality, this sexuality is both frustrated and mute, hypocritical prohibitions repress it. So, come to us, show us, confide in us your unhappy secrets...' This type of discourse is in fact a formidable tool of control and power. As always, it uses what people say, feel and hope for. It exploits their temptation to believe that to be happy, it

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suffices to cross the threshold of discourse and remove a few prohibitions. It ends up in fact repressing and controlling movements of revolt and liberation. (114)

Here, Foucault points to the sexologists as another form of control for the elites of society, which are namely heterosexual and have specified sex acts that have been shaped by culture through a number of social institutions, like religion and the family. The sexologists are convincing their subjects to indulge in discourse and release themselves from the abnormalities their sexual desires are derived in, in order to release themselves into a normal life, as constituted by society. Foucault argues that this is counterproductive and has been used to stop individuals from truly liberating their sexual desires. People will convince themselves into a life of constant pseudo-development which breeds the needs for today's medicalization of sexuality and sexual identities.

Sexual identity has become one of the worst consequences of the science of sex, which not only looks down on certain sexual acts, but now looks down on the individual as an abnormal or immoral person. The social theories of sexuality have been an answer to this type of subjection of groups deemed to be in the minority (even for woman as they have been argued to be treated as a subordinate sex). Seidman demonstrates the link to Marxist theory persuasively as he describes the two step system of capitalism: market capitalism and then large corporate capitalism. (Seidman,13) In the first phase, the system must be comprised of hard-working and obedient laborers who will stay suppressed in their own indulgences to survive the unpredictable market. Then, as large corporations take over and capitalism develops, the individuals of society are then used as consumers to their desires and are promoted to express themselves in a way that is profitable to the elites of society. All of this is comparable to the sexual history of capitalist nations, notably in America here, where the 19th and 20th century was converting our market capitalism to large corporations. Society was shifting from a market capitalism that "...associated sex with marriage and children..." (15) to a corporate capitalism that "...promotes a culture that values sexual pleasure." (17) The problem is that this sexual indulgence is not a sense of sexual freedom. The desires are all predicated on the control of commerce and the ideals of those dominant of the capitalist society.

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The concepts to keep in mind are that the social institutions, and especially the elites or dominant group that controls them, shape the values of society. The social institutions are then used to reproduce the values of the society and maintain the control and order in which society has been made. The way that consumer-oriented capitalism works is that it “...promotes tolerance, but it wants to make sex more open and acceptable solely so that sex can be used to sell goods...” (18)

The addition added by the feminists from Marx’s work, which is highly used, is the gender identity. Marxist theory generally centers on the idea of class identity, but the addition of gender explains the desires and feelings that are associated now with genders. That means that gender is not innate, but a social process. This can link sexuality to gender where the identity is learned through relations to parents, heterosexual norms of society, and gender identity supported in social interactions and economic benefits. The end result of all societies, Gayle Rubin argues in “Thinking Sex”, is a social hierarchy of sexuality. This means that only some “...desires, acts, and identities (are) normal, respectable, good, healthy, and moral; other forms of sexuality are classified as unhealthy, abnormal, sinful, and immoral.” (25) Here we return to the elites and dominant groups we talked of before, as the normal acts, desires, and identities are put into the dominant group, and subsequently set the norms for the rest of society throughout generations to maintain their control. This, I will add, is also at the price of suppressing themselves and living in self-regulation of their own norms.

Sociologists today have made much use of this point of view and have went further to find relationships and further research on sex as the social construction. The development of the homosexual identity can be held as a special interest in the discussion of Rawls. This identity and homosexual movement in the United States has been particularly important with a strong Christian-dominated society and political system that reinforces the heterosexual norms of relationships and family. This can be seen with the reinforcement of the Defense of Marriage Act signed into law September 21, 1996. The focus of the homosexual movement, although under great intergroup scrutiny as will be seen later, has been on achieving an equal liberty of marriage.

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The homosexual community has been formed into an identity (in societies like the United States), joined into a community, and has now positioned as a political movement. What started as the Gay Liberation Movement of the 1960's and 1970's has been continued through today as the LGBTQ movement. The point to make is that because natural sexuality has been shaped (or constructed) into defining the person and their expected behaviors and personality, the society at large has now stereotyped entire groups of sexually similar beings. The political movement is one that strengthens around certain sexualities and challenges with socially constructed gender to promote fairness within the shaped reality of society. This could be said to be an accomplishment in itself, or simply one step before trying to rid the society of the constructions all together. This political discourse, and discourse in general on sexuality, has been analyzed intensely by Foucault. Seidman sums up Foucault's first argument to be that:

In the military, churches, hospitals, factories, and schools, a type of social organization developed that exercises strict controls over our bodies, aims to carefully manage those bodies in space and time, involves a great deal of surveillance and supervision of bodies, and uses judgments about what is normal to control individuals. (31-32)

The disciplinary society is one that is needed for discourse to be used as a control mechanism. All major behaviors of an individual can be curbed once institutions take control of the sexuality. These dominant entities control the discourse on sex and sexuality, discussing in a way to best fit their goals, and all arguments there on must be fit within the context of the norms they set. Deviating from the norms, of course, would threaten an individual to be outside of the boundaries of society, which is a large tension.

In order to move forward to the critiques of the feminists to Rawls, the main concept to understand is the transformation in thought of sexuality (or gender). At the beginning there was a sexual nature in which was all part of the natural order. This idea lead the scientific side of the United States (and societies the like) to categorize people and analyze them as a sort of case in normality and abnormality. But today, the general consensus is contradictory to this scientific search for nature and certainty in sexual behavior. The new and developed thought of sexuality is a social one. Seidman explains that we are all:

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"...born with bodies, but it is society that determines which parts of the body and which pleasures and acts are sexual. Also, the classification of sex acts into good and bad or acceptable and illicit is today understood as a product of social power: the dominant sexual norms express the beliefs of the dominant social groups. If we are supposed to grow up to be heterosexual, and if we are expected to link sex to love, monogamy, marriage, and family-making, that is not because nature dictates this moral order..." (39)

Accepting this moving forward, it is critical to think of how the basic structures of John Rawls justice as fairness will shape the families and the term of sexuality, if not gender and sexual equality in total.

Rawls and the Feminist Critique

Now with a basic understanding of Rawls and social construction, the role of feminist criticism is where effort should be concentrated. In an unpublished manuscript, John Rawls wrote:

*Except for the great John Stuart Mill, one serious fault of writers in the liberal line is that until recently none have discussed in any detail the urgent questions of justice of the family, the equal justice of women and how these things are to be achieved. Susan Okin's contentions about this in *Justice, Gender, and the Family* cannot be denied. Liberal writers who are men should, with whatever grace they can muster, plead *nolo contendere* to her complaints. (1994)*

So far, there have been some basic critiques including sex in the ignorance of the OP which have come to change with no contestation. Of the challenging questions that have come to Rawls on his theory (emotions in the OP, emotion in stability of society, and justice in family), I believe that family is the only argument worth exploring. To be brief in the contestations of emotions, Annette Baier in *The Need for More than Justice* and Alison Jaggar in *Feminist Politics and Human Nature* both argue that the OP is egoistic and has no interest in each other's interests. Basically, like communitarian thinker Sandel, they believe the OP is isolated and they believe that diversity in thought and dialogue would better examine the alternatives of the OP, but Rawls explicitly states (in *Political Liberalism*) that the OP is in a omnilogue and, also, that the OP is a hypothetical situation which makes dialogue difficult. Also, the difference principle in which Rawls invests within his two principles is directly thinking of the lower part of society, which is not only looking out for self, but for the good of people. It is important to recognize the OP's lack of ignorance toward family line which helps

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persuade the lack of gamble in maximin. But most important is to recognize that Rawls does not disallow emotion when he states:

Now the moral feelings are admittedly unpleasant, in some extended sense of unpleasant; but there is no way for us to avoid a liability to them without disfiguring ourselves. This liability is the price of love and trust, of friendship and affection, and of a devotion to the institutions and traditions from which we have benefited and which serve the general interests of mankind. (TJ, 428)

Here, Rawls plainly shows his ability to distinguish his belief in the involvement of emotions in determining justice. This goes along with the examples in *Political Liberalism* where Rawls distinguishes some moral doctrines as “demonic”. Moving on from the original position, Rawls also met contestation at the stability of his well-ordered society by Bernard Williams and John Haldone who believed more in the power of emotion and symbols/traditions, respectively. Rawls responded to this mentioning that both of these ideas are underestimating the role of emotion in his theory, and in Haldone’s case is offering stability for the wrong reasons. To emphasize further the use of emotion in Rawls’ theory, in explanation of the morality of authority, he uses the analogy of the unconscious ends of parents loving a child to show the restricted role of leadership in society (TJ, 408). This “does not apply to the basic structure of society...” (TJ, 409) so that may be where the criticism comes, but his thoughts are persuasive in that the role should be controlled as obedience (which is a consequence of love) shouldn’t be widespread in basic structures. Samuel Freeman makes one good point in the Cambridge Companion which involves the experience of a Passover Seder, which “includes symbol, poetry, narrative, jokes and memories.” (498) With the use of these emotional and traditional experiences, lessons can be taught and emotional connections are made to the citizens of society which will reproduce themselves and offer stability. Rawls describes but doesn’t elaborate that these emotional ties are left to the background cultures.

So, bypassing the arguments above and focusing on the family, it seems we’ve found the largest gap in Rawlsian thinking, but it may have a Rawlsian solution. Freeman describes the family as “pervasively influential of social institutions and one of the most notorious homes of sex hierarchy, denial of equal opportunity, and also sex-based violence and humiliation.” (500) Rawls, explicitly, defines in his subject of justice the inclusion of family as a basic

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structure of society, in which his theory is concerned with only. Rawls states, “(t)hus 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.” (TJ, 6) And although already stated, it is important to stress that until 1975 and the revision of *A Theory of Justice* was there the addition of sex in the veil of ignorance. In Okin’s *Justice, Gender, and Family*, she makes it clear that justice as fairness needs to commit itself to the critique of family. This is where modern feminism and sexual studies begins to show themselves in the thought of social constructionism.

Family, in this sense, and its institution of modern society are viewed as quasi-natural, being simply a construction of the society, whether it’s by the elites (based in Marxist theory) or not. John Stuart Mill in *The Subjection of Women* also showed his eagerness to involve the family in justice theory as he believed the institution of family is where sex relations are reproduced. Okin pushed her thoughts further to look at same-sex couples as they may have a better insight into how equality in the household should be modeled. Rawls, in *Political Liberalism*, expressed his openness to the construction of family and same-sex marriage when he states:

...no particular form of family (monogamous, heterosexual, or otherwise) is required by political conception of justice so long as the family is arranged to fulfill these tasks effectively and doesn’t run afoul of other political values. Note that this observation sets the way in which justice as fairness deals with the question of gay and lesbian rights and duties, and how they affect the family. If these rights and duties are consistent with orderly family life and the education of children, they are ceteris paribus, fully admissible.(n.467)

The basics that Rawls talks about for a family include the caring of children, ensuring their moral development and their education into society. This, of course, seems that Rawls would make it easy to defend gay marriage and alternative (to the current norm) forms of family. The problem that is seen by Okin is that she doesn’t believe, and Rawls makes no point mentionable to show, that the two principles reflect the justice of family. Also, Rawls does not believe in the laws to pursue division of labor in the household, which Okin makes efforts to advocate for, and will be worth developing further.

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Lastly, in Okin's criticism of public reason she is dealing with religious doctrines. Rawls makes his distinction of religion when he says, "...perhaps too optimistically-that, except for certain kinds of fundamentalism, all the main historical religions admit of such an account and thus may be seen as reasonable comprehensive doctrines." (PL, 170) And although Rawls points to unreasonable doctrines that include mistreatment of individuals of different races and ethnicity, he makes no distinction to those religious doctrines (nearly all) which discriminate against women. Okin writes:

Surely the circumscription of women's roles in life, their segregation in religious life, and their exclusion from important religious functions and positions of leadership – doctrines and practices that are still common to many varieties of religion – render them unreasonable by Rawls's own criteria. There is a serious conflict between freedom of religion and the equality of women. (Political Liberalism, Justice, and Gender, 31)

At this point, it seems obvious that the area to examine and to develop further is that of the family as a basic structure and the use of public reason with religions that have doctrines challenging the first principle of justice as fairness. Freeman suggests that there can be a Rawlsian solution.

Feminist Support

The goal of many feminist political thinkers, along with Susan Okin, is to create an economic autonomy for women. The thought is that when economic equality is created between the sexes, women will be able to bargain evenly with men and the dependency upon men will be lifted. When dealing inside the family, labor division and overall decision-making would change if women had equal earning power and opportunity. As said before, the family is a foundation of moral development, more specifically among children. If there is gender inequality in the home, then the next generation will learn gender biases. Sara Rapport ("Justice at Home") points out in her analysis of this topic that Okin believes Rawls seems to be of the greatest potential thinkers in solving this problem (836). The problem outlined by Okin, to be clear, is that:

...a constant and wholehearted application of Rawls's liberal principles of justice can lead us to challenge fundamentally the gender system of our society. On the other hand, in his own account... this challenge is barely hinted at, much less developed. (Justice, Gender, and the Family,89)

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So, as stated before, there is much speculation on exactly how the theory will produce gender equality and treat the family as a basic structure. So, the first thought of Okin was to return to the original position. In the OP, Rawls had first decided to name the individuals as heads of households, which leads to men. These, along with the knowledge of one's sex, were both eradicated from the thought process of the OP by the time of Political Liberalism. Okin liked the thought of the original position from the outset because of its ability to be empathetic. Without knowing your own situation, you had to think of the social situations you could possibly be dropped into it. Because of this, you have to be sensitive to all positions when deciding which society to choose.

The problems begin when Okin develops what she sees as the cycles of gender inequality. Rapport summarizes these into two points:

1. Women enter marriage contracts (more often) making less money than their male partner. Because of this, the woman is pressured to focus more on the career of the male and continues her work at home. The work at home has an inverse relationship to money made for an individual.
2. Tradition has created biases on what work is to be done by gender. Like the social constructed detailed above, women are socialized into certain roles that recreate inequality over generations (839)

The main study used by Okin is *The Divorce Revolution* by Lenore Weizman. This work outlines the impact of divorce on men and women individually. The main result was that women's economic status ultimately decreases, while the male increases. Since this data is now twenty-seven years old, I will point to a study that was done eleven years later by Richard Peterson. It seems that the inequality hasn't been dealt with in the judicial system, because the inequality is still shown by a decrease in women's standard of living from "13% to 35% after divorce, while men's standard of living increases by 11% to 13%" (Robeyns, 2012). So, the data still shows that there is development necessary in how we deal with divorce laws to promote an economic autonomy of both genders. The reasons behind this inequality were labeled by Rapport to be:

- "Continued responsibility after divorce by women for the day-to-day care of children

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- Failure by courts in making an “equitable” division of material assets to include the priority given to the husband’s work life
- Failure of the failure of the courts to award adequate or any alimony and/or child support to women
- Failure by former husbands to make child-support payments
- The lesser likelihood that women as compared with men will remarry after divorce...” (839-840)

The goal of political philosophers is then to find a solution at the foundations of society that would eliminate current inequalities being observed. Okin realized that she had two possible ways to go about this: by trying to eliminate the social construction of gender, or (being sensitive to Rawls thoughts on pluralism) find ways of coping with a family structured upon gender. The first of the two attempts seemed effective, while the latter wasn’t convincing to improve autonomy and opportunity of women living among gender expectations.

Okin’s solution to promote a genderless society (175-179) was to enforce a policy for shared parental child care. This includes subsidies for day care, after-school programs, and pregnancy/birthing leaves. The difference in her plan would be that both parents have flexible hours for time off with the child, being consistently reduced until age 7 and development has occurred for a substantial part of the child’s thoughts on gender. To continue the process of recognizing the equality of gender for children, there should be gender-specific hiring in grade schools. This would contribute to the development of the child and promote the idea of either gender taking on the same roles. In the case of a father not being part of main household anymore, the father’s contribution (to counteract the Divorce Revolution statement) should be increased. Without distinct roles and trade off of standard of living of the male or female parent, the biases attached to gender are now best avoided throughout the development of the next generation.

The share in child-rearing, Okin points out, allows for the women to indulge in social goods, which also diminishes gender (116). The point to make on the leave for both parents is that much of it would have to be paid leave (Ann Bookman) because of the financial constraints that unpaid leave would put on the family, which could lead to the father deciding not to

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participate in the leave. This part of the theory bears questions for feasibility because of the already expensive burden this puts on either companies or the state on parental leave.

The second part of Okin's solutions pertained to the gendered society. This has come under the most scrutiny. In a pluralistic society, the reasonableness of citizens must allow for the belief in gender-based families. Because of freedom of religion, families may choose to split up labor according to their doctrines' principles, which Okin sees as a clear problem if wanting to reach the desirable level of gender equality. Nonetheless, the proposed solution (180-183) is then that the wage checks of the family are split evenly for both partners. In the possibility of a divorce, this would continue until the child is in 1st grade and then in the future at a reduced level. Both of these solutions given have to do with applying the two principles of Rawls' theory directly into the family as a basic structure, mandating the equality of the genders and guiding the moral development of children. This though, makes it clear to see that the thought of economic autonomy and equal opportunity wouldn't be truly reached by the gendered society. This instead leaves the woman as a dependent on the man which, I would argue, is a violation of the second principle of justice in which self-respect is a primary good. This is not to say that care work is not a worthy responsibility of women and that they don't deserve the money for it. This is the social view of care work as less deserving (which is why it's unpaid) of a job and that women are then living off the husband. This thought will be developed further later.

Rapport points out the largest problem with Okin's discussion in that Okin promotes only the nuclear family (847). More specifically, if a child needs the interaction with both genders as equal throughout their development, is a child with two lesbian mothers going to end up with sexist predispositions? The answer by Okin and other thinkers like Nancy Chodorow is that yes, they would. This should certainly be explored for the sake of alternative families in a pluralistic society.

Overall, the main concern for these solutions is the interaction of the state and the family. The public and private sphere of feminist thinkers has formed significantly differently than the liberal thinkers like John Rawls. By determining the downfalls of the process of John Rawls (like Okin concentrating on the OP), the way family is situated as a basic structure, and the

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feasibility of the suggestions, we can work out a much clearer stance on gender and sexual equality.

The Public and Private Spheres

At this point, it may be beneficial to go further into detail on an integral thought of feminist theory: the personal is political. This thought of personal is political was spoke throughout the feminist movements of the 1960's and 1970's but was officially made famous by feminist writer Carol Hanisch. The idea is that aspects from social interactions (perhaps the constructed reality discussed above) have been integrated in political and social issues. The reality created by the members of a society is projected from their description of knowledge into the policies of the nation, consequentially maintaining and enforcing that constructed reality. In Catherine MacKinnon's "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence," she examines just what is necessary to tear down problems among genders, and why some current laws are inefficient in correcting human behavior. The main idea is that the private sphere of society ends up integrating itself into the public, collapsing the public, which would end the rational ends that Rawls desires to reach in government and among basic structures.

MacKinnon begins her discussion by showing that male perspective is the dominating perspective of society, and because unequal sexes exist, there is no "ungendered reality" (636). Experiences of reality are then delivered from the male's perspective. Going further, all problems and the laws that arise from them are created in the gendered subjectivity. The OP would then be a good tool to arrive at the objectivity needed for ungendered basic structures, as already at use above. Yet, MacKinnon points out liberalism's contrast with the Marxist-feminist approach because:

(Radical Feminist) method emerges from the concrete conditions of all women as a sex, it dissolves the individualist, naturalist, idealist, moralist, structure of liberalism, the politics of which sciences is the epistemology. Where liberal feminism sees sexism primarily as an illusion or myth to be dispelled, an inaccuracy to be corrected, true feminism sees the male point of view as fundamental to the male power to create the world in its own image, the image of its desires, not just as its delusory end product. (640)

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The problem with feminism, which MacKinnon looks at directly, is that it doesn't consist of a theory of that state. With Marxism, the goal will be to show how the class analysis of the past can transform into a theory of the organization of the state. Rather than in the liberal sense of how the political is a separate sphere, MacKinnon seeks to find an autonomous state which:

...has seen the state as expressing power constituted elsewhere (compared to Liberal theory, which the state is the source), recent Marxism, much of it structuralist, has tried to analyze state power as specific to the state as a form, yet integral to a determinate social whole understood in class terms.(641)

Moving the source of power away from the state will, hopefully, deter from the self-interest of the state, as well as the power of the male point of view in the making of its laws. The latter assumes (in the liberal sense) that laws are a reflection of the mind of society. This thought brings MacKinnon to another contention to liberal theory.

As society has been built through the male perspective, and the background culture contains systematic gender inequality, these are clearly represented in the laws and their enforcement. Marital rape is one of the most potent. Because of the perception that husbands own the private parts of their wives in a marriage contract (to be explored further with Carole Pateman), marital rape laws are not enforced as well as the rape from a stranger. In this case, it is allowed to legally proclaim that consented to rape is intercourse. Encompassing the dominance of the male point of view, the law puts women at a disadvantage and sex and its symbolic interpretation in society's hierarchy of relations is the main determinant in how unjust and coercive violent actions are legitimized in a liberal structure.

This is not the only problem with law. Even if the law was effective in extinguishing a large number of offenders for all rape cases, MacKinnon ask a question:

This may be progressive in the liberal or the left senses, but how is it empowering in the feminist sense? ... how would such an approach alter women's rapability? Unconfronted are why women are raped and the role of the state in that. (643)

It's simple; law enforcement doesn't change the minds of future rapists, it simply waits to collect them. MacKinnon contributes this downfall to the objectivity epistemology that the liberal philosophers adhere to. The science of it all doesn't include the social specifics of the

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society, yet will reflect upon the whole which maintains the power of men over women. The objectification of women, as in cases of rape, has been institutionalized in the law through the male power systemized in society.

MacKinnon, as a generality of feminist thinkers, doesn't believe in the public and private split. The inequality that is allowed in the private sphere of a liberal theory is one that should, in her thoughts, deconstruct the validity of the theory for women. She would rather see the private as a public sphere. She states this is effective because:

... women have no privacy to lose or to guarantee. We are not inviolable. Our sexuality, meaning gender identity, is not only violable, it is (hence we are) our violation. Privacy is everything women as women have never been allowed to be or to have; at the same time the private is everything women have been equated with and defined in terms of men's ability to have. (656)

To push this further, the private and public spheres may be set to collapse by the very line in which they are split. If the private sphere is influenced by the mind of the people, as stated above in laws, then the private sphere will eventually influence the public sphere in its entirety. The rational will be removed for the reasonable of a male-dominant point of view and the perpetuation of female objectification will be institutionalized, as MacKinnon has suggested.

The solution presented by MacKinnon lies in creating a law and state that doesn't start by disregarding the existence of male power. Assuming "equality as society's basic norm" (658) is a problem consisted in both idealist liberal and materialist left theories, and must be corrected by redefining how law interacts within the private sphere.

Patriarchy and Social Contracts

Before moving forward with the public and private spheres, it should be recognized that feminists believe this problem may be routed deeper than the law that MacKinnon examined. Carole Pateman wrote an integral piece of feminist literature when she battled the idea of the social contract made famous by philosophers like John Locke and Thomas Hobbes. Rawls is a contractarian in his work, so it is important to recognize the difficulties that may be involved. The major problem recognized by Pateman is the ignoring of the sexual and marriage

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contracts. In her theory, the sexual contract (one between men and women) should be settled before entering into a wider social contract.

Social contractarians were right in their ability to separate political power from the society's paternal power. Yet, the main argument Pateman outlines is:

...man's power as a father comes after he has exercised the patriarchal right of a man (a husband) over a woman (wife)... (m)odern civil society is not structured by kinship and the power of fathers; in the modern world, women are subordinated to men as men, or to men as a fraternity. (The Sexual Contract, 3)

The change in society to take note of is what she termed "fraternal patriarchy" (3). This is the assumption that the original contract is being made after the defeat of men over women. And as the two spheres are approached in social contract, the private sphere is left to the liberty of the reasonable citizens. The problem with this is that the marriage contract is left out of the discussion. Without a say in how a fair position of marriage can be entered, a political scientist can't protect the rights and liberties of the participating sex(es).

The early contract has some definite holes in which Pateman directly discusses. In Thomas Hobbes' writings, Pateman credits him with the ability to attribute women what he considered equal freedom and didn't treat marriage like the natural condition, yet he still assumed woman can and must enter into a marriage contract. With this, early contractarians have excluded the thought of public intervention for women's rights in marital domination. Pateman believes this lead to "...refus(ing) to admit any limitations to a husband's access to his wife's body and so deny that rape is possible within marriage." (7) Large themes from contractarians, made famous by Jacques Rousseau, is that freedom is turned to obedience in the ability to receive protection. Pateman argues that this is also the thought that allows these thinkers to mostly disregard social subordination. In John Stewart Mill's *The Subjection of Women*, he argues that the marriage contract is insufficient in what laissez-faire order refers to as "freedom of contract" (10) and the status of both parties are to be acknowledged before assessing its fairness.

Foucault pushes this thought further as a more contemporary thinker. In Foucault's *History of Sexuality*, he writes that the entire contract is a tool for discipline, normalization and control.

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Put forth by those who have certain belief system of society's order and an accepted set of taboos, the contract is used to reproduce these behaviors and reinforce them in future generations. Pateman writes that the origin of patriarchy and society are one in the same. Gerda Lerner outlines this in her *Creation of Patriarchy*, patriarchy is formed through an:

...unwritten contract for exchange: economic support and protection given by the male for subordination in all matters, sexual services, and unpaid domestic service..." (217-218)

The lack of economic autonomy, to repeat, was the main escape from the status of subordination perceived by Okin and other feminist writers alike. The desirable outcome of a contract would not allow for systematic inequality as this patriarchal arrangement would allow. Looking at Rawls' form of contract, using the original position should support a desired outcome that fixes this inequality.

Pateman outlines that a proper contract has to have two parties enter on equal footing. The same bargaining power and ability to enter a fair contract is something that can be agreed upon. Consequently, wives would have to be on the same footing as their husbands. The problem seen now is that, "since few women can earn as much as men, only a few middle-class and professional women are likely to be in a position to negotiate an intimate contract." (155) If women can't enter this contract outside of a subordinate position, then men are bound to dominate and have the ability to sustain their power as a "fraternity" against women. The women are said to be a part of a slave contract which they enter in for nothing but protection. This is not to say that all men will "avail himself of the law of male sex-right, his position of as a husband reflects the institution of that law within marriage." (158) William Thompson supports this view that:

When women contributed to all the work of the community along with men, and could make equal call on communal resources in their own right, the basis of sexual domination would be undermined. When man had 'no more wealth than woman, and no more influence over the general property, and his superior strength [is] brought down to its just level of utility, he can procure no sexual gratification but from the voluntary affection of woman. (157)

This, of course, goes along with the main thought of the feminists that economic autonomy is the main goal. Though, the word wealth was a major one in this statement. Woman shouldn't

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simply look for income equality and equal pay for equal work, but they should be able to own assets that will be able to hold for extended periods of time and even over generations (if that is permissible in the economic/political system).

This autonomy and economic empowerment is necessary in contemporary America because wife is the only option for women through social and legal pressure. The nuclear family has been made a political position. With tax incentives and social and legal privilege attached to the marriage contract, women can't easily search for alternative forms that they will enter on fair grounds. The marriage contract can be looked at as even more intrusive of women's rights as well. This is because as Pateman states:

Men are governed by reason and are their own masters. Self-mastery is demonstrated in the way a man gains his livelihood, by not allowing others to make use of him; for he must in the true sense of the word serve no-one but the commonwealth.(169)

Women, in contrast, are made use of in the home and for reproduction. Through the marriage contract, it is completed by a verbal agreement (I do) and a sex act. At this point, the man receives his conjugal right. Georg Hegel used this thought in his criticisms of the marriage contract. The sexual contract was necessary to form the social contract. The high occurrence of marital rape and other problems of marriage show that women lack of the property in her person. The man becomes the owner rather than a part of mutual use.

The use of the marriage contract brings woman into the civil society which man is the owner. Pateman believes, as well as many others, that women should be entered before this contract. So, because of this, Pateman states:

The logic of contract, and of marriage as nothing more than a contract of mutual sexual use, is that 'marriage' and 'divorce' should be eliminated. The most advantageous arrangement for the individual is an endless series of very short-term contracts to use another's body as and when required. (184)

This system she proposes would treat everyone as an individual rather than a man or a woman. Patriarchy has brought forth the idea that possession of sexual property is the expression of sexuality. The question to be begged is whether a critiqued version of the family and use of marriage contracts can be more beneficial to the stability of society than a universal prostitution to create equality and protect from forceful sexual relations.

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Moving back to the main social contract, some of Pateman's main concerns have already been dealt with by the time of *Political Liberalism*. As the difference of sex was added to the OP in response to Okin, Rawls also conceded on using the heads of families to represent the individuals in the original position. Pateman took this use as considering the OP as "men who represent their wives." (43) When becoming a more abstract individual, the veil of ignorance won't allow a head of the household who assumes a gender role and look at societies through the scope of (supposedly) his responsibilities and best interests. But, this wasn't the whole problem for Pateman. She finds another problem using knowledge of descendants within the description of the OP. The problem with knowing of descendants is that:

(it) takes for granted that he can, at one and the same time, postulate disembodied parties devoid of all substantive characteristics, and assume the sexual difference exists, sexual intercourse takes place, children are born and families formed.

On one hand, this is correct in that allowing the OP to understand sexual difference and family makes it plausible that bias could appear on the formation of the family and put preference on the social implications of this perception. The problem with discarding the knowledge of descendant is one of future stability. It can be analyzed (and it will be) how lacking the knowledge of descendants would change the empathetic position toward future generations, just savings, and ultimately the possible choice of the OP between economic and political structures.

Defenders of Contract and Rawls

In Joanne Boucher's "Male Power and Contract Theory: Hobbes and Locke in Carole Pateman's 'The Sexual Contract'", she had a direct response to the Hobbes and Locke analysis of Carole Pateman. To begin, Okin states that "Pateman gives up too easily on the potential uses of contract for feminism." (1990, 666) One can look at the weaknesses of contract theory to make a better system of achieving the most just outcomes. The focus will be put on the analysis of the contract theories and the law of male sex right. Boucher believes that the sex right is not the most useful part of the complex power structures that accompany gender and the relations between.

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In Hobbes' theory of nature setting, he considers the use of lust. Lust is not just the conquest of the male on a female, it includes the feeling to please and be pleased. Because of this, Boucher states, "the sexes are driven towards one another by natural lust. This is one of the initial bases of the family." (27) The feelings toward the children is one that is mutual as well among the sexes. These passions combined then make up the natural family in Hobbes' state of nature. Sexual conquest is now not the only position for the formation of family. The greater physical strength was the reasoning behind the men as the head of the household. Women would have to seek protectors as a natural response to their physical weakness.

In the case of John Locke, he states that "marriage is a voluntary association which grants a husband only a limited and temporary power over his wife..." (31) A woman has the right to property outside marriage, respect from her children, and the right to her life and death. This of course is a large feminist argument because the placement of the woman completely in the private sphere of society, as was accepted at the time of this writing.

It would have been even more helpful if Boucher would have focused on Rawls, but Rawls lacks a state of nature in his argument. This may be a way from avoiding the troubles of Pateman's contentions with contract, but it is still worthwhile to look at how the marriage contract should interact with the social contract at whole. This includes the understanding of relations between the sexes as the states of nature tried. Overall, the contentions of Boucher to Carole Pateman can be broken down into three statements:

1. Men's drive to the access of woman (and their private parts) isn't the basis of all sexual relations. (34) I would also suggest the thought of the historical change in family structure, and the different measures each gender entered into these contracts throughout time.
2. Simplifying the contract system between genders to the power structure of men over women doesn't rightly consider procreation, transmission of private property and social stability. (34)
3. The analysis is best fit for white men, but the matrix of class, race, and gender should make a better understanding of the consents of sex and contracts of family units. This could also bring in the thought of multi-layer contracts. (35-36)

Regarding the multi-layers of race, class, and gender makes me think of the law thoughts of MacKinnon. Rather than having an overbearing government that treats the outcomes rather

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than the causes, we need a government that will take into account the complex structures of race, class, and gender and have a better ability to work alongside society to fit its needs. By understanding the male power that exists in certain situations, within certain races, and alongside certain class, the government can better fit its laws to create just outcomes. This idea may relate to public programs for married women education and how it should be specified.

Returning to the defense of contract, I believe Boucher has an incorrect explanation of why male sex right is over simplified in her conclusion. Boucher states, “(women) could feasibly enter into sexual and familial relations for a variety of reasons—sexual desire, need for companionship, physical protection or to raise children.” (35) This is all in an attempt to show that women have the ability to true consent into contracts with men. The need for companionship can be very much shaped by gender expectations and the lack of ability to actively pursue alternatives. Physical protection is a matter of law and the ability of the state to correctly treat its citizens equally (considering their condition) and keep their right to safety and freedom from physical harm. This would leave it to the sexual desire and passion for children that was mentioned in the Hobbes’ state of nature above. These are both acceptable and should be a part of the analysis of marriage contract. And to repeat from earlier, the ability of some married people to succeed within the current structure doesn’t mean that it is a just structure.

Battling Feminist Claims

Moving forward from the state of nature and origin of marital and sexual relations, Stephen De Wijze, “The Family and Political Justice – The Case for Political Liberalisms”, concentrates on another large part of the feminist critique: the political/personal distinction. This can be directly related to the arguments of thinkers like Okin and Pateman who believe that liberal distinctions of political and private don’t correctly treat the interaction and effect of one on the other. Wijze outlines the two feminist claims to be that:

1. Reliance on the political/private distinction allow for sexist and illiberal forms of family.

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2. Because of the first claim, liberalism “retards or completely prevents women from developing the necessary political sense of self required for citizenship, and secondly, it prevents children from acquiring the requisite political virtues and sense of justice necessary for the viability and long-term stability of such a society.” (257)

Okin mentioned four thoughts from this political/private distinction, which Wijze outlines (265). The first is that men are the main wage earners and care work is disproportionately laid on the woman. The social fact is then reflected into the laws of society which are again instilled on the political/private arena. This is similar to the thought heard earlier from Michel Foucault that the political sphere is used to maintain the control of the current norms and power structure. Branching from this thought, Okin also suggests that behavior is in reaction to the political decisions of society. Wijze explains Okin’s point that, “the marriage contract, the granting of a divorce, the rights and authority parents have over children... are all to a lesser or greater degree regulated by decisions made in the public sphere.” (265) When extending this thought more to children, the third point of “personal is political” is that the family will act as a political institution in the socialization of children. This is because it is in the family that children learn the public roles of the genders and are conditioned in the norms that are being managed by the political sphere. This creates a stability of inequality throughout generations. And lastly, central to Okin’s arguments of how to create gender equality and future stability, the division of labor within the family infringes upon the equal opportunity of women in the political arena. This infringement is based on the “psychological and practical barriers” (265) that are put on due to the gender expectations, time resource influenced by those expectations, and how women think of themselves, their abilities, and their potential.

Wijze responds to these thoughts with concern over the thoughts on socialization of children (Incongruence argument) and the impact on equal opportunity for women in the political sphere (Political Virtues argument). First, he specifies some fundamentals of political liberalism that will help in his reply. Liberalism is supposed to maximize citizenship for all individuals (which makes the feminist claims serious ones) and within that citizenship is personhood and self-determination. In order to have this, one must have a right to privacy, which Wijze includes the privacy to build relations based on love, friendship, and trust. This

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includes how to order your family which can go in order of one of many comprehensive doctrines (or none of) that an individual finds to be good.

Part of the large discussion so far in Rawls and the family is how to deal with competing comprehensive doctrines. Wijze reiterates that, "...state power may not be used to further the aims of one reasonable comprehensive conception of the good over another." (272) Wijze explains that the family is private but subject to political intervention when an involved individual is subject to an undermining of civil rights. This will sound very familiar as we look at the family as both public and private in the latest arguments from Mary Barbara Walsh.

Focusing on the arguments labeled by Wijze, he thinks the criticisms are based on misunderstandings of how the principles are applied to the basic structures of society (as was the aim of John Rawls). Remember, the basic structure of society is a system of interactions. The family is part of these basic structures, but the principles of Justice as Fairness are only applied directly to public institutions. One interesting point by Wijze that is in conflict with Okin is that "...family, be it monogamous, polygamous, homosexual, communal or nuclear, or whether it is organized on liberal, feminist, or traditional lines, is of no interest to political liberalism." (275) This is important as responders to Okin have not agreed with her assumption of the nuclear family. In my opinion, promoting a nuclear form of the family over another (besides those in conflict with civil rights) is just as illiberal as allowing a nuclear family to operate in the male-dominated practice explored by feminists. The answer Wijze says is that liberalism must set a standard for civic virtue. This is left open-ended.

Stephen De Wijze is unmoved by the argument that allowing sexist family structures to exist would result in the inability for children to develop with the requisite sense of self and acquire a liberal citizenship. He argues that it doesn't necessarily prevent this development and that: *"mandatory civic education required for all citizens, coupled with the protection of civil rights for both male and female citizens, would serve to undermine and mitigate the deleterious effects of a sexist family upbringing."* (277)

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So, in this case, he believes that the public sphere is interacting at the foundations of the gender problems (with children) in society to limit the unjust behaviors in older ages. This aligns with an equality of condition, allowing the government to interfere outside the choices of family to ensure that all children, no matter what family they involuntarily entered into have an equal chance of acquiring a sense of self. This explanation seems logical, but depends heavily on the effectiveness of civic education and its political feasibility to maintain it at that level (funding, research, etc.), as well as research that shows the effect of this education overriding the socialization put forth by parents. So where Wijze challenges Okin on lacking evidence, I would also challenge political liberalism on their solution. Returning to the simple solution given by Wijze, he says families or doctrines that don't allow children to reach this sense of self shouldn't be allowed to exist in political liberalism. This sounds much easier than it is to execute practically. The aim of the most popular comprehensive doctrines (and possibly more) specify the parents goal to not let children deter from the practices and tradition taught to them. I will point simply to the Christian bible:

*Start children off on the way they should go,
and even when they are old they will not turn from it. (Proverbs 22:6)*

With the goal of these doctrines to instill their values, we have to assess if the doctrines are truly reasonable. This issue was not addressed by Wijze, and his lack of clarity was similar to John Rawls in how reasonable is defined. The feminist argument, to repeat, is that these doctrines are fundamentally sexist and so the pursuit of families to form around their ideas will have higher probability to produce sexist children.

When turning to the political virtues argument, Wijze continues on the liberty of the individuals involved with family. He believes that people should be able to split labor on ability, religious beliefs, or whatever they like wrapped around any idea they have. Wijze emphasizes the thought of voluntary agreements. He explains these have limitation in that the agreements:

"...which are entered into under conditions where there is no coercion (physical, social, psychological or economic) and that the society and its major institutions are regulated by principles of justice that cannot be reasonably rejected by those subject to them." (279-280)

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So, this loosely considers the ability to tell reasonable from unreasonable doctrines, but seems to treat the outcomes present in families rather than how these doctrines are used in policy. Also, returning to the criticism from Carole Pateman's *Sexual Contract*, liberalism still doesn't have an answer for subordination and unequal positions upon negotiations of marriage contracts. This subordination is perhaps replicated into the political sphere and reinforced for a systematic inequality.

Habermas Alternative

Amy Baehr, in "Toward a New Feminist Liberalism: Okin, Rawls, and Habermas," was not convinced of the feminist or liberal approach to the family. Instead, she presented sociologist and philosopher Jurgen Habermas and his thoughts on the public and private spheres. Baehr, like the others, outlines the points of Susan Okin, which can be broken down into 3 points:

1. Veiling sex in the OP doesn't account for the influence that divides in the private sphere can have on the political.
2. Inequalities in the family can negatively (in terms of justice) affect the distribution of goods in sectors which the principles of justice should be involved with.
3. The family is part of the basic structures which means that it should receive maximal justice with the principles. (50-51)

The quick rebuttal to part 3 of this is that the family is a basic structure, yet the principles are applied to it as a whole and not directly to specific institutions of it. (Political Liberalism, 261) Baehr takes this a point further to see what it would mean to have the principles directly affect the family. Advocating redistribution (how Okin utilizes the difference principle) in the family simply means that least well off would be determined by the power structure of sex and then the patterns of gender would be allowed to replicate. Okin's alternative would be to establish a genderless society, but that has its own problems explored in an earlier section. Baehr gives an additional reason against Okin's solution of a genderless society. She states:

...this way of talking-saying that justice as fairness opposes gender-may lead to conclusion that it opposes all psychosexual distinctions among persons and requires androgyny.... (t)his worry is unfounded because it rests on an equivocation on the word gender. (54)

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The difference between the institutionalization of sexual difference and the psychosexual component of identity was not explored by Okin, and eradicating the second form is an invasion on an individual's liberty of reason.

The departure of Rawls and Okin comes in the background culture that has competing moral comprehensive doctrines that influence family. As Baehr notes, Okin and Rawls both disagree with state power enforcing economic and political male dominance. The problem arises when a comprehensive doctrine subjects women to the private sphere work in household and care work. This has been said before, but Baehr reminds that Rawls suggests that people can use this original position as a way to decipher if an agreement was entered into fairly. This will be applied in Mary Barbara Walsh's work in the next section.

The Habermas alternative is one that even Baehr considers "controversial" (61). As Okin's proposal ends with suggestions that may be hard to accept while Rawls leaves a flexibility that questions the theory's ability limit the power of background culture, it is worthwhile to explore other definitions of the private and political. The individual that Habermas begins with has "the idea of autonomy, according to which persons act as free subjects to the extent that they follow those laws which they have given themselves, in accordance with intersubjectively ascertained insights." (1992, 537) The separation of private and political in his sense is one that may not be ordered. The ability of citizens to equally exercise their political autonomy would give the solution to how the background culture should be characterized. This, as Habermas outlines, is more than an equality of voting rights, but participation in public discourse (1992, 373). The solution is that equal distribution of social goods must be directly shaped to enable citizenship. Baehr states, "(focusing on political participation) is more flexible than Okin's approach, and has greater egalitarian implications than Rawls's." (63) This thought seems like a possible solution to the seeping of private realm into the political process, as well as the thoughts that norms of the private sphere will maintain them in law. Baehr doesn't take much more time in explaining exactly the policies to create that level of manifest equality.

To fill this void in her discussion, it is important to note how Habermas defines the public sphere and what type of standards this equality would have to reach. This is most easily done

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by describing the system he supports, a deliberative democracy. Joshua Cohen, a student of John Rawls, made an outline which can be used to realize what Habermas is looking for. The characteristics of this system can be outlined as:

1. An ongoing independent association with expected continuation.
2. The citizens in the democracy structure their institutions such that deliberation is the deciding factor in the creation of the institutions and the institutions allow deliberation to continue.
3. A commitment to the respect of a pluralism of values and aims within the polity.
4. The citizens consider deliberative procedure as the source of legitimacy, and prefer the causal history of legitimation for each law to be transparent and easily traceable to the deliberative process.
5. Each member recognizes and respects other members' deliberative capacity. (The Good Polity, 1989)

This would be a large step away from the media driven and unequal political voices in contemporary America. An analysis of the powerful voices in American democracy and the results on gender inequality would be worthwhile if following this route. Continuing from this, the “ideal deliberation” presupposes that individuals are free from prior norms and authority, and are free to act on the decision made. It also assumes reasons for proposal backings, equality in the proposal process as well as in freedom from distribution of power and resources, as well as what can be considered an overlapping consensus. The freedom from power structures and protection from potential influencing social norms and wealth distributions would be where Habermas’ policies would be stricter than Rawls in his difference principle, but it certainly has a part in the first principle of equal liberties.

Family as Both Public and Private

The latest piece in Rawls and family was done by Mary Barbara Walsh in her “Private and Public Dilemmas: Rawls on the Family.” Like Wijze before, Walsh makes the distinction that the family is a basic structure, but it is also outside. (427) she starts by defining the individual more than the other thinkers have up to this point. As Rawls wrote, a person can be reasonable in common pursuits, but also can be rational in seeking goods independently from the terms of cooperation. The reasonable is a constraint on the rational in order to preserve a liberal society of competing interests. Now, to discuss the basic structures further, she shows that all

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social institutions and interactions, “fall within an appropriate analytical category (the familial, the personal, the associational, and the political) and are more or less voluntary in terms of how the specific historical practice manifests the potential for choice typical for that type of relationship.” (429) The family has the essential role in reproducing society which is based on cooperation and reasonable agreement, but it also has rational ends of the individuals involved to pursue economic, leisure, affection, and sexual ends. Walsh provides an important insight that the family becomes political when questions of the family involve scarcity or clashing rational ends. This would include occurrences like marital rape and child care. So in a family situation where values (like affection) break down, the principles are still there to uphold a reasonable arrangement or dissolve.

Walsh steps in line with the others presented that marriage should be voluntary and that division of labor should arise from fair negotiations. Then, there should be alleviation procedures for the social and economic repercussions of gender. The way that Walsh intends to alleviate the oppression on gender is through education and “government-subsidized daycare, flextime, and parental leave policies.” (432) Later I will discuss the feasibility of these care work plans and also explore others available. With this type of treatment of the effects of gender in society, Rawls aims to allow a gendered society to reproduce as it has a better respect for the integrity of the people at this point in our history. As Walsh states though, “(s)ocial and economic oppression no longer enforces gender roles.”

The distinction of protecting our reasonable and rational rights, Walsh found this best demonstrated by Corey Brettschneider who thought that the state has coercive powers (in cases of marital rape and or anything that conflicts with the two moral powers) and expressive powers (which is for political empowerment and promoting the ability to create just families). The two moral powers are:

- A sense of justice: "the capacity to understand, to apply, and to act from the public conception of justice which characterizes the fair terms of cooperation." This sense expresses "a willingness...to act in relation to others on terms that they also can publicly endorse" (PL, 19).
- A conception of the good: "a conception of what is valuable in human life." Normally it consists "of a more or less determinate scheme of final ends, that is,

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ends [goals] that we want to realize for their own sake, as well as attachments to other persons and loyalties to various groups and associations." (PL 19)

That latter must always be limited to securing the ability of all individuals to make educated decisions without influence of the societal expectations or norms of family. This is heavily reliant on how Rawls separates political and comprehensive conceptions of liberalism.

Walsh separates from the feminists in that she believes feminists overstate the split between the political and comprehensive liberal values. Education and government intervention should be very well involved to allow for the oppressed to work out of their situation as well as to increase their liberty/equality regardless of the doctrine they want to follow. She also suggests that when dealing with children's education, it may be unnecessary to consider reasonability, and instead teach a comprehensive liberalism to ensure the development of justice. This could possibly be a point of discussion.

Before offering her possible solution to the family and how to tell if it is on unfair negotiation terms, she gives new theory on choice. Ann Levy:

...contends that the preferences that underlie choice are adaptive to social and political circumstances, and the gendered system operates to produce people whose interests and preferences serve to perpetuate differences in power and expectations between men and women. (Hypatia 20, 127-42)

So, if it is true that some women may support or appear to support their choice of subordination in the family, how do you make an effort to protect them? Walsh offers the original position test. She states that it "can be used by individuals to diagnose oppression in personal relationships, and by the state to identify and address institutionalized forms of gender oppression." (442) With this test, the public sphere can provide response to those that threaten the two moral powers or the public good of self-respect. It will take going back under the veil of ignorance to ensure that the grounds of negotiation for fair and equal between the involved parties. This test, I'll contend, may be tough to support on local government and personal levels. This will be in conflict with Walsh's trust in overlapping consensus of comprehensive doctrines, which she supported with Martin Luther King's belief in religious peoples' ability to agree on fair terms of cooperation.

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Just Institutions

Now, to better envision the society that would be able to comply with the two principles at their fundamental base, it is important to examine what Rawls proposes should be considered just institutions. The five basic political and economic structures that Rawls discusses in *Justice as Fairness: a Restatement* are laissez-faire, the welfare state, state socialism (with a command economy), property-owning democracy, and liberal (or democratic) socialism. To be clear, the difference between a property-owning democracy and a welfare state is that:

“...background institutions of property-owning democracy work to disperse the ownership of wealth and capital, and thus to prevent a small part of society from controlling the economy, and indirectly the political life as well. By contrast, welfare-state capitalism permits a small class to have a near monopoly of the means of production.” (139)

And also, the liberal or democratic socialism is different than state socialism because a liberal socialism allows for market institutions that determine price, while state socialism does not, and also allows for a one-party, ruling class which violates the first principle of equal rights and liberties. Before continuing with analysis, Rawls pointed out that “(t)he arguments and suggestions are rough and intuitive.” (135) This is important as there have been no case studies or other exact works that could support his claims for his two principles, but they seemed to be persuasive and easily recognized when considering his principles with general knowledge of the different systems and past performance. For each of these institutions, Rawls considers four questions of right, design, compliance, and competence:

1“...whether its institutions are right and just.”

2“...whether a regime’s institutions can be effectively designed to realize its declared aims and objectives.”

3“...whether citizens, in view of their likely interests and ends as shaped by the regime’s basic structure, can be relied on to comply with just institutions and the rules that apply to them in their various offices and positions.”

4“...whether the tasks assigned to offices and positions would prove simply too difficult for those likely to hold them.”(136)

These questions go right along with what Rawls has stood for since the beginning of *A Theory of Justice*. The first and second questions (refer to first quote in literary review) are directly connected to the thought that, before efficiency, the first question for any system is how it promotes the greatest amount of justice, as justice is the first virtue of social institutions. Once

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that has been established, we can then look to effectiveness of the institutions within that basic structure. Now, the third question points to the last third of the book where Rawls discusses feasibility. Now that a system which will be most desired is found, one must consider if it is plausible to believe the system will last and possibly strengthen as it is implemented and complied with over generations.

In Rawls opinion, which is persuasive when considering his principles of justice, is that laissez-faire capitalism promotes “formal equality and rejects fair value of the equal political liberties and fair equality of opportunity.” (137) This is based on the system allowing for liberties that work out naturally, allowing competition and dominance to determine this term of fairness that can favor a certain demographic of society as well as only allow for a small social minimum. Welfare-state capitalism fails to take into account equality of opportunity as policy is used to promote subsistence rather than opportunity. Rawls argues that the system leaves “control of the economy and much of political life...in few hands...” (138) which is certainly in conflict with the first principle. Also, Rawls points to the idea that welfare-state capitalism only takes care of the basic needs while ignoring the criteria for reciprocity necessary with social equality and economic regulation. State socialism has already been recognized above as a violation of the first principle, leaving only the fourth and fifth, which Rawls believes satisfy the two principles. To be persuaded by this, the definition of rights to private personal property must be completely understood. Rawls states this simply when he says, “(t)he first principle of justice includes a right to private personal property, but this is different from the right of private property in productive assets.” (138) This means, which is present in both the systems in which he believes would promote his theory of justice, that a society should be able to limit the liberty of possession of productive assets in order to promote a greater equality of opportunity for all, allowing for a continuation of greater liberty over generations. This also releases the society from inequalities that are sustained regardless on merit, but on control.

Rawls develops the need for control of productive assets as he describes a property-owning democracy further. As this type of system promotes cooperation, the institutions must be ordered to allow all free and equal citizens a means to attain productive assets. Rawls states

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that “(a)mong these means is human as well as real capital, that is, knowledge and an understanding of institutions, educated abilities, and trained skills.” (140) Here we see the advocacy of education and skill-training for all equal and free citizens of a society in order to promote their own good and advance in an environment of equal opportunity.

Overall, the goal here is to escape from the entrance of an underclass, as Rawls explains it. This is important to keep in mind, but the role of family in fairness still has been left with many questions. The institution of family is of the most influential and its ability to adhere to the two principles may be tougher than Rawls may imagine through an indirect solution of economic and political fairness.

Characteristics of a Property-Owning Democracy

The failure of the welfare state in the United States at eliminating poverty and keeping low-income families from lives of “low security and power at work, as well as low wage” (Williamson, 2012), calls for suggestions of new possible solutions. John Rawls attributes the failure of the welfare system to three points:

1. Capital is concentrated
2. Politics don’t allow for large enough taxes to overcome inequality of opportunity
3. Undercuts reciprocal relationship by naming some of its citizens as dependents on the state (O’Neill and Williamson, 3)

The welfare state, instead of doing what the public would hope, simply maintains the wealth and opportunity inequality that is currently in force. With the politics that Rawls points out, the length at which we’d need to go to fix this is politically unfeasible. Looking at both sides of the welfare discussion in the United States (liberal and conservative), the underclass has always existed and economic independence is consistently selective. The labeling of dependents has political repercussions on their treatment as well as behavioral effects to the next generations. Without a breakthrough in this area, it may be beneficial to find a system that avoids these errors.

One suggested by John Rawls, and yet to be explored thoroughly (or practiced today), is the property-owning democracy. The goal of this system is to have widely distributed productive assets (or capital) so all citizens will have an ability to be economically independent. In

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Property-Owning Democracy: Rawls and Beyond, Martin O'Neill and Thad Williamson define the features of this system to be:

1. Government involvement in macroeconomic planning, regulation, market rules, implementing resource transfer and providing essential and nonessential public goods
2. Ensures wide distribution of capital
3. Large inheritance tax
4. Public funding of parties, limiting finances of campaigns and limiting wealth advantage (4)

The advantage of this system comes in the abilities of all citizens to attain economic autonomy (a serious interest of the feminists). Whether this addresses the problems arising from a gendered society will be explored in the next section. But importantly, this combination of features should alleviate the unwanted effects of the free market system that is seen in welfare systems. To be specific, there should no longer be only a portion of the population that can:

...easily pay for college or professional training, make down-payments on homes, invest in risky but potentially lucrative enterprises, take trips, donate money to candidates, and cope with a period of unemployment or underemployment... (without a) threat of downward economic mobility. (5)

Allowing all citizens to have the ability to invest, learn, and become active in politics while having confidence in their stability will create more universal economic independence as well as a turn away from viewing portions of the population as dependents. The next step, then, would be to show how this could be implemented. The two steps are: taxing to create a large national fund from the super-rich while keeping them in the United States and then structuring the universal assets to distribute to all citizens.

Thad Williamson reported that in order to give \$100,000 in net assets to all households in the United States, we would need to create a fund of six trillion dollars (229). The fund can be efficiently created at an easier \$500 billion dollars a year. The tools that could be used to accumulate this fund within 20 years are:

- Taxation on cash assets leaving the country

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- Stiff tax exile penalties – this could also need other measures to incentivize staying the US, such as losing citizenship or right to return if escaping taxes
- Tax immovable assets
- Wealth tax – possibly .3% (Edward Wolff, 1996) or 2% (Ackerman and Alstott, 1999)
- High Inheritance tax

And more specifically to the US, from the Institute for Public Studies:

- Eliminating the bush taxes (\$43 billion)
- 50% for income tax bracket over \$2 million (\$60-70 billion)
- Tax income on capital gains at same rate as labor (\$80 billion)
- Financial transaction tax (\$100 billion)
- Reform estate tax to reach 1 of 200 decedents at higher rates (\$40-60 billion)
- Shutting down tax havens (\$100 billion)
- Ending subsidies for CEO salaries (\$18 billion)

The first list is more theoretical where the second list has an ability of accumulating \$5 trillion dollars in 12 years which could be used to set up a series of universal asset funds. The large problem, which is easy to see, is what is politically feasible to introduce in the United States. Although these are only affecting a small amount of the people, there is still a large general philosophical following from Republicans and moderates on taxes and incentives in economics. And to talk more specifically, the wealth tax seems extremely hard to legislate as the “direct tax” is in conflict with the Constitution. Article 1 Section 9 states:

No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

The clarification of the 16 amendment only strengthened the ability of taxing income, but not allowing direct tax on net worth. Overall, there needs to be some serious grassroots movement, perhaps, to gain the favor for this type of redistribution policy.

The fund for universal assets would have a structure consisting of three parts: housing, cash (restricted and unrestricted), and productive capital (partly in non-tradable stock coupons). (231) The cash is to undertake investments and risk as a part of social insurance. The housing is to end involuntary renting and eliminate home ownership as a class distinction. The stock is

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to improve ownership of productive capital, create worker-owned companies, and have a constant stake in production. Replenishing these funds allows for citizens to continue to try for economic independence and removes luck (or bad luck) of events that result in success or failure of a lifetime. The goal is to make the system broad, affordable and stable (239).

The fund will be established at birth in an interest-bearing account (reaching \$50,000 at age 18; \$100,000 once a household of 2 adults is made) with a heavy progressive tax after 45 depending on your net assets. The tax is used to ensure that it is used to help those in need and not those who have already achieved from its benefits. Also, the setup of this fund may have some other favorable benefits as well. The effect of the stock coupons (the third part of the funds structure) will force companies to pursue broader goals rather than short-term dividend maximization. This could support companies choosing to develop more future-oriented and community-building technology or infrastructure.

Overall, the United States has the capacity of creating such a system of public goods and equality. The transfers would add up to about 3.5% of GDP (239). There are still holes in the structuring of this economic system, but the elimination of the underclass and accordance to Justice as Fairness was a necessary prerequisite.

Care Work in a Property-Owning Democracy

As discussed above with feminist argument, care work must be dealt with when considering the ability of an economic/political system to be compliant with Justice as Fairness. In Ingrid Robeyns article “Care, Gender, and Property-Owning Democracy,” she establishes the need to address this with empirical evidence and then discusses possible systems. The fact is, in post-industrial society, about half of all care work is done unpaid. This considers both household and care for those who can’t fully take care of themselves (children, elderly, disabled, etc.). Robeyns refers to the data:

The cost of raising a child falls into two main categories: expenditures and care work... Annual per-child expenditures range from US\$6700 per infant in families with three or more children to just over US\$12,000 for teenagers in one-child families (Folbre, 2008).

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This, to be clear, does not include the hours of labor that parents, and more specifically mothers, put into the calculation which would raise “two-parent two-child household(s)... to US\$13,352; in a one-parent family \$US11,024.” (Robeyns, 165) These are said to be modest estimates. As wages increase in other sectors of the economy which are more suitable for technological advance in worker productivity (which is a just arrangement for unskilled workers), the cost for care work will continue to increase while labor intensity levels stay the same. Given the liberal society which Rawls supports and I wish to help establish, it is necessary to establish provisions for care work as it becomes increasing expensive in a high-tech society.

Robeyns introduces and describes the three systems that could be considered for care work:

1. Full Commodification of Care Welfare Regime – This system works by creating a care market to perform care work. This would be controlled by the government, but the paying of this care would either be left to those in need of care, or by the tax-payer. The increasing cost of this labor should be put into consideration.
2. Family Care Welfare Regime – This system works by allowing care work to be done by friends and family. The (paid) work done wouldn't be by professional outsiders, so the need for parents to have a 3 to 5 year break from any current jobs would be a necessity or a large tax break. After that, the reliance will fall on friends and family to help with the care.
3. Combined Welfare Regime – There are two versions of this: diachronic and synchronic. Diachronically, the system includes time off for family care in the first year, then commodification thereafter. Paid leave would be necessary for child illness and other protective care measures. Synchronically, measures would be put through for part-time off for long periods for the child, or there would be need to structure high-quality part-time jobs which have benefits of protection of full-time.(169)

Now, the problem with full commodification is that it relieves parents of their duties without considering the needs of parents to be with kids, and vice versa. I would also argue that this is consequentially demanding the conception of family and care work to be a lower priority to those whose skills sets are perceivably above that of care work. Men and women whom have careers shouldn't be forced to subscribe to this conception and should have the ability to bond with their children without the risk of economic downturn.

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Family care is having the opposite problem in that it demands conception of the parent-child relationship without considering the benefit of the parents holding a job. The benefits, for children older than one year old, of having nonparental care is shown for many (if not all) ages and social backgrounds (Gheaus, 2011). Moreover, this system does nothing to help gender division of labor or the women's quality of life. Combining the first and second systems, though, gives a thoughtful proposition. By allowing the parental care to last up to a year, the most important bonding has been allowed, and economic goals can be returned to. Versions of this system, which Okin would not agree with, may allow for the choice of a gender-split on care work. The goal moving forward should be to create a system that both: affirms the worth of care work and compensate as such, and destabilize the gender order to preserve women's economic autonomy.

Reflecting directly on the property-owning democracy as explained above, Robeyns finds it beneficial, but incomplete. The feasibility of being able to install the universal asset fund as well as the system for care work may be overly burdensome on taxpayers. This should be kept in consideration moving forward. The benefits of the system she outlines are:

1. Wealth is taken out of politics, which helps women now because of they are less wealthy.
2. Wide dispersal of capital helps in three ways: less income inequality is at a benefit for the unequal women status, the correlation to workplace democracy will lead to on-site nurseries, part-time work, and less discrimination from men taking parental leave, and the universal assets could be used by women for leaves from the work force.
3. Intergenerational wealth dispersion is good for those born from caregivers, so the cycle of low-wealth is not continued. (173-175)

Taken this into account, the fear of the universal asset fund would be the influence of current gender norms. If there is basic income coming from stock coupons and stake in national productivity, will this be used for the continuation of women in the household given they are taking in minimum income? This should be directly addressed before proceeding with thoughts on installing the property-owning democracy.

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CONCLUSIONS

Gender equality in the United States is at a philosophical tipping point. The diversity of Americans according to race, religious affiliation, national origin, sexuality, and ability calls for a pluralistic and comprehensive path to ensure the defense of inequalities. Social progress begins with curing the society of inequalities between men and women. Because of this, family, the center for moral development and political virtues, is the cornerstone of any social progress. To ensure a society is based on just basic structures, the family must be considered and possibly critiqued in its position. Through this evaluation and the creation and stability of a fair equality of opportunity for women, the functioning of society is more productive and inclusive of the needs of both sexes. The result is not the uniformity of men and women, but equal and independent opportunities to form a conception of good and have those notions form in the public conception.

Rawls, I contend, is the most compelling liberal contractarian whom created a procedure to include reflections of feminist concerns within the family. Considering his ability to limit assumptions on human nature and the sexes, Rawls differentiated himself with two critical components: the original position and reflective equilibrium. The original position is a hypothetical device used in Rawls thought process to presuppose an unbiased starting point. Through this a procedure can decide on optimal principles of justice. The bias is removed by what Rawls calls the veil of ignorance, which masks an individual from knowing natural talents, income level, religious beliefs, or any other possible status within the society, voluntary or involuntary, including sex. The veil is lifted through the process of picking just principles, forming a constitution, and distinguishing a system of law and the use of judges and officials to fit to the makeup of the society.

The results of this procedure are not in themselves correct. Justification is necessary to ensure the validity of the original position and its proceedings. By reflecting upon the outcomes of the procedure against known immoralities, such as slavery, one can justify or reject the procedure used to distinguish the principles. This reflective equilibrium is the method in which Rawlsian thinkers can strengthen the theory in compliance with research and findings of systemic and unjust inequality. The premise that, “contemporary liberal political theory

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needs to be, or to become, sociological as well as philosophical...” (White, 143) can be integrated into this exact process. The application to research in the construction of gender and sexuality leaves much left to be said in the realm of liberal philosophy. Feminism has brought the challenge that the contract, positioning of the family, and definition of reasonable comprehensive doctrines is in conflict with the achievement of gender equality.

Within the constitutional and law stage of the procedure is the setup of economic and political systems. New research and analysis of the property-owning democracy gives insight into how, once reconciled within the Rawlsian procedure, gender equality may be realized within a liberal society. A combination of this system, its ability to form with my conclusions on family and care work, and its feasibility in a democratic and pluralistic society will be assessed. Furthermore, as part of a response to the discussion on reasonable comprehensive doctrines, I will assess the ability of a property-owning democracy to develop a deliberative democracy rather than one seen in America today. A new initiative for fairness, reason, and responsible and diverse representation is necessary to preserve the integrity of the public and private spheres.

The Original Position, the Marriage Contract, and the Sexual Contract

The social contract has been a progressive work in determining political authority. Yet, the ability to escape human nature and determine how cooperation would work itself out has led to some undesirable outcomes. As Carole Pateman pointed out in earlier versions of contractarianism, natural differences in sex have been used to defend pseudoscientific order of genders and relationships. Although she was not as understanding of the emotion used in relationships with Hobbes or Locke, the resulting position of women in the private sphere with limited political and economic equality is unacceptable in a just society.

Rawls’ use of the social contract is an abstract one. The hypothetical use of the original position allows any one person to follow the logic of his outcomes. The veil of ignorance is one that allows one unbiased person to complete the selection of principles. Instead of having to consider the state of nature, Rawls defines an unbiased person who has two natural moral powers and capacity for a universal sense of reason. Because of this, Rawls has the ability to avoid the unwanted consequences of a subjective state of nature which has led to multiple

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outcomes for political authority which lack true surety of gender equality. The idea of domination in contract is avoidable if choosing in a fair position which can acknowledge inequalities of involuntary conditions of society as the veil of ignorance is loosened.

Regardless of this, there are two ideas brought up by Pateman that need to be addressed: the fit of marriage and sexual contracts in the Rawlsian procedure and the knowledge of sex and descendants in the original position.

The shared goal of fair interactions and contracts between men and women must be an outcome of choosing principles of justice. Since an individual's sex is not known in the original position, the choosing of principles should include deliberating the consequence of sex once being dropped into a certain system. Returning to the list of alternatives in the original position, gender relations can be discussed between utilitarianism, intuitionism, perfectionism, rational egoism, libertarianism, and justice as fairness. Mixed conceptions need not be detailed because they are simply the addition of social minimums which are not important to the gender discussion. Though to introduce, using just a social minimum is ineffective because of its inability to ensure fair equality of opportunity in general and its lack of treatment to the primary good of self-respect (to be discussed later).

The principles of justice should have an ordering of priorities and clear role for fair equality of opportunity, as well as for primary goods for all. Utilitarianism, in general, is rejected because of its possibility of allowing some whom are less endowed with ability to be further disadvantaged for the good of society. The lack of individuality of the theory and its inability to ensure the protection of liberties and opportunity is unacceptable. When considering gender relations, utilitarianism leaves stability in the air. The inability to prioritize leaves the calculations of utility left to judgment. For example, the knowledge of women making lower wages in the work force may lead to an unshared division of labor in the household. Because of an economic incentive to concentrate on the higher earner in the household, women may be choosing the greater good of the family and pick up larger portions of household and care work. The problem with this is the priority of economic stability and happiness of the family over the primary goods of the women. Woman, just as men, must retain equal opportunity for goods that are considered rational for all equal persons, which includes imagination,

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education, and a basis for self-respect which would include her decisions of finding meaningful work and self-worth.

Intuitionism falls to a similar fate related to utilitarianism. The ethical intuitionist believes that there is an objective morality. Rather than natural fact, the answer follows the individual's ability to evaluate facts and decide on what forms the foundations of our ethics. Once again then, this theory does not include the priorities of judgment. Different moral conceptions may lead to different judgments, the dispute has no preconceived resolution, and so the individual doesn't have full protection of its primary goods. In relation to gender, the competing conceptions of family and relationships between the sexes allows for no solution under intuitionism. Without the ability to place women's primary goods as a priority or limit the judgments of those justifying inequality, there is no gender equality.

Perfectionism is the striving for the maximization of human achievement or attainment of a certain goal. Rawls rejects this on the limitations that individuals shouldn't be deprived of rights or liberties because of their abilities or personal contributions to society. When considering men and women, it seems convincing that since allowing women's economic autonomy is better for macroeconomic productivity that this system would produce an equality of the sexes. But, when considering the combination of oppression of women and class, it seems that in areas of the society where abilities are limited, rights and liberties would once again be unequal with higher classes, which would lead to an incomplete autonomy of women as well as the lower class. Most importantly this would lead to a restriction of their primary good of bases for self-respect.

Rational egoism and libertarianism were both easily removed from the list of alternatives by Rawls. Neither of these ensures the equality of liberty. Rational egoism focuses only on self-interest, so without the care for others basic liberties and primary goods, there is no way to secure them. This would lead to the continued and further domination of men over women as they see rational for their use. This would not simply mean the domination individually, but also women subjective to men as a fraternity, as Pateman has used before. Libertarianism, on the other hand, demands formal equality. The thought of freedom of contract allows for the largest feeling of control over one's life and allows for the highest amount of self-respect. The

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problem is that the theory doesn't account for subordination. The libertarian analysis is done in a world that all negotiations are done on a fair basis. As many other aspects of society are, men and women, as the feminists showed, are not on equal grounds for negotiation and have never been in recorded history. Libertarians' inability to account for this leads to the inequality of liberty for men and women. Rather than a formal equality, fair equality is necessary to take into account the conditions in which men and women may enter contracts with one another.

Justice as Fairness offers a solution to the problems labeled above. By prioritizing the equal liberties principles over the difference principle, all inequalities come after the individual is given all of their basic liberties. The primary goods of every individual in societies are preserved as an equal opportunity. For this reason, the principles of justice as fairness provide the basis to ensure gender equality. First, the idea of a fair equality of opportunity allows one to take into account the conditions of men and women in a society and adjust their platform of negotiations to ensure fairness. Secondly, the primary good of bases of self-respect, if sought correctly, should provide the basis to ensure all women can have the opportunity to define their self-worth, outside of expectations of any other conception of good.

The sexual contract is one that Pateman says must be corrected before the social contract. In this sense, since the original position is unbiased on sex, the sexual contract may be integrated into the analysis of the principles, as done above. The unbiased person would not take the chance of choosing a system with a privileged sex. Moving forward into the constitutional stage, marriage and the formation of family should be fit to the society and its function. The point of the family in the public sphere is to reproduce and develop the next generation, maturing in their political virtues and functioning as an equal citizen. As the use of sexual parts as a consequence of forming a family is not, and cannot be, enforced through the public, the specification on who can form a family is only minimally involved in the public sphere. The constraints of the first principle are on families that limit the basic liberties or are insufficient in providing children with the resources to develop. The criticism of contracted inequality is then solved on the basis sexual freedom is preserved. The criticism of social coercion of women into these contracts in the private sphere is one to be addressed in

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discussing family as a basic structure, and once again in the constitutional stage of the procedure.

Marital rape is still an issue that will be explored later. The necessity to protect women's deliberate choice to all possible sexual encounters, regardless of cultural expectations, is one that can be developed in the legislation stage. These laws, just like all others that aim to alleviate the struggles that arise from current constructions of gender and sexuality, can't be integrated in the original position. The OP is veiled from this type of knowledge in order to preserve the sound judgment of the position. But more specifically, these solutions are not an ideal form. Any provision specific to the current relations between different genders and sexualities are done with more knowledge than an ideal solution can have. During the OP, all solutions should be done universally as to address any possible social constructions and relations that may arise in a pluralist society. Thus, the rest of the current inequalities in gender and sexuality must be addressed in the constitutional, legislation, and judicial stages.

In addition to preserving sexual liberty, the original position and the choosing of Justice as Fairness also ensures the ability of alternative families to be formed through the public and private spheres. As sex cannot be a coercive consequence to entering a marriage or raising a child, any family that can provide for the development of a child without infringing the liberty of those entering into the arrangement must be accepted. This means that no conception of public good, level of majority, or dominance of certain groups of society can override the first principle when pertaining to the liberty of conscience and primary good of bases of self-respect. These two ideas would say that all people should be able to make choices, success or failure, on how they enter relationships and define their worth with consenting others, as well as how they contribute to the creation and/or development of the next generation. This would suggest that a clear framework for determining a family needs to be clearly stated.

The current LGBTQ movement is currently developing a more inclusive definition of the family. This is one that allows for anyone significant in a person's life to be considered part of the family of choice. This has been used in cases such as hospital visits which would help create equal visitation rights. Yet, when considering the public sphere's ability to distribute

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benefits and create a function of this family unit, it is beneficial to define it further. A family should be able to uphold three requirements:

1. All relations, familial and sexual, should be formed on voluntary terms,
2. The family unit should be able to uphold the primary goods and two moral powers of all individuals to determine their own life conceptions and feelings of self-worth within the unit as well as society,
3. And if choosing to raise children, the unit must be fully sufficient in providing for the child's moral development and ability to function as reasonable citizens.

This would allow for the creativity of citizens to arrange a variety of family forms. The public sphere should act to protect the liberty of forming relationships as well as not prioritize one conception of family over another. In the case of cultural expectations that may suggest endogamy, exogamy, arranged marriage or other possibly coercive arrangements, the state should allow for these conceptions as long as the groups reasonably allow for voluntary participation or acceptance of the belief or doctrine. This new definition of family should continue to be developed to maximize inclusiveness of reasonable citizens and create the highest amount of equal liberty for all. The exclusion of sex as a requirement is necessary to preserve the freedom of the each individual in a family.

Returning to the OP, Pateman shows that the knowledge of sex (the act) and descendants would compromise the unbiased position, since sex acts and the creation of descendants involves male domination. I would suggest that this would not only compromise the main usefulness of the original position and feelings of empathy, but also is inaccurate in its assessment. To be fair, though, this was criticized before Rawls had introduced sex into the veil of ignorance. Either way, the empathy point is one that is integral to the choice of the original position. The elegance of a theory is not enough to override the fairness of the outcome, yet it is important to understand the necessity of empathy in the original position.

The maximin method of the original position is used because when choosing social and economic system, one would want to maximize the minimum benefit that one would have in

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society. This is not to say to the lowest society should receive enough to be satisfied (or as a welfare state would to simply maintain inequality), but to allow for all primary goods be accessible in order for all to strive as they see fit in their conception of good. Though, the individual in the original position may not choose this way if not empathetic to his descendants. By acknowledging that one can have a family and will be choosing for the rest of his family lineage, there will be much less risk taken by the chooser. When considering the principles in self-interest, there may be room for risk-taking and trying to be part of a system that has unequal liberties, hoping that you end up as one that is privileged. But, when empathetic to the condition of all those whom come after you, it is much more realistic to see a maximin method being used to secure not only the equal liberties of the OP, but also the equal liberties of one's descendants.

Although this produces a good elegance to the procedure of Rawls, it is not enough to override the possible allowance of domination in the original position. Descendants are certainly part of the knowledge of the OP, but I would not agree that domination in sex has to be a part of this. Because of the veil of ignorance including sex and the allowance of a combination of different family structures and sexual relations, there is not a good case that it must involve dominance. Following through the procedure of the original position considering Pateman's universal prostitution would not change any of the discussion on equal basic liberties and the freedom of conscience on forming relationships or sexual contracts. Thus, the original position is not allowing for domination or the prioritizing of the male world view.

Family as a Basic Structure

Some form, or a collection of forms, of the family is a necessity within a liberal society. Susan Okin argues mainly from the point that the nuclear family is one that is a basic structure. That is, the nuclear family is within the main social, economic, and political systems and their interactions. Because of this, if allowing for gender to continue as legitimate conception for families, the principles of justice should apply directly to them. Mary Barbara Walsh and Stephen De Wijze alike disagree with this statement stating that the family is both public and private in nature. The latter extends the thought that government should step in in

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the case of a family within members who have been restricted of exercising their two moral powers. This is a coercive measure, while Walsh also extends for expressive measures which I will address later.

The idea that the family can be placed in the public, private, or both spheres is misleading. As MacKinnon argued on the effect of the private sphere on public law, the relationship between the spheres has to be improved. The public sphere can't be a top-down management of the norms of society, nor can the private sphere shape the public sphere to enforce a single conception of good or gendered point of view. The process of the spheres' interactions has to be of reciprocal progress. There can't be a prioritized order of the spheres or the one will dominate the other. Whether the influence of male worldview on the public sphere can be proven or not, the public sphere has to be formed to defend from any discriminatory conception and shaped to improve the ability for all citizens to make educated choices in the private sphere.

The key idea behind this is the primary good of self-respect. While feminist and liberal thinkers were concerned with the division of private and public, this primary good demands that the private and public interact as equal. While Okin's solution to a gendered society demands that self-esteem is maintained by a mandated division of labor in the household, which is conflicting the most important rational desires of all equal citizens. Considering self-esteem promotes the idea that women will feel comforted in the thought that they can't be subjected to a disproportionate distribution of household labor and care work. Just as this is faulty with being provided meaningful work in the Marxist sense, this also fails in the thought of gender relations. The goal of reform will be to promote the ability for men and women to full explore their conception of good and develop their self-worth. Self-respect is more demanding than self-esteem in that the citizen shouldn't be left in a constant cycle of self-evaluation, but should be affirmed in their meaning and appreciation in society. Mandated division of home and care labor doesn't respect this primary good and should be rejected as a possible Rawlsian or just solution. Instead, looking at Okin's genderless solution, she makes ground on how to promote economic autonomy, which will help in the betterment of gender relations. Yet, this is incomplete as it doesn't improve the political autonomy, secure the

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protection from sexist comprehensive doctrines, nor improve the education of women and their choices in society. The solution of naming sexist doctrines as unreasonable must be neglected because of its blatant conflict with liberties of conscience along with other basic liberties.

Wijze also made an important point that is worth reiterating. The thought that a nuclear family should be supported is as illiberal as allowing a male-dominated family to be made the norm. The form of the family, as long as it protects the development and use of the two moral powers, has to be left to the creativity of the citizens. What Wijze doesn't address though is any obligation of the public sphere to help maximize the development of the two moral powers and protection of children's development in sexist families. In his liberal defense, the idea of subordination is left out of the discussion. Walsh, on the other hand, offers two ideas that may be given to adjust for this. In addition to a care work system, Walsh believes that public intervention of education and affirmative action and an original position test can help curb the cycle of preference that may be enforcing the male and female inequality. The thought that a gendered order will reproduce people who prefer the order is consistent with the Rawlsian description of citizens' attachment for their own institutions. The first expressive power given by Walsh is supportive of the two moral powers, but should be structured as to not be overbearing to the point of inflicting on the non-oppressed equal liberties. I will give my specific application of that thought later.

The OP test, in contrast, is directly in conflict with the pluralistic society and abusive of the two moral powers of citizens. By presupposing the good of the liberal tool of the original position, the test is used to treat one conception of good as a priority over others. This is done at the universal level by constricting the ability of the overlapping consensus to find shared values and means to treat family disputes, as well as at the citizen level by prioritizing the liberal conception over any other comprehensive doctrine or judgment system that may be preferred by citizens. This thought of the OP test is in contrast with her goals of the first provision of educating the preferences of citizens. While the former is within the public's power to influence the private sphere, the latter is destructive of its initiatives by ranking the public sphere above the private sphere, as well the liberal over the non-liberal, in terms of

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familial relations. The OP test, although criticized in those ways, may be a possible tool for judges and the enforcement of law when competing doctrines come to a dispute over the exercise of the two moral powers.

The concept to maintain is that the public and private spheres are not ordered, nor is one overly dependent on the other. While each one needs the other to function, they are to be equally fit to maximize the exercise of the two moral powers. A liberal conception of family must maintain the bases of self-respect in all family forms and personal relationships, as well as promote the education of its citizens in order to best order their preferences of relations and determining of self-worth. Furthermore, the path to protection of the two moral powers should continue to be to create both economic and political autonomy of the sexes. The concept of care work will continue to be of main concern; it's just structure a primacy, and its feasibility a main complication.

An Expressive Public Sphere and Deliberative Democracy

As the original position procedure continues, the veil of ignorance is slowly released to allow for the reasonableness of citizens. This is where the relationships between the public and private sphere is formed. The forming of the constitution then is the profound step in distinguishing the limits of either sphere and as well as defining their interaction. The interactions and limitations should be measures to promote the exercise of the two moral powers and the development of citizens. This should be involved with all levels and interrelations of the matrix of domination; oppressed groups should have public assistance in acquiring their primary goods. Just as class is adjusted through universal health care systems, gender is accounted for with care work systems. Over time, these coercive adjustments to fallow for the primary goods of all are necessary. The other discussion to have is how the public sphere will develop political virtues and secure all citizens' right of expression in public discourse.

The first thought is an extension of Walsh's thought of educating outside systems of preferences which may be influencing women. This would be in laws section of the procedure when the veil is nearly released. This allows us to understand the exact problems arising from gender inequality and use the constitutional rights of the public sphere to alleviate them. To

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account for women who may have grown up in sexist families, communities or general environments, the public sphere should accommodate in terms of education and affirmative action. By doing this, a base for self-respect has been provided for women who start at a disadvantage and now may still have a chance for determining their self-worth. This is consistent with the two principles of Justice as Fairness, but I think there is more to be done. The idea that Okin presents is one that children growing up in sexist families may not be developing their political virtues as well as they should be. To account for the possibility of not only sexist reasonable doctrines developing children, but also other gendered socializing agents of society, there could potentially be public efforts in all these institutions for children. This may include gender-based hiring in pre-schools through elementary, gender-neutral teaching training for teachers, supplemental civic education, and elimination of gendered marketing schemes to children. All of these ideas and other possible policies are subject to studies and reasonable evidence of their necessity to ensure the public sphere only holds rational conceptions. Furthermore, while respecting the conscience of parents in the family, as long as they are not in violation of the two moral powers, the influence of outside institutions shouldn't enforce a certain conception of gender relations to children. Gender-based hiring in schools helps curb any early biases and developments, while also providing both male and female guidance or role models that may be considerable to have in early childhood.

The mass media is the other side of socialization which must be taken seriously. Television, internet, and video games (the most important of this generation) should have strict guidelines to how much advertising, how much gender plays a role, and how suggestive the material is for developing minds. The conception of good seen by children cannot be left to the interests of outside organizations. This pertains to issues like young girls being afraid to be fat, as well as young boys being violent alpha-males. The public sphere has a key role in regulations which would complicate the family's ability to produce reasonable and productive citizens for public discourse and personal development.

Yet, the role in public discourse may be a problem missed by feminist and liberal thinkers up until now. The worry about reasonable doctrines, as well as the personal being political in

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general, is one that may be alleviated in the constitutional stage. The distinguishing feature to separate a faulty democracy from a just one is the definition of reason. Habermas and Cohen help distinguish the benefits and structure of a deliberative democracy. Every step of legislation and decision-making should be able to trace back to a system of deliberation. The enforcement allowed through the constitution is one that should: maximize the education of the citizens on public issues and the possible solutions, create a reciprocal system of empirical or objective backing between politicians and legislators, and penalize or disregard all reason that is subjective and infringes upon the basic rights and liberties of a pluralistic society. The third is one that will secure the integration of sexist religious conceptions from entering a universal cooperation of structuring family. This will also be important to discouraging other forms of discrimination and cultural or tradition-based inequality.

The education of citizens is one that not only involves the political parties and their campaigning, but the influence of mass media outside expenditures. For this reason, campaign financing must be strictly enforced through a public fund, along with creating a proportional representative Congress. While allowing for equal grounds for all reasonable parties that can apply and receive funding, citizens will be able to argue on objective grounds of the platforms of the parties that can appropriately be diversified for the growing pluralism in America. The strict restriction of corporate and outside expenditures will reduce the influence of special interests on the information of citizens. Instead, a restricted lobbying will be fundamental for these interests whom provide objective or empirical insights into legislation that appears in the party platforms. The mass media will now have to be regulated to support the deliberative nature of the democratic process. Instead of allowing valence politics, sound bites, and misrepresentations of studies in public discourse, the public sphere must preserve the integrity of deliberation. This is one that demands respect from both sides to provide, reject, or support evidence for all legislation.

The Defense of Marriage Act is one that can be looked at directly. The meaning of the law, or even constitutional amendment, is said to preserve the family as a central piece of the society. The nuclear, heterosexual family is determined as a public good, one that should be entered into the public sphere to preserved, defended and normalized in the private sphere for societal

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planning and reproduction. In a deliberative democracy they would have to display proof (or will be rejected) upon their ability to prove one or a combination of the reasons that: no other family form can provide the development of the two moral powers for children, no other form of family is based on love and trust which promotes the grounds of self-worth and encourages acts of fairness, or sex for reproduction is a natural necessity of marriage. The third is one that is built on conservative principle (and backed by biblical doctrine) but has no chance of passing a deliberative democracy. The first two should be based on studies, and as anyone can see, would be sufficiently difficult enough to prevent religious conceptions of family to override the public's moral power to a conception of good in familiar structure. An argument that can't be used, and should be restricted by the public sphere, is that the good of a nuclear, heterosexual family is strong enough that it is necessary to conflict with the equal liberties of others. The liberty of conscience, freedom of thought, and political liberties must come before this type of argument. The state should be able to penalize accordingly to those who try to corrupt the just order of rational deliberation based on reasonable citizens.

Marital rape is another idea that needs to be explored to guarantee the assumptions of the original position and to protect the rights of women to enter only voluntary sexual encounters. Because of the possible influence of cultural and religious expectations of marriage and sex, the state has to educate and women and involve itself with levels of enforcement and health services. Through normal health visits, doctors should be trained to help educate women on their sexual rights and liberties as well as detect any possible consequences of involuntary marital relations. This should be integrated in stronger enforcement policies, as well as allow the public sphere to condemn state's for trying to categorize marital rape as a different level of rape as other types of involuntary sexual encounters. By allowing for outlets for help, creating more educative channels for women through health services, and providing clear paths for enforcement and law, the integrity of the sexual contract will not be compromised by cultural, religion, or by men as a fraternity.

Judges and the Use of the Original Position

The original position test proposed by Walsh was insufficient on such a universal scale but offers some insight to the courts. The acceptable use is contingent on the structure of the

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constitution, but should allow for protection against competing doctrines in the home, as well as larger systemic arguments for legislation that may be signed into law during a certain partisan branch control (although much harder in the proportional representation system). In this sense, the courts will be the last resort system to enforce the principles of justice and protect the integrity of the two moral powers for individuals.

In the lower courts, the OP test can be used in ways to decide between family disputes that are considering different comprehensive doctrines (this includes disputes between division of labor, bases of self-respect and ability of pursuing conceptions of good, or divorce agreements). While some of these types of disputes should be left to private sphere, if coming to a disagreement that is unsolvable within the family, the OP test can be applied to secure a just outcome. This would depend on citizens' sense of justice and cooperation, as well as trust in the justice of the system. When considering divorce, the courts should have more room to act justly in the aftermath of studies of divorce and subsequent inequalities. When dealing with larger enforcement of alimony and child support, higher courts and legislation must be involved.

The stress of attaining alimony or child support after a divorce is high enough that expecting women to continuously fight for more justified arrangements or demanding the payment from a runaway provider is unjust. The system should be considered from the OP test. Not only would this help provide more assistance to women and close the gap of post-divorce inequality, but also allow for the alimony, child custody and possible child support for men. With the efforts of deconstructing the harmful effects of gender and returning to an unbiased position, the ability for men to maintain custody and be the main care work provider should be accommodated. If the divorce arrangement process is gendered then the public sphere system has been compromised. The higher courts, like in this case of divorce, should adjust the main system of gender relations to reflect the primary goods are equally attainable, treating men and women as equal citizens. The lower courts, again, will settle familial disputes that could not be constructively determined in the private sphere without a sort of domination or subordination.

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Care Work and the Property-Owning Democracy

In addition to the political autonomy created with a deliberative democracy, economic autonomy can first be sought by creating a care work system. The unpaid work that is attributed to women is unjust in that it restricts them from forming their own conception of good and lacks a base for self-respect as it is made involuntary in some cases by societal or cultural norms. A liberal form of the family must allow each member the ability to exercise their freedom of thought, liberty of conscience, and defining of self-worth. The subsidized care work system allows for this, as the care work is determined to be an option for both men and women and the members of the family can determine their career paths without the threat of economic downturn or lack of care for children and other dependents. The increasing price of care work is one that can't be tackled by the certain classes, so the government must involve itself in preserving the bases of self-respect for all.

As Ingrid Robeyns had discovered, a mixed system of parental leave in the first year (for both parents) and then the commodification of care work in a market would best suite equality at the desirable level for parents and feasibility for corporations. Flexible time for men and women should also be incorporated into the system until a later age. The goal of the subsidizing would be to incentivize men and women to create their own conceptions of good without producing high enough motivations to either choose work over care work, or vice versa. The choice of care work should be one that is supported for the basis of determining self-worth. By creating a market for this work, the stigma as an unpaid occupation will be released and the importance of developing children will not be left to the philosophical.

Applying this into a property-owning democracy is theoretically simple, but politically complicated. The benefits of the property-owning democracy are clear: more economic autonomy for women from universal assets, less money control in politics (since women have less money, this is beneficial), and more workplace democracy which will support private sector initiatives for care work (nurseries, part-time, and paid leave). To add to Robeyns thoughts, it also helps women have more of a national voice in the private sector. Instead of having stock ownership in the hands of few, every eligible citizen will have a stock within a range of mutual fund options. The opinions of the nation, long and short-term, will be highly

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involved in the dealing of influential corporations. Since women will be gaining more economic autonomy as well, this should produce a responsive relationship between women's desires and the will of the private sector.

In addition to more voice within corporations, the right of private property is also a benefit for gender equality. Home ownership is significantly higher for two-parent households than single-parent households. The struggle for financial stability and against involuntary renting favors the reliance of women on men as men earn more money in society. The ability for all citizens to have a right to private property creates a fair platform in which men and women can negotiate relationships and possible family arrangements. Also, the point made by Rawls that all citizens should be able to be mobile to determine meaningful occupations and conception good should include for forming families and relationships. More importantly, the right to private property allows for the bases of self-respect for both men and women as this basic need will not influence either into any subordinate or dominating position over another. This is increasingly relevant for lower classes and younger women whom may want independence from their homes and look to their male partner for security. And in terms of older family structures, men's higher tendency for remarriage won't put them in a better position over women after divorce.

Eliminating the underclass in terms of a property-owning democracy improves lives like releasing the single-mothers whom spend most of their time performing care work rather than pursuing an alternative sense of meaning in society. The liberal system cannot forcefully change the gender relations of contemporary America, but it can provide the bases of opportunity that allows women to make choices for autonomy. The idea that Robeyns suggests is that the minimum income provided by the universal asset fund will encourage some women to stay home and use that as compensation for their care work. Instead, I would suggest that this is hard to believe with an efficient care work system because of the subsidized benefits providing enough for women to form their own conception of good without the economic consequence of day care. If this is due to traditional values and the upbringing of the woman, than this is an acceptable possibility, only as long as the public

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sphere is interacting as stated above, limiting the effect of socializing agents and promoting the fairest platform for decision-making for women.

The last area to address is the cash section of the universal asset fund. The empowerment of productive capital is one that has been controlled by men throughout generations. The wide distribution of capital is complimentary to gender equality, just as the increase in women-owned businesses will give different social perspectives on how women can involve themselves in discourse, both in politics and the household. The property-owning democracy holds enough strength to seriously strengthen their economic presence not just in income, but wealth. Yet, the care work system should be included in the fund for productive assets (by increasing the fund or budgeting within it) so the public does not prioritize those with kids over those without in respect to return on taxes. Holding a conception that provides for a free and just environment for raising children among freely formed family structures is not the same as supporting the lifestyle of developing children over not. Especially with the possible effects of overpopulation, providing any incentive for this is not certainly feasible.

Final Thoughts

The additions to the Rawlsian solution here for the family is fourfold: creating equally influential political and private spheres, being direct on its support for alternative families and creating a definition of family, reforming to a deliberative democracy with proportional representation and tight campaign finance reform, and involving a care work system within the property-owning democracy. The lack of order in the spheres of society allows for the correct application of principles to the basic structures, including the security of women's economic and political autonomy and the initiatives to increase education of choice and preference. The stronger sense of ability for alternative families to fit in the liberal conception provides a clear moral standing on current issues of sexual equality and future issues of alternative structures of family. Both of these ideas and the continued protection from sexist and gendered comprehensive doctrines will be instilled in the reason-demanding deliberative democracy. The public will increase in its objective knowledge and the ability for subjective or unreasonable legislation to pass will decrease, especially with the use of the OP test in the

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courts to eliminate possible sexist legislation in absolute majority terms of Congress and presidency.

The final application of the theory into a property-owning democracy was left needing in inclusiveness to a care work system. Only with this will it allow the bases of self-respect for women by releasing some from socially involuntary care work and giving the opportunity for meaningful work. All of my recommendations are based on what Rawls considered the most important primary good: self-respect. With this, the public and private spheres must be shaped to not only allow everyone to define themselves in self-worth, it must provide for the fair platform among all social divisions. The matrix of oppression will be accounted for as long as the liberal theory remains sociological. Especially in a deliberative democracy, the effects of all levels of oppression must be thoroughly researched and renewed to ensure the betterment of relations among race, national origin, gender, sexuality, class and all else. The use of reflective equilibrium will be necessary to justify each new step in justice according to each new oppression. The liberal theory of justice can't be a comprehensive one; it must be consistently updating and reflective on new evidence. Tradition and culture can't be used as exceptions to gender equality, just as a liberal can't be held to today's conception and reject new evidence.

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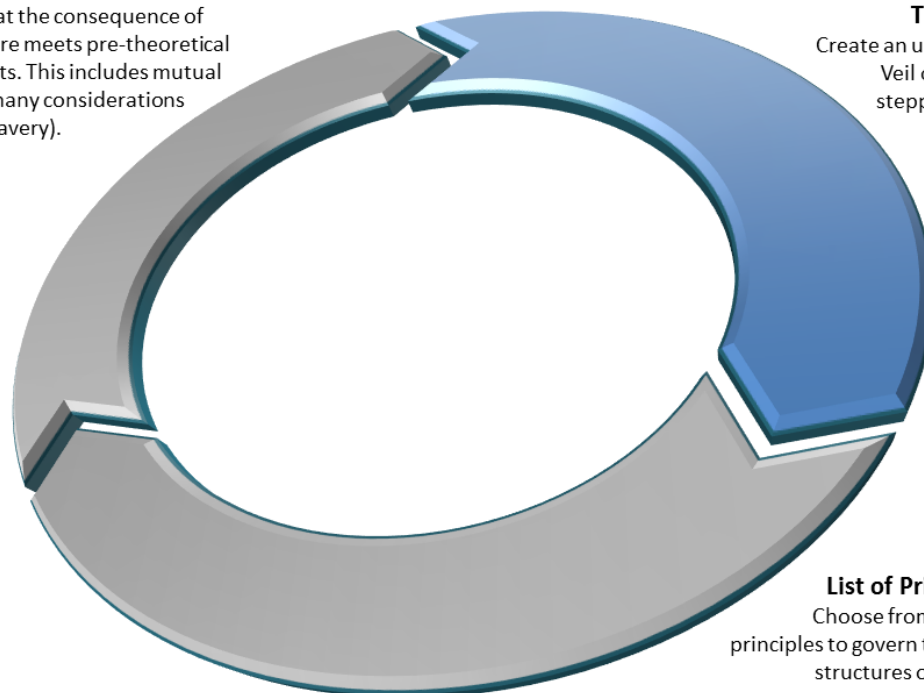
APPENDIX 1

Reflective Equilibrium

Maintain that the consequence of the procedure meets pre-theoretical commitments. This includes mutual support of many considerations (example; slavery).

The Original Position

Create an unbiased position with a Veil of Ignorance; Loosen as stepping through procedure



List of Principles

Choose from a list of principles to govern the basic structures of society

*Gender and sexual equality is the pre-theoretical commitment reflected in this analysis. Determining where this inequality is created and applying the principles of justice to it will determine the principles' ability to create a just society.

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