

gender-neutral rule but one that avoids the traditional shorthand of addressing gender by reference to sex.

This analysis shows that the traditional commitment, which is really one to deinstitutionalising gender rather than to gender-neutrality, need not preclude rules that protect people victimised by gender. People disadvantaged by gender can be protected by properly naming the group: in this case, not mothers but anyone who has eschewed ideal worker status to fulfill child care responsibilities. One court, motivated to clear thinking by a legislature opposed to rules that addressed gender disabilities by reference to sex, has actually framed child custody rules in this way.²⁵⁵

The traditional goal is misstated by the term gender-neutrality. The core feminist goal is not one of pretending gender does not exist. Instead, it is to deinstitutionalise the gendered structure of our society. There is no reason why, people disadvantaged by gender need to be suddenly disowned. The deconstruction of gender allows us to protect them by reference to their social roles instead of their genitals.

Deconstructing Difference

How can this be done? Certainly the hardest task in the process of deconstructing gender is to begin the long and arduous process of seeing through the descriptions of men and women offered by domesticity. Feminists need to explain exactly how the traditional descriptions of men and women are false. This is a job for social scientists, for a new Carol Gilligan in reverse, who can focus the massive literature on sex stereotyping in a way that dramatises that Gilligan is talking about metaphors, not actual people. Nonetheless, I offer some thoughts on Gilligan's central imagery: that women are focused on relationships, while men are not. As I see it, to the extent this is true, it is merely a restatement of male and female gender roles under the current gender system. Beyond that, it is unconvincing.

This is perhaps easiest to see from Gilligan's description of men as empty vessels of capitalist virtues – competitive and individualistic and espousing liberal ideology to justify this approach to life. Gilligan's description has an element of truth as a description of gender: it captures men's sense of entitlement to ideal worker status and their gendered choice in favour of their careers when presented with the choice society sets up between childcare responsibilities and being a 'responsible' worker.

Similarly, Gilligan's central claim that women are more focused on relationships reflects gender verities. It is true in the sense that women's lives are shaped by the needs of their children and their husbands – but this is just a restatement of the gender system that has traditionally defined women's social existence in terms of their husbands' need to eliminate child care and other responsibilities that detract from their ability to function as ideal workers. And when we speak of women's focus on relationships with men, we also reflect the underlying reality that the only alternative to marriage for most women – certainly for most mothers – has traditionally been poverty, a state of affairs that continues in force to this day.

The kernel of truth in Gilligan's 'voices,' then, is that Gilligan provides a description of gender differences related to men's and women's different roles

²⁵⁵ See *Garska v McCoy* (W Va 1981) 278 SE 2d 357 at 360–63, cited in Williams, 'The Equality Crisis: Some Reflections on Culture, Courts, and Feminism' (1982) 7 *Women's Rts L Rep* at 175, 190, n 80.

with respect to wage labour and childcare under the current gender regime. Yet we see these true gender differences through glasses framed by an ideology that distorts our vision. To break free of traditional gender ideology, we need at the simplest level to see how men nurture people and relationships and how women are competitive and powerful. This is a task in which we as feminists will meet considerable resistance, both from inside and outside the feminist movement.

Our difficulty in seeing men's nurturing side stems in part from the word nurture. Although its broadest definition is 'the act of promoting development or growth', the word derives from nursing a baby, and still has overtones of 'something only a mother can do'.²⁵⁶ Yet men are involved in all kinds of relationships in which they promote another's development in a caring way: as fathers, as mentors, as camp counsellors, as boy scout leaders. These relationships may have a somewhat different emotional style and tone than do those of women and often occur in somewhat different contexts: that is the gender difference. But a blanket assertion that women are nurturing while men are not reflects more ideology than reality.

So does the related claim that women's voice involves a focus on relationships that is lacking in men. Men focus on relationships, too. How they can be said not to in a culture that deifies romantic love as much as ours does has always mystified me. Perhaps part of what resonates in the claim that men do not focus on relationships is that men as a group tend to have a different style than do women: whereas women tend to associate intimacy with self-disclosure, men tend not to.²⁵⁷ This may be why women forget about the role that relationships play in men's lives, from work relationships, to solidarity based on spectator sports, to time spent 'out with the boys'. These relationships may not look intimate to women, but they are often important to men.

Ideology not only veils men's needy side, it also veils the competitive nature of many women who want power as avidly as men.

Feminists have long been fiercely critical of male power games, yet we have often ignored or concealed our own conflicts over money, control, position, and recognition ... It is time to end the silence.²⁵⁸ The first step, as these authors note, is to acknowledge the existence of competition in women's lives. Women's desire for control may be exercised in running 'a tight ship' on a small income, in tying children to apron strings, or in nagging husbands – the classic powerplay of the powerless. Note how these examples tend to deprecate women's desire for power. These are the stereotypes that come to mind because they confirm the ideology that 'real' women don't need power. These are ways women's yearning for power has been used as evidence against them, as evidence they are not worthy as wives, as mothers, or as women. Feminists' taboo against competition has only reinforced the traditional view that real women don't need power. Yet women's traditional roles have always required them to be able to wield power with self-confidence and subtlety. Other cultures recognise that dealing with a two-year-old is one of the great recurring power struggles in the cycle of human life. But not ours. We, are too wrapped up in viewing childrearing as nurturing, as something opposed by its nature to authoritative wielding of power, to see

256 William Morris (ed), *The American Heritage Dictionary* (1970).

257 See Rubin and Shenker, 'Friendship, Proximity, and Self-disclosure' (1978) 46 *J Personality* at 1–22.

258 V Miner and H Longino (eds), *Competition: A Feminist Taboo?* (1987).

that nurturing involves a sophisticated use of power in a hierarchical relationship. The differences between being a boss and a mother in this regard are differences in degree as well as in kind.

Moving ever closer to the bone, we need to reassess the role of power in relationships based on romantic love. The notion that a marriage involves complex ongoing negotiations over power may seem shocking. But if we truly are committed to a deconstruction of traditional gender verities, we need to stop blinding ourselves to nurturing outside the home and to power negotiations within it.

Conclusion

The first message of this chapter is that feminists uncomfortable with relational feminism cannot be satisfied with their conventional response: 'When we get a voice, we don't all say the same thing.' The traditional focus on how individuals diverge from gender stereotypes fails to come to terms with gender similarities of women as a group. I have tried to present an alternative response. By taking gender seriously, I have reached conclusions very different from those of the relational feminists. I have not argued that if gender differences do not exist; only that relational feminists have misdescribed them.

Relational feminism, I have argued, can best be understood as encompassing two critiques: the critique of possessive individualism and the critique of absolutes. Both are better stated in non-gendered terms, though for different reasons. Feminists are simply incorrect when they claim the critique of absolutes as women's voice, since that critique has been developed by men and its ideal is different from the traditional stereotype of women as emotional and illogical.

Relational feminism's linkage of women to the critique of possessive individualism is trickier. If all relational feminists claim is that elite white men are disproportionately likely to buy more completely into the ideology that controls access to wealth, in one sense this is true. I would take it on faith that a higher proportion of elite white males buy into possessive individualism than do black males, working-class and poor males, or women of all groups. Indeed, in the last 20 years writers have documented that these marginalised groups have developed their own cultures that incorporate critiques of mainstream culture. 'One very important difference between white people and black people is that white people think you are your work', a black informant told an anthropologist in the 1970s. 'Now a black person has more sense than that.'²⁵⁹ Marginalised groups necessarily have maintained a more critical perspective on possessive individualism in general, and the value of wage labour in particular, than did white males who had most to gain by taking the culture's dominant ideology seriously. Moreover, the attitude of white women towards wage labour reflects their unique relationship with it. Traditionally, married white women, even many working-class women, had a relationship to wage, labour that only a very few leisured men have ever had. These women viewed wage labour as something that had to prove its worth in their lives because the option not to work remained open to them psychologically (if, at times, not economically).

Fewer blacks and women have made the virtues of possessive individualism a central part of their self-definition, and this is a powerful force for social change.

259 JL Gwaltney, *Drylongsoul: A Self-Portrait of Black America* (1981) pp 173–74, quoted in S Harley, 'When Your Work is Not Who You Are', paper given at the Conference on Women in the Progressive Era, sponsored by the American Historical Association in conjunction with the National Museum of American History (1988).

But blacks as a group and women as a group have these insights not because they are an abiding part of 'the' black family or of women's 'voice'. These are insights black culture and women's culture bring from their history of exclusion. We want to preserve the insights but abandon the marginalisation that produced them: to become part of a mainstream that learns from our experience. The *Sears case* shows how these insights transformative potential can easily backfire if the critiques can be marginalised as constitutive of a semi-permanent part of the black or female personality.²⁶⁰

Relational feminists help diffuse the transformable potential of the critique of possessive individualism by championing a gendered version of that critique. The simple answer is that they should not say they are talking about women if they admit they aren't. Once they admit they are talking about gender, they have to come to terms with domesticity's hegemonic role in enlisting women in their own oppression.

The approach of deconstructing gender requires women to give up their claims to special virtue. But it offers ample compensation. It highlights the fact that women will be vulnerable until we redesign the social ecology, starting with a challenge to the current structure of wage labour. The current structure may not have been irrational in the 18th century, but it is irrational today. Challenging it today should be at the core of a feminist programme.

The message that women's position will remain fundamentally unchanged until labour is restructured is both a hopeful and a depressing one. It is depressing because it shows that women will remain economically vulnerable in the absence of fundamental societal change. Yet it is hopeful because if we heed it, we may be able to unite as feminists to seize the opportunity offered by mothers' entry into the work force, instead of frittering it away rediscovering traditional (and inaccurate) descriptions of gender differences.

260 *EEDC v Sears, Roebuck & Co*, 628 F Supp 1264 (ND 11l 1986), *aff'd*, 839 F 2d 302 (7th Cir 1988).

PART III

WOMEN IN POLITICAL AND LEGAL THEORY

CHAPTER 7

ANCIENT POLITICAL THOUGHT

The patriarchal tradition, the origins of which lie in nature and culture, became firmly established in early political thought. The writings of Plato¹ and Aristotle,² which have so influenced later political and legal thought, reveal deep ambivalences regarding the position of women in society. The question of gender difference, analysed in Chapter 6, has its seeds of origin in ancient Greek thought. In this chapter, extracts from these philosophers' works will be presented, together with a critique from a feminist perspective.

In Plato's writings, a deep uncertainty exists regarding women. In *The Republic* for example is to be found the clearest expression of equality between the sexes and the irrelevance of biological differences between men and women. Later, however, Plato appears to change his mind: when it comes to the power to be allocated in civic society, only women of the highest class are to be entrusted with responsibility. The remainder – the largest sector – are to be relegated to the private domain. The class structure runs through Plato's work as a common theme. The highest class – the guardians – are to be regulated in a different manner from the masses. In relation to the guardians, Plato distrusted both private property and the family; the former for its tendency to distract man from his civic responsibilities, the latter for its tendency to isolate individuals and bind them in a particular affective unit. His responses are radical: abolish both private property and the family. Women would be freed from the duties of the private family and thus gain full civic equality. However, the task of childbearing remained of fundamental importance, and to accommodate society's needs, Plato envisaged a system whereby male and female guardians would mate under carefully monitored conditions in order to ensure the production of the most talented of children.

In the dialogue which follows, Socrates discusses the role of women with Glaucon.

THE REPUBLIC³

Plato

'We can, I think, only make satisfactory arrangements for the possession and treatment of women and children by men born and educated as we have described, if we stick to the course on which we started; our object you remember, was to make them like watchdogs guarding a flock.'

'Yes.'

'Let us, then, proceed to arrange for their birth and upbringing accordingly. We can then see if it suits our purpose.'

'How do you mean?'

'What I mean is this. Ought female watchdogs to perform the same guard-duties as male, and watch and hunt and so on with them? Or ought they to stay at

1 C 427–347 BC.

2 384–322 BC.

3 Trans D Lee (Penguin Classics, 2nd edn, 1974).

home on the grounds that the bearing and rearing of their puppies incapacitates them from other duties, so that the whole burden of the care of the flocks fall on the males?’

‘They should share all duties, though we should treat the females as the weaker, the males as the stronger.’

‘And can you use any animal for the same purpose as another’, I asked, ‘unless you bring it up and train it in the same way?’

‘No.’

‘So if we are going to use men and women for the same purposes, we must teach them the same things.’

‘Yes.’

‘We educated the men both physically and mentally.’

‘Yes.’

‘We shall have to train the women also, then, in both kinds of skill, and train them for war as well, and treat them in the same way as the men.’

‘It seems to follow from what you said’, he agreed.

‘I dare say’, I rejoined, ‘that their novelty would make many of our proposals seem ridiculous if they were put into practice.’

‘There’s no doubt about that,’ he said.

‘And won’t the most ridiculous thing of all be to see the women taking exercise naked⁴ with the men in the gymnasium? It won’t only be the young women; there will be elderly women too, just as there are old men who go on with their exercises when they are wrinkled and ugly to look at.’

‘Lord!’ he said, ‘that’s going to be a funny sight by present standards.’

‘Still,’ I said, ‘now we’ve launched out on the subject we must not be afraid of the clever jokes that are bound to be made about all the changes that follow in the physical training and education of women, and above all about them being trained to carry arms and ride.’

‘You are quite right.’

‘So having started off, we must go on to legislate for the real difficulties.’⁵

Socrates then considers whether natural differences should translate into differing responsibilities:

‘Well,’ he [an imaginary critic] will continue, ‘isn’t there a very great natural difference between men and women?’ And when we admit that too, he will ask us whether we ought not to give them different roles to match these natural differences. When we say yes, he will ask, ‘Then aren’t you making a mistake and contradicting yourselves, when you go on to say that men and women should follow the same occupations, in spite of the great natural difference between them?’ What about that? Are you clever enough to answer him?’

‘It’s not easy to answer on the spur of the moment,’ he replied. ‘I can only turn to you and ask you to explain our case in reply, whatever it is.’⁶

4 The Greeks always exercised naked, and the nakedness is merely the consequence of the proposal that women should take part in athletics at all.

5 *The Republic*, Book Five, 451e–452e.

6 *Ibid*, Book Five, 453b–453c.

'Well, let's see if we can find a way out. We admit that different natures ought to have different kinds of occupation, and that men and women have different natures; and yet we go on to maintain that these admittedly different natures ought to follow the same occupations. That is the charge we have to meet, isn't it?'

'That is it.' ...⁷

... 'We are sticking obstinately to the verbal debating point that different natures should not be given the same occupations; but we haven't considered what kind of sameness or difference of nature we mean, and what our intention was when we laid down the principle that different natures should have different jobs, similar natures similar jobs.'

'No, we've not taken that into consideration.'

'Yet we might just as well, on this principle, ask ourselves whether bald men and long-haired men are of the same or opposite natures, and, having agreed that they are opposite, allow bald men to be cobblers and forbid long-haired men to be, or vice versa.'

'That would be absurd.'

'But the reason why it is absurd,' I pointed out, 'is simply that we never meant that natures are the same or different in an unqualified sense, but only with reference to the kind of sameness or difference which is relevant to various employments. For instance, we should regard a man and a woman with medical ability as having the same nature. Do you agree?'

'Yes.'

'But a doctor and a carpenter we should reckon as having different natures.'

'Yes, entirely.'

'Then if men or women as a sex⁸ appear to be qualified for different skills or occupations,' I said, 'we shall assign these to each accordingly; but if the only difference apparent between them is that the female bears and the male begets, we shall not admit that this is a difference relevant for our purpose, but shall still maintain that our male and female Guardians ought to follow the same occupations.'

'And rightly so,' he agreed. ...⁹

... 'Then is there any human activity at which men aren't far better in all these respects than women? We need not waste time over exceptions like weaving and various cooking operations, at which women are thought to be experts, and get badly laughed at if a man does them, better.'

'It's quite true,' he replied, 'that in general the one sex is much better at everything than the other. A good many women, it is true, are better than a good many men at a good many things. But the general rule is as you stated it.'

'There is therefore no administrative occupation which is peculiar to woman as woman or man as man; natural capacities are similarly distributed in each sex, and it is natural for women to take part in all occupations as well as men, though in all women will be the weaker partners.'

7 *The Republic*, Book Five, 454b.

8 *Genos*: natural kind.

9 *The Republic*, Book Five, 454e.

'Agreed.' ...¹⁰

... 'Do you agree, then, that the best arrangement is for our men and women to share a common education, to bring up their children in common and to have a common responsibility, as guardians, for their fellow-citizens, as we have described? That women should in fact, so far as possible, take part in all the same occupations as men, both in peace within the city and on campaign in war, acting as guardians and hunting with the men like hounds, that this is the best course for them, and that there is nothing unwomanly¹¹ in this natural partnership of the sexes?'¹²

In *Symposium*, Plato considers the nature of love. Here is found his true view of women – as inferior beings tinged with 'lewdness'. Plato's misogyny shines clearly through in the following passage. The discussion takes place at a dinner; the first speaker is Pausanias:

SYMPOSIUM¹³

Plato

Now you will all agree, gentlemen, that without Love there could be no such goddess as Aphrodite. If, then, there were only one goddess of that name, we might suppose that there was only one kind of Love, but since in fact there are two such goddesses there must also be two kinds of Love. No one, I think, will deny that there are two goddesses of that name – one, the elder, sprung from no mother's womb but from the heavens themselves, we call the Uranian, the heavenly Aphrodite, while the younger, daughter of Zeus and Dione, we call Pandemus, the earthly Aphrodite. It follows, then, that Love should be known as earthly or as heavenly according to the goddess in whose company his work is done. And our business, gentlemen – I need hardly say that every god must command our homage – our business at the moment is to define the attributes peculiar to each of these two.

Now it may be said that any kind of action that the action itself, as such, is neither good nor bad. Take, for example, what we are doing now. Neither drinking nor singing nor talking has any virtue in itself, for the outcome of each action depends upon how it is performed. If it is done rightly and finely, the action will be good; if it is done basely, bad. And this holds good of loving, for Love is not of himself either admirable or noble, but only when he moves us to love nobly.

Well then, gentlemen, the earthly Aphrodite's Love is a very earthly Love indeed, and does his work entirely at random. It is he that governs the passions of the vulgar. For, first, they are as much attracted by women as by boys; next, whoever they may love, their desires are of the body rather than of the soul; and, finally, they make a point of courting the shallowest people they can find, looking forward to the mere act of fruition and careless whether it be a worth or unworthy consummation. And hence they take their pleasures where they find them, good and bad alike. For this is the Love of the younger Aphrodite, whose nature partakes of both male and female.

10 *Ibid*, Book Five, 455c–455d.

11 More fully, 'nothing against the nature of woman as compared with man'. (Translator.)

12 *The Republic*, Book Five, 466c–466d.

13 Trans M Joyce, in *Plato: the Collected Dialogues*, eds E Hamilton and H Cairns (Princeton University Press, 1963), p 526.

But the heavenly Love springs from a goddess whose attributes have nothing of the female, but are altogether male, and who is also the elder of the two, and innocent of any hint of lewdness.¹⁴

In *Laws*,¹⁵ Plato makes it clear that men and women are not to be treated equally in matters of succession. In the passage which follows, Athenian is discussing the matter with Clinias:

Our statute shall be to this effect. A person making written testamentary disposition of his effects, shall, if he have issue, first set down the name of such son as he judges proper to inherit. If he have another son whom he offers for adoption by a fellow citizen, he shall set his name down also. If there be still a son left, not already adopted as heir to any patrimony, who may expect in course of law to be sent to some overseas settlement, it shall be free to him to bequeath to such son such of his goods as he sees fit, other than his patrimonial estate and its complete plenishing. If there be more such sons than one, the father shall divide his possessions, other than his patrimony, among them in such proportions as he pleases. But if a son already possess a house, no portion of such goods shall be bequeathed to him, and the same shall hold in the case of a daughter; a daughter not contracted to a husband shall receive her share, but a daughter already so contracted shall receive none. If a son or daughter be found to have come into possession of an allotment of land subsequent to the date of the will, such party shall leave the bequest in the hands of the testator's heir. If the testator leave only female issue without male, he shall by will provide one daughter, selected at his pleasure, with a husband and himself with a son, and shall name such husband as his heir. If a man's son, naturally begotten or adopted, die in infancy before reaching the age of manhood, the testator shall further make provision for this contingency by naming a child to succeed such son with happier omens. If the party making his testament is absolutely childless, he may set aside one-tenth part of his acquired possessions for the purpose of legacies to any persons he pleases; all else shall be left to the adopted heir whom he shall make his son, in all integrity on the one part and gratitude on the other, with the law's approval.¹⁶

Aristotle adopts a very different stance from that of Plato, who in *The Republic* argues for the abolition of private property and the family – at least in relation to the 'upper classes', or Guardians. In *The Politics*, Aristotle starts with an enquiry:

THE POLITICS¹⁷

Aristotle

In a State, either all the citizens share all things, or they share none, or they share some but not others. It is clearly impossible that they should have no share in anything; at the very least, a constitution being a form of association, they must share in the territory, the single territory of a single State, of which single State the citizens are sharers. The question then becomes twofold: if a city is to be run well, is it better that all the citizens should share in all things capable of being

14 *Symposium*, 180d–181d.

15 Trans AE Taylor, in *Plato: the Collected Dialogues, op cit*, p 1225.

16 *Laws*, Book XI, 923d, e, 924a.

17 Trans TA Sinclair, revised TJ Saunders (Penguin Classics, 1981).