

## Susan Moller Okin's *Justice, Gender, and the Family*

### I. Introduction:

#### A. Important Concepts:

1. *Gender*: Okin means by 'gender' "the deeply entrenched institutionalization of sexual difference" (p. 6). She argues that gender is "largely socially produced" (p. 6). I take her to mean by this that the deeply entrenched institutionalization of sexual differences that we see in our society are not in any sense "natural" or inevitable given the biological nature of sexual differences. They are, rather, the result of contingent, historical circumstances.
  - a) *Note (that could be lots of places but might as well be here)*: It has become common to talk as if 'natural' means 'unchangeable' or (at least) very costly to change. 'Socially constructed' is, in contrast, often thought to refer to things that are amenable to change. This is, I think, a dangerous misconception.
    - (1) *Natural, but easily altered*: Many things that are natural are easily corrected. For example, having the specific visual abilities that one has is, I would think, a natural condition. Nonetheless, visual abilities can be altered rather dramatically through the use of glasses, contact lenses and laser surgery.
    - (2) "*Socially constructed*" (arguably), but not easily altered: The concept of race is, most would argue, a social construction. There is (to my knowledge), no adequate biological definition of 'race' and sociological definitions seem to be more about class or ethnicity than about the concept of race, itself. Nevertheless, I suspect that it would be far easier for our society to eradicate nearsightedness than to eradicate racial divisions.
    - (3) The upshot of this is that it does not follow from the claim that the gender system is "largely socially produced" that it is relatively amenable to change.

#### B. The Central Theses:

##### 1. Two Central Theses

- a) *Moral Criticism of Contemporary Social Practices Concerning Gender*: Our society is systematically unjust with respect to the division of benefits and burdens between men and women.
  - b) *Criticism of Political Philosophy*: Issues of gender justice and justice within the family have been almost entirely ignored by traditional philosophers and political theorists.
2. Clearly there are various relations between these two theses. The systematic injustice presumably persists, in part, because it has been ignored by traditional political theories. Furthermore, the oversight by political theorists reflects the degree to which the prevailing (unjust) institutions have influenced the way we look at issues of gender and justice.
  3. The situation described by these two central thesis is unacceptable for three reasons:

- a) "Women must be fully included in any satisfactory theory of justice" (p. 14).
    - (1) Okin rejects the view held by some feminist writers that the very concept of justice is a male invention and that a proper feminist normative theory would reject it in favor of something like an "ethic of caring."
      - (a) Okin is skeptical of the claims made by Carol Gilligan and others that women have a fundamentally different moral consciousness from that of men.
        - (i) Notice the Millian point that "[t]here is certainly no evidence—nor could there be, in such a gender-structured society—for concluding that women are somehow naturally more inclined toward contextuality and away from universalism in their moral thinking" (p. 15).
          - (a) This is, no doubt, an overstatement. Even if our society is "gender-structured"—indeed, even if *every* society is "gender-structured"—there might be ways of concluding that there are natural differences in the way men and women think morally. But Okin is surely right that simply observing that they do, in a gender-structured society, think differently could not be adequate evidence that the difference is based on a natural inclination.
        - (b) Okin rejects the dichotomy between an "ethics of justice" and an "ethics of care." "The best theorizing about justice is not some abstract 'view from nowhere,' but results from the carefully attentive consideration of *everyone's* point of view" (p. 15, emphasis in original).
          - (i) Note the groundwork being laid for a Rawlsian social-contractarian conception of justice.
- b) "[E]quality of opportunity, not only for women but for children of both sexes, is seriously undermined by the current gender injustices of our society" (p. 14).
  - (1) Okin maintains that the gender structure within the family is a major obstacle to equal opportunity (p. 16).
    - (a) Question: What does she mean by opportunity? Opportunity for *what*?
  - (2) This is because the institution of "female parenting"—the fact that "women are almost invariably primary parents" (p. 16).
    - (a) Question: What does Okin mean by 'primary parent'?
  - (3) Because of this fact, women are "far less capable than men of supporting themselves" (p. 17).
  - (4) She holds that this fact is "accentuated" (though I suspect she means *exacerbated*) by "the fact that children of divorced and separated parents usually live with their mothers" (p. 17).
    - (a) Note how this fact is put in a passive way with respect to the actions of the mothers. In fact, of course, children of divorced and separated parents usually live with their mothers because their mothers choose that living arrangement—often over the strong objections of the fathers.

- (5) Okin believes that “what needs to be done to end the inequalities of gender...will also help to equalize opportunity from one family to another” (p. 17).
- (a) This Panglossian prediction may be premature. There has been a general tendency for people to marry others with similar educational and socio-economic backgrounds. And a number of Okin's recommendations later in the book for ending the inequalities of gender are likely to increase this tendency. As the barriers to gender equality are removed, it is quite possible that economic inequality between families will be increased, unless there are other changes made in the social structure. (More on this later.)
- c) “[T]he family—currently the linchpin of the gender structure—must be just if we are to have a just society” (p. 14).
- (1) *The “School of Justice” Theory*: The development of a sense of justice in children is enhanced by the experience of adult interaction based on justice and reciprocity instead of “domination and manipulation or unequal altruism and one-sided self-sacrifice” (p. 17).
- (a) *Okin Quote*: “A society that is committed to equal respect for all of its members, and to justice in social distributions of benefits and responsibilities, can neither neglect the family nor accept family structures and practices that violate these norms, as do current gender-based structures and practices. It is essential that children who are to develop into adults with a strong sense of justice and commitment to just institutions spend their earliest and most formative years in an environment in which they are loved and nurtured, *and* in which principles of justice are abided by and respected” (p. 22).
- (i) *Overstatement?*: While the view Okin will critique in the next chapter—that the family is “beyond justice”—raises one sort of repugnant spectre, Okin's rhetoric here raises another. Okin's claims that a society committed to justice cannot “accept family structures and practices” that are unjust and that it is “essential that children...spend their...formative years in an environment...in which principles of justice are abided by and respected” raise the spectre of social engineering and failure to respect the choices of individuals in how to organize the most intimate and important aspects of their lives.
4. Okin rejects the idea that the fundamental structures of traditional philosophy are “masculinist.” Her criticism of traditional political theories is not that the tools employed (the concepts of rights, justice, fairness, *etc.*) are incorrect or inappropriate, but that they have not been applied to the issues of gender and the family. Instead of rejecting traditional approaches to the understanding of justice, Okin chooses to apply one of the leading theories of distributive justice (John Rawls's) to the issue of gender and the family.

## II. The Applicability of Theories of Justice to the Family

- A. Traditional political philosophy has failed to apply theories of justice to the family primarily for one (or both) of the following two reasons:

1. *The Idealization of the Family:* Okin believes that the idealization of the family is sometimes partly responsible for its internal structure being ignored by political philosophers. Some have treated the family as being “beyond” considerations of justice or, somehow, “above” justice. Okin argues that the family structure and relationships between family members are appropriate subjects for judgments of justice. While many families are guided as well by considerations that we see as being loftier than merely giving people their “due,” to be morally acceptable, an institution like the family has to *at least* give everyone his or her “due.”
  - a) *Sandel's Rejection:* Michael Sandel believes that the family is “beyond” considerations of justice for two reasons:
    - (1) The circumstances of justice do not apply (sufficiently). The “values and aims of the participants coincide closely enough” that justice is unnecessary.
      - (a) It should be kept in mind that Hume has a particularly narrow—I would say much too narrow—conception of justice. He thinks it concerns the distribution of property rights (in a fairly narrow sense of ‘property’). While I suspect that Sandel and Hume are wrong even with respect to this narrow conception of justice, their claim is not as startling as it might appear.
    - (2) Governing familial relations by principles of justice would be degrade the character of the family.
  - b) *Okin's Reply:* Okin believes that attacks such as Sandel's rest on two “faulty foundations.”
    - (1) *Misunderstanding of the Primacy of Justice for Social Institutions:* Sandel assumes that the claim that justice is the primary virtue of social institutions means that “justice is the highest or noblest of virtues” (p. 28).
      - (a) Okin claims that Rawls means not this, but that it is “the most fundamental or essential” (p. 28).
      - (b) *Discussion:* There are a lot of issues raised here. The following are some thoughts on some of these issues.
        - (i) *Personal Virtues vs. Institutional Virtues:* One distinction that would be relevant to draw here, but which Okin does not draw, is between personal virtues and institutional virtues. It is plausible to believe that there is something amiss when intimate personal relationships require individuals to be motivated primarily by the personal virtue of justice. We give to our children not because justice demands it of us, but because we love them and want what is best for them. If what is meant by an association being governed by the principles of justice is that individuals in it will be motivated primarily by considerations of justice, then perhaps it is not a moral improvement for the family to be governed by principles of justice. On the other hand, it seems that justice can still be an institutional virtue in the sense that even the institution of an intimate relationship can be just or unjust. So, someone could very well hold that all institutions should be governed

by principles of justice (in the sense that they should all be in compliance with such principles) without holding that people should be employing such principles to guide their behavior. (The use of 'noblest' suggests a personal virtue, I think.)

- (ii) "*Highest and Noblest*" vs. "*Most Fundamental or Essential*": Instead of distinguishing between personal virtues (and motives) and institutional virtues, Okin attempts to draw a distinction between "highest and noblest" virtues and "most fundamental or essential" virtues. Unfortunately, this distinction is anything but clear—and the analogy to truth as a virtue of a belief system is not entirely helpful.
  - (a) *Truth and Justice*: Truth is often said to be in "internal end" of a belief system. That is, unless the mental state aims at truth, it is not the mental state of belief. (To believe that *p* is to believe that '*p*' is true.) It is certainly not true that justice is an "internal end" of social institutions. It is not essential to social institutions in the sense that something can't be a social institution unless it is just (or, possibly, aims at justice).
  - (b) *Fundamental and Essential Virtues*: Given that justice can't be an essential virtue of social institutions in the sense that aiming at truth is essential to belief, what Okin probably means is that justice is *morally* "essential" or required. Other virtues may be more inspiring and provocative of moral awe. (Hume uses the phrase, "the cautious, jealous virtue of justice" to suggest a rather cold minimal moral virtue.) But justice is morally demanded. That justice is fundamental or essential in this way is clearly a tenet of Rawls' view. It is, though, difficult to justify even if it is plausible. There is much room for doubt that justice is morally more central than a minimal level of compassion.
    - (i) *Risk of Trivialization*: Some who argue that justice is morally essential while beneficence is a kind of supererogatory virtue often seem to build in some minimal level of decent compassion into the definition of justice. Of course, it is relatively easy to get the conclusion that justice is morally essential if you are willing to put into the concept of justice everything that is morally essential.
- (c) Okin claims that the once these confusions are cleared up, "both the argument against the moral primacy of justice and that against justice as a central virtue for the family lose their force" (p. 29).
  - (i) Notice now that the claim is that justice is *a* central virtue of the family. To motivate her project, I think this plausible claim is all she needs. The discussion of whether justice is "fundamental or essential" is unnecessary.
- (2) *Idealization of the Family*: Sandel and others view the family as beyond justice also because they idealize the family as something "better than justice."

- (a) Okin agrees that it *can be* “better than justice,” but it often isn’t. And we should demand that it be *at least* just.
    - (i) There are a number of empirical claims made in this discussion that we should read as motivating her interest, not as being defended here. For example
      - (a) Okin claims as a fact “that the socialization and role expectations of women mean that they are generally more inclined than men not to claim their fair share, and more inclined to order their priorities in accordance with the needs of their families” (p. 31). And, further, Okin claims “that women, especially, are likely to change the whole course of their lives because of their family commitments” (p. 32).
        - (i) These claims are unsupported here. They raise very interesting questions, both empirical and moral—questions that we will put off until later.
    - c) *The Implications of Viewing the Family as Beyond Justice:* Okin claims that, as a result of women changing their lives because of their family commitments, *women* are disadvantaged by the view that the family is not a fit subject of judgments of justice.
  - 2. *The Acceptance of the “Necessity” of Familial Injustice:* Some (such as Allan Bloom) have seen the structure of the family, however unjust it might be, as being “necessary.” Okin denies that there is any natural necessity to the current family structures: “The things that make traditional families unjust are not matters of natural necessity... There is surely nothing in our natures that requires men not to be equal participants in the rearing of their children” (p. 39).
    - a) Bloom is an idiot.
    - b) Okin is surely right that there is “nothing in our nature that requires that men not be equal participants in the rearing of their children.” However, there may well be something in our (collective) nature that makes it more difficult for men to be equal participants. We will discuss these issues later.
- B. Okin concludes that the family structure is an appropriate subject for a theory of justice to address and that there is no known reason why we shouldn’t demand that the family be at least just.
- III. *“Libertarianism: Matriarchy, Slavery, and Dystopia”:* In Chapter 4, Okin attempts to argue that inclusion of women into libertarian political theories leads to an obviously unacceptable consequence and, hence, a refutation of libertarianism. The reasoning is that any adequate theory of justice must include women’s perspectives equally with men’s. But, when we attempt to modify libertarian theories to do this, we are led to a morally repugnant conclusion that no libertarian would accept. (“I conclude that [Nozick’s]...theory is reduced to absurdity when women are taken into account” (p. 75).) Therefore, libertarianism is an inadequate theory of justice. (If this were to turn out to be correct, it would be an extremely exciting result of Okin’s extension of political theories to issues of gender and the family.)

## A. The Argument:

## 1. Premises:

- a) *Reproductive Roles*: Inclusion of the perspective of women in political theory requires inclusion of their unique role in reproduction: “[W]omen, and only women, have the natural capacity to produce *people*” (p. 76).
- b) *Entitlement to One's Product*: Libertarian theories of justice in holdings are based on the claim that one owns what one produces

## 2. The Conclusion:

- a) Libertarianism entails that all people are owned exclusively by their mothers. This conclusion attacks libertarianism in two ways.
  - (1) *Moral Repugnance*: The conclusion that people are *owned* by their mothers is morally unacceptable. Since libertarianism implies it, we must reject libertarianism. (This is a *reductio ad nauseum* argument.)
  - (2) *Inconsistency*: Libertarianism presupposes *self* ownership, but, as Okin has argued, it also implies that each of us is owned by another. Therefore, it is inconsistent and has to be rejected on these grounds. (This is a *reductio ad absurdum* argument.)

B. *Okin's Criticism of Possible Replies by Nozick*: Okin recognizes that Nozick rejects the conclusion, but argues that the two ways he suggests to avoid it are unsuccessful. (Nozick doesn't develop either of these ideas.)1. *Nature of the Process of Creation of Human Precludes it Generating Property Rights*: Nozick suggests that there may be something about the process by which human beings are produced that is special in such a way that the producer does not gain property rights as a result of the process.

- a) *Okin's Criticism*: Okin rejects this, arguing that Nozick cannot, consistent with his theory, cite any special features of the process that produces human beings that should undermine libertarian claims to ownership of the product.

2. *Intrinsic Nature of Humans Precludes Their Being Owned by Their Makers*: Nozick suggests that there might be something intrinsic to the nature of human beings that precludes their being owned by their makers.

- a) *Okin's Criticism*: Okin argues that, since Nozick accepts voluntary slavery contracts as morally legitimate, he cannot argue that there is something special about the nature of persons that makes them unownable by *anyone*, including their creators.

- (1) *Reply*: Presumably, Nozick's point is not that there is something about human beings that precludes their being owned by others (even their parents), but that there is something special about human beings that precludes their being owned by *any* process other than their own voluntary informed consent.

- (a) This last point weakens Okin's argument, I think, to simply showing that Nozick does not do enough to develop his position on this issue. I don't see a “killer objection” here in light of this line of reply for Nozick.

## 3. Okin's Two Reasons Why Nozick Cannot Avoid Maternal Ownership of Children:

- a) "Nozick's consistent preference for legitimately acquired property rights over all other claims, including basic need and the right to life" (p. 82).

(1) As this reason develops, it is quite clearly question-begging. Indeed, Okin's concluding sentence is just the conditional, "If I am (already) my mother's property, I cannot claim a conflicting right to own myself" (p. 82).

- b) "Nozick gives clear priority to those who affect others over those they affect" (p. 82)

(1) Again, this argument turns out to be clearly question-begging.

C. *Other Responses to Okin's Reductio:*

1. Okin's claim that "women, and only women, have the natural capacity to produce people" (p. 76) is false. Without meaning to suggest that men's and women's natural roles in the production of people are equally demanding (much less identical), it is certainly true that women need men to produce people through the use of natural capacities. It is also true that men need women to do this.

- a) I think that Locke and Nozick are right to claim that if reproduction results in property rights in the human produced, it is *parents* (mothers and fathers) who own their children.

- b) Okin is "in no position to object to [a man's]...owning [his sperm or the child he sires]...on the grounds that such production is in some cases relatively effortless or unintentional" (p. 83) because she rejects this consideration with respect to her argument for a woman's property in the child she bears.

- c) *Okin's Fascinating Footnote:* Okin says in a rare "same-page" footnote that "[i]n the argument that follows, the only aspects of reproductive labor that I am concerned with are those that occur during pregnancy and birth" (p. 80). The rest of the footnote directs the readers attention to reproductive labor that happens *after* birth—labor that she doesn't think is relevant to this argument. (Though it is not clear that it is not relevant.) What gets left out of the story is the reproductive activity *prior* to pregnancy.

- d) How could Okin make these claims?

(1) Okin believes that in sexual intercourse, a woman is "freely given a sperm" (p. 83) and that this constitutes a legitimate transfer of ownership of the sperm. At that point, the woman "can make a baby with no other resources than her own body and its nourishment" (p. 83).

- (a) *Criticism #1:* It is not at all clear that typical sexual intercourse involves a transfer of ownership of sperm. Sexual relations are complex and there is no need to a libertarian (or anyone else) to assume that because sperm is physically transferred that there was transfer of ownership of the sperm. To know what rights are transferred by the act of sexual intercourse, one has to understand the nature and significance of the act.

- (b) *Criticism #2:* When Okin goes on to say that a woman's relying only on her body and its nourishment is "surely what normally happens" in human

reproduction, she is making an empirical claim and one that is importantly misleading. Surely it is still a very common occurrence for the father (or the man who believes he is the father) to provide some of the nourishment (and other support) for the woman during her pregnancy. If so, then she does not produce the child alone, even if we artificially restrict our attention to what happens after pregnancy begins.

- (i) Perhaps this point can help to answer Okin's rhetorical question in the footnote on p. 83: "in a Nozickean world, what motivation would woman have to marry, when by doing so they would be losing their sole entitlement to any children they may bear?" Here are a few other answers to this question that are completely compatible with Nozick's libertarianism:
  - (a) Some women believe that their children will be happier, better adjusted and better able to succeed in the world with the love, care, involvement and resources of their father.
  - (b) Some women might be in love with the man who provides the sperm that combines with her egg to make her fetus (or, as we humans say, the father of the baby she is going to bear). Surprisingly, even a libertarian can believe in love and the desire to share your life with another person. (Why do people say stupid things when they are attacking a theory they really don't like?)

## 2. Two Responses Considered by Okin:

- a) *The Lockean Proviso Argument:* Okin considers the argument that exclusive ownership of children by mothers violates the "Lockean Proviso" which requires, in Locke's words, that acquisitive behavior "leave enough and as good" for others. One might argue that women claiming ownership to all children doesn't leave "enough and as good" of the resource of children for men. However, Nozick's version of the Lockean Proviso merely prohibits actions that leave others worse off than they would have been in the absence of the actor. Since men wouldn't be worse off (with respect to the ownership of children) in the absence of fertile women, the Lockean Proviso is not violated by women owning all the children.
  - (1) But the situation is symmetric. Suppose men claim all the children. Would women be worse off with respect to children if no men existed?
- b) *The Argument from the Internal Goal of Reproduction:* Okin briefly considers a reply that holds that there is an internal goal of reproductive activity that does not allow ownership of the baby. She argues that Nozick cannot employ such an argument because he insists that it is for the producer herself to determine the goal of production.

D. *Criticism of Okin's Critique of Political Philosophy:* Okin argues that one of the contributions of "including women" in political philosophy is that it will expose weaknesses of theories that would be otherwise invisible. The problem she raises for Nozick about production of human beings is a showcase for this claim. However, the claim seems undermined by the fact that Nozick himself recognizes that production of human beings could, if not treated separately, create a problem for the "production theory of ownership." (And this problem has been discussed by other political philosophers.) Whatever the merits of Nozick's suggested replies, and independently of whether the libertarian can successfully solve the problem by any means, this undermines Okin's claim that this is a problem that arises only when one "includes women" in political philosophy or it undermines the claim that traditional philosophers have not "included women."

E. Miscellaneous (or as my kids like to say, "Random") Issues Raised in this Chapter:

1. Okin begins her discussion of libertarianism by saying this:

"[L]ibertarianism in any form tacitly assumes, beyond the reach of its principles, a realm of private life in which the reproductive and nurturant needs of human beings are taken care of. It also assumes that work performed in this realm is not work in the same sense, or deserving of the same rewards, as that done outside this sphere. Behind the individual façade of libertarianism, the family is assumed but ignored." (p. 75)

This seems unfair to Nozick on a number of points:

- a) While *I* have no desire to live in a society where libertarian principles control all relationships, I do not think that all libertarians believe the private life (in which reproductive and nurturant needs are taken care of) are beyond the reach of their principles. I think the libertarian would view the relationship between wife and husband, for example, as a voluntary association that is regulated by, and only by, the libertarian requirements that one not initiate force or fraud against the person or property of others. While there is often generosity and selfless giving, that is not morally required.
- b) I see no reason for the libertarian to conclude that work done in the private realm is not work in the same sense as work done in the public realm. Much of it may not be paid work—but there is work in the public realm that is not paid work, either. And, even if no private work were paid and all public work were paid, that would not entail that private work was work in a different sense than public work. (When I mow my lawn, wash the dishes, fix my car, cook a meal, troubleshoot my computer network, or do the laundry, I recognize that this is work in the same sense as work in the public sphere and, indeed, exactly the same *kind* of work as some work in the public sphere. I imagine that were I to convert to libertarianism, these perceptions would remain the same and I can't see how they would be inconsistent with my libertarianism.)
- c) Nozick, at least, gives no theory of what work *deserves* reward or how *much* reward any given sort of work deserves. I suspect that Nozick, even while writing *Anarchy, State, and Utopia*, believed that much work that was deserving did not get rewarded and much that got rewarded was not deserving. Nozick's theory is not a *desert*-based theory.

- (1) Okin later gives a list of issues that libertarians have ignored and includes in it: “how different types of productive labor, commonly divided along sex lines, *within* the realm of wage work are to be measured against one another so that they can be justly compensated” (p. 75). She goes on, “Libertarians have not been accustomed to addressing such questions.” And she diagnoses this as being based on their assumption—with liberal theorists—that their subject matter was male heads of families.
  - (a) This is a flagrant misconstrual. Libertarians have not been accustomed to answering the question of comparable value work because their theory denies that doing so is a part of determining “justice in holdings.” And, they are no more concerned with determining comparable value work when it is not broken down along sex lines than they are when it is. Therefore, it seems unlikely that their errors are the result of assuming that their subject matter was *male* heads of households. Indeed, their view of the moral insignificance of the “comparable work” issue doesn’t seem related to the issue of the family and its relative transparency or opacity to principles of political justice.
2. It seems rather ungenerous—and perhaps rhetorically irresponsible—to say that Nozick “has no qualms about personal slavery” (p. 81). What Nozick says is that a free system would allow an individual to sell himself into slavery. This does not entail that others, including Nozick himself, would have no qualms about such an event. Nozick might believe it to be immoral, imprudent on the part of the seller, and/or a dangerous example for others. He might start a moral crusade against this, preaching the evils of voluntary slavery. This is all consistent with his libertarianism. What he must not do is to claim that we can legitimately *prohibit* voluntary slavery. What Okin has done is exactly like claiming that everyone who supports the right racist (or pornographic) speech “has no qualms about racist (or pornographic) speech.”

#### IV. Rawlsian Hypothetical Contractarianism:

- A. *Rawls's Oversights*: Okin argues that issues of gender and the family are almost entirely ignored in Rawls's presentation of his theory in *A Theory of Justice*.
  1. *Gender and the Veil of Ignorance*: Though it isn't explicitly stated in *A Theory of Justice*, Okin notes that Rawls has said in later writings that he intends for the “veil of ignorance” to include knowledge of one's sex. This will provide, Okin tries to show, a powerful moral critique of contemporary gender roles in our society.
    - a) *Correction*: Okin claims that “the parties also ‘know the general facts about human society,’ presumably that it is gender-structured both by custom and still in some respects by law.” However, this misunderstands the nature of the general knowledge that Rawls gives the contractors. They are not to know anything about the specific nature of their society. The general facts about human society they know are more like sociological “laws” (if there were any).
  2. *Representation in the Original Position*: Okin argues that Rawls's decision to have the representatives in the original position be “heads of families” represents an assumption that “the parties formulating just institutions are (male) heads of (fairly traditional)

families, and therefore not concerned with issues of just distribution within the family or between the sexes" (p. 95). This charge raises a number of points:

- a) I know of nothing in Rawls's *theory* that prefers inclines toward a *male* head of household.
- b) One can think of the "head of household" as an abstraction. I think this is a preferable way to think about the concept. The "head of household" represents the interests of the household—not just one member of the household.
- c) Rawls is primarily thinking of the traditional family, I suppose, in some respects. (I doubt that he was thinking of gay/lesbian families, families with many adult partners, and extended families.) However, I do not think his theory requires this. I think he is making room for a household that is at least not completely transparent to the principles of justice adopted for the social structure at large. The households could be quite non-traditional and still be appropriate "families" in Rawls's theory. So, I don't think that a traditional heterosexual couple with biological children is an assumption of his *theory*. And, perhaps it goes without saying, I don't think his theory presupposes (nor is there evidence that he is assuming) that gender roles must be maintained in the households.
- d) Okin's assertion that the "heads of households" would not be "concerned with issues of just distribution within the family or between the sexes" is wrong, I think. The parties don't know their sex. Therefore, they would be concerned to choose principles that did not disadvantage one sex relative to the other regardless of whether they are individuals or heads of households.

### 3. The Family:

- a) The family only enters Rawls's discussion in *A Theory of Justice* in three ways:
  - (1) "as the link between generations necessary for a just savings principle" (to ensure that earlier generations will save for later ones);
  - (2) "as an obstacle to fair equality of opportunity;" and,
  - (3) "as the first school or moral development."
- b) Rawls never examines the justice of the family, never tries to develop principles of justice for familial relations or to extend his principles of justice to the family. Rawls sees this task as being beyond the scope of his book saying, "in a broader inquiry the institution of the family might be questioned, and other arrangements might indeed prove to be preferable" (p. 463) and expressing hopes that, if this is so, his theory of social justice can be adapted to whatever social structure would be preferable to the family.
  - (1) Okin criticizes this. While what Okin initially says sounds like just a complaint that Rawls isn't addressing the problem *she* wants him to address (which would be a petty criticism), I interpret what lies behind her criticism to be the claim that one can't adequately do what Rawls attempts to do in *A Theory of Justice* without examining the justice of the family. This is what she attempts to argue in the next section (pp. 97-101): "Family justice must be of central importance for social justice" (p. 100).

## B. Rawls's Theory and Feminist Criticism:

1. Giving Rawls a feminist reading can help to solve three apparent problems with Rawls's theory. These problems are:
  - a) Rawls's theory is unacceptably egoistic and individualist (because of the assumption of mutual disinterest, *etc.*);
  - b) Rawls's theory is of little relevance to real people thinking about justice; and,
  - c) In its attempt to justify universalist and impartial principles, Rawls's theory ignores relevant differences between people and their historical and social circumstances.
2. *Ignoring Sex Will Entail the Unjustifiability of Gender:* Suppose we follow Rawls's suggestion (made in his later writings) that we treat one's sex as the sort of morally irrelevant, idiosyncratic feature of a person that is covered by the veil of ignorance. Then, as with a person's race, religion, nationality, *etc.*, the veil of ignorance would prevent contractors from knowing their sex. In this case, they would choose a "genderless" society and they would pay particular attention to the family—the "first school of social justice."
  - a) The contractors would agree to social inequalities only where these worked to the advantage of the worst off and only if the preferred positions were open to all under conditions of fair equality of opportunity. Because women are so often disadvantaged in our society, contractors would be especially concerned with how any social inequalities would affect women. Gender roles have the following adverse effects on women's life prospects:
    - (1) they limit the "free choice of occupation" under equal conditions;
      - (a) While the gender structure imposes roles on both men and women, "the customary roles of the two sexes inhibit women's choices over the course of a lifetime far more severely than those of men; it is far easier in practice to switch from being a wage worker to occupying a domestic role than to do the reverse" (p. 103). Okin provides now argument or evidence for the truth of this claim and no explanation for its truth, if it is true.
        - (i) If this is true, why is it true?
          - (a) Are the skills necessary for "occupying a domestic role" more natural and less in need of development to be effective than those required for being a wageworker?
        - (ii) Is it true? This isn't clear to me.
      - (2) they result in unequal political representation; and,
      - (3) they undermine the equality of the "social bases of self esteem."
    - b) Furthermore, because gender roles are, by definition, not open to all under conditions of fair equality of opportunity, any such roles that advantage one group over another (even if they *did* work to the advantage of the worst off) would be rejected.
3. *The Ineliminability of Knowledge of One's Sex in a Gendered Society—Limitations on the Veil of Ignorance:* Okin argues, though, that sex—unlike race, religion, national origin, intelligence, *etc.*—probably cannot be treated as a "contingent and morally

irrelevant characteristic, such that human beings really can hypothesize ignorance of this fact about them" (p.105). If this is correct, it has several implications.

a) As a practical matter, we cannot use Rawls's methodology to reach consensus about moral matters.

(1) But, there are severe doubts about the power of this as a practical matter anyway. People aren't particularly good at ignoring their race, religion, national origin, and intelligence—or anything else the veil of ignorance is supposed to rule out.

b) We can remedy this to some extent by ensuring that moral and political theory is developed "only with the full participation of both sexes. . . this will require that women take their places with men in the dialogue in approximately equal numbers and in positions of comparable influence" (p. 107). This is not an ideal solution since Rawls thinks of the principles of justice as being ones that we *all* accept from the standpoint of the original position.

(1) Okin doesn't recognize all the limitations of this proposal. So long as there is a gendered society, those women who "take their places with men in the dialogue [concerning moral and political theory] in approximately equal numbers and in positions of comparable influence" will be women who have been successful in their careers in academia and the law. They may well display, on average, different characteristics and different experiences from those of women who have not been successful.

c) The only way to fully realize the Rawlsian thought experiment is to eliminate gender from society.

(1) If we are similarly limited in ignoring our race, religion, *etc.* does it follow that the only way to fully realize the Rawlsian thought experiment is to eliminate race, religion and so forth from our society.

d) Criticisms:

(1) *On the Ineliminability of Knowledge of One's Sex in a Gendered Society*: This is largely an empirical issue and one that is difficult to settle. Certainly, in a society with significant gender roles, it will be difficult for some to imagine ignorance of their sex. By the same token, in a society where there is longstanding, deep, institutionalization of racial and religious differences, we may doubt people's abilities to "imagine away" their differences in these respects. Okin needs to say more to indicate why knowledge of one's sex is unique.

(2) *On the Relevance of the Limitation, if it Exists*: In any case, the limitation, if it exists, is not relevant to the *correctness* of Rawls's theory. In *A Theory of Justice*, he holds that principles of justice are those principles we *would* agree to under appropriate initial conditions. This is a matter of fact about us. If some of us are not sufficiently imbued with moral imagination to see what we would agree to under such conditions, then there will be limitations on Rawls's theory as an aid to get people to see what justice requires, but not as a theory of justice.

e) "Random" Question:

(1) In describing a “genderless society” Okin says, “Only children who are equally mothered and fathered can develop fully the psychological and moral capacities that currently seem to be unevenly distributed between the sexes” (p. 108). What does she mean by ‘mothered’ and ‘fathered’ in this claim? What does it say about children’s prospects in non-traditional family structures? What does it say about parents who choose, for whatever reason, to divide tasks on traditional gendered lines of the reverse of traditional gendered lines?

V. *Challenging the Public/Domestic Dichotomy:* What is of most importance to us in this chapter is Okin’s argument, made in the last section, against the “public/domestic dichotomy.”

A. Okin argues that “the personal *is* political, and the public/domestic dichotomy is a misleading construct, which obscures the cyclical pattern of inequalities between men and women” (p. 111). She defends this on the grounds that:

1. “power—which has always been understood as paradigmatically political—is of central importance in family life;”
  - a) This claim supports the assertion that the personal (family) is political. It does not attack the claim that the personal is not public. That is, one might very well hold that relations within the family are political and, therefore, in need of political analysis and evaluation by principles of justice without holding that they are public matters in the sense that they are subject to the principle of justice for society at large.
2. “the domestic sphere is itself *created* by political decisions;”
3. the family “is the place where we *become* our gendered selves;” and,
4. “the division of labor within the gendered-structure family raises both practical and psychological barriers against women in all other spheres of life” (p. 111).

VI. Vulnerability by Marriage

A. *Theoretical Structure:* Okin briefly recounts and adopts a theoretical account of power in relationships that developed by Robert Goodin and Albert Hirschman. The account involves measuring the asymmetrical vulnerability of the parties to harm upon withdrawal from the relationship.

B. *Thesis:* “[I]n crucial respects, gender-structured marriage *involves women in a cycle of socially caused and distinctly asymmetric vulnerability*” (p. 138, emphasis in original).

1. *Vulnerability by Anticipation of Marriage:* In a society with gender-structured marriages, young women feel forced to choose between being a mother and having a fulfilling career. Boys are not confronted with the corresponding choice.
  - a) “The typical route for women is still to finish their education with high school and marry and have children in their early twenties” (p. 144).
    - (1) Okin doesn’t mention here (though she talks later of women’s educational achievement “becoming equal to men’s” (p. 144)) that over half of college undergraduates are female and this has held true for quite some time. Thus, if

this describes the typical route of women, it describes the typical route for men, too.

- b) Women who work full-time, year-round jobs earn significantly less than men who work full-time, year-round jobs.
  - (1) "Occupational sex segregation cancels out women's educational advances" (p. 144).
    - (a) *Okin's Fallacy*: Okin points out that jobs in administrative support have little chance for real advancement. "Almost 30 percent of employed women worked in this category in 1985 compared with fewer than 6 percent of men" (p. 145).
      - (i) By not listing such male dominated jobs as miner, road construction worker, manual laborer, assembly line worker, Okin leaves the impression that most men have jobs with far better prospects for advancement.

## 2. *Vulnerability Within Marriage*:

- a) The gendered workplace works hand in hand with the gendered family to disadvantage women.
- b) Housework
  - (1) The division of housework in the gendered family is raises issues of justice.
    - (a) It is highly correlated with a natural feature of persons (sex) and, so, suspect on liberal grounds—and certainly particularly on Rawlsian grounds.
    - (b) It tends to be "quite complete and long-standing."
  - (2) Gender related inequities in work (both housework and paid labor)
    - (a) Full-time housewives (about 2/5 of married women who live with their husbands) work less than their husbands (49.3 hrs/wk vs. 63.2 hrs/wk).
    - (b) Women who hold part-time paid jobs, work about 8 hrs less per week than their husbands.
    - (c) However, Okin adds, even here, housework is worse than paid work for a number of reasons:
      - (i) Much of it is undesirable (though Okin admits that this is true of much wage work, too).
      - (ii) It is unscheduled and requires being "on call" 24/7.
      - (iii) It is hard to change jobs.
    - (d) Many of the disadvantages of housework stem from its being unpaid work.
    - (e) Married women who are working full-time do significantly more work (both paid and unpaid) than their spouses. One major study finds that such women work a total of 71.1 hrs/wk vs. 64.9 hrs/wk by their husbands.

- (i) Okin attributes this to a power imbalance on the grounds that most people don't like doing housework, most women who do more than 60% of the housework say they would prefer that their husbands do more of it, higher income husbands do the least housework (which suggests that the power of the higher income is used to compel wives to do the unpleasant work), and the resistance of husbands to doing housework is well documented.
- (ii) Comments:
  - (a) Okin totally ignores women's choices as playing a role in these results. Here are some factors to consider:
    - (i) I know of no study that has been done of the amount of time single women and single men spend on housework. I would suspect that single women tend, on average, to do more housework than single men. If that is so, it probably reflects a difference in priorities (perhaps largely the result of social conditioning). But, if this is true, then the insistence that men, when they marry, should do as much housework as their wives is just a way of insisting that women's priorities are equally born by both men and women. (Remember, the fact that housework is necessary does not show that *all* housework—or even any given level of housework—is necessary.) Gupta's study is relevant here, though. On average, men decrease their household work when they form a couple with a woman; women increase theirs when they form a couple with a man. This suggests that housework is being shifted to the woman. However, men typically work more hours at their job when they are married and especially when they have children. So it is not clear whether the shift is a matter of male dominance or a mutual strategy for maximizing household income.
    - (ii) Several studies have shown that, with respect to housework and (especially) child rearing, many women engage in "gatekeeping." (See, for example: "Maternal Gatekeeping: Mothers' Beliefs and Behaviors that Inhibit Greater Father Involvement in Family Work" by Sarah M. Allen and Alan J. Hawkins, *Journal of Marriage and the Family*, 61 (February 1999): 199-212.) That is, many women would like *help* but they most definitely do not want to be upstaged. They want a "junior partner" or assistant. Gatekeeping can take many forms—from ridiculing the way a man loads the dishwasher, to taking a crying child from its father's arms to comfort it oneself.
    - (iii) 'Gatekeeping' exists because many women have identified with housework and parenting. As a result, many women

choose to be the primary caregiver of children and to be in charge of the household.

- (iv) Okin talks about husbands who discourage or forbid their wives from working; however, many husbands would like help supporting their families financially and want their wives to work. (Still, if the wife chooses to stay at home, she will receive social support that would not accrue to the man if he made a similar decision. Women have the socially sanctioned choice to work or stay at home or do some mixture of the two. Men are socially suspect if they don't work full-time.) Okin recognizes this in passing (p. 144, top) but doesn't seem to think that this constitutes any significant disadvantage for men. Okin also notes (p. 143, bottom) that men do not face the choice women do of "having a career or a family but not both." Men can have both. But she doesn't explore the implications of the fact that men don't have the (socially sanctioned) choice of staying home with their children. A choice that a surprising number of men say they would take if they could.
- c) *Power in the Family*: Despite a rise in "egalitarian" marriages, husbands still have significantly more power in marriages than wives.
- (1) This power imbalance is more extreme when the incomes of the spouses are greater (p. 158).
    - (a) Okin comes close to committing a possible causal fallacy here, and certainly invites the reader to commit one. It is not at all clear that the difference in income is the cause of the difference in perceived power. (By the way, *perceived* power is what Blumstein and Schwartz appear to measure—not power.) It may well be that in marriages with such differences in income, the man is considerably older than the woman (compared with marriages with more equal income), or the man is more aggressive, or the man and woman hold more traditional values. Each of these has some intuitive plausibility as (a part of) the causal story.
  - (2) Because the woman working is often seen as "optional" there may be a disagreement over whether she should work. Men working paid jobs is "taken for granted (a 'nondecision')."
    - (a) Interestingly, in part because she only considers the possibility that the disagreement is one in which the woman wants to work and the man does not want her to work, as a way in which women are disadvantaged. But, of course, what Okin calls a "nondecision" is, by that very fact, also a *nonchoice* for men.
3. *Vulnerability by Divorce or Separation*: Okin argues, unfortunately relying partly on what is now known to be very flawed research, that women are significantly disadvantaged by divorce and separation.

- a) Okin notes the psychological distress accompanying divorce and separation but claims that “in women’s lives, the personal disruption caused by these events is frequently exacerbated by the serious social and economic dislocation that accompanies them” (p. 160).
- (1) She does not note, though, that research indicates that the psychological distress is not equally divided between the sexes. Men suffer more psychological distress—and for a longer time—than do women. (See the studies cited by Sanford Braver in chapter 6 of *Divorced Dads: Shattering the Myths*.)
    - (a) Some studies indicate that divorced fathers are 10 times more likely to commit suicide than divorced mothers.
  - (2) Okin cites Lenore Weitzman’s research that concludes that after divorce, the standard of living of fathers increases by 42% and the standard of living of mothers decreases by 73%. Shocking if true, fortunately, what is shocking about these statistics is how wrong they are. Weitzman’s research is completely discredited for several reasons:
    - (a) *Weitzman’s Blunder*: She apparently made an elementary mathematical mistake in reaching her conclusion. (She appears to have confused a drop *to* 73% of the former standard of living with a drop *of* 73% from the former standard of living.)
    - (b) *Inadequate Methodology*: Weitzman’s sample was small and unrepresentative in various respects. Her results were not peer-reviewed prior to publication. She refused to release her data for years after the publication of her book. Her methodology did not consider that child support income is tax exempt, that residential parents typically get a tax credit for child care expenses (even if these are paid, by court order by the other parent), that single parent “heads of households” are taxed at a lower rate than single parents who are not “heads of households,” that residential parents typically receive the tax exemptions, that low income single parents can receive a significant “earned income credit” that doesn’t show up as income. It also doesn’t consider the fact that most divorced mothers do not bear all of the expenses of raising their children. Nonresidential parents (over 90% fathers), bear a significant expense on their children which Weitzman’s research does not credit them with. And this expense by the nonresidential parent reduces the expenses for the residential parent (though not on a dollar-for-dollar basis, of course). Weitzman doesn’t consider this in calculating the standard of living of the residential parent, either.
  - (3) The economic disadvantage results (Okin follows Weitzman in claiming) from the tendency to treat men and women equally upon divorce when they are not equally situated. This is a “false equality” for several reasons (Okin alleges):
    - (a) Women typically take on the day-to-day care of the children. Okin argues that this is “usually the outcome preferred by both parents” (p. 162).
      - (i) Okin cites no basis for the latter claim. Usually those making claims like this cite court studies. However, such studies are flawed for a number of reasons:

- (a) There is no large-scale study of what sort of custodial arrangements people ask for at the trial court level. Such cases are not published and it is a time-consuming job to scrutinize court records to determine what each party has asked for.
  - (b) Studies of appellate court decision (which are published) are highly unrepresentative on a number of grounds.
  - (c) This methodology ignores the phenomenon of “adaptive preferences” (a concept with which Okin is surely familiar). Preferences are considered adaptive when they reflect the subject’s adjustment of her/his preferences to what s/he believes is possible. (The phenomena of “sour grapes” and “sweet lemons” are instances of adaptive preferences.)
  - (d) But the matter is really much worse than this. Even if fathers do not adjust their preferences—that is, even if they remain clear in their own minds about what they want—they often adjust what they ask for based on what they believe is possible in a gender-biased court.
- (b) No-fault divorce laws disadvantage women by depriving them of the power the once could exert as “innocent” and less willing parties to the divorce—this makes it difficult for them to get an equitable division of the couple’s tangible assets.
    - (i) Okin ignores what Sanford Braver calls the “dirty little secret of divorce research”—that most divorces are desired and initiated by women. Women are not, *First Wives’ Club* portrayals to the contrary notwithstanding, typically, “less willing parties to the divorce.”
  - (c) Even when tangible assets are divided equally, women are often treated unfairly because for many couples, the most valuable asset is the future earning capacity of the two people and this earning capacity is not equally divided.
  - (d) Alimony is ordered infrequently and at levels that are too low.
  - (e) Child support is too low, not voluntarily paid frequently enough and not adequately enforced.

## VII. Toward a Humanist Justice

- A. *Okin’s Assertion*: “Any just and fair solution to the urgent problem of women’s and children’s vulnerability must encourage and facilitate the equal sharing by men and women of paid and unpaid work, of productive and reproductive labor” (p. 171). She advocates as an ideal an androgynous society in which there are no divisions of labor or social roles based on one’s sex.
  - 1. *The Rawlsian Appeal*: Okin claims that, in the original position, “we would arrive at a basic model that would absolutely minimize gender” (p. 175).

- a) *Criticism:* This claim may be correct, but Okin presents no argument for it whatsoever. Okin's attempt to appeal to a Rawlsian argument for her conclusion is flawed in a number of respects.
- (1) As she mentions in a footnote, she believes that "it is probably more difficult for us, having grown up in a gender-structured society, to imagine not knowing our sex than anything else about ourselves" (p. 174). As I noted earlier, this doesn't cast doubt on the Rawlsian theory or its "in principle" application of issues of gender. But it does cast doubt on our ability to use it successfully as Okin tries to do.
  - (2) Her account of Rawls's theory is extremely sketchy and, since Rawls doesn't apply the theory to issues of "gender justice," we have little idea how to test the truth of Okin's claim about what would be agreed to in the original position.
  - (3) She seems insufficiently sensitive to the effect that *general* truths about psychology could affect the conclusions she draws.
    - (a) While she is right that the "veil of ignorance" would deny us "knowledge of our beliefs about the characteristics of men and women" (p. 174), it would not deny us knowledge about the *true* characteristics of men and women. If the beliefs of "traditionalists" would support a conclusion different from Okin's, then she will have to argue that *in the original position* people would not hold this other belief. That requires her to argue that her conceptions about the natural differences between men and women are the *true* ones. She doesn't do this, or even seem to recognize the need to do it.

B. *Okin's Recommendations for the Ideal Society:* Based on this ideal of an androgynous society with respect to divisions of labor and social roles, Okin makes several recommendations.

1. *Equally Shared Parenting:* Okin argues for a presumption that both parents would share parenting responsibilities, both economic support and direct care, equally. Many of her further recommendations are made based in part on their capacity to facilitate this goal.
  - a) While there is some discussion of the financial responsibilities of divorced and unmarried fathers, there is no mention of responsibilities of unmarried and divorced fathers for the direct care and nurturing of children. And she seems to presume that, upon divorce, one parent will get sole custody (p. 179). It would seem that a full commitment to equally shared parenting would require steps to ensure that unmarried and divorced fathers are not denied the chance to develop and maintain a parenting relationship with their children. (This conclusion is supported by her concern to undermine traditional gender stereotypes, too.)
2. *Reorganizing Work Life:* Okin argues for a number of proposed changes to the workplace to facilitate the goal of equally shared parenting. These changes include flexible work schedules, parental leave time, and mandatory childcare facilities.
3. *Eliminating Gender Stereotypes:* Okin addresses issues of preferential treatment forms of affirmative action in the context of education, but her discussion suggests that it applies generally. Noting that the overwhelming majority of elementary teachers are women and almost all school superintendents are men, she says, "sex should be regarded as a relevant

qualification in the hiring of both teachers and administrators, until these proportions have become more equal" (p. 177)

- a) Presumably this means that school districts should give preference to men for elementary school teaching positions over otherwise better qualified women. She doesn't discuss it, but her position would seem to suggest, as well, that male parents be given preference in the award of custody of children of divorce over otherwise better qualified female parents until the current imbalance in custody arrangements are more nearly equal. (Currently, over 90% of sole custody cases are maternal custody. [See page 173.]

4. *Education for "Gender Just" Society*: "Children need . . . to be taught about the present inequalities, ambiguities, and uncertainties of marriage, the facts of workplace discrimination and segregation, and the likely consequences of making life choices based on assumptions about gender" (p. 177).

### C. The Benefits of a "Gender Just" Society

- D. *Justice in an Imperfect World*: Given the fact that many would choose a "traditional" division of labor in a marriage, several things have to be done to protect women and children from the choices that these traditionalists make. "Gender-structured marriage . . . should be subjected to a number of legal requirements, at least when there are children" (p. 180).

1. *Equal Shares of Earned Income*: Both partners should have a legal entitlement to all income. "The clearest and simplest way of doing this would be to have employers make out wage checks equally divided between the earner and the partner who provides all or most of his or her unpaid domestic services" (p. 181).

#### a) Criticisms:

##### (1) Interventionism:

- (a) Okin claims that "this proposal does not constitute unwarranted invasion of privacy or any more state intervention into the life of families than currently exists" (p. 181).
  - (i) However, it is certainly more "interventionist" in the employer/employee relationship. Since employers are certainly currently allowed to split checks now, her proposal must be to *require* employers to do this. Would they be required to first determine whether the spouse or "domestic partner" does, in fact, "provide all or most of [the employee's] . . . unpaid domestic services" (p. 181)?

##### (2) Unfairness:

- (a) *In Comparison to Other "Domestic Partners"*: Should the "domestic partner" of a person earning \$300,000 a year with one child and plenty of paid assistance to do this receive 10 times the income of a "domestic partner" of a person earning \$30,000 with five children and no paid assistance? Okin's claim that the "currently unpaid labor of families is just as important as the paid labor" seems to violate an "equal pay for equal work" (or a "comparable pay for comparable work") requirement.

- (b) *In Comparison to the Income Earner:* Okin wants to “to insist that the earnings be recognized as equally earned by the two persons” (p. 181), but she gives no argument to show that they are.
  - (3) *Adverse Practical Implications:* Okin doesn't consider any adverse practical implications of such a policy. While we can't know what all the practical implications of her proposals would be, she isn't shy about discussing the beneficial practical implications without any empirical evidence. Some possible adverse practical implications to consider include: the possibility that Okin's proposal would impede the progress toward the sort of genderless society she idealizes by providing an alternative to being individually financially responsible for oneself and one's children which some would find more attractive; and the possibility that the proposed system would make it far less likely that high income people would be willing to marry or establish a domestic partner relationship.
2. *Alimony and Child Support:* Okin claims that child support and alimony should be higher than they presently are. She doesn't say what level they are presently set at or upon what basis it is determined so this is a difficult claim to analyze. (And, of course, there have been significant changes in the laws concerning alimony and child support since Okin's book was published.) She does, though, once again apparently assume that, upon divorce, there will be a sole custodial parent. This seems inconsistent with her ideal of ensuring that both parents share equally in child rearing.