

Love and Justice

Love and justice might seem to be fundamentally opposed, alike only in their blindness. Even this one similarity serves to highlight their deep differences. Justice is blindfolded so that it can be meted out to persons impartially, without fear or favor, looking only to the right and wrong of an action and not to the particularity of an agent. Love, on the other hand, is blind in its cleaving to the particular loved one, despite any faults, in reckless disregard of the merits. What love is blind to is justice, one might say, just as justice is blind to love.

Love and justice have come to be associated with two spheres, and with the two genders. Love is the province of hearth and home, of the domestic sphere, presided over by women; the ideal of justice regulates the world of business and politics, the marketplace and public forum, the world of men. But even as we now challenge such gender-typing, and argue for a blurring if not an eradication of gender roles, we can also question the separateness of the two spheres, and, in the context of the family, as we shall see, the opposition between love and justice themselves.

The Family: Not Just, but Better than Just

The view that justice and love are appropriate to different spheres has a venerable pedigree. In the eighteenth century Hume argued that the virtue of justice is properly engaged only under certain circumstances, characterized by the scarcity of resources and the basic self-interest of human motivation. In the absence of either of these two conditions, justice would be rendered unnecessary. If we had unlimited stuff to divvy up, Hume suggested, we would hardly bicker about who got what. Likewise, we would have no need of the "jealous, cautious virtue of justice" were "the mind . . . so enlarged, and so replete with friendship and generosity, that every man has the utmost tenderness for every man, and feels no more concern for his own interest than for that of his fellows; it seems evident, that the use of justice would, in this case, be suspended by such an extensive benevolence, nor would the divisions and barriers of property and obligation have ever been thought of." For Hume, the family represents an example of such enlarged affections, a sphere where justice is unnecessary.

In claiming that the need for justice arises only where feelings of friendship and generosity are insufficient, Hume reflects a strand of philosophical thought that goes back at least to Aristotle, who wrote that "if people are friends they have no need of justice." One difference between these two, however, is that where

Aristotle thought it a proper goal of the state to help man realize his virtues and develop such bonds, Hume and other—male—Enlightenment philosophers took the circumstances of justice for granted. Their political and moral theories are developed against a background assumption of self-interested individuals competing for scarce resources, laying the foundation for contemporary liberal political theory, with its emphasis on equality, individual rights, and social justice.

At the time that Hume and his contemporaries were developing a conception of justice for modern public life, the institution of the family was developing into its present form. In contrast to the cheerless and bleak communal life of the Middle Ages there arose the idea of home as we recognize it today, a haven in a heartless world, marked by the emergence of privacy, intimacy, and comfort—of domesticity. This development, according to architectural historian Witold Rybczynski, was primarily the work of women. The eighteenth century home "was becoming a feminine place, or at least a place under feminine control." The domesticity it introduced, which Rybczynski traces through such diverse representations as Dutch genre paintings and Jane Austen's novels, is very much part of the idea of home we hold today—a domesticity which, Rybczynski concludes, "was above all, a feminine achievement."

Men developed theories of justice, from which the family was explicitly excluded; women developed the reality of family life. And the idea of home came to be characterized by intimacy not independence, domesticity not democracy.

The Feminist Revolt: Justice, Please

Of course after a while people—that is to say, women—couldn't help but notice that home and family as a sphere apart from justice were maintained not only through the initiative of women but also largely at women's expense. The elimination of any division between mine and thine that characterized family life, however appealing in theory, in practice gave way not to "ours," but to "his." As John Stuart Mill trenchantly observed: "the two are called 'one person in law,' for the purpose of inferring that whatever is hers is his, but the parallel inference is never drawn that whatever is his is hers."

Women were both excluded from the public sphere, on the grounds that some male representative of the indivisible family unit spoke for them, and treated unjustly within the family as well. The domesticity and comfort that Rybczynski celebrates, the cleanliness and order, didn't arise of its own accord, or by fairy hands.

Someone had to wield that mop, that broom, that toilet bowl scrub brush, and almost invariably that someone was female.

In recent decades the women's movement has lobbied simultaneously for the inclusion of women in the public sphere—for equal opportunity across occupations and for greater representation of women in political life—and for justice within the family. Some feminists insist that husbands should pay cash wages to stay-at-home wives for housework and child care, which they see as work like any other and as worthy of recompense. We have seen an extension of a contractarian framework to marriage, ranging from formal prenuptial agreements to job assignment lists posted on family refrigerators. Moms have gone on strike, demanding the basic protections afforded to workers in other—less demeaning?—occupations. The view of the family as providing a refuge from crass commercial and political concerns has been charged to be a sentimental facade masking a tyranny: when every man's home is his castle, every man is a king and every woman, a maid. It began to seem to many women not a bad idea to foreswear what Hume called the “nobler virtues, and more favourable blessings” that characterized family life. Women would be willing to settle for a little less love and cherishing, in exchange for a little more fairness and respect.

Beyond Justice, to Caring

Feminism has not raised a unanimous voice, however, in favor of justice supplanting love. As some feminists have sought to remake family life on the model of the political and commercial world, others, also claiming the feminist flag, have sought to defend the importance of caring and sharing and community as distinctively female contributions to our moral life. Their goal is not to make mothers more like businessmen and congressmen, but to make sure that more businessmen and congressmen are mothers: to define and celebrate and finally to enlarge the scope of traditional feminine influence.

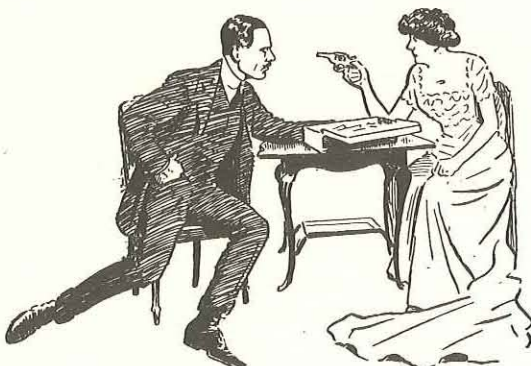
Looking at the distinctive contributions men and women have made to moral philosophy, Annette Baier notices a “broad brushstroke” approach in predominantly male theorizing that centers on “what

has been the men theorists' preoccupation, namely obligation.” But, Baier notes, there is “a lot of morality not covered by that concept.” Most liberal theories contain “only hand waves concerning our proper attitude to our children, the ill, to our relatives, friends, and lovers.” Baier concludes that by more or less renouncing theorizing on a grand scale in favor of a more context-situated “ethics of love,” female philosophers can be seen as filling in the gaps and perhaps laying a new foundation for moral theory.

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Feminist psychologists like Carol Gilligan have made respectable the notion that, in their moral reasoning, women just think differently from men. Men typically view moral problems in terms of rights, justice, and fairness; women, in contrast, tend to approach moral problems by exploring the human interrelationships at stake in them, emphasizing the importance of community and harmony. On traditional scales of moral development, the female concern with particular individuals caught in the web of actual relationships has ranked lower than the male concern with abstract moral principles. But Gilligan suggests that the two approaches to moral thinking should not be ranked as better or worse, but appreciated as complementary.

Nor are women alone in defending the importance of values other than justice. Michael Sandel, a critic of contemporary liberal political theories, writing on the relation between love and justice, asks us to consider two families. In the first, “relations are governed in large part by spontaneous affection and where, in consequence, the circumstances of justice prevail to a relatively small degree. Individual rights and fair decision procedures are seldom invoked, not because injustice is rampant but because their appeal is preempted by a spirit of generosity in which I am rarely inclined to claim my fair share.” Now, Sandel says, “imagine that one day the harmonious family comes to be wrought with dissension. Interests grow divergent and the circumstances of justice grow more acute. The affection and spontaneity of previous days give way to demands for fairness and the observance of rights. And let us further imagine that the old generosity is replaced by a judicious temper of unexceptionable integrity and that the new moral necessities are met with a full measure of justice, so that no injustice prevails.” Would we see the second family—with its strict but sullen adherence to rules and regulations—as a moral improvement on the first? Sandel would not.



Just as academic thinkers are rediscovering the territory of love, so is family life enjoying its own renaissance. Families are "in." Headlines announce that commitment and marriage are "back," with the current baby boomlet placing concerns about family and children at the center of the national policy agenda. Both female and male workers are demanding more flexible work hours and on-site day care: some acknowledgment by employers and government that family comes—well, if not first, then at least not out of the running. Is the "me" decade giving way to the "we" decade, as a new "familialism" replaces the old rights-centered individualism, and love takes pride of place over justice?

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Yet whatever central place we may give to family life, its costs are still borne primarily by women. Women still earn only 71 cents for every dollar earned by men—a differential explained both by discrimination in the workplace and by women's heavier share of domestic responsibilities that compromise their participation in the work force. We may give lip service to gender equality in the home, but Arlie Hochschild, professor of sociology at the University of California at Berkeley, reports that only 20 percent of couples split household tasks and child rearing equally. Squabbles



over housework are beginning to replace squabbles over money as the leading subject for discord in marriage; Hochschild documents the powerful and corrosive resentment of women who find themselves stuck with the "second shift" of housework. Debates about justice in the family refuse to disappear.

Nor, of course, are most women willing to renounce concerns about justice in the wider world, whatever distinctive role they may hold in the domestic sphere. Philosopher Onora O'Neill reminds us that women's lives inescapably have political and economic dimensions, and she insists that "even if we find commonalities in women's experience, take them at face value, and use them to construct a moral voice that is to replace the voice of justice with the voice of care and concern for relationships, we will still need to say something about the political and economic context of women's lives. An ethic of caring and relationships will be adequate only if we assume lives that are confined to the nursery or the boudoir."

But what of the nursery and the boudoir? Do we want to say, with Aristotle and Hume, that when we are in a domain governed by love, we need not worry about justice? What do love and justice, in the end, have to do with each other?

In her new book, *Justice, Gender, and the Family*, Susan Moller Okin suggests that the appearance of a deep and abiding conflict between love and justice arises from our misunderstanding the way these two values might

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be related. Okin questions the assumption that "justice somehow takes away from intimacy, harmony, and love." She asks, "why should we suppose that harmonious affection, indeed deep and long-lasting love, cannot co-exist with ongoing standards of justice? Why should we be forced to choose and thereby to deprecate the basic and essential virtue, justice, by playing it off against what are claimed to be higher virtues?" Okin answers that a realistic view of the family, sensitive to the long-standing gender-patterned injustices within it, allows us to conclude that we can insist on justice in families at the same time that we hope for more from them: "We need to recognize that associations in which we hope that the best of human motivations and the noblest of virtues will prevail are, in fact, morally superior to those that are just only if they are firmly built on a foundation of justice, however rarely it may be invoked."

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This last seems a crucial point. The noted philosopher John Rawls, whose liberal and egalitarian theory of justice has been both praised and criticized by feminists, draws an important distinction between the basic values of political life and our ultimate personal values. The goods associated with justice, Rawls concedes, are not "anyone's idea of the basic values of human life" and are "not intended as an approximation to what is ultimately important." What we care about most, our ultimate values, have to do with family, friends, religion, and the like. But because of our historical circumstances, the pursuit of any of these

values can and has led to tyranny, intolerance, and exploitation, and so our interactions, even in the domestic sphere, ought at least to conform to the demands of justice and respect, even if we may wish that they not be motivated by these concerns. We seek love when we marry and found families, not increasingly complex ways in which we can learn to treat each other justly. We want justice to be the foundation, not the focus, of family life.

But in loving relationships people not only find intimacy, they also discover new ways to step on each other's toes, violate each other's dignity, and show a lack of respect. Not only love and justice, but people too are often blind. They are, for a variety of reasons, blind to the hurts they cause. When our partners show us how we have hurt them or acted selfishly, they are calling for justice as well as love. If justice is not the focus of loving relationships, it must still be a continuing concern: like freedom, it requires eternal vigilance.

When Aristotle wrote that friends have no need of justice, we should recall that he took for granted that the highest form of friendship was reserved for the leisure-filled lives of aristocratic males. In our time men and women, heirs to a long legacy of gender-based in-

justice both within the family and in the world beyond, have been forced to become uncomfortably specific about who owes what to whom and why. Our hope can be not that we will somehow get beyond justice, but that we can get beyond talking about it so often and so stridently. Justice should be the basis of loving relationships, not the topic for daily dinner conversations. But we may be in for a lengthy stretch of domestic strife and reorganization before our family lives can give both love and justice their due.

—Douglas MacLean and Claudia Mills

Sources cited in this article are: David Hume, *Enquiry Concerning the Principles of Morals*; Aristotle, *Nicomachean Ethics*, Book VIII; Witold Rybczynski, *Home: A Short History of an Idea* (New York: Viking Penguin, 1987); John Stuart Mill, *The Subjection of Women*; Annette Baier, "What Do Women Want in a Moral Theory?" *Nous*, vol. 19 (1985); Carol Gilligan, *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982); Onora O'Neill, "Friends of Difference," *London Review of Books*, (September 14, 1989); Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982); Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989); and John Rawls, "The Priority of Right and Ideas of the Good," *Philosophy & Public Affairs* 17 (1988).

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