2.1: Introductory Observations

Feminist theorists are increasingly pointing out the lack of adequate gender-sensitivity and the gender-biases in mainstream political theory. They argue that the conceptual terrain that forms the basis for political theory and philosophy is rendered inadequate when seen from a gendered perspective. It is for this reason that mainstream theory is considered inadequate or deficient in addressing issues of justice for women. Jones and Jonasdottir note:

Until women's studies scholars began to produce their own readings of classical theory, the secondary literature also remained almost totally silent about what the classical philosophers wrote about women, men and the family, as well as about the connection between these topics and their political theories.¹

Hence an important task for feminist theory was to bring out the gender-biases in mainstream discourses, analyse the basis for these biases and the repercussions it had on women. Feminists seek to challenge the notion that
the concepts central to political thought are value-neutral as claimed by mainstream theorists. These concepts according to the feminists have represented the values and interests of men. Jones and Jonasdottir point out this bias in mainstream discourse in the following words:

The definition of central concepts in political analysis is the result of complex historical and political processes; these work to illuminate and privilege specific dimensions and meanings of human discourse and activity, while at the same time hiding others.  

The development of feminism has been uneven. One notes the deep theoretical divisions within feminism, which reflects the varied concerns of feminist theory. Hence we can identify a number of feminist positions or varieties of feminism. These include liberal, Marxist, radical, socialist, psychoanalyst and post-modern. These positions differ in their analyses of women's subordination and in their suggestions to correct this condition. However all feminists analyses seek to question the ubiquitous subordination of women in all societies and all spheres of life.

Feminist critics argue that in mainstream political theory women are either absent or present only in a position of subordination. Early feminist writers
worked within the existing theoretical frameworks like the liberal, socialist or utilitarian. These early writers called for the extension of the principles of these traditions to women. In doing so they retained the basic assumptions like the distinction between the public and the private or the sexual division of labour within the family.4

However contemporary feminist writers and theorists question the fundamental assumptions of these frameworks. Feminists criticise political thought for being a key factor in not only justifying women's secondary position but also reinforcing it. This accounts for the public invisibility of women. Along with these criticisms, there has developed an understanding among the feminists that the gender-insensitivity of political thought was due to the absence of theorisation of areas that reinforced this subordination, like 'patriarchy', 'family', 'body' or 'sexuality'. The inclusion and thematisation of these concepts has allowed feminists explain causes of the subordination of women and their absence from public-political discourse. But more importantly it has facilitated the creation of spaces for women within mainstream discourse. Some feminist theorists also argue that the existing political concepts lack adequate gender-sensitive and are limited in addressing issues of discrimination against women. These feminist
theorists thus suggest alternatives to mainstream theory and concepts, for instance suggesting care as an alternative to justice.

The engagements of feminist political theory thus can be stated as a three-fold exercise, namely:

- Feminist theory criticises the way in which mainstream political theory excludes women and their concerns from its scope. Feminist theorists have brought out the gender biases in major political concepts.

- While critiquing mainstream theory, feminists have also suggested improvements in theory so as to accommodate women’s perceptions, experiences and interests. This includes the systematic thematisation of concepts absent hitherto from political theory.

- A major contribution of feminist political theory has been to offer alternatives to some aspects of mainstream political theory.

While I have divided the concerns of feminist political theory as indicated above, these three very often overlap in that a particular feminist argument could be a critique, an improvement and an alternative to mainstream theory.
2.2: Some Feminist Critiques of Mainstream Political Theory

Feminist scholars today are bringing out the gender biases within and the exclusionary nature of mainstream political discourse. In this section I discuss the gender-biases and insensitivity in the writings of some important political theorists and philosophers. From its very inception, mainstream political theory and philosophy has been exclusionary for women. This exclusion was twofold: the exclusion of women from political theory and activity and the exclusion of the concerns of the household from the scope of political theory.

The exclusion of women from the political was premised on their emotional and intuitive nature as against the modern, rational self of man. This emotional and intuitive disposition, according to mainstream theorists, made women inherently unsuited for rational political activity. The exclusion of the household was based on the public/private distinction that informs political theory. Since the family and household fell within the private realm, its concerns were not included in the purview of political theory, which is concerned with the public sphere. While such exclusion worked at the relegation of women to a secondary position within the household, it also
widened the public/private rift. Both of these have made justice for women a major concern for contemporary political theory and philosophy.

Aristotle asserted the *polis* as the most sovereign, final and perfect of associations, which was directed to a good life. He however defined the household as 'other', and as opposed to the *polis*. While the political space denoted the culmination of human development, it was continued to be defined as distinct from and contradictory to women’s sphere of activity. This resulted in undermining women’s contribution to political thought even after people began rejecting women’s natural inferiority to men.

Such gender-bias and exclusion is also found in the writings of the social contract theorists. Diana Coole observes that there are broadly two feminist critiques of social contract theories. The first one deals with aspects of citizenship. The way in which a citizen is defined in these theories determines who participates in the contract and also determines the terms established for social and political status. A corresponding feature of this contention is the way in which women are excluded from civic life according to the contract. The second feminist critique of the social contract analyses the social relations that the contract creates in a liberal society. It is critical of the assumptions regarding the orientations and capabilities of the
individuals participating in the contract; Coole notes: "In this context, and in line with developments within feminist theory, there has been a shift from analysing the place of actual women within the contract to interpretation of contractarianism as a mode of discourse that privileges masculinity as a norm".  

Thus she calls social contract theory as a discourse of exclusion. Such exclusionary features mark the writings of Hobbes, Locke and Rousseau. They define the state of nature as based on egalitarian premises, thus refuting the presence of natural patterns of authority. Individuals in the state of nature are assumed as having equal status and ability. Nonetheless, as Coole notes, "in every case, women end up in patriarchal families and are more or less explicitly excluded from participation in the contract and full citizenship". Another common feature of the three contractarians is that they have distinguished between political associations that are a result of the contract, and familial relations which they perceive as natural; thus between the public and the private.

Hobbes' state of nature describes women as equally desirous and engaging in the 'war of all against all’. However, the conclusion of the social contract assumes women’s subordination as based on rational consent, that is women
rationally choose to be in a position of subordination. In other words, due to their natural physical weakness, women accept the husband's authority. A similar failure to include women is visible in Locke's social contract. In a discussion on the state of nature or on the civil society, Locke does not indicate that women are included among the naturally free and equal individuals who form the basis of his theory. 'Individuals' for him meant males. Thus an individual who enters a social contract cannot be a person 'fitted only for subordination', as women have been described in mainstream discourse. The individuals concluding the contract were fathers of families, and women were concluded by their husbands.

Locke's contract theory also distinguishes between political institutions and the family. However, Locke mentions another kind of relationship — the conjugal, which according to him is a result of the contract. Yet with respect to family property, Locke says that within the family there can be only one authority, which is male. Thus he supports a patriarchal structure within the family. Coole notes that the terms of the contract imply that the women's consent in the marriage contract is considered inferior. Though the contract does not explicitly restrict women to the private sphere, their primary interests are shown to be satisfied within the private sphere.8
Both Hobbes and Locke assert that most political associations evolve historically rather than being established by a contract. The example Locke cites in this regard is the head of the family becoming the king, and the children accepting his authority and hence government. Hence Locke assumes the existence of a private patriarchy, which subsequently translates into public patriarchy.\(^9\)

An important feature of Locke's theory is that he placed human individuals ontologically prior to society. This, in the words or Alison Jaggar, means:

> Human beings are the basic constituents out of which social groups are composed. Logically if not empirically, human individuals could exist outside a social context; their essential characteristics, their needs, their capabilities and desires, are given independently of their social context and are not created or even fundamentally altered by that context. This metaphysical assumption is sometimes called abstract individualism because it conceives of human individuals in abstraction from any social circumstances. It is easy to see how abstract individualism influences the liberal conception of rationality as an essential characteristic of human individuals.\(^10\)
Such abstract individualism and impartialist reason formed the basis for concepts like ‘citizen’ and ‘citizenship’. It is clear from the writings of the social contractarians that women were considered devoid or incapable of such rationality. Hobbes and Locke depict women as possessing equal natural rights, and hence natural equal rationality, in the state of nature, but the post-contract phase depicts women as submitting to the authority of men. Thus natural equal rationality of women in the state of nature is diluted by the fact that women are considered incapable of registering their consent while concluding the contract.

According to Locke women being naturally weaker than men and having consented to marriage, are unable to sustain or further develop their rationality. Under such a circumstance they come to be excluded from active citizenship, and hence play no part in the social contract. The contract for women is concluded by their husbands.

Unlike Hobbes and Locke, however, Rousseau refutes the natural equality of men and women. It is quite evident from his writings that there exist natural differences between men and women. By virtue of these differences, women occupy a subservient and subordinate role within the family, which also justifies their exclusion from political life. The nature of women,
according to Rousseau makes them fit only for dependence and servitude, and not for education or becoming independent citizens of a participatory community like the one he envisages.

An important aspect of political life in Rousseau’s contract is the concept of the General Will, which he defines as “an expression of the active and continuous consent of all citizens”\textsuperscript{11}. However passages from \textit{Emile} make it clear that Rousseau’s General Will does not include women. Indeed he considers women incapable of transcending their particular wills, and thus lacking the “autonomy, judgement and capacity for abstract reasoning” to express their consent in the contract. He argues that women cannot gain the self-mastery that is necessary to develop a ‘constant will’. Coole observes that according to Rousseau femininity is a “combination of modesty, chastity, docility, submissiveness, coquettishness, cunning, heteronomy and irrationality. It is to be reinforced nevertheless by an appropriate education and a firm male hand”\textsuperscript{12}.

Education for women in his view should concentrate on appearances and purely personal relationships. He advises them to use deceit and cunning to gain their desires within the family. This meant that women not only stood outside political life but also posed a permanent threat to it. Moreover since
the life of a women is completely bound up by a family, they also act as a standing temptation to their husbands in faltering their citizenship. If so, the family becomes one of those ‘sectional associations’, which try to subvert the formation of the General Will. Thus Rousseau makes a distinction between the family as a non-political institution and political life.

Coole notes: “Because Rousseau’s social contract entails active and ongoing participation rather than being the one-off or tacit affair of Hobbes or Locke, women’s exclusion has far more significant consequences for social arrangements generally”. Rousseau described femininity as contrary to citizenship and hence it was important for him to define a society that was strictly regulated on gender lines. Thus he employs a set of clear opposition like masculine/feminine, public/private, culture/nature, universal/particular that are characteristic of mainstream political discourse.

Kant’s contribution to moral theory is that only duty based on reason has true moral worth. This very idea facilitated the growth of dichotomies, like reason/emotion, male/female, and public/private. Kant finds women’s actions amiable, proper and deserving praise and encouragement, but not worth giving esteem. According to him women will avoid what is wicked not because it is ‘unright’ but only because it is ‘ugly’. He had declared: “I
hardly believe that the fair sex is capable of principles”. This clearly distinguishes men’s work as bearing ‘true moral worth’ and women as ‘not worthy of esteem’.

Similar strong undercurrents of misogyny are found in Hegel. Like other political theorists he uses the term ‘individual’ to mean male members of a political community. Women in his view are not individuals since they are not capable of human development and the social education that makes a person obey a constitutional state. According to Hegel women lack such capability for voluntary obedience to the state. Pateman observes: “Hegel even goes to so far as to assert that women are like plants; they require development only sufficiently to be governed by arbitrary inclinations and opinions, and they are educated...by living rather than by acquiring knowledge”. He thus keeps women out of the state since they pose a threat to it. He even finds it doubtful whether women could be concluded by their fathers and husbands since they ‘naturally’ lack a ‘sense of social order’.

John Stuart Mill was probably the only philosopher of his time who showed concern for women and their condition in socio-political life. He was aware that the limits to women’s liberty, the meagre opportunities available for their self-development and the established relations between a man and a
woman worked greatly to the woman's disadvantage. He questioned the naturalness of differences between a man and a woman that caused gender inequality. His views on democracy led him to advocate vote for women and his thinking on liberty provided an insight into how various social conventions worked towards restricting women's development. Yet, Mill failed to see how the private relations could influence public life. Thus though he sought to bring women into public life, the fundamental problem of the family being reckoned as a private institution, and outside the limits of justice, still persisted.

These are only some of the criticisms that feminists have levelled against mainstream political theory. However it is important to mention here that this critical engagement of feminism with political theory occurred in conjuncture with various women's/feminist movements around the world. This complementarity between feminist theory and movements brought to light not only the inherent limitations of existing social/political discourses, but also highlighted the need to revise it in order to make it sensitive to women's needs and problems. In this sense, development in feminist theory drew from various aspects of women's movement and vice versa. This interdependence of theory and activism has helped gain an understanding of
women's needs, perceptions and interests and their articulation in political theory and practice.

Feminist critiques have targeted not only the liberal tradition for being gender-insensitive and gender-biased, but also other traditions like Marxism. Gender analysis has been in many ways likened to class analysis. Just as class analysis revealed how the social structure legitimised bourgeoisie interests, gender analysis reveals a similar legitimisation of patriarchal interests. In fact there is a close relationship between feminism and Marxism. While many feminist analyses draw from Marxist methods, feminism has also provided critiques of Marxism as a gender-insensitive discourse.

MacKinnon in her profound work on Marxism and feminism defines: "Sexuality is to feminism what work is to Marxism: that which is most one's own, yet the most taken away". Just as work divides the society into two classes, sexuality organises society into two sexes, men and women. With regard to this MacKinnon opines:

Sexuality is the social process through which social relations of gender are created, organised, expressed and directed, creating the social beings we know as women and men, as their relations create society.\textsuperscript{13}
While some feminist scholars assert that there is a degree of similarity between feminist and Marxist methods others refute any such similarity. Those asserting similarity argue that both feminism and Marxism are theories of power and the way it is distributed in society that creates inequality. "They provide accounts of how social arrangements of patterned disparity can be internally rational yet unjust". According to Marxism to be alienated from one's work is to render one powerless. Similarly according to some feminist scholars like MacKinnon to be deprived of one's sexuality results in powerlessness.

Marxism has continued to inspire feminist movements and methods in many ways. However the gender-blindness that Marxism assumes is often considered as gender-bias by the feminists. And so the relationship of feminism with Marxism is one of criticism in order to make the latter sensitive to women's experiences. Feminism shares a similar relationship with postmodernism.

Indeed the development of contemporary feminism is marked by its critical engagement with post-modern theory. The relationship between postmodernism and feminism has been by no means unambiguous or straightforward. The most important aspect of postmodernism is that it
questions the universally accepted meta-narratives and challenges their claims for universal emancipation. Feminist theory draws its critique of universal reason from postmodernism. Feminism challenges mainstream modern discourse as gender-biased and questions the emancipatory potential of this discourse for women.

Feminist political theory took over from the enlightenment period and formulated its goals and visions of emancipation. However it was soon realised that mainstream discourse following the enlightenment was exclusionary and feminist struggles for spaces within them fetched limited success. Hence since the 1970s, feminist post-structuralists have attempted to go beyond the liberal feminist goal of merely extending rights to women. They saw this liberal feminist project, as a rhetoric since the very terrain on which operated, that of liberal political discourse, was male-centric.

Instead, the feminist post-structuralists seek to deconstruct patriarchal power relations. They have shown the way in which these relations function through patriarchal forms of subjectivity. Thus feminist post-structuralists have theorised those aspects of women’s experiences and their oppression, which the liberal and Marxist analyses seem to have missed. This includes
developing new frameworks for understanding sexual difference. In doing so, they have also brought in a gender dimension to post-modern theory.

The postmodernists, drawing from deconstructionism, argue that universal concepts most often exist as opposing binaries, which are constructed; man/woman, white/black, culture/nature. The hierarchical nature of these binaries makes them unjust for some groups. Hence it is necessary to pull apart these constructions in order to understand the political processes they represent. This means deconstructing the very processes that create and naturalise these differences.

In a similar fashion, feminist post-structuralists argue that patriarchal society creates and normalises differences between men and women. Based on the biological difference of sex, various binaries are constructed such as culture/nature, reason/emotion and universal/particular, which give specific meanings to gender. Subsequently, gender discourse normalises differences between the sexes and defines one as superior to the other. In this regard, Derrida’s work is of major importance to the feminists, who has displayed how the metaphors of woman and difference are used to reinforce the male perspective.
It is well accepted that the bourgeois liberal projects of post-enlightenment excluded women on account of their emotional and particularistic dispositions. Flax notes: “Concepts such as the autonomy of reason, objective truth and universally beneficial progress through scientific discovery are very appealing, especially to those who have been defined as incapable or merely objects of such feats”. However the presence of power and the absence of it defined one’s position in these moralist and progressive projects. Thus the metanarratives were not emancipatory for those groups who traditionally did not possess power, especially within the public sphere.

Using the post-modern framework feminists challenge the existing discriminatory categories and the ‘normalising’ discourses. As Freeden notes, feminism found an ally in post-modernism because it challenged the dominant social and political paradigms that could not be altered from within. However while post-structuralists and post-modernists call for a complete deconstruction of the existing structures of asymmetric power relations, and of the social and political discourses the reinforce them, feminists find it undesirable to abandon the terrain of political thought and completely refute some political concepts. The dialogic potential and the
possibility of a plurality of perspectives make modern liberal political thought a favourable discursive terrain for feminist struggles.

Thus Coole notes:

Feminists have both a positive relation to mainstream ('Male-Stream') political thought insofar as they use it to make their own demands and a negative one in that they must extrapolate and criticise the gender bias that finds expression in both the tradition and institutions that embody it.\(^\text{16}\)

While this is true with regard to mainstream discourse as a whole, feminists have shared a similar relationship with specific theories within the mainstream. One of them is Rawls' theory of justice, which is regarded as the most important work in contemporary political theory. In the next section I review some major feminist criticisms that have been levelled against Rawls' theory.

2.3: Select Feminist Critiques of Rawls' Theory of Justice

According to Rawls, a society is 'a cooperative venture for mutual advantage'. However there also exist conflicts among its members regarding
the distribution of burdens and benefits of mutual social living. Hence the purpose of principles of social justice is to ensure a fair or just distribution of burdens and benefits among all members of the society.

Rawls asserts that the principles of justice are the result of an agreement or a contract between individuals, who are heads of families. The principles are decided upon by free and rational members of a society in an initial position of equality. Through a contract, the members of a given society decide upon the fundamental terms of their association.

The persons participating in Rawls' hypothetical social contract are rational and autonomous members of a society, who have certain rational ends. Rawls assumes that the persons concluding the contract and deciding upon principles of justice are heads of families. The obligations that they recognise and assume are self-imposed. Such persons then partake in a bargain to arrive at fair principles of justice, because as Rawls explains: "The content of the relevant agreement is not to enter a given society or to adopt a given form of government, but to accept certain moral principles". And once these principles of justice are devised, the contractarian idea can be extended to evolve more or less an entire ethical system.
A special feature of the original position is that persons concluding the contract are unaware of their position in society. Rawls explains that in the original position “no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, intelligence, strength, and the like. [In addition] the parties do not know their conceptions of the good or their special psychological propensities”.

According to Rawls, the contractors in the original position are covered by a ‘veil of ignorance’. It is behind this veil of ignorance that the principles of justice are chosen. Assuming that everyone in the original position is equal, and that no one is in a position to design the principles to suit one’s own interest, the resultant principles turn out to be fair. Thus Rawls describes the original position as one of ‘initial status quo’, a fair condition of equality leading to an agreement on fair principles.

According to Rawls under such a condition of equality and ignorance of one’s own position in the society, the contractors in the original position will agree on two principles of justice. They are as follows:
(a) "Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and

(b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society."¹⁹

The principles chosen are such that the arrangement in society would enable a fair or just distribution of all social primary goods. Rawls defines primary goods as those which every rational being want to possess. According to him the primary goods chiefly consist of 'rights, liberties and opportunities, income and wealth'. He later adds one's own worth (self-respect) as an important primary good. The principles of justice assign basic rights and duties and also determine the division of social benefits. According to him: "The rights and basic liberties referred to by these principles are those which are defined by the public rules of the basic structure".²⁰ This basic structure includes the Constitution, law, policies, legal processes, etc.
From a feminist standpoint, Okin has raised the following question about Rawls' theory: "Does this theory of justice apply to women or not?" Some of the criticisms, which Okin and others have made of Rawls' theory of justice, are discussed below.

First and foremost, continuing in the tradition of mainstream liberal political theories, Rawls' theory ignores issues of justice within a gender-structured family. His theory fails to see how male privilege in the private sphere leads to the denial of equality to women in the public sphere.

According to Rawls, the principles of justice are to be applied to the basic structure of society. The basic institutions of a society should be so formulated as to ensure a just or fair distribution of social primary goods. Thus when Rawls discusses the application of these principles to various institutions, he fails to mention the application of these principles of justice to the family. In addition when Rawls declares that "the sketch of the system of institutions that satisfy the two principles of justice is now complete" he does not take into consideration the internal justice of the family.
In *Theory of Justice*, Rawls has in fact made a mention of the family only in three contexts; firstly, as a link between generations for the savings principle, secondly, as a possible obstacle to fair equality, due to inequalities inherent in the family, and thirdly, as the "first school of moral development". While mentioning the third point, Rawls assumes the family to be a just institution.

Okin argues that if families are just as Rawls assumes, then the principles guiding justice within the family are different than those specified by Rawls, that guide other social institutions. This is so because according to Okin, "it is impossible to see how the view point of their lesser advantaged members ever gets to be heard". The parties formulating the principles in the original position being heads of families are not concerned with just distribution within the family. This assumption of 'head of family' thus results in neglecting a large sphere of most women’s lives from the scope of the study.

Responding to the feminist criticism that the principles of justice do not apply to the family, Rawls has, in a later essay, called this a misconception. He writes:

"The primary subject of justice is the basic structure of society understood as the arrangement of society’s main institutions"
into a unified system of social cooperation over time. The principles of political justice are to apply directly to this structure, but they are not to apply directly to the internal life of the many associations within it, the family among them. \(^{24}\)

He says that though the principles of justice do not apply to the internal life of the family, they protect the rights and liberties of its members.

The above argument is premised on the distinction between the public and the private spheres, for Rawls asserts that the family and other private institutions could have their own conceptions of justice, these are ‘not political conceptions’. \(^{25}\) However, and this is not a new feminist argument, the gendered structure of private institutions has denied women justice within the private sphere. If there are principles guiding justice within the private sphere, they have been discriminatory towards women. Hence if the conception of justice that prevails within the family is different from the one that guides the basic structure of society, this conception is discriminatory too. Moreover, the ‘non-political’ nature of the family conveniently allows for the concerns of justice within the family and the household to be excluded from the scope of the political conception of justice.
Feminist theory and women’s movements have demonstrated how the inequalities within the private sphere put a constraint on the rights of women as ‘equal’ citizens. In a gender-structured society, it is not possible to address the gender-injustice in the public sphere without addressing the same in the private sphere. As I shall discuss in the following chapters, there is an interconnection between gender-based inequalities and inequalities associated with other private institutions like caste and religion.

Moreover, since justice theories study individuals and how they become what they are the family, which is the first and basic socializer, cannot be avoided or ignored. Within the family too, parenting by the mothers goes to a great extent in making the individuals what they are. Thus the role of a woman within the family is too important to be overlooked, yet is ignored by Rawls. If the interests and rights of women and children are to be protected, then Rawls’ ideas need to be extended to the family.

The basic assumption of Rawls in *A Theory of Justice* is that justice is a result of an agreement among heads of families. Due to this assumption Rawls fails to recognise the economic dependence of women on men as a basic character of society. The sexual division of labour within the family also results in larger social inequalities in a gender-structured society. According
to Okin, women in the contemporary world are “systematically disadvantaged in all areas. The basis of these inequalities is the unequal distribution of unpaid labour within the family. This unequal sexual division of labour leads to women being marginalized in the public affairs of political life”. Thus according to Okin, an ideal society would be the one in which domestic labour and child-rearing are shared equally by both sexes. Such equality within the home would enhance gender equality in public-political sphere.

According to Okin “a consistent and whole hearted application of Rawls’ liberal principles can lead us to challenge fundamentally the gender system of our society...(however) in his own account of his theory, this challenge is barely hinted at, much less developed”. The main reason for this, as argued by Okin, is that the subject of his theory are assumed to be heads of families, most generally men.

Rawls makes it clear that the gender of a person is one of those ‘morally irrelevant contingencies’ that are hidden by the veil of ignorance. However feminists like Okin wonder whether ‘sex’ could be one of those arbitrary and contingent characteristics for a society that is distinctly marked by
gender, which "raises the question of whether, in fact, sex is a morally irrelevant and contingent characteristic in a society structured by gender".\textsuperscript{27}

Rawls assumes that the persons, free and rational, making choices in the original position are not individuals but heads of families. Rawls explains that by doing so he is ensuring that each person in that original position takes care of some others who will come as the next generation, while formulating the principles of justice. Commenting on this Okin says that such "ties of sentiments between generations, which Rawls regards as important in the establishment of his just savings principle, would otherwise constitute a problem because of the general assumption that the parties in the original position are mutually disinterested. In spite of the ties of sentiment within families, then as representatives of families their interests are opposed as the circumstances of justice imply".\textsuperscript{28}

Okin asserts that the head of a family may not necessarily be a man. However, generally speaking any head of a family is always envisaged as being a male. Rawls has made use of this idea of head of a family so that the just savings principles can be formulated that keeps in view the next generations. Yet Rawls seemed completely trapped by the assumption of the
traditional mode of thinking that the relations of the two sexes within the family are not considered as a subject matter of justice theory.

Moreover, after the veil of ignorance is lifted or removed, the distributive share is termed as household income. But Rawls speaks of the two as if there is no difference between the advantage of an individual and the welfare of a household. He also fails to notice that wages are paid in the labour market but in societies that are marked by the gender system, which most societies are, maximum proportions of women's labour remains unpaid. Most often women's labour is not even acknowledged as labour. This confusion of assuming the advantage of an individual as being the welfare of a household, according to Okin, "obscures the fact that such resulting disparities and the economic dependence of women on men are likely to affect power relations within the household, as well as access to leisure, prestige, political office and so on amongst its adult members. Any discussion of justice within the family would have to address these issues".29

Like Okin, Janet Radcliffe Richards also finds certain loopholes in Rawls' theory of justice, though the premise of her idea of justice is Rawls' conception of the social contract. She argues that if sex were to be one of those inequalities that are hidden by the 'veil of ignorance', there would arise
more fundamental questions about justice within the family and gender
divisions in society. Richards argues that a sexually just society would require
a radical restructuring of work and child-care arrangements that would
increase the choices made available to women. It would also ensure that the
benefits and burdens of having children are shared more equally and justly
between the two sexes.

As mentioned above, one of the most critical drawbacks of Rawls’ theory
regards the way in which the family has been excluded from the purview of
justice, very much like other mainstream theorists. Rawls also assumes the
family to be a just institution, whose sanctity is maintained by keeping it
both distinct from the public space and out of the scope of the principles of
justice. In Rawls’ theory, in fact the family comes into picture only during
the discussion on just savings principle.

A contention I seek to put forth is the definition of the least advantaged
group as Rawls puts it: “This group includes persons whose family and class
origins are more disadvantaged than others, whose natural endowments (as
realised) permit them to fare less well, and whose fortune and luck in the
course of life turn out to be less happy”. My contention relates to the fact
that the roots of women’s disadvantage lie within the family. The social
structure, whose base is the family, puts constraints on women’s natural endowments, thus preventing their growth as full and active participants of the citizenry. How can we, using Rawls’ principles of justice, distribute benefits of social cooperation such that the inequalities and disadvantages that characterise the family are also taken care of?

Elsewhere Rawls talks about principles of fairness for individuals. He asserts that those who have worked in a mutual cooperative venture have the right to a share of the benefits. In his words: “We are not to gain from the cooperative labours of others without doing our fair share”. 31 A woman as an individual is involved in the important process of child-bearing and rearing. In this light, does she hold a right to benefit from the cooperative ventures of others? More profoundly, is she, as a child bearer and rearer, visualised as making a contribution to the society? She shapes and inculcates values in a child who would later become a citizen of the state. Will this responsibility of hers be seen as a venture for social benefit? Pondering over this question will help in working towards a gender-sensitive conception of justice and the principles thereof.

The criticisms discussed above have come from feminists who consider that mainstream political discourse and the concept of justice as it exists is
limited in addressing issues of discrimination against women. Thus they suggest inclusion of female experiences in the definition of concepts like equality, rights and justice so as to make them gender-just. However, while doing so they continue to retain the emphasis of mainstream discourse on equality and justice. But the care theorists challenge this centrality of justice to mainstream political discourse, which according to them is the source of the discriminated status of women. As a corrective to this, they prescribe an ethic of care as an alternative to justice. In the next section I shall discuss the main arguments of the care theorists against the ethic of justice.

2.4: Ethic of Care: An Alternative to Justice-Centred Political Theory?

In the preceding sections I discussed a few aspects of feminist engagements with mainstream political discourse. I reviewed some major feminist critiques of Rawls' theory of justice and brought out the challenges that feminist theory poses to the concept of justice per se. While these criticisms call for a reconceptualisation or a rethinking of concepts like justice or equality, they do not challenge the centrality of justice to political discourse. However, there exists a strand within feminism which challenges this centrality. These feminists emphasise the value of care, and demand its inclusion in public debate to make social and political discourses women-
friendly. The care theorists contend that the emphasis of mainstream
discourse on rights and justice itself leads to gender-biased the
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discourse on rights and justice itself leads to gender-biased the
practice. The care theorists are inspired by the work of Carol Gilligan.

Gilligan, through a series of experiments with men and women, concluded
that women tend to have a moral voice, which is different from men. This
she calls the 'different voice of women'. As Lenora Fulani writes:
"According to Gilligan men tend to employ an ethic of justice while women
tend to employ an ethic of care. The ethic of care is characterised by a
sensitivity to the individual, a focus on the particularity of the situation and
concern with providing safety and security. It is a contextual morality.
Gilligan believed that her subjects' utterances revealed the existence of two
different moral imperative". For women this moral imperative lays emphasis
on care and responsibility while for men it emphasises the respect for rights
of others hence protecting 'rights to life and self-fulfilment' from
interference. Having differentiated between the two moral voices, Gilligan
concludes that the ethic of care is more generally employed by women while
men usually tend to think more in terms of rights and justice.

Elizabeth Kiss notes that the proponents of care theory "argue that
dominant modern approaches to ethics ignore or underplay the relevance to

intimate human relationships and of emotional responses like compassion as a source of theorising about moral life in favour of a model of ethics based on impartial reasoning and public legislation". As a result of this, the values inherent in personal relationships do not receive the theoretical attention that is due to them. There has thus been an imbalance resulting in an overly rationalistic and legalistic model of moral life. Kymlicka finds this division of moral labour a logical consequence of the public-private distinction, and of the relegation of women to the private sphere. Hence men and women come to be associated with modes of thought and feeling that are fundamentally different.

While women are distinguished for having emotional, particularistic, moral dispositions that were needed for domestic life, men possess rational, impartial and dispassionate ones needed for public life. Thus, morality was characterised by a division of moral labour on the basis of gender. As Friedman notes:

The genders have thus been conceived of in terms of special and distinctive moral projects. Justice and rights have structured male norms, values and virtues, while care and responsiveness have defined female moral norms, values and virtues.
Moreover the feminine virtues were held as subversive for impartiality and justice that was required for public life. In this fashion, the division of moral labour also worked towards the exclusion of women from the public sphere.

Along the lines of this distinction, traditional political theory defended the exclusion of women from public life and hence justified patriarchy. While mainstream theorists hold the feminine intuitive and private dispositions as limited in scope, feminists argue that these dispositions are essentially superior to the impartial thoughts of men. Moreover the recognition that sex equality would require the breaking down of public-private dichotomy, the particularistic disposition of women should be viewed as a complement to the rational and essentially public dispositions of men.

There have been several empirical findings that defy the ‘fundamental incompatibility’ of the two moral voices. Both men and women tend to employ both voices with equal regularity. However, the contrast may be perceived in terms that while men think they ought to be concerned about rights and justice, women find themselves primarily concerned about preserving relationships. Yet a question lingers whether a care-approach exists as a contrast to justice-approach and if it does, is it a superior one as claimed by the care theorists.
According to Kymlicka, the ethic of care primarily focuses on three main contrasts that characterise the different moral voices:

(a) moral capacities: learning moral principles versus developing moral dispositions, (b) moral reasoning: solving problems by seeking principles that have universal applicability versus seeking responses that are appropriate to the particular case, (c) moral concepts: attending to rights and fairness versus attending to responsibilities and relationships.35

The first one deals with developing moral dispositions for acquiring a sense of justice. Care theorists argue that moral sensibilities and qualities of character are involved in developing and implementing the principles of justice. These principles may be universal but certain situations may require a sensitive and moral outlook that can be contextual. Hence Kymlicka observes: “Even if justice involves applying abstract principles, people will only develop an effective ‘sense of justice’ if they learn a broad range of moral capacities, including the capacity for sympathetic and imaginative perception of the requirements of the particular situation”.36

The developments of these capabilities have been neglected by the justice theorists. It is probably due to the fact that these sensibilities are developed
in the family. However the role of the family is not recognised in the theories of justice. According to Okin, this results in a tension within theory, which regards the family as a primary socializer, and yet ignores the question of justice within the gendered family. This tension can be settled only when injustice and discrimination within the family is questioned. Moreover, attending to the problem of justice within the family is important not only because it acts as a terrain for sexual inequality but also since it sows the seeds of a sense of justice in boys and girls. Okin characterises the family not only as the first school of social justice, “but its customary unequal assignment of responsibilities and privileges to the two sexes and its socialisation of children into sex roles make it, in its current form, an institution of crucial importance for the perpetuation of sex inequality”.37 This has been of importance to care theorists because justice theorists have underplayed the role of the family and the values associated with it for the development of a sense of justice.

The second principle emphasises on responding to a situation by asserting its specificity rather than applying universal principles. Kymlicka notes, “these broader moral dispositions do not simply help individuals apply universal principles, they render such principles unnecessary and perhaps counter-productive. We should construe morality in terms of attending to a
particular situation, not in terms of applying universal principles”.

However, certain situations are characterised by less obvious moral considerations. Such situations demand their contextual placing within broad framework of social inequality.

In relation to this, Gilligan and other care theorists write as if appealing to principles of justice involves abstracting from the particularity of the situation. According to Kymlicka every moral theory is derived out of considerations for particular details. Thus he finds that attention cannot be focussed only on the details of a particular situation. Rather these details must be viewed in the context of a larger framework of providing normative principles.

According to Kymlicka, the third aspect, the one that concerns moral concepts forms the heart of the justice-care debate. The previous discussion revolved around whether we need universally applicable principles. This part discusses whether we need principles of justice or those of care and responsibility. Kymlicka has identified three ways in which this difference between moral concepts can be mapped:

A. Universality as against particular relationships.
B. Respect for common humanity as against that for distinct individuality.

C. Claiming rights as against assuming responsibility.\textsuperscript{40}

Drawing from Kymlicka I shall discuss each of these in brief.

A. One clear cut distinction between the two moral concepts is that justice aims at universality and impartiality, while care aims at preserving particular relationships.

For Gilligan, morality exists primarily in relationship between two individuals, that is characterised by direct response and connection rather than beliefs about right and wrong. It is also prior to principles. Hence for Gilligan moral action means sustenance of these connections, and extending them to ‘particular other people’.

However extending these connections to particular others within the existing web of relationships is also problematic. If taken to understand as historically rooted relationships, it would exclude the most needy, for they invariably lie outside the web. Then the question that most care theorists would face is how to extend the web so as to include the needy. As against
this problematic, the concept of Kantian universalism, which emphasises equal dignity and moral worth of all humans, seems more attractive.

Then again as Kymlicka points out, the debate also seeks to respond to how social institutions can be rearranged. But if we examine why these should be rearranged, we invariably revert back to the Kantian principle of universal equal moral worth and dignity.

Gilligan defines the web of relationships in the following manner: “Each person is embedded within a web of ongoing relationships, and morality importantly if not exclusively consists in attention to, understanding of, and emotional responsiveness toward the individuals with whom one stands in these relationships”. Hence she defines it to include all humanity and not simply one’s acquaintances. Each person is related or connected, and is responsible to another by the virtue of being a human. It thus represents the connectedness of all humanity. Hence the web as described by her would include all, will be responsible, respond to all and hurt or isolate none.

One the other hand, Kymlicka says that the moment we extend the web to include all humanity, and the concept of connectedness to mean relationships of one person to another for being human, we are already
exploring the terrain of universality. The particularity of relationships melts away into generalised principles, once we relate ourselves to all humanity.

I would perhaps disagree, to an extent, with Kymlicka at this juncture. While it seems apparent that the ethic of care turns into universalised principles, the manner in which these both are perceived is different. While universal principles do emphasise equal human dignity and moral worth, the connection between one person and another is absent. Kymlicka compares a 'sympathetic identification' of care theorists to affected parties, to the 'impartial and benevolent observer' found in Kantian and utilitarian theories. What I feel is missing in this comparison, is that while a benevolent observer would uphold the principle of human equality, he/she would fail to 'identify' with the affected parties. The key word here is 'identification' which Kymlicka uses but seems to miss out on. An outlook of care would help one identify with affected parties and try to eliminate the causes of suffering, not only on the basis of common humanity but also by virtue of one's particular relation to the other. This I feel is the key difference, while relating all humanity on the basis of care, as against plain universality.

This difference is also observed by Flanagan and Jackson who write: "Whereas justice as fairness involves seeing others thinly, as worthy of
respect purely by virtue of common humanity, morally good caring requires seeing others thickly as constituted by their particular human face, their particular psychological and social self. This includes being moved by others' sufferings by the virtue of our connection to others.

Blum also put forth a similar observation and writes:

Understanding the needs, interests, and welfare of another person, and understanding the relationship between oneself and that other requires a stance toward that person, informed by care, love, empathy, compassion and emotional sensitivity. It involves, for example, the ability to see the other as different in important ways from oneself, as existing in her own right, rather than viewing her through a simple projection of what one would feel if one were in her situation. Kohlberg's [I shall discuss the Gilligan-Kohlberg debate later in this section] views follows a good deal of current moral philosophy in ignoring this dimension of moral understanding, thus implying that knowledge of individual others is a straight-forwardly empirical matter requiring no particular moral stance toward the person.
B. The above discussion in part relates to the argument of some care theorists who contend that while justice responds to ‘people’s common humanity’, care responds to ‘people’s distinct individuality’. Blum notes: “For Gilligan, not only is the self radically particularised, but so is the other, the person toward whom one is acting and with whom one stands in some relationship”.44 This implies that while justice concerns with the ‘generalised’ other, care emphasises the ‘concrete’ other. As Kymlicka draws from Benhabib:

The standpoint of the generalised other requires us to view each and every individual as a rational being entitled to the same rights and duties we want to ascribe to ourselves. In assuming the standpoint we abstract from the individuality and concrete identity of the other... The standpoint of the concrete other, by contrast, requires us to view each and every rational being as an individual with a concrete history, identity and affective emotional constitution. In assuming this standpoint we abstract from what constitutes our commonality.45

Thus when one person treats another in terms of love, care and affection, what is being emphasised is not just humanity, but human individuality. This individuality is bound by encumbrances, and is not strictly autonomous as is
the Kohlbergian self. The self as perceived by Gilligan resembles Michael Sandel's encumbered self. However, while Sandel's self is encumbered by community — religious, ethnic and other, Gilligan's self is less abstractly encumbered. These are understood in terms of "the concrete persons to whom one stands in specific relations".46

C. Such encumbrances, in turn lead to the third aspect of this difference — accepting responsibilities as against claiming rights. An ethic of care appeals to common humanity when universalised. Hence a factor that stands as an important distinction between the two ethics is that of rights versus responsibilities. According to Gilligan, justice concerns itself only in terms of respecting the rights-claims of others. Care concerns involve accepting responsibilities.

In this sense, rights-talk is equated with individualism and selfishness. Whatever obligations accompany rights are also essentially inspired by 'reciprocal non-interference'. Kymlicka however, contends to this by saying that such is the case with libertarian theories only. All other theories of justice focus on the positive duties relating to the welfare of others. Hence, such justice framework that allows people certain rights, also impose responsibilities.
Kymlicka concludes that the debate between justice and care is not the one between rights and responsibilities. Responsibility, he asserts is important for the justice ethic too. He justifies: “The reason why my claim on other people is limited to fairness is not that they have rights, but that I have responsibilities – part of my responsibility for my own desires, and for the costs of my choices”.47

In regard to this question of autonomy and responsibility also, the care theorists say that it has to be decided contextually. The care theorists do not suggest an all-encompassing ‘comprehensive system of abstract rules’. Kymlicka contends to this by arguing that this is one area that requires abstraction. He says: “If our aim is to ensure that the free pursuits of one’s project is not entirely submerged by the requirements of ethical caring, then we do not simply need limits on our moral responsibilities, we need predictable limits”.48 Such limits, as prescribed by abstract rules, would enable determine our responsibilities, for taking a totally contextual decision is difficult. Moreover such abstract rules would also “provide some security in the fact of the shifting desires of others”.

Care theorists also agree that different relationships invoke different kinds of responses of autonomy and responsibilities. An illustration that can be
cited is that the relationship between a child and an adult as against two adults. Both relationships pose different responsibilities and autonomy that could be expected from others. The abstract rules would ensure long-term commitments, which a context-sensitive decision would not give. Kymlicka observes:

The more our claims are dependent on context-sensitive calculations of everyone’s particular desires, the more vulnerable our personal projects are to the shifting desires of others...Meaningful autonomy requires some insulation from context-sensitivity.  

This argument seems to be drawn from the ethic of justice. Justice emphasises applying of abstract principles while care ethic tends to be more context sensitive.

This takes us to another aspect of the justice-care debate. Gilligan says that every problem can be morally construed in terms of either justice or care orientation. Studies have shown that both men and women employ both ethics regularly, but Gilligan argues that each particular problem can be construed only in terms of either of the two orientations. This is related to a psychological division of moral labour, which draws different kinds of moral responses to different kinds of moral problems. This leads Gilligan to
conclude that the two ethics or perspectives are ‘fundamentally incompatible’.

Flanagan and Jackson contend to this by asserting that “there is no logical reason why both care and justice consideration cannot be introduced, where relevant, into one and the same reasoning episode”\textsuperscript{50} Flanagan and Jackson do recognise that moral clarity will be blocked by employing both ethics at once to a particular issue. But the saliencies that are construed to the situation will reduce intractability between the two. And as they comment: “The important point is that there is no impossibility in imagining persons who are both very fair and very caring and who, in addition, have finely honed sensitivities for receiving moral saliencies and seeing particular problems as problems of certain multifarious kinds”\textsuperscript{51}

Gilligan, however refutes such a coexistence of the two ethics. She accepts that there may not be a logical incompatibility between the two; she identifies a ‘deep-seated psychological tension’. This tension is essentially a result of the fact that “the two ethics are built out of etiologically distinct underlying competencies which make different and competing psychological demands on moral agents”\textsuperscript{52} Gilligan attributes this tension to the different
origin and perceptions, which makes any aim at their integration difficult to realise.

This tension is rooted in the experiences of early childhood, compounded by early childhood inequality and attachment that result into attitudes of autonomy and care. Moreover, as Flanagan and Jackson remark: “Full-fledged integration aside, it is important to consider what role, if any, the experiences and dispositions which underlie each ethic have in contributing to morally good forms of the other. Again, it is important not to lose sight of the fact that early experiences of powerlessness and attachment overlap”.

Flanagan and Jackson also refer to Annette Baier who has made an interesting connection between the two ethics. Baier argues that all theories of justice implicitly accept the presence of ‘loving parents’ who would ensure stability of a just society and who would install virtues of justice in new members. She also reflects “the dispositions to be fair and to keep contracts presuppose that the agent has been cared for and has had experiences of trust”. It also presupposes not only the agents’ attachment to abstract concepts (like love and care) but also their care for their community and that “he has a sense that his own good and that of those he cares for most is associated with general adherence to these ideals”. Unless such
care for the loved ones and for community exists, moral dispositions to justice cannot be developed.

Blum has made an interesting analysis of the positions of Kohlberg and Gilligan and their implication for moral theory. Kohlberg considers justice as impartiality as the basis for moral theory. This impartialist conception characterises contemporary moral philosophy. Gilligan on the other hand, declines 'impartiality, impersonality, justice, formal equality and universal principle'. She holds that care and responsibility that characterise personal relationships are central to morality and 'genuinely distinct from impartiality'.

However the primacy of the morality of justice over care is evident by the way in which Kohlberg asserts that justice is necessary for care. According to Flanagan and Jackson this argument has two aspects – firstly, that unless conditions of social justice are secured, personal virtues regarding both justice and care are not possible; secondly, that personal virtues of justice are essential for the personal virtues of care. But they argue that while a just society facilitates growth of personal virtues, it is also true that a just or an egalitarian society presupposes existing relations of care among its members,
especially new members and those rearing them. Thus they contend the view that justice is the primary virtue of society.

Care theorists like Nel Noddings are of the opinion that ‘experiences of care and caring’ are significant in forming the basis of any ethical sense. As Flanagan and Jackson point out how difficult it would be to teach children “about fairness without teaching them certain things about kindness and sensitivity to the aims and interests of others”. Hence they identify such a situation requiring mutual support, rather than one ethic being a pre-requisite for the other.

Elizabeth Kiss is also supportive of this idea of mutuality of both ethics or strands of morality. She declines the idea of giving primacy to either virtue and emphasises the significance of both to morality as a whole. Similarly, many care theorists believe that “care should complement or reshape considerations of rights and justice, not supplant them. They affirm a need for more than justice”. This indicates that rights-talk covers morality only partially and that to arrive at a richer understanding of morality, considerations of care, trust and attention become obligatory. This is the vision provided by the care theorists.
However instead of holding them in contradiction, a perceived compatibility between the two would provide new, better norms for public morality. Incorporating concerns of care into the prevailing discourse on rights and justice would enrich our understanding of the same. It would also make them more responsive to gender concerns.

I tend to agree with Kiss regarding the complementary nature of the two ethics. Doing away with the justice ethic completely or replacing it with the care ethic would mean demeaning the feminist movement, which traditionally has been for the struggle for women’s rights. Yet, a care perspective helps enrich our understanding of morality. Universalist philosophy assumed that the creation of the logical spaces for moral deliberation was now complete,\textsuperscript{57} feminist experiences have demonstrated the possibility and the need for the expansion of these logical spaces, giving rise to new understandings of morality.

Questioning the practicability of care ethic in public life, Kiss throws up issues like distribution of resources and care between various moral agents standing in a different relationship with each other. The care ethic while emphasising personal relationships, overlooks the fact that these relationships could be ‘sites of inequality, exploitation and abuse’. As she
notes: “Caring relationships can demean or oppress those cared for, or reduce carers to performers of duties trapped in chronic self-denial. Hence an ethic of care needs principles about what distinguishes valuable from oppressive forms of care”. Feminism questions the exploitative nature of personal relationships. Care theorists have ignored these questions that accompany personal relationships. Such concerns have led to struggles for women's rights. Kiss adds: “Dealing with these problems requires ensuring that people are protected from harm and guaranteed the capacity to exercise some control over their lives and to make certain claims on one another – precisely the kind of moral work which rights do”.

Catharine MacKinnon argues that women too could employ the language of rights and justice if they had been granted equal opportunity to explore the public sphere. Scholars like MacKinnon and Caludia Card attribute the different voice of women to their subordination, which serve male interests and work against women.58

However, as Kiss argues: “Work on care, trust and other values can supplement rights theory by affecting the substance of rights and of principles of justice”.59 It provides valuable insights into moral theory and these insights call for redefining or reconceptualising justice and rights
instead of absolutely abandoning them. This reconceptualisation would have to consider the present concept of justice as well as the virtue of care. It would also have to consider the gendered structure of society, in addition to the division of moral labour.

A renewed, gender-sensitive vision of justice could be evolved by embedding care into concerns of justice. Such a concept would recognise, simultaneously the common humanity as well as particularity of an individual, how he/she stands in relation to a particular other as well as the specificity of context.

2.5: Some Feminist Reconceptualisations of Politics and Justice

In the preceding sections I discussed two aspects of feminist interventions in political theory. One of them was critiquing the lack of adequate gender-sensitivity in mainstream political discourse, especially theory of justice including Rawls' theory of social justice. The other related to suggesting alternatives to some mainstream concepts. The ethic of care that I discussed in the preceding section forms one such alternative, which seeks to challenge the centrality of the ethic of justice in mainstream political discourse. As mentioned in the beginning of this chapter there is another
way in which feminist interventions in mainstream political theory have taken place. This involves the theorisation of those concepts that have been absent hitherto from mainstream political discourse, with a view to understand and analyse the bases of women’s subordination. Such theorisation has taken place in the light of developments in feminist theory as well as the experiences of women’s movements around the world.

The experiences of women’s movements have inspired a re-reading of political theory from a feminist standpoint. Such a re-reading not only intends to reveal gender-biases and related contingencies in mainstream theory but also seeks to explore and theorise areas that had never been the domain of political theory. This includes thematisation of the family, sexuality, body, consent and agency, public-private and patriarchy, in order to make visible their political dimensions. Indeed according to Freeden, the problematisation of these concepts is the feminist reconceptualisation of political discourse. Coole opines: “A focus on accounts of women and the family reveals continuities and fills in gaps [in mainstream discourse]”. The theorisation of these concepts emphasises the centrality of these concepts to women’s lives and everyday experiences. The absence of these concepts from mainstream political discourse has rendered it gender-insensitive and gender-biased. Hence for adequately addressing questions of
justice for women, it is important to include these concepts in political theory.

The inclusion of these concepts has also enabled the sensitisation of some important political concepts to the concerns of gender. For instance it has allowed newer gender-sensitive perspectives to the traditional political concepts of equality, justice, rights and citizenship. While bringing out the inherent gender biases in mainstream political theory, feminist scholars have also brought out the lack of gender-sensitivity in some mainstream concepts like equality, rights and citizenship. Therefore, before I begin a discussion on feminist theorisations, I would like to briefly describe how feminist interventions into mainstream political discourse has given different perspectives to the meanings of such concepts as citizenship, rights and equality.

**Citizenship**

Many feminist scholars are engaged in redefining the concept of citizenship from a gender-sensitive perspective. However, as Ruth Lister notes, the problem for feminists is “whether a concept originally predicated on the very exclusion of women can be reformulated so as satisfactorily to include and not simply append them; and in doing so, whether it can give full recognition to the different and shifting identities women simultaneously
hold. In other words, is the very idea of a ‘woman-friendly citizenship’ contradictory both because citizenship is inherently woman-unfriendly and exclusionary, and because the category ‘woman’ itself represents a false universalism which replicates that of traditional constructions of citizenship?”

Chantal Mouffe notes:

The public realm of modern citizenship was constructed in a universalistic and rationalistic manner that precluded the recognition of division and antagonism and that relegated to the private sphere all particularity and difference. The distinction public/private, central as it was for the assertion of individual liberty, acted therefore as a powerful principle of exclusion.

An important contribution to reconceptualising citizenship from a feminist standpoint is Jean Bethke Elshtain’s ‘social feminism’. According to Elshtain social feminism has its roots in the family; its emphasis is on the family and on the ‘practice of mothering’. For her, the family is neither a ‘reactionary and repressive’ institution as claimed by the feminists and the Left, nor ‘perfectly harmonious’ as projected by the Right. For Elsntain “the
family remains the locus of the deepest and the most resonant human ties, the most enduring hopes, the most intractable conflicts, the most poignant tragedies and the sweetest triumphs human life affords”.  

She criticises past feminist thought because it failed to consider women’s most powerful experiences. It even demeaned or destroyed these experiences, as well as the identities of women, which emerged with them. According to Elshtain, the solution lies in fostering a woman’s identity as a ‘mother’, to establish the ‘moral primacy’ of the family and the private realm, because “it is in the family that human beings experience the most ennobling dimensions of existence: long-term ties with specific others, the need for roots, obligation to kin, intimacy, love and attentiveness. Thus the family makes a morality of responsibility possible”. According to her, the task for feminism is “the affirmation of moral imperatives and their insertion into the heart of feminist politics”.  

Social feminism, thus, focuses on the family as the primary institution and as a basic sphere of human life. Elshtain critiques the feminist slogan “personal is political” as justifying the politicisation and manipulation of the private realm, to which she strictly objects. Social feminism as envisaged by her seeks to protect the private sphere of human activity from any form of
violation. It seeks to protect and preserve the moral values attached to the private realm, thereby restoring 'authentic and unique identity to women'. Elshtain opines: "From such an identity would emerge a vital public-moral consciousness and a renewed vision of citizenship. This is the more constructive – or rather, reconstructive – vision of social feminism”.

Critiquing social feminism, Mary Dietz argues that though the practice of mothering is unique and distinctive, it would be difficult to demonstrate that maternal virtues can ‘casually’ bring out democratic values of active citizenship, self-governance, egalitarianism and freedom. Democratic citizenship, according to Dietz, is collective, inclusive and generalised, while the practice of mothering is particularistic and emerges out of an unequal relationship between child and mother. Citizenship in a democracy aims at viewing all as equals, and hence Dietz finds the mother-child relationship as an inappropriate model.

Another feminist critique of liberal citizenship is provided by Carole Pateman. According to Pateman, citizenship is a patriarchal category, which defines “who a ‘citizen’ is, what a citizen does and the arena within which he acts have be constructed in the masculine image”. Modern liberal democracies have extended citizenship to include women. But formal legal
equality cannot surpass the strong undercurrents of patriarchal power in society, where women's tasks and qualities are devalued. Moreover, for women's distinctive attributes to be fully integrated into public life, there arises another dilemma, which Chantal Mouffe describes as: "[T]o demand equality is to accept the patriarchal conception of citizenship which implies that women must be like men, while to insist that women's distinctive attributes, capacities, and activities be given expression and valued as contributing to citizenship is to demand the impossible because such differences is precisely what patriarchal citizenship excludes".66

Pateman suggests a solution to this dilemma in what she calls a 'sexually differentiated' concept of citizenship. Such a conception aims at reasserting the recognition of women as women. This includes giving adequate expression and political significance to motherhood, an attribute that men cannot have. Thus, the conception of citizenship should involve recognition of those capacities, which are distinctive and unique to women. This means including the specificity of womanhood as well as the common humanity of men and women. Pateman says that a reconceptualisation that "gives due weight to sexual difference in context of civil equality, requires the rejection of a unitary conception of the individual (which is masculine), abstracted from our embodied existence and from the patriarchal divisions between the
private and the public". Pateman argues that women should demand a sexually differentiated conception of citizenship, which would include essential and distinctive attributes of women, while defining 'civil equality and active citizenship'.

Mouffe criticises this conception of a sexually differentiated citizenship. Pateman focuses on the separation of the public and private spheres in a manner so as to relegate all the particularity and difference to the latter. The reason why Pateman sounds like a maternalist theorist is because she intends to overcome the distinction between the public and the private and at the same time emphasises the essential attributes that have been distinctive to the private sphere. She also insists on deconstructing the conception of citizenship. Hence both Elshtain and Pateman fail to give a democratic reconceptualisation of citizenship, which would ensure equality and freedom. According to Mouffe such a concept of citizenship is necessary wherein sexual difference are not made politically irrelevant but wherein sexual difference would become effectively 'non-pertinent'.

Like Mouffe, Uma Narayan has criticised Pateman's conception of citizenship. Narayan resists the view of regarding motherhood as a value to be included in citizenship, but for different reasons. She rejects the claim of
feminists to include “motherhood...as a ‘citizenship activity’ that grounds women’s rights to welfare”, arguing that “it fails to challenge the assumption that welfare rights should be grounded in an individual’s ‘contribution’ to national life”.

Thus, Narayan notes:

Feminist interpretations of the idea of citizenship as social standing need to resist locating the dignity and worth of individuals in their capacities to be ‘contributors’ to national life, and insist that dignity, worth and social standing matter to all who are participants in national life, that is, who are a part of national life, independently of how they contribute to it.69

Traditionally the idea of free citizenship has come to mean “free status” and the rights that accompany this status. Such individuals who have rights can represent their own interests as well as contribute to the society. According to Narayan women’s struggle for such rights is a political rhetoric, which reinforces the notion that the rights and status of citizenship properly belong only to those who are ‘fully cooperating members of society’, making those who temporarily or permanently lack these capacities, and who are
dependent on other individuals or social institutions, ineligible for claims to the respect and dignity accorded to citizens”.

These imply only negative rights, that is, freedom from interference of others to “protect the self-governing capacities”, while positive rights, which guarantee a provision of basic means of subsistence, are overlooked. Narayan feels that a feminist vision of citizenship as dignity needs to involve both positive and negative freedom, since both are equally crucial to human dignity. Narayan observes: “On the one hand, the term [citizenship] has had a significant role in struggles to secure greater dignity, rights and participation for members of marginalized groups; on the other it has often simultaneously functioned to justify the exclusion of other members of the national community”. What we need, hence, is a vision of shared values that would guide our public life.

Jane Flax also argues for common or shared values that give us space to negotiate and recognise the differences as well as the commonality that is essential for justice and citizenship. As citizens we must consider ourselves to be a part of a community that can collectively take decisions and act on them, as well as share responsibilities collectively. It also requires certain
Some feminists argue for a contextualised feminist theory of citizenship. Such a theory could be developed, as Birte Siim hopes, by examining the discourses and politics of women's citizenship in different contexts. The focus of such a theory would be on the interplay between rights of women and social citizenship, political process and power.

Siim contends that there could be no universal theory of gender and citizenship because the experiences are different in different contexts. Drawing from the case study of experiences of women and citizenship in three countries, viz., Britain, France and Denmark, Siim notes that there have been changes and shifts in the discourse and politics of citizenship.

Analysing some feminist visions of citizenship, Siim argues that a feminist endeavour should be to evolve a dynamic concept of citizenship, which would consider a citizen's "ability to make a difference in their daily lives as well as in relation to political institutions". In other words, she feels that the concept of a good citizen is related to both the public and the private spheres of our lives. She concludes that a feminist model of citizenship
would require feminist theory and politics to be able to integrate differences in the language of citizenship. Such a new feminist vision of citizenship would also require that women are included in democratic deliberations and take responsibility for local as well as national politics.

Ruth Lister suggests a 'woman friendly' model of citizenship that is partly based on civic republicanism. Such a model adopts a broad definition of political citizenship, which “include both the process of negotiation with welfare institutions, frequently conducted by women, and the kinds of informal neighbourhood politics in which women tend to take the lead, in contrast to their under-representation in the formal political system”.74

Lister says that exclusion of women has been important for the construction of the theory and practice of citizenship. Under the pretext of universalism, the exclusion of women has been central to both the liberal and civic republican traditions. This condition affects the terms of women's citizenship today, which despite their different experiences, have remained the same as for men. Some scholars suggest a gender-neutral concept of citizenship, while some others suggest a gender-differentiated concept of citizenship. However in either case it is the male standard against which a woman's difference is being measured. Most feminists now find the term
'woman' echoing the same false universalism that is contained in mainstream political discourse. Thus it is important to recognise differences of culture and historical contexts to arrive at a renewed vision of citizenship. The emphasis laid by feminist scholars on the differences in experiences, not only between men and women, but also between women in different cultural contexts, urges for a conception of justice and citizenship that grants due consideration to difference. This difference is not just of sex, of gender. In other words, a gender-sensitive conception of citizenship should consider differences in the particular situations that condition and affect women's rights and opportunities for political participation.

Rights
Similar feminist insights have been provided for the reconceptualisation of the concept of rights. The language of rights has formed the heart of liberal democratic discourse. It has been continuously evoked by feminist movements to gain equality for women. Nonetheless the relationship of the movement with rights has been ambiguous and uncertain. Though most of the feminist demands have been articulated in the form of rights, the reliance of the rights discourse on universalism makes the concept problematic for feminist theory and analysis.
Tracing the evolution of rights to ancient Rome, Nivedita Menon finds that rights did not imply absolute control either within the state or the family, nor were rights designed to govern the relationship between the individual and the state. Rights rather governed the relationship between the individuals. The feudal period saw the growth of community rights and individuals were not clearly distinguished from their community during this period.

With the emergence of liberalism however, rights began to be seen as residing in an individual, rather than in communities or groups. The 'individual' thus became detached from the social context and was seen as constituted by the body alone. Feminist critiques have pointed out that the very concept of the individual and the body was male, since the male body was considered perfect and clearly bounded, unlike the female body that was permeable and prone to changes. Thus, the individual who was the bearer of rights was defined as male.

Mackinnon argues that abstract rights conferred by the state on individuals are nothing but the incorporation of male experiences. This idea of individual as bearer of rights formed the basis of the democratic discourse. The discourse on democratic rights has been seen as empowering for many
social movements. From a Marxist perspective the struggle for rights by the oppressed groups (the workers) should be followed by a struggle for transforming mere juridical rights and legal rights into real rights by transforming the conditions that are disempowering for these groups.

Early women's movements revolved around securing equal rights as men. These struggles helped to change the approach to social relationships, practices and institutions within the society. They also changed the way women perceived themselves. However some feminists decline in clear terms the positive role of rights. They argue that since rights translate only the experiences of men, they cannot adequately address the problems of inequality and injustice towards women.

Different strands within feminism have given rise to various critiques of rights. Drawing from various positions Kiss lists them as follows:

Feminists who embrace an ethic of care contrast their approach with an ethic of rights which they seek to supplement or even supplant. Cultural feminists and feminist communitarians criticise rights for being overly abstract and impersonal and for reflecting and endorsing a selfish and atomistic vision of human nature and an excessively conflictual
view of social life. Feminist legal scholars argue that rights analysis obscures male dominance, while feminist post-structuralists charge that rights language is bound up with the outdated patriarchal fiction of a unitary self. Finally, many theorists argue that feminist political strategies should not be centred around rights, claiming that such an approach reinforces a patriarchal status quo and, in effect, abandons women to their rights.77

While Patricia Williams compares rights to alchemy, which has the power to transform, the above positions consider rights to be fool’s gold and seek to abandon rights altogether. These critics view gender and rights as essentially opposing and a commitment to any one necessarily has to abandon the other.

According to Kiss, these critiques demonstrate the limitations of the traditional concept of rights, when they fail to respond to the deprivation and oppression of women. On the other hand, she contends that such an understanding of rights, which limits its scope, is a result of “overstatement, inconsistency and political naïveté”.

86
One of the most common feminist arguments against rights is that rights act as boundaries. Instead of instilling a relationship, it puts one bearer of rights against another. As Kiss notes: "Rights construct us as bounded selves requiring protection from the encroachment of others, who are seen as threats to our autonomy and integrity. The concept of rights implies a moral absolutism in which the self exists in glorious isolation, unencumbered by obligations to others". This critique restricts the concept of rights to the negative function of non-interference instead of focussing on the many positive functions that have been assigned to rights.

According to Kiss argues the problem does not lie with the concept of rights, but the way in which the state alone is seen as a violator of rights, often overlooking the way in which non-state actors like employers and spouses can affect one's freedom. The feminist scepticism about rights is also due to the fact that non-state actors are the real inflictors of injury and this did not fit the violation of the traditional liberal conception of rights.

Kiss draws two main conclusions from this debate. One is that "rights are practices and should be assessed by whether they actually make a difference in people's lives". She illustrates this by saying that if a soldier beats a person, it is considered a violation of rights but when a spouse beats it is
not. This calls for a redefinition of rights and the way the concept is understood and implemented. The other is that there "is the need to recognise the limitations of the citizen/state dichotomy in conceptualising rights. While the state remains the primary enforcer of rights, the diversity of social sources of harm and deprivation and the ubiquity of inequalities of power means that people need rights in a variety of social contexts". Thus in order to address women’s question of oppression and powerlessness, it is imperative that rights are understood in a 'more contextual and dynamic' fashion. It should include, in addition of law-making and litigation, the claims and expectations that determine everyday life.

Feminists have also questioned the 'practical value of rights'. They argue that a politics that is devoted merely or solely, to securing rights does not help women overcome the systemic gender inequalities. However abandoning rights is not the real solution. The challenge rather should be in terms of a commitment to achieve a social condition wherein women can make effective use of their rights. This calls for avoiding a narrow focus on rights. Kiss argues: “Feminists should not conceive rights simply as commodities that law grants, but as social relationships to be established and secured". The need is to view rights within a broader political and cultural context.
Menon discusses a position adopted by the scholars of the Critical Legal Studies (CLS) Movement, who maintain that "rights discourse magnifies social antagonism by pitting one set of rights against another" and who "question whether it can facilitate reconstruction".\textsuperscript{81} They condemn individual rights and emphasise community rights. But Menon finds that this argument ignores the fact that community is marked by exclusion too. Moreover the CLS consider the family to be beyond justice, which is extremely problematic according to feminist perspective. Feminists have attempted to redefine rights so that they are not understood in purely individualistic terms. According to feminists, rights should embody both autonomy and responsibility. By introducing the dimension of morality into rights discourse, they hope to invoke the emancipatory potential of rights.

Many feminists have discussed alternative visions of rights by seeking to incorporate women's difference and their experiences within the notion of rights. Lister has discussed two complementary approaches for incorporating differences and diversity into the concept of citizenship rights.

The first approach recognises that rights can be particularised for the situation of specific groups. This would work in two ways; to counter the past and present disadvantages, which work to undermine the member's
position as a citizen, and to affirm diversity. Such rights can be employed with regard to cultural and linguistic rights. However, such a 'multi-cultural' model of citizenship does not consider the differences within the group, for instance, those of class and gender. It thus wrongly treats a cultural group as homogenous. Kymlicka has propounded such a model of multicultural citizenship. He contends that while minority rights work to protect the interests of the minority from the majority, it also imposes restrictions on the individual rights of its members. Kymlicka argues that group rights should also work towards equality and empowerment of individual within each group. Lister however notes that the multi-cultural model could end up only as a liberal toleration of diversity, confined to the private sphere, and not its genuine recognition and acceptance in public sphere.

The second approach to rights is the needs claim, that need can be seen as 'dynamic and differentiated' and not simply as universal and abstract as rights are seen. This initiates a dialogue between needs and rights. Needs claims have also been made by champions of human rights who believe that needs are 'sociogenic and culture-specific'. This gives rise to a hierarchy of needs and confrontations between competing needs. But as Upendra Baxi maintains, the needs approach enables us to understand the possibilities of a just society in the most just manner. Nancy Fraser idea of 'politics of needs...
interpretation' involves balancing the competing claims of mutual responsibility and individual rights. Fraser also argues that justified needs claims must be translated into social rights.84

Feminists criticise rights as reflecting the interests and experiences of male members of the society and thus are stumbling blocks for women's real empowerment. However it does not seem wise to completely abandon the language of rights, for they, despite their limited scope, embody emancipatory potential. The need is to incorporate the experiences of women into the definition of rights so as to make them responsive to women's lives and needs.

Equality

Like citizenship and rights, the concept of equality has also come under feminist scrutiny. Equality has been a central concern of most feminist movements around the world. The appeal to equality was made on the grounds that since women like men had a capacity for reason, they should be entitled to similar civil and political rights. Traditionally equality has been a homologising concept, where inequality between two beings was removed only when they become similar to each other. Thus equality came to be synonymous with sameness and dichotomous with difference.
As I shall discuss later in this section differences have been salient in the construction of the social category of gender. The history of social and political thought illustrates that differences have been used to create and justify hierarchies of power and relations of domination. Hence the appeal to equality has been overwhelming to the extent that equality came to be viewed as dichotomous to difference and hence to domination.

Since sexual difference had been used to generate relations of domination, feminists hoped that extending the ideal of equality to women would bring about a relief in the gender based relations of domination. Nonetheless, its precise emphasis on sameness and its inability to account for differences has proved it to be a rather blunt tool of social emancipation especially for women, who suffer from various kinds of inequalities, discriminations and deprivations.

Hence later feminist arguments revolved around emphasising the importance of recognising sexual difference within the concept of equality. Since gender is a relation of domination merely extending equality to women would not end this domination. According to Flax: “Domination arises out of an inability to recognise, appreciate and nurture differences, not out of a failure to see everyone as the same”.85
Modern liberal political theory is based on the rejection of any kind of ‘natural’ authority based on difference and on the assertion of fundamental sameness of all humans. This assertion of essential sameness led to the rejection of difference at least in the public sphere. The distinction between equality and difference thus became related to the constitution of the public and the private spheres. The public or the political sphere declared equality of all citizens, while the private or the non-political sphere continued to be marked by differences, including gender difference. Moreover the absence of recognition of differences in the public sphere resulted into the political space being characterised by a universal discourse of rights and equality. Such a universal discourse of rights and equality failed to attend to differences, which are related to “systemic inequalities of power”.86

When background conditions of differences in class, race, gender, religion or caste remain untouched, equality of rights fails to deliver justice. In this regard, Anne Phillips notes: “In extending to all the same set of rights and guarantees, it obscures (and may in some circumstances even reinforce) those background inequalities that continue to generate inequalities of power”.87 The appeal to universal equality by women was also made so that sexual difference would not translate into differences of power and rights. However the history of mainstream political discourse is marked
distinctively by a repression of female sexual difference. This repression is accompanied by a more significant process — the 'universalisation of the male'. Hence while the repression of female sexual difference at a preliminary stage defends exclusion of women; later it acquires a complex stage, resulting in a homologising and assimilating inclusion. This homologisation takes place on the lines of a predefined male subject as the basic paradigm.

This male paradigm is then guised as a sexless universal paradigm, which is considered valid for both the sexes. Based on such a universal paradigm concepts like the individual, equality, justice, rights and the pre-eminence of reason were defined. For instance, Adriana Cavarero notes: "The neutral, universal, sexless subject has never existed in fact or in theory, except as a universalistic cover-up of the repression of female sexual difference brought about by the male subject".88

In a similar vein, Diana Coole notes that the construction of humanity, citizenship and masculinity, all sharing a common basis, have a specific impact on the concept of equality. With the construction of universal norms, equality insists that individuals construct themselves according to these norms. Thus the equality/difference dichotomy is translated into
The appeal to formal equality by early feminist movements ran the risk of moving towards homologisation or assimilation, which works at the erasure of sexual difference instead of its affirmation. Early feminist demands to equality had resulted in women being admitted to the sphere of abstract equality, which was modelled on the male paradigm. But later feminists found such an obliteration of sexual difference undesirable and emphasised the need for recognition and the importance of affirming of sexual difference for female freedom and justice. According to Cavarero:

This homologising paradigm constrains women to become uniform with the male subject by erasing female sexual difference to such an extent that female sexual difference, even at its biological level, comes to be regarded as an obstacle to homologisation. Pregnancy is a stumbling block to be avoided, a career obstacle, a vertical drop in productivity.

The construction of such a sexless universal paradigm was indeed a part of a larger project of the creation of ‘false’ universalisms. By false universalisms I mean the set of norms and values of a dominant group of a society but
which are paraded as universal. The creation of such universalisms refutes the possibility of the recognition, acceptance or the legitimacy of differences. This process is followed by assimilation and homologisation to dominant norms.

One such argument against assimilation is put forth by Iris Young, where Young defends the value of diversity and difference as important to democratic politics.\textsuperscript{91} Opposed to an assimilationist ideal, Young proposes the ideal of ‘difference’. The main argument of this ideal of ‘difference’ is that a politics which asserts the positivity of group difference can be empowering and liberating. Recognition of difference allows the oppressed groups reassert the positivity of their specific culture and experiences.

In the assimilationist ideal the dominant culture is envisaged as universal or neutral. However under the politics of difference when groups assert the positivity of their difference, the dominant culture is forced to be specific. For example, “when feminists assert the validity of feminine sensitivity and the positive value of nurturing behaviour” the dominant culture is forced to recognise itself as masculine”.

96
According to Young in a political struggle where oppressed groups reassert the positivity of their specific culture and experiences, it becomes difficult for the dominant groups to claim the universal nature of their norms. "By puncturing the universalist claim to unity that expels some groups and turns them into the Other, the assertion of positive group specificity introduces the possibility of understanding the relation between groups as merely difference, instead of exclusion, opposition or dominance."92

The assimilationist ideal represents the sameness approach to sex equality. For a long time this approach dominated the arguments for sex equality. But feminists soon realised the homologising character of this approach that repressed sexual difference. Thus the demand arose for the recognition of difference.

Thus, two alternative paths to sex equality could be identified within mainstream approaches to sex discrimination, that of sameness and difference. The former leads to homologisation and assimilation and is generally termed as 'gender-neutrality'. This sexless and universal paradigm is abstract and is related to formal equality. On the other hand appeal to the difference approach involves a positive recognition of difference.
Feminist scholars like Catharine Mackinnon identify a third approach to equality and sex discrimination, the dominance approach. The proponents of this approach argue that since gender difference has been over the ages translated into 'dominance' the assertion of difference by women means the assertion of qualities of powerlessness and subordination. For instance, the emphasis on personal relations is a result of being excluded from the public sphere, or the emphasis on 'caring' stems from the experiences of women in the absence of rights. The dominance approach seeks to demonstrate that the differences that women strive to stress are inherently hierarchical. The emphasis thus should not be on reassertion of differences but on ending the domination that is inherent in these differences.

Recent feminist legal scholarship has highlighted the need to critique the sameness/difference dichotomy and go beyond this dichotomous pairing. They insist on reconsidering the very terms of this debate. When equality and difference are paired as binaries, one is compelled to opt for either of the two. To be equal one cannot assert differences and if difference is considered, equality seems a distant goal. The construction of such binaries has led to the creation of power relationships, and which restricts the political choices. Hence for gender-sensitive conceptions of equality and justice the dichotomy of sameness/difference needs to be deconstructed.
Towards Gender-sensitive Justice and Politics

Another important way in which feminism has intervened in mainstream discourse is by theorising those concepts that have hitherto been absent in mainstream discourse. The most important contribution of feminist theory has been the identification and problematisation of patriarchy, a practice that marks all social and political institutions, public and private. Indeed most feminist critiques of political theory and practice have its basis in a critique of patriarchy. The discourse on patriarchy has enabled the identification of other categories of feminist analyses like the ones discussed below.

A significant contribution of feminism to social and political theory is the introduction of gender as a critical category of analysis. Most feminists define this category of 'gender' as a socially constructed one. The biological difference of 'sex' was articulated over a period of time to create the category of gender, which used sexual difference for the subordination and denigration of women.

According to Jane Flax, the social category of gender was constructed through a series of dualisms that mark mainstream political theory. These dualisms were created out of differences, which were used to generate and
justify hierarchies giving rise to relations of domination. Some of these dualisms include reason/emotion, public/private and universal/particular. Flax observes: “Gender connotes and reflects the persistence of asymmetric power relations rather than ‘natural’ (biological/anatomical) differences”.94 According to Okin: “ ‘Gender’ refers to the social institutionalisation of sexual difference; it is a concept used by those who understand not only sexual inequality but also much of sexual differentiation to be socially constructed”.95

The implication of the construction of gender further extends to the generation and perpetuation of other differences in society based on sexual difference. In this way the difference of sex gets translated into other social, economic and political differences. Moreover gender as a relation of domination gives rise to other relations of domination. Zoya Hasan observes this when she says:

Gender relations are constituted within the family, community and by the state. They refer to relations of power between women and men which are revealed in policies, practices, ideas and representations, including division of labour, roles and resources ascribing to them different abilities, desires and behaviour patterns.96
The analysis of gender in political theory has led the feminists to thematise on other aspects like ‘sexuality’ and ‘body’. The way ‘sexuality’ has been perceived has given rise to many debates both in theory and in practice. The universality of women’s experience of sexual violence challenges the notion of the disembodied individual that forms the basis of the liberal tradition. Such a notion of the disembodied individual facilitated the eradication or negation of other contextual differences. Feminists however argue that the body and sexuality of women have been used for their oppression. Questions regarding the articulation of female sexuality for their subordination also challenged the assumption that heterosexuality is natural. Some feminists argue that compulsory heterosexuality resulted not only in the dependence of women on men but also their subsequent oppression and subordination. Menon notes: “The ‘body’ and ‘sex’ are not ‘natural’ but produced by discourses”. The ubiquity of sexual violence reinforces this statement, compelling feminist intervention in these discourses.

The disembodied individual also forms the basis for an important dualism – the universal/particular. As discussed earlier, liberal theory is marked by claims to universally applicable principles. These principles define universal rules and laws that apply to all in a similar fashion. However, many feminists contend to such universalism, which leads to ‘homogenising totalism’.
According Ruth Anna Putnam, universalism is nothing but ‘substitutionalism’ that substitutes the experiences of few as universal, and the principles relating to equality or justice are designed according to these experience. Freeden notes:

Politically, citizenship and rights are expressions of universality, but in effect these contain only practices of male patriarchy and, at best, women are co-opted into the sphere of the universal as ‘lesser men’.

This notion of universalism is then used to define concepts like equality, justice, citizenship and rights. However since they are based on the experiences and perceptions of few, they fail to accommodate experiences that are different, and to resolve disagreements that arise due to these differences. This leads to marginalisation, exclusion and othering of those experiences that are different. Hence like the postmodernists who decry this ‘otherness’, feminists also challenge appeals to universal and generalised principles. Feminist theorists like MacKinnon call for a situated theory, which is “concrete and changing rather than abstract and totalising”. Such a situated theory would not only recognise different voices but also acknowledge the legitimacy of their experiences.
Linked to universalism are the concepts of reason, impartiality and objectivity, which also have been challenged by the feminists. Prioritising of reason over emotion was acceptable to early reformist feminists. However several contemporary feminists have emphasised the important of values/virtues closer to women for gender-sensitive political theory and practice. Elshtain's 'social feminism', as discussed above, is an example of this emphasis. While feminists like Elshtain demand an inclusion of maternal values in mainstream theories and concepts, the care theorists demand that the centrality of political theory be shifted from justice to care. They argue that the centrality of justice has rendered mainstream discourse gender-insensitive. According to them the corrective is a care-centred theory, which has been discussed in the preceding section.

Another and perhaps the most important dualisms that exist within mainstream discourse is the dichotomy between the public and the private or the political and the personal. According to Carole Pateman, the challenging of this dichotomy defines the feminist movement. The mainstream discourse worked at the confinement of women to the private sphere as well as the relegation of the private sphere as subordinate to the public-political sphere. Mainstream political theory had, with relative ease, separated private concerns from public ones. Mainstream discourse
perpetuated the idea of the distinction between the public and the private spheres and depicted the separateness of their respective concerns. While the public or political concerns fell within the purview of political theory, the concerns of the private or the personal were duly excluded from its scope. This made it possible to discuss the public in isolation from the private.

Okin observes:

Distinctions between the public and private have played a crucial role, especially in liberal theory, ‘the private’ being used to refer to a sphere or spheres of social life in which intrusion or interference with freedom requires social justification, and ‘the public’ to refer to a sphere or spheres regarded as more generally or more justifiably accessible.¹⁰²

Contemporary mainstream theorists have progressively asserted sexual equality, but this assertion also remains confined to the public domain, that is to the relations outside the family. Hence while on the one hand it was necessary to problematise the public/private distinction, on the other it was necessary to include the family within the concerns of justice.
The relations within the family though private are nonetheless power relations. The sexual division of domestic labour and the responsibility of child-bearing and rearing place women at a disadvantaged position within the household. This discriminatory position extends to the public realm where women are rendered unequal to men. Hence feminist analysis of women’s subordination includes a critique of the family and the traditional roles attached to it. Kymlicka notes: “The family is therefore at the centre of both the cultural devaluation and economic dependence which attach to women’s traditional roles”. In a similar vein, Okin remarks: “Most contemporary political theorists continue the same ‘separate spheres’ tradition by ignoring the family, and in particular its division of labour, related economic dependencies and power structure”.

However the family is not the only private institution that is unjust and discriminatory. Indian feminists have pointed out the discriminatory nature of other private institutions like the caste and the community. Indeed while it is being increasingly affirmed that gender concerns should take into view the discrimination within the family, Indian feminist theorists have asserted the inseparability of gender-based oppressions and oppression based on caste, class and community. Likewise in western countries feminists are depicting the connectedness of gender and ethnic concerns, for instance.
In India the continuously changing political configurations and the problems of development planning gave rise to new political alliances. This paved way for a new form of politics that reflected the entwined nature of concerns of gender, class, caste and community. It called for a nuanced understanding of not only gender concerns but also the implications of caste, class and community on gender.106

Feminism has evoked a similar discourse on the concepts of women’s agency and consent. According to Kumkum Sangari women’s agency or transformative capacity has been “problematic in both theory and practice because women are simultaneously class differentiated and subject to frequent cross-class expansion of patriarchal ideologies”.107

The spilt between the public and the private as discreet domains resulted in identifying women’s agency with direct or conscious political participation, or involvement in the capitalist production process. This worked to devaluate women’s domestic labour and hence highlight their passivity in social production. The question of women’s agency is linked to and determined by histories of the family, caste and religion, and is thus conditioned by various ideological and epistemological structures in society.
These structures, patriarchal in character, allow certain forms of agency, simultaneously restricting it in other forms.

This capacity of women’s agency has been articulated to produce consent as an element of patriarchies. Sangari observes that the elements of consent “may rest on a series of factors ranging from wide social consensualities, economic dependence, social pressures congealed into structural necessities or dispersed as moral systems, the pull of affective relationships and the perceived legitimacy of the offer to protect women from patriarchal violence of other individuals or groups”.108

Two arguments are important in the above discussion. Firstly, since all women do not experience similar kinds of discrimination, feminist analysts find it difficult to consider ‘woman’ as a homogenous category for analysis. Most feminists have refuted this homogeneity, though they emphasise the gendered character of all social and political institutions. This implies that since the nature and extent of discrimination against women varies, there is a need to understand this situated or contextual nature of discrimination, instead of attempting to universalise the experiences of women.
Secondly women’s movements across the globe have depicted the inseparability of inequalities of gender with other inequalities, like those of caste, religious community, class, or ethnicity. Thus it was found not only impossible but also undesirable to represent and address all gender concerns from a single platform.

As Anne Phillips notes: “Class, race and gender are not parallel oppressions, and the route dictated by one may well diverge from the route dictated by others”.109 Phillips’ statement is exemplified by the experiences of the Indian women’s movements as well as by Indian feminist scholars. While the above discussion reflects on some aspects of feminist reconceptualisations, feminist scholars in India have also provided some theoretical inputs and suggested alternative frameworks for feminist analysis in the light of the women’s movements in India. Thus in the subsequent chapters, beginning with the next one, I examine some issues of gender justice raised and addressed by the women’s movement in India and their treatment by both the movement as well as feminist theory.

Any attempt to move towards a gender-sensitive conception of politics and justice needs the incorporation of women’s experiences. Women’s experiences have found a voice in various women’s movements around the
world. As I have mentioned earlier, there is a complementarity between the women’s movement and feminist theory. It is thus important that the reconsiderations in political theory, to make it gender-sensitive and gender-just, must be in the light of the experiences of women’s movements. In the subsequent chapters, therefore, I shall discuss some aspects of the Indian Women’s Movement (IWM) relating to gender justice and study the contributions of various Indian feminist theorists. In doing so, I shall explore the issues of injustice and discrimination raised and addressed by the IWM, as well as its implications on political theory, and responses by Indian feminist scholars. It is possible to think about renewed vision of the concept of justice in the light of these experiences of the women’s movement and theory.
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