

## ESSAY

# SEARCHING FOR AN OVERLAPPING CONSENSUS: A SECULAR CARE ETHICS FEMINIST RESPONDS TO RELIGIOUS FEMINISTS

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### I. INTRODUCTION

I want to thank Elizabeth Schiltz for inviting me to participate in this panel on *Feminist Legal Theory: Dialogue Across Philosophical and Faith Traditions* and to present a secular feminist perspective. Now let me also confess my anxiety in making these remarks in the presence of renowned religious feminist scholars, here at St. Thomas Law School, a school that stands in a revered tradition of Catholic law schools. But as it is the express purpose of my presence on this panel to represent the secular feminist viewpoint, I will gather my courage and speak forthrightly. I will begin by situating myself, first vis-à-vis my secularism, and second with regard to my concerns about care and dependency.

To begin then, a word about my secularism. By birth and culture I am Jewish, and I cherish my cultural identity as a Jew. But somewhere along the way, I decided not to pursue a religious education, and so I am not even well-versed (sometimes to my own dismay) in the tradition of the religion into which I was born. If I have any religious faith, I'd say it is that of a Spinozist. Spinoza was the great seventeenth century philosopher who argued that God is a single substance, fully immanent and fully in all things, past, present and future as all things are aspects of that single substance.<sup>1</sup> This is not a transcendent God, and it is not a personal God. One might say that this is a conception of God as a sustaining presence. It is not a God one approaches through prayer and ritual, but through understanding. Spinoza argued that the road to happiness lies in a life lived with goodness, tolerance and one in which we strive for what he called an "intellectual love of

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1. BENEDICT DE SPINOZA, *The Ethics*, in *A SPINOZA READER* 85 (Edwin Curley ed. & trans., 1994).

God” (*amor intellectualis Dei*).<sup>2</sup> Such an understanding leads us to treat our fellow beings well and allows us to understand our humble, finite position in an infinite universe. But Spinoza also believed that this was not a road for everyone, and that there were other ways for others to achieve peace, goodness and harmony. His was one of the most persuasive voices for religious tolerance and freedom of thought.

The remarks I will be making today come from my perspectives as a philosopher, a feminist and also the mother of a young woman (not so young now . . . she is thirty-seven) who has “severe to profound” mental retardation. Having such a child—such a person—in my life has placed me at odds with many accepted dogmas in the dominant Western philosophical tradition. I really do welcome the writings of religious feminists who emphasize love, care and human vulnerability, an emphasis that stands in contrast to an often constricting and obsessive valuing of the human capacity for rationality. Contrast the conception of dignity that predominates in philosophy with the one dominant in religious traditions. Philosophical treatments of human dignity tend to be based on our ability to reason. Human dignity as conceived within religious traditions derives from the idea that we are all created in the divine image, that we are all children of God. While I feel an affinity to attributions of dignity that are not based on the capacity for reason, I don’t think that appeal to a personal deity is the only alternative. In other work, I have argued for a notion of dignity grounded in the care humans are both able to give and receive, not, if you will, in the idea that we are all children of God, but a secular analogue, the idea that we are all “some mother’s child.”<sup>3</sup>

In my advance reading of the papers just presented, and again while hearing them today, I have been struck by a paradox. Religious faith has motivated some of the most important advances in liberalism. Abolitionists, in their opposition to slavery, were frequently motivated by religion.<sup>4</sup> Among the arguments for the equality of the sexes, there have been powerful ones that claim sex equality is supported by a proper reading of the

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2. See *id.* at 259–60.

3. See Eva Feder Kittay, *Equality, Dignity and Disability*, in *PERSPECTIVES ON EQUALITY: THE SECOND SEAMUS HEANEY LECTURES* 93 (Mary Ann Lyons & Fionnuala Waldron eds., 2005); see also Eva Feder Kittay, *Disability, Equal Dignity and Care*, 2 *CONCILIUM: INT’L J. FOR THEOLOGY* 105 (2003).

4. See, e.g., ANTHONY BENEZET, *OBSERVATIONS ON THE INSLAVING, IMPORTING AND PURCHASING OF NEGROES; WITH SOME ADVICE THEREON* (Germantown, Christopher Sower 1760), *reprinted in EARLY AMERICAN IMPRINTS, SERIES I* (American Antiquarian Society & NewsBank 2002); JONATHAN EDWARDS, *THE INJUSTICE AND IMPOLICY OF THE SLAVE TRADE, AND OF THE SLAVERY OF THE AFRICANS* (New Haven, Thomas and Samuel Green 1791), *reprinted in EARLY AMERICAN IMPRINTS, SERIES I* (American Antiquarian Society & NewsBank 2002); BENJAMIN LAY, *ALL SLAVE-KEEPERS THAT KEEP THE INNOCENT IN BONDAGE . . .* (Philadelphia, Benjamin Lay 1737), *reprinted in EARLY AMERICAN IMPRINTS, SERIES I* (American Antiquarian Society & NewsBank 2002).

Bible.<sup>5</sup> Clergy such as the Reverend Dr. Martin Luther King, Jr. were responsible for advancing civil rights in the United States. And yet religious faiths of all sorts have, in certain periods and in certain places, also been at odds with a liberal progressive politics, a politics based on the equality of all human beings. At times and still today, we find religious views that promote the subordination of certain groups in favor of others; religious fervor has incited nations, groups and individuals to commit what, I think everyone in this room would agree, were grave injustices.

My own attitudes toward the mixing of religion with political and social issues reflect an ambivalence—and it is indeed a bivalence—for there are two competing sets of values. There is, on the one hand, a true appreciation of the deep religious faith that gave people like Dr. Martin Luther King, Jr. and the Freedom Riders the courage to withstand the beatings and abuse heaped on them by segregationists—to face violence with non-violence not only because they believed in the justice of their cause, but also because they possessed the strength of their faith. I hold, on the other hand, a deep suspicion of those who think that the truth of their own faith is sufficient to justify determining how others (whether of their own faith or not) should live their lives.

Yet even in the actions of those I admire we see the infusion of politics with religion and religion with politics. It has never been entirely clear to me why I take such a different attitude toward some faith-based politics, such as those favored by the administration of George W. Bush, and those of a person like Dr. Martin Luther King, Jr. The Christian faithful who struggled to end slavery and segregation also believed that the truth of their belief was sufficient reason to compel believers and nonbelievers alike to behave in ways they believed to be right.

## II. A REASONABLE OVERLAPPING CONSENSUS

In the end, perhaps, the difference in how I view the role of religion in social and political life has more to do with the causes in whose name religion is summoned than in the part played by religion as such. While I might not share the Christian faith of Dr. Martin Luther King, Jr., I believe that what he fought for was *right*. That the strength to struggle was found in religious belief makes me admire the strength of the motivating source. But again the admiration would be tempered if I did not profoundly agree with the mission. Such strength of religious devotion directed, for instance, to maintaining women's subordinate position, I find frightful, not admirable. What someone like Dr. Martin Luther King, Jr. and a secular Jew such as myself share is a belief in the inherent equal worth of each human being,

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5. See generally THE PUBLIC YEARS OF SARAH AND ANGELINA GRIMKÉ: SELECTED WRITINGS (Larry Ceplair ed., 1989) for a wonderful example of the appeal to Christian teachings as applied both to the question of slavery and the equality of the sexes.

male or female, black, brown or white. King might have justified his belief by appealing to one God that created all his children equal. I would justify it differently—without religious underpinnings. Indeed, I might just take it as axiomatic. But King and I share, what the philosopher John Rawls calls, an overlapping consensus.<sup>6</sup> A reasonable overlapping consensus is that shared set of values of a *political liberalism*, which allows people with different comprehensive conceptions of the good within a pluralist society to live together and to exercise liberty of thought and of conscience.

Let me just speak briefly about the notion of “conceptions of the good.” I, at times during the discussion here, heard the phrase “conception of the good” eliding into whatever choices bring people pleasure.<sup>7</sup> When we speak of a conception of the good, philosophers are not referring to those things that necessarily give us pleasure—certainly not simply momentary pleasures. A conception of the good, or as Rawls says, “comprehensive conceptions of the good,” signifies a comprehensive religious, moral or philosophical doctrine or perspective.<sup>8</sup> It means conceptions of what you take a good, meaningful life to be, a set of beliefs that may be secular or tied to religious faith.<sup>9</sup> When Rawls, in particular, speaks of a comprehensive conception of the good he also does not intend to signify “that anyone’s vision of the good is as valid as any other.”<sup>10</sup> Rawls speaks of a “reasonable” conception of the good, by which he means to exclude those conceptions, which do not adhere to the ideas that allow for the freedom and equality of all and that are intolerant of other’s right to live their lives according to their own conception of the good.<sup>11</sup> Certainly, feminists are unwilling to tolerate the idea that “anyone’s vision of the good is as valid as any other,” because they do not think it is acceptable to adhere to doctrines that promote the subordination of women. While Rawls, and feminists alike, are open to a plurality of conceptions of the good, they do not endorse

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6. JOHN RAWLS, *Part Two: Political Liberalism: Three Main Ideas*, in *POLITICAL LIBERALISM* 131 (1993).

7. Susan J. Stabile, *Can Secular Feminists and Catholic Feminists Work Together to Ease the Conflict Between Work and Family?*, 4 *U. ST. THOMAS L.J.* 343, 437 (2007).

8. RAWLS, *supra* note 6, at 174–76.

9. What I find odd in Professor Stabile’s statement is that she cites as a support “language from *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992) that ‘the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life’ is at the ‘heart of liberty.’” Stabile, *supra* note 7, at 437 (citing Teresa Stanton Collett, *Independence or Interdependence? A Christian Response to Liberal Feminists*, in *CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT* 178, 178 (Michael W. McConnell et al. eds., 2001)). To speak of this as merely a matter of “pleasure” is puzzling since many of the things that are most meaningful in our lives are not matters of pleasure primarily, but have to do with our sense of responsibility and obligation, our caring about the well-being of another, pride in accomplishment even when the achievement involves great difficulty and even pain, etc. Certainly Professor Stabile cannot be assuming that anything that gives our life meaning that is not connected to a religious conviction is simply a matter of what gives us pleasure.

10. Stabile, *supra* note 7, at 437.

11. See RAWLS, *supra* note 6.

just *any* conception of the good. Of course, a Catholic or Lutheran feminist may be expected to believe that there is just one true conception of the good, but as long as she does not try to suppress or diminish the expression of other conceptions, there is no difficulty in maintaining the possibility that we can identify an overlapping consensus among these feminists (or feminists of any other religious persuasion) and secular feminists.

To resume the point then, an overlapping consensus is that set of beliefs to which people who hold different conceptions of the good can all adhere. These beliefs are open to public scrutiny, public deliberation and public justification, what Rawls calls "public reason."<sup>12</sup> Sometimes holding fast to such an overlapping consensus means tolerating practices of others to which we may have an aversion. By engaging in public reason and justification we can come to see why we may need to tolerate such practices. For example, where religious tolerance is valued, an Orthodox Jew may have to consent to pork being sold in a butcher shop in his neighborhood and the Christian can neither compel the Jew to eat pork nor to go without kosher meat. Behind what appears to be a mere *modus vivendi*, a sort of reluctant "live and let live" attitude, is a shared belief in the free expression of religious faith, along with a shared understanding that what one ingests can be a part of one's most deeply held convictions. These beliefs belong to a reasonable overlapping consensus. Thus, while an overlapping consensus may appear to be a mere *modus vivendi*, what distinguishes it is an understanding that just as I wish to be able to make certain decisions about my own life, so another deserves that same right, and, moreover, by granting each other that right we recognize and respect one another. This understanding and willingness to respect another's right to her own conception of the good is a part of what John Rawls calls "a sense of justice."<sup>13</sup>

Although the notion of a political liberalism based on such an overlapping consensus is not without problems (for instance, just *how* permissive should we be about practices we do not endorse),<sup>14</sup> I do believe that the conception of an overlapping consensus can help us as we consider what secular feminists and religious feminists share and what separates us. Most urgently, it can help us see if and how we can work together to promote policies that will advance the interests of women and their dependents—and in the context of this conference—how we can work together to promote better policies with respect to work and family life.

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12. *Id.* at 212–13.

13. JOHN RAWLS, A THEORY OF JUSTICE 12 (1971).

14. Susan Okin, for instance, has offered a critique of the conception arguing that many doctrines that are prominent and historically dominant conceptions of the good are too frequently ones that endorse beliefs undermining women's status as equals. See Susan Moller Okin, *Political Liberalism, Justice, and Gender*, 105 ETHICS 23 (1994). John Rawls replies to Okin in John Rawls, *The Idea of Public Reason Revisited*, 64 U. CHI. L. REV. 765 (1997).

Now, I noticed as Sister Allen was speaking today about integral gender complementarity, that she made an appeal to different ways of underpinning the idea of complementarity, even invoking physics.<sup>15</sup> Attempting to justify a belief to others in this manner, even when you may have come to hold a belief as part of your own faith, is itself an exercise of public reason. It is an effort to justify your belief in terms acceptable to those who do not share your comprehensive conception of the good. Later in the paper I propose that the idea of integral gender complementarity, as Sister Allen employs it to define marriage and the basis of an intergenerational family, does not in fact belong to an overlapping consensus, and suggest that if it once did, it no longer does. But what is important to the point at hand is that Sister Allen, in putting forth the idea in a way in which it may have a justification outside the bounds of Catholic theology, is engaging in a public deliberation that recognizes a plurality of comprehensive doctrines. She is effectively saying that you can maintain different comprehensive doctrines and still find the idea of complementarity persuasive.

What I am hoping to point out is that as feminists who come from different religious and secular perspectives, we can nonetheless try to convince one another through such appeals. We can also air and discuss the different motivations that drive us to promote certain policies. If we can agree that we hold to shared beliefs even if we are motivated by different comprehensive doctrines, that we can justify these beliefs in terms that others of us can accept, then we can find (or forge) an overlapping consensus. In our case, we are not looking for an overlapping consensus to support political liberalism as much as we seek an overlapping consensus upon which to work together as feminists for political and social reform.

To allow this to happen, secular feminists need to curb their suspicion of the faith-based motivations of religious feminists and religious feminists need to check their insistence on having hold of the deeper truths. These only stand in the way. Dr. Martin Luther King, Jr. clearly believed that he was fighting for civil rights because it is God's own truth, and he may well have thought his is a deeper reason than the *merely* secular belief in equality. But that did not prevent secularists—Jewish atheists, lapsed Christians and believing Jews—from participating in the Freedom Rides, marching on Selma, and joining on the steps of the Lincoln Memorial; and it did not prevent devoted Christians from accepting these brethren as part of the struggle. If Catholic feminists invoke Pope John Paul II in arguing for equal pay for equal work,<sup>16</sup> I as a secular feminist can only be pleased that there

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15. Sr. Prudence Allen, Address at the University of St. Thomas School of Law Symposium: Workplace Restructuring to Accommodate Family Life (Mar. 16, 2007); see Sr. Prudence Allen, *Analogy, Law, and the Workplace: Complementarity, Conscience, and the Common Good*, 4 U. ST. THOMAS L.J. 343, 350 (2007).

16. See, e.g., Stabile, *supra* note 7, at 445 (stating that "John Paul II is clear on matters such as women receiving equal pay for equal work").

are such religious underpinnings for this demand—even if the Pope’s proclamations, wise as they may be, are not the source of my own convictions. I hope as well, that if I, as a secular care feminist, argue that the self is relational, but do not embrace a notion of the relation of self to God, my religious feminist sisters will hear this as a kindred notion, and not dismiss it as a second-rate idea of relationality.

### III. SECULAR THEORETICAL GROUNDS FOR CARE/DEPENDENCY FEMINISM

Let me dwell for a moment on this thought, for it is one that Professor Stabile points to in characterizing a difference between the Catholic feminist and the secular dependency or care feminist legal theorists. Although I am not a legal theorist, I have a strong affinity to those Stabile includes under that characterization<sup>17</sup> and so I feel compelled to address the difference to which Professor Stabile refers. She writes: “The latter [secular dependency or care feminist legal theorists] appears to view women’s relationality either as a matter of choice or ‘as a critique of possessive individualism [more] than as a description of what men and women are actually like.’”<sup>18</sup> But this is a misreading. To show the flaw in Professor Stabile’s interpretation, I will need to give a brief account of how the notion of a relational self has taken hold in secular feminist theorizing.

Feminist psychoanalysts, especially Nancy Chodorow, have argued that because women do most all the early mothering of infants and young children, and as the construction of a self develops in part in relation to the person who does that early nurturance, girls develop a more relational sense of self—one that is not strongly differentiated from the mother—than do boys, who, in establishing a gender identity are trying to differentiate themselves from that first love object for both girls and boys, the mother.<sup>19</sup> It is in terms of this psychoanalytic model that the notion of a relational self first took hold in feminist theory. Note that on this model, the self understanding that develops is not a “matter of choice” nor a “reaction to individualist conceptions of the self” except insofar as Chodorow recognized that the work of nurturance requires a more relational understanding of self than is used in most psychoanalytic theory or in political theory.<sup>20</sup>

Professor Stabile notes that “[o]ne important implication of relationality to others is that family (and marriage) and feminism are not mutually exclusive . . . [and that] feminism and sacrifice are not mutually exclu-

17. See *id.* at 435 (citing Martha Albertson Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 AM. U. J. GENDER SOC. POL’Y & L. 13 (2000); CAROL GILLIGAN, *IN A DIFFERENT VOICE* (1982); Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1 (1988); Joan C. Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797 (1989)).

18. *Id.*

19. NANCY CHODOROW, *THE REPRODUCTION OF MOTHERING: PSYCHOANALYSIS AND THE SOCIOLOGY OF GENDER* 77–91 (1978); see also JESSICA BENJAMIN, *THE BONDS OF LOVE: PSYCHOANALYSIS, FEMINISM, AND THE PROBLEM OF DOMINATION* (1988).

20. CHODOROW, *supra* note 19, at 93, 110.

sive.”<sup>21</sup> For secular feminist theory, the notion of relationality enters when feminists investigate the nature of the self that engages in the work of nurturance, work that involves the giving over of oneself to fostering the well-being of another (what Professor Stabile is calling “sacrifice”). Carol Gilligan, in contrast to Chodorow, does not tie this relational self to a particular psychoanalytic theory. Gilligan begins to articulate an entire moral perspective, one that has come to be known as a care ethic.<sup>22</sup> A care ethic is in fact contrasted with the individualism that undergirds most modern theories of justice. Insofar as one takes the moral fabric to be permeated by the value of care, one construes oneself and others as selves that are *always* selves-in-relationship. That again is not a “choice”—at least not in the way that the decision whether to brush my teeth with Colgate or Crest is a choice. Construing oneself as a relational self is a way to understand oneself as a social, political and moral being.

Subsequent care feminists have gone further and argued that such an understanding of the self more accurately articulates the nature of the self, that the individualistic self is a mere fiction<sup>23</sup> or at best a self-understanding pertinent only to very limited spheres of activity. Thinking of the self in these relational terms requires a new understanding of autonomy and feminists have been articulating a relational autonomy.<sup>24</sup>

It is simply false to say, as Elizabeth Fox-Genovese writes in *Feminism and the Unraveling of the Social Bond*,

[secular] feminism rests upon the conviction that no one has the right to tell a woman what to do – to abridge her right to self-determination – or to compromise her absolute equality with men. All the variants on feminism are thus united by a fierce commitment to individualism and equality, and all fundamentally reject the notion of legitimate authority.<sup>25</sup>

True, secular feminists are united in fierce commitment to equality, but not to individualism. True, secular feminists are united in a woman’s right to self-determination, but that is a far cry from thinking that “no one has a right to tell a woman what to do.” Feminists also recognize, more now perhaps than ever, that equality does not mean sameness (to men or to one

21. Stabile, *supra* note 7, at 435.

22. GILLIGAN, *supra* note 17, at 73.

23. See EVA FEDER KITTAY, *LOVE’S LABOR: ESSAYS ON WOMEN, EQUALITY, AND DEPENDENCY* (1999); see also Eva Feder Kittay, *When Caring Is Just and Justice Is Caring: Justice and Mental Retardation*, 13.3 *PUB. CULTURE* 557 (2001). This is my reading of legal theorists such as Martha Fineman and Robin West, and of feminist philosophers such as Annette C. Baier, *The Need for More than Justice*, in *JUSTICE AND CARE* 47 (Virginia Held ed., 1995); VIRGINIA HELD, *THE ETHICS OF CARE: PERSONAL, POLITICAL, AND GLOBAL* (2006); SARA RUDDICK, *MATERNAL THINKING* (1989). These are just a few examples.

24. See generally *RELATIONAL AUTONOMY: FEMINIST PERSPECTIVES ON AUTONOMY, AGENCY, AND THE SOCIAL SELF* (Catriona Mackenzie & Natalie Stoljar, eds., 2000).

25. Elizabeth Fox-Genovese, *Feminism and the Unraveling of the Social Bond*, 19, no. 3 *WOMEN FOR FAITH AND FAMILY* (2004), <http://www.wf-f.org/04-3-Feminism.html>.

another)—if that is what Fox-Genovese means in referencing “her absolute equality with men”<sup>26</sup>—and that setting up men as the norm against which women measure themselves is often pernicious and undermines women’s efforts to develop their full potential. Indeed, some feminists argue instead for the need of men to strive to be more like women in many regards.<sup>27</sup>

Relationality is partly cashed out in relationships of dependency; Martha Fineman and I both speak much about the “temporal dependency” of our early years, periods of illness, disability and frail old age. Both of us focus on these dependencies to examine aspects of social and political requirements in light of these inevitable and extensive dependencies. We each draw on the idea that these dependencies encapsulate our fundamental condition as dependent beings living out our lives in inextricable interdependencies and inevitable dependencies. So the fundamental nature of dependency is no more lost on us than on religious feminists.

The central difference I see between Catholic feminists and secular care feminists on the issue of a relational self is that the former include the idea that our selves bear a relationship to a personal God and that this relationship mediates the relationship between selves, and that our dependency consists in these relationships. Here, secular feminists like myself and religious feminists do part company, and secular feminists use different theoretical, as well as empirical, resources to make the arguments about the relationality of the self and the centrality of the concept of dependency. That is, where the religious feminist finds support for her beliefs in her religious conviction, the secular feminist is no less likely to look for good support for her own positions in secular theorizing. Each ought to refrain from an easy dismissal of the grounding principles of the other.

Let me take another example of the misreading of secular feminist thought, one that occurs in Professor Failinger’s paper when she says that secular feminist care ethicists endorse care ethics because secular feminists believe that women think that way and that this is sufficient justification to say that it is the right way to think.<sup>28</sup> In fact, secular feminist theorists are

26. *Id.*; see Christine A. Littleton, *Equality Across Difference: A Place for Rights Discourse?*, 3 WIS. WOMEN’S L.J. 189 (1987); Christine A. Littleton, *Reconstructing Sexual Equality*, 75 CAL. L. REV. 1279 (1987); see also ELIZABETH H. WOLGAST, *EQUALITY AND THE RIGHTS OF WOMEN* (1980).

27. See EVA FEDER KITTAY, *LOVE’S LABOR: ESSAYS ON WOMEN, EQUALITY, AND DEPENDENCY* 1–19 (1999), for an articulation of the complex relationship feminists have to the concept of equality. See MARTHA MINOW, *MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW* (1990), for more on how secular feminist theorists who do not approach feminism through a care orientation deal with this question. See also CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987).

28. “[F]eminists sometimes have difficulty explaining why contextual thinking is more likely to gain purchase on the truth than abstract reasoning. Some seem almost to resort to the argument that this is how women *do* think, and so it must be a valid way of understanding the world.” Marie A. Failinger, *Women’s Work: A Lutheran Feminist Perspective*, 4 U. ST. THOMAS L.J., 343, 410 (2007).

engaged in exploring what it is about contextuality that makes many think that it serves as a better paradigm for explanation, knowledge claims, and ethical deliberation. That women, in greater number than men, appear to favor contextual thinking, construe their identity relationally, and make moral decisions based on the ethical value of care is an empirical finding, and, as an empirical finding it has also been contested.<sup>29</sup> But feminist theorists who work on care ethics have been less committed to the empirical finding and more interested in the importance of thinking through the validity, implications and new arenas in which the idea of a relational self and an ethic based primarily on care may be relevant.<sup>30</sup> The attractiveness of a care ethic and a relational understanding of the self derive not from the thought that it reflects how women do ethics or think of the self (and this has never been purported to be true of all women and no men). Instead it is a perspective that answers to a host of concerns that feminists have had, for example: How does one think of ethical relationships between unequals? Why have ethical and political theories been unresponsive to the concerns of dependents and those caring for dependents? How do we move beyond the excessive individualism that pervades our ethical and political theories as well as the society in which we exist, and yet respect individual strivings and differences? What sorts of responsibilities do we have to vulnerable others? Why does the egoism vs. altruism dichotomy seem so unsatisfactory? How do we come to discern the needs of another? Are there universal needs that are unaffected by historical and cultural difference or is all need contextually understood? These are but a few questions that promise to have a resolution in a relational, care-based ethics and a contextual approach to knowledge, or, at least, a more satisfactory response than is offered by much traditional epistemology, justice-based ethics and political philosophy.

Furthermore, feminists have been at work developing a theoretical underpinning for a care ethic. One I find most promising is based on the idea of a practice and the norms that underlie practices of care. For example, Sara Ruddick, in her book *Maternal Thinking*<sup>31</sup> looks at practices of mothering. She asks, in effect, whether there are some universal aims of those who engage in the practice of mothering—essentially, what it is that mothering persons (a role which she believes can be filled by men and women

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29. GILLIGAN, *supra* note 17. See Linda Kerber et al., *On "In a Different Voice": An Interdisciplinary Forum*, 11, no. 2 SIGNS 304 (1986), for a searching look at Gilligan's work. See also MAPPING THE MORAL DOMAIN (Carol Gilligan, Janie Victoria Ward & Jill McLean Taylor with Betty Bardige eds., 1988).

30. See generally HELD, *supra* note 23; Joan C. Tronto, *Beyond Gender Difference to a Theory of Care*, 12, no. 4 SIGNS 644 (1987); Annette C. Baier, *The Need for More than Justice*, in JUSTICE AND CARE: ESSENTIAL READINGS IN FEMINIST ETHICS 47 (Virginia Held ed., 1995). See generally MARGARET URBAN WALKER, MORAL UNDERSTANDINGS: A FEMINIST STUDY IN ETHICS (1998), for useful explications of this point.

31. RUDDICK, *supra* note 23.

alike) do when they mother adequately and what ends are served by their actions. She identifies three sorts of endeavors that are critical to the practice of mothering: preservative love, fostering growth or development, and socializing for acceptance into the community. When people engage in raising an infant into adulthood, they must first preserve the life of the child and they must do so with some loving care or their child fails to survive and thrive. They must allow for and enable the growth and development of that child—otherwise they are not *raising* a child. And they must prepare the child for the social world the child will encounter. Without such preparation, both the grown child and the community suffer. These essential elements of the practice of mothering give rise to a set of virtues and vices (which Ruddick calls “temptations”).<sup>32</sup> That is, the *telos* of the mothering practice itself informs the moral norms necessary for the best examples of that practice.<sup>33</sup>

Care, in instances other than mothering, is a practice as well. Or more precisely, care is either an end or a means to other ends in a number of practices, among them are nursing, friendship, welfare policies, teaching, looking after someone who is ill, tending to the frail elderly, and assisting disabled people—to name a few examples.<sup>34</sup> In all these practices of care, the caregiver must assume a relational self, a self that is highly empathetic to another and considers the other’s wellbeing as (at least to a certain extent) part of her own. Care ethicists do not argue that a relational self is of value simply *because* women develop such relational selves, but because the practices of care *require* it, if the care is going to be *good* care. Excessive individualism impedes the possibility of providing good care. On the other hand, secular feminists tend to see the value of also holding fast to the equal worth of each individual, and the importance of not neglecting the needs of one in meeting the needs of another. Total self-*sacrifice*, the annihilation of the self in favor of the cared for, is neither demanded by the practice of care nor is it justifiable, for one can see that a relationship requires *two* selves, not one self in which the other is subsumed and consumed. A care ethic is not a mere reaction to individualism, but it tempers individualism by insisting that the relationships in which we stand help to constitute the individual we have become, are now and will be in the future.

Religious feminists may well ground a care ethic in religious beliefs, and see the relationality of the self as founded in the relationship of the self to the deity, but that is not the only way to conceive of these ideas. They may well take a different attitude about sacrifice because the notion of the gift of self plays an important role in the way religious feminists view a relationship as mediated through the deity. But secular feminists are wary

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32. *Id.* at 25, 30.

33. See also Alison M. Jaggar, *Ethics Naturalized: Feminism’s Contribution to Moral Epistemology*, 31, no. 5 *METAPHILOSOPHY* 452 (2000).

34. PETA BOWDEN, *CARING: GENDER-SENSITIVE ETHICS* (1997).

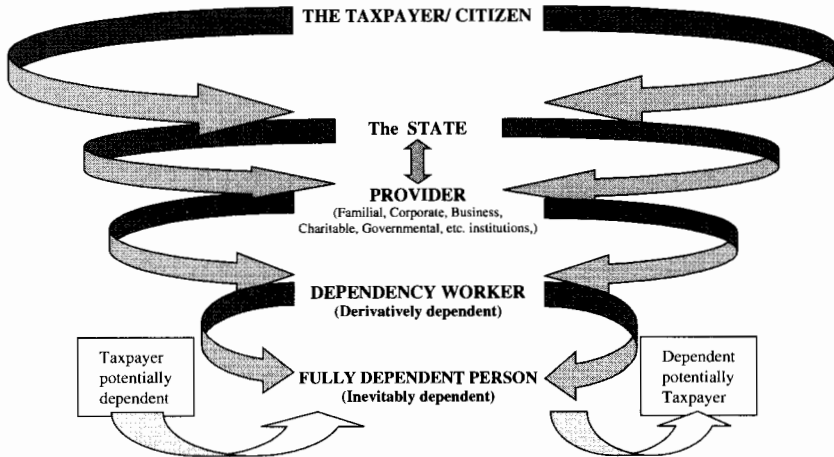
of calls on women to sacrifice, for too often they have had little say in that demand, and for too long the glorification of self-sacrifice has kept women in a subordinate position where their well-being counted for less than those whom they served. Perhaps feminists of faith have the understanding that such sacrifice does not go unacknowledged. There are resources in religious doctrine that can protect women from the exploitation that such sacrifice has tended to entail. Secular feminists are more concerned with ensuring that the social obligations to the caregiver and to the one in need of care are firmly in place. We are interested in legislation that helps ensure that women (or men doing care work) are not called upon to forego their own well-being as they tend to another: legislation such as paid leave to do care, financial remuneration for familial caregiving, workplace protections and flexibility that allow people both to care for loved ones and have fulfilling work, respite facilities for families doing long-term care for disabled, chronically ill or frail family members and so forth. To the extent that religious feminists can join secular feminists, we will be stronger in fighting for these demands.

But what, some here have asked, can be the grounds that secular feminists have for claiming that society has an obligation to support care work? Don't we have to appeal to a religious understanding of our obligations to the weak and vulnerable? I would argue and have argued that there are good secular grounds for such obligations.<sup>35</sup> I appeal to an enlarged conception of reciprocity. I cannot go into detail in the time allotted, but I can sketch the argument. I begin with our inevitable dependency—with the fact that we are all totally dependent at some time in our life, during infancy, serious illness, frail old age, and if we have a permanent and serious disability we may be very dependent all through our lives. If we consider that we form social relations not only to engage with equals—in economic exchange, social intercourse, cooperative enterprises, et cetera—but also to help care for one another through periods of inevitable dependency, then the dependent person is the beginning and end point in a series of obligations: the obligation to the dependent child; the obligation to the caregiver to enable her both to care for the dependent and herself; the larger social obligation to support those who support the caregiver; and the obligation of each to a social order that will care for us as we again become dependent. Consider the following diagram:<sup>36</sup>

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35. Eva Feder Kittay, *At Home with My Daughter*, in *AMERICANS WITH DISABILITIES: EXPLORING IMPLICATIONS OF THE LAW FOR INDIVIDUALS AND INSTITUTIONS* (Leslie Pickering Francis & Anita Silvers eds., 2000); KITTAY, *LOVE'S LABOR*, *supra* note 23; Kittay, *When Care Is Just and Justice Is Caring*, *supra* note 23.

36. See Eva Feder Kittay, *A Feminist Public Ethic of Care Meets the New Communitarian Family Policy*, 111, no. 3 *ETHICS* 523, 534 (2001), for a fuller discussion of this diagram.



The diagram I have displayed is meant to capture the expanded notion of reciprocity I have in mind. At the center is the fully dependent individual. If we do, in fact, create social structures and political associations at least in part to allow us to care for dependents, then: (1) We expect a dependency worker/caregiver to care for the dependent; (2) Insofar as the dependency worker in turn becomes dependent as she attends to a fully dependent individual, others, (whom I call providers) must step in to support her in her caregiving; (3) Providers are in fact dependent on larger social structures, such as the state to enable the provider to procure resources needed to assist the dependency worker, i.e. providers need jobs or other sources of income. (Note that sometimes the same individual occupies both roles—but this difficult situation generally is very costly to the dependency worker/provider and to the dependent individual—unless many other support structures are in place.); (4) The relationship between providers and the state is a reciprocal dependency as the state, in turn, depends on those who help create the resources, that is, the taxpayers; (5) But those who are the taxpayers have at some point been the beneficiaries of the care of a dependency worker and may need to do dependency work or may return to a state of full dependency; (6) As the taxpayers have benefited from another's care, and as such care was made possible by the contributions of the caregiver and the providers, the taxpayers have a reciprocal duty to enable others to care and provide support to caregivers.

At each turn then, dependencies incur obligations, which are, in fact, obligations of reciprocity in an expanded sense that allow each one to receive care when that care is needed, and to permit the caregiver to care without depleting herself. I think what I have here adumbrated is a form of justice that we can invoke to make claims for a collective responsibility for care.

I engaged in these lengthy expositions in order to make the case that there can be secular grounds for arguing for the relationality of the self,

contextual thinking, an ethic of care and a societal obligation to care. In assuming what I take to be a number of shared beliefs, the secular feminist is not making baseless assumptions any more than is the religious feminist. Once again the point is that a certain belief may be grounded in different theoretical positions, some of which may be religious, others secular.

Now you might reply that *how* we ground our beliefs is surely not indifferent to the actual content of the belief. Well, yes, to some extent it is, and no, to some extent it's not. Professor Failinger tells us that Lutheran feminists see the justification for a contextual approach to knowledge, and a relational approach to ethics in "*finitum capax infiniti*," the finite is the bearer of the infinite. There are many ways to interpret this very idea. For the Lutheran, it is Christ who is the exemplar.<sup>37</sup> Yet a Spinozist such as myself can also hold that the finite is the bearer of the infinite, for according to Spinoza each mode expresses all infinite attributes of God.<sup>38</sup> A secular feminist care ethicist, such as myself, can see in the work of caring for a singular finite individual, the ethical meaning of caring relationships wherever they occur. And the contextual way of knowing<sup>39</sup> that secular feminists argue for is derived from an understanding of the relational self, the caring work and the ethical attitude needed to do such caring work. It's not evident to me that the ethical attitude embedded in the labor of care—a labor which is the foundation of all human life—is an unapt or unworthy starting point from which to derive the truth of our fundamental connectedness and the inextricably contextual nature of life and thought.

Or, again we may turn to the work of Professor Failinger. She asks about the difficult situation that women find themselves in wherein they can only achieve their professional goals by employing other, poorer and less privileged women to take on the labor that they would traditionally be charged with. She says, "professional women in these situations can acknowledge their responsibility for those whom they employ. They can begin to confess their own indifference to the need, and exploitation, of those who serve them as domestic and service and child care workers."<sup>40</sup>

I agree. But she also writes: "if women can honestly recognize the inherent sinfulness and finitude that marks women's lives, they can begin to be honest about the costs of their many callings." I am less concerned with the sinfulness of women in this regard, than with the paucity of economic alternatives, the structuring of the workplace, the devaluing of care labor, the poor pay we, as a society, offer for care workers. If attributing the moral failure and lack of political will to change the conditions for care workers to the agent's "sinfulness" stand in the way of feminists of all stripes working

37. Failinger, *supra* note 28, at 411.

38. A "mode," says Spinoza, is a modification of an attribute. God has infinite attributes, of which we humans know only body and mind. See SPINOZA, *supra* note 1, at 102.

39. Stabile, *supra* note 7, at 435-38.

40. Failinger, *supra* note 28, at 424.

together to alter our policies, then this way of talking presents a problem. But I don't see why it needs to. Where we can speak of a certain behavior in secular terms as a moral failure, we can also speak of the sinfulness of the behavior. But a moral failure on a societal level requires not so much that we pray for our sins and for forgiveness, as that we work together to redress the moral harm.

#### IV. FEMINISM AND THE FAMILY—AN IMPASSE?

And now we have come to what is perhaps the most difficult and contentious part of this talk. I think there is a very genuine division between the secular dependency or care feminists and some of the work that we heard today. Most of the issues bear on questions of the family and sexuality. Contraception and abortion should also be included here, but I am going to set aside these latter thorny issues, as much ink (and blood) has already been spilled on the issues of abortion and contraception.

I do want to speak about how religious and secular feminists clash over the family, about which much less has been said. Professor Stabile's discussion of secular feminism often conflates the views of feminists who accept liberal individualism and who exhort women to be "independent," with those feminists who stress relationality, dependency, and care. Sometimes she reads the positions of the latter through a lens of the former—for example, when she talks about how secular feminist views concerning relationality are merely reactive against individualism. In doing so, I believe that Professor Stabile exaggerates differences between a religious feminist such as herself and a secular care feminist such as myself. While care feminists reject individualism and stress the importance of dependence and interdependence, they do not necessarily embrace the traditional family as the alternative to individualism. Instead, we question why the concept of "family" is predicated on a particular form of sexual bonding instead of the binding nature of caring and care labor.<sup>41</sup> We are not trying to "reinvent the family" or say that the family is a *mere* social construction and so can be subject to any form we wish. We are asking, what is the *work* of the family in the life of a society? The answer is that the work of the family is the work of dependency care. Thus, care feminists take the notion of family in a broad sense as being the social technology by which we take care of dependency needs, including (but not exclusively) the dependency needs of children.

Often the family is intergenerational, but sometimes it's not. Two adults who have committed to be there for each other 'in the long haul' and to care for each other should the need arise can constitute family in this

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41. MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* (1995); Kittay, *supra* note 36; KITTAY, *LOVE'S LABOR*, *supra* note 23.

sense. Often the dependent is a child, but the dependent may be a disabled person or an elderly person. I would argue that it doesn't matter whether the unit in which a child is being cared for is comprised of a man and a woman in a monogamous relationship. The important thing is that the child is well cared for. Of equal importance is the societal recognition of its responsibility to ensure that this unit is enabled to give, at minimum, adequate care. A decent society is one in which all who are in need of dependency care receive it. But a decent society is also one that does not achieve this goal by free-riding on those who undertake the responsibility to give care. That is, a decent society will ensure that the caregiver is herself adequately cared for.

Professor Stabile, Sister Allen and others argue for the traditional structure of the family. They stress the intergenerational nature of the family. They aver that family must be understood as a monogamous, heterosexual unit—and give various theological arguments for this position, arguments that, as far as I understand, have much to do with the well-being of the child.<sup>42</sup> Among these are arguments for the propositions that a child must have a man and a woman as adults in their lives, and that the adults must remain in a relationship not rent by divorce. Sister Allen bases her position on the more general idea of complementarity—that as a man and a woman are complements to one another and each supplies something the other cannot, the child requires the presence of both.<sup>43</sup>

I question many of these propositions. Let us take the issue of complementarity. Even if you accept that men and women have two very distinct ways of being in the world, and as long as we continue to live in a sexist society I think the jury will remain out on the truth of that claim, there is no reason why a child can receive those two ways of being in the world only in a monogamous marriage. Were we to have more men in caregiving work, especially in early childcare work and in early education, then a child raised with a single mom or two moms would still have the benefit of experiencing these two ways of being in the world. If more effort were made to counsel couples who divorce to maintain a non-antagonistic sharing of child care arrangements, the child would maintain the benefits of having more than one adult responsible for its well-being. Furthermore, empirical studies have shown time and time again that children raised by homosexual couples fare just as well as children raised in traditional heterosexual marriages, as long as the homosexual parents are comfortable with their sexuality.<sup>44</sup> A more accepting social attitude toward homosexuality would then contribute

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42. Professor Stabile approvingly notes, "For these reasons, the Church sees as a blight and a shadow on family: divorce, polygamy and homosexual unions. All of these are threats to 'the community of marriage and the family.'" Stabile, *supra* note 7, at 440. See also Allen, *Analogy, Law, and the Workplace*, *supra* note 15, at 359.

43. See Allen, *supra* note 15, at 359, for Sister Allen's discussion on "integral gender complementarity."

44. See Vivien Ray & Robin Gregory, *School Experiences of the Children of Lesbian and Gay Parents*, 59 FAM. MATTERS 28 (2001), for a large number of studies.

to the well-being of children raised by homosexual couples. The findings regarding the question of whether children are best served in single parent homes or in homes where both parents are present even when there is strife or domestic abuse may be inconclusive,<sup>45</sup> but the indications are that some of the negative effects on children when a couple divorces are due to the diminished income and standard of living of the mother, who almost always has responsibility for the exclusive care (if not the exclusive custody) of the child.<sup>46</sup> Better economic protections for the custodial parent, more equal wages for women, and support for parents raising children alone could do much to alleviate that poverty and offset many of the negative consequences of divorce on children.

It is hard for this secular feminist to understand why, when religious feminists want to emphasize relationality, the value of caring labor, equal dignity of each individual, the importance of raising children and caring for those who cannot care for themselves, the emphasis is not on the units of dependency relations rather than the family as understood and constituted by patriarchy. So here there is a real divide. Predictably, *I* would urge the religious feminists to come over to our side, for in my perspective, it is far more consistent with all their other feminist positions and attitudes towards care.

But if changes in social policy that have to do, say, with poverty and women's work conditions, can help the conditions of children who live in nontraditional families, then why should different attitudes toward the family on the part of secular and religious feminists enter as a dividing wedge? Why should we be divided when we agree that the important thing is to ensure that our dependents and our caring relationships are supported and protected?

Let me return then to the idea of an overlapping consensus. What is the overlapping consensus pertaining to families? I concede that at one time an overlapping consensus in this country (and in many other parts of the world) was to be found in the idea that children ought to be raised in a monogamous marriage. But if that view still holds a rhetorical edge, it no

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45. See EDUCATION REFORMS AND STUDENTS AT RISK: A REVIEW OF THE CURRENT STATE OF THE ART - JANUARY 1994 (Robert Rossi & Alesia Montgomery eds., 1994), for a review of the literature conducted by the U.S. Department of Education; E. Mavis Hetherington & Margaret Stanley-Hagan, *The Adjustment of Children with Divorced Parents: A Risk and Resiliency Perspective*, 40 J. CHILD PSYCHOL. & PSYCHIATRY 129 (1999). See Daniel Silitsky, *Correlates of Psychosocial Adjustment in Adolescents from Divorced Families*, 26, no. 1/2 J. DIVORCE & REMARRIAGE 151 (1997), for a study that finds no significant difference in the psychological well-being of adolescents. See Charles Lockhart et al., *Family Structure and Children's Needs: The Test Case of Moral Development*, 31, no. 1/2 J. DIVORCE & REMARRIAGE 39 (1999), for the impact of divorce on children's moral development that claims inconclusive results.

46. Richard E. Behrman & Linda Sandham Quinn, *Children and Divorce: Overview and Analysis*, 4, no. 1 FUTURE OF CHILDREN 4 (1994). See also Paul R. Amato, *Children's Adjustment to Divorce: Theories, Hypotheses, and Empirical Support*, 55, no. 1 J. MARRIAGE & FAM. 23 (1993).

longer matches the reality of family life. About one in four households in the United States (and not only in the United States) consist of married couples with children in monogamous heterosexual marriages.<sup>47</sup> In many parts of our nation and in many parts of Europe, we have come to the understanding that gay and lesbian couples can do an excellent job in nurturing their children. We've seen those children flourish.<sup>48</sup> These changes on the ground have led to public discussions and have opened the question of the suitability of gay and lesbian couples raising children to public rational deliberation. Some of us might determine that this is not the family we want. We might hold onto religious qualms about the suitability of such families. That private conscience is given its place in political liberalism. But if we're going to work together as feminists, we need to focus on those positions for which we can find an overlapping consensus. And even in those areas where we disagree, we can find the grounds for forging an alliance.

#### V. QUESTION AND ANSWER PORTION OF THE PANEL

Schiltz:

Thank you very much. I'm sure that there are a lot of things that a lot of people want to say and I know that we don't have very much time for questions. But I thought I would just try. One thing that has occurred to me. . . . What I think we're talking about . . . is a form of sacrifice, and what I noted in the discussion yesterday is that in a lot of the secular feminist perspectives [there] is an extreme discomfort with this notion that there should be any lack of reciprocity in the sacrifices that we make, and I see from the two religious [perspectives] that were represented today . . . comfort with that notion that there should be things you do for which there is no repayment, and it was clear just in the language of the two presentations where "sacrifice" was used by Professor Failinger and Professor Stabile, and from Dr. Kittay we didn't hear that. We heard and saw the chart . . . saying you are going to get back at the end of your life what you are giving now at the beginning of your life. So I wondered if anybody has any comment on that?

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47. "Punctuating a fundamental change in American family life, married couples with children now occupy fewer than one in every four households—a share that has been slashed in half since 1960 and is the lowest ever recorded by the census." Blaine Harden, *Numbers Drop for the Married with Children*, WASH. POST, Mar. 4, 2007, at A03.

48. Ellen C. Perrin & Comm. on Psychosocial Aspects of Child and Family Health, *American Academy of Pediatrics Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109, no. 2 PEDIATRICS 341 (2002).

Kittay:

There are two questions here, one about reciprocity and one about self-sacrifice. And they are connected insofar as the idea of self-sacrifice assumes that one acts for the benefit of another without the expectation of a return, that is, of a reciprocal action on the part of the party whose well-being I promoted at my own expense. The notion of reciprocity that I'm working with is not one where I expect to benefit from the actions of the one to whom I devoted myself. Nor is it one where I expect to get in the same measure that I gave. It is a very wide circle of reciprocity. I give to "a," "a" gives to "b," "b" gives to "c," etc., and if I am in need, I will want to get what I need, but it may not be from "a" or "b" or "c" but from someone else in the reciprocal chain. And so it might well look as if I will be engaging in actions that appear self-sacrificing. But carework often requires that we set aside our own immediate needs. Yet that is not a situation that we generally can sustain, nor is it especially fair to careworkers, even mothers, to always and forever set aside their own interests and desires—their own selves. As I noted earlier, relationality requires that there be two (or more) *relata*, two or more selves. If one person submerges herself entirely for the benefit of the other, there is no longer a relationship. This is a point made well by Carol Gilligan.<sup>49</sup> It is also beautifully and powerfully made by Simone de Beauvoir in speaking of love relationships in her chapter "The Woman in Love" in *The Second Sex*.<sup>50</sup> The reciprocity then is not one that presumes that I will get back at the end of my life what I put in earlier in my life. Rather, I have argued, that non-exploitative caregiving requires that others attend to the needs that arise for the caregiver and help provide her with the resources she will need to take care of another and to assure her own well-being. If she, at some point, requires extensive care, then she too should be able to avail herself of such care, a situation by the way that often does not prevail today for many women who have spent their lives caring for others.

Failing:

My sort of favorite philosopher is the Jewish philosopher Emanuele Levinas and in his conception all of us stand, if you will, beneath another person, an infinite other person who is standing over us in his or her need and we are in relationship to each other that way. So the command of the other person, he says, holds me hostage to his need. And that's how I look at the problem of sacrifice. As . . . acknowledged in my talk, people exploit

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49. GILLIGAN, *supra* note 17.

50. SIMONE DE BEAUVOIR, *THE SECOND SEX* (H.M. Parshley trans., Vintage 1989) (1949).

each other, and part of our common responsibility is to call people on the exploitation whether it is the husband exploiting a wife or a worker exploiting his situation or an employer exploiting her situation. So . . . that's the dark side of our reality as human beings, but that does not obviate the fact that this other person, every other person, stands over me in his absolute nakedness and his need calling to me and commanding me to respond to him, in Levinas's words.

Kittay:

Okay, my own views are very close to Levinas's here. I mean I argue that the reason that we have to respond . . . to a dependent person is precisely because of that person's need, a need that this person cannot meet on their own and because we are in a position (perhaps a unique position) to answer to that need. But that's true of all, not only those who are children or other inevitable dependents, so it's part of what we are as part of the human community. The problem is asking for exploitative self-sacrifice. That's where I think we have to say "no." In my book, *Love's Labor*, I consider whether a slave, who has traveled North with his master and finds himself with a master who has taken ill and may die, has any obligation to care for his ill master. I think it's a very difficult question. I think we can conceive of the situation in several ways. On the one hand, there is a human relationship in which one person's neediness calls for a response from another human being, but there's also that other relationship, of master and slave, a genuinely exploitative relationship. That is a relationship that, I believe, the slave has a right to walk away from because it is an unjust relation.

Schiltz:

I think that what I'd probably add, and this is really the conclusion that we were coming to the other night, is that a lot of this is how we are using certain words, because "exploitative sacrifice" is not what religious or secular feminists want. I mean, "exploitative sacrifice" by definition reduces my own dignity as a human person, so I think that it really is an issue of how we are using certain terms. I think we have time for maybe two questions. There's one hand up.

Question:

I have several questions for all of you, but I will limit one question to Dr. Kittay. Um, you talked, and all of you talked about the differences between secular feminists and faith-based feminists, but I never heard you articulate how you came to the conclusion

that there is equal dignity. What's the basis for that equal dignity? And why is it that a perpetually dependent being, whether it be an unborn child or a severely retarded child, um, who's going to have a lifetime of perpetual dependence, why are they entitled to this equal dignity do you think?

Kittay:

The usual response in philosophy for why we all have equal dignity is that we are all rational beings that are capable of conceiving of our own good and then forming our own ends, that we are ends in ourselves. I object to this because basing equal dignity on rational capacities excludes people like my daughter. In other words, I argue that the basis of that equal dignity lies in our neediness as beings that require care and that can give care. Each and every person who survives is given care—cannot survive without care, even minimal care. At the same time, humans are uniquely beings who care not only for their offspring, but for others when they are ill, disabled or frail. Only humans set up institutional structures to assure that we can provide care. When we recognize another as having human dignity, we recognize that this is someone that another valued enough to provide the care required to survive—that valuing, I believe is what we honor as we ascribe dignity to person. I also argue for a very different conception of equality, which again is not dependent on human rationality. Instead I have put forward the idea that our equality resides in the fact that we are each some mother's child. In making these statements, I can't say that I speak for all secular feminists. Many feminists don't agree with the idea of a "care ethic." Why, you ask, is someone who is forever dependent due that care? If we are all inevitably dependent at some point in our lives and some may be or become inevitably dependent for all or for the remainder of their lives, then any society will require structures to care for dependents if it is to continue beyond one generation, and a decent society will not allow dependency needs to go unmet—however long those needs continue. I believe that is part of our conception of a decent society. When we see people who cannot take care of themselves lying in the streets or rotting away in an institution where they are left to lie in their own feces, we feel ashamed and even outraged. This may not be a response in societies that are in a condition of great scarcity. It is a response in societies where there is sufficient affluence to care for those in need of care and which have a conception of the equal dignity of each human being.