Reconstructing POLITICAL THEORY

FEMINIST PERSPECTIVES

MARY LYNDON SHANLEY & UMA NARAYAN

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EDITED BY

Mary Lyndon Shanley and Uma Narayan

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List of Contributors

MARTHA ACKELSBERG is Professor of Government and Women's Studies at Smith College, where she teaches courses on urban politics, political participation, political theory, and feminist theory. Her writings include *Free Women of Spain: Anarchism and the Struggle for the Emancipation of Women* (Indiana University Press, 1991), and a variety of articles on women's activism, democratic theory, reconceptualizing families and family life in the modern period, Spanish anarchism, and Jewish feminism. She is currently working on issues of gender and citizenship.

ANITA ALLEN is Associate Dean for Research and Professor of Law and Philosophy at Georgetown Law Center. She has a special interest in jurisprudence and the right to privacy. Her publications include *Uneasy Access: Privacy for Women in a Free Society* and *Privacy: Cases and Materials*, a co-authored textbook. Her professional activities include advisory positions with numerous philosophy, bioethics, health and legal organizations.

KIMBERLÉ CRENSHAW is Professor of Law at UCLA Law School and Columbia Law School. She has lectured and written extensively on civil rights, black feminist legal theory, and race, racism and the law. Her work has appeared in the *Harvard Law Review*, *National Black Journal, Stanford Law Review* and *Southern California Law Review*. She is founding coordinator of the Critical Race Theory workshop, and co-editor of a forthcoming volume, *Critical Race Theory: Key Documents that Shaped the Movement*.

JEAN BETHKE ELSHTAIN is Professor in the Divinity School of the University of Chicago. She is the author of *Public Man/Private Woman*, *Meditations on Modern Political Thought*, and *Women and War*. She has

edited numerous anthologies, including *The Family in Modern Political Thought, Power Trips and Other Journeys*, and *Just War Theory*.

NANCY FRASER is Professor of Political Science at the Graduate Faculty of the New School for Social Research. She is the author of *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* (University of Minnesota Press, 1989), a co-author of *Feminist Contentions: A Philosophical Exchange* (Routledge, 1994) and the co-editor of *Revaluing French Feminism: Critical Essays on Difference, Agency and Culture* (Indiana University Press, 1992). Her most recent book is *Justice Interruptus: Critical Reflections on the "Postsocialist" Condition* (Routledge, 1997).

LINDA GORDON is Professor of History at the University of Wisconsin – Madison. She has written several books concerning the history of public policy, with particular concern for gender and family issues. Her most recent books are *Heroes of Their Own Lives: The Politics and History of Family Violence* (Viking Press, 1988) and *Pitied But Not Entitled* (The Free Press/Harvard University Press, 1994).

NANCY J. HIRSCHMANN is Associate Professor of Government at Cornell University, where she teaches political theory and feminist theory. The author of *Rethinking Obligation: A Feminist Method for Political Theory* (Cornell University Press, 1992) and co-editor with Christine Di Stefano of *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory* (Westview Press, 1996), she is currently writing a book on the concept of freedom.

ELIZABETH KISS is Director of the Kenan Ethics Program at Duke University. She is completing a book entitled *Rights As Instruments*. She has published extensively and continues to work in the areas of rights theory, feminist theory, and East Central European politics.

MARTHA MINOW is Professor of Law at Harvard Law School. She is the author of Making All the Difference: Inclusion, Exclusion, and American Law (Cornell University Press, 1990) and Not Only for Myself: Identity, Politics and Law (The New Press, forthcoming). She has edited Family Matters: Readings on Family Lives and the Law (The New Press, 1993) and co-edited Law Stories with Gary Bellow (University of Michigan Press, 1996). Her scholarship includes articles about the treatment of women, children, persons with disabilities, and members of ethnic, racial and religious minorities.

UMA NARAYAN is Assistant Professor of Philosophy at Vassar College. She works in the areas of ethics, philosophy of law, social and political philosophy and feminist theory. She has written articles on topics such as punishment, homelessness, affirmative action, surrogacy and colonialism. She is working on a volume of feminist essays tentatively entitled *Dislocating Cultures* for the Thinking Gender series, Routledge.

MARY LYNDON (MOLLY) SHANLEY is Professor of Political Science on the Margaret Stiles Halleck Chair at Vassar College, where she teaches courses on the history of political philosophy, feminist theory, and women and the law. She is author of Feminism, Marriage and the Law in Victorian England (Princeton University Press, 1989) and co-editor, with Carole Pateman, of Feminist Interpretations and Political Theory (Polity Press, 1990). Her current research concerns ethical issues in contemporary family law.

ELIZABETH V. SPELMAN, Professor of Philosophy at Smith College, is the author of *Inessential Woman: Problems of Exclusion in Feminist Thought* (Beacon Press). "The Heady Political Life of Compassion" adumbrates some themes central to her forthcoming book *Fruits of Sorrow: Use and Abuse of Suffering* (also Beacon).

ANNA YEATMAN is Professor and Chair of Sociology at Macquarie University, in Sydney, Australia. She is the author of two books: Bureaucrats, Technocrats, Femocrats: Essays on the Contemporary Australian State (1990) and Postmodern Revisionings of the Political (1994); she is co-editor of Justice and Identity: Antipodean Practices (1995) and Feminism and the Politics of Difference (1993). Her research interests cover feminist theory, the implications of globalization for the polity, the restructuring of the professions, and higher education.

Editors' Note

Chapter 2 is a revised and shortened version of an article which appeared in *Signs: Journal of Women in Culture and Society*, vol. 19, no. 2 (Winter 1994) under the title "A Genealogy of *Dependency*: Tracing a Keyword of the U.S. Welfare System."

Chapter 5 is a revised version of an article which appeared in *Hypatia*, vol. 11, no. 1 (Winter 1996) under the title "Relational Rights and Responsibilities: Revisioning the Family in Liberal Political Theory and Law."

Chapter 6 originally appeared in *Feminist Interpretations of Hannah Arendt* (ed. Bonnie Honig) published by Penn State Press (1995) and is reproduced by kind permission of the publishers.

Chapter 8 is a substantially revised version of an article which appeared in Women's Studies Journal vol. 10, no. 1 (1994) under the title "Women and Power."

Chapter 10 originally appeared in a longer version in the *Stanford Law Review*, vol. 43, no. 6 (July 1993) under the title "Mapping the Margins: Intersectionality, Identity Politics and Violence Against Women of Color."

Chapter 11 is a shortened version of an article which appeared in *Frontiers:* A Journal of Women's Studies, vol. 16, no. 1 (November 1995) under the title "Domestic Violence and the Theoretical Discourse of Freedom."

Introduction: Contentious Concepts

Uma Narayan and Mary Lyndon Shanley

In the decades since the early 1970s feminist political theory has come of age. Theorists have not only reread canonical texts and rethought many traditional concepts in order to reveal the relevance of gender to political theory, but have also argued for the importance of neglected texts and thinkers and attempted to expand the range of problems and concepts that have been regarded as central to political theory. The present volume, which contains essays that engage in-feminist clarifications of important concepts, was envisioned as a companion to the earlier anthology, Feminist Interpretations and Political Theory, edited by Mary Lyndon Shanley and Carole Pateman. The earlier volume both subjects mainstream theoretical works by thinkers such as Plato, Locke and Rawls to feminist re-readings and incorporates the works of writers like Wollstonecraft and de Beauvoir into the history of Western political theory. This volume, in similar fashion, subjects to feminist re-examination concepts such as rights, power, freedom and citizenship that have long been central to the concerns of political theory. It also calls attention to concepts and concerns such as family, dependency, compassion, the intersectionality of race and gender, and the place of children in political life. These have not been central to mainstream political theory but are important to feminist projects of a reshaping political theory in a direction that is more fully responsive to women's interests, concerns and problems.

Feminist political theory is increasingly a multidisciplinary terrain, and contributors to this volume include philosophers, legal scholars, and political scientists. Despite the different disciplinary perspectives of the authors and the range of concepts they discuss, three general concerns emerge from these essays as being of particular importance to a feminist understanding of the gendered facets of political life: independence and dependency, public and private, and citizenship and political empowerment. These multifaceted and interlinked sets of concerns seem to us to

capture not only the major themes that link the essays in this volume, but important sites within the ongoing feminist rethinking of the core concepts of political theory.

The essays by Elizabeth Kiss, Nancy Fraser and Linda Gordon, and Uma Narayan all show the ways in which ideas of rights and citizenship have long been associated with those of self-sufficiency and independence, and how such notions have been constructed so as to denigrate or dismiss the importance of different groups of women to the life of the polity. Kiss's essay, "Alchemy or Fool's Gold: Assessing Feminist Doubts about Rights," analyzes the feminist misgivings about rights that stem from the ways in which "rights-talk" seems to separate and distance one person from another, to emphasize possible encroachment rather than cooperation and mutual support, and to produce, as Simone Weil remarked, a shrill nagging of claims and counter-claims. This criticism of rights as simply boundary markers is flawed both practically and conceptually, Kiss believes. Practically, even rights as boundaries are valuable for the vulnerable such as abused or battered women. Conceptually, the denigration of rights ignores the many ways rights function in addition to serving as boundaries. For example, rights establish obligations for others and recognize the importance of certain relationships, as in the right to marry, to procreate, to educate one's children. But since most theories of justice continue "the centuries-old neglect of basic issues of child-rearing and care for dependents," any satisfactory theory of rights will, in Kiss's view, first have to remedy this neglect by "constructing principles of justice and frameworks of rights that take more seriously the facts of human dependency, neediness and vulnerability and hence the moral value and social importance of care." Kiss insists, however, that while many feminist critiques uncover problems with particular understandings of rights, they are mistaken if they think that these problems are endemic to all frameworks that take rights seriously and conclude that rights-talk is incompatible with a feminist politics. The feminist struggle over rights, then, must entail a struggle to conceptualize rights in a manner that is more responsive to our various responsibilities and ties to others, and to the facts of human interdependency.

Nancy Fraser and Linda Gordon continue the investigations of the connections between rights and independence through their examination of welfare rights. They analyze the ways in which changing historical understandings of "dependency" have helped shape our understandings of welfare rights and influenced attitudes regarding various groups of citizens who receive state support. Fraser and Gordon reconstruct the genealogy of the concept of "dependency" in US discussions of welfare rights, arguing that "dependency" is an ideological term. They analyze the historical shifts

in the deployment of this term, revealing the sources of its current connotations with respect to gender roles, work, citizenship, the causes of poverty and the sources of entitlements. Their essay charts the disappearance of "good" dependency and the increasing association of dependency with pathology, which has culminated in the unmarried, teenage, Black mother becoming the stigmatized icon of welfare dependency in the United States.

In "Towards a Feminist Vision of Citizenship: Rethinking the Implications of Dignity, Political Participation, and Nationality," Uma Narayan echoes Fraser's and Gordon's concern with welfare rights and with protecting those who are made vulnerable by any one of numerous dependencies. Narayan goes on to argue that both "positive" and "negative" rights should be understood as means to minimize human vulnerabilities and preserve human dignity, grounded in feminist concerns to create a society that is responsive to the needs of all members of the national community. Welfare rights, she asserts, should therefore be severed from notions of "social contribution." She further claims that a feminist political concern with increasing representation for members of marginalized groups should move beyond a narrow concern with political representation to addressing such issues as education, affordable childcare, reduction of economic disparities and equal access to the workplace, all of which are connected to enabling participation in national life. Narayan points out that using "citizenship" as a term that grounds feminist political demands can be problematic in a world where non-citizens frequently reside for long periods of time in nations of which they are not citizens. Arguing for feminist attention to the interests of all those who are ongoing members of the national community, Narayan cautions that feminist concerns with women's second-class citizenship should not occlude attention to the predicaments of non-citizens, immigrant women in particular.

Kiss, Fraser and Gordon, and Narayan all make it clear that dependency is a normal and inevitable condition of many people at certain phases of their lives. Together, their essays challenge the notion that "independence" or self-sufficiency is a defining characteristic of the democratic citizen. Since the time of Aristotle, the realm of democratic participation has been portrayed as the arena of activity for independent and equal (male) citizens. The expansion of the electorate in the nineteenth and twentieth centuries in both Britain and the United States entailed overturning exclusions based explicitly on property, race, and sex. Suffragist and feminist attacks on the exclusion of women from public life due to their responsibility for children and hence their presumed lack of independence challenged the conflation between independence and citizenship. In different ways, Kiss, Fraser and Gordon, and Narayan all argue against

that conflation and also insist that the state has responsibilities to provide for dependents and their caretakers. The state must insure that the work of caring for dependents does not impede caregivers from access to valuable forms of social activity, including paid work and participation in public debate and decision-making. These essays do not, however, reject independence as an important value; rather, they insist on understanding independence in terms other than that of self-sufficiency. Freedom from material want and deprivation as well as a range of life-options and choices in important areas of life, guaranteed by a well-functioning system of rights, constitute a kind of independence important to the welfare and flourishing of all political subjects. Furthermore, some forms of dependence might well facilitate other forms of independence - for instance, dependence on state-provided welfare may enable some women to achieve independence from an abusive spouse. Attention to the lives of different groups of women helps to underscore that it is neither helpful to see independence and dependence as polar opposites nor appropriate to cast dependence as always a problematic and avoidable condition.

Just as feminist theory has challenged the dichotomous thinking categorizing individuals as either independent or dependent, so it has attempted to break down the rigid demarcation between public and private without obliterating the distinction between those domains. Early in the second wave of feminism, thinkers pointed out the inadequacy of cordoning off family concerns from political life and consigning them to the private realm. While nearly all the essays in this volume touch on the public/private distinction in some way, four involve sustained analyses of the strengths and limitations of this distinction. Each of these sees the boundary as more permeable than traditional theory, particularly liberal theory, held. But all regard privacy as an important value to protect both individuals (for example, women seeking to exercise reproductive choice) and intimate associations (for example, same-sex couples seeking the right to marry, or parents seeking to raise children without undue interference from the state).

Anita Allen's essay, "The Jurispolitics of Privacy," focuses on the concept of privacy as embodied in US constitutional and tort law. As Kiss is concerned with what she sees as some feminists' overly hasty dismissal of "rights" as a useful legal tool and category of analysis, so Allen argues for the importance of privacy as a protection against both the government and other citizens. Privacy jurisprudence, she asserts, was important in obtaining favorable constitutional decisions on abortion and reproductive rights. And while the United States Supreme Court used a notion of privacy and individual responsibility in its ruling that the federal government was not obligated to use public funds to pay for abortion, Allen argues that an

understanding of privacy-related liberty could be employed to support public funding for abortion. Allen ends by arguing that the privacy tort, though historically rooted in concerns about feminine modesty, has significant potential in helping women address issues such as sexual harassment in the workplace. In Allen's eyes, then, the legal right to privacy functions as one of those boundary markers that Kiss sees as important to struggles to protect, and ultimately to empower, the vulnerable.

Like Allen, Martha Minow and Mary Lyndon Shanley examine how law both reflects and shapes the ways members of a community understand their institutions and social practices. In "Revisioning the Family: Relational Rights and Responsibilities," they argue that three factors have contributed to the deep contestation about what constitutes a family and what family policy and law should be: collapse of the common law paradigm of the unitary, patriarchal family; sociological changes like the increase in divorce and children born to unmarried women; and new reproductive technologies like in vitro fertilization and embryo donation. Minow and Shanley reject two current ways of conceptualizing the family, one as a purely contractual association and the other as an institution that reflects community standards and practices. Unlike contractarians they do not regard private ordering as an appropriate way to determine the responsibilities of family members to one another. Unlike communitarians, they resist shaping family law according to community norms alone. Rather, they suggest that families must be thought of above all as a configuration of relational rights and responsibilities involving ties both between adults and, particularly, between adults and children. Like Allen, they see the usefulness of invoking rights (including the rights to privacy and noninterference) to protect certain family forms and practices. Like Kiss, they believe that certain rights, like the right of adults to marry or raise children, and of children to be cared for and educated, do not separate and isolate individuals but strengthen relational ties.

The relationships between parents and children, and families and political communities, also concern Jean Elshtain. In "Political Children: Reflections on Hannah Arendt's Distinction between Public and Private Life," Elshtain contemplates what circumstances, if any, justify involving children in political action such as public marches and demonstrations, civil disobedience, and even armed confrontation. Using as a point of departure Hannah Arendt's essays, "Reflections on Little Rock" and "Crisis in Education," which criticized the tactic of putting children on the front lines of some battles in the Black civil rights movement in the United States, Elshtain considers what circumstances might legitimate (or require) children's political activity, even when such activity entails physical danger. She makes a distinction between children who are mobilized by the

state (often by being yanked out of or alienated from their families), and those who act with their parents or their religious, ethnic, or other community. She presents a nuanced view of childhood, and argues that whether a child should be sheltered from or engaged with political struggle depends in part on the nature of the political context in which that child lives. Elshtain challenges Arendt's distinction between the public discourse of adults and the pre-political lives of children; her attention to childhood shows how difficult it is to draw any hard line between the public and private realms of human activity, but in no way renders the distinction futile or meaningless.

Elizabeth V. Spelman, in "The Heady Political Life of Compassion," is also critical of Arendt's definition of what may appropriately be regarded as "political." Arendt excluded compassion for another's suffering as a political sentiment, regarding personal pain as too idiosyncratic to be made a topic for public discussion and deliberation, the heart of political activity. Using Harriet Jacobs' account of her life in slavery, Incidents in the Life of a Slave Girl, Spelman argues, by contrast, that Jacobs was right to regard her suffering as a matter for public debate. The nature of the indignities and sufferings she witnessed and endured, including rape, flogging, and separation from family members, constituted part of her indictment of slavery. Moreover, both Jacobs and Spelman see Jacobs herself as agent as well as victim, assuming as much responsibility for the course of her life as the oppressive constraints of her circumstances allowed. Spelman discusses not only the ways in which Jacobs tried to be self-determining even as a slave, but also the techniques Jacobs used to shape her readers' responses to her story so that those reactions would transcend pity for an individual sufferer to include outrage at the institutional practices and legal constructions of slavery. Spelman's reading of Jacobs' account leads her to conclude, like Elshtain, that while the privacy of family life is an important value, the boundary between private and public worlds is less fixed and more permeable than Arendt thought. The responsibility to trace and define the implications of that boundary arises for political actors in a broad range of circumstances.

Each of these essays complicates, in interesting and different ways, the notion that any "bright line" separates the public from the private realm. Both Allen and Minow and Shanley emphasize the ways in which the privacy involved in reproductive choices and in the formation of family relationships are crucially dependent on legal and public policy decisions that secure different women's abilities to enjoy the benefits of such domains of privacy. Both essays also point to the ways in which considerations of privacy intersect with considerations of justice, both within the family and in the public world of work and community. Spelman's essay

emphasizes how "private" suffering can and should be a matter for public debate and political engagement, especially where such suffering is facilitated by publicly endorsed institutions like slavery and by lack of public knowledge and concern about such suffering. While Spelman points out how private suffering is relevant to public politics, Elshtain's essay underlines the ways in which public historical and political contexts profoundly affect the ways in which families as private institutions can and should shelter their children from public political conflicts. Collectively, these essays underscore the variety of normative considerations that contribute to the boundary between public and private realms being both porous and open to contestation.

Feminist rethinking of the traditional distinctions between independence and dependency and traditional demarcations between private and public domains are closely related to underlying concerns about the empowerment of women and members of other marginalized groups. Increasing the representation of various groups within the structures of representative and participatory democracy, safeguarding political and civil rights for all members of the national community, and creating non-hierarchical democratic structures within which everyone's interests are adequately represented are important components of a feminist program to increase equitable access political power. Giving wives and mothers equal legal status with husbands and fathers and extending some protections of family status to unmarried men and women in committed relationships (for example, allowing them access to Family Court in cases of abuse, or allowing partners of gay or lesbian biological parents to establish co-parenting rights) are all steps that promote more equitable power in family relationships. The essays in this volume underline the degree to which different women's inequality with respect to the rights and responsibilities of citizenship or within the family act as an impediment to equality in the other domain, emphasizing the need for all women's empowered participation in both family and public life. (Inequality in the paid labor force also affects women's empowerment in both public and familial life, but that topic is not taken up directly by the essays in this volume.) While the empowerment of different groups of women and members of other marginalized groups is clearly an important concern for all the essays in this volume, it is a predominant concern in the final four essays.

Anna Yeatman's essay, "Feminism and Power," considers three facets of feminism's relationship to power: power as coercion, power as protection, and power as capacity. Considering power as coercion, Yeatman warns against a tendency among emancipatory movements to conflate power and domination. Cautioning against a feminist politics of *ressentiment* that

casts powerlessness as moral virtue, Yeatman argues that feminists must be sensitive to differences between democratic and undemocratic uses of "power over" in order to accord reality to democratic achievements and to engage with the task of developing modern democratic institutions. In discussing power as protection, Yeatman criticizes protectionist conceptions of power that cast women as "innocent victims" and occlude women's capacities for agency. Yeatman urges that feminist concerns about paternalistic protection of vulnerable groups instead recognize that all individual agency must be socially constituted and supported. With respect to power as capacity, Yeatman advocates a feminist discourse that recognizes the full range of women's agentic capacities, including that of violence, and which recognizes the need for a democratic state that not only protects, but also respects, women's rights.

Martha Ackelsberg continues Yeatman's project of rethinking power and empowerment in her essay, "Rethinking Anarchism/Rethinking Power: A Contemporary Feminist Perspective." Ackelsberg examines the linkages between the political concerns of communalist anarchism and those of contemporary feminism. While arguing that the anarchist critique of power relations and domination is significant for feminists, Ackelsberg argues that the anarchist distinction between "formal" and "informal" power is problematic for feminists concerned about the empowerment of all those who are marginalized and excluded, as is the anarchist advocacy of the "annihilation" of power. Ackelsberg also examines the similarities and differences between anarchist and anti-state perspectives and contemporary feminist perceptions of state power. Ackelsberg shows how anarchist concerns with resistance and empowerment by means of participation in local, collective and non-hierarchical action are related to feminist views of the connections between the personal and the social, and delineates ways in which feminist practice provides resources for anarchist theory.

In addition to these analyses of the concept of political power, other essays show how various women's position in the family affects their power. The theorists represented here combine an insistence on the importance of family relationships and of women's domestic work and childcare labor with attempts to ensure that women are not victimized and constrained by their family roles and responsibilities. Attention to the boundaries between intimate and political worlds is of central concern to Kimberlé Crenshaw in "Intersectionality and Identity Politics: Learning from Violence against Women of Color," where she explores the ways in which violence against women is shaped by race and class as well as by gender. These multiple sources of identity make much political activity difficult or problematic for many women of color because the descriptive