

CHAPTER THREE

## An Unladylike Meditation on Egalitarianism

*Ellen R. Klein*

*Refraining mutually from injury, violence, and exploitation and placing one's will on a par with that of someone else—this may become, in a certain rough sense, good manners among individuals if the appropriate conditions are present. . . . But as soon as this principle is extended, and possibly even accepted as the fundamental principle of society, it immediately proves to be what it really is—a will to the denial of life, a principle of disintegration and decay.*

—Friedrich Nietzsche<sup>1</sup>

IF TODAY'S SAVVY contemporary feminist could attain the equality she desires from the "male" known as American society, what would such sociopolitical changes entail? This is one of the questions that keeps me, a self-proclaimed antifeminist, up at night.

One would think that, for a woman, the prospect of winning

I am playing on Nietzsche's title *Untimely Meditations*, which was the inspiration for this piece. (Nietzsche's text can be viewed as "untimely" in several ways: "[Nietzsche is an 'untimely' writer for] he writes as one who is well-acquainted and imbued with the spirit of Greek antiquity. . . . his perspective on the present is 'untimely' precisely because of his urgent concern with the future. . . . [the 'untimeliness' of the essays are] a necessary consequence of striving to become who one is." Daniel Breazeale, ed., *Nietzsche's Untimely Meditations* (Cambridge: Cambridge University Press, 1999), pp. xlvi–xlvii.

1. Friedrich Nietzsche, *Beyond Good and Evil: Prelude to a Philosophy of the Future*, trans. Walter Kaufman (New York: Vintage Books, 1966), p. 259.

every feminist battle in the classroom, the boardroom, or the courtroom would be nothing less than comforting, if not downright exciting. But precisely the opposite is true. I'm terrified. Contemporary feminism has, to date, done its job so precisely wrongly in so many ways concerning so many different venues, and their handling of sociopolitical questions concerning egalitarianism is simply one more example.

No "ism," I will now argue, has made a mockery of our society's commitment to freedom, individualism, and liberty more than feminism. Like all good liberals, feminists have discussed the previously mentioned sociopolitical issues while assuming that it is equality, not liberty, that is the essence of justice in our society. Whether this is true or false, is, of course, the heart of the debate between the egalitarian and the libertarian.

Traditionally, on one side of the egalitarianism spectrum is the ambiguous, and therefore innocuous, dictionary definition that claims simply that an egalitarian is one who believes that "all men are equal" without defining either who is a man or what it means to be equal. At the other end is the unambiguous but little-adhered-to belief in what can be characterized as the old left. "The idea that genuine equality among citizens holds only when everyone has the same wealth, cradle to grave, no matter whether he chooses to work or what work he chooses . . . and that it is the proper role of government to ensure that everyone has the same wealth no matter what."<sup>2</sup> Of course, it is somewhere in the middle where the interesting philosophical,<sup>3</sup> political,<sup>4</sup> and economic<sup>5</sup> work is being done.

2. Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge: Harvard University Press, 2000), p. 2.

3. For example, Richard J. Arneson, "Egalitarianism and Responsibility," *The Journal of Ethics* 3 (1999): 225–47; Mark A. Michael, "Environmental Egalitarianism and 'Who do you Save?'," *Environmental Values* 6 (1997): 307–25;

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Both sides seem to be struggling with how to balance the two fundamental components of justice—equality and liberty. Many libertarians recognize that, to some degree or other, equity is at least a part of liberty;<sup>6</sup> and the egalitarian seems to have no choice but to admit that “we can secure Equality in certain respects between members of certain classes for certain purposes and under certain conditions; but never, and necessarily never, Equality in all respects between all men or all purposes and under all conditions.”<sup>7</sup> But what passes as feminist theorizing concerning the important debate not only neglects to finesse some middle ground but also it is not even in the proverbial ballpark. That is, whatever it is that contemporary feminists are doing when they claim to be discussing equality, is so problematic (on so many different levels) that they must be considered to be even beyond left field.

Although it may be the case that an egalitarian interested in some kind of absolute equality is “doomed to a life not only of grumbling

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Norman P. Barry, “The Philosophy of the Welfare State,” *Critical Review* (Fall 1990): 545–68.

4. For example, Andrew Levine, “Rewarding Effort,” *The Journal of Political Philosophy* 7, no. 4 (1999): 404–18; Ken Binmore, “Egalitarianism versus Utilitarianism” *Utilitas* 10, no. 3 (November 1998): 353–67; John Christman, “Self-Ownership, Equality, and the Structure of Property Rights,” *Political Theory* 19, no. 1 (February 1991): 28–46.

5. For example, Robert William Fogel, *The Fourth Great Awakening and the Future of Egalitarianism* (Chicago: University Chicago Press, 2000); Samuel Bowles and Herbert Gintis, *Recasting Egalitarianism: New Rules for Communities, States and Markets*, vol. 3, *The Real Utopias Project*, ed. Erik Olin Wright (London & New York: Verso, 1998).

6. See, for example, Thomas W. Platt, “Chance, Equity, and Social Justice,” in Yaeger Hudson, ed., *Rending and Renewing the Social Order* (Lewiston, N.Y.: Edwin Mellen Press, 1996), pp. 277–86.

7. J. L. Lucas, “Equality,” in Richard E. Flathman, ed., *Concepts in Social and Political Philosophy* (New York: Macmillan, 1973), p. 351. In Louis Pojman, “Equality: A Plethora of Theories,” *Journal of Philosophical Research* 24 (1999): 193–245, this is called “absolute equality,” and it is made obvious that given the contingencies of the universe that this kind of ideal is “impossible” (pp. 205–6).

and everlasting envy, of endless and inevitable disappointment,”<sup>8</sup> the feminist egalitarian ends up extricating herself from the debate altogether. Her notion of equality is nothing less than unreasonable because, unlike nonfeminist egalitarians, it does not suffer from the traditional problem of trying to go “beyond an assertion of similarity to an assertion of identity,”<sup>9</sup> but precisely the opposite. Feminism not only tries to force the concept of equality into meaning difference, but does so while attempting to show how the goal of justice is itself a male-constructed and -biased notion. She not only does not want to play by the rules, she wants the rules to change to meet her political goals, or else she threatens simply to take her ball and go home.

Therefore, in what follows, I will argue that it is responsible to view feminist theories of equality as being, at best, an intellectual exercise that is part of an entirely different game; at worst, such theorizing is simply a pernicious attempt to create a notion of justice that not only avoids all personal responsibility but also actually curtails liberties. This emasculating of the American mind is not only obviously harmful to society as a whole, it has the ironic and very unfeminist effect of harming women in particular.<sup>10</sup> As such, no version of feminist egalitarianism<sup>11</sup> should be taken to be even a

8. J. L. Lucas, “Equality,” p. 351.

9. Geoffrey Cupit, “The Basis of Equity,” *Philosophy* 75 (2000): 111.

10. See my forthcoming book, *The Emasculating of the American Mind: How Feminism Has Enabled Mediocrity*.

11. I say no version because feminist theorists (in all areas) love to become a moving target. They do this first by insisting that there is no such thing as “feminism,” only feminisms, and secondly by denying that even the desire to search for some kind of coalescing foundation is fundamentally sexist. Nonetheless, many of their ranks claim that “although feminists may have disparate values, we share the same goal of equality.” (Jennifer Baumgardner and Amy Richards, *Manifesta: Young Women, Feminism, and the Future* [New York: Farrar, Straus, and Giroux, 2000], p. 280) At the very least it seems one has at least a prima facie right to attempt to distill whatever is peculiarly feminist from their so-called feminist accounts of egalitarianism and equality.

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serious contender among the variety of egalitarian theories,<sup>12</sup> let alone given further opportunities to affect moral and/or legal policy making in the United States.

## HISTORY

*In all the countries of Europe, and in America, too, there now is something that abuses this name. . . . they belong, briefly and sadly, among the levelers—these falsely so-called “free spirits”—being eloquent and prolifically scribbling slaves of the democratic taste and its ‘modern ideas’ . . . only they are unfree and ridiculously superficial, above all in their basic inclination to find in the forms of the old society as it has existed so far just about the cause of all human misery and failure—which is a way of standing truth happily upon her head! What they would like to strive for with all their powers is the universal green-pasture happiness of the herd, with security, lack of danger, comfort, and an easier life for everyone; the two songs and doctrines they repeat most often are “equality of rights” and “sympathy for all sufferers.”*

—Friedrich Nietzsche<sup>13</sup>

The classical (Western) history of the ideal of equality begins with the Old Testament, the first five books containing the story of a people chosen, picked out to be unequal. The later Psalms and Proverbs go on to make yet further distinctions, namely, between the good and the bad person. Plato too believed it most important to recognize difference (with respect to degrees of human excellence) rather than similarity between individuals. Thus, his “formal”<sup>14</sup> maxim of equality, which was later stated directly by Aristotle, was simply, “Equals are to be treated equally and unequals unequally. . . . Injustice arises when equals are treated unequally and also when unequals are treated equally.”<sup>15</sup>

12. Louis Pojman categorizes eighteen fundamentally different forms of egalitarianism. See Pojman, “Equality.”

13. Friedrich Nietzsche, *Beyond Good and Evil*, p. 44.

14. So called, for example, by Pojman, “Equality,” pp. 195–98.

15. Aristotle, *Nicomachean Ethics*, Book V.

With the New Testament, an interesting distinction between man judging man simpliciter and man being judged via the eyes of God<sup>16</sup> is first developed. In Galatians 3–4, it is claimed that everyone who chooses Christ is chosen; and in Corinthians 8:13–14, the first seeds of communism are sown: “Our desire is not that others might be relieved while you are hard pressed, but that there might be equality. At the present time your plenty will supply what they need, so that in turn their plenty will supply what you need.”<sup>17</sup>

“Modern egalitarianism had its beginnings in the seventeenth century with the Calvinist doctrine that although there is a sharp difference between the damned and the saved, there is no difference between the clergy and the lay community of the faithful.”<sup>18</sup> And the modern political philosophers—for example, Hobbes, Locke, and Rousseau—took it from there.

For Hobbes, all people come into the world selfish, brutish, and in constant danger. There is no question that everyone is basically equally susceptible to the hardships of the environment and the needs and desires of others born into the same plight. The question of political equality took the form of something very simple, the right to individual self-preservation, which later was developed into the right of the sovereign to protect his or her nation and people at all costs. Peace, for Hobbes, overrode equity as the ultimate good.

Locke, though similar to Hobbes in a number of respects, had a more sophisticated view of rights and argued that the community must always retain the power to overthrow government if “legislators ever become so foolish or wicked as to lay and carry designs

16. Pojman calls this “metaphysical equality” because “all humans are of equal and positive value before God,” “Equality,” pp. 195–98. Nietzsche has an interesting view on this notion: “They fight for the ‘equality of all men before God’ and almost *need* faith in God just for that,” *Beyond Good and Evil*, p. 219.

17. Pojman calls this “metaphysical equality” because “all humans are of equal and positive value before God,” “Equality,” p. 219.

18. Stanley I. Benn, “Equality, Moral and Social,” in *The Encyclopedia of Philosophy*, vols. 3 and 4 (New York: Macmillan, 1967), pp. 38–42.

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against their liberties and properties.”<sup>19</sup> What counts for Locke as “designs” against such “liberties and properties,” especially with respect to government intervention, remains undeveloped.

Rousseau, however, changed all that. His optimistic view of human beings sees them in a garden and not in the Hobbesian jungle. As such, many of the problems that befall humans, both as separate individuals and as a collective, are the fault of society itself. “Man is born free; and everywhere is in chains.”<sup>20</sup> Here we see that the first rumblings of the change in blame and therefore responsibility—from the individual to society.

The year now is 1776 and the Founding Fathers have just drafted the Declaration of Independence claiming that “all men are created equal . . . endowed by their creator with certain unalienable rights . . . life, liberty, and the pursuit of happiness.” A few years later this is joined by the Constitution with its claims to “create a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.” With the spirit of elasticity backed up by ambiguous language, equity becomes a notion of equal under the law of the land, but the actual role of government in helping individuals achieve their own personal pursuits of happiness, as well as our general pursuits of welfare, is left indeterminate.

Some interpretation of government’s role is given in *The Federalist Papers*<sup>21</sup> although the original Constitution guarantees very few rights. One is our right to national security (both from foreign and

19. John Locke, *Second Treatise on Government*, edited by C. B. Macpherson (Indianapolis, Ind.: Hackett, 1980), pp. 77–78, sect. 149.

20. Jean-Jacques Rousseau, “Social Contract,” in *The Social Contract and Discourses*, trans. G. B. H. Cole (New York: J. M. Dent and Sons, 1973).

21. For example, Madison’s “The Federalist No. 41,” in Alexander Hamilton, John Jay, and James Madison, eds., *The Federalist: A Commentary on the Constitution of the United States* (New York: Random House, 1941), pp. 259–270; see especially p. 261.

domestic enemies), another is a concomitant commitment to economic prosperity (in order that one can tax the people to fund such security). Even a commitment to the education of the masses is not directly addressed because at the time a primarily agrarian market needed nothing more than strong bodies to defend the Union efficaciously.

It was not until the advent of the abolition of slavery that a more positive account of equality under the law was created, which grew into what we now call legal equality, though the language remains negative.<sup>22</sup> The Thirteenth Amendment (1865) makes slavery illegal, the Fourteenth Amendment (1868) outlines due process, and the Fifteenth (1870) ensures that all men have the right to vote. Nonetheless, all of these precepts are couched in a language of “shall nots.” The point is simple: all three of these pre-civil rights<sup>23</sup> amendments attempt to ensure that no rights (interpreted as rights already granted elsewhere in the Constitution) are to be taken away from any group of men, not that any privilege is added.

So how did the myriad of the contemporary varieties of egalitarianism evolve from this minimalist construct of legal equality? Marx?

Assuming this would be very problematic. For one thing, it is not clear that anything like an account of equality at all, let alone the sophisticated and nuanced accounts that have become popular in the contemporary literature, can be considered truly Marxist. Given that the primary rallying point of Marxist theorizing has always been “from each according to his ability; to each according

22. Pojman claims that the construct of “legal equality” is simply redundant because what else could “equality” mean if not “equality under the law . . . giving the false appearance that equality is a separate and independent norm.” Pojman, “Equality,” pp. 201–203.

23. I call them pre-civil rights since it was not until the poll tax was removed in 1964, by the Twenty-Fourth Amendment, that true civil rights actually began.



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to his need,”<sup>24</sup> it is more likely that one person with no ability (albeit with extravagant needs) would end up with goods that were seriously unequal to those from whom such goods and/or services arose.<sup>25</sup>

No, it must have been something simply in the zeitgeist of the American mind itself. The unique, hopeful, and to a great extent luxurious, frontier that was the United States had a mind all its own, and that mind was set on valuing equity (though one important commentator of American life at the time, Alexis de Tocqueville, is quite hard pressed to discover why). In a chapter of *Democracy in America* entitled “Why Democratic Nations Show a More Ardent and Enduring Love of Equality Than of Liberty,” de Tocqueville states,

Freedom has appeared in the world at different times and under various forms; it has not been exclusively bound to any social condition, and it is not confined to democracies. Freedom cannot, therefore, form the distinguishing characteristic of democratic ages. The peculiar and preponderant fact that marks those ages as its own is the equality of condition; the ruling passion of men in those periods is the love of this equality. Do not ask what singular charm the men of democratic ages find in being equal, or what special reasons they may have for clinging so tenaciously to equality rather than to the other advantages that society holds out to them: equality is the distinguishing characteristic of the age they live in; that of itself is enough to explain that they prefer it to all the rest.<sup>26</sup>

24. Karl Marx, “Critique of the Gotha Programme,” *Karl Marx and Friedrich Engels: Reader*, (ed.) Robert C. Tucker (New York: W. W. Norton and Co., 1978), pp. 525–41.

25. Dworkin does a great job avoiding this kind of criticism by emphasizing that there is a huge difference between “Marxist” and egalitarian goals when he states that his notion of equality clearly distinguishes between creating “a nation of equals and a nation of addicts.” Dworkin, *Sovereign Virtue*, p. 303.

26. Alexis de Tocqueville, *Democracy in America* (New York: Alfred A. Knopf, 1972), p. 95.

Though most of his work is purely descriptive, he does add a warning to those who hold such a value:

The evils that freedom sometimes brings with it are immediate; they are apparent to all, and all are more or less affected by them. The evils that extreme equality may produce are slowly disclosed; they creep gradually into the social frame; they are seen only at intervals; and at the moment at which they become most violent, habit already causes them to be no longer felt.<sup>27</sup>

Drunk on equity, however, America was not. There was still one major group of people who remained, even legally, unequal. It was not until 1920 that the Nineteenth Amendment was passed and, again in negative language, stated that “the rights of citizens to vote shall not be denied or abridged by the United States or by any State on account of sex.”

However, although the story of equality for women begins here, *feminist egalitarianism* does not. What Wollstonecraft and others argued for, what was eventually acknowledged via the Constitution, was that women are full citizens.<sup>28</sup> Women were no longer to be seen as fundamentally distinct from, nor inferior to, men because the most significant gender differences in intellectual skills, temperament, and ethical values were argued to be merely products of socialization and education, rather than biological facts. Her modest claim was simply that “in the absence of comparative data based on egalitarian learning environments from earliest childhood, maintaining that men and women are intellectually and morally different can only reflect irrational prejudice.”<sup>29</sup>

And many men, as well as first-generation feminists, agreed with

27. De Tocqueville, *Democracy in America*, p. 96.

28. Mary Wollstonecraft, *A Vindication of the Rights of Women*, ed. Carl H. Poston (1792; Reprint, New York: W. W. Norton, 1975).

29. Eve Cole Browning, *Philosophy and Feminist Criticism: An Introduction* (New York: Paragon House, 1993), pp. 3–4.

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this finding.<sup>30</sup> At the very least the consensus today seems to be that the well educated from both sides of the sexual divide claim that “the arguments against women’s equality have been illogical and have had little legitimate claim to be based on known biological facts.”<sup>31</sup> Or, even more modestly, that “the biological and statistical bases for upholding either dogma are absent.”<sup>32</sup> If this is true, then certainly women were at least deserving of the most minimal interpretation of legal equality, that is, the right to vote.<sup>33</sup>

However, the right to vote was not enough. Feminists demanded more and for some pretty good reasons. First, as Mill pointed out years before, it seems pragmatically silly to maintain any sanctions prohibiting women from acquiring equal opportunity with respect to education or employment because “what women by nature cannot do, it is quite superfluous to forbid them from doing; what they can do but not so well as the men who are their competitors, competition suffices to exclude them . . .”<sup>34</sup> However the dismantling of social sanctions against women quickly turned

30. It is important to distinguish what I have elsewhere called “first-generation feminism” (old-time feminism focusing on equal opportunity and equal pay), “second-generation feminism” (prevalent in contemporary academia, where feminists are more interested in the destruction of everything male, especially the philosophical underpinnings of science and ethics), and “third generation feminism” (which I hope will “go back to the future” [see, e.g., Klein, *Feminism under Fire* (Amherst, N.Y.: Prometheus, 1996)] and rekindle what was important in the first generation) from what is now called first-, second-, and third-wave feminisms cited elsewhere.

31. Gisela T. Kaplan and Lesley J. Rogers, “The Definition of Male and Female: Biological Reductionism and the Sanctions of Normality,” in Sneja Gunew, ed., *Feminist Knowledge: Critique and Construct* (New York: Routledge, 1990), p. 206.

32. Tibor Machan, *Liberty and Culture: Essays on the Idea of a Free Society*. (Buffalo: Prometheus, 1989), p. 257.

33. Actually this biological “fact” is still being debated. See, e.g., Michael Levin, “Maritime Policy for a Flat Earth,” in James Sterba, ed., *Controversies in Feminism* (New York: Rowman and Littlefield, 2001), pp. 197–223.

34. John Stuart Mill, *The Subjection of Women*, ed. Sue Mansfield (Arlington Heights, Ill.: Harlan Davidson, 1980), p. 26.

into assuming that something more than legal equality—the limited egalitarianism established by the Declaration of Independence (i.e., life, liberty, and the pursuit of happiness), combined with the Nineteenth Amendment—should actually be protected by government.

And this brings us to the second reason feminists were capable of generating sympathy for what has developed into a ridiculous, if not pernicious, political agenda: timing. Given that the American mind seems to bias equality, as opposed to liberty, as being the more basic principle of justice, a richer notion of equality had finally become status quo.<sup>35</sup> With the left gaining power, a fuller egalitarianism of some form or other soon became the norm. Feminism, as a branch of liberalism, Marxism, and/or socialism, simply reaped the benefit of being at the right place at the right time. With equality now holding a privileged position, what was still up for grabs was only what counted as equal in the minds of the contemporary feminist.<sup>36</sup>

Though the Equal Rights Amendment<sup>37</sup> was beginning to make

35. To read an opposing viewpoint, see the wonderful collection of essays by Tibor Machan in *Liberty and Culture*.

36. This presupposition is brought into question by certain theorists, e.g., G. A. Cohen, “The Pareto Argument for Inequality,” in Ellen Frankel, Fred D. Miller, Jr., and Jeffrey Paul, eds., *Contemporary Political and Social Philosophy* (Cambridge: Cambridge University Press, 1995), p. 163. See also Patrick Shaw, “The Pareto Argument and Inequality,” *The Philosophical Quarterly* 49, no. 196 (July 1999): 353–68.

37. The political push for the ERA began in 1972 and ended in 1982. It was intended to “constitutionally guarantee women equality under the law,” the spirit being that the burden of proof would switch from individual women having to prove they were discriminated against, to the institutionalized power (specifically government) having to show that they are not discriminating. Case law, soon after, ended up making a de facto commitment to the ERA when in *Craig v. Boren*, 429 U.S. 190, in 1976, the government was barred from relying on gender classifications unless they served important governmental objectives and were substantially related to the achievement of those objectives. This law has set the precedent for keeping women out of only a small and select area of military service, specifically serving as a submariner or a Navy Seal (Bureau of Navy Personnel).

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waves, few operational ideas concerning egalitarianism in general had been seriously expressed (and few articles<sup>38</sup> and books were published) until Rawls wrote *A Theory of Justice*.<sup>39</sup> That was when the floodgates of theorizing opened on campuses across the country concerning egalitarianism, though the specific question of women was still not being directly addressed. Generally speaking, then, although it is clear that egalitarian theories of justice hold that some version of equality should be promoted, even if perfect equality is probably impossible to achieve, the practical question becomes one of what is the best form of equality we can achieve just short of perfection.<sup>40</sup>

According to Stanley Benn, for example, “there are three ways of ascribing equality—descriptive, evaluative, and distributive—and they are not, of course independent of one another.”<sup>41</sup> And the more contemporary theorist Louis P. Pojman has since documented eighteen distinct kinds of egalitarianism<sup>42</sup> (each with as many subcategories as there are authors). To both the gross and detailed breakdowns is added feminist egalitarianism.

As is the case with all areas of feminist construction to date, it must be at least compared to, if not built from, the male and, therefore according to such theorists, the “fundamentally sexist and

38. One notable exception in the legal field is Herbert Wechsler, “Toward Neutral Principles of Constitutional Law,” *Columbia Law Review* 73, issue 1, (1959): 11–15. One notable exception in the philosophical field is Herbert Marcuse in his essay “Repressive Tolerance,” in Robert P. Wolff, Barrington Moore Jr., and Herbert Marcuse, eds., *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965), pp. 81–123.

39. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

40. See, e.g., Peter Valentine, “Equality, Efficiency, and the Priority of the Worse-Off,” *Economics and Philosophy* 16 (2000): 1–19.

41. Stanley I. Benn, “Egalitarianism and the Equal Consideration of Interests,” in Richard E. Flathman, ed., *Concepts in Social and Political Philosophy* (New York: Macmillan, 1973), p. 337.

42. Pojman, “Equality,” pp. 201–3.

oppressive” theory that sparked its development.<sup>43</sup> What will be demonstrated is the impotence of such theorizing in making any progress toward a viable notion of what it means to be equal. I will show that those “feminist” accounts of equity that are plausible are not particularly feminist; those that are truly feminist are fundamentally inconsistent with any reasonable notion of equality.

#### HERSTORY

*Women can, through a few centuries of education, be made into anything, even into men: not in the sexual sense, to be sure, but in every other sense. Under such a regimen they will one day have acquired all the male strengths and virtues, though they will also of course have had to accept all their weaknesses and vices in the bargain: thus much can, as aforesaid, be extorted. But how shall we endure the intermediate stage, which may itself last a couple of centuries, during which the primeval properties of women, their follies and injustices, are still asserting themselves over what has been newly learned and acquired?*

—Friedrich Nietzsche<sup>44</sup>

We begin then with Rawls, who claims that justice is the establishing of rules that allow one to resolve conflicts through “political procedures that are reasonably regarded as fair.”<sup>45</sup> And fairness in turn is prescribed by a commitment to the following notion of equality:

Some writers have distinguished between equality as it is invoked in connection with the distribution of certain goods, some of which will almost certainly give higher status or prestige to those who are more favored, and equality as it applied to respect which is owed to persons irrespective of their social position. Equality of the first kind

43. See, e.g., Klein, *Feminism under Fire*.

44. Friedrich Nietzsche, *Human, All Too Human: A Book for Free Spirits*, trans. Hollingdale (Cambridge: Cambridge University Press, 1996), Part I, p. 425.

45. Rawls, *A Theory of Justice*, p. 356.

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is defined by the second principle of justice. . . . But equality of the second kind is fundamental.<sup>46</sup>

And although the years of scholarship that have passed since its publication have created a plethora of interpretations and commentary on Rawls's theory, some have stood the test of time as having captured the essence of Rawls.

For example, one contemporary of Rawls claimed that

Rawls lays it down that a practice is just if everyone is treated alike, unless a discrimination in favor of some is of advantage to everyone. We can now translate this into the language of equal interests: If all basic interests are already being satisfied and if there is no universally acknowledged order of priority as between further interest competing for satisfaction, then, given that the individual has a fundamental interest in determining what are his own interests, a practice would be just that gave all interests actually competing in a situation equal satisfaction, save insofar as an inequality made possible a greater degree of satisfaction without weakening claims that would be satisfied without it.<sup>47</sup>

Basically, in the final analysis, Rawls was arguing for what has become his now famous thesis: "justice as fairness." "The hope for social institutions that do not confer morally arbitrary lifelong advantages on some persons at the expense of others."<sup>48</sup>

A number of theorists oppose Rawls's principle for several different reasons, for example, the substantive reason that Rawls's account only discusses the equality of opportunity at what Dworkin calls the "starting-gate" without due concern for the overall achievement of equal opportunity of outcomes.<sup>49</sup> But what bothers feminists is much more problematic. After all, "feminism is essen-

46. Rawls, *A Theory of Justice*, p. 511.

47. Benn, "Egalitarianism and the Equal Consideration of Interests," p. 347.

48. Thomas Nagel, "Rawls, John," in Ted Honderich, ed., *The Oxford Companion to Philosophy* (New York: Oxford University Press, 1995), pp. 745–46.

49. Dworkin, *Sovereign Virtue*, p. 87.

tially concerned with the elimination of a certain *type* of injustice.”<sup>50</sup> What type they are after, however, is more than a little unclear.

Feminist theorists, for example, claim that the problem with Rawls’s account is that

Although Rawls says that each party to the original position must agree with all the rest on which available alternative is the best conception of justice, in fact that agreement is otiose because each party in his original position follows the same reasoning procedure and reaches the same conclusion—namely, that the Rawlsian conception of justice is preferable to all others. . . . And this shows that it isn’t the contract device that is the substance of his theory but the conception of worth that informs the device. . . . I do not regard Rawls’ contract test as a morally neutral device . . . since it could be successfully used to disallow the commodization of a womb.<sup>51</sup>

But what is still left unclear is just what is offensive.

The issue of what it actually means to view the womb as a commodity aside, one must first wonder if the problem with the “contract test” is simply that it places oneself “in the original position” behind the “veil of ignorance” without enabling one to imagine oneself pregnant? If so, this seems to be simply false. The “veil” prevents nothing of the kind. On the contrary it seems to allow for precisely this kind of shoe-fitting.

Is it that in order for the contract test to be viewed as morally neutral with respect to women, one has actually to imagine oneself as a woman? Again, there seems to be no fundamentally psychological problem with such an imagining unless, of course, there is some biological reason why a man, for example, could not imagine him-

50. Moira Gatens, *Feminism and Philosophy: Perspectives on Difference and Equality* (Bloomington: Indiana University Press, 1991), p. 90.

51. Jean Hampton, “Feminist Contractarianism,” in Louise M. Antony and Charlotte Witt, eds., *A Mind of One’s Own: Feminist Essays on Reason and Objectivity* (Boulder: Westview Press, 1993), pp. 227–55.



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self in someone else's pumps. Maybe the point is simply that even if a man imagined himself fully female, and fully impregnable (or even fully pregnant), he would be incapable of appropriately valuing that status in socioeconomic terms. All such concerns, of course, presuppose not only that no women would be in the "original position" but that even if the "position" were all male, such beings would, by the very fact of their maleness, act in ways that are prima facie unjust. Such moves seem not only unfair to Rawls but essentially sexist.

Maybe the problem is more fundamental. Maybe it is that Rawls's theory is too contractarian and not utilitarian enough. This is one of the criticisms raised by, for example, Tom Regan.

The great appeal of utilitarianism rests with its uncompromising egalitarianism: everyone's interests count and count as much as the like interests of everyone else. The kind of odious discrimination that some forms of contractarianism can justify—discrimination based on race or sex, for example—seems disallowed in principle by utilitarianism, as is speciesism, the systematic discrimination based on species membership.<sup>52</sup>

The problematic fact that human beings are such a fundamentally different and discernible species from all other species aside, there is a more interesting problem concerning the question of the kinds of species that can even have rights and liberties and be in need of what Robert Nozick calls "moral space."<sup>53</sup>

On the other hand, it may be that Rawls' account is too utilitar-

52. Tom Regan, "The Case for Animal Rights," in Peter Singer, ed., *In Defense of Animals* (Oxford: Blackwell, 1985), pp. 13–26, reprinted in James E. White, ed., *Contemporary Moral Problems* (New York: Wadsworth, 2000), p. 504.

53. For a provocative analysis of the rights of animals and interesting discussion of applications of rights and liberties to other species (which is outside the scope of this paper) see, e.g., Tibor R. Machan, "Do Animals Have Rights?" in White, ed., *Contemporary Moral Problems*, pp. 509–15.

ian and not contractarian enough.<sup>54</sup> After all, at bottom, Rawls's theory emphasizes a form of objective social commitment that is not "situated" or relativized enough to the woman's "standpoint."<sup>55</sup> Feminist theorists have traditionally, at least since Gilligan, valued the contextual while vilifying the universal.<sup>56</sup>

To be fair, it may be that Rawls is simply too Hobbesian. This would also be a problem for the feminist theorist given that Hobbes, like any other man who is part of the patriarchal sociopolitical and philosophical structure, portrays in his theorizing a pretense that is typical of such dominant moral theories and traditions. What is typical (and "typical" is to be seen as a serious admonition) is that theories such as Hobbes's are interested in discussing the relationships between moral equals such as those who would be considered in the "original position." However, this desire, according to feminism, is a pretense, because there is no equality to be had for a woman when the contract must be made with a man—the "pretense of an equality that is, in fact, absent."<sup>57</sup>

Nor did actual operational effects of feminism hold any weight. By 1976, *Craig v. Boren* had been litigated and law was created that made it explicit that the "government was barred from relying on gender classifications unless they served important government objectives and were substantially related to the achievement of those objectives."<sup>58</sup> Nonetheless women remained suspicious about the

54. See, e.g., Virginia Held, "Caring Relations and Principles of Justice," in James Sterba, ed., *Controversies in Feminism* (New York: Rowman and Littlefield, 2001), p. 79.

55. A word coined by Sandra Harding. See, e.g., *The Science Question in Feminism* (Ithaca: Cornell University Press, 1986).

56. Carol Gilligan, *In a Different Voice* (Cambridge: Harvard University Press, 1982). For a critique of this valuing, see E. R. Klein, "Criticizing the Feminist Critique of Objectivity," *Reason Papers* 18 (1993): 57–70.

57. Annette Baier, "The Need for More Justice," in Marsha Hanen and Kair Nielsen, eds., *Science, Morality, and Feminist Theory* (Calgary: University of Calgary Press, 1987), p. 52.

58. *Craig v. Boren*, 429 U.S. 190, 1976.

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law and the male construct of equity under which it was formulated.

I am afraid that old women are more skeptical in their most secret heart of hearts than any man: they consider the superficiality of existence its essence, and all virtue and profundity is to them merely a veil over this 'truth,' a very welcome veil over a pudendum—in other words, a matter of decency and shame, no more than that.<sup>59</sup>

Were feminists being overly cautious by attempting to pass the ERA, or were they correct that such case law was merely a red herring, another piece of evidence that male contemporary culture was simply feigning equity? Furthermore, was this supposed problem of the feigned notion of equality peculiar to duty-based theories such as Rawls's, or was it endemic to egalitarian theories in general? What of, for example, the rights-based egalitarianism of someone like Dworkin? According to Dworkin:

There are two different sorts of rights one may be said to have. The first is the right to equal treatment, which is the right to an equal distribution of some opportunity or resource or burden. Every citizen, for example, has a right to an equal vote in a democracy; that is the nerve of the Supreme Court's decision that one person must have one vote even if a different and more complex arrangement would better secure the collective welfare. The second is the right to treatment as an equal, which is the right not to receive the same distribution of some burden or benefit, but to be treated with the same respect and concern as anyone else. If I have two children, and one is dying from a disease that is making the other uncomfortable, I do not show equal concern if I flip a coin to decide which should have the remaining dose of a drug. This example shows that the right to treatment as an equal is fundamental, and the right to equal treatment, derivative. . . . I propose that the right to treatment as an

59. Friedrich Nietzsche, *The Gay Science*, trans. Walter Kaufman (New York: Vintage Books, 1974), p. 64.

equal must be taken to be fundamental under the liberal conception of equality.<sup>60</sup>

Here, too, however, feminists take umbrage. For even the modest rights talk is seen as fundamentally sexist.

Carole Pateman, for example, claims that when feminist egalitarianism is taken to be “nothing more than equality in the sense of women attaining the same status as individuals, workers, or citizens, as men, it is difficult to find a convincing defense against the longstanding anti-feminist charge that such theorists want to turn women into men.”<sup>61</sup> Despite the fact that it may simply be an empirical point that “Americans are wedded to individualism—the idea that each person is sovereign in his own life,”<sup>62</sup> feminists think such an attitude is fundamentally sexist. Stressing the Cartesian “I” essential to all individualism, according to many feminists, ignores the body and, therefore, is essentially sexist.<sup>63</sup> In other words, feminist egalitarianism cannot be achieved until notions of equality recognize the “political significance of women’s bodies, to press for the inclusion of ‘women as women’ rather than as equals to men.”<sup>64</sup>

Let us take stock here for a second, because I am sure you think I must be grossly misunderstanding the feminist account of egalitarianism, given that egalitarianism simpliciter is about equality, and

60. Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978), pp. 227 and 272.

61. Carole Pateman, “Introduction,” in Carole Pateman and Elizabeth Gross, eds., *Feminist Challenges: Social and Political Theory* (Boston: Northeastern University Press, 1987), pp. 7–8.

62. Tibor Machan, “Utopian Americans and False Guilt About the Poor,” in Machan, *Liberty and Culture*, p. 274.

63. See, e.g., Lorraine Code, *What Can She Know? Feminist Theory and the Construction of Knowledge* (Ithaca: Cornell University Press, 1991), p. 5. See also Rosie Bradotti, “Feminism and Modernity,” *Free Inquiry* 15, no. 2 (Spring 1995): 24–28.

64. Susan Moller Okin, “Feminism and Political Theory,” in Janet Kourany, ed., *Philosophy in a Feminist Voice* (Princeton: Princeton University Press, 1998), p. 123.

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yet the feminist theorists above seem to be arguing for something that sounds like inequality. This is because they do not want to discuss equality, at least not until there is a radical rethinking of the nature of equality.

The queen of this doublespeak is Catherine MacKinnon. MacKinnon claims that looking at the notion of equality as the foundation for a feminist egalitarianism will not be fruitful because women cannot be equal citizens until there is a radical rethinking of the public and domestic sphere of life and the relationship between the two. For MacKinnon, every relationship with a man—from private sex to public office—is so infused with male bias that there would be no way even to understand the construct of equality under such patriarchy:

Virtually every quality that distinguished men from women is already affirmatively compensated in this society. Men's physiology defines most sports, their needs define auto and health coverage, their socially designed biographies define workplace expectations and successful career patterns, their perspectives and concerns define quality in scholarship, their experiences and obsessions define merit, their objectification of life defines art, their military service defines citizenship, their presence defines family, their inability to get along with each other—their wars and rulerships—define history, their image defines god, and their genitals define sex. For each of their differences from women, what amounts to an affirmative action plan is in effect, otherwise known as the structure and values of American society.<sup>65</sup>

What she wants is for the “state to abandon its pose of neutrality, which [she claims] in reality is only a guise for more male dominance.”<sup>66</sup>

65. Catherine MacKinnon, “Difference and Dominance,” in MacKinnon, ed., *Feminism Unmodified* (Cambridge: Harvard University Press, 1987), p. 36.

66. Richard J. Ellis, *The Dark Side of the Left: Illiberal Egalitarianism in America* (Lawrence: University of Kansas Press, 1998).

Under such broad strokes it seems that not even the letters that make up the word *equality* can be viewed as exempt from the charge of male bias. It is no wonder that feminists are not even in the same playing field when it comes to finessing the intricacies of egalitarianism, let alone addressing the metaquestions about its rightness, justness, or proper balance with, for example, liberty.

Unfortunately, MacKinnon is not alone. Other feminist theorists have heeded her call and begun to add to the hysteria. Elizabeth Grosz has, on several occasions, reappropriated the term *equality* to mean something that is all about *difference*, warning women to stay away from traditional forms of egalitarianism:

Try as it may, a feminism of equality is unable to theorize sexual and reproductive equality adequately. . . . In opposition to egalitarianism, a feminism based on the acknowledgment of women's specificities and oriented to the attainment of autonomy for women has emerged over the last ten years or more. . . . Only sameness or identity can ensure equality. In the case of feminists of difference, however, difference is not seen as difference *from* a pre-given norm, but as *pure difference*, difference in itself, difference with no identity. . . . For feminists, to claim women's difference from men is to reject existing definitions and categories, redefining oneself and the world according to women's own perspectives. . . . The right to equality entails the right to be the same as men; while struggles around the right to autonomy imply the right to either consider oneself equal to another or the right to reject the terms by which equality is measured and define oneself in different terms. It entails the right to be and to act differently.<sup>67</sup>

It seems that there just is no more room for misinterpretation. Feminist egalitarianism is not about egalitarianism at all.

So what do women want? They want to have all of the advantages of egalitarian justice—laws and rules that provide, at a mini-

67. Elizabeth Grosz, "Conclusion: A Note on Essentialism and Difference," in Sneja Gunew, ed., *Feminist Knowledge*, pp. 339–40.

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num, “equal freedom to pursue their goals without violence, equal possession of the necessities of life, equal opportunity to develop and utilize their talents to the fullest possible extent, equality of political and civil rights, and so forth”<sup>68</sup>—but they want all of this without a male definition of equality.

Unfortunately, according to such theorists, every “generalization,” every “past ideology, literature, and philosophy is a product of male supremacy.”<sup>69</sup> “Feminism highlights the hypocrisy and irrationality of these universalistic claims in the face of overt and tacit discriminatory practices.”<sup>70</sup> In actuality, then, that the construct of even the concept of *equality* itself, let alone *violence*, *possession*, *necessity*, *opportunity*, *talent*, *politics*, or *rights* are, at the very least, not to be understood or debated in their usual way, let alone rationally embraced or rejected.

If we accept, however, with such radicals “that ‘equality’ on male terms is not enough,” I genuinely query, again, what is it that women want?<sup>71</sup>

Women can be included as men’s equals but only at the expense of recognizing a validation of women’s specificity. Equality, then, involves a neut(e)ralization of the feminine. . . . Egalitarianism leaves the basic frameworks, methods, and assumptions of male theory unquestioned. . . . Even if it remains desirable for women to struggle towards equality with men, it is simply not possible to include

68. Alan Gewirth, “The Justification of Egalitarian Justice,” in Flathman, ed., *Concepts in Social and Political Philosophy*, pp. 352, 366, 364.

69. One of the first citations of this kind can be found in Shulamith Firestone and Anne Koedt, “Redstockings Manifesto,” in *Notes from the Second Year*, July 7, 1969, pp. 112–13. It is reprinted in Miriam Schneir, *Feminism in Our Time* (New York: Vintage, 1994), pp. 127–29.

70. Sandra Harding, *Whose Science? Whose Knowledge? Thinking from Women’s Lives* (Ithaca: Cornell University Press, 1991), p. 32.

71. Robyn Rowland and Renate D. Klein, “Radical Feminism: Critique and Construct,” in Sneja Gunew, ed., *Feminist Knowledge*, p. 274.

women in those theories (and daily tasks) from which they have been excluded.<sup>72</sup>

Why is it impossible? Because women's bodies are different from men's. Then, what has happened to the desire for equity?

It seems that we have come full circle. What started as an attempt by first-generation feminists to deny an essential bodily difference—in order to set themselves up as being equal to men, deserving of all the rights and privileges afforded to men, being thus essentially the same—has ended in the second-generation claim that what is most important to the egalitarian feminist is some kind of fundamental difference. Accordingly, even the most straightforward form of equality, formal equity, is reappropriated, redefined, and expanded to mean something highly problematic. “The principle of formal equality: Like cases should be treated alike; differences of treatment should reflect *genuine* and *relevant*, as opposed to mythic-stereotypical and irrelevant, differences between the sexes.”<sup>73</sup> Of course, what counts as genuine and relevant is not developed, and there are feminist reasons why such development may not be forthcoming.

What counts, for example, as genuine may require one to make empirical claims about the genuine (i.e., biological?) difference between men and women. This would of course require some serious science, and science, so says feminism, is itself seriously infected.<sup>74</sup> Furthermore, is it not the biological assumption that is assumed to be the most mythical?

72. Grosz, “Philosophy,” in Gunew, ed., *Feminist Knowledge*, pp. 158–59.

73. Elizabeth Rapaport, “Generalizing Gender: Reason and Essence in the Legal Thought of Catherine MacKinnon,” in Louise M. Antony and Charlotte Witt, eds., *A Mind of One's Own*, p. 128, my emphasis.

74. For an account of this claim as well as a critical response see E. R. Klein, “Criticizing the Feminist Critique of Objectivity,” *Reason Papers* 18 (Fall 1993), pp. 289–97.



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And this is only the tip of the feminist apostasy iceberg. Many feminists claim that

a large part of the responsibility for societal injustices lies deep within science itself. . . . If one's going to go deeper politically and criticize the presuppositions of liberal political theory, then one must coordinately go deeper conceptually and criticize the presuppositions of the epistemology and metaphysics that underwrite the politics.<sup>75</sup>

Such digging, however, shows only their own peculiar brand of myth-making and none of the essential biases feminists are so wont to expose.<sup>76</sup>

IMPLICATIONS FOR A FREE SOCIETY

*Beware of all spirits that lie in chains! Of clever women, for example, whom fate has confined to a petty, dull environment, and who grow old there. It is true they lie apparently sluggish and half-blind in the sunlight; but at every unfamiliar step, at everything unexpected, they start up and bite; they take their revenge on everything that has escaped from their dog-kennel.*

—Friedrich Nietzsche<sup>77</sup>

From first-generation political agendas, to their second-generation critiques of traditional science's commitment to objectivity as well as classical epistemology's commitment to reason,<sup>78</sup> in the final

75. Louise M. Antony, "Quine as Feminist: The Radical Import of Naturalized Epistemology," in Antony and Witt, eds., *A Mind of One's Own*, p. 204.

76. If one is interested in wading through the epistemological muck, see, for example, a counterargument to the position that science and/or epistemology is fundamentally sexist, in Klein, *Feminism under Fire*.

77. Friedrich Nietzsche, *Daybreak: Thoughts on the Prejudices of Morality*, ed. Maudemarie Clark and Brian Leiter (Cambridge: Cambridge University Press, 1997), p. 227.

78. For a critique of this move, see E. R. Klein, "Sorry Virginia, There Is No Feminist Science," in James P. Sterba, *Controversies in Feminism* (New York: Rowman and Littlefield, 2001), pp. 131–54.

analysis, all roads trodden by contemporary feminists lead to the same goal—the single-minded valuing of themselves *qua* women under the banner: The personal is political!

Under the wide petticoat provided by such a slogan, however, a great deal of tyranny can be hidden. Women can, with their political left hand, argue for an equality in the workplace that is consistent with traditionally liberal, albeit male, democratic principles. At the same time, with their other hand, they are free to argue for their peculiar and special status at home—due to their role as the primary caretaker of children. In other words, they want exactly what men want, except they also want more. “All women are subtle in exaggerating their weaknesses in order to appear as utterly fragile ornaments who are hurt even by a speck of dust. Their existence is supposed to make men feel clumsy, and guilty on that score. Thus they defend themselves against the strong and ‘the law of the jungle.’”<sup>79</sup>

Although it is true that not all contemporary feminists are ready to admit to buying into the above theoretical commitment to equity as difference,<sup>80</sup> when they are ready to get personal, it seems that all feminists enjoy being treated more like ladies than like equals.

Feminists, like Goldilocks, may want equality but they do not want it to be too cold or too hot. Unfortunately, “just right” for

79. Nietzsche, *The Gay Science*, p. 66.

80. For example, Louise M. Antony, “‘Human Nature’ and Its Role in Feminist Theory,” in Kourany, ed., *Philosophy in a Feminist Voice*, p. 67, claims that “feminist theory needs to appeal to a universal human nature in order to articulate and defend its critical claims about the damage done to women under patriarchy, and also to ground its positive vision of equitable and sustainable human relationships.” And that “as long as women and men share certain morally relevant capacities—the capacity for rationally directed action, the capacity to form emotional attachments, the capacity to communicate—general norms of human flourishing will still apply equally to both,” p. 86.

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feminists will require them to at least spoil, if not simply consume, someone else's porridge.

For example, although many women were obviously interested in being treated equally under the law, such interest was quite selective. That is, when it came to the statutory rape laws argued in the courts in the 1980s, feminists never bothered to insist that the law (which made sex with a female underage partner illegal) be broadened to include sex with an underage male partner.<sup>81</sup> Instead they have spent the last two decades attempting to reconstruct the entire definition of rape to broaden it to include marital rape, date rape, and for some, every act of sex between a man and a woman.<sup>82</sup>

In addition, feminists seem to be blatantly inconsistent when it comes to the military. Although women clearly want to be able to take advantage of the benefits (e.g., loans, health care, and pensions) and privileges of military service, they do not seem to be insisting on equality when it comes to the mandatory draft that still exists. Given that the "cultural limits"<sup>83</sup> reached by such "male" institutions as the Supreme Court never deterred women from arguing for the equality of their own benefits, when it comes to consistency they leave much to be desired. It may be that "feminists have a duty to make sure that women have access to every echelon of military service,"<sup>84</sup> but there seems to be no correlative duty to ensure that women are part of a mandatory sign-up at eighteen. When the "inherently oppressive" institution known as the United State government has protected women from being drafted since the inception of the country and now, when performing equal

81. This law has recently been broadened to include statutory rape by women; however, such broadening did not come at the hands of feminists.

82. For the details of this argument see E. R. Klein, "Date Rape: The Feminist Construct That's Harmful to Women," *Contemporary Philosophy*, vol. 23, nos. 1 and 2 (2001).

83. Rappaport, "Generalizing Gender," in Antony and Witt, eds., *A Mind of One's Own*, p. 128.

84. Baumgardner and Richards, *Manifesta*, p. 280.

duties is really on the line—duties that, during a time of war, come with a serious risk—feminists and their arguments for egalitarianism are nowhere to be found. It seems that not all “male biases” are harmful and in need of restructuring.

And workplace legislation is similarly problematic. With respect to, for example, the Family and Medical Leave Act of 1993 (FMLA),<sup>85</sup> which grants “a family temporary medical leave under certain circumstances,” ostensibly allows both women and men the chance to avoid workplace discrimination when caring for a newborn child, a handicapped family member or an elderly parent. Although the argument for protection was not clear, under the equal protection clause of the Fourteenth Amendment, the argument for the protection to be viewed as gender-neutral was.

Interesting, however, is that in one of the FMLA findings, Congress lists as “one of the reasons” it must support the Act is that “due to the nature of roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men.”<sup>86</sup> Therefore, the FMLA was put on the books not in a spirit of gender neutrality but, on the contrary, primarily in order to protect women. Despite the posturings by feminist egalitarians concerning anything based on gender distinctions, feminists are not found grumbling about what could easily be taken as sexist findings for, again in this case, the inequality worked to favor women.<sup>87</sup>

Is all of this inequality in the name of feminist egalitarianism simply an oversight by the overzealous? I do not think so. Susan Moller Okin, for example, argues quite vociferously for the “dem-

85. Public Law 103-3, enacted on February 5, 1993.

86. Family and Medical Leave Act of 1993, Findings 5.

87. It is suggested that such findings are merely a product of contemporary American culture. Whether this is true is outside the scope of this chapter.

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olition, abolition and disappearance of gender,”<sup>88</sup> meaning, however, only that the state should forbid gendered practices “that make women and children vulnerable.”<sup>89</sup> And Janet Radcliffe Richards states that:

We want good doctors, certainly, but at the same time we want to encourage people to think of women as doctors. *If, as a matter of fact, we think that the best way to achieve this is to have a good many successful women doctors, we may consider making rules which allow women to become a doctor with slightly lower medical qualifications than a man.*<sup>90</sup>

The arguing for, or acceptance of, blatantly gendered practices such as the ones listed—which favor women at the expense of, at least men, if not important medical standards that affect us all—make this peculiar brand of inequality at least at odds with egalitarianism, if not fundamentally sexist.

One example of how feminists’ desire for equality shows itself to be nothing but a power play concerns the use and abuse of Title IX legislation.<sup>91</sup> Feminist social activists have, in the name of equity, forced many college sports programs to fold.<sup>92</sup> Debates concerning

88. Susan Moller Okin, *Justice Gender and the Family* (New York: Basic Books, 1989), pp. 105, 116.

89. Okin, “Humanist Liberalism,” in Nancy Rosenblum, ed., *Liberalism and the Moral Life* (Cambridge: Harvard University Press, 1989), p. 53; Okin, *Justice Gender and the Family*, p. 172.

90. Janet Radcliffe Richards, *The Skeptical Feminist* (San Francisco: Harper and Row, 1982), p. 143.

91. Title IX Education Amendments, 1972, ensure that there is gender equity in educational settings.

92. Interestingly, there have been some attempts to answer the empirical questions of who actually calls oneself a feminist today, and what, exactly, such persons claim to be doing to support their beliefs. See, e.g., Faye J. Crosby, Janet Todd, and Judith Worell, “Have Feminists Abandoned Social Activism? Voices from the Academy,” in Leo Montada and Melvin J. Lerner, eds., *Current Societal Concerns about Justice* (New York: Plenum Press, 1996), pp. 85–102. More interesting are the kinds of self-justifying and petty concerns that count as activism, e.g., “participating on women’s studies coordinating committees,” p. 100–101.

the value of such teams aside, in order to comply with federal Title IX regulations concerning gender equity in college sports, when feminists have whined that despite the market factors—high cost, low turnout—women’s sports deserve the same financial support as men’s, everyone jumps. Because of the law, in order to comply and yet stay solvent, “colleges and universities are increasingly dropping men’s athletic teams rather than support women’s teams.”<sup>93</sup>

And this is only one small example. Feminist egalitarians have argued that the state has a duty to provide women with

equal access to health care, regardless of income, which includes coverage equivalent to men’s, though keeping in mind that women use the system more often than men do because of our reproductive capacity . . . while safeguarding a woman’s rights to bear (or not to bear) a child, regardless of circumstances, including women who are younger than eighteen or impoverished.<sup>94</sup>

Feminist egalitarians, then, are really arguing for equality plus more—more, that is, for women. And such theorists argue for equality plus more even though such laws would, at the very least, serve as yet one more excuse for “a bloated bureaucracy in all the state capitals and in Washington, D.C.”<sup>95</sup>

More seriously, such laws, protecting the poor in general, but in particular poor women who believe they have a special right to have children at the state’s expense—“produce children but take little care to ensure their economic security”<sup>96</sup>—not only create a larger number of poor, but encourage the development of a culture that has no respect for personal responsibility. Finally, and most

93. Peter Monaghan, “Dropping Men’s Teams To Comply with Title IX,” *The Chronicle of Higher Education*, December 4, 1998, pp. A41–A42.

94. Baumgardner and Richards, *Manifesta*, pp. 278–281.

95. Tibor Machan, “Utopian Americans and False Guilt about the Poor,” in *Liberty and Culture*, p. 275.

96. Tibor Machan, “Demythologizing the Poor,” in *Liberty and Culture*, p. 277.

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important, such laws could, in the long term, run all of us out of money, jeopardizing the economy (and therefore the national security) of the United States.<sup>97</sup>

And, for some feminist egalitarians, too much is still not enough, because the poor who have been awarded every social benefit are nonetheless oppressed.

Those who are in extreme need, although equal in worth to those who help them, are nonetheless not equal in circumstance or capacity, and in this sense they do not have equal standing necessary for justice to demand that they make a return . . . and they find this inequality painful and humiliating.<sup>98</sup>

Under these conditions it is no wonder that the social welfare system in the United States is unequal and sexist: Given that women, due to their reproductive capabilities, are more needy than men, and given that anyone who needs more may have to take more (combined with the foregoing claim that anyone who takes more will ultimately feel pain, and, of course, forcing women to feel pain and humiliation is fundamentally sexist), therefore, the welfare state in this country is fundamentally sexist.

Interestingly, however, so is the free market. The free market is oppressive according to feminist egalitarians because the marketplace is itself sexist for the “gendered division of labor has serious and direct impact on the opportunities of girls and women.”<sup>99</sup>

97. See, e.g., Lawrence H. Starkey, “Ethical Judgments on Relations between Rich and Poor,” *Contemporary Philosophy* 22, no. 1–2 (2000): 7–11. On a humorous note, I recall one of the skits from *Monty Python’s Flying Circus* in which Robin Hood continues stealing from the now destitute “rich” to feed the new wealthy “poor.”

98. Jean Hampton, “Feminist Contractarianism,” in Antony and Witte, eds., *A Mind of One’s Own*, p. 255, n. 54.

99. Okin, “Gender Inequality and Cultural Differences,” *Political Theory* 22, no. 1 (February 1994): 12.

The right of the individual to the pursuit of liberty and progress is acted out, in liberal theory, against an assumed background of certain kinds of labouring and ownership relations. These relations are, implicitly and historically, relations between men. These relations between men are made possible by, and sustained by, the political and economic subjection of women. In other words, the free-enterprise “equality” between men necessarily excludes the participation of women *on an equal footing* . . . This notion of free-enterprise “equality” is an ideal that is based on the “freedom and equality” of men in market relations that in turn presupposes the unpaid labour of women. As such one can attempt to bring women “up to” the stage of labour market relations to ensure their equality with men without questioning the domestic basis of these relations but then this will have the consequence of either doubling women’s workload or obscuring the political and economic functions of the domestic sphere. There is a third “option,” which is for women to “become men,” that is for women to function in the public sphere “as if” they are men. However, even this option disadvantages women, both individually and as a group. It disadvantages women individually in that they do not have the benefit, as do their competitors, of an unpaid domestic worker. It disadvantages women as a group in that if they do not reproduce they are not able to consolidate and accumulate wealth through inheritance.<sup>100</sup>

The sympathetic reading of the previous quote is that the market is already biased against women, that is, inherently unequal; therefore, any additional inequalities added to harm men can be seen only as balancing the scales toward real equality; in other words, two wrongs make a right.

Of course such objective, universal notions such as wrong and right, under feminists’ interpretations, are nothing less than sexist constructs, and so the unsympathetic reading must be given. Feminist egalitarians cannot want equal rights, not only because their

100. Moira Gatens, *Feminism and Philosophy: Perspectives on Difference and Equality* (Bloomington: Indiana University Press, 1991), p. 44–46.



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peculiar brand of egalitarianism reappropriates the term *equal* to mean *different* but because their feminism insists on deconstructing any and all value.<sup>101</sup> Feminists of any stripe do not want anything like equal rights, they want power. And they want this power at any cost.

This can best be illustrated by looking at the claims made by those feminists who, unlike the theorists discussed previously, actually claim to be free-market feminists. Free-market feminists, however, are no more interested in negotiating a reasonable notion of a free market than the egalitarian feminists were interested in equality.

The free-market economy of, for example, the United States is built on the ideas of Adam Smith<sup>102</sup> concerning laissez-faire capitalism, known today as a market-capitalist economy.

In a market-capitalist economy, the economic entities are either individuals or enterprises (firms, farms, and whatnot) that are privately owned by individuals and groups, and not, for the most part, by the state. The main goal of these entities is economic gain in the form of wages, profits, interest, and rent. . . . Innumerable independent but competing actors, each acting from rather narrow self-regarding interests and guided by the information supplied by markets, produces goods and services much more efficiently than known alternatives.<sup>103</sup>

Is this really what the free-market feminist is after?

Although the free-market feminist is against, for example, state-

101. Contemporary feminism does not realize the consequence of its having flippantly dubbed all objective principles “male.” In so doing it has made a commitment to epistemological and ethical relativism de facto. As such, two values in conflict can only end by “fighting.” See W. V. Quine, “On the Nature of Moral Values,” *Theories and Things*, pp. 55–66.

102. Adam Smith, *The Wealth of Nations*.

103. Robert A. Dahl, *On Democracy* (New Haven: Yale University Press, 1998), p. 167.

provided or even subsidized health care, the reasons they are against such social programs is not for the usual anti-egalitarian or libertarian reasons such as those cited previously. Instead, the free-market feminists' "objection to state-provided or subsidized childcare is that it denies women the opportunity to be full-time mothers, or, at least, primary caretakers."<sup>104</sup> After all, women want to be able to stay home and they want their labor at home to be paid for as if it were being performed in the marketplace.

But such bravado is obviously much more feminist than free-market, because a true emphasis on free-market housework would lead to *The Man Show*<sup>105</sup> scenario of competition that I do not believe most feminists would like. Housework and childrearing would have to be looked at solely as forms of labor and production whose only goal is the accumulation of capital. Women would compete for the "job" of being someone's wife—housewife and/or mother—or, if she wished to remain single, of proving that the children she produced would somehow be worth some stranger's capital investment. Although this may, in the final analysis, produce better wives and mothers, I doubt it is what feminists have in mind when they flippantly claim that nonmarket activities such as housework and childcare should be added into the Gross Domestic Product figures to "lend some dignity to the position of housewives."<sup>106</sup>

104. David Conway, "Free-Market Feminism," in David Conway, ed., *Free-Market Feminism* (London: IEA Health and Welfare Unit, 1998), p. 42.

105. *The Man Show* on the Comedy Central network spoofs most of contemporary culture regarding the relationships between men and women. The episode I am referring to aired March 3, 2001. Another episode actually had women enroll in "wise college" where women learned to pour beer, be less yacky, and never complain about their periods.

106. Barbara Bergmann, *The Chronicle of Higher Education*, December 1, 1993, p. A9.

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CONCLUSIONS

*A few hours of mountain climbing turn a villain and a saint into two rather equal creatures. Exhaustion is the shortest way to equality and fraternity—and liberty is added eventually by sleep.*

—Freierich Nietzsche<sup>107</sup>

“Nietzsche fears that our post-Christian, liberal and democratic emphasis on equality and rights is eroding the sociopolitical conditions for the flourishing of human greatness.”<sup>108</sup> I urge, instead, that it is feminism.

In the final analysis, not only are the important questions—Are free-markets better than welfare states? Are egalitarian constructs, no matter how finessed, inconsistent with basic liberties?—left unanswered, but after dancing with the feminists, one feels as if ground has actually been lost.

It is sad but true that what began as a legitimate political movement to acquire equality under the law has turned into something that is barely worth spoofing, let alone taking seriously when determining social policy. What began as a movement to end sexism, sexist exploitation, and oppression has ended in ridiculous claims offered to rationalize women’s antimale sentiments.<sup>109</sup>

I urge anyone interested in the questions discussed here not to take feminist theorizing on this subject seriously. Nonfeminist egalitarians are interested in, for example, which is the most just theory of distribution—attempting to make interesting distinctions be-

107. Nietzsche, “The Wanderer and His Shadow,” *Human, All Too Human*, p. 263.

108. Ruth Abbey and Friedrich Appel, “Domesticating Nietzsche: A Response to Mark Warren,” *Political Theory* 27, no.1 (February 1999): 124.

109. One progressive feminist, bell hooks [sic!], has made some moves to acknowledge this in *Feminism Is for Everybody: Passionate Politics* (Cambridge, Mass.: South End Press, 2000), pp. 1–3.

tween those traits that are merely a product of luck and those that are due to one's voluntary choices.<sup>110</sup> All the while feminist egalitarians are claiming that, with respect to women, no action is truly voluntary, and there is no such thing as justice (given that it has been traditionally defined by men) anyway.

Neither side of this debate should bother with such feminist theories. Those who are sympathetic to the political right, happily, are well within their rights simply to ignore the arguments proposed by feminists because there really is not anything of substance there to dispute. Conservative women have, I believe, realized that feminists are simply not interested in maintaining their treasured commitments to individual responsibility and liberty.

To those women from the left, however, it must be realized that feminist egalitarianism is more interested in *difference* than *equality*, more interested in supporting their own theoretical agenda than the needs of actual women. Given that feminist commitments to egalitarianism have little to do with any historical, philosophical, or economic notion of equity, they must tighten their liberal belts and recognize that with "sisters" like these, who needs enemies?

110. See, e.g., Richard J. Arneson, "Luck Egalitarianism and Prioritarianism," in *Ethics* 110, no. 3 (January 2001): 339–49.