

Viewing justice, fairness, care, rights and equity in the modern world through the female lens

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It is a mental sport and an art to sort through the many facets of political philosophy and study the breadth of social and political realities across the globe. Amid these realities, certain discrepancies exist within modern demonstrations of justice, care, fairness, rights and equity – topics that a female perspective can pass under scrutiny and dispute. Arguably, this essay reflects the position of its author, who is a woman. But with as much care for neutralising biases as possible, this paper aims to analyse in what capacity the female lens can bring philosophical and political conversations to the fore, illuminate the sources of the gender gap, and provide a different basis for a philosophical analysis of 'justice'.

There are a number of challenges that arise with regard to definitions of justice. A first distinction to consider is between what is understood as ethics of 'justice' and of 'care'. As psychologist Carol Gilligan (1982) defends in her work, these concepts are in fact quite distinct and highlight gender-based differences in moral reasoning methods. Gilligan's perspective is well summarised by Claire Andre and Manuel Velasquez (1990) of the Markkula Center for Applied Ethics:

"According to Gilligan, some people base ethical decisions on principles of justice, equality, impartiality, and rights. This is the justice perspective. But others base their decisions on a care perspective, [in] which the need to preserve relationship and minimize hurt takes precedence over considerations of justice and rights. The care perspective places special significance on attachment and compassion."

If Gilligan's theory is correct, women and men naturally prioritise different perspectives and reasoning methods, which might explain why men are prepared to sacrifice themselves in battle for justice against an enemy while women are much more inclined to sacrifice themselves to preserve the lives of their children (Andre & Velasquez, 1990). But this does not exclude that any man or woman can juxtapose both a justice and a care perspective; we are all capable of both. Women's fight for gender equality over recent decades stems largely from ethics of justice. Just as, perhaps, some of men's response to this demand would reflect care for women rather than justice. Although justice may be the root idea behind eradicating the gender gap, it could be that a large portion of society responds to this social movement out of a will to minimise hurt to women and preserve a stable relationship between the sexes, or else even out of fear of the reputational risk unresponsiveness to equity can incur.

There is another distinction to take of note of, and that is between 'justice' and 'fairness'. Many would tend to say they are one and the same. I would argue differently, and suggest that this distinction could serve to explain how the plight of women in terms of gender inequity is unjust, not merely unfair. In my view, justice is grounded in ideas of equality and desert, usually supported by legal and political frameworks. Fairness on the other hand results more from a moral code in which compassion and respect preside. Is it unjust, for instance, that some people are born with beneficial traits (e.g. high IQ, physical attributes, advantageous genetic makeup) and into favourable circumstances, and others not? It may not be *fair* that such inequalities

exist, but one cannot call them unjust since the actor (the infant) had no active part in the creation of these inequalities. An *injustice* would be the poor or lacking management of those natural inequalities and a disregard for the least advantaged – who by no fault of their own, and simply by turn of fate, acquired a disadvantage. Justice would require that the disadvantaged be nurtured up to a starting level of equality with the naturally advantaged, without however stifling or taking away the advantages that were fortunately acquired by the lucky few, as that would be unjust towards them. Now, if one turns to the female position in society: as human rights dictate, it is not a natural condition for women to be born a 'lesser sex'; this attribution is the result of historical and social constructs that have been groomed over centuries. If, because of this historical prelude, women have been placed in a position of social and political inferiority, justice – not fairness – would prescribe that the gender gap be closed, and that the starting point for potential and success be levelled and made equal for all. Glass-ceiling inequalities are unjust: only through their abolishment can hard work, talent and merit flourish in honest competition, in a gender-blind fashion.

The subject of private property and John Locke's labour-mixing argument can also provide an interesting perspective for the study of justice within the realm of personal rights and obligations. In most societies, the 'private ownership' of one's body constitutes a fundamental individual right. In the West, it is part and parcel of a strong support for individualism. However, in many countries women are not afforded the same right to their bodies and person; in many cases they are legally subjected through marriage to the full discretionary power of their husbands, consent and privacy rights having little to no place in the female reality. For instance, spousal abuse and marital rape are legally accepted in parts of the world under the assumed consent by way of marriage of a wife to her husband's desires (Pracher, 1981; Makkar, 2019).

Of course, one must acknowledge that cultural and religious values may play key roles in legislative frameworks. Private property and labour-mixing theories could also be applied to parenthood and custodianship, conjuring up further debate. Locke (Rosen & Wolff, 1999, pp. 190-193) not only maintains that "every man has a 'property' in his own 'person'", but also that "the 'labour' of his body and the 'work' of his hands [...] are properly his, [...] 'labour' being the unquestionable property of the labourer", and that anything he has mixed his labour with, joining to it something that is his own, "thereby makes it his property".

If this set of arguments were applied to parenthood, would parents then own property rights to their child, the fruit of their labour? Would the mother be entitled to a greater share of ownership because her share of labour is superior to the father's? At what stage does the child earn personal ownership rights – or 'property in his/her own person'? When the child is born? When it is conceived? When it reaches legal independence from the parents' authority? Myriad debates arise from such questions: from abortion rights, to parent-child rights and obligations, to custodianship laws. In Yemen, like in other countries applying laws based on Sharia, in the event of divorce – obtainable by the husband at any time without justification, and without the wife's consent – the custodianship of children over the age of nine for boys and over the age of twelve for girls is granted to the father, who is under no obligation to involve the mother in her children's lives (OECD, 2019). And before children reach that age, the court can find the mother

unfit to have custody, a condition that is not applicable to men (OECD, 2019). In such a case, and depending on the inclination of the judge, a mother can effectively be stripped of the 'fruits of her labour' without giving consent and with hardly any legal recourse at her disposal – at least until the end of the custody period, by which time children can choose which parent to live with (OECD, 2019). If we relate this kind of scenario to the unjust historical, cultural and social disenfranchisement of women mentioned above, one can easily label such legal interpretations of Sharia as injustices. However, addressing these injustices without interfering with or overstepping cultural and religious freedom is a challenge fit for ardent political and legal philosophers.

To conclude, although it is evident that women's social and political positioning has changed for the better over recent decades in much of the world, it is still blatantly clear that there are countless gender-based injustices and inequalities that are far from being resolved. If the glass-ceiling is being broken through in western liberal democracies, fomenting a growing concern for gender equity, it is not true that these endeavours have reached a universal audience receptive of such ideals. Are women throughout the world stuck on a Humean 'vessel' (Rosen & Wolff, 1999, p.67), entrapping them in assumed tacit consent to inferiority and built with historical, cultural, political, social and religious materials? Are women at the mercy of injustice until dissent is made possible for them in all parts of the world? And until dissent is heard and accepted by men in positions of political and legal authority? Solutions may be unclear as of yet, but the conversation around justice, equity and gender rights has been launched. Time will tell how quickly humans can accept a change in tradition and work to defeat injustice in the name of morality. And the female angle is only one of many that orbit the ethics of justice and equity.

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