

No Justice without Autonomy. Olympe de Gouges and Susan Moller Okin

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Abstract

According to a common feminist critique of liberal conceptions of justice, the supposed neutrality of the autonomous individual subject results, because of gender-based assumptions, in paradox and injustice. This paper addresses this critique, asking how liberal theories of justice should be reformed accordingly (first section). The two philosophers considered are Olympe de Gouges and Susan Moller Okin, responding respectively to the French-revolutionary Republicanism and John Rawls's theory of justice as fairness. Both Gouge and Okin criticize the contradiction between the allegedly neutral universalism of liberal theories and their actual non-inclusive character toward women (and not only), but they pursue this criticism in different ways. De Gouges, while presenting women as independent, does not have autonomy as her goal, but rather social cohesion, morality, and happiness. Faced with the ambiguities of the *Declaration of the Rights of Man and of the Citizen*, she adopts herself an ambiguous position (second section). Such ambiguities are avoided by Okin (third section), whose egalitarian claim firmly relies on individual autonomy. Rather than criticizing the neutral autonomous subject as intrinsically non-inclusive, she convincingly criticizes its use as a descriptive tool, while putting it forward as a normative ideal for both social reform and conceptions of justice.

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1. Introduction: Neutrality, Autonomy, Gender.

Whereas classical depictions of justice present us with a female deity, many feminist philosophers lament that most theories of justice are tailored for men. This bias can be explicit in many classical theories, or implicit in most contemporary ones, especially in the liberal ones, with which my paper deals. Most liberal theories of justice hold that individuals are free and equal independently of the conception of the good they hold and of their particular identity. This is the so-called liberal principle of neutrality: “No reason is a good reason if it requires the power holder to assert: (a) that his conception of the good is better than that asserted by any of his fellow citizens, or (b) that, regardless of his conception of the good, he is intrinsically superior to one or more of his fellow citizens.” (Ackermann 1980, 11) Accordingly, the principles of justice are not grounded in an independently existing conception of the good (e.g. one dictated by religion), nor are they valid on the basis of the identity of whoever asserts them. Rather, they are the product of a (virtual) voluntary decision by free and equal individuals. Such individuals are thought of as autonomous, in the precise etymological sense that they legislate over themselves. That a liberal conception of justice is premised on the autonomy of the citizens is very clear, for instance, in Rawls’s idea of justice as fairness: “A society satisfying the principles of justice as fairness comes as close as a society can to being a voluntary scheme, for it meets the principles which free and equal persons would assent to under circumstances that are fair. In this sense its members are autonomous and the obligations they recognize self-imposed.” (Rawls 1971, 13)

Liberal conceptions of justice, together with the underlying assumptions of the neutrality and autonomy of the subject, have been criticized from different point of views. One obvious possible critique is that since the real world is populated by vulnerable individuals

made of flesh and blood and not by neutral atomistic philosophical abstractions, such conceptions may ignore or, worse, actively conceal differences producing actual inequality.² According to a common feminist critique, the supposed neutrality of the autonomous individual subject in liberal theories of justice results, because of gender-based assumptions, in paradox and injustice.³ Philosophical reflections on justice claim to apply to every subject equally, but in fact this autonomous neutral subject is only the projection of the subjectivity of male family heads, for whom e.g. the transition from the public sphere to the private one and back is a matter of free individual choice, which is mostly not the case from the perspective of women within fairly traditional households. Clearly, this critique pinpoints a broader issue within the liberal tradition, which already Marx had recognized in *The Jewish Question*, and can apply, besides issues of gender, to issues of socio-economic inequality, race etc. In its broadest form, this critique can be extended, beyond the domestic scene, also to international justice, and most notably to the debates on the universalism of human rights, criticized as “Western” rights, which claim to be neutrally valid for every subject, but are actually imposed on the rest of the world disregarding non-Western values and conceptions of the human being.⁴

In order to address this core critique, one might resort, broadly speaking, to two different strategies. First of all, one might challenge the idea of a neutral autonomous subject as a groundwork for justice as intrinsically discriminatory and non-inclusive of certain groups of subjects, and appeal instead e.g. in a perfectionist sense to a shared idea of the common good. Following this model, individual autonomy is not conceived as a good *per se*, but, if

² While some feminist critics have rejected the ideal of autonomy altogether, others have proposed to reframe it, most notably in terms of relational autonomy: see Veltman and Piper 2014, 4.

³ For a general assessment, see Robeyns 2010.

⁴ I have discussed the reasons, limits, and possible consequences of this critique in Siani 2013.

anything, as a mean conducive to that common good.⁵ On the second option, one might keep the full import of individual autonomy and the neutrality principle, while applying some conceptual and practical provisions to be specified with the aim of removing or limiting socially originated biases and extending the scope and the actuality of liberal justice.⁶

My aim in this paper is to sketch, in a simplified way given the space constraints, two possible paradigms representing these two strategies of reform of the liberal conception in consideration of the feminist critique. To this aim, I turn to two women philosophers from different times, both of them acting as a significant counterbalance to two significant moments of the history and the theory of liberalism, whose theories however do not imply – at least explicitly – a wholesale rejection of the liberal approach. The two philosophers are Olympe de Gouges and Susan Moller Okin, and the two moments are respectively the French-revolutionary republicanism and John Rawls's theory of justice as fairness. In order to clarify the structure of the paper, I will here briefly anticipate the main lines of my interpretation.

Both authors criticize the dichotomy between the allegedly neutral universalism of liberal theories and their actual non-inclusive, or explicitly exclusionary, character toward women (and not only),⁷ but they pursue this criticism in different ways. De Gouges, while at times presenting women as independent and autonomous, ultimately does not have autonomy as her goal, but rather social cohesion, as well as individual and collective morality and happiness. Faced with the fundamental ambiguities of the non-inclusive universalism of the *Declaration of the Rights of Man and of the Citizen*, she adopts herself an ambiguous

⁵ Clearly, completely discarding individual autonomy for the sake of the common good means abandoning the liberal conception altogether: this paper, however, will not deal with this option.

⁶ This alternative is related to, but not identical with, the alternative between “equality” and “difference” in the feminist debate: see the first chapter of Wallach Scott 1996.

⁷ See Wallach Scott 1996, 3.

position, oscillating between “invocation of stereotypes of femininity and of claims to equality which deny those stereotypes.” (Wallach Scott 1989, 9) As I will argue, such ambiguities are avoided (and thus the claim for equality made stronger, both theoretically and practically) by Okin. While holding tight to the idea of a neutral autonomous subject as the basis of justice, Okin shows that the simple assumption of this subject in liberal theories of justice hides the profound inequality stemming from gendered social relationships with regard to the conditions for that individual autonomy. Thus, rather than criticizing the idea altogether as intrinsically non-inclusive, she looks for ways to make it inclusive.

In contrasting the two authors, I will not attempt to offer a historically contextual analysis of these approaches, except for a few points. This clarification is necessary as I am dealing with two very different authors from different times and contexts, with no direct connection to each other, and writing in very different styles. I will not consider such aspects, insofar as I am only interested in these two philosophers as two different ideal-typical approaches to the issue of liberalism and gender.

2. Olympe de Gouges

2.1 The Rights of Woman between Cosmic Harmony and Men’s Tyranny

The text by Olympe de Gouges to be analyzed here was written in the context of the French Revolution. The National Constituent Assembly adopted the *Declaration of the Rights of Man and of the Citizen*⁸ in 1789. Despite being a seminal moment in the history of human and civil rights, the DRM did not include women (along with slaves, children, and other groups), who were considered merely passive citizens and thus denied the rights

⁸ From now on: DRM.

it envisaged. The failed recognition of women's rights in the French Revolution prompted de Gouges to publish the *Declaration of the Rights of Woman and the Female Citizen* in 1791. Only two years later, in 1793, de Gouges was guillotined by the Jacobins with the charge of attacking the Revolutionary government and attempting to reinstate the monarchy.

The text commonly referred to as *Declaration of the Rights of Woman and the Female Citizen* is actually a patchwork of different texts (the actual "Declaration" being but one of them), following different registers and having different aims (see de Gouges 1791).⁹ Although I will not be dealing with all of them, it is useful to at least briefly introduce them. The DRW opens with an appeal to the Queen, to whom the document is addressed. There follows a short, passionate invocation to men: *The Rights of Woman*, containing an attack on the cosmic injustice of the inequality between sexes. We then have the Declaration, modeled, partly with a parodistic intent, on the structure of the DRM, with a Preamble followed by seventeen articles. Afterwards we find a Postscript lamenting the condition of women especially in the context of marriage and family, resulting in a *Frame for a social Contract between Man and Woman* that acts like a "form" for a marriage based on equality.¹⁰ The *Frame* is followed by a passionate plea for the men of color in the colonies with an attack on colonists, and by an account of de Gouges' own vicissitudes while travelling from the countryside to her printer (aiming at bearing a witness to the conditions of lawlessness in the country). The document is concluded by another, short Postscript concerning the writing and publication process and celebrating the king's

⁹ Unless otherwise stated, all the quotes in this second section are taken from here. In order to prevent confusion, from now on I will refer to the whole document with the abbreviation DRW, and to the actual declaration contained in it as "Declaration".

¹⁰ The *Frame*, envisaging the overcoming of traditional marriage, is possibly the most authentically revolutionary and interesting piece of the entire document. See Wallach Scott 1996, 43-44.

acceptance of the Constitution and the National Assembly's proclamation of a general amnesty.

As should be clear, the document does not aim to offer a full-fledged theory of sexual difference in politics and society: it is rather a political-polemical pamphlet with satirical hints.¹¹ It is my claim, however, that its critical intention is informed by the employment of a natural rights based approach to address issues of equality among sexes, guided by a perfectionist understanding of individual and collective morality. To begin with, the text appeals to the Queen with the double aim of defending the rights of women and of trying to mediate between the monarchy and the revolutionaries: "This revolution will only be complete when all women are aware of their deplorable fate and of the rights that they have lost in society." Then, de Gouges appeals to men themselves: "Man, are you capable of being fair [*juste*]? [...] What gave you the sovereign right to oppress my sex? [...] Observe the creator in his wisdom, examine nature in all its grandeur for you seem to wish to get closer to it, and give me, if you dare, a pattern for this tyrannical power." Men's tyrannical power and the ensuing inequality between sexes constitute first of all a violation of the cosmic harmony and justice: "Reconsider animals, consult the elements, study plants, finally, cast an eye over all the variations of all living organisms; yield to the evidence that I have given you: search, excavate and discover, if you can, sexual characteristics in the workings of nature: everywhere you will find them intermingled, everywhere cooperating harmoniously within this immortal masterpiece."

From this perfect system, "only man has cobbled together a rule to exclude himself [...]. Bizarre, blind, puffed up with science and degenerate, in this century of enlightenment and wisdom, with the crassest ignorance, he wants to command, like a despot, a sex that is

¹¹ I agree that "it does not belittle her genius to qualify the *Déclaration* as political — women have the right to participate in government — and practical — all children are valuable — rather than as an essentialist reflection on the profound implications of sexual difference" (Sherman 2013, 8).

blessed with every intellectual faculty.” Thus, de Gouges roots her argument in a robust appreciation of the justice of nature as grounded in God’s creation, with which men’s “tyrannical power” is put in contrast. While throughout the realm of nature we can observe harmonious cooperation between the sexes, only man has tried to exempt himself from this perfect system, and to dominate over the other sex.

2.2 An ambiguous Reflex

As I will argue, the problem with this view of justice as based in the laws of nature, which constitutes the backbone of de Gouges’ argument throughout her text, is not only that it is factually false with regard to the realm of nature, but, more importantly, that it is conceptually detrimental to the advancement of equality between sexes. Since the ideal pattern is that of the establishment or reestablishment of an alleged natural harmony coinciding with a condition of fulfilled happiness, justice, and morality, de Gouges’ main concern is not so much with women autonomy and liberty, but rather with their virtue, and its contribution to society’s virtue and happiness. Thus in the Preamble we read:

Mothers, daughters, sisters, representatives of the Nation, all demand to be constituted into a national assembly. Given that ignorance, disregard or the disdain of the rights of woman are the only causes of public misfortune and the corruption of governments [they] have decided to make known in a solemn declaration the natural, inalienable and sacred rights of woman; this declaration, constantly in the thoughts of all members of society, will ceaselessly remind them of their rights and responsibilities, allowing the political acts of women, and those of men, to be compared in all respects to the aims of political institutions, which will become increasingly respected, so that the demands of female citizens, henceforth based on simple and incontestable principles, will always seek to maintain the constitution, good morals and the happiness of all.

Here the inclusive idea of rights as natural and sacred and the claim for equality are explicitly linked to the idea that the aim of the demands of female citizens is to maintain “the constitution, good morals and the happiness of all.” Certainly, this aspect is strongly present already in the DRM, which the DRW critically reflects. There is, however, an important difference. The DRM *assumes* – for better or worse – an autonomous subject as its own groundwork (universalist aspect), denying at the same time, on alleged naturalistic grounds, this autonomy to women and other groups (exclusionary aspect). The DRW, instead of firmly challenging the exclusionary aspect, thus making the universalist one truly inclusive, reflects at least to some extent the stereotypes leading to the exclusion and does not hence fully counter the exclusionary aspect in the name of an equal claim to autonomy independent of its consequences for the virtue and the happiness of society. Led by a concern for the virtue of society as a whole, de Gouges oscillates between the claim for the extension to women of the rights already granted to men and the juxtaposition of the two sexes. In the following I will attempt to substantiate this point.

Articles I-III state the equality of women and men in terms of rights and, on this basis, elaborate on the nature and purposes of political organizations and sovereignty. The issue of inequality is directly tackled in Article IV, where we read: “The only limit to the exercise of the natural rights of woman is the perpetual tyranny that man opposes to it: these limits must be reformed by the laws of nature and reason.” The arbitrary and unjust rule of man’s tyranny needs to be replaced through the laws of nature and reason. These, Article V continues, only acknowledge one criterion as to the limitation of rights: “The laws of nature and reason forbid all acts that are harmful to society: anything not forbidden by these wise and divine laws must be allowed and no one can be constrained to do what the laws do not demand.” Laws of nature, laws of reason, and divine laws are here explicitly equated. De Gouges conceives of them in liberal terms: whatever they do not forbid is allowed. Hence, we have a conclusion from the equality dictated by

nature/reason/god to political equality. This political equality is then specified and discussed in its consequences in the remaining articles, from legislation and public offices (VI) to crime and punishment (VII-IX), freedom of expression (X-XI), the common good (XII), taxation, administration, and accountability of public officers (XIII-XV), constitution and division of powers (XVI), and, finally, property rights (XVII). Article XI is particularly interesting in this context as it calls for “the free expression of thoughts and opinions [as] one of the most precious rights of woman” based on the argument “that this liberty ensures the legitimacy of fathers and their children.” In other terms, the freedom of expression on the side of women guarantees the legitimacy of children since in this case “any Female citizen can [...] freely declare ‘I am the mother of your child’,” whereby of course the law should also punish the abuses of this freedom. This is one of the points where de Gouges insists on difference rather than equality.¹²

It is however in the following long Postscript that, in my opinion, the DRW’s ambiguities become more evident. De Gouges directly addresses women, observing that their gain from the Revolution is “a greater scorn, a more pronounced disdain.” The most visible ambiguity is that on the one hand she blames women for being “blind” and for having “done more harm than good”, thus reinforcing traditional stereotypes, while on the other hand she blames this situation on the existing inequality between sexes, especially as far as marriage laws and education are concerned. Another ambiguity concerns women autonomy as such. De Gouges addresses women as following: “Whatever barriers are thrown in your way it is in your power to overcome them; you simply have to want to,” so that women are apparently conceived as not only potentially, but also actually fully autonomous. Right after, however, de Gouges makes clear that a real change in the equality between sexes can only be brought about through an educational reform from

¹² Wallach Scott 1989, 11, claims that the “very specificity [of the argument used by de Gouges] weakened its objective.”

above: “Let us move on and reflect on the frightful position that women held in society; given that a system of national education is now being contemplated, let us see if our wise Legislators will be rational in their consideration of the education of women.” It hence turns out that apparently women cannot just overcome obstacles through their sheer will, but need a new and rational system of education. While this argument is perfectly reasonable, one cannot overlook the ambiguity in the conception of the status of women.

Possibly because of such ambiguities, the conclusion of the postscript is itself aporetic and sarcastic: “If trying to give my sex an honorable and fair substance seems, at this time, paradoxical on my part, like attempting the impossible, then I will leave the glory of treating on this matter to the men to come but, while we wait, we can pave the way through national education, the reestablishment of morals, and by addressing conjugal conventions.” It is not clear at all whether de Gouges expects an improvement through the direct action of women based on an autonomously gained enlightenment, beginning with herself and the Queen, or through moral, political, and institutional reform, or through a combination of both factors. This is by the way a recurring problem in the Post-Enlightenment or Post-revolutionary period.¹³ In the case of de Gouges, the issue takes the following form: how are we to introduce more equality between sexes in the institutions, if individual immorality is the rule? And vice versa: how are we to achieve a moral improvement of the individuals with regard to the institutionalization of sexual differences within unjust institutions? If the aim is to achieve just institutions, it is question-begging to simply demand just institutions or just laws as means to this aim. If, on the contrary, the aim is to reform the morality of women and consequently of society as a whole, then the

¹³ For example, Friedrich Schiller asks a similar question in his 1794 Letters on the aesthetic education of man: “When the mechanic has to mend a watch, he lets the wheels run out, but the living watchworks of the state have to be repaired while they act, and a wheel has to be exchanged for another during its revolutions.” (Schiller 1794, II letter) It is telling the Letters also end in an aporetic way.

idea that women can simply overcome all the barriers thrown in their way in order to achieve that is, again, question-begging.

So, even when we read what is possibly the most progressive and radical proposal de Gouges advances here, namely the wonderfully egalitarian *Frame for a Social Contract between Man and Woman*, we are bound to ask: what is the function of this proposal? Is it a demand that the National Assembly, or the King, or whoever in charge replace the traditional marriage form with this egalitarian one through the coercive use of political power? Or is it a regulative ideal to which women (and men) should aspire in the relationship between the sexes in order to pursue an elevation of morality which might (or might not), at some point, be institutionalized?

2.3 Moral Elevation or Individual Autonomy?

All the issues raised up to this point with regard to de Gouges' manifesto point to a more general one: why should an institutionally secured equality between sexes aim at the moral elevation of women in the first place? De Gouges offers "an invincible method to elevate the souls of women: they must be included in all the practices of men; if men obstinately find this system impracticable then let them share their wealth with women, not dependent on their whim but through the wisdom of law." Here, the equality and freedom of women do not seem to be so much an end in themselves, but rather a "method" to the higher aim, that of elevating the souls of women. In more contemporary terms, the aim of "the wisdom of law" is not so much the protection of individual liberties and rights, but rather the perfectionist moral (and possibly religious) elevation of women, which in turn will contribute to the moral perfection of society as a whole.

In brief: just like the rest of creation, human society can flourish only if it respects the original harmony and equality. This is not happening because of men's exercise of

tyrannical power. Such power, however, rests to a higher or lower extent on, or is at least jointly liable with, women's weakness and vice. Obviously, if this is so, then the primary concern is not for the independence and freedom of each woman as an individual, but rather for the moral elevation of women as a societal group. This is necessary to the well-being of society because, as already mentioned,

women have done more harm than good. Constraint and dissimulation have been their lot. What force stole from them, ruse returned; they had to resort to the power of their charms and the most irreproachable man could not resist. All was submitted to them, poison, the sword; they commanded over crime as over virtue. The French government, in particular, depended for centuries on the nocturnal administration of women; their indiscretion prised secrets from the cabinet, ambassadors, officers, ministers, presidents, pontiffs, cardinals, all that characterises the stupidity of men, sacred or profane, all was subject to the cupidity and ambition [of women].

This passage cannot be simply considered as a polemic tirade: it is rather the basic idea on which de Gouges' project is rooted. Men are stupid, insofar as they are not able to resist the charms of women. Women are immoral, insofar as they take advantage of men's stupidity for political purposes, since their charms are their only weapon. This leads to ever-increasing injustice, corruption, and immorality in the whole society. Thus, it seems, the solution is to enforce equality between sexes so that women will not have to resort to their charms as their only weapon, but will be effectively free to share practices and liberties as peers with men. Consequently, public affairs will not be decided in the "nocturnal administration" through the pernicious combination of women's cupidity and men's stupidity, but rather in a rational, moral way. This will then lead to a moral improvement of society as a whole, and to the establishment or reestablishment of the just order of human things that nature and its creator demand. The circle of the DRW's main philosophical argument is thus closed.

Now, this very idea of demanding equality as a remedy to women's cupidity and to men's stupidity is, if not straight out offensive,¹⁴ at least counterproductive, as it reinforces stereotypes which, in that context, were certainly more harmful to women than to men, who were *already* conceived and treated as autonomous subjects. Secondly, it is a *non sequitur*, since as long as those necessary reforms are not implemented, the "nocturnal administration" will continue, and on the other hand, as long as the "nocturnal administration" continues, it will be impossible to implement the reforms. Third, and most important, the perfectionist claim risks to jeopardize the actual extension of liberal principles to the issue of equality between sexes. That institutional equality will lead to moral elevation is not only not granted, and would require an additional argument: it is also irrelevant.

To finally state my central criticism, also in order to introduce the alternative – and, to me, more appealing – view discussed in the next section, I claim that the great absent in de Gouge's view is just the notion of autonomy.¹⁵ More in particular, the initial question: "Man, are you capable of being just?" does not call for a discussion about women morality, but about women's autonomy. With regard to the equality between sexes, a society can be just also under conditions of moral corruption, as long as no sex is institutionally privileged. And, on the contrary, we can easily imagine a society of virtuous individuals of both sexes, in which for one reason or another there is no equality between sexes. The central point is that equality between sexes and women virtue as leading to society's morality and justice run along two distinct lines of argument. Establishing equality between sexes is something to be pursued for the sake of women autonomy, whatever its outcome, and not for the sake of their or their society's virtue or happiness.

¹⁴ Whether more for women or for men is an open question.

¹⁵ This absence cannot be attributed to purely historical reasons (de Gouges and Kant are contemporaries), but is rather an aspect of de Gouges' republican-perfectionist conception of society.

Thus, while the articles of de Gouge's Declaration, together with the *Frame for a social Contract between Man and Woman*, offer without doubt an attractive view of the equality between men and women (especially regarding the family and the legal treatment of children), the conceptual backbone of the DRW, inspired by a republican-perfectionist approach, mostly fails to provide an adequately progressive framework. The DRW ends up being an odd blend of revolutionary demands and endorsement of monarchy and church, of enlightenment and religious claims, of liberal ideas and wholesale moralistic observations. This critical conclusion is certainly not meant to deny the historical importance of de Gouges' work and the fact that the paradoxes it contains (at least to some extent, in a self-aware manner) are conducive to the exposition of the paradoxes of the explicitly non-inclusive universalism of the DRM and of its philosophical-political groundwork.¹⁶ The point is rather that the proposal she advances is inspired by ideas which reveal themselves ultimately oblivious of the intrinsic value of women's autonomy, and which, instead of contributing to the necessary extension of the scope of the DRM's universalism, run the risk of jeopardizing it altogether. De Gouges' claim for equality actually aims at bringing about virtue and happiness in society; at the same time, she argues that women cannot be treated as equals because they are not virtuous. This argument is not only circular: it is also detrimental to the cause of equality, and this is so, from my point of view, mostly because of the absence of individual autonomy.

3. Susan Moller Okin

3.1 The Limits of Liberal Justice

¹⁶ In this sense I certainly agree with Wallach Scott 1996, 20, that de Gouges' manifesto "is arguably the most comprehensive call for women's rights in this period; it takes the Revolution's universalism at its word; and it exposes the incompleteness of that universalism in its own paradoxical attempts to represent women as abstract individuals by calling attention to the differences they embody."

I will now turn to Susan Moller Okin, whose criticism of the non-egalitarian character of most conceptions of justice is rooted in a full appreciation of the idea of the subject of justice as neutral and autonomous, so much so that her argument culminates in a call for the elimination of gender. Okin's influential book *Justice, Gender, and the Family* begins by noticing the incompatibility between the basic claims of "liberty and justice for all" in the US Pledge of Allegiance on the one hand and the existence of "substantial inequalities between the sexes" (Okin 1989, 3)¹⁷ on the other hand. Unlike de Gouges, individual autonomy, and not society's happiness, virtue, and cohesion, are at the heart of her concerns. This is so even though the word "autonomy" with its derivatives only has a few occurrences in the book. First of all, as a matter of fact, the *pars construens* of her argument is an attempt to show how Rawls' theory of justice can be made egalitarian with regard to gender issues, and as we saw in the beginning autonomy is a central pillar of Rawls' construction. Furthermore, this attempt is sparked by the main criticism in her *pars destruens*, namely that "the fact that human beings are born as helpless infants—not as the purportedly autonomous actors who populate political theories—is obscured by the implicit assumption of gendered families, operating outside the range of the theories." (13) Hence, the main problem is that the autonomous subject, while being a philosophical construct presupposing a gendered structure of society, and most particularly of the family, is simply assumed by political theories as something given. The fact that helpless infants can become autonomous actors only thanks to the largely unacknowledged domestic and educational work of women is simply ignored, and remains "outside the range of the theories." Most theories of justice merely assume and describe the subject as already autonomous, an assumption only made possible by a gendered structure which, in turn,

¹⁷ Unless otherwise stated, all the quotes in this third section are taken from here; only page numbers will be given in brackets.

results in the limited autonomy of just those individuals on whom the achievement of the autonomy of that subject is predicated!

Okin's aim vis-à-vis this paradox is, as I will argue, to criticize the idea of an autonomous neutral subject as a descriptive tool, while strongly advocating its normative power. In other terms, the autonomous neutral subject is not something already given, that can be used as the starting point of theories overlooking its genesis, but the ultimate horizon of truly liberal social reform endeavours. As already announced by the title, the lynchpin of the named structural inequality, defining for the practice and ignored by theory, as well as of any attempt to gradually solve it, is the family: "Until there is justice within the family, women will not be able to gain equality in politics, at work, or in any other sphere." (4) Thus, "there is clearly a major 'justice crisis' in contemporary society arising from issues of gender." (7) This is not only a problem of social practice: "To a large extent, contemporary theories of justice, like those of the past, are about men with wives at home." (13). This is to a good extent so because family, "while neglected, is *assumed* by theorists of justice." (9) Most liberal theories of justice cannot be read as truly neutral toward individuals of both sexes: the "add women and stir" method does not really warrant neutrality (11).

While Okin fully dismisses communitarian and libertarian approaches, she strongly criticizes the liberal one, but at the same time acknowledges that only liberalism "contains the possibility of encompassing the answers to feminist questions." (61) She clearly situates herself in the liberal tradition and, in particular, as already mentioned, recognizes the potential of Rawls's theory of justice for feminism, while at the same time highlighting its shortcomings. Rawls's potential to contribute to feminist issues is investigated with regard to the question: "Can justice co-exist with gender?" (90) In Okin's assessment of this potential, the most serious critique to Rawls is the one about "the barely visible family, (93) that is, the fact that "family is to a large extent ignored, though assumed," in his

theory (93). Rawls's two famous principles of distributive justice apply to the "basic structure of the society," that is to the major social institutions. The monogamous family is, in the context analyzed by Rawls, clearly one of such major social institutions, however he does not consider whether it is just according to the two principles, but rather assumes that it is, as if family was either always just by itself, or opaque to claims of justice (see 94).

Here I cannot enter into the detail of Okin's sophisticated argument on Rawls. I will only present its main conclusions. On the one hand, she shows how Rawls's theory, if opportunely adjusted, can be used to criticize "gender-structured social institutions." (105) On the other hand, she reaches, critically following Rawlsian lines, a more radical conclusion. In a gendered society sex is just not "a contingent and morally irrelevant characteristic, such that human beings really can hypothesize ignorance of this fact about them." (105) In other terms, as long as we live in a gendered society we cannot simply remove the sex difference through Rawls's device of the original position with the veil of ignorance. To paraphrase, in a gendered society justice can never be truly neutral as to sex. Considerations of justice, while claiming to be neutral, apply in fact in two different ways to the two sexes. This however violates the neutrality principle as such, for which the subjects of justice are not women and men, but neutral individuals. Since Okin subscribes to a liberal-Rawlsian conception of justice, the logical consequence is that "the disappearance of gender is a prerequisite for the *complete* development of a nonsexist, fully human theory of justice." (105) Briefly: the answer to the question we saw above is that, if we take justice seriously, then justice and gender cannot coexist.

Now this conclusion decidedly reshifts the line of the argument. The topic is no longer the adequacy of a conception of justice to a given society, but rather the adequacy of society to a normative idea. Correspondingly, the strongest line of criticism seems to be directed not so much against flawed theories of justice, but rather against a fundamentally unequal society. This shift seems to introduce a tension in Okin's argument. The tension can be

formulated as follows: as long as there is a gendered society, theories of justice need to take gender into account, but as long as theories of justice take gender into account they cannot really talk about justice in its full sense. Rawls's theory is not so much to be criticized because it cancels differences among sexes by dealing with a neutral abstract subject, but rather because that neutral abstract subject does not exist in the real world, or more precisely – and the difference is crucial – it does not exist *yet*. In other terms, the problem is not treating as equal individuals who cannot be equal because they belong to different sexes, but rather treating as equal individuals who have been made unequal by the gendered society.

3.2 Theory and Practice of the Elimination of Gender

However, I maintain that the tension I just described, unlike in de Gouges' case, is actually a productive one. Okin has a strong argument insofar as her emphasis is clearly not on women's moralization or happiness, but on freedom and autonomy. Her problem is not the moral elevation of women and society, but how to prevent gender-structured institutions from doing injustice to women (and children) with different familial, moral, and social expectations and standards: "Since evidently we do not all agree about what [marriage] is or should be, we must think in terms of building family and work institutions that enable people to structure their personal lives in different ways." (169) The call for a subjection of the main institutions – including family – to principles of justice and legal regulation is not led by moralistic concerns, but rather by the necessity to protect women (and children) from social vulnerabilities, so that they may pursue their choices to a fuller extent: "If they are to avoid injustice to women and children, these institutions must encourage the avoidance of socially created vulnerabilities by facilitating and reinforcing the equal

sharing of paid and unpaid work between men and women, and consequently the equalizing of their opportunities and obligations in general.” (169)

This means, first and foremost, that family, as “the linchpin of gender”, “needs to be a just institution.” (170)¹⁸ Now, even though I am concerned here with the general issue of the relationship between gender and liberal conceptions of justice, and not with the specific practical proposals by the authors I am discussing, I want to briefly refer to one aspect of Okin’s proposal, aimed at reforming family and making it a just institution, that is particularly representative of her approach. While it is clear that the gender-structured marriage is at the origin of many issues she is confronting, she is realistically aware that we cannot just condemn this institution and expect that it will dissolve in any foreseeable future. The point then becomes to accept it as a structural part of our current social reality, yet a problematic one, to be regulated and restricted through law: “Gender-structured marriage, then, needs to be regarded as a currently necessary institution (because still chosen by some) but one that is socially problematic. It should be subjected to a number of legal requirements, at least when there are children.” (180) So, even though the opposite is often the case, “there is no need for the division of labor between the sexes to involve the economic dependence, either complete or partial, of one partner on the other. Such dependence can be avoided if both partners have *equal legal entitlement* to all earnings coming into the household.” (180-181)

¹⁸ This point, as we know, has been largely ignored by most theories of justice. Okin openly acknowledges that “this is a complex question. It is particularly so because we place great value on our freedom to live different kinds of lives, there is no current consensus on many aspects of gender, and we have good reason to suspect that many of our beliefs about sexual difference and appropriate sex roles are heavily influenced by the very fact that we grew up in a gender-structured society.” (171) I will come back in short to the practical implications of Okin’s pluralistic acknowledgment of the profound complexity of the question, which is however in her work well counterbalanced by a firm commitment to a broader extension and actualization of equality, as based on substantial and not only formal autonomy.

Even within a thoroughly traditional marriage in which the man is the breadwinner and the woman is the homemaker, it is possible to avoid dependence on the woman's side by legally entitling her to half of the earnings directly made by the man. This is because the man's full-time employment and the ensuing earnings are premised on the woman's caring for the house and the children, and a "just" family would be one in which this division of labor is legally acknowledged in economic terms. Concretely, "The clearest and simplest way of doing this would be to have employers make out wage checks equally divided between the earner and the partner who provides all or most of his or her unpaid domestic services." (181) I think that this specific case is representative of Okin's blend of unyielding, passionate struggle for equality, and lucid, concrete realism. Her proposals do not question or undermine the liberal model: in fact, they aim at extending and actualizing it in a fuller way.

Ultimately, however, Okin is adamant that a full solution to the question of justice comes only through the elimination of gender: "A just future would be one without gender. In its social structures and practices, one's sex would have no more relevance than one's eye color or the length of one's toes. No assumptions would be made about "male" and "female" roles." (171) In short, "if we are to be at all true to our democratic ideals, moving away from gender is essential." (172) Nonetheless, at the same time, she takes pluralism seriously, insofar as she envisages "carefully protective institutions for those who wished to follow gender-structured modes of life." (175) Consequently, while she thinks that there cannot be a full justice as long as there is gender in society, she also attempts to envisage ways in which inequality and injustice can be reduced even for individuals opting for traditional familial and social models. The twofold strategies she pursues is effectively summed up in the warning that "while protecting those whom gender now makes more vulnerable, we must also put our best efforts into promoting the elimination of gender." (183-184)

Okin's proposal is complex and ambitious, insofar as it attempts to combine radical feminist claims with a defense of pluralism, and a passionate defense of individual freedom with the recognition of the necessity of legal interventions and restrictions to address the gender issue.¹⁹ Even though she aims for a profound transformation of society, her focus is not on group or societal morality or happiness. Rather, she aims at guaranteeing and enhancing equal liberties for everyone, including individuals that would not give up a traditional understanding of gender roles (that is, who would not subscribe to her own theory).²⁰ Okin clearly does not step back from the neutrality principle, but on the contrary calls for its consequent and unlimited application: with respect to social structures and practices, as we saw, sex should be as irrelevant as the length of one's toes. Admittedly, she puts an emphasis on the difference, not only on the equality, but difference is by and large a social construct with no objective grounds. Theories of justice have to consider the existence of this socially produced difference – gender – in our society: neglecting it would mean ignoring or downplaying existing inequalities between two groups (men and women), and thus, in concrete terms, privileging one group over the other.

¹⁹ It is significant that Okin has been both appreciated and criticized by authors representing opposite standpoints: e.g. Nussbaum 1993 criticizes her, from her "capabilities"-oriented approach, for leaving too much space to the privateness of individual choices, whereas McKittrick 2006 criticizes her, from a libertarian standpoint, for leaving it too little space.

²⁰ Incidentally, despite all differences in their philosophical approaches, Okin is in this respect close to De Beauvoir 2010, 36-37, whose words actually constitute a valuable criticism of de Gouges: "If we examine some of the books on women, we see that one of the most frequently held points of view is that of public good or general interest: in reality, this is taken to mean the interest of society as each one wishes to maintain or establish it. In our opinion, there is no public good other than one that assures the citizens' private good; we judge institutions from the point of view of the concrete opportunities they give to individuals. But neither do we confuse the idea of private interest with happiness: that is another frequently encountered point of view; are women in a harem not happier than a woman voter? Is a housewife not happier than a woman worker? We cannot really know what the word "happiness" means, and still less what authentic values it covers; there is no way to measure the happiness of others, and it is always easy to call a situation that one would like to impose on others happy."

Since, however, this neglect is often the case, the purported neutral attitude of contemporary theories of justice with regard to gender issues leads as a matter of fact to the violation of the neutrality principle, or more precisely it covers and legitimizes this socially existing violation. The neglect of gender by theories of justice, as long as gender exists, does not follow from the neutrality principle, but rather violates it. At the same time, on the other hand, the very existence of gender violates the neutrality principle. In order to address the issue of sex equality at both these levels while avoiding circularity, Okin's approach follows a twofold strategy centered on autonomy. The strategy is promising because it does not try to impose a perfectionist view of society, but on the contrary it fully acknowledges the fact that a thorough recognition of the value of individual autonomy implies the acceptance of a plurality of conceptions of the good, life-styles, family forms etc., including the ones that seem incompatible with our own views. While the neutrality principle is shown to be inadequate for a full understanding of the flaws and inequalities of our present society, it still remains the normative reference point giving the direction for change and reform.²¹

4. Conclusion

This paper's goal was to contrast two possible ways of addressing the issue of injustice created by inequality between sexes in a liberal context. While De Gouges' ultimate aim is

²¹ This approach does not only apply to the classical issues in the liberalism and gender debate, but it also has significant repercussions, among others, on the topic of the relationship between multiculturalism and state neutrality from the feminist perspective. The main question is formulated as follows in Okin 1999, 9: "What should be done when the claims of minority cultures or religions clash with the norm of gender equality that is at least formally endorsed by liberal states (however much they continue to violate it in their practices)?" The tension thereby pinpointed between feminism and the multiculturalist commitment to the protection of group rights is addressed, again, through the combined defense of the normative character of the liberal neutrality principle and its criticism as a purely descriptive tool where the issue of gender and justice is concerned.

the common good, the virtue and morality of the society, Okin's focus is about the full autonomy of each subject, independently of their sex. I argued that De Gouges' republican-perfectionist proposal, while providing valuable criticism of the non-inclusive universalism and paradoxes of the DRM, leads to an oscillation between the claim for equal political rights and a rather stereotypical juxtaposition of the two sexes. As a result, her model presents not only several substantial ambiguities, but also some tenets that appear to be outright detrimental to the advancement of equality between sexes. On the contrary, Okin's liberal-Rawlsian model does not reject the neutrality principle, but powerfully criticizes its unqualified assumption in most theories of justice, including Rawls's own one. By assuming the neutrality of the subject, most theories of justice remain blind to the gender-based inequality in society, and most notably within family. Thus, Okin criticizes the descriptive value of the neutrality assumption, while at the same time defending its normative-regulative power. Accordingly, she promotes a sophisticated, multi-layered liberalism reform model aimed at the full realization of an autonomy and neutrality-based liberal conception of justice, envisaging the disappearance of gender as its ultimate aim. Okin's model, as the paper argued, appears more able to avoid ambiguities and overall more convincing than De Gouges' one, insofar as it promotes a conception of justice in which the sexes are truly equal because the central focus is individual autonomy with its socio-political implications.

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