

## Chapter III

### The Feminist Critique/ Intervention

In the order of things based on the grand dichotomy between public and private, the constitutive features of public and private are debatable, and conflicts and disagreements are provided for. The content of the resolution of these conflicts and disagreements is neither predetermined nor unchanging, but its form has to be consistent with this dichotomy. One of the main planks of feminism is to question, critique, and reformulate this requirement. The boundary between public and private is not fixed and it has been constantly drawn and redrawn over the years. One of the challenges thrown by feminism is to bring certain issues into public domain from private, and therefore is one of the obvious examples to redraw the line between public and private.

Carole Pateman contends that the dichotomy between the private and the public is central to almost two centuries of feminist writing and political struggle, and it is ultimately, what the feminist movement is all about<sup>1</sup>. Feminist criticism is primarily directed against the separation and opposition between the public and private spheres in liberal theory and practice. The analysis of the criticism levelled by feminism is made more complicated as liberalism is inherently ambiguous about the distinction between public and the private. The ambiguity and vagueness with respect to the liberal distinction between public and private is dealt in more detail in chapter II.

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<sup>1</sup> See Carole Pateman, *Feminist Critiques of the Public/Private Dichotomy* in S.J. Benn and G.F. Gauss (eds.), *Public and Private in Social Life*, New York: St. Martins Press, 1983.

Feminists and liberals disagree about where and why the dividing line is to be drawn between these two spheres, even when they happen to agree that the boundary has to be drawn somewhere. At this juncture it is important to bear in mind that feminist response to the public and private distinction is not so homogeneous or uniform, as they are at times made out to be. Certain strands within contemporary feminist writings question, whether the boundary between public and private should be drawn at all. While other writings question the location of the line between public and private as they agree that the line has to be drawn somewhere.

The liberal contrast between private and public is just not a distinction between two kinds of social activities. The private and the public spheres and the principles that govern them are seen as separate from or independent of the relationships in the private sphere. There is a long controversy between liberal and radical political scientists about political participation, and whether the private sphere has or should play any role in public life. Liberals wanted the private sphere to be free from state regulation and control, and sought to insulate private prejudices and judgments from the public sphere to ensure equal rights for all, through maintaining an institutionalised distinction between public and private.

Since women had historically been associated with the private sphere, it meant that women were also effectively kept out from the realm of public sphere. Radicals denied the liberal claim that the social inequalities of the private sphere are irrelevant to

the questions of political equality, universal suffrage, and associated civil liberties in the public realm. Some feminists explicitly reject the liberal conception of private and public and see the social structure of liberalism as a political problem, not a starting point from which equal rights can be claimed.

The discussion in this chapter is divided in four sections. The first section deals with the criticism of the liberal distinction between public and private from the feminist perspective to bring into light the effect this distinction had for women and their life-worlds. What are the implications of this criticism? Are they suggesting that we should not draw this distinction at all, and abandoning this distinction is the way out? I will argue that the exclusive concern with the distinction between public and private narrows down the horizon of feminism, and the criticism has implications for feminism as well, which have been widely overlooked and carelessly disregarded.

The second section deals with the relation of women with public sphere. Is public participation the key to emancipate women? What kind of changes must take place in the public sphere to facilitate participation of women as equals, and how have women participated historically in the public sphere? How, and on what grounds women will participate within the public sphere and why it is a predominant prophesy that public sphere will lead to the emancipation of women? How reasonable is the centrality attributed to public sphere by feminism? The criticism of the distinction between public and private is primarily about the question of privacy and its role in the devaluing and undervaluing of women and their experiences.

The third section looks closely at the relationship between feminism and privacy. The prevailing and dominant discourse gives one an impression that women do not need privacy, as privacy is the *raison d'être* behind their subjugation and subordination. Are women not in need of privacy? Finally, the fourth section reveals how the existing relationships of power and inequality, coupled with the gendered coding inherent within the distinction between public and private, affects the ability of women to redefine and redraw the boundary between public and private.

### **Feminist Critique of Public and Private Distinction**

In the last chapter, we saw in the account of Benn and Gaus that the liberal conception presents the private and the public as central categories of liberalism. But they do not explain why these two terms are crucial or why the private sphere is contrasted with and opposed to the 'public' rather than the 'political' realm. Apart from not addressing this crucial question, feminists also note that liberal arguments leave it unclear whether civil society is private or public, but they state that in all liberal models family is always private. In certain liberal accounts a distinction is drawn between civil society and political society, wherein a certain part of the civil society assumes a political function.

However, family still belongs to the private, when a distinction between civil society and political society is drawn. Feminists draw out the implications of considering family as private for the society and especially for women. Moreover, liberal theorists do

not pursue the question as to why they also usually see civil society as private. Eisenstein contends that 'the ideology of public and private life' invariably presents 'the division between the public and the private life... as reflecting the development of the bourgeois liberal state not the patriarchal ordering of bourgeois state'.<sup>2</sup>

Feminists argue that liberalism is structured by patriarchal as well class relations and the dichotomy between the private and the public obscures the subjection of women to men within an apparently universal, egalitarian, and individualist order. The separation and the opposition of the private and the public spheres, feminists contend, is an unequal opposition between women and men. The exclusion and inequality is endemic for women whenever and wherever the social world is divided between the public and private. On one hand, within this operative mechanism, if public is considered central then women will be excluded and will be considered inferior as they 'naturally' belong to private. On the other, even if private is considered vital and crucial for the development of human personality, freedom and autonomy, women's role and contribution in the private realm will again not be valued, if they are included at all, that is.

The reason why the exclusion goes unnoticed is that the separation of the private and the public is presented as if it applies to all individuals in the same way. However, the family is considered private and women are confined to this sphere, and as public and private are separate, women are effectively kept out from this privilege, which applies apparently to all individuals. The fundamental feminist argument is that the doctrine of

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<sup>2</sup> See Eisenstein, Z., *The Radical Future of Liberal Feminism*, Longman, New York, 1981.

'separate but equal' obscures the patriarchal reality of a social structure of inequality and the domination of women by men.

In theory, liberalism and patriarchy stand irrevocably opposed to each other. Universalism inherent in the liberal doctrines and expositions, if they equally apply to women, then patriarchal values cannot exist side by side with liberal values. However, the conflict between patriarchalism and liberalism did not extend to women or conjugal relations alone. The latter were excluded from individualist arguments as well, and the battle was fought over on the relation of adult sons with their fathers.<sup>3</sup> The theoretical basis of the separation between public and private was provided in Locke's Second Treatise. Locke's theory, grounded in opposing principles of association in the private and the public spheres, exemplify the conflicting status of women and men. Natural subordination stands opposed to free individualism. Participation in the public sphere is governed by universal, impersonal, and conventional criteria of achievements, interests, rights, equality, and property, applicable only to men.

In this scheme, the public world or the civic society is conceptualised and discussed in abstraction from or separate from the private domestic sphere. However, feminists reject the claim that the separation of the private and the public follows inevitably from the natural characteristics of the sexes. Feminists argue that a proper understanding of liberal social life is possible only when it is accepted that the two spheres –the domestic (private) and civil society (public)— held to be separate and opposed are inextricably interrelated, as they are the two sides of the single coin of liberal

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<sup>3</sup> See Carole Pateman, *The Sexual Contract*, Stanford, Stanford University Press, 1988.

– patriarchalism.<sup>4</sup> In short, when it comes to women, liberalism conciliates with its own universal elucidation and aspiration by limiting its principles and values from applying equally to women. By presenting the liberal distinction between public and private as something that applies to everyone equally, liberals obscure and mystify the mechanisms and processes that subjugate women.

How liberalism conceives the political? Pateman takes up the existence of two completely opposed arguments- the sublimation (Wolin) and reification (Locke) arguments about the liberal democratic conception of the political.<sup>5</sup> Wolin contends that the development of liberalism saw the loss or sublimation of a distinctive conception of the political as a sphere concerned with what is common and general to a society. Liberal democratic theory presents the political as something autonomous, or separate and abstract from the social relationships of everyday life. By sublimation, Wolin means that the political has been left with only residual significance and instead of being a ‘vital condition’ for society, it has become a mere superstructure.

Wolin bases his interpretation on Locke’s idea grounded on the premise that the political sphere has no place for the exercise of individual “private judgement”. Lockeian liberalism was as much a defence against radical democracy as an attack on traditionalism. The paradox is, as Wolin finds sublimation when Locke reifies the conception of the political, both apparently grounding themselves on the same premises.

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<sup>4</sup> See Carole Pateman, *Feminist Critiques of the Public/Private Dichotomy* in S.J.Benn and G.F. Gauss (eds.), *Public and Private in Social Life*, New York: St. Martin’s Press, 1983.

<sup>5</sup> See Carole Pateman, “Sublimation and Reification: Locke, Wolin and the Liberal Democratic Conception of the Political”, in *Politics and Society*, 1975.

However, the interpretation of Pateman can be challenged, since the difference between the interpretations of Locke and Wolin is overlooked in her account. The differences outweigh the similarities that Pateman finds in their account and conception of the political. Lockean liberalism insulates individual, private judgement from influencing the public in order to privilege the public in its autonomous, independent sphere. For Wolin, the absence of the common and general to have a concrete, material manifestation, effectively privileges the individual. Locke is arguing for a normative distinction and suggests the insulation of the private from the public, while Wolin is talking about how the working of the public in empirical terms, ends up privileging the private over the public.

Pateman contends that in Lockeian liberalism the political right of the individual, a 'natural' right along with the other natural rights of life, liberty and estates, unlike those other rights, is *always given up*.<sup>6</sup> The most important implication of this paradox leads to the separation of social life into two separate or autonomous spheres- the private and the political sphere- in order to encompass the retention by individuals of their natural rights other than the political right, and the giving up of the later.

The social contract of Locke addresses this paradox through the fiction of citizenship to justify a certain kind of political authority in a specific manner (i.e., representative government). The representatives now become, as it were, the embodiment of the political selves, the citizen selves, of the members of the community, and then the

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<sup>6</sup> Ibid.

political sphere appears as a thing – ‘the state’ - objectified and external to the members of society. Instead of private judgement being excluded when the liberal democratic ‘political state’ is fully developed and universal suffrage is introduced, it is exactly private judgement that re-enters.<sup>7</sup> It is important to bear in mind that in this process, though private becomes significant and re-enters the public, it does not mean that women then will not face exclusion and devaluation. Women are relegated, -even within the private sphere- by carving out a domestic sphere within the private.

For women, private stands for the domestic sphere where they are eternally and unendingly placed. Pateman argues that no solution can be found within the liberal democratic conception of the political, and the transformation of liberal democracy requires the transformation of *both* spheres of social life and therefore an appreciation of their distinctiveness *within* their dialectical inter-relationship.<sup>8</sup>

In addition, feminist scholars have pointed out that the definition of public as a realm of generality extolled manly virtues of masculine experience: militarist norms of honour and homoerotic camaraderie, respectful competition and bargaining among independent agents, and discourse framed in unemotional tones of dispassionate reason.<sup>9</sup> These apparently universal values and norms as a realm of rationality and freedom, as opposed to the heteronomous realm of particular need, interest, and desire excluded

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> See Young I., “Impartiality and the Civic Public: Some Implications of Feminist Critiques of Moral and Political Theory”, in J. Landes, *Feminism, the Public and the Private*, New York, Oxford University Press, 1998.

women and their experience. Private was defined as the particular; the realm of affectivity, affiliation, need, the body and women were relegated to this sphere.

Young contends that the idea of the public as universal and the concomitant identification of particularity with privacy required persons to leave behind their particular affiliations and experiences and adopt a general point of view. This insistence not only reinforces the prevailing privileges but also dominates the public, thereby marginalising and silencing other groups<sup>10</sup>. Such a desire for unity in the public realm suppresses but does not eliminate differences and thus tends to exclude other perspectives from the public.

Feminists and liberals are not only in conflict over shared conception of the public and the private, but they are also at odds about these very categories. This happens precisely because liberalism conceptualises civil society in abstraction from ascriptive domestic life, where the latter remains 'forgotten' in theoretical discussion.<sup>11</sup> The separation between the private and the public is thus re-established as a division within civil society itself, *within* the world of men. The separation then gets expressed in a number of different ways, not necessarily in terms only of private and public, but also as, for example, society and state, economy and politics, freedom and coercion, or social and political. In this scheme the public or political aspect of civil society tends to get lost, as pointed out by Wolin in his *Politics and Vision*.<sup>12</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> See Pateman, *The Sexual Contract*, op cit.

<sup>12</sup> See Sheldon S Wolin, *Politics and Vision*, London, Allen and Unwin, 1961.

Are we supposed to believe then that the distinction between society and state, economy and political, or social and political is merely a reflection or a manifestation of the public and the private division? Are we to understand then that even within women's experience there is no difference between the other distinctions as articulated by liberalism between state and society and economy and state, or for that matter even between private and political?

The feminists question the easily forgotten patriarchal character of the separation of depoliticised public sphere from private life. They ask, why is the separation between the two worlds located within civil society in which public life is implicitly conceptualised as the sphere of men? What mechanisms and processes contribute towards this obfuscation of the patriarchal character of the separation between public and private sphere? The fact that patriarchalism essentially remains a constitutive part of the theory and practice of liberalism is obscured by the apparently impersonal and universal dichotomy between private and public *within* civil society itself. The private and public in liberalism is discussed in abstraction from their historical development and also in separation from other ways of expressing this fundamental structural separation outside as well as within liberalism.

The feminist understanding and the critique of the separation and opposition between the private and the public is sometimes presented in these terms but formulated using the categories of nature and culture, personal and political, or morality and power, and of course, women and men. The most fundamental and general of this opposition

associates women with nature and men with culture, and many feminists have framed their critique in these terms. This has led some feminists to exclusively focus either on nature or culture as the reason for their subordination as can be seen in the writings of Ortner and Firestone. For Ortner, the reason behind universal subordination of women is cultural organization, and for Firestone, it is nature or biology itself.

The difference between the sexes is independent of history and culture, and so it is not surprising that the natural difference and the opposition between nature and culture has been central to some well known feminist attempts to explain the apparently universal subordination of women. In one of the most influential anthropological discussions Ortner argues that the only way to explain why the value assigned to women and their activities is lower universally is that women has been 'a symbol' of all 'that every culture defines as being of a lower order of existence than itself'<sup>13</sup>. Ortner locates the universal oppression of women not in biology but in symbolic organization of human culture to explain this almost universal subordination of women. Culture is identified as the creation and the world of men and women with nature as biological constitution and her body places women *closer* to nature than men.

Child-rearing and domestic tasks dealing with *unsocialised* infants and with raw materials bring them into closer contact with nature. Women are associated with activities that are more immanent, unmediated and embedded in things, while men's relationships are more transcendent and transformative of persons and objects. Thus,

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<sup>13</sup> See Sherry B. Ortner, "Is Female to Male as Nature is to Culture?", in J. Landes(ed.), *Feminism, the Public and the Private*, Oxford, OUP, 1998.

women and domestic spheres appear inferior to the cultural sphere and male activities, and women are seen as necessarily subordinate to men. Ortner contends that women's equality in the public and private life will not resolve the problem of universal social subordination of women, unless the ambivalent symbolic structures of gender are not dislodged from its predominant position.

It is unclear, however, what Ortner is really arguing for. Is she suggesting that women's domestic activities symbolise nature, or are part of nature, or rather place women in a mediating position between nature and culture? Simultaneously, Ortner argues that the opposition between women/nature and men/culture is itself a cultural construct and not given in nature. It is important to bear in mind that women are not 'in reality' any closer to or further from nature than men, but there are certainly reasons why they appear that way.<sup>14</sup>

Even, if women and their tasks have been universally devalued, it does not follow that we understand this important fact of human existence by asking questions in universal terms and looking for general answers formulated in terms of universal dichotomies. Moreover, 'universal' articulations have a tendency to hegemonise the specific and the historical, and the above criticism is certainly not free from this pitfall. It can lead only to an emphasis on biology or nature, when feminism has begun by questioning arguments from and about nature and biology. Ortner's analysis ends up reifying the role of biology and nature in attempting to explain the subordination of women and its overcoming. Can we articulate an emancipatory feminist project based on

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<sup>14</sup> Ibid

symbolic structures of cultural thought and practice that is 'autonomous' from our biologically differentiated existence, without in turn reifying the role of nature and biology?

On the contrary, in the writings of Firestone, a radical feminist, nature is identified as the cause of men's domination. She argues that the origin of the dualism lies in biology itself: procreation<sup>15</sup>. According to her, the source of natural or original inequality lies in reproduction. Men by confining women to reproduction (nature) have freed themselves 'for the business of the world and so had created and controlled culture'. The solution proposed by her is to eliminate natural differences between the sexes and introduce artificial reproduction. She argues that nature and the private sphere of the family will then be abolished and individuals will interact as equals in a new cultural order.

The key assumption of Firestone's book is that women suffer from 'a fundamentally oppressive biological condition'. However, nature is neither oppressive nor liberating. Firestone reduces the social conception of women and men to the biological categories of female and male, and thus denies any significance to the complex history of the relationship between men and women and its role in constructing the private and public spheres. She relies on an abstract conception of the natural, biological and female individual with a reproductive capacity at the mercy of a male individual who is assumed to have a natural drive to subjugate her.<sup>16</sup>

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<sup>15</sup> See S. Firestone, *The Dialectics of Sex*, New York, W. Morrow, 1970, p. 8.

<sup>16</sup> Ibid, p. 232.

These arguments provide an example of how one form of feminist argument, while attacking the liberal separation of private and public, remains confined within the abstract individualist framework which to begin with had constituted the division of social life in terms of public and private. It is therefore necessary to develop a feminist perspective that takes into account the social relationship between women and men in historically specific structures of domination and subordination, within the context of specific interpretation of the public and private.

Historically, feminist movement has undergone various shifts. However, its engagement with the public and private distinction provides it continuity. In terms of engagement with this distinction over the years within feminists writing from the suffragists to the contemporary feminists, one striking difference has emerged. Everyone in the nineteenth century accepted the doctrine of separate spheres. The implicit assumption of the suffragists was that suffrage means different things to men and women. Citizenship for women was seen as an elaboration of their private domestic task and was deemed necessary to protect and strengthen women's special spheres. Allowing voting rights for women did not amount to the acceptance of public role for them in political life. This has led Elshtain to argue that precisely because the suffragists accepted the assumptions of the doctrine of separate spheres that they failed, even on their terms.<sup>17</sup>

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<sup>17</sup> See Jean Bethke Elshtain, "Moral Man and Immoral Women: A Consideration of the Public- Private split and its Political Ramifications", in *Politics and Society*, 1974.

Accepting the doctrine of separate spheres by suffragists led them to a failure if suffragists were seeking to change the position of women. Tracing the historical, ideological, and conceptual trajectory, Elshtain argues that the public-private split follows the Aristotelian power-politics paradigm and serves to perpetuate an arbitrary bifurcation between that which is politics and that which is not conceived as political.

In effect, it promotes an ideology that severs politics from coherent moral considerations and moral issues from that which is explicitly political. Implicit within this paradigm is a notion of an individual who is rational, makes choices, and is judged according to a known set of rules and standards and excludes women, and in effect promotes those who hold dual status both as public and private persons. Women, then, face a perpetual double bind. Women are considered moral and pure but confined only to the private realm, and the public is insulated from the private and hence keeps out women and their experiences.

Talking of the female suffragists' movement, Elshtain argues that they failed to confront the full scope and basis of one of our system's basic incoherencies and hence were incapable of moving beyond the symptomatic surface of sexual inequality. The inadequacy lies in the way theoretical and ideological split between what has come to be seen as the public, political realm of immoral man and the private, apolitical realm of moral women, and the covert participation due to acceptance of these conceptual categories by female suffragists. Elshtain's argument is conducted in terms of the duality

of morality and power, and is one way of formulating the separation between public and private within civil society.

Elshtain's use of the duality of morality and power refers to the more fundamental separation of the private domestic spheres from public life or civil society. Was the struggle for women's suffrage, Locke's separation of the public and private, and dichotomies of patriarchal liberalism within the duality of morality and power -which is one way of expressing the doctrine of separate spheres- instrumental in excluding women to the extent suggested by Elshtain? To vote is, after all, a political act. In spite of the fact that the voting rights were extended to women for protecting their special sphere. What is more, through voting rights women also have historically developed a public character that is not confined only to the protection of their separate sphere.

An important long-term consequence of women's suffrage and other reforms have led to women's present condition of formal political and legal equality with men. Moreover, the contradiction between civil equality and social -especially familial- subjection, including the beliefs that helps constitute it is now starkly revealed, one can plausibly argue that this subjection and subjugation has become more pronounced due to granting of voting rights to women. The liberal patriarchal separation of the public and private spheres is now a political problem.

The inherent contradiction between liberalism and universalism is fore grounded in feminism precisely because the universal rights that are considered a reserve for

everyone has been denied to women, in spite of the universal claims and aspirations of liberalism. Liberal principles cannot simply be universalised to the extent to grant women an equal standing in the public sphere without addressing the acute problem of the patriarchal structure of private life. What Mill showed in his writing in *Subjection of Women*, theoretically is revealed in the experiences of feminist movement and its practices. Mill argued that the two spheres are *integrally related* and that women's full and equal membership in public life is impossible without changes in the domestic spheres.<sup>18</sup>

This insight of the feminist movement has led the theorists of feminism to coin the phrase 'the personal is the political', so as to emphasise the connectivity between the private and the public and thereby to demonstrate the inextricable connection between private life and public sphere. They also sought to demonstrate how changes in one sphere have unavoidable implications for the other sphere. Second-wave feminists, through their slogan 'the personal is political', challenged the myths supporting conventional notions of the family and of personal life. In feminist writings the private sphere emerged as a site of sexual inequality, unremunerated work and seething discontent. Feminism offered women a public language for their private despair, according to Landes.<sup>19</sup>

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<sup>18</sup> See J.S. Mill, 'Subjection of Women', in *Collected works of John Stuart Mill* (ed) J. M Robson, Vol. 21, Toronto, 1984.

<sup>19</sup> See Joan B. Landes, 'Introduction' and 'The Public and the Private Sphere: A Feminist Reconsideration', in Joan B. Landes (ed.), *Feminism, the Public and the Private*, Oxford and New York, Oxford University Press, 1998, p. 1.

The personal is political is not unidirectional and it moves in two directions, placing the gendered construction of both the public and private space at the center-stage. This formulation not only explicitly rejects the liberal separation of the private and the public, but also implies that no distinction can or should be drawn between the two spheres. 'The personal is the political' has drawn women's attention to the ways in which women's lives are constrained by the private. Feminists have emphasized how personal circumstances are structured by public factors, by laws about rape and abortion, by the status of wife, by policy of childcare and sexual division of labour in the home and at the workplace. For feminists, personal problems can then, be solved only through political means and political action. But what does it imply? Is the doing away of the distinction between public and private the magic potion of the tribulations which women face?

Two things emerge from the above discussion. First, that for full and effective participation of women in public sphere, there must be significant alteration in the domestic and the private sphere. Second, altering the private and the domestic sphere requires re-structuring the public. There cannot be any meaningful, worthwhile, and gainful change in one without an analogous and equivalent alteration in the other. The public and the private are inextricably and irrevocably inter-related.

To challenge the traditional dichotomy between public and private is not to deny the difference between public and private. Rather, it means that women's individual problems are not domestic and private problems, but in fact structural, public, and shared problems. Susan Okin contends that challenging the dichotomy does not mean demeaning

the value of privacy or making all behaviour subject to state action. The challenge, Okin clarifies, recognises that the power which constitutes politics reaches and begins with the smallest gestures in interpersonal domination, and indeed also reveals that reasons which constitute much of political persuasions is not so universal as to remain untouched by assumptions, emotional connotations, and linguistic patterns formed in the most private of relations. Challenging this distinction means insisting on the non-triviality and non-exclusion of intimate domestic concerns from central public debate.<sup>20</sup> The causal arrow runs in both directions.

The existence of private sphere, its acknowledged extent and limits, and the kind of behaviour acceptable within it results from decisions made formally and informally in the public. A public decision, in this interpretation, creates private inequalities of power. Moreover, the people who make decisions in formal politics -from voters to legislators- develop their first political selves in private, domestic and familial settings. The domestic division of labour underlies the public inequalities between men and women.

Marxist scholars have pointed out that the boundary between public and private, and the laws that enforce those boundaries, benefits capital more than labour. Feminist scholars point out that these boundaries and the laws that reinforce them, benefit men far more than women.<sup>21</sup> To employ the celebrated phrase of Rawls, the benefits and burdens of maintaining and sustaining the boundary between public and private is not equally shared among men and women. Women have to bear most of the burden, whilst benefits

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<sup>20</sup> See Susan Moller Okin and Jane Mansbridge, 'Feminism', in R. R. Goodin and P. Pettit (eds.), *A Companion to Contemporary Political Philosophy*, Oxford, Blackwell Publishers, 1993, p. 274.

<sup>21</sup> *Ibid*, p. 275.

accrue to men, thereby rendering this distinction unjust, unreasonable, and problematic. Besides, this injustice expresses the logic of power of men over women and also presents this domination as 'natural'.

Both the private or the personal and the public or the political are held to be separate from and irrelevant to each other in liberal theory. Women's everyday experience confirms this separation. Yet at the same time their experience denies this separation and affirms the integral connection between the two spheres. For feminism the separation of the private and the public is both a part of their actual lives and an ideological mystification of liberal-patriarchal reality. Women were denied access to the public realm, and their subjugation was mystified and obscured by positing equality for all in the public realm and simultaneously, bracketing private inequality from public deliberation through the distinction between public and private.

Women had never been completely excluded from public life but the ways in which they are included are grounded firmly in their position in their domestic spheres, in patriarchal beliefs and practices. However, women's presence serve to highlight the patriarchal continuity that exists between the sexual division of labour in the family and the sexual division of labour in the workplace. From *laissez-faire* liberals to Marxists, it has been assumed that it is possible to understand economic activity in abstraction from domestic life. Feminists insist on their interconnection. Feminists conclude that the separate liberal world of private and public life are actually inter-related, connected by a

patriarchal structure. The sphere of domestic life, for feminists, is at the heart of civil society rather than being apart from or separate from it.<sup>22</sup>

Though private inequalities are considered irrelevant in liberalism for public power, state, and other central and crucial social institutions and structures required for reproduction of social life, it presupposes and concomitantly maintains and sustains subjugation of women within family. Family being a major social concern with significance for the social is a category that belongs to civil society, not outside it. To put it more accurately, it is one of the two sides into which civil society can be divided, the social (private) and the political (public). Feminist theory and critique has shown how family is a major concern of the state, and how through legislation regarding marriage, sex and policies of the welfare state, the subordinate status of women is presupposed and maintained by the power of the state.

Feminist critique of the dichotomy between public and private stressed that the categories refer to two interrelated dimensions of the structure of liberal patriarchy. They do not suggest that no distinction can or should be drawn between the personal and the political aspects of social life. However, in some feminist writings attention has been exclusively focused on one side of the division between public and private. For example, radical feminists attempt to eliminate nature as one side of the dichotomy; Millett<sup>23</sup> seeks to eliminate power, echoing the suffragist vision of a moral transformation of the politics.

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<sup>22</sup> Ibid, p. 269.

<sup>23</sup> Kate Millet, *Sexual Politics*, New York, Ballantine Books, 1969.

In spite of plurality within feminism largely due to its emphasis on privileging experience, there is one obvious, simple, and overarching goal of feminism, i.e., to end men's systematic domination of women. Women's experiences of sexual violence bring power and the effects of systemic domination into the most private aspects of interpersonal relations. How did male domination emerge and received acceptance, and what have been its consequences, are central concerns of feminism. However, such formulations do not question the liberal association of the political with power or the association of women with the moral side of the duality. The sharp and reinforced dichotomy between the domestic and the public, in which the public and the male sphere defines morality and politics, is dangerous both for the women as well as the polity. Does it follow, then that what is not personal is necessarily public or vice versa, even in women's experience? Some feminists question this association of politics with power through their arguments about 'ethics of care' that distinguishes it from 'ethics of justice'.<sup>24</sup>

What is the feminist alternative to liberal patriarchy? How to develop a theory of social practice that is grounded in the interrelationship of collective life between personal and political life, instead of one, which insists on their separation and opposition? At the practical level, feminist critiques point out that for women to participate fully in social life, men have to share equally in child rearing and other domestic tasks. This conclusion is not to deny the natural biological fact that women, and

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<sup>24</sup> See C. Gilligan, 'Remapping the Moral Domain', in T. Heller, M. Sosna, and D. Wellbury (eds.), *Reconstructing Individualism: autonomy, Individuality, and the self in Western Thought*, Stanford, Stanford University Press, 1986.

not men, *bear* children. Rather, it is to deny the patriarchal assertion that this natural fact entails that only women can *rear* children.

Equal participation in activities of domestic life presupposes some radical changes in the public sphere, in the organization of production, in what we mean by work, and in the practice of citizenship. The feminist critique of the sexual division of labour in the workplace and in the political organization of all ideological persuasions and its rejection of the liberal patriarchal conception of the political, extends and deepens the challenge to liberal capitalism far beyond the critical analysis uncovered by participatory democratic and Marxist criticisms.

Few have grasped the full implications of the radical potential of liberal feminism. If women have to take their place as public individuals then the conflict is about universalism of liberalism. Feminist critique has fore-grounded the patriarchal character of liberalism and the ambiguities and contradictions inherent in its conception of the private and the public, a distinction it ostensibly advances and upholds.

Exclusive concern with the public and private distinction has implications for feminism as well. The disquiet and dread exhibited by feminism vis-à-vis the distinction between public and private narrows down its own horizon and the implications of limiting feminism to an enterprise of critical interrogation of the distinction between public and private have been widely overlooked and carelessly disregarded. It is tempting, as shown by feminists themselves, either to replace opposition by negation (to

deny nature any place in feminist order) or to assume that the alternative to opposition is harmony and identification (the personal is the political, the family is political). The assumptions of patriarchal liberalism allow only these two alternatives.

Feminist critique assumes that there is also a third alternative. Feminism looks towards a differentiated social order within which the various dimensions are distinct but not separate from or in opposition to each other, which stands on a social conception of individuality which includes both men and women as biologically differentiated but not unequal creatures. In simple terms, feminist's alternative social order seeks differentiation in place of the dichotomies of the liberal social life. It is of course utopian to suppose that tension between the personal and the political, between love and justice, between individuality and communality will disappear with patriarchal liberalism. Till such an order is visualized and practiced which transcends the entrenched dichotomies of liberalism, all critiques of liberalism from the feminist perspective is also partial. Nevertheless, the range of philosophical and political problems that are encompassed, implicitly or explicitly, in feminist critique indicates that a fully developed feminist alternative to patriarchal-liberalism would provide its first 'total critique'.

Aspirations and demands articulated by feminism are not inconsistent with the liberal ideas. In fact, the liberal principles entail endorsing such restructuring of the mechanisms and processes that exclude and subjugate women. However, liberals have not taken up this issue in right earnest. If women were not one of the contenders of emergent power structures for which liberalism struggled for, why liberalism has

systematically overlooked or failed to address their claims? In the feudal and medieval societies, women did not enjoy prominent positions of power, and therefore the issue of defusing their emergent demands by nipping them at the bud do not arise. Is it then a case of benign neglect of liberalism towards women? Or it is a case of systematic subordination and deliberate negligence?

### **Women Emancipation and Public Sphere**

All feminists are not committed towards a critique of the private sphere in order to alter inherited gender patterns. Many pro-family feminists began to defend women's role as mothers and as a necessary basis for gender identity and feminist political consciousness in the public arena. Pro-family feminists, unlike the ones who argued for negating the nature, sought to protect the private world of the family and personal life from political intrusion and meddlesome state policies, or politicisation of the personal sphere.

Mary Dietz objects to such a maternalist conception of democratic political action or feminist political discourse. Dietz argues that democratic citizenship is constituted by a distinctive political bond between equal citizens, rather than by the exclusive and decidedly unequal relationship -however benign and loving it may be- between mother and child.<sup>25</sup> Dietz contends that maternalist feminist theorists commit the error of

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<sup>25</sup> See Mary Dietz, 'Citizenship with the Feminist Phase: The Problem with Maternal Thinking', in Joan B. Landes (ed.), *Feminism, the Public and the Private*, Oxford and New York, OUP, 1998

dividing the world naturally and abstractly to dual realms with which they fault their liberal opponents, positing a spurious choice between a virtuous private and an arrogant public existence. Dietz seeks a feminist political theory that does not conflate democratic public life either with bureaucratic statist politics or with the values of intimacy [republican feminism]. What counts is how women act in the public realm to transform their private concerns into public matters in concert with others, not the superiority of one realm over the other.

In short, feminist critiques have fore-grounded the interrelationship between public and private, and have argued for action in public realm to translate women's private concerns into public matters. These arguments set the stage for the feminist engagement with leading theorists of the public sphere, Habermas and Hannah Arendt. Habermas' emphasis on accessibility, openness, democratic publicity and equality seemed a congenial starting point for an orientation to a non state-dominated sphere of public life<sup>26</sup>, as was Arendt's perspective on equality, freedom and novelty in political life. In contrasting ways, both these philosophers have addressed the split between public and private life in modern society, so central to public deliberation with reference to public power. Feminist engagement with the theorists, ideas, and practices of public sphere tends to argue for alterations and modifications in order to make women an equal participant in the processes and working of public sphere.

For Arendt, political equality and the recognition of one's rights can be secured only by membership in a political community. Membership in such a community is not a

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<sup>26</sup> See Jurgen Habermas, *The Structural Transformation of the Public Sphere*, Cambridge, Polity Press, 1989.

function of one's ethnic, religious or racial identity, but is related with the public values of impartiality, civic friendship and solidarity, as they permit one to make political demands and refers to a common world which we all share but no one owns.<sup>27</sup> The unity that might be achieved in this political community is neither the result of religious or ethnic affinity, nor an expression of some pre-existing common value system. The unity emerges out of sharing a public space and a set of political institutions, and engaging in practices and activities specific to that space and those institutions in which people's lives are embedded. Public life has a spatial quality, as it involves a space where citizens can confront each other in a public space in order to examine an issue from a number of perspectives, modify their views, and enlarge their standpoint to incorporate the views of others.

For Arendt, political life and fulfilment is not so much about personal needs but about the concerns of the common world that constitutes the substance and value of political action.<sup>28</sup> Public interest in her conception is quite distinct from our private interests as individuals. Public interest cannot be derived from our private interests, or even by aggregating them, or by the highest common denominator, or by adding up our enlightened self-interests. The self qua self cannot reckon with public interest in terms of our short-term or long-term private interests, as public interest lies in the interest towards a world that survives its inhabitants, that we share with other members in common but no one owns it individually or privately.

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<sup>27</sup> See Hannah Arendt, *The Human Condition*, Chicago, University of Chicago Press, 1958.

<sup>28</sup> See M. P. d'Entreves, 'Public and Private in Hannah Arendt's Conception of Citizenship', in Maurizio Passerin and Ursula Vogel (eds.), *Public and Private: Legal, Political and Philosophical Perspectives*, London, Routledge, 2000.

Seyla Ben Habib compares the agnostic, legalistic, and discursive models of the public space in the writings of Hannah Arendt, Habermas, and the liberal tradition. Ben Habib upholds Arendt's view of the agnostic and associational dimension of political action, though she rejects a rigid gender-boundary established by Arendt between the public and the private, and questions the masculinist and class implications of her version of agnostic public space. Similarly, she worries that the opposition between justice and good life, or between public norms and private values in Habermas' model of discursive politics -especially when he contrasts life-worlds with systems- reinstate the public/private boundary which, to begin with, has led to the exclusion of women and their points of view from moral, political and social theory. Benhabib argues that a theory of the public sphere must take into account differences in the experiences of male and female subjects in all domains of life.<sup>29</sup>

Benhabib advocates alternative publics through, bringing the realm of moral emotions and everyday moral interactions with concrete others into the domain of moral arguments. Though Benhabib challenges the traditional understanding of the public-private split, she still insists that a feminist project for the democratization of the public and the private does not obviate the need for some distinction between the two spheres. This model advocates a new way of fashioning out the public and private and is based on a strong assumption of individual autonomy and consent, and primarily sees women as individuals.

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<sup>29</sup> See Seyla Benhabib, 'Models of Public Space: Hannah Arendt, The Liberal Tradition and Jürgen Habermas', in Joan B Landes (ed.), *Feminism, the Public and the Private*, Oxford and New York, OUP, 1998.

Bonnie Honig is also interested in enhancing the possibilities of individuality. However, she disputes any version of feminism that is based on a stable and expressive identity for women. Honig regards Arendt as a theorist of agnostic and performative action, offering feminism a way of engaging with 'entrenched distinctions between a public and a private realm'.<sup>30</sup> Honig's feminist/post-modernist perspective claims that 'nothing is ontologically protected from politicization'- neither the binary dichotomy separating the political space into zones of public and private, nor even the prevailing constructions of sex and gender that similarly bind gender identities in binary form. Honig's feminist politics strives to achieve and enable individuations by interrupting conventional practices of sex and gender and by de-centering the would-be primacy of conventional sex and gender binaries.

Does feminism draw upon established female identities, or it releases women from the constraints of pre-existing definitions of women? How such definitions of gender come to exist with the shape and content of public and private life? Once we have formulated the questions in these terms, the complexity of the relationship between feminism and the public and private distinction and heterogeneity within feminism can be rendered visible. Feminism, then, is in affinity and tension with the public and private distinction and reveals how women are inextricably caught within these parameters. The implication of the engagement of feminism with the distinction between public and private is as important as their critique of this binary.

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<sup>30</sup> See Bonnie Honig, 'Towards an Agnostic Feminism: Hannah Arendt and the Politics of Identity', in Joan B. Landes (ed.), *Feminism, the Public and the Private*, Oxford and New York, OUP, 1998.

Joan Landes argues that Habermas' idealized model of the universal public fails to account for the ways in which a system of western cultural representation eclipsed women's interest in the private domain, and had aligned femininity with particularity, interest, and partiality. Cultural representations are not without political consequences and assigning/identifying private sphere as women's sphere affects their status both in the private and public sphere. Therefore, Landes argues for a more robust and embodied concept of the subject and intends to supplement Habermasian model of politics with accounts of non-verbal and non-textual forms of representation in a variety of media. Landes contends that a democratic and feminist reconstruction of the public sphere theory needs to take into account the gendered construction of embodied subjectivities within public and private life.<sup>31</sup>

Leoneore Davidoff addresses the association of masculine and feminine identities with the institutional developments of separate spheres while appreciating that the terms public and private simultaneously express a constantly shifting social and psychic world. The division between public and private, and its psychical, social, and institutional expression attendant with its association with masculine and feminine identity excludes women and their experience. This exclusion has not remained unproblematic and has never been complete.

Davidoff argues that gendered notions of public and private interact with the institutions of private property and the market as well as with notions of rational

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<sup>31</sup> Landes, p. 17.

individualism, placing rational men at its center and embodied women at the periphery.<sup>32</sup>

He demonstrates that the masculine domination of the public was never unproblematic, and points towards women's participation at the semi-public realm of social charity workers and volunteers, and their role as feminist political activists.

Feminists on empirical grounds also fault the Habermasian normative account of the public sphere. Mary Ryan argues that in reality the democratic public sphere never achieved the unified, abstract or wholly egalitarian form assumed by Habermasian model. Issues of race, ethnicity, class, and gender erupted in the multiple and cacophonous sites of public life. Ryan points out that sometimes women citizens acted in aggressive and violent ways, and that they were not 'free' from the prejudices of race and class that characterized men's affairs.

What has been historically practiced and followed is more akin to a partially realized public sphere. Moreover, it does not follow that a partially realized public sphere should be considered inadequate just because interest and identity are there, since historically in all societies interest and identity has been present. Ryan speaks of 'imperfect publics' grounded in historical construction and political articulation of separate identities and interests.<sup>33</sup> Counter-posing the existence of interest and identity against the abstract, universal and egalitarian notion of public sphere, Mary Ryan

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<sup>32</sup> See Leoneore Davidoff, 'Regarding some 'Old Husbands Tales': Public and Private in Feminist History', in J. Landes (ed.), *Feminism, the Public and the Private*, Oxford, OUP, 1998.

<sup>33</sup> See Mary P. Ryan, 'Gender and Public Access: Women's Politics in Nineteenth Century America', in J. Landes (ed.), *Feminism, the Public and the Private*, Oxford, OUP, 1998.

contends that notions of interest and identity need not be taken as always antithetical to the public good.

When we talk about abstract and universal ideas, including that of public sphere, is it devoid of content and context? Are they simply meant to reveal the undesirable in the historical and the specific? The abstract and the universal suggest an empty and vacuous space, so much so that they signify and work as a short hand to describe a world devoid of interest and identity. In other words, abstract universal ideas are empty of content, agnostic and neutral between different conceptions of good. How and why, then, can it be posited as a reasonable ideal worth pursuing?

Marilyl Lake points out that an interesting contradiction exists between male and female use of citizenship. Male citizens expected the state to facilitate their engagement in public life, while resisting interference with the assumed authority of males in the private domain. Female use of citizenship, however, sought interference in the private domain to facilitate public participation and ensure presence of women in public sphere. Feminist citizens' activism for the autonomy of wives, their independence and their inviolability was a central goal which touched directly on the exercise of male conjugal rights within the private domain. Lake contends that bodies matter, and subjectivities should be conceived in terms of the primacy of corporeality.<sup>34</sup> Yet Lake also points out that by subscribing to the same masculine view of sexuality that feminism critiqued,

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<sup>34</sup> See Marilyl Lake, 'The Inviolable Women: Feminist Conceptions of Citizenship in Australia, 1900 to 1945', in J. Landes (ed.), *Feminism, the Public and the Private*, Oxford, OUP, 1998.

feminist discourse helps to produce the very violable body it sought to protect and govern.

Apart from the issues of identity and interest and different ways in which men and women had used citizenship, the issues of division of labour and women's subordination in economic sphere has also been voiced through the critique of the liberal distinction between public and private. Carole Pateman faults the leading theorists of democracy for ignoring the sexual division of labour along with women's dependent status. Pateman intends to 'connect' the public and the private, and wonders how the public world of paid employment and citizenship can be divorced from the private sphere. Pateman observes that feminists have been caught on the horns of a dilemma over whether to become like men and thereby full citizens, or to continue doing women's work that is of no value to citizenship.

Pateman searches for a non-patriarchal definition of democratic citizenship that preserves women's autonomy and will break down the opposition between paid and unpaid work, public and private work, independence and dependence, and work and welfare, all of which are aspects of gendered opposition between men and women in modern society.<sup>35</sup> However, one wonders how feminism, and especially Pateman, simultaneously intends to connect the public and the private and also seeks to break down this connection, and how and why it can be both feasible and desirable. Also, to reconnect the public and private so that despite its association and linkages, women and

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<sup>35</sup> See Carole Pateman, n 1 and n 3.

their experiences are not subordinated and overlooked is a task that feminism must take, urgently and imaginatively.

### **Feminism and Privacy: Are Women Not in Need of Privacy?**

After the initial enthusiasm and possibilities which feminism visualized in the public realm and its apparent emancipatory and transforming potential, the value and importance of privacy for women had turned into a contentious issue within feminist writings. In this sense *feminist movement has moved from over-valuing the public to re-valuing the private in contemporary debates and contentions.*

While accepting the indispensability of the public space for the democratic feminism, Jean Cohen emphasizes the importance of privacy. Is democracy and political and legal protection of privacy unrelated, if not for all members of society then at least for women? Certain fundamental preconditions for genuine participation in public citizenship and building and defending unique identities, political and legal protection of privacy is necessary. Protection of a 'voice' rather a multiplicity of voices in the public sphere, and the protection of privacy are crucial to any project of democratization that tries to avoid exclusion and homogenization.

To demonstrate this link between privacy and democracy, critical and genealogical investigation of the power strategies that feed into privacy discourse is vital in order to reveal the various trajectories in which privacy is implicated. However, this critique of the feeding mechanism of privacy is only half of the task. Apart from

unmasking and deconstructing the privacy, it is important to redescribe the goods that privacy protects in terms that are women-friendly. Autonomy and plurality cannot be provided only by democratic publics. What we require is formulation of a concept of the private that can serve as the correlative of a differentiated notion of a public for any modern conception of freedom and constitutionally protected right to personal privacy which includes reproductive freedom for women.

There are two dominant theoretical critiques of privacy: while feminist legal theorists present the first the second is favoured by communitarians. With respect to abortion rights, feminist legal theorists prefer to ground abortion rights in equal protection arguments and not in terms of right to privacy. This is because the right to privacy reinforces an ideological liberal model of the private-public dichotomy that has been used to justify gender inequality and private male power within the patriarchal family, along with exclusionary and discriminatory treatment of women outside the domestic sphere.

Communitarian critics of liberalism also critique the right to privacy. Communitarians argue that privacy rights undermine community values and solidarity. Privacy rights are a means to protect embedded individuals from state power, but they also reinforce the disintegrative, atomizing, and leveling tendencies in modern societies, thereby exposing people to increased regulation by state agencies and in this process destroying both the solidarity of the family and community as well as the autonomy of the individual. Jean Cohen argues that both critiques of privacy are one-sided. The first,

because it considers only the subordination of juridical practice to the preservation of the system of domination; the second, because it confuses the formal with the substantive meaning of individuality attached to privacy rights.<sup>36</sup> Communitarian critique fails to grasp the real importance of rights guaranteeing decisional autonomy, inviolability of personality, and a sense of control of one's identity.

What does personal privacy entail, especially for women? Apart from the dominant interpretation of privacy as a right to be let alone, personal privacy entails decisional privacy in the domain of intimacy. Feminist legal theorists have argued that privacy discourse reinforces a misleading liberal model of society/state relation that hides from view gender hierarchies and obscures the social reality it helps to constitute instead of opening it up to public scrutiny. The very concept of privacy presupposes an ideological notion of a natural pre-political sphere of life, where relations are based on consent between free and equal adults and grounded on emotions, especially love. This dualistic model is superimposed on the boundary between domestic life and the rest of society.

When the private means home, however, it is taken as a sphere of dependency and natural hierarchical relationship, and not as the locus of equal rights involving autonomous individuals. Private then seals the family and its internal 'natural' intimate relations from public interventions and scrutiny. Thus in the case of abortion rights privacy does not undermine traditional gender stereotypes about the proper role of

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<sup>36</sup> See Jean L. Cohen, 'Is Privacy a Legal Duty? Reconsidering Private Right and Public Virtue in the Domain of Intimacy', in Maurizio Passerin and Ursula Vogel (ed.), *Public and Private: Legal, Political and Philosophical Perspectives*, London, Routledge, 2000.

women in society, nor does it challenge the non-egalitarian patterns of male dominance and female subservience in the private space.

Such an interpretation is misleading, since the right of decisional primacy regarding abortion to women is provided as individuals, not as wives, securing the privacy of woman's communication with her doctor and not with her spouse. With respect to activity that does not take place at home, by recognising privacy rights for women as individuals with respect to reproductive activities and intimate relationships, the ideology of family privacy that has been used to justify rigid gender norms and patriarchal power relationships, is exploded.

Through recognition individualized privacy rights, women can achieve the status of full legal personhood and can begin to demand both protection and autonomy *within* as well as *for* intimate relationships.<sup>37</sup> Information, access and internal communication that is crucial for the special trust involved in intimate relationships must be under the control of the intimate associates themselves. It is true that any type of intimate association can involve power and exploitation against which individuals need protection *within* and not only *for* intimacy.

Privacy is not only a freedom from surveillance or disclosure of intimate affairs, but is also a freedom to engage in certain activities without governmental intervention. It is not a withdrawal from society. Providing decisional autonomy to individuals over certain issues does not entail that privacy rights are tied to a conception of a disembodied individual. Rather, such a right militates against state paternalism, whether followed in

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<sup>37</sup> Ibid.

the guise of 'community will' or 'majority will'. Since the individual and the common good, and individual and group identities do not overlap completely it is important that we provide protection and integrity to those dimensions of individual identity and conception of the good that are different from majoritarian interpretations of collective identity or the common good. A right to privacy provides individuals certain protections, and women need this protection as individuals as much as anyone does.

In highly differentiated, complex and plural modern societies we need to uphold the principles of autonomy in order to address the problems posed by the difference and potential conflicts between individual and group identities. Modern society creates the need as well as the possibility for each individual to develop a strong sense of self, along with the ability and self-reflectivity to form, affirm, and express a unique identity in multiplicity of contexts. In highly differentiated modern societies, new privacy rights for women include both informational and decisional aspects. They are essential for protecting the capacities to form, maintain and present to others a coherent, authentic and distinct self-conception.

Jean Cohen argues that the new privacy rights protect agency and identity, self-determination and self-realization, autonomy and authenticity.<sup>38</sup> Moreover, privacy rights ensure respect and protection for individual difference for individual identities, which seem to deviate from the norm embraced by society at large or by one's particular subgroup. For women, privacy as a right means not to have one's constitutive identity-needs

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<sup>38</sup> Ibid.

violated, or interfered with by the state or by third parties without very compelling reasons.

Women are considered the bearers of values of a community, and hence strict supervision and regulation of their activities are undertaken in most of the societies.<sup>39</sup> This is often done at the cost of freedom of women, and no privacy is admissible to women in such matters. Privacy rights then acquire much more significance for them, at times it is even more crucial for them than men, as in general oppressive communities are extremely harsh toward their women members.

Personal privacy rights do not prescribe what identities should we like. Rather, they secure to every individual the precondition for developing identities, which they can embrace as their own. By securing for everyone juridical personhood and decisional autonomy equally, privacy rights provide protection to every concrete individual, no matter how different or deviant they might appear to other members of the community. It protects the processes of self-development and self-realisation required for identity-formation, and is informed by the principles of inviolate personality.

A discursive conception of public space presupposes that there is no way to predefine the nature of issues that can be publicly discussed. By bringing a wide range of previously excluded personal issues into the public view and public contestation, including abortion itself, is certainly a democratization of a public space. Only within a generalized public discourse the dimensions and aspects of the protective cover of

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<sup>39</sup> See Lata Mani, 'Contentious Traditions: the Debate on *Sati* in Colonial India', in Kumkum Sangari and Sudesh Vaid (eds.), *Recasting Women: Essays in Colonial History*, New Delhi, Kali For Women, 1989.

privacy rights should be made. Arguing for personal privacy rights for women does not mean that there is no boundary line between public and private, or that it should not be drawn at all. The process of discursive will-formation to decide the boundary between public and private cannot be achieved by abolishing the private. The boundary line between public and private must be drawn somewhere, even though the line must be permanently open for contestation.

The content of the individual's motive for action cannot be regulated by the state in the personal domain. A right to personal privacy liberates one from the obligation to justify one's actions in a discursive process by giving reasons, which everyone can accept as their own. However, it does not mean that within the private domain one need not give reasons for one's action. A privacy right entitles one to choose with whom one would attempt to justify one's ethical decisions, with whom one will rethink conceptions of the good, and indeed whether one will discuss certain matters with anyone at all.

A privacy right indeed marks off a protective sphere surrounding the individual constituting as it were an invisible shield around the person. They carry their protective shield wherever they are, within as well as in the withdrawal of interaction with others. However, these privacy rights, while shielding personality also protect the integrity and inviolability of *socialized* interacting individuals. Privacy rights do not mean a forsaking of interaction with other individuals and is not tied to a 'social conception of individuality'.

This does not imply that the individuals' interpretations are fixed and pre-given. Rather, privacy rights mean that it is up to her to choose with whom, when and what to discuss regarding personal actions and concerns. It is not ruled out that her reasons might be clarified or altered after discussions, but what matters is that she arrives at personal reasons acceptable to herself for her projects, irrespective of acknowledgement and acceptance of such reasons by anyone. Defending personal privacy for women does not mean that one can stand alone and affirm her identities completely by herself. The goods that privacy protects are vital, and some of the criticisms offered by communitarian critiques against the notion of privacy are misplaced. Communitarian critique assumes that privacy is constitutively tied with the idea of atomised individuals. Moreover, they ignore the fact that community values can be oppressive and exploitative, especially for women whose freedom is often undermined.

There is a tendency in some thought not only to elide the private with the domestic, but also to celebrate the latter as a haven for the reproduction of non-instrumental social relations. By construing intimate and domestic relations as overlapping but distinct fields of behaviour, their interconnection and relations with other fields of sociality can be thought not as implacable opposition but in terms of multiple disjunction, overlap and conflict. This yields a differentiated account of gender identity and provides a way of exploring claims about the increasingly reflexive nature of gender identity in the context of specific power relations.

The normative nature of privacy lies precisely in the protection of what Goffman has called 'the territories of self'<sup>40</sup>: a preserve where an individual is entitled to possess, control, use and dispose of. The territories of the self can be used in a dual way as identified by Goffman, to avoid coming into touch as a *means of maintaining respect* or to engage as a *means of establishing regard*. The normative value of privacy clearly lies in providing a *sense of control* over one's identity-needs, access to one's self, and over the aspects one will present to others. Along with this, the ability and the capacity to press for or to waive territorial claims is equally crucial and *empowering*.

The virtue of privacy lies in the ability to maintain a sense of selfhood, of agency and of personal identity. This is not to suggest that these are forms of alienable property. Though right to privacy is universalistic in the sense that it establishes for every individual a legal personhood entitled to equal concern and equal respect, what it actually protects is our particularity: our concrete yet fragile identities. The specific content of such a particularity indeed depends upon the cultural self-understanding of societies which themselves are outcomes of political contestation of cultural norms, codes and social relations that constitute the practices, domains and understandings of privacy at any given time. Privacy builds on the notion of situated, embodied and interacting individuals.

Respecting an individual's privacy lies in the recognition of an individual's own judgment in interaction, in regulating access and information, and in making decisions

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<sup>40</sup> See Erving Goffman, *The Presentation of Self in Everyday Life*. Garden City, New York, Doubleday, 1959.

involving her basic identity-needs. Inviolability of personality and a sense of control over the territories of self-including the body remains indispensable for any conception of freedom. One's decisional autonomy, bodily integrity and inviolable personality deserve protection, no matter where one is. While women as women require 'special protection' for their unique capacities (abortion rights are women's rights) -embedded as they are in materiality- such special protection does not reify their difference; rather it simultaneously acknowledges and allows within the protective shields women to construct their own conceptions of their selves with, within, and around their material bodies.

### **Equal Power to Enforce and Defend the Boundary?**

The boundary between the public and private is neither given nor self-evident. It is indeed clear that somewhere a line must be drawn between the public and the private without foreclosing the possibility of political contestation about how, why, and where it should be drawn. The meanings that are implicated in this boundary are also neither pre-given nor fixed. However, the most crucial aspect is whether men and women have equal powers to enforce and defend the drawing of the line between public and private.

Do men and women have different views on these issues, and are they positioned differently with respect to privacy? Or males are generally more able to constitute and defend their domains of privacy as compared to women? Is it possible that male's definition and defense of privacy might subject the privacy of women to greater public

scrutiny, or mask the domination of men in the private domain? Are women equally able to define and defend their own privacy? Can democratic publicity only be seen as a check on the public power of the state? Or should it be understood more broadly as a check against illegitimate private power as well? What structures of inequality grounds the hegemonic understanding of these categories, as well as the struggle that contests them?

Generally, in the case of sexual harassment the asymmetries of the relations of the power vis-à-vis the right to define and defend privacy becomes increasingly visible in women's greater vulnerability to unwanted intrusive publicity and lesser ability to define and defend their privacy. In such cases women have to expose their private domain to public scrutiny in order to establish the validity of the charge. If they do not disclose such information on their own in time, avenues of redressal is ruled out or denied to them. Indeed, when they make the charges of sexual harassment public, women are typically charged for seeking publicity and self-aggrandizement. In addition, women generally suffer from a lack of *control* over the routine, timing, and dissemination of information about private wrongs.

Moreover, raising an issue in the public sphere does not guarantee success in controlling the ensuing debates and arguments in the public sphere. Nancy Fraser contends that in the case of confirmation of Clarence Thomas, structural differentials in relation of publicity and privacy worked overwhelmingly to Thomas' advantage and to Hill's disadvantage.<sup>41</sup> Hill's lesser success in drawing the line between private and public

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<sup>41</sup> See Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', and 'Sex, Lies and the Public Sphere : Reflections on the Confirmation of Clarence Thomas',

testifies the gendered character of these categories and their constitution reflects an asymmetry of power among gender lines. This asymmetry is also reflected in the phenomenon of sexual harassment.

Males generally had the power to shield their private sexual lives from public scrutiny and also of their workplace behaviour against the wishes and objections of the female counterpart. Men generally are more able to resist public probe into their privacy. Though both Clarence Thomas and Anita Hill were black, the struggle between them was always cast as either a gender struggle or race struggle, never both at once. The categories of privacy and publicity are not simply gendered categories; they are racialised categories as well. Nancy Frazer argues for a need to theorize the racial sub-context of the categories of privacy and publicity and its interaction with the gendered subjects.

The categories of private and public are multi valiant and contested, though men and women are differently positioned to define and defend where and how the boundaries must lie. It is reflected in cases of sexual harassment, where women are effectively asked to choose between quiet abuse in private and noisy discursive abuse in public. The feminist project is just not about pointing out that women are simply excluded from public life, or to collapse the boundaries between public and private. Feminist analysis demonstrates the political, ideological, gendered and coded character of these categories. Feminist project aims to overcome the gender hierarchy that gives men more power than women to draw the line between public and private. It is about definitional prerogatives

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in Nancy Fraser, *Justice Interruptus: Critical Reflections on the 'Post Socialist Condition'*, New York and London, Routledge, 1997.

and their asymmetries, and how the distinction between public and private is implicated in a system of exclusion by structuring differentially-positioned agents in the garb of universal and egalitarian language, through political, ideological and gendered coding of categories.

The emancipatory uses of publicity cannot be simply understood in terms of making public what was previously private. The Thomas case demonstrates that merely publicizing some actions or practices is not always sufficient to discredit it. Only when the practice is already widely held as wrong, publicity is enough to discredit it. When in contrast the practice is widely approved or contested, publicity means staging a discursive struggle over its interpretations. In the case of sexual harassment, one comes across the dissonance between the official-legal acceptance of the feminist interpretation, and the widespread popular resistance of that interpretation.

Even in highly stratified late- capitalist society everyone does not stand in the same relation to privacy and publicity. Some have more power than others to draw and defend the line. Moreover, an adequate theory of the public sphere must theorize both the multiplicity of public spheres and also the relations among the multiplicity of public sphere. It must also reflect on the ways in which the dominant public sphere interacts with other publics and whether they are equally powered to participate and influence the outcomes.

Universality is achieved through appropriating the political, ideological and gendered coding of historical practices, not by overcoming them. Universality is achieved through interaction of multiplicity of public spheres, in which the dominant public engages with other publics without overcoming the inequality of differential positions and power. All publics participate in nominal terms so that this interaction receives larger legitimacy and salience in this process. But they do not have equal capacity to participate and influence the outcomes equally. Their very participation then prepares the grounds for domination of the powerful public sphere, providing legitimacy to its domination. This analysis reveals that when it comes to subordination of women, wider legitimacy of the processes involved in contesting the ideological, political and gendered coding can lead to more domination by men. It also paves the ground for executing and presenting the outcome as universal and based on the consent of every participant.

The feminist critique of liberalism has its own limitations. Feminism and its demands formulated in these terms are based on ideas and practices related with individualism, political participation, and equality. However, these ideas are also an intrinsic part of liberalism. Then their challenge to liberalism is more akin to taking one set of ideas from liberalism and deploying them to highlight its faults and inadequacies, indeed inconsistencies, ambiguities and contradictions. Even the vocabulary of public and private is not a creation of feminism, and their critique of this distinction is caught within its theoretical horizon and presuppositions. The implications of feminist engagement with the public and private distinction have been discussed in the earlier part of this chapter. Demonstrating the interrelation between the public and private is their most important

contribution, apart from contesting the separation and opposition between the public and the private.

The liberal distinction between public and private consists of two overlapping distinctions: one of normative and the other that describes the sexual division of the social world with its attendant gender coded roles.<sup>42</sup> Feminist critique reduces the normative to gender-coded roles and rules. What is requisite is a differentiated distinction between the public and private, while ex-orbiting the gender coded roles and rules, which has been superimposed on the distinction between public and private. Rossler. Need for privacy for women is an attempt to recover the normative by disentangling the gender-coded division from the reduction and overlapping of the two strands of the distinction between the public and private, that is, from historical practices of societies as well as the theoretical articulation and enunciation found in feminist writings.

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<sup>42</sup> Beate Rossler, *The Value Of Privacy*, Cambridge, Polity Press, 2005.