

THE HOME FRONT: NOTES FROM THE FAMILY WAR ZONE. *By* Louise Armstrong. *New York: McGraw-Hill*, 1983. Pp. xix, 252. \$14.95.

JUSTICE, EQUAL OPPORTUNITY, AND THE FAMILY. *By* James S. Fishkin. *New Haven: Yale University Press*, 1983. Pp. vii, 200. \$18.95.

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The modern family is, in some ways, a world of its own, whose special character can be described in terms of privacy and of autonomy. An increase in privacy and a development of domestic intimacy from the Middle Ages to the Nineteenth Century made the family something separate from the rest of the human world. Without this boundary, which Philippe Ariès terms a "*minimun de secret*," the modern family, with its strong sense of an interior, communal life, would not have taken its present form.¹ The privacy and distance from the exterior world which have defined the modern family from its beginnings have given it a sphere of autonomy in which to operate. This sphere of independent operation has been accorded constitutional status in the United States.

Although conceding that the rights of parenthood are not without limits, the Supreme Court has identified a "private realm of family life which the state cannot enter."² Constitutional protection has been extended to individuals engaged in activities related to marriage, procreation, contraception, abortion, family relationships, and the raising of children.³ The ultimate basis of this constitutional protection is the doctrine of substantive due process, though other grounds have been found in some cases.⁴

Louise Armstrong and James Fishkin believe that this sphere of family autonomy must now be limited in new ways. Armstrong, author of *The Home Front: Notes from the Family War Zone*, believes that membership in an American family somehow deprives wives and children of consti-

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1. Philippe Ariès, *L'enfant et la vie familiale sous l'ancien régime* 267 (1960). The phrase is lost in the English translation of Ariès' work. See P. Ariès, *Centuries of Childhood* 375 (R. Baldick trans., 1962).

2. *Prince v. Mass.*, 321 U.S. 158, 166 (1944).

3. *Developments in the Law: The Constitution and the Family*, 93 HARV. L. REV. 1156, 1161-97 (1980), gives a thorough account of the extent and sources of constitutional protection for the family.

4. See *id.* at 1193 (The Supreme Court "has shown itself capable of recasting virtually any intrusion on substantive due process rights as an equal protection problem").

tutional protections they would otherwise possess.⁵ This deprivation permits their victimization at the hands of violent and sexually abusive husbands and fathers.⁶

In *Justice, Equal Opportunity, and the Family*, Fishkin argues that the family is a crucial source of inequality in America.⁷ According to Fishkin, liberal theory legitimates the unequal distribution of goods in society by an ideal of fair competition among individuals.⁸ But this ideal is threatened by the autonomy granted the family to control the development of its children, which allows the offspring of advantaged parents greater opportunity to develop "the skills, credentials, and motivations valued in that society."⁹

As these writers demonstrate, the family can be analyzed from both the outside looking in (Fishkin) and the inside looking out (Armstrong). Armstrong is concerned with the way families operate at the expense of some of their individual members. Fishkin, in contrast, focuses on the way families, by helping their members, prevent society from adhering to certain liberal values.

I. The Family as Private Battleground

The Home Front begins with Armstrong's claim that the book's goal is not to display the "awfulness" of all men but to study the male domestic violence that society refuses to strongly condemn.¹⁰ By domestic violence Armstrong means "serious (and most often often-repeated) behavior which would be criminal if directed toward a stranger."¹¹ These are crimes such as aggravated assault, assault with intent to kill, rape, and child molestation. "What we seem to have with crimes in the home are Status Non-Offenses. Crimes which would be crimes if the victim were a stranger, but are not because the only victim is 'only' a part of the family."¹² Armstrong, however, has formulated the problem in a misleading way, and this fundamental flaw is exacerbated by her tendency toward sweeping generalizations.

Despite Armstrong's language to the contrary, crimes within the household are indeed crimes; wives, mothers, and children are "persons"

5. ARMSTRONG, pp. 40, 72, 197, 198.

6. *Id.* at 40, 74.

7. FISHKIN, p. 1.

8. *Id.*

9. *Id.* at 54.

10. ARMSTRONG, p. xviii.

11. *Id.* at 2-3.

12. *Id.* at 43.

under the Constitution; and family crimes are within the jurisdiction of the state.

The Supreme Court has declared that "Constitutional rights do not mature and come into being magically only when one attains the state defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights."¹³ Most states have general criminal sanctions against physical abuse, which serve to prohibit spousal assaults, and most have special statutes which criminalize child abuse.¹⁴ California penalizes any person who causes any child physical pain or mental suffering, under circumstances likely to produce great bodily harm or death, with imprisonment for a period of less than a year in a county jail, or from two to four years in a state prison.¹⁵ Texas treats intentional, reckless, or criminally negligent conduct which causes serious bodily or mental injury to a child as a felony of the second degree, punishable with prison terms of from two to twenty years.¹⁶

If the world is not as lawless as Armstrong thinks, neither is it as orderly as these statutes imply. Armstrong has confused matters by seeming to locate the problem in an illusory decriminalization when its real source is the fashion in which laws are enforced. For while wife-beating and child abuse are illegal, the mere existence of statutory law and the rest of the formal legal structure does not answer the problem of family violence. What ultimately matters is how social workers, physicians, teachers, civil servants, and policemen take statutes into account as they respond to domestic violence. And the evidence suggests both that these individuals do not fully obey the relevant statutes,¹⁷ and that the sanc-

13. *Planned Parenthood of Central Mo. v. Danforth*, 428 U.S. 52, 74 (1976) (citations omitted).

14. M. Rosenthal, *Physical Abuse of Children by Parents: The Criminalization Decision* 7 AM. J. OF CRIM. L. 141, 142 (1979); Report N.Y. State Assembly Select Comm. on Child Abuse, *Appointment of Counsel for the Abused Child*, 58 CORNELL L. REV. 177, 178 (1972).

15. CAL. PEN. CODE § 273(a) (West Supp. 1984). By 1967 every state had "reporting" laws which require health and school authorities, as well as other professionals who come into contact with children under twelve, to report cases of child abuse even if the report is based on suspicion alone. D. GIL, *VIOLENCE AGAINST CHILDREN* 72 (1970).

16. TEX. PEN. CODE ANN. § 22.04 (Vernon Supp. 1982-83), TEX. PEN. CODE ANN. § 12.33(a) (Vernon 1974).

17. The failure of the police to take adequate measures to protect victims of domestic violence has resulted in court cases. *See, e.g.*, *Nearing v. Weaver*, 52 U.S.L.W. 2224 (Or. Sup. Ct. Oct. 25, 1983) (Police officers who knowingly fail to enforce a court order, issued under Oregon's Abuse Prevention Act, by not arresting estranged husband who entered home and assaulted wife in violation of that order are potentially liable for harm to wife's emotional and physical health); *Bruno v. Codd*, 90 Misc. 2d 1047, 386 N.Y.S.2d 974 (1977), (In an action brought against employees of police department, probation department, and family court on ground that defendants had failed to protect and assist wives assaulted by their husbands, sufficient evidence existed to preclude summary judgment for the defendants), *rev'd on other grounds*, 64 A.D. 2d 582, 407 N.Y.S.2d 165 (1978), *aff'd*, 47 N.Y.2d 582, 393 N.E.2d 976, 419 N.Y.S.2d 901 (1979).

tions of the criminal law are not invoked as frequently as they might be.¹⁸

Despite its misleading implication that family violence has been decriminalized, *The Home Front* correctly identifies the way these crimes are sometimes perceived. Domestic violence is often deemed a problem to be addressed by psychological therapy.¹⁹ Though the worst cases of abuse are usually handled by the criminal justice system, it is common for criminal sanctions to remain uninvoked even when a spouse or child is seriously injured. Often in such situations, as Armstrong points out, legal protections and safeguards are less valued than are "imprecations to the therapeutical gods."²⁰ If at all possible, husbands and fathers are not to be punished; instead, families are to be treated.

Psychology's role in the response to family violence is promoted by the shortage of hard evidence in intra-family disputes. In the absence of other evidence, decisions involving child custody, visitation rights, and the pressing of criminal charges turn on the results of psychological profiles of husband and wife.²¹ Armstrong is critical of this reliance, and little wonder. Although these tests are deemed objective, they may favor males, and they do depend heavily on the inevitably subjective interpretation of psychologists.²² The shortcomings of these psychological tests are exacerbated by the weight which they are expected to bear.

The most telling point Armstrong makes in *The Home Front* concerns this therapeutic approach to domestic violence. At present, battering husbands and fathers are often excluded from criminal court because they are otherwise non-violent. Armstrong argues that these battering men should be seen as criminals with a specialty: preying on victims to whom they are related.²³ While the very extent of domestic violence raises doubts about the practicality of employing criminal sanctions against its perpetrators,²⁴ an increase in the use of arrests and selective

18. See Rosenthal, *supra* note 14, at 151; See generally Goodpaster & Angel, *Child Abuse and the Law: The California System*, 26 HASTINGS L.J. 1081 (1975) (discussing implementation of California child abuse law in Los Angeles County).

19. ARMSTRONG, pp. 37-62.

20. *Id.* at 45.

21. *Id.* at 51-54. The profiles are drawn with the help of a staggering array of tests, including the Myers-Briggs Type Indicator, the Minnesota Multiphasic Personality Inventory, the Reverse Border Gestalt, and the Thematic Apperception Test.

22. *Id.* at 51.

23. *Id.* at 5.

24. Laurie Woods, the Executive Director of the National Center on Women and Family Law, has acknowledged that it is impractical to expect that all men who assault their wives will be prosecuted to the full extent of the law. Given that at least five million married women are regularly beaten in the United States, the legal system would be enormously overburdened if each case was prosecuted to the full extent possible. Woods, *Litigation on Behalf of Battered Women*, 5 WOMEN'S RIGHTS L. REP. 7, 12 (1978). In addition to the burden

incarcerations might deter violence without placing enormous burdens on an overloaded criminal justice system.

The essence of Armstrong's argument is that membership in an American family robs women and children of constitutional protections they should have. Yet even the faith of a potentially sympathetic reader is tried by *The Home Front*. The book's credibility is weakened by its inadequate analysis of the legal matters under consideration. A chapter-long analysis of the Supreme Court's decision in *Parham v. J.R.*,²⁵ for example, is intended to show the deplorable state of children's rights at present.²⁶ But Armstrong loads her deck by overemphasizing the relative deference which the Court pays to parental authority while ignoring the limits placed on this power.²⁷ In addition to offering this distorted reading of *Parham*, Armstrong attempts to manipulate her audience by shamelessly exploiting the story of one of the institutionalized children on whose behalf the class action was brought.²⁸

The final, dubious achievement of *The Home Front* is the way it can induce skepticism in those who might be believers. Perhaps the strongest doubts are raised by Armstrong's exclusive focus on men as perpetrators of abuse. The role of women in domestic violence is not simply that of victim: in one nationwide survey of child abuse, fifty-one percent of the victims were abused by females.²⁹ Armstrong defends the exclusive scope of her book with the unsupported assertion that society has no reluctance to condemn those women who engage in domestic violence.³⁰ But as long as we fail to examine honestly the role of women as perpetrators as well as victims, we will not fully comprehend the tragedy of domestic violence: the way it perpetuates itself. Today's abused chil-

that full enforcement of criminal sanctions would place on the criminal justice system, experience in the field of child psychology shows that disruption of intact families, except in extreme cases, usually does more harm than good to the children involved. See J. GOLDSTEIN, A. FREUD & A. SOLNIT, *BEYOND THE BEST INTERESTS OF THE CHILD* 3-8, 48-50 (1973).

25. 442 U.S. 584 (1979).

26. In *Parham* the Court held that, absent a finding of abuse or neglect, parents must have a substantial role in the decision whether to commit their child to a state administered mental institution. 442 U.S. at 604. This result follows from "[t]he law's concept of the family," which "rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity of judgment required for making life's difficult decisions." *Id.* at 602.

27. The *Parham* Court placed a considerable limit on parental authority by giving the final say in commitment decisions to a neutral factfinder. 442 U.S. at 606-7. One commentator suggests that the Court's decision defers not to parents but to "state-employed behavioral professionals." Burt, *The Constitution of the Family*, 1979 SUP. CT. REV. 329, 334.

28. Within nine pages Armstrong tells us once that the second-named plaintiff wanted only "to be loved," twice that he was "hungry for love," and twice that he "needed love incredibly." ARMSTRONG, pp. 150-159.

29. GIL, *supra* note 15, at 117.

30. ARMSTRONG, p. xix.

dren are tomorrow's abusive parents.³¹ From the conviction that there is no place like home, we have come to recognize that, for many Americans, "There is no place so violent as home."³²

II. *The Family As Political Contradiction*

While Armstrong advocates a policy of state intervention in families for the protection of wives and children, Fishkin's *Justice, Equal Opportunity, and the Family* raises the possibility of limiting family autonomy to further certain goals of liberalism. Argued on the level of ideal theory, the book postulates a modern industrial society enjoying the best conditions that might realistically be obtained. This theoretical approach permits a number of insights about current liberal ideals.

Fishkin identifies a basic conflict between the autonomy of the family and two central liberal assumptions about equal opportunity. The first liberal assumption he terms the "principle of merit." This principle requires procedural fairness in the evaluation of qualifications for positions. Although debate is possible about how qualifications for specific positions are to be defined, discrimination on the basis of race, sex, or ethnic origin is forbidden.³³ The second assumption is "equality of life chances." According to this supposition, the class, race, sex or ethnic origin of any individual should not affect his eventual social position.³⁴ These two assumptions define an ideal of fair competition.³⁵ As for family autonomy, it refers to the customary protection of families from social interference because they seem to represent the best way of satisfying the essential needs of children. Thus, parents are generally free to raise their children as they see fit, regardless of whether their children might be better raised by another.³⁶

When the value of equal opportunity, defined by merit and equality of life chances, confronts family autonomy, a pattern of difficult choices emerges, which Fishkin describes as a "trilemma." Commitment to any two of the three assumptions rules out the third.³⁷ For Fishkin this diffi-

31. "The most consistent features of the histories of abusive families is the repetition, from one generation to the next, of a pattern of abuse, neglect, and parental loss or deprivation." R. KEMPE & C.H. KEMPE, *CHILD ABUSE* 12 (1978). See GIL, *supra* note 15, at 114, 140.

32. Anderson, *Private Violence*, *TIME*, Sept. 5, 1983, at 18. This issue of *TIME* had domestic violence as its cover story.

33. FISHKIN, p. 4.

34. *Id.*

35. *Id.* at 5.

36. *Id.* at 78. See *Santosky v. Kramer* 445 U.S. 745, 753 (1982) ("The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State").

37. FISHKIN, pp. 5-6.

culty will arise even under the best conditions imaginable for any large-scale industrial society. As a result, the basic liberal approach to equal opportunity, according to Fishkin, is no more than a collection of conflicting ideals.³⁸

The conflict among the principles of merit, equality of life chances, and the autonomy of the family is demonstrated at length in *Justice, Equal Opportunity, and the Family*. Taken together, the first and third principles rule out the second because the autonomy of the family protects parental efforts to influence their children's development. Given background conditions of inequality, children from the higher strata will be systematically exposed to opportunities that can be expected to give them advantages in meritocratic competition.³⁹ "Under these conditions, the principle of merit—applied to talents as they have developed under such unequal conditions—becomes a mechanism for generating unequal life chances."⁴⁰ A commitment to both merit and family autonomy thus precludes equality of life chances.

In a similar fashion, a commitment to equality and family autonomy jeopardizes the merit principle. Only a process of assigning positions that would be applied regardless of merit can equalize life chances in light of the difference in talent development caused by the family's autonomy. But, Fishkin contends, when merit selection is discarded, and a system of reverse discrimination is systematically applied, efficiency and fairness will suffer.⁴¹ Accepting this contention will leave us only the "third option," which is coercive interference with family autonomy in order to preserve the equality and merit principles.

If equality of life chances is to be achieved through processes consistent with the principle of merit, conditions for the development of talent must be equalized. "Given background conditions of inequality, this can be done only through some mechanism that systematically insulates the development of each new generation from the unequal results

38. *Id.* at 6, 9.

39. *Id.* at 51. Children from the higher strata can also be excluded from meritocratic competition altogether. For example, undergraduate institutions of higher learning often give preferential treatment in admissions to "the children of alumni, to the affluent who may bestow their largess on the institutions, and to those having connections with celebrities, the famous, and the powerful." *Regents of University of California v. Bakke*, 438 U.S. 265, 404 (1978) (Blackmun, J. concurring, dissenting).

40. FISHKIN, p. 51.

41. *Id.* at 61. Efficiency and fairness will suffer because a modern industrial society with "a complex differentiation of tasks" requires the use of "qualifications that are performance related" rather than mere "on-the-job training." *Id.* at 56, 62. Reverse discrimination has a substantial cost in fairness because it interferes with the competition in which people earn goods by their skill and effort. *Id.* at 1, 56.

achieved by the last."⁴² Coercive intervention into the family's traditionally protected sphere is this new mechanism. It is designed to prevent the advantaged from using the autonomy of the family to pass on "cognitive, affective, cultural, and social advantages to their children."⁴³

What then does Fishkin actually want to do with the family? Though he knows that children can suffer more harm than good when the state interferes with the continuity of family relations,⁴⁴ he examines possible strategies of intervention into the family. Any strategy which can close the gap in the developmental conditions of rich and poor children will be radical enough to require coercion if compliance is to be expected.⁴⁵ One policy, leveling up, involves either the replacement of parents by "paraprofessionals" or "some complete transformation of parent-child patterns of interaction."⁴⁶ The goal here is "a complete manipulation of all the significant causal factors affecting the disadvantaged child."⁴⁷ An alternative plan, leveling down, entails lowering the resources available to the more advantaged.⁴⁸ Although this policy appears less intrusive than leveling up, it too would entail coercion. Parents are not likely to participate in policies which would render their offspring worse off.

These strategies of intervention into the family are no more desirable than they are feasible. As Fishkin admits, they entail the risk not only of prohibitive expenses but also the potential loss by parents of any parental role.⁴⁹ Furthermore, the psychological costs for children of the intervention into their family are apt to be high.⁵⁰ Apart from the systems of intervention which, at least in the realm of political theory, have the potential to equalize the developmental conditions of rich and poor children, there are actual programs that have accomplished a great deal while attempting less. The Yale Child Study Center is a case in point.⁵¹

42. *Id.* at 64.

43. *Id.*

44. "[P]ractical experience in this field supports the conclusion that disruption of intact families usually does more harm than good to the child, except in the most extreme cases of deprivation or abuse." *Id.* at 77.

45. *Id.*

46. *Id.* at 77, 82.

47. *Id.* at 82.

48. *Id.* at 67-68.

49. *Id.* at 77.

50. See J. GOLDSTEIN, A. FREUD & A. SOLNIT, *supra* note 24.

51. One remarkable project at the Child Study Center attempted to aid the development of disadvantaged children by focusing on their first thirty months of life. See S. PROVENCE & A. NAYLOR, *WORKING WITH DISADVANTAGED PARENTS AND THEIR CHILDREN: SCIENTIFIC AND PRACTICAL ISSUES* 8 (1983). The Child Study Center helped these children by providing them with health care and health supervision and by giving their parents guidance, counseling, and developmental evaluations of the children. *Id.* at 157. These services were provided in a framework that attempted to promote the vital relationship between the child and parent. "[T]hose closest to the child, his parents, exert the strongest influence on his

It is important that theory not lose sight of such valuable, if undramatic, programs.

Fishkin's use of liberal theory leads him to consider some fairly unattractive strategies of intervention into the family. To his credit, Fishkin is aware of the difficulties inherent in these programs, and he is further absolved by the context of his speculations—an examination of the problems caused by liberal theory's shortcomings. But his cogent argument is open to criticism for the simplistic notion of "family autonomy" deployed. In his belief that the family constitutes a sphere of liberty, and his equation of state intervention with coercion, Fishkin treats the family as if it were composed of equal parties. But equal parties do not abuse one another, and Armstrong's *The Home Front* shows that families have stronger and weaker members, whose relationship is often characterized by great violence. State intervention can therefore mean not coercion but *protection*.

A more general criticism can be made of Fishkin's view that the state acts neutrally towards the family by leaving it alone. This position assumes that the state plays no part in establishing the roles played within the family. Despite the measure of privacy allowed the family, it does not exist apart from the state, which sets the ground rules by which the family exists.⁵² Fishkin has made a rather neat separation between the family and the state, a dichotomy of the sort which Francis Olson has criticized as avoiding and displacing conflict while insuring that our ideal images of both will remain incomplete.⁵³

Whatever criticisms one might make of Fishkin's notion of "family autonomy," his suggestions for public policy remain sound. In those actual circumstances when the autonomy of the family, merit selection, and equality of life chances do conflict, there is a minimum requirement which acceptable public policies should meet. Fishkin asks that no sacrifice be made in any of these three principles, "*unless the sacrifice is necessary for a gain in one or more of the other two*, or unless there is some other valuable gain."⁵⁴ This requirement leads him to disagree with certain programs of preferential treatment for minority group members, which

development and . . . his development [is] best followed, protected, and promoted by the study staff through a continuing and close association with his parents—a partnership on behalf of the child." *Id.* at 4.

52. As Philippe Ariès and others have noted, the modern family is marked by a sense of privacy and distance from the exterior world, *see supra* text accompanying note 1, but this status is created by the state in the same sense that it creates the conditions which permit a supposedly laissez-faire market to exist. *See Olson, The Family and the Market*, 96 HARV. L. REV. 1497 (1983).

53. Olson, *supra* note 52 at 1529, 1569.

54. FISHKIN, p. 84 (emphasis in original).

are objectionable when they amount to reverse discrimination.⁵⁵ Reverse discrimination when applied solely with reference to native characteristics is objectionable because a significant sacrifice in merit selection is not "counterbalanced" by any gain in equality of life chances or the autonomy of the family.⁵⁶

His second suggestion for public policy follows as a result of the current imperfect implementation of all three liberal assumptions. Departing from his use of ideal theory, Fishkin points out that as a result of society's failure to establish these paradigms, each can be established without a sacrifice in any of the others.⁵⁷ For example, the racial and ethnic discrimination that undermine true selection by merit must be eradicated. Poor families must be granted the same autonomy given the more affluent. And, most urgently, equality of life chances can be promoted without requiring sacrifice in either merit or family autonomy.

This improvement of life chances can be made through familiar methods: "We need to continue, indeed to expand, the Great Society's wave of social experimentation with efforts to improve the developmental conditions of the least advantaged."⁵⁸ Fishkin's proposal seems unlikely to meet with favor today for our society appears to have lost its taste for the kind of social experimentation which he advocates.⁵⁹

The core insight of *Justice, Equal Opportunity, and the Family* is that the family can represent a barrier in the path to equal opportunity. In response, Fishkin offers a theory of limited liberalism which invokes a plu-

55. Fishkin defines reverse discrimination as a "significant and widespread sacrifice of the principle of merit in assignment in order to favor some specified group defined in terms of arbitrary native characteristics (such as race, sex, or family background)." *Id.* at 87.

56. *Id.* at 89. There is no gain in these other principles because the beneficiaries of such programs are often persons who are not disadvantaged themselves. If there is to be preferential treatment, Fishkin believes it should be directed specifically to disadvantaged individuals so as to actually improve the equality of *their* life chances. Fishkin, p. 131. See N. GLAZER, AFFIRMATIVE DISCRIMINATION 199-200 (1975). ("[R]acial and ethnic categories neither properly group individuals who deserve redress on the basis of past discriminatory treatment, nor properly group individuals who deserve redress on the basis of a present deprived condition"). But see Fiss, *Groups and the Equal Protection Clause*, in EQUALITY AND PREFERENTIAL TREATMENT (Cohen, Nagel & Scanlon eds. 1977). (a careful attempt to justify group-oriented programs of preferential treatment).

57. "In actual public policy . . . we are very far from facing these trade-offs of ideal theory. Each of the principles cited, while often invoked in public debates, is only imperfectly implemented." FISHKIN, p. 147.

58. *Id.*

59. Indeed the reaction against the Great Society began not long after its implementation. See, e.g. THOMAS SOWELL, RACE AND ECONOMICS 238 (1975) ("Perhaps the greatest dilemma in attempts to raise ethnic minority income is that those methods which have been historically proved successful—self-reliance, work skills, education, business experience—are all slow developing, while those methods which are more direct and immediate—job quotas, charity, subsidies, preferential treatment—tend to undermine self-reliance and pride of achievement in the long run.").

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rality of values to be weighed against each other.⁶⁰ His hope is that admitting the contradictions among some of liberalism's most cherished values, rather than glossing them over, will lead to a more equitable system of distributive justice. It serves as a powerful irony, however, that Fishkin can make useful policy suggestions, for the most part, only when departing from the level of ideal theory and imagined liberal pluralism.⁶¹ As for Armstrong's *The Home Front*, it is not the intelligent, balanced study which the problem of domestic violence demands. Stopping the violence which characterizes too many family relationships is a critical challenge for our society, as is improving the opportunities available to members of disadvantaged families. If these problems are to be solved, that most private of human associations must become the focus of increasing public debate.

60. FISHKIN, p. 193.

61. More dramatic attempts have been made to come to grips with the shortcomings of liberal theory. Among the most noteworthy is that of Roberto Unger, whose "total criticism" of liberal doctrine—"the guard that watches over the prison house"—follows from a conviction that partial critiques of this still dominant tradition can be taken no further. R. UNGER, *KNOWLEDGE AND POLITICS* 2-3, 5-6 (1975).

