

Michigan Law Review

Volume 89 | Issue 6

1991

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Recommended Citation

Jennifer Nedelsky, *The Challenges of Multiplicity*, 89 MICH. L. REV. 1591 (1991).

Available at: <https://repository.law.umich.edu/mlr/vol89/iss6/23>

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THE CHALLENGES OF MULTIPLICITY

Jennifer Nedelsky*

INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT. By *Elizabeth V. Spelman*. Boston: Beacon Press. 1988. Pp. xiii, 221. \$11.95.

Elizabeth Spelman¹ accomplishes a remarkable thing in *Inessential Woman*. She takes what has become a commonplace in feminism — that we must attend more to race and class — and transforms it into a new conception of gender to which race and class are integral. At one level the conception is not new — its essence is the basic feminist insight that gender is a social construction, not a biological phenomenon. But Spelman shows that if we take that insight seriously, attention to race and class is not an option, but a requirement of the concept of gender itself. For me, Spelman's argument thus transformed a sense of moral and political commitment to the issues of race and class into an ability to see the presence of race and class *in* gender. This transformation means that it is no longer a question of whether I will get around to doing the right thing by paying attention to these "other" issues, but whether there is integrity to my feminist projects, whether my work will be intelligible and defensible on its own terms.

Spelman's extraordinarily important contribution is to show not just that we have not acted on what we said we believed, but that we did not really know what we thought we knew — namely, how to think about gender. And she does this not by adding a perspective, such as Marxism, onto feminism, but by unpacking the requirements, insights, and methodologies of feminist theories themselves.

One might say that the core of her argument should have been obvious a long time ago. And indeed it should. It *was* obvious to women who were not part of the white middle-class audience to whom (I assume) *Inessential Woman* is primarily addressed. That this audience had not already learned the lessons Spelman teaches from, say, the available writing of women of color, is sad testimony to the privilege and blindness Spelman examines.

We — white middle-class feminists, of whom I am one — can now hear Spelman in part because she speaks our language. The book adheres to the (best) norms of academic discourse: it is carefully analytic, well argued, and clearly written (though also extending beyond

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the norms in its lively good humor). In her effective use of anecdotes from personal experience or literature, she does not simply rely on the imaginative capacity of the reader, but explicitly makes the connections to the philosophical argument. The impact of the book, however, comes not from the familiarity of its form, but the excellence of its content. Anyone who works her way carefully through the arguments will not forget their message, nor fail to change the way she sees the world and interacts with it. Spelman has this transformative power because she is not just calling for inclusion, but is engaging in the analytic work of integrating gender, race, and class.² That is difficult work, and while the core message may be familiar to many, I think her insights are likely to be useful to everyone who wants to understand the complex intersections that constitute gender.

Finally, a last introductory note to white middle-class feminists who think they already know that race and class are important and are not interested in further (guilt-inducing) instruction: I urge you to inquire into what you know and what you do. Are race and class important simply because you want to improve the lives of all women and, of course, there are women of every race and class? Spelman is saying something more than this. She is showing that we cannot understand *our* gender relations without understanding the way that the gender of whites takes its meaning in part from the way we have constructed the relation between blacks and whites, owners and workers, and the genders of subordinated groups. Similarly, we cannot understand the oppression of women of color unless we understand these interactions of the constructions of race and gender. And if your knowledge has not translated itself into action — if the importance of race and class is a belief, but not a constant part of your practice in teaching, research, and political action — then Spelman has a different kind of knowledge to impart. Spelman's insights cannot be passively absorbed.

I

The book begins, a bit slowly I found, with chapters on Plato and Aristotle (pp. 19-56). Spelman carefully, sometimes painstakingly, unpacks the ways that each saw the gender of women differently depending on the class (such as guardians or slaves) to which the women belonged. The very meaning of "woman" — her capacities, whether or not she was subordinate to men, her relations to others — was different depending on her class. In these chapters Spelman introduces

2. Compare the critique that "[m]ost Anglo feminists have been more responsive to hearing the call for diversity in membership than they have been to hearing the call for the analytic inclusion of race, class and gender." Uttal, *Inclusion Without Influence: The Continuing Tokenism of Women of Color*, in *MAKING FACE, MAKING SOUL — HACIENDO CARAS: CREATIVE AND CRITICAL PERSPECTIVES BY WOMEN OF COLOR* 42 (G. Anzaldúa ed. 1990) [hereinafter *MAKING FACE, MAKING SOUL*].

two of her main points: (1) women do not simply come in different colors and classes, but there is no single meaning of "woman"; (2) we nevertheless think of these philosophers as making claims about the nature and status of women, because we take their claims about some women (those in the superior group) to be claims about all women. Spelman also uses this introduction to raise the question of "the extent to which some versions of feminism may have more of Plato in them than they [feminists] might ever have imagined" (p. 35).

Because it is a very tricky thing to transform something people already think they know (*i.e.*, that race and class are important) into a new insight, I am not sure these chapters are a good place to start. Although they are part of a careful structure of argument, I found it took too long to see the novelty and importance of the insights. To the impatient, and to those who are skeptical that this book really offers them something new, I recommend beginning with the third chapter on Simone de Beauvoir, and returning to Plato and Aristotle after they are fully engrossed with the argument.

In Chapter Three, Spelman demonstrates that even one as attuned to the issues of privilege as de Beauvoir may end up ignoring her own insights and reproducing the privilege of white middle-class women by making them the (generally unstated) focus of her inquiry. One of the most powerful of Spelman's arguments (spelled out more fully in Chapter Five) is that what appears as an obvious social-scientific technique — holding race and class constant to isolate gender oppression — not only misunderstands the nature of gender, but reinforces the privilege of white middle-class women by treating them as the paradigmatic woman. The assumption that we can best study the nature of sexism by ensuring that its objects are not also suffering from other forms of oppression (and thus confusing our findings) guarantees that white middle-class women will be the subjects of inquiry. This method of studying "sexism as such" also tacitly assumes that sexism is the same for all women, that it does not vary according to race and class — which Spelman demonstrates is not the case.

Spelman uses the contradictions in de Beauvoir to reveal how we also routinely, unthinkingly make the same moves and assumptions de Beauvoir does, and thus to argue that "we ought to think of the white middle-class privilege her work expresses, not as a personal quirk of de Beauvoir, but as part of the intellectual and political air she and many of us breathe" (p. 75). Spelman repeatedly and effectively shows how it is the nature of privilege to hide insidiously in unspoken assumptions, "common sense," and social-scientific "logic." "Privilege cannot work if it has to be noted and argued for" (p. 76).

For me the most compelling part of the book was the discussion of Nancy Chodorow's work on the reproduction of mothering.³ Here

3. Pp. 80-113; N. CHODOROW, *THE REPRODUCTION OF MOTHERING* (1978).

Spelman argues that if we take seriously the idea that gender is a social construction, and in particular if we believe that early childhood experiences are a crucial part of that construction, then we will see that as those experiences vary by race and class the construction of gender must itself so vary. Again, Spelman reveals how Chodorow's own important insights undermine her conclusions about the relationship between gender, race, and class.

Part of what has made Chodorow's work so important for many feminists is the argument that as children learn their gender identities they learn the relations of subordination and domination intrinsic to those identities. But Spelman contends that, in a racist society, these basic lessons of hierarchy must include race-specific roles. We learn not just to be girls and boys, but to be, for example, white girls or black boys. The message to all little boys cannot be that all men are superior to all women, for this message would be very dangerous for a black mother to give to her black boy. He must learn that the complex rules of domination and subordination that are part of his gender identity are different in relation to white and black women. Thus, the hierarchy of gender cannot be, in any simple way, the model for learning other forms of hierarchy such as racial domination (as Spelman persuasively claims Chodorow suggests, pp. 88-89). Racism is embedded in the original learning of gender, not extrapolated from it.

Spelman elaborates upon the implications of all of these arguments in the remaining chapters of the book. Each new dimension to the analysis adds nuance and clarity and integrates her insights more fully into the reader's framework of thought, changing that framework in the process. While the arguments can be fairly simply stated in summary form, it takes the full depth of her analysis to give the core insights their rich originality and transformative power. My summary form thus runs the risk of making the claims seem either already familiar or unpersuasive in their novelty. I hope to have persuaded you at least of the importance of reading the book to find out if your own treatment of gender does not require an integration of race and class, or, to put it more harshly, whether that treatment unwittingly expresses the white middle-class privilege that is part of "the intellectual and political air" we breathe (p. 75). I move now from the summary to questions internal to Spelman's argument, and then to the broader challenges her argument poses.

II

As is often the case with Spelman's arguments, her discussion of Chodorow leaves us with questions that only more research — of the kind she advocates — can answer. We often think of gender identity as one of the very earliest, pre-verbal dimensions of selfhood that chil-

dren learn. Are the dimensions of hierarchy present at the earliest stages, and if so, are all the complex intersecting forms of that hierarchy (for example class as well as race and gender) present in some primitive form? Or should we think of these dimensions of hierarchy as developing over time, in which case some particular sequences of learning might be interesting and important? Once language is present, do children of different races become conscious of racial identity at different stages? And how is the consciousness related to interpenetration of race and gender? My four-year-old is beginning to voice interest in questions of gender identity, but seems oblivious of racial differences. As far as I can tell, differences of skin color are simply one of the virtual infinity of differences with which he is confronted. He does not seem yet to have learned to attach any more significance to skin color than to hair color; indeed, I have no indication that he has ever even noticed either. Is he inattentive or indifferent to race because, as a child of the culturally dominant group, he need not learn "that the white world is dangerous and that if he does not understand its rules it may kill him"?⁴ And is his failure to be conscious that he is white the result not only of his parents' efforts not to perpetrate racism, but also of a cultural dominance so secure that he need never encounter messages like those of the southern white parents Lillian Smith describes: "We were taught . . . to love God, to love our white skin, and to believe in the sanctity of both."⁵

In short, if we are to pursue the best of Chodorow's insights into the importance of early childhood experience in learning gender identity and hierarchy (as I believe Spelman intends us to), we need to know more about the mechanisms of this learning — including issues of sequence, language, and consciousness. If gender hierarchy is not the progenitor of other forms of dominance, we need to find out just how race, class, and gender intersect in the emergence of identity.

Spelman persuasively argues that, given the nature of racism in America, it is unimaginable that gender could be constructed independently of race. She thus points to the need for the kind of research I have noted just above. But, in *Inessential Woman* she does little more than provide glimpses of how, say, the gender of both blacks and whites is shaped by racism and how racism is interpenetrated by sexism. The clearest and most compelling examples come from examining the relations among black slaves and white slave owners. She helps us see how racism and slavery shaped the relation between black men and women, how "we can't understand the racism that fueled

4. P. 98 (quoting W. GRIER & P. COBBS, *BLACK RAGE* 61 (1968)).

5. P. 99 (quoting L. SMITH, *KILLERS OF THE DREAM* 77 (1949)). I think it is worth noting that my son grew up in Toronto, Canada. As I revise this essay in Chicago, I doubt that he would have remained unconscious of race here. In Toronto, he is routinely exposed to racial diversity, but not to the constantly simmering tensions of black-white relations that pervade Hyde Park.

white men's lynching of Black men without understanding its connection to the sexism that shaped their protective and possessive attitudes toward white women" (p. 106), and how sexism can be at work even in relations between women. Acts of racist violence by white women against black slave women "were shaped by feelings of sexual jealousy rooted in and sustained by sexism" (p. 106).

The slave examples are illuminating, but I was left wanting more details about exactly how race and gender interpenetrate in contemporary America. For example, Spelman does not explain fully how a black woman's gender is different from a white woman's. And she spends little time showing how we would see gender issues differently once we accept her point. For example, one might ask, "aren't the basic issues of feminism, such as violence against women and reproductive rights, the same for all women?"⁶ Her book provides an important general answer: we should not assume they are the same; we should find out how, say, black women see these issues. But she does not provide the sorts of specific answers my students gave me: white women's discussions of violence against women are often laced with a tacit racism; they are shaped by an unspoken image of the assailant as a man of color. Women of color are of course concerned about violence (as prime targets of it), but they want to be sure that the approach to the problem is not shaped by the racism they commonly observe. Similarly, white women's focus on access to abortion often so neglects the practice of encouraging abortion for, and forcing sterilization on, women of color that the issue becomes unrecognizable as a common one.

Such concrete examples will enhance our understanding of Spelman's argument and of its importance. But Spelman's point is in part an analytic one, and she makes it completely persuasively: given our understanding of gender as a social construction, race must be integral to gender. The point is clearest in its negative form: What would we have to believe to continue to think it adequate simply to add race to gender, to imagine that racism and sexism function independently, and thus merely additively, for, say, black women? We would have to believe that the factors that are part of the social construction of gender — patterns of child-raising, messages about sexuality, independence or interconnectedness,⁷ dominance, competence, physical beauty and capacity — are not significantly different for blacks and whites. The less

6. As my colleagues Cass Sunstein and David Strauss did ask when I summarized Spelman's arguments.

7. Chodorow's arguments have also been enormously influential through the use made of them by Carol Gilligan. C. GILLIGAN, *IN A DIFFERENT VOICE* (1982). There and elsewhere what is at stake is the argument that the different experiences of being mothered that little boys and girls have affects their different senses of themselves as basically separate or basically connected. Spelman shows that such claims, too, have to be reconsidered: "Chodorow tends to write as if the kind of care mothers provide is everywhere the same — despite her acknowledgment of the likelihood of cultural difference on this score. There is indeed no reason to presup-

analytic and more complicated point is that the meaning of sexuality that is a central part of gender identity is, for blacks and whites, defined in part in opposition to one another. Here, a detailed sense of how this works is especially important,⁸ and Spelman offers little more than the examples from slavery. But as always, what matters here is that she shows what our task must be: if we want to understand gender, we need to find out how it is reproduced by the intersecting repressions of our society.

Spelman indirectly reveals some of the problems of pursuing this task. First, the reader will no doubt have already noticed that although I referred to race and class at the outset, most of the discussion has been about race. This imbalance reflects that of the book. I think the analytic framework is unaffected, but the imbalance reminds us of the full demands implicit in Spelman's integrative project. Not only is class a dimension of gender,⁹ but it interacts with race, too. In paying attention to class, one must remember Spelman's arguments about why one cannot simply "add on" the dimension of race. Saying that black women suffer racism *and* sexism is true but misleading because it suggests that the racism they suffer is the same racism black men suffer and the sexism they suffer is the same sexism white women suffer. Black women suffer not only doubly, but differently. So when we try to take seriously the way class and race shape each other, and shape and are shaped by sexism, we see a problem of ever-increasing complexity unfolding before us. And of course we cannot just attend to class when we are dealing with the gender relations of those in

pose that what counts as 'mother's love' will not vary from culture to culture, from subgroup to subgroup" (p. 99).

8. Wendell Berry has explored the harms of racism, including the way it shapes both blacks' and whites' experience of sexuality:

A great deal has already been made by various writers of the way white men have attributed to black women the active sexuality that they did not want to see in their own women, because they did not consider sexuality to be ladylike. This is usually discussed with respect to the damage it has done to the pride of the black man and to the relationships of black men and black women. On the other side of the problem, it made the white man by turns either crude or absurdly sentimental in his relationships with the women of his own race, unable to bridge the artificial dichotomy between sex and sentiment in order to know his women as they really are. And it tended to make the white woman of the landed class in the South a functionless ornament, possessing only the powers of prettiness and charm, obsolete by the age of thirty, artificial, pretentious and silly, practicing the manners and the affectations of a world that never did exist and never could have. All that is obvious enough, and so I want only to mention it — adding, however, that the *consequences* of this sexual disorientation go far beyond the considerable unhappiness it has caused to individuals. It has poisoned the very heart of our community. It is as destructive a force as any other that we have let loose.

W. BERRY, *THE HIDDEN WOUND* 78-79 (1989).

9. The movie *Working Girl* (CBS/Fox 1988) offers an effective picture of the differences between the way gender is constructed for upper middle-class professional women and for the "working girls" who are their secretaries. Unfortunately, the gentle challenge it poses to the interpenetrating oppression of gender and class is offered in the context of reinforcing one of the lynchpins of patriarchy: the upper-class prince charming hero without whom all the heroine's efforts would have failed.

subordinated classes. As long as class, race, and gender are grounds of oppression for anyone, they intersect for everyone.¹⁰

Now the reader will probably also have noticed that even when one ensures that class does not drop out of the equation, it is still too simple. Societies systematically accord different power, privilege, and advantage on grounds of religion, ethnicity, sexual preference, and many others. Spelman periodically refers to these grounds and, in principle, analytically encompasses them. But she does spell out fully this ever-fracturing set of interconnections. Must we now abandon not only the category of women, but even categories of white or black women, to replace them with "categories" whose specificity begins to lose the character of a category at all: young, light-skinned black, female, heterosexual, bilingual, able-bodied, working-class parentage, Catholic, immigrant, urban, college-educated, unemployed, feminist, Marxist, poet?

Confronted with this specter of infinite fragmentation, we need to remind ourselves of the project with which we started. At a basic level, Spelman sets out to reveal how mainstream feminism participated in the perpetuation of white middle-class privilege and misunderstood the nature of gender in a system of race and class oppression. She seeks to understand the oppression of women as part of a complex of intersecting oppressions. Which categories are important in that complex will depend on the context. For example, in some communities in the United States, the gender of Irish Catholic working-class women is not fully understandable without attention to religion and ethnicity as well as class and race. Surely religion is also crucial for understanding the gender of Orthodox Jewish women.

These examples raise the question of whether the problem of infinite fracturing is contained by saying that not every form of diversity matters — only those that are part of a hierarchical ordering of power resulting in oppression. But I think these examples offer little hope of such containment. First, even if oppression as a Catholic or Jew is not what is most important about a woman's identity as Irish Catholic or Orthodox Jew, the basic dimensions of her gender — her sexuality, relations to men, expectations of her role as mother — and her experience of oppression on the basis of gender are not fully comprehensible

10. The universal quality of this claim requires comment. Spelman's examples are drawn from the United States, but she clearly intends them to apply beyond national boundaries. I think the fully nuanced version of the claim is that, in any society where race and class are grounds of oppression, one should look to see if gender is not constructed differently for different groups and to see if the construction of privilege of class and race does not have within it important rules about how men and women relate to each other. Spelman makes no claim that a system where the forms of oppression do not interact is an impossibility, just that this is hard to imagine on the basis of our experience of Western society generally, and that one should always inquire into interactions. For example, for there to be no interaction between class and gender, one would have to imagine that the privileges of class did not contain different rules for how working-class men should relate to upper-class women and to women of their own class.

in isolation from these components of her identity. Second, these examples should remind us that there are few categories of human identity that are not hierarchically ordered in North American society,¹¹ and those hierarchies accord different advantages that are often the source of oppression. Further, they help us see that identities are in large part constituted by the *multiple* intersections of hierarchically ordered categories, with the result that women may be privileged with respect to some (white middle-class) and subject to oppression with respect to others (lesbian, Jewish). Being driven to a sometimes daunting appreciation of multiplicity thus helps us avoid the mistake of simple categorization of women as either agents or objects of oppression. (Of course, this mistake can only occur after overcoming the most basic error of thinking that, as victims of sexism, women cannot be perpetrators of other forms of oppression.)

I think embracing multiplicity (rather than fearing it as a disruption of workable categories) also makes it possible to really hear the diverse stories of oppression. One of the things I was most struck by in Gloria Anzaldúa's wonderful anthology of "creative and critical perspectives by women of color"¹² was the expression of the particularity of the pain of oppression — from that of light-skinned black women to that of the children of mixed race growing up amid mixed and conflicting cultures. Taken as a whole, the book seeks commonality (among women of color), always in the context of attending to the full, dazzling (and threatening) array of difference.

We are left, however, with the questions of what is the basis of commonality: How do we use categories once we recognize their transformation through multiple interaction? Or, as Spelman addresses it in her final chapter: Is there any "woman" left on which to base the claims of feminism? Spelman's basic answer is that nothing in her argument undermines the theoretical or practical agenda of feminism:

[I]t is not a threat to the coherence of feminism to recognize the existence of many kinds of women, many genders. It may in fact help us to be more willing to uncover the battles among women over what "being a woman" means and about what "women's issues" are. . . . Yes, we may want and need to make a united case against a hostile world. But it is also necessary and hence a healthy sign that we battle over what that case should be, rather than relegating the making of it to the usual spokeswomen. . . . And why should we expect that women would not want and need to engage in such debates, given the recognition that gen-

11. And almost surely in Western societies generally. But I limit my claim (large as it is) to societies of which I have had long-term, firsthand experience. Search for an example of diversity so trivial that it has no hierarchical status accorded to it. It is hard to find one. Hair or eye color, for example, includes quite clear hierarchies. Ask the dark-haired teenage girl in California or the Asian preschooler watching Disney videos.

12. MAKING FACE, MAKING SOUL, *supra* note 2.

der is a social and political construction and given the feminist hope that women will have more and more to say about the ways their lives and the meaning of their lives are constructed and lived? [p. 176]

I find all this completely persuasive, if a trifle too rosy-sounding. Anzaldúa's anthology makes clear the pain, anger, and conflict that is entailed in working out commonality in diversity.¹³ I can only assume that the pain and conflict entailed in developing genuine solidarity between white women and women of color is even deeper. Among other things, we must find a way of contesting categories that simultaneously permits us to listen to each other across barriers of privilege, and helps us use categories such as race and class in ways that further the dismantling of privilege, without becoming ensnared in categorical debates that deflect our energy from connection and change.

For example, who counts as white or "of color" is contested. Some Jewish women say that they are not white.¹⁴ But Gloria Anzaldúa seems certain that it does not follow from this self-categorization that Jewish women are women of color:

Most of the white Jewishwomen in the class [on "U.S. Women-of-Color"] did not want to identify as white (I'm not referring to the Jewish women-of-color). Some declared they felt they "belonged" more to the women-of-color group than they did to the white group. . . . Some *mujeres-de-color* questioned the concept of "same" oppressions and claimed that all oppressions were being collapsed into one. The problem was that whitewomen and white Jewishwomen, while seeming to listen, were not really "hearing" women-of-color and could not get it into their heads that this was a space and class on and about women-of-color.¹⁵

Because we recognize that race is a socially constructed category, there can be no simple "truth" as to who is really white or "of color." We must listen hard to Anzaldúa's and her students' perception of what it means to be a woman of color and to the experiences of Jewish women and their sense of where they belong. Working through the conflict should make it clearer just how racial categories are constructed in our society, how they may be interfering with our capacities to hear one another,¹⁶ and how they can best be used or deconstructed to understand and overcome oppression.

13. See, e.g., Harris & Ordoña, *Developing Unity Among Women of Color: Crossing the Barriers of Internalized Racism and Cross-Racial Hostility*, in MAKING FACE, MAKING SOUL, *supra* note 2, at 304 [hereinafter Harris & Ordoña, *Developing Unity*].

14. This issue recently arose in my class on Feminist Theory. A Jewish woman reported that in conversations about antisemitism with Jewish women friends they said, "You're not white," implying (as I heard it) that she was deluding herself by thinking of herself as white.

15. Anzaldúa, *Haciendo caras, una entrada: An Introduction*, in MAKING FACE, MAKING SOUL, *supra* note 2, at xx.

16. An example of miscommunication is my own initial misreading of the quoted statement by Anzaldúa. I thought the dispute was whether Jewish women were or were not "white." I thought that because there was disagreement over whether they were women of color, that meant that there was dispute over whether they were white — thus disputing their own self-perception. When discussing this issue with Patricia Williams, I could see that one could accept their self-

Critical self-consciousness in the use of categories is what matters. Spelman suggests that we can continue to "refer to women 'as women' or to men 'as men.' I am only insisting that whenever we do that we remember which women and which men we are thinking about" (p. 186). I think the discipline of that self-consciousness is extremely important. If we always force ourselves to add the necessary adjectives, we can better determine when it is adequate to speak only of white middle-class women, and when we must educate ourselves further so that we can make broader claims.

Finally, to recast these issues in another form: Is there no essence of womanhood? Maybe there is and maybe there isn't. All we know for sure is that we cannot possibly find out by extrapolating from the experience of white middle-class women. Spelman closes her book with some helpful guidelines about how (and how not) to go about educating ourselves adequately for any of the projects of feminism, including the questions of essentialism.

III

In this final section, I want to move on to a brief sketch of the more general problems posed by Spelman's insights, because they are characteristic of the deep challenges that feminism raises for conventional understandings of law and theory. The celebration of difference, making diversity central to all inquiries, not only disrupts the conventional categories, but also undermines the identity among human beings that has been a presupposition of our understandings of law and politics.

Spelman's multiplicity resonates with the rejection of the traditional subject of political theory: man as a rational, autonomous being, where rationality is set in opposition to emotion and the essence of man as actor can be seen as a genuine essence shared by all. This essence abstracts from (and denigrates) the bodily dimensions of humanness, including needs, desires, and affects. While many may think they no longer accept the starkness of the Kantian rational actor (for whom affectless, rational duty is the only foundation for moral action), Kant's aspiration to achieve universality by removing contingency remains a powerful force in political theory, and perhaps even more so in law, which often relies on unexamined theoretical presuppositions.¹⁷ And disembodied rationality continues to appeal as the core of an essence that can be common to all (thus universal) precisely because it excludes the contingent and the variable.

description as not white, and still treat as contested whether they belonged to the women of color group.

17. Given the purposes of most legal arguments, they do not include an examination of the concepts — such as selfhood, rationality, or agency — that are the underlying presuppositions necessary for the coherence, persuasiveness, or even intelligibility of the arguments.

By contrast, the feminist theory that I know characteristically insists that we cannot know the things we most need to know about people for the purposes of political theory or practice (including law) unless we treat as central their embodiedness and the affective dimensions of their lives. This is in part because our cognitive capacities do not divide up in the ways the opposition between reason and desire suggests.¹⁸ But when we make embodiment and affect central, diversity immediately confronts us in all its overwhelming multiplicity. When we turn our attention to bodies and desires, we unavoidably turn our attention to the immense range of differences among us and to the contingency and variability of those differences. Diversity not only becomes the foreground in our vision, it begins to preclude perception of any background of commonality. Now this turns out to be a serious problem because of the drive for unity — the “logic of identity,” as Iris Young calls it¹⁹ — that has characterized Western political thought.

Those of us educated in the dominant tradition of Western political and legal thought have assumed that we cannot think theoretically or act politically unless we can presuppose some basic identity among people. Consider, for example, the way the conventional conceptions of a structure of rights that defines and regulates the claims and obligations among people presupposes that we can think of people in some basic way as interchangeable units. In making arguments about rights we routinely make statements like, “If *A* does this to *B* then *B* has these claims against *A*. Even if we, of course, define some of the context, we must be able to leave large parts of it out so that “*A*” and “*B*” have meaning as references to all (interchangeable) people. For such sentences to make sense, we must be able to presume a high level of generality, of identity among people, so that we can immediately see that when Sue hits Harry this is an instance of the rule: “When *A* hits *B*.” But if the meaning of the encounter between Sue and Harry is discernible only by attending to the full particularity of the context, including the nuances of the relationship between Sue and Harry, then it is hard to see how there can be any rule using “*A*” and “*B*” that would be useful.²⁰

18. See, e.g., Mullett, *Shifting Perspective: A New Approach to Ethics*, in *FEMINIST PERSPECTIVES: PHILOSOPHICAL ESSAYS ON METHOD AND MORALS* 109 (L. Code, S. Mullett & C. Overall eds. 1988); Young, *Impartiality and the Civic Public*, in *FEMINISM AS CRITIQUE* 57 (S. Benhabib & D. Cornell eds. 1987).

19. Young, *supra* note 18, at 57.

20. Many readers will recognize here the parallel with Carol Gilligan’s description of the differences between eleven-year-old Jake and Amy’s response to the question of whether Heinz should steal the drug, which he cannot afford and without which his wife will die. Jake immediately sees that the interviewer intends this as a problem solvable by general categories: life is worth more than property, so Heinz should steal the drug. Amy will not see it that way, insisting on exploring the relation among the actors to see if an accommodation can be found. Gilligan perceives the significance of the abstractions Jake uses: “Transposing a hierarchy of power into a

The full implications of the infinite regress of specificity should begin to be apparent. In the face of fracturing categories of identity, legal and political theorists must ask what provides the common ground for their characterization of people as bearers of rights. Do these characterizations in fact presuppose some *essence* (such as rational agency) as the foundation for shared rights? We begin to see (again and in new ways)²¹ how our concepts of rights require a commonality that is in fact an identity that makes interchangeability possible.

If we accept the “inessentialness” of women (and men) for the purposes of Spelman’s argument, we are confronted with a series of problems that extend far beyond her particular project: Is no generalization of either our knowledge claims or our entitlement claims possible? Am I limited to statements about my own personal experiences and those of other, specifically identified women I know of? Will even a qualifier of “white middle-class professional” be inadequate to support generalizations? Can I only ever think well about the obligations and entitlements of particular people whose circumstance I know in richly textured detail? If so, then this is the end not only of theory as we know it, but of all familiar structures of rights or rules of law.

Of course, the first move might be to dismiss the infinite regress of specificity as a silly extension of the basic insight. But I do not think it silly either in theory or in practice.²² In theory, feminist demands that we make particularity, context, and diversity central, that we learn to be wary of generalization, that we pay attention to a multiplicity of voices and perspectives without assuming that they will fit into any preconceived category, indeed that we expect and welcome a disruption of categories linked to privilege — all of these demands will lead us toward specificity. At the same time, feminist theory suggests paths *through* specificity to visions of wholeness, new ways of describing patterns of connection that are true to our actual, diverse experiences.

For example, the theoretical stance I have been discussing is itself an important point of commonality, a reflection, I think, of some shared vision of the world — and thus *not* a common sense of having nothing in common. I find it very heartening that I see a deep congruence in the attention to diversity and particularity in the writings of feminists whose backgrounds, starting points, and fields are very different from one another.²³

hierarchy of values, he defuses a potentially explosive conflict between people by casting it as an impersonal conflict of claims.” C. GILLIGAN, *supra* note 7, at 32.

21. Of course arguments about the atomist, rights-bearing creatures of liberal legalism have been around for a long time.

22. Remember my argument earlier that it will not help much to try to limit the regress by attending only to those dimensions implicated in power and oppression.

23. One can see these striking convergences across even such completely different projects as Evelyn Fox Keller’s exploration of how we build scientific theories, E. KELLER, REFLECTIONS

In practice, I see a similar impact of diversity. I see groups of feminists fracturing along the ever-finer lines of intersecting oppressions (though still primarily race, sexual orientation, language, and class). I also see an effort at genuine solidarity, a solidarity based not on a posited sameness, but on an appreciation of the full particularity of difference. The fracturing is a real problem, but the solidarity remains a real possibility. To insist that the knowledge of each other necessary for genuine solidarity must be based on attention to difference rather than posited sameness is neither to deny commonality nor to foreclose connection. It is to direct attention to what could make knowledge of commonality possible and connection real rather than illusory, equal rather than hierarchical. Because posited sameness has always had an implicit norm that finds some wanting, the insistence on difference is a source not only of fracturing, but of the possibility of a solidarity whose precondition is not compliance with hierarchical norms.

Before proceeding with my argument about the disruptive implications of (infinite) multiplicity, I want to address one obvious objection that is likely to keep occurring to the reader. It is an objection nicely captured by a *Sesame Street* segment.²⁴ The segment shows children of diverse racial and ethnic backgrounds running and playing together, and then focuses in on their different faces. The background song sings (something like): “Whoever you are, whatever you look like, underneath we are all the same. We laugh when we are happy” — the camera now shows different children doing each of these things — “we cry when we are sad, we shiver when we are cold, we sweat when we are hot.” This was the egalitarian message of the 1960s and 1970s. We are really all the same; differences don’t matter. Focus on sameness, for a focus on difference has been the hallmark of prejudice. It is our sameness that matters for what we really care about: mutual respect and our equal status as citizens. And this, my imagined objector would argue, is also what really matters for law and politics.

What is wrong with this objection is not that there *is* nothing we

ON GENDER AND SCIENCE (1985), Carol Gilligan’s arguments about the forms of reasoning she calls the ethic of care, C. GILLIGAN, *supra* note 7, and Starhawk’s invocation of witchcraft as a source for understanding the interconnections of the world, STARHAWK, TRUTH OR DARE: ENCOUNTERS WITH POWER, AUTHORITY, AND MYSTERY (1987). See also C. KELLER, FROM A BROKEN WEB: SEPARATION, SEXISM, AND SELF (1986); A. LORDE, SISTER OUTSIDER (1984); Harris & Ordoña, *Developing Unity*, in MAKING FACE, MAKING SOUL, *supra* note 2; Molina, *Recognizing, Accepting and Celebrating our Differences*, in MAKING FACE, MAKING SOUL, *supra* note 2, at 326. The convergent focus on diversity and particularity thus transcends arguments about whether or not there is some important commonality among us, both in the sense that it appears when that is not the subject at hand and in the sense that even those who believe in commonality treat attention to diversity as an essential means of apprehending that commonality.

24. *Sesame Street* (Children’s Television Workshop, PBS). I do not mean to suggest that this is *Sesame Street*’s only view on the subject of difference. They also have a very nice segment whose message is essentially the relational nature of difference.

all have in common, but what happens when we make a posited commonality the focus of our efforts at equality. I take Spelman's message to be that until we make difference our focus, we will simply presuppose a commonality without ever trying to learn about the lives, wishes, or ideas of those outside the group capable of making their presuppositions the ruling ones.

The old feminist adage "the personal is the political" is still apt in its insistence on the central importance of personal experience — in all its specificity — as the starting point of theory and practice. But of course it simultaneously insists that it is possible to see the systemic patterns in personal experience, indeed that that is the only way out of the webs of oppression in which we are trapped. Part of the problem that generated Spelman's book was the mistaken forms of generalization engaged in by white middle-class feminists: *my* personal is *the* political. Recognizing the depth and destructiveness of that error must make us take seriously the scale of the problem we confront in trying to reconstitute the meaning of "the political" and the nature of its connections to our diverse personal experiences.²⁵ Right now, the only way to avoid the imposition of the norms of the privileged is to attend to and respect difference. If we care about ending domination, we cannot afford to skip the hard and disruptive work entailed in making difference central. Whatever the long-term prognosis for finding some shared essence of persons — through knowledge of our differences and the political achievement of a shared perspective — we cannot simply posit commonality, however appealing as a sentiment or compelling as a condition for familiar forms of law and theory.

Not just the abstractions of rights but the conventional notions of deliberation rest on unity, on some basic identity that can be the foundation of shared values with respect to both process and outcomes. In Iris Young's formulation,

Impartial civilized reason characterizes the virtue of the republican man who rises above passion and desire. . . . Because virtues of impartiality and universality define the public realm, it precisely ought not to attend to our particularity. Modern normative reason and its political expression in the idea of the civic public, then, has unity and coherence by its expulsion and confinement of everything that would threaten to invade the polity with differentiation: the specificity of women's bodies and desire, the difference of race and culture, the variability of heterogeneity of

25. Spelman quotes K. STAMPP, *THE PECULIAR INSTITUTION: SLAVERY IN THE ANTE-BELLUM SOUTH* vii (1956): "I have assumed that the slaves were merely ordinary human beings, that innately Negroes *are*, after all, only white men with black skins, nothing more, nothing less." Spelman adds:

[W]hite children like me . . . were told by well-meaning white adults that Black people were just like us — never, however, that we were just like Blacks. . . . Herein lies a cautionary tale for feminists who insist that underneath or beyond the differences among women there must be some shared identity — as if commonality were a metaphysical given, as if a shared viewpoint were not a difficult political achievement. [pp. 12-13]

the needs, the goals and desires of each individual, the ambiguity and changeability of feeling.²⁶

Once multiplicity becomes central, it is no longer clear how people can talk to each other and come to collective agreement — since our models of agreement (across interests that conflict but are constrained as to what counts, what can be heard) are premised on the underlying unity of reason Young describes. When we recognize and make space for the affective dimension of communication, we not only jar the theoretical basis for the unity necessary for deliberation; practically, we let loose the anger of those excluded, further compounding the problem of communication and collective deliberation. Both our image of deliberation for the common good and the relatively smooth practice of actual deliberation (however limited as against the ideal) rest on the domination of some by others. Whether in law faculties, legislatures, or leading journals, we have established a workable unitary voice by excluding those who would speak differently, or stipulating as a requirement of their participation that they translate their voices into the dominant language. I think there is some despair in (privileged) theoretical and practical realms about what to do, how to reconstitute the conversation, when the dominance crumbles. And even those interested in dismantling the dominance share an anxiety about how to talk to each other during the process.

The problems are still more acute for adjudication. Notions of compromise or aggregation of interest as a substitute for a substantive (unitary) public good have had important (although flawed) currency in models of deliberation. But these models can be of very limited help in adjudication, where the norms of impartiality and universality (and the unity implicit in them) are at their strongest.

Our understanding of impartiality must change if the presupposition of unity is lost in taking diversity seriously. If, as I argued earlier, there are no interchangeable *As* and *Bs*, if each event is completely unique in its necessary specificity, then treating like cases alike will be of little help in achieving impartiality. And if affect is admitted as a component of reason, then we must rethink the disinterestedness that permits impartiality.

In fact, the common law might offer some assistance in this rethinking, in the form of its interesting twists on the theoretical notions of unity. For example, the common law model of the judge and two parties assumes that truth will emerge (or at least there will be fuller access to truth) from listening to different perceptions, to “both sides of the story.”²⁷ But in its current form, there are limits to the help this acknowledgment of perspective provides. First is the question of just

26. Young, *supra* note 18, at 67.

27. For many years now there has been commentary on the limits of a system that presumes there are *only* two sides to the story, two parties contesting, no matter how many ancillary briefs.

what the scope for difference is. To what extent must both parties cast their stories into the same framework, so that the opportunity for truly different perspectives is extremely constrained? In addition, the model is still premised on the possibility of a neutral arbiter who applies neutral rules, equally applicable to all who come before him.²⁸ And these two limitations are connected, for the competing stories must both take place in the same framework, and thus be at some basic level commensurate, comparable, in order for the judge to imagine that there is a neutral means of adjudicating between them.

An interesting complexity also arises with respect to the jury of one's peers: in the common law tradition, they should *not* be ignorant of circumstances; they should be local, have local knowledge, not mere universal knowledge. It is part of the meaning of "peers" that they are not behind a veil of ignorance. But they should be disinterested, have no stake in the outcome. This model of the jury comes close to capturing what I take to be a widely shared notion that we can recognize at least degrees of interest and disinterestedness, and that the blindness required of justice does not extend to ignorance of context or to the exclusion of the capacity to empathize. One way of posing the problem of multiplicity is asking how to recast this common-sense notion.

One might try to salvage impartiality by saying that judge, jury, and rules could at least be neutral with respect to the particular dispute and the particular parties (thus disallowing family members). But legal scholarship of the past decades has given us good reason to doubt that there are any rules (and thus any disputes) that do not carry with them the very sorts of value judgments that create heated contests *if* the values are out in the open *and* all those who had an interest in them can be heard. There must be doubts about both the rules themselves (generated almost exclusively by white, male, middle- and upper-class judges) and about the capacity of such judges to "adjudicate" fairly.

What can adjudication mean if there is not only no unity across the participants and the community at large, but if the different perspectives are in deep conflict with one another? One can only apply rules neutrally between parties if the rules are neutral between them and reflect some kind of consensus in the community. What if there is no such consensus? Or, what do we do when, at the very least, we cannot know whether there is consensus until all forums of decisionmaking are transformed by those whose voices have been silenced within them.

The embrace of multiplicity thus confronts us with pressing problems over both the long and short terms. In the long term, we may wonder whether or not any new unity may emerge, not the false

28. The male pronoun seems appropriate for this vision of the neutral arbiter.

unity achieved by dominance and exclusion, but a new one that incorporates rather than suppresses diversity, embodiedness, and affect. There is an important strain of reintegration in feminist theory. In these arguments the end of hierarchical oppression will make human wholeness possible by ending the arbitrary division of human capacities according to gender, race, class, and so on. And in that wholeness may be a new foundation for unity.

There are also feminist perspectives on the issue of objectivity that help us rethink the search for truth and the possibility of theory-building when difference and multiple perspectives are at the foreground of our attention.²⁹ For me, the most fascinating and helpful was Evelyn Fox Keller's discussion of the work of geneticist Barbara Maclintock.³⁰ Keller makes a persuasive case that it was Maclintock's stance of intimate connection, rather than "objective" distance, to her subject (corn plants) and her focus on difference rather than sameness that made possible her breakthroughs in genetics.

The theoretical work of feminists is helpful not only in thinking about the long-term possibility of unity, but also in confronting the rather overwhelming short-term problem of rethinking basic concepts such as deliberation, adjudication, impartiality, and disinterest. In the short term (which is the foreseeable future), we must find ways of reimagining the faculties and functions these concepts stand for *without* the presupposition of identity or unity. As long as anything like the current systems of oppression are in place, the presupposition of unity will entail dominance, for unity can only be achieved by the suppression of difference. The full implications of Spelman's arguments are thus that we need to learn to theorize, to deliberate, to make collective decisions, to resolve disputes, in new, probably time-consuming and awkward ways. We need to treat diversity as central, not incidental; we need not merely to stop suppressing the conflicts and disruptions of multiplicity, but to give up the power and privilege that has made that suppression possible.

Of course, in this book Spelman does not try to provide new conceptions of impartiality, adjudication, or deliberation. Nor have I tried to do so here. I have tried to show that if we accept Spelman's arguments, we can retain the prevailing conceptions only if we are willing to tolerate the exclusion, hierarchy, and domination implicit in their underlying assumptions of unity. Once we accept Spelman's conclusion, it will no longer do simply to say: "But I can't imagine a conception of impartiality without such unity." We must move on to the hard theoretical work of reexamining impartiality, and most of the

29. See particularly Sandra Harding's discussions of the conflicting feminist approaches to perspective and objectivity in Harding, *Introduction: Is There a Feminist Method?*, in *FEMINISM AND METHODOLOGY: SOCIAL SCIENCE ISSUES* 1 (S. Harding ed. 1987).

30. E. KELLER, *supra* note 23, at 158-76.

other concepts basic to legal and political theory, to see how they can be made consistent with a conception of equality rooted in difference. And we need to open up the deliberative practices we participate in so that they no longer support the privilege Spelman so effectively reveals. Her arguments do not tell us what the new institutional or theoretical forms will look like. But they move us to see that they are required.