

A Feminist Reassessment of Civil Society[†]

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Feminists in the past have been rightly critical of both the concept of civil society and the actual institutions in our culture that might be taken to fill this role. I will begin by describing some of these criticisms. I hope, however, to suggest that at least one conception of civil society offers benefits as well as risks from a feminist perspective. Some of the communities that make up civil society are helpful, indeed necessary, to feminist theory and practice in their struggle to reconstruct a form of autonomy that is consistent with underlying feminist commitments.

I. THE FEMINIST CRITIQUE OF CIVIL SOCIETY

As the earlier papers at this conference have confirmed, the concept of civil society is a complex and ambiguous one. This paper will focus on the uses of the term in political theory. In that area, I will argue, the concept of civil society has primarily functioned in relation to the public/private distinction, although it has related to that distinction in several different ways. Despite their differences, however, all of these versions of civil society are subject to feminist critique.

A. Three Conceptions of Civil Society

Political theorists have used the category of civil society in at least three different ways. Each of the conceptions of civil society is designed to resolve some problem or concern central to the political theory at issue. All of these problems or concerns, in turn, relate to the difficulty of describing and constructing a social arrangement that is neither fragmenting and alienating, on the one hand, nor oppressive, on the other.

For social contract theorists, the central concern is how self-interested individuals can come together and live together in order and peace. Civil society has often been used by social contract theorists as a term for this desirable form of social organization, as distinct from the human condition in some hypothetical state of nature. In this version, civil society is fundamentally public and stands in contrast to the essentially private institution of the family, the primary form of social organization that exists in the state of nature.¹ The hallmark of civil society is that persons in it regard each other as generalized and equal

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1. See JOHN LOCKE, *THE SECOND TREATISE OF GOVERNMENT* 44, 50 (Thomas P. Peardon ed., Liberal Arts Press 1952) (1690); JEAN-JACQUES ROUSSEAU, *THE SOCIAL CONTRACT* (1762), reprinted in *THE ESSENTIAL ROUSSEAU* 9 (Lowell Bair trans., 1974).

individuals: "as bearers of rights (liberties), as owners of property and as citizens,"² rather than as the very particular and fundamentally unequal members of families.³ Indeed, it is this agreement so to view one another that creates civil society and ends the terrible vulnerabilities of the state of nature.⁴

Other political theorists, however, have used civil society to capture the other side of the public/private dichotomy by contrasting it with the state. On this conception of civil society, "public" means "government," and everything other than the state qualifies as private. This position is sometimes associated with that branch of conservative political theory whose major concern is the threat of totalitarianism.⁵ The realm of civil society deals with this central concern by providing a sphere free from state coercion⁶ in which private individuals pursue their own interests⁷ through communities that act as a bulwark against state tyranny.

While both of these first two uses of civil society treat civil society as representing one side of the public/private distinction, the third conception of civil society uses this term to attempt to mediate the distinction.⁸ In these versions, civil society is the sphere in which public and private come together.⁹

2. CAROLE PATEMAN, *THE DISORDER OF WOMEN: DEMOCRACY, FEMINISM AND POLITICAL THEORY* 20 (1989).

3. See JEAN BETHKE ELSHTAIN, *POWER TRIPS AND OTHER JOURNEYS: ESSAYS IN FEMINISM AS CIVIC DISCOURSE* 48 (1990) (describing "the conviction that all relationships that are not totally voluntary, rationalistic, and contractual are irrational and suspect, that the traditional family is the example *par excellence* of imbedded particularity") (emphasis in original).

4. See David C. Williams, *The Constitutional Right to "Conservative" Revolution*, 32 HARV. C.R.-C.L. L. REV. (forthcoming spring 1997) (manuscript at 17-21, on file with *Indiana Law Journal*).

5. See PETER L. BERGER & RICHARD J. NEUHAUS, *TO EMPOWER PEOPLE: THE ROLE OF MEDIATING STRUCTURES IN PUBLIC POLICY* (1977).

6. See Ruth Gavison, *Feminism and the Public/Private Distinction*, 45 STAN. L. REV. 1, 4-5 (1992). *But cf. id.* at 6 (The private is the free, but meaning can shift depending on the nature of the coercion avoided—that is, it could be political or social.).

7. See PATEMAN, *supra* note 2, at 122.

8. Although the term "mediating structures" is sometimes used by theorists in the previous category, see, e.g., BERGER & NEUHAUS, *supra* note 5, at 2, the mediation accomplished there is between the individual and the state rather than between the public and private realms. Only if no collection of individuals is conceived as private, even a family, so that the private realm is exhausted by individuals alone, could such a role qualify as mediating the public/private distinction. I think the better understanding is that, in the second usage described above, civil society mediates the relationship between the individual and the state, but is entirely subsumed within the private realm.

9. This coming together may occur within a framework in which the poles of private and public continue to have independent meaning. In such a framework, neither the family nor the state would be encompassed within civil society since they represent the poles being mediated. It is also possible, however, for this mediation function to be transformed into something more like transcendence, in which the public/private distinction itself loses much of its significance in light of the nature of these institutions. In this case, both the family and the state might qualify as communities that serve this function. This second possibility is, I think, the situation in most modern communitarian theories, see ALASDAIR C. MACINTYRE, *AFTER VIRTUE* 254-55 (1984); MICHAEL J. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* 62-63 (1982), and it is the path that I will pursue in the remainder of the discussion.

The exact mechanism through which this reconciliation takes place is somewhat obscure, but at the heart of the argument lies the hope that participation in certain types of communities may lead people to develop an understanding of and a sense of connection to their fellow citizens.

But where does this understanding and sense of connection come from? One could simply posit that a capacity for understanding and connection exists in all people, ready to be exercised in the process of interacting with others in these institutions and settings.¹⁰ Or one could attempt to describe the process through which communities like these nurture such capacities in their members.

The modern communitarian movement in political theory has addressed this challenge by arguing that certain communities so deeply shape their members that they are constitutive of their identities. These communities represent “not just what [members] *have* as fellow citizens but also what they *are*, not a relationship they choose (as in a voluntary association) but an attachment they discover, not merely an attribute but a constituent of their identity.”¹¹

This sense of shared identity has both an epistemological and a personhood aspect, and both aspects are necessary to resolve the moral and political dilemmas central to this type of theory. The shared identity helps to create the knowledge and understanding that are necessary to overcome the epistemological difficulties generated by differences in perspective. Thus, I can know you,¹² and we can both know the same reality, despite our different perspectives, because this knowledge flows from the identity that we share. Moreover, for at least some theorists, this communal identity provides a firmer foundation for moral knowledge along with other types of knowledge.¹³ As a result, both the moral and the political difficulties caused by epistemological discontinuities are, at least in theory, resolvable.

The shared identity also offers a conception of personhood that provides a basis for overcoming the moral and political difficulties of a narrow pursuit of self-interest. I care about you—indeed, I count you as a part of my expanded sense of self—because of our shared identity, so I will address you not as a competitor for scarce resources, but as a part of the self whose interest we jointly pursue. At the political level, this makes a conception of the common good both conceptually plausible and psychologically pursuable.¹⁴

Civil society, then, could be seen as the collection of communities that serves this identity-generating function. Such communities bridge the gap between public and private by enlarging both the understanding and the fellow feeling of their members through a shared, constitutive identity. They are simultaneously the realm of freedom (from state coercion) and of equality (of concern, if not of

10. See ADAM B. SELIGMAN, *THE IDEA OF CIVIL SOCIETY* 25-36 (1992).

11. SANDEL, *supra* note 9, at 150 (emphasis in original).

12. Indeed, Sandel, for example, argues that those who stand in such a close communal relation to us can sometimes know us better than we know ourselves. *See id.* at 181.

13. MACINTYRE, *supra* note 9, at 195.

14. *See* Gavison, *supra* note 6, at 17-18, 25 (describing and assessing this argument); Cass R. Sunstein, *Beyond the Republican Revival*, 97 *YALE L.J.* 1539, 1554-55 (1988).

rights).¹⁵ These communities are private in that they are neither specifically governmental nor universal; they are public in that they are founded not on individual self-interest or simple natural affection, but on a shared identity that is collectively constituted. Indeed, they are a kind of existential refutation of the relevance or importance of the public/private distinction itself.

B. The Feminist Critique

From a feminist perspective all three of these conceptions of civil society suffer from serious flaws.¹⁶ As Carole Pateman has forcefully argued, the first version of civil society—as the public realm in contrast to the family—rests on and institutionalizes a sexual division of labor in which women are relegated to the private sphere. The family is set off from the rest of society as a sphere in which the liberal ideals of equality and liberty are presumed not to apply. Women are then associated with the family and excluded from other spheres.¹⁷ The result is that the inequalities and lack of liberty that women experience are seen as natural, inevitable, and not unjust.¹⁸

Another difficulty with this version of the public/private distinction and the conception of civil society based on it is that, by immunizing the family from scrutiny under liberal standards, the very foundations of the liberal society outside the family are undermined. As Susan Moller Okin has pointed out, the possibility of justice in the public sphere is fundamentally dependent on learning and living justice in the family. If the family—the private sphere of women—is defined as beyond political concern, the ability to instill a sense of justice in future citizens is seriously compromised.¹⁹

The second version of civil society—as the private realm in contrast to the state—is also unacceptable from a feminist point of view. Indeed, this conception of civil society, and the version of the public/private distinction on which it rests, has been the major target of the feminist critique summarized in the slogan, “The personal is political.” This critique has two parts.

The first part of the feminist critique argues that the private realm valorized by this version of the public/private distinction is not the domain of free and consenting individuals envisioned in the ideal. Rather, women’s experiences in the private realm have often been fundamentally oppressive and exploitative.

15. See Virginia Held, *Non-contractual Society: A Feminist View*, in SCIENCE, MORALITY & FEMINIST THEORY 111, 127-28 (Marsha Hanen & Kai Nielsen eds., 1987), reprinted in FEMINISM AND COMMUNITY 209, 222 (Penny A. Weiss & Marilyn Friedman eds., 1995).

16. I will adopt a very broad definition of feminism for the purposes of this paper. A position is feminist if it holds that there currently exists a condition of inequality or oppression for women and that such inequality or oppression should be eliminated. See, e.g., DEBORAH L. RHODE, JUSTICE AND GENDER: SEX DISCRIMINATION AND THE LAW 5 (1989) (defining feminism as “any theory or activity on behalf of women’s equality”).

17. See PATEMAN, *supra* note 2, at 118-20.

18. Gavison, *supra* note 6, at 22.

19. See SUSAN MOLLER OKIN, JUSTICE, GENDER, AND THE FAMILY 14-23 (1989); see also Gavison, *supra* note 6, at 14-15 (describing and discussing this objection). For a very different argument about why the realm of the family is essential to a just polity, indeed to democracy itself, see ELSHTAIN, *supra* note 3, at 47-56.

This is perhaps clearest on issues of sexual domination and reproductive control within the family. Marital rape, spousal abuse, and lack of meaningful access to birth control make it impossible to see the family as the product of and locus for free individual choice.²⁰

Other "private" institutions have also institutionalized gender hierarchy in ways that undercut the equation of private and free. Gender segregation, glass ceilings, and sexual harassment are endemic in employment;²¹ the persistent sexism in many voluntary associations, from the Rotary Club to religious groups, continues to oppress and restrict women.²² The dichotomy between state coercion and individual freedom on which this version of the public/private distinction rests simply does not accurately represent the nature of many of these "private" institutions from the perspectives of women.

The second part of the public/private critique argues that, in any event, the appearance that these ostensibly private institutions are free of state control is simply an illusion.²³ The state is intimately involved in the life of a family, as well as in the shape and experience of employment relations and voluntary associations. To take the quintessentially private family as the example again, the state does of course regulate the family—for example, by determining who can marry, whether and when people may divorce, and what the enforceable rights and obligations of marital partners will be either during or at the end of a marriage. The institution of the family is at least as much a product of state regulation as of individual choice.²⁴

Moreover, this critique maintains, the state cannot avoid shaping the nature and experience of the family. The choice to "deregulate" is as deeply constitutive of the institution as the choice to regulate. For example, whether or not a state punishes rape within marriage under its criminal laws will have an enormous impact on the nature of the marital relation and many people's experiences of it. Neither by choosing to punish nor by choosing not to can the state avoid this impact. The point in this argument, then, is not to advocate less state intervention, but to demonstrate that there is no choice but to intervene, and that the only question is through what mechanisms and for what ends the state exercises its influence.²⁵

20. See CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 190-91 (1989).

21. See SHERRY HENRY, *THE DEEP DIVIDE: WHY AMERICAN WOMEN RESIST EQUALITY* 2-6 (1994); ALIDA V. MERLO & JOYCELYN M. POLLOCK, *WOMEN, LAW, AND SOCIAL CONTROL* 85-89 (1995) (describing the situation of women in the legal profession); KERRY SEAGRAVE, *THE SEXUAL HARASSMENT OF WOMEN IN THE WORKPLACE, 1600 TO 1993*, at 198-215 (1994); FREDELLE ZAIMAN SPIEGEL, *WOMEN'S WAGES, WOMEN'S WORTH* 11-17 (1994).

22. See, e.g., *Board of Directors of Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537 (1987).

23. See Gavison, *supra* note 6, at 15-16 (describing and assessing this argument).

24. See generally Frances E. Olsen, *The Myth of State Intervention in the Family*, 18 U. MICH. J.L. REF. 835 (1985).

25. For a fascinating discussion of this shaping function of legal rules in another family law context, see Milton C. Regan, Jr., *Spousal Privilege and the Meanings of Marriage*, 81 VA. L. REV. 2045 (1995).

The conclusion of this critique is that this version of the public/private distinction is inherently unstable and deeply false in light of women's experiences. Given these difficulties, it is reasonable to ask why it has been—and continues to be—used in this way. Designating the nongovernmental area of the social world as private is advantageous to those who wish to maintain the existing distribution of power, including the gender hierarchy. The label, and the valorization of personal freedom that accompanies it, help to immunize institutions like the family from public scrutiny under public norms and from regulation.²⁶ In other words, the meaning and use of the public/private distinction carry important implications for the possibility of social change toward gender equality. The continuing categorization of civil society as “private” in contrast to the government is thus not merely conceptually flawed but also politically pernicious.

Finally, the conception of civil society as those constitutive communities that mediate between (or perhaps transcend) the public and private realms of social life has also been subject to feminist criticism. The notion of such constitutive communities is very attractive to some feminists because it seems to capture the more connected sense of self that many women experience and that liberal political theory has generally ignored or rejected.²⁷ In addition, to the extent that this mediating function may also be characterized as problematizing the public/private distinction itself, by blurring the boundaries and significance of each realm, it is congenial to feminist theory which has been largely critical of that distinction.²⁸ Nonetheless, the particular use of these mediating communities in communitarian theory raises some serious concerns for feminists.

First, the endorsement of existing communal forms and institutions—including the patriarchal family—is unacceptable to feminists who have been struggling to

26. See Gavison, *supra* note 6, at 19-21 (describing and assessing this claim). As Frances Olsen has pointed out, there are clear doctrinal implications of the categorization as private that lead to this result. First, as private action, rather than state action, the coercion used to maintain gender hierarchies within “private” institutions will not itself be subject to attack under constitutional norms (like equal protection) because the Constitution applies only to state action. Second, the designation as private may well lead to seeing the coercive action as itself a matter of right protected by the Constitution against state regulation. And finally, the “private” label may simply discourage the government from interfering for policy, rather than constitutional, reasons. Frances Olsen, *Constitutional Law: Feminist Critiques of the Public/Private Distinction*, 10 CONST. COMMENTARY 319, 320-21 (1993).

27. See Mari J. Matsuda, *Liberal Jurisprudence and Abstracted Visions of Human Nature: A Feminist Critique of Rawls' Theory of Justice*, 16 N.M. L. REV. 613, 627 (1986); Milton C. Regan, Jr., *Community and Justice in Constitutional Theory*, 1985 WIS. L. REV. 1073, 1085-87; Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 14-18 (1988). But see Marilyn Friedman, *Feminism and Modern Friendship: Dislocating the Community*, 99 ETHICS 275, 279-80 (1989), reprinted in FEMINISM AND COMMUNITY, *supra* note 15, at 187, 191-92 (arguing that the communitarian's metaphysical view of the self as socially constructed does not provide a basis for seeing a nurturant and relational identity as morally superior to a highly individualist one—both are socially constructed).

28. As Gavison points out, one need not completely reject the value of some notion of privacy in order to find both that the present uses of this distinction are unacceptable and that the distinction itself is so complex and multivalent that its usefulness is a contested issue in each context. See Gavison, *supra* note 6, at 2, 43-45.

reveal the oppressive nature of such institutions. The most common forms of communities to which communitarians turn for examples include families, religious groups, and neighborhoods.²⁹ All of these groups have historically oppressed women and maintained gender hierarchies.³⁰ In addition to internal repression, many of these groups have also been agents of oppression toward “outsiders”; for example, families rejecting nonheterosexual members or neighborhoods excluding people based on race or ethnicity.

A feminist theory concerned about such oppression and exclusion cannot uncritically embrace such communities as a model for constitutive bonds. In order to be acceptable from a feminist point of view, a communitarian theory would need to provide some specific guidance about “what it is in communities—what practices, structures, and values—have made them or allowed them to be exclusionary, devouring, and violent, and what has made or allowed them to be sustaining, empowering, and respectful of individuality.”³¹ Without such critical guidelines, the simple evocation of such historically repressive communal forms represents a denial or derogation of women’s experiences and concerns.

This bias toward historically dominant forms of community has another consequence often troubling to feminists: it leads communitarian theorists to largely ignore the self-consciously adopted “communities of choice” that have been so important to some women in resisting the sexism of the larger society. Feminist networks and lesbian communities, for example, have often provided women with the strength, support, and sense of self-worth that allowed them to live lives less constrained by sexism.³² These communities have frequently offered a robust sense of shared identity to their members.³³ They are, nonetheless, generally ignored or even rejected by communitarian theorists as mere interest groups or voluntary associations because they fail to meet the historically dominant model of being found rather than chosen and being face-to-

29. See, e.g., MACINTYRE, *supra* note 9, at 204-05; SANDEL, *supra* note 9, at 179.

30. See Nicola Lacey, *Community, Identity, and Power: Some Thoughts on Women and Law in Central and Eastern Europe*, 5 UCLA WOMEN’S L.J. 15, 27 (1994); Jane Mansbridge, *Feminism and Democratic Community*, in NOMOS XXXV: DEMOCRATIC COMMUNITY 339, 362, 366 (John W. Chapman & Ian Shapiro eds., 1993); Hilde Lindemann Nelson, *Resistance and Insubordination*, HYPATIA, Spring 1995, at 23, 23 (1995).

31. Penny A. Weiss, *Feminist Reflections on Community*, in FEMINISM AND COMMUNITY, *supra* note 15, at 3, 4-5.

32. For examples of such communities of women, see LILLIAN FADERMAN, *ODD GIRLS AND TWILIGHT LOVERS: A HISTORY OF LESBIAN LIFE IN TWENTIETH-CENTURY AMERICA* 120-25 (1991) (female bonds and lesbian communities built around women’s military service during World War II); PATRICIA A. PALMIERI, *IN ADAMLESS EDEN: THE COMMUNITY OF WOMEN FACULTY AT WELLESLEY* 133-42 (1995) (a history of romantic friendships, lesbian relations, and intellectual nurturing among the faculty at Wellesley College around the turn of the century); JANICE G. RAYMOND, *A PASSION FOR FRIENDS: TOWARD A PHILOSOPHY OF FEMALE AFFECTION* 73-141 (1986) (describing companionship among Christian nuns living in convents during the Middle Ages and communities of “marriage-resisting” Chinese women living in major coastal cities in the century preceding the Communist revolution).

33. See Friedman, *supra* note 27, at 196-99.

face.³⁴ A refusal to recognize such communities is yet another example of ignoring women's experiences in the construction of political theory.

Finally, feminists have raised some very serious objections to the conceptual heart of the communitarian view. Marilyn Friedman and Iris Marion Young, for example, have argued that both the epistemological and the personhood aspects of this sort of shared identity are dangerous and should not be embraced by feminists. Thus, it is not merely the historical accident of the coincidence of community and patriarchy that has led to oppression: the potential for oppression is built into the shared identity that communitarians are celebrating.

The objection to the expanded sense of personhood offered by communitarian theory is that the community should not be defined by shared identity. Many feminists have no problem with the notion of an "intersubjective self,"³⁵ per se, but are deeply suspicious when the boundaries of that self are defined by some shared cultural identity. In practical terms, this kind of identification requires some meaningful degree of homogeneity.³⁶ That homogeneity is often purchased at the cost of oppression or exclusion of those who would differ. Moreover, one of the political implications of this desire for identification is that it becomes difficult to respect people with whom you do not identify. This phenomenon is especially troubling in a world already marked by divisions of race, ethnicity, and gender.³⁷ Finally, this model of community may privilege the accounts and interpretations of those with influence and authority: because of the demand for homogeneity, multiple interpretations become more difficult to tolerate. Such privileging contributes, in turn, to hierarchy and authoritarianism more generally.³⁸ In other words, while community—and the expanded sense of self that it entails—may be fine, it should not be based on shared cultural identity.³⁹

In addition, feminists have criticized the knowledge and understanding that is supposed to be generated by this shared identity. The idea is that our shared

34. I will discuss later in the paper the independent arguments for these characteristics (being found or face-to-face) as requirements for communities. See *infra* part II.C. Since I conclude that neither can be defended on those grounds, I am here treating them as symptoms of the focus on historically dominant communities often adopted by these writers.

35. See SANDEL, *supra* note 9, at 62-63 (discussing Rawls's theory of the person).

36. See Iris Marion Young, *The Ideal of Community and the Politics of Difference*, in FEMINISM/POSTMODERNISM 300, 311 (Linda J. Nicholson ed., 1990), reprinted in FEMINISM AND COMMUNITY, *supra* note 15, at 233, 244.

37. *Id.*; see also Kathryn Abrams, *Kitsch and Community*, 84 MICH. L. REV. 941, 948 (1986).

38. See Nelson, *supra* note 30, at 28.

39. At least, it should not be based on that alone, or primarily on that. It is less clear that shared culture can play no role at all in the construction of feminist community.

One might raise the question, what other foundation is available for community, besides shared cultural identity? Let me suggest two possible alternatives. First, constitutive ties can be based on a shared commitment to certain goals or ideals. This version of community still has a substantive component, but it has the potential to allow for greater heterogeneity and less hierarchy. Cf. Abrams, *supra* note 37, at 950 (discussing the advantages of such goal oriented communities). Second, a community can be based on a shared life rather than on any substantive similarity. Families are usually based, at least in part, on this sort of constitutive connection, and neighborhoods or workplace communities may also be.

identity allows us to understand each other the same way we understand ourselves. But “[s]uch an ideal of shared subjectivity, or the transparency of subjects to one another, denies difference in the sense of the basic asymmetry of subjects.”⁴⁰ If we are to recognize the irreducibility of difference, then we must acknowledge that “[o]ther persons never see the world from my perspective, and I am always faced with an experience of myself I do not have in witnessing the others’ objective grasp of my body, actions, and words.”⁴¹ The challenge is to construct and maintain a cohesive and yet unoppressive social mechanism for living with such difference, not to theorize it away.⁴²

Thus, feminists have assailed this third conception of civil society on a variety of grounds. The specific examples it embraces (and fails to embrace) do not adequately respond to women’s experiences of the social institutions involved. Moreover, the conception of community as based on shared identity is inherently dangerous. It threatens to weaken rather than strengthen our ability to recognize and respect differences. That ability is, in turn, central to modern feminism’s goals of empowering all women and crucial to any perspective committed to the concerns of marginalized groups.

II. A PROPOSAL FOR A FEMINIST CONCEPTION OF CIVIL SOCIETY

In light of these powerful objections to all three prevailing conceptions of civil society, it would not be surprising if feminist theory found little use for the category. I would like to suggest, however, that there is work to be done in feminist theory and that something like civil society may be useful to that work. First, I will describe what I believe to be one of the central problems facing contemporary feminist theory, in and outside of law. This problem is the difficulty defining and explaining the possibility of a feminist conception of autonomy. Second, I will offer a brief sketch of such a definition. And third, I will try to show how a certain version of civil society can be useful in the creation, exercise, and maintenance of this conception of autonomy.⁴³ My conclusion is that in the case of civil society, as with so much of traditional political theory, feminists would do well to recapture the concept for their own uses rather than abandoning it because of the uses it has been put to in the past.

40. Young, *supra* note 36, at 242.

41. *Id.*

42. For an attempt to do exactly that, see *id.* at 242-43. As Young points out, this denial of difference is simply the flip side of the denial of difference inherent in liberal political theory, the opponent to which communitarians are responding. Liberalism denies difference by abstracting the self to a degree where everyone appears to be the same autonomous and atomistic rights holder. Communitarianism “denies difference by positing fusion rather than separation as the social ideal.” *Id.* at 239-40.

43. My sketch of a feminist reconceptualization of autonomy is intended only to provide enough of a framework to show how a revised version of civil society can be useful in promoting this kind of autonomy. My description will therefore leave many aspects of this model of autonomy unexplored and is not intended as a full justification of this approach.

A. *The Feminist Problem with Autonomy*

Having largely rejected its liberal antecedents, much of contemporary feminist theory finds itself struggling to regain the liberatory character of its project.⁴⁴ The feminist problem with autonomy is that, in its usual forms, autonomy depends upon a conception of the self and its relations to others that many strains of feminism have rejected, but the feminist project—both in theory and in practice—cannot do without some notion of autonomy.

The traditional notion of autonomy focuses on a distinction between action originating within the person, which is autonomous, and action in response to external compulsion.⁴⁵ This conception of autonomy rests on an assumption that there is some capacity of will that is central to free agency and that “in no way depends on the existence or character of either our relations with other persons or our social situation.”⁴⁶ Autonomy is a characteristic belonging to individual human beings, conceived as separate from and independent of the social context in which they exist.⁴⁷

This traditional notion of autonomy breaks down, however, if the desires of the person—the most common internal origin for action—are themselves not autonomous, that is, they do not originate in the person, or are in some meaningful sense not her own. Many feminists have wanted to claim that women’s desires are often not autonomous in this sense because they are the result of sexist social conditioning.⁴⁸ Such a criticism could—and sometimes did—leave the ideal of autonomy in place and simply argue that women were being denied this basic form of freedom.⁴⁹ But recent feminist theory has gone further and questioned the possibility or meaningfulness of this model of autonomy, for men as well as women.

The foundation for this challenge is the acceptance of social constructionism within feminism. In a sense, social constructionism “has always been central to feminism” in that feminists have argued that gender inequality is socially

44. Obviously, the argument that follows does not apply to liberal feminism, which continues to accept the foundation on which the traditional conception of autonomy was built. Even liberal feminists, however, must work to secure this foundation against the implications of their own analysis of gender. If gender is a social construct that so deeply shapes individuals as to limit their life choices in destructive ways, then we need some explanation for how we can dissent from and ultimately change those social forces. The explanation that I will offer will not, of course, be congenial to feminists who retain the liberal conception of the self, but they too must struggle with this difficulty.

45. See Jean Grimshaw, *Autonomy and Identity in Feminist Thinking*, in *FEMINIST PERSPECTIVES IN PHILOSOPHY* 90, 91 (Morwenna Griffiths & Margaret Whitford eds., 1988).

46. Paul Benson, *Feminist Second Thoughts About Free Agency*, *HYPATIA*, Fall 1990, at 49.

47. See DIANA T. MEYERS, *SELF, SOCIETY, AND PERSONAL CHOICE* 40 (1989) (The three main theories of autonomy reduce it to a “special case of free will” in an attempt to explain how people can elude the impact of socialization.).

48. See Grimshaw, *supra* note 45, at 91-93.

49. See, e.g., MARILYN FRYE, *THE POLITICS OF REALITY: ESSAYS IN FEMINIST THEORY* 61-70 (1983).

constructed rather than biologically determined (and thus is subject to cultural and political change).⁵⁰ In recent decades, the turn toward social constructionism has been accelerated by the emphasis, in various feminist theories, on: the ways in which the social practice of mothering differently shapes men's and women's senses of self;⁵¹ difference as inhering in relations between people rather than in the "different" person;⁵² and the intersubjective nature of women's sense of self and morality.⁵³

This move toward a socially constructed conception of the self undermines the internal/external distinction on which the traditional notion of autonomy rests.⁵⁴ If sources of action that appear to be (and are experienced as) internal were in fact externally generated, it is difficult to see why we should regard them as privileged or especially valuable or a form of freedom at all. Moreover, the separate and independent individual enshrined in that conception of autonomy is simply impossible if the most fundamental structures of identity are formed in relation to other persons and social institutions. In other words, in a world characterized by social construction, autonomy—understood in this way—becomes both incoherent and irrelevant.

This is a problem because feminists cannot afford to give up autonomy completely. Feminists must retain some possibility for people to be more than mere reflections of their social conditioning for theoretical, practical, and personal reasons. Whether this capacity is understood as autonomy, or agency, or resistance, without it feminism itself becomes incoherent, futile, and useless.

First, just as a matter of theory, feminism needs to see some potential for individuals to move beyond their social conditioning. Without such a potential, feminism would be impossible in a sexist society. To begin with, there is the epistemological difficulty of how people shaped by the assumptions of sexism could ever come to see or believe that women are or should be equal, are and should not be oppressed.⁵⁵ But, here, I would like to focus on the difficulties from the perspective of political theory rather than epistemology. The issue then becomes one of action or agency rather than knowledge: if people are constituted by their social conditioning, so that even their fundamental sense of self is determined by their culture, and if sexism is a deep, even foundational, aspect of

50. See Lacey, *supra* note 30, at 24.

51. See generally NANCY CHODOROW, *THE REPRODUCTION OF MOTHERING* (1978).

52. See generally MARTHA MINOW, *MAKING ALL THE DIFFERENCE* (1990); ELIZABETH V. SPELMAN, *INESSENTIAL WOMAN* (1988).

53. See generally CAROL GILLIGAN, *IN A DIFFERENT VOICE* (1982). For a discussion of the implications of this work for the issue of autonomy or free agency in particular, see Benson, *supra* note 46, at 50.

54. As Jennifer Nedelsky has argued, "the liberal vision of human beings as self-made and self-making men" is in conflict with feminism's recognition that our social context "is literally constitutive of us." Jennifer Nedelsky, *Reconceiving Autonomy: Sources, Thoughts and Possibilities*, *YALE J.L. & FEMINISM*, Spring 1989, at 8.

55. For a full discussion of the epistemological aspects of this problem, see Susan H. Williams, *Feminist Legal Epistemology*, 8 *BERKELEY WOMEN'S L.J.* 63 (1993).

that culture, how can women ever hope to change their condition?⁵⁶ Feminism needs to preserve some notion of agency and resistance in the face of social conditioning in order to retain even the theoretical possibility of social change.⁵⁷

In order to make that possibility a practical reality, moreover, feminism must be effective as a political movement. That effectiveness depends, in part, on forging a movement that includes all types of women.⁵⁸ The thoroughgoing social constructivist view, however, is not acceptable to all women. Feminists of color have been pointing out with increasing frequency that the view of women as simply the victims of society, shaped rather than shaping, has the effect of systematically excluding them.⁵⁹ As bell hooks has written:

[W]omen's liberationists [made] shared victimization the basis for woman bonding. This meant that women had to conceive of themselves as "victims" in order to feel that feminist movement was relevant to their lives. Bonding as victims created a situation in which assertive, self-affirming women were often seen as having no place in feminist movement. It was this logic that led white women activists (along with black men) to suggest that black women were so "strong" they did not need to be active in feminist movement.⁶⁰

There are, moreover, very good reasons why this image of passive victimization is particularly unacceptable to certain groups of women. Women from systematically denigrated groups must turn to a more active process of self-definition in order to achieve a meaningful sense of self-worth.⁶¹ Moreover, women who are subjected to the most severe practical oppression may actually be less likely to adopt a victim stance than those who experience less onerous circumstances.

Ironically, the women who were most eager to be seen as "victims" . . . were more privileged and powerful than the vast majority of women in our society. . . . Women who are exploited and oppressed daily cannot afford to relinquish the belief that they exercise some measure of control, however relative, over their lives. They cannot afford to see themselves solely as "victims" because

56. See Kathryn Abrams, *Sex Wars Redux: Agency and Coercion in Feminist Legal Theory*, 95 COLUM. L. REV. 304, 348 (1995) (describing "political agency" as occurring when a woman "uses her internal self-conception to fuel individual resistance or collective social change").

57. The need for such a transformative potential is one of the things that distinguishes feminist from communitarian thought. Communitarians may become either complacent or resigned, but feminists cannot afford to adopt either of these positions. See Penny A. Weiss, *Feminism and Communitarianism: Comparing Critiques of Liberalism*, in FEMINISM AND COMMUNITY, *supra* note 15, at 161, 169. For a fuller discussion of this point, see Susan H. Williams & David C. Williams, *A Feminist Theory of Malebashing*, MICH. J. GENDER & LAW (forthcoming spring 1997) (manuscript at 3, 21, 42, on file with *Indiana Law Journal*).

58. The political effectiveness of feminism also depends on including men. See Williams & Williams, *supra* note 57, at 47.

59. See Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 590-601 (1990) (discussing the work of Catharine MacKinnon).

60. bell hooks, *Sisterhood: Political Solidarity Between Women*, in FEMINISM AND COMMUNITY, *supra* note 15, at 293, 295.

61. PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 95 (1991).

their survival depends on continued exercise of whatever personal powers they possess.⁶²

If feminism as a political movement is to include these women as well, then it must develop a model of personhood that includes some capacity to redefine ourselves and make self-conscious change in the oppressive conditions that have shaped us.

Finally, many women—even from among the more privileged groups in our society—find the language and self-image of victimization problematic as a personal matter. We do not recognize ourselves in these images and we find that this language does not help us to address the problems of sexism and gender identity with which we are struggling in our own lives. As Martha Minow has pointed out, one of the central difficulties with “victim talk” is that it reduces our attention to the particular, complex person by focusing us on a single slice of her identity and experience. “Any richer sense of the person undermines the claim of victimhood because victimhood depends on a reductive view of identity.”⁶³ And yet, we do have, and wish to have, a richer and more complex sense of our own identities (as well as the identities of others).⁶⁴ Although these sorts of complaints against the socially constructed identity of victimhood can take the form of the anti-feminist diatribes of the popular press, they also come from women deeply committed to feminism as both a theory and a movement.⁶⁵ As Adrienne Rich so eloquently put it: “Pride is often born in the place where we refuse to be victims, where we experience our own humanity under pressure, where we understand that we are not the hateful projections of others but intrinsically ourselves.”⁶⁶

Thus, for theoretical, political, and personal reasons, feminist theory cannot completely abandon the notion of some sort of autonomy or agency as a basis for resistance to oppressive social conditions. It is clear that we cannot simply turn to the old notion of autonomy to fill this need. I would like to suggest, however, that there are hopeful directions available for the development of a new conception of autonomy, one that might fulfill these feminist needs without raising the difficulties of the old version.

62. hooks, *supra* note 60, at 295.

63. Martha Minow, *Surviving Victim Talk*, 40 UCLA L. REV. 1411, 1433 (1993). In addition to the attitudes the victim stance forecloses toward ourselves, it also restricts our attitudes and emotional responses toward other people. See also Susan Wendell, *Oppression and Victimization: Choice and Responsibility*, HYPATIA, Fall 1990, at 38.

64. See Minow, *supra* note 63, at 1433-34. Indeed, it may be that we must see ourselves and others as choosing agents rather than merely as the products of larger social forces; we simply don't have the information sufficient to predict our own or others' behavior on a strictly causal model. See Wendell, *supra* note 63, at 38.

65. For an illuminating discussion of both sorts of criticisms, see Abrams, *supra* note 56, at 304.

66. Adrienne Rich, *If Not with Others, How?*, in FEMINISM AND COMMUNITY, *supra* note 15, at 399, 400.

B. A Feminist Model of Autonomy

The word “autonomy” refers to self-law. As Jennifer Nedelsky points out, this captures nicely the important connection between law and freedom: arbitrary action is not free; real freedom consists in finding and following your own law.⁶⁷ The hallmark of autonomous action, then, is that the actor experiences it as undertaken because it is consistent with (or even demanded by) her identity and life story.⁶⁸ If we conceive of autonomy as this narrative connection between action and identity, it helps to explain the commonsense idea that autonomy involves integrity, or being faithful to oneself.⁶⁹ This Part will briefly examine some of the elements of such a narrative model of agency or autonomy. It will then describe how this model avoids the pitfalls of the more traditional notion of agency and how it serves the needs of feminist theory and practice.

1. The Narrative Model of Autonomy

To fully explicate a workable narrative model of agency is a task too large for this project, but I will offer a very preliminary sketch of some of the important elements of such a model. The first step is to describe, in as much detail as possible, what an actor is doing when she engages in such an exercise of narrative agency. From this description, one could then generate a list of the capacities or characteristics an actor would need to have in order to be capable of autonomous action so defined. And, finally, one could consider the sorts of conditions that might be necessary to allow an actor to maintain or exercise that ability. These three parts together would provide a complete picture of the narrative model of agency. I will say a few words about each.

First, the activity of narrative construction—of interpretation and reinterpretation—begins, of course, from the materials at hand. That is, a person works with her own experiences and the stories, values, and concepts that are available to her in whatever culture(s) she inhabits. These materials are always, and from the beginning, both given and created. They are given in that they are

67. See Nedelsky, *supra* note 54, at 11.

68. As Diana Meyers has pointed out, the phenomena that are central to autonomy are the experiences of personal integration and life-plan innovation. See MEYERS, *supra* note 47, at 41. If we approach autonomy in this way, rather than as an issue of free will, then we are not required to completely resolve the issue of determinism in order to explicate a workable theory of autonomy. Meyers, however, insists on a very high level of integration, arguing that inconsistent goals undermine autonomy. See *id.* at 62. I think this is too strong a requirement because it appears to make autonomy incompatible with the experience of real moral tragedy. See MARTHA C. NUSSBAUM, *THE FRAGILITY OF GOODNESS* 41-47 (1986) (presenting an analysis of Greek ethical thought and proper responses to conflict). I think that a narrative model, which focuses on narrative coherence and can accommodate this experience of tragedy, is preferable to her more static model of personality and life plan, with its requirement of logical consistency.

69. See Trudy Govier, *Self-Trust, Autonomy, and Self-Esteem*, *HYPATIA*, Winter 1993, at 103; Kenneth Minogue, *Ideal Communities and the Problem of Moral Identity*, in *NOMOS XXXV: DEMOCRATIC COMMUNITY*, *supra* note 30, at 41, 50.

shaped by forces beyond any individual's control; they are created in that each new repetition of such cultural and personal artifacts is always a reinterpretation rather than merely a replication.⁷⁰ All stories contain within them the possibilities for their own transformation and subversion simply by virtue of being stories.⁷¹

The narrative process is one in which a person "orders a sequence of events [or, I would add, people or things or concepts] for the purpose of revealing or creating meaning."⁷² In order for that process to qualify as an exercise in autonomy, the meaning at issue must be personal: a sense of one's own meaning or the meaning of one's life.⁷³ Thus a person would "review[] [her] personal history, weighing the particulars of [her] past in terms of more general moral values, and discerning a course of action which expresses a commitment to these particulars."⁷⁴ The process thus involves a shifting of perspective back and forth from general to particular, or perhaps a better way of putting it is that the general is always understood in terms of and through the particulars of the life at issue.⁷⁵ In addition, this narrative process does not privilege rationality over other faculties: emotional responses, including empathy, are equally important tools for shaping the story.⁷⁶

70. This model of autonomy is, in other words, an example of what Kathryn Abrams has called "partial agency." See Abrams, *supra* note 56, at 346.

71. See DRUCILLA CORNELL, *BEYOND ACCOMMODATION: ETHICAL FEMINISM, DECONSTRUCTION, AND THE LAW* 83, 131 (1991); Nelson, *supra* note 30, at 34.

72. Nelson, *supra* note 30, at 27.

73. I do not intend to imply that such a meaning must concern nothing but oneself. The meaning of one's life could be fundamentally connected to other persons, or to God or a religious tradition, for example. But it must be personal in that it concerns one's own role in these larger entities.

74. Nelson, *supra* note 30, at 27.

75. Such a contextualized, particular account is consistent with some of the most widespread commitments of feminism. See Margaret Jane Radin, *The Pragmatist and the Feminist*, 63 S. CAL. L. REV. 1699, 1707 (1990).

76. Cf. generally Lynne N. Henderson, *Legality and Empathy*, 85 MICH. L. REV. 1574 (1987) (discussing the role of empathy in legal analysis).

While this approach does not privilege rationality, it might be suggested that the focus on narrative does privilege self-conscious reflection over instinctive integrity to one's sense of self. I take this to be the central point in Kathryn Abrams's second example of agency in her comment on this paper. See *infra* part II.B.2. I think that this example raises a very important point and in response I would like to offer both a clarification of my model of narrative autonomy and also a reaffirmation of its central tenet.

First, the clarification: the model must allow for "implicit" autonomous action. We cannot be making conscious decisions about every detail of our lives; much of our autonomous action must take the form of spontaneous activity that is simply consistent with our sense of self. See MEYERS, *supra* note 47, at 48-49. Indeed I believe that we need a concept of retrospective autonomy, in which such spontaneous activity is later subjected to the process of critical reflection and found to meet the standards of autonomy. See *id.* at 54-55. Abrams's example is extremely helpful in pointing out the importance of this category of implicitly autonomous action.

Now, the reaffirmation: I do not believe it is possible to call someone autonomous who experiences *only* this implicit type of autonomy and never engages in the self-conscious reflection that is central to the narrative model. A life lived in unconscious harmony with some never-examined sense of self might be admirable in many ways, but it would not be

In this narrative model, autonomy is neither a pre-existing condition to be assumed for all persons,⁷⁷ nor is it an end-state that can be taken for granted once achieved. Instead, it is a process, a process that must be continually ongoing in order for a person to be autonomous.⁷⁸ Moreover, that process is only possible if the person has developed certain capacities and if her circumstances allow her both the opportunity to exercise those capacities and the resources necessary to act on them.

What capacities are necessary to this narrative evaluation of one's life? I suspect that there are a great many, but I would like to suggest three possible candidates for inclusion on the list. First, a capacity for self-knowledge appears to be required by the very definition of the process. One must be able to know oneself in order to decide what the identity and life story is that will guide one's actions. Such self-knowledge, however, is never just "a matter of easy or immediate introspection" because we can disavow things that we find within us and we must always interpret what we see.⁷⁹ The construction of an adequate model of self-knowledge would require a separate theory of epistemology to explain what such knowledge consists of and what are the activities or characteristics that would help one to acquire it.⁸⁰

A second collection of capacities that is necessary for this narrative process of autonomy—and that is also a precondition for self-knowledge—includes a basic sense of self-trust and self-esteem.⁸¹ Without self-esteem, understood as a belief in one's own value,⁸² no one would even attempt to project an identity and life story. Self-esteem is also a necessary condition for self-trust. Self-trust can be

autonomous. The process of critical reflection is essential to the possibility of conscious change and the possibility of conscious change, in turn, is part of what makes autonomy so valuable from both a social and individual perspective. *See id.* at 43 (Self-definition is a necessary component of autonomy; self-discovery and self-direction are not sufficient.).

77. *See* Jennifer Nedelsky, *Law, Boundaries and the Bounded Self*, 30 REPRESENTATIONS 162, 168 (1990).

78. In his comments on this paper, Professor Regan discusses the example of "pro-life" women as a possible instance of autonomy. His rich and detailed account of the process through which some women come to this position does, I agree with him, fit the model of autonomy that I am proposing. *See* Milton Regan, *Getting Our Stories Straight: Narrative Autonomy and Feminist Commitments*, 72 IND. L.J. 449, 455-57 (1997). I would add only one qualification: having reached that position—like any other—such women continue to be autonomous only to the extent that they remain open to the ongoing process of introspection and reinterpretation. *See* MEYERS, *supra* note 47, at 52.

79. Jean Grimshaw, *Autonomy and Identity in Feminist Thinking*, in FEMINIST PERSPECTIVES IN PHILOSOPHY 90, 103 (Morwenna Griffiths & Margaret Whitford eds., 1988).

80. This connection is one of the many bridges tying together epistemology and political and moral theory. For a discussion of a variety of feminist approaches to such epistemological questions, see generally Williams, *supra* note 55, at 63.

81. For a general discussion of the relationship between self-respect, self-esteem, trust, and autonomy, see MEYERS, *supra* note 47, at 210-46.

82. A belief which can, of course, be non-comparative: everyone else can be valuable, too. *See* Christopher J. Berry, *Shared Understanding and the Democratic Way of Life*, in NOMOS XXXV: DEMOCRATIC COMMUNITY, *supra* note 30, at 67, 70.

understood as a willingness to rely on oneself (even if it causes vulnerability).⁸³ Defined in this way, self-trust requires not only that one value oneself, but also that one believe in one's own competence or efficacy.⁸⁴ Without such a belief, a person might be unwilling or unable to undertake action to fulfill her sense of identity.⁸⁵ This constellation of capacities allows a person to do the personal exploration necessary to acquire self-knowledge and to use her actions to tell her own story: "The autonomous person, relying on himself or herself, can question cultural norms and social roles and reflect on them in the light of pertinent beliefs and values, using whatever information, examples, and arguments are available from within one's experience and culture."⁸⁶

In order to use that information, those examples and arguments, however, one requires yet another capacity: the ability to understand and appreciate the evaluative standards of others. "At the heart of free agency is the power of our actions to reveal who we are, both to ourselves and to others, in the context of potential normative assessments of what we do."⁸⁷ An actor's ability to comprehend how others will evaluate her actions "affects the potential disclosive power of her acts and, therefore, affects her freedom."⁸⁸ Thus, Paul Benson suggests that free agency (or autonomy) rests in part on "*normative* competence: an array of abilities to be aware of applicable normative standards, to appreciate those standards, and to bring them . . . to bear in one's evaluation of open courses of action."⁸⁹

For each capacity that is necessary to this narrative model of autonomy, there will in turn be social conditions that either contribute to or hinder the development or exercise of that capacity. For example, normative competence depends not only on the existence of certain psychological equipment (e.g., a child may not yet possess the reasoning capacity to qualify as normatively

83. See Trudy Govier, *Self-Trust, Autonomy, and Self-Esteem*, HYPATIA, Winter 1993, at 99, 105-06 (1993).

84. See *id.* at 105-06. Self-trust is, in turn, a necessary condition of self-respect: you cannot respect someone you do not trust, including yourself. See *id.* at 110. Self-respect may also be one of the capacities required for the narrative model of autonomy.

85. This may be what Jennifer Nedelsky means when she suggests that autonomy depends, in part, on feeling autonomous. See Nedelsky, *supra* note 54, at 25.

86. Govier, *supra* note 83, at 115 (quoting WILL KYMLICKA, *LIBERALISM COMMUNITY AND CULTURE* (1989)).

87. Benson, *supra* note 46, at 55.

88. See *id.* at 54. Benson gives the example of a small child who cannot be held completely responsible for his actions because he cannot understand the standards of conduct or reality being applied to him. See *id.* at 53-54. For a similar position, see Anthony Appiah, *Tolerable Falsehoods: Agency and the Interests of Theory*, in *CONSEQUENCES OF THEORY* 63, 79-80 (Jonathan Arac & Barbara Johnson eds., 1991) ("Our theories of agency are connected in the directest possible way with . . . our concern to live intelligible lives in community with other agents. . . . This practical interest requires us to be able to articulate our own behavior in relation to theirs . . .").

89. See Benson, *supra* note 46, at 54 (emphasis in original). In order for this element of autonomy to avoid collapsing into simple conventionalism, it is important to emphasize that there are multiple evaluative systems available, not just the socially dominant ones, and that normative competence does not require that the agent accept any particular evaluative system as valid, only that she understand it and be able to bring it to bear. *Id.* at 58-59.

competent), but also on not being too socially marginalized.⁹⁰ Someone who is systematically excluded from the social environments in which a certain evaluative system operates, cannot be considered normatively competent within that system: her actions cannot be read within that system as an expression of her identity. If we are committed to treating all adult persons as autonomous, that would suggest that we must insure access to at least those social environments in which the dominant evaluative systems in our society are taught and shaped.⁹¹ It might also suggest that we have an obligation to try to understand the alternative evaluative systems in which a person's actions might in fact be autonomous.⁹²

Similarly, the development of self-esteem and self-trust is closely tied to certain personal and social relationships. Children learn that they are competent and worthwhile when their caretakers respond to their needs and signals.⁹³ Indeed, it is precisely the fact that the caretaker is not simply an extension of the infant, that the infant needs something from the caretaker, and that the caretaker responds to those needs that allows the infant to experience agency or autonomy. In other words, the infant's dependence is not an obstacle to the experience of autonomy, but rather a precondition for it: it is recognition by another person with whom you need to interact that provides the experience of agency.⁹⁴

We might extrapolate from this argument to the supposition that it is the continuing recognition and responsiveness of other people that sustains these beliefs in self-worth and competence (and the capacities for self-esteem and self-trust that are built on them) in adults as well. If we do not continue to have the recognition of others, then we lose our own sense of worth; if we do not continue to elicit the responsiveness of others to our needs and signals, then we lose our sense of competence and efficacy in the world. The creation and maintenance of such relationships would then be a social condition necessary to facilitate autonomy.

Obviously, this is only a preliminary and extremely incomplete sketch of the outlines of a narrative conception of autonomy. It does, however, suggest the directions for further development of the model and provide some substance for the narrative process itself, the capacities necessary to engage in it, and the social conditions that support or create those capacities. It is also, I hope, sufficiently

90. *See id.* at 54.

91. Such access claims might apply to schools (including universities), political fora, and the mass media, among others. Depending on how we interpret the demand for access, this argument could serve as either a minimum social foundation for autonomy or an image of a society that is ideal in its facilitation of autonomy.

92. *See* Benson, *supra* note 46, at 60-61.

93. *See* Maureen A. Mahoney & Barbara Yngvesson, *The Construction of Subjectivity and the Paradox of Resistance: Reintegrating Feminist Anthropology and Psychology*, 18 SIGNS 44, 53-55 (1992).

94. *See id.* at 60. This description suggests that both the separateness and the connection of parent and child are central to this process. The parent's separateness (that is, that she is neither a part of oneself nor completely controlled by oneself) is necessary because otherwise the child has not yet extended her sense of agency beyond herself and into the world. The parent's connectedness is also necessary because it is only if the child wants or needs something from the parent that she will attempt to exercise that agency.

specific to allow an assessment of how this model avoids the pitfalls of the older conception of autonomy and how it answers the needs of feminism.

2. The Narrative Model of Autonomy and Social Constructionism

The older model of autonomy ran aground on the feminist commitment to social constructionism because of two features of the model. First, the need to distinguish external from internal sources of action became problematic when one adopted the view that people—including their desires, interests, and even fundamental conceptions of self—are formed by their social contexts. Second, the conception of the self as fundamentally separate from and independent of others that underlay this notion of autonomy became untenable from a social constructionist point of view. The narrative model of autonomy avoids both of these difficulties.

Let me begin with the second point first. The narrative model of autonomy incorporates a conception of the self as fundamentally defined by its relations to others. Indeed, autonomy itself is dependent on those relations. As I have described above, the capacities necessary to exercise narrative autonomy are the product of certain sorts of social relations (like the parent/child relationship) and require a particular social context in order to be maintained.⁹⁵

In addition, the capacities necessary to autonomy can be conceived only within such relations: they are not, even in theory, describable as the characteristics of isolated individuals. For example, the concept of self-esteem, while it need not be comparative, is necessarily social: the issue of self-esteem simply would not arise for a person who had no relations to other people.⁹⁶ In other words, unlike the older model, one cannot be an autonomous person in isolation; one can only be autonomous in relationships with other persons.

Finally, the content of the identity that one uses to construct this narrative is itself composed of socially generated concepts and relations. As discussed above, some degree of normative competence in a given social discourse is a prerequisite to the exercise of autonomy.⁹⁷ In other words, when we tell our own stories, we use the images and concepts provided by our social context. Thus, I am a “good mother” or a “free spirit” or a “Babbitt.” Even when we define ourselves in opposition to a given social category, we are defining ourselves in

95. See *supra* notes 79-94 and accompanying text.

96. This again distinguishes the narrative model from the traditional conception of autonomy. In that older model, the capacities necessary for the exercise of autonomy—will, for example—were understood to be conceptually independent of any relationship with other persons. They were conceived as capacities of an isolated individual actor. See Benson, *supra* note 46, at 49 (“[W]hat specific capacities we must have in order to be able to act freely, has always been thought to be conceptually independent of the interpersonal relationships in and through which we act.”).

97. See *supra* notes 88-91 and accompanying text.

relation to it.⁹⁸ The particular story I tell about myself is “comprehensible only with reference to shared social norms, values, and concepts.”⁹⁹ Thus, the conception of the self on which this narrative model rests is socially constructed and contextual in its causality, in its conceptual structure, and in the content of the personal identity it allows.

The problems concerning the internal/external distinction also do not plague this narrative model of autonomy because that distinction plays no role here. Since all of a person’s character is formed by interaction with the social context in which she finds herself, there is no such thing as a purely internal cause for action. Conversely, the fact that one’s motives and identity are shaped by social forces does not make them any less legitimately one’s own. The central issue for the narrative model is not where the motives for action come from in some causal sense,¹⁰⁰ but whether the actor has gone through the narrative process of examination and retelling necessary to make them her own before she acts on them.¹⁰¹

Although it avoids the pitfalls of the older model, I do not mean to suggest that the narrative model completely resolves the difficulties of conceiving of autonomy in a social constructionist theory. If people were so completely determined by their social context that their “retelling” of their stories consisted of nothing more than a parroting back of the cultural elements they were given, it would be difficult to see why this version of “autonomy” would be worth protecting at all. Obviously, the model I am proposing is intended to include some space for individual creativity in the retelling that justifies the respect for autonomy.¹⁰² As Richard Fallon puts it:

98. See Meir Dan-Cohen, *Between Selves and Collectivities: Toward a Jurisprudence of Identity*, 61 U. CHI. L. REV. 1213, 1243 (1994) (“[T]ranscending or defying roles is a stance taken in a systematic and patterned relationship to those roles, and is to that extent governed by them.”).

99. Nedelsky, *supra* note 54, at 11.

100. Cf. Anthony Appiah, *Tolerable Falsehoods: Agency and the Interests of Theory*, in CONSEQUENCES OF THEORY 63, 74 (Jonathan Arac & Barbara Johnson eds., 1991) (arguing that we should not see theories based on structure and those based on agency as competing for the same causal space—i.e. actions are caused *either* by social forces or by individual autonomy—but instead as competing for narrative space—i.e. for our attention).

101. See MEYERS, *supra* note 47, at 52 (What makes a decision autonomous is the procedures you follow to reach it, not whether socialization caused it.). This focus on the narrative process helps to deal with some of the classic philosophical problems with the old model of autonomy, like psychological compulsion and weakness of will (*akrasia*). Actions that proceed from compulsion or inadequately regulated desires are “internal” in terms of the old model, but certainly do not seem to be autonomous in the normal application of the word. They fail the narrative model because they are not the product of this process of self-knowledge and critical reflection leading to an identity embraced by the actor.

102. Indeed, I would suggest that one could use this process as a definition of choice itself: to choose is to assess one’s options for action in terms of one’s identity, as understood through critical reflection, and to claim the reasons for action as one’s own. See *infra* notes 123-27 and accompanying text. Such a definition would help to explain how choice can avoid both poles of the causal continuum: being completely arbitrary, on the one hand, or being completely determined, on the other. See Kenneth Minogue, *Ideal Communities and the Problem of Moral Identity*, in NOMOS XXXV: DEMOCRATIC COMMUNITY, *supra* note 30, at 41, 47 (arguing that

[T]he self, though situated and socially constituted, remains capable of appreciating her situated condition, of assessing and criticizing her assumptions and values, and of revising her goals and commitments. . . . [T]he self is a creature in and of the world, but one capable of at least partially transforming herself through thought, criticism, and self-interpretation.¹⁰³

One might argue that this approach merely moves the problem of autonomy and social constructionism to a new location. Instead of worrying about how the actions of a culturally constructed self can ever be free, we now need to worry about how one can ever explain creativity in the process of reinterpreting a socially constituted story.¹⁰⁴ I believe, however, that the narrative model, properly understood, does not simply relocate the problem, but also changes its nature in ways that make it less intractable.

I want to begin by acknowledging that there does indeed remain substantial work to be done to explain and describe the nature of interpretive creativity. This work is, however, preferable to the effort to reconcile the older conception of autonomy with social constructionism because it is more conceptually coherent and more tied to actual human experience. In other words, the problem has been redefined in a way that allows progress to be made, even if it can never be completely resolved.

The effort to define interpretive creativity is more conceptually coherent because it does not ask us to somehow reconcile two fundamentally incommensurate views of the world. As I have suggested above, the very definition of autonomy in the old model dooms to failure the effort to find a space for that concept in a social constructionist view.¹⁰⁵ The narrative model of autonomy—even including some element of creativity—can, on the other hand, be completely consistent with social constructionism:

[T]he difference between creativity and determinism may simply be a difference in the degree of complexity in the causal sequence. It is not that anything is uncaused, but that the influences on a given human being are so many, varied, and interacting that at some point it becomes meaningless to ascribe causality to any useful subset of those influences. At that point, we call what happens creativity.¹⁰⁶

The effort to define creativity then becomes an effort to explain the conditions that allow for and encourage this complexity and variety of influences. It is in no sense conceptually inconsistent with social constructionism.

the problem is the "Rawlsian tendency . . . to see nothing between necessity and chance").

103. Richard H. Fallon, Jr., *Two Senses of Autonomy*, 46 STAN. L. REV. 875, 887-88 (1994).

104. Whether or not such an argument is successful depends, I believe, on how one interprets the necessary creativity. For an occasion on which I made such an argument, see Susan H. Williams, *Review Essay: Utopianism, Epistemology, and Feminist Theory*, 5 YALE J.L. & FEMINISM 289, 308-09 (1993).

105. See *supra* notes 54-55 and accompanying text. This problem of conceptual incoherence does not arise if the proponent of the old model simply refuses to embrace social constructionism. Thus, it would be more accurate to say that the old model leaves us with a choice between incoherence and rejecting social constructionism. The rejection of social constructionism is, however, not a path available from most feminist perspectives today.

106. Williams, *supra* note 104, at 312.

Nor, on the other hand, is it an abandonment of the significance of autonomy. The importance of autonomy need not rest on some moment of totally uncaused creation. Instead, autonomy can be important because this complex determinism has value both for individuals and for societies. It is sometimes said that we cannot help but view ourselves as autonomous agents.¹⁰⁷ Whether or not the agency stance is inevitable, it is plainly valuable to the agent. Indeed, the experience of oneself as telling one's own story that arises when the influences on one are complex, interacting, and internalized may be the only experience of freedom that human beings know. Moreover, these conditions of complexity may be the best protection for the social virtues of tolerance, inclusion, and adaptability.¹⁰⁸ Thus, this more modest version of autonomy does not forfeit the claims for protection and respect.¹⁰⁹

In addition, the process of addressing this relocated problem would be more tied to human experience than the process of addressing the tension between the old model of autonomy and social constructionism. The old problem centered around the meanings of concepts (e.g., internal versus external, causality), whereas the new problem is fundamentally about how people actually react under concrete circumstances. When do we experience this sense of creativity? What mental or emotional processes do we go through on those occasions? For example, psychologists have studied the processes through which infants create transitional objects—objects that are external to the child, given by the child's circumstances, but invested with meaning by the child as well. Such objects are simultaneously found and invented.¹¹⁰ It is by studying what we recognize and experience as autonomy and creativity that we will learn more about the nature of this agency. Thus, the narrative model avoids the specific pitfalls of the older conception of autonomy and provides a more generally fruitful path for addressing the questions about the nature of agency in a social constructionist view.

3. The Narrative Model and the Needs of Feminism

This narrative model also meets the theoretical, practical, and personal needs of feminists for a workable concept of autonomy. The theoretical demand was to explain how social change is possible. The narrative model makes change not only possible, but inevitable because every interpretation is a reinterpretation rather than a repetition. The creative element may be small or large, but if we are engaged in the process of narrative autonomy, we are always engaged in a process of transformation of ourselves and our society.

Indeed, one criticism of this model is that it makes change look too easy because it glosses over the hard work that may be necessary to transform a

107. See Fallon, *supra* note 103, at 892, 893.

108. See Williams, *supra* note 104, at 313.

109. Obviously, these arguments need much fuller development. I can only point in the general direction of my answers here, but I hope that is sufficient to lay the foundation for the central point of this Article: the argument about the usefulness of the concept of civil society to feminism.

110. See Mahoney & Yngvesson, *supra* note 93, at 62.

person's retold story into a reality, in her own life or the lives of others. This criticism is one reason why it is essential to include within the understanding of the narrative model a focus on the social conditions that allow people not only to tell their stories but also to make the connection between story and action as meaningful as possible.¹¹¹ We all operate within constraints—perfect freedom of action is impossible in theory as well as in practice—but issues of degree matter here.¹¹² If the narrative theory includes a focus on some minimal conditions necessary to make one's story real, then it can provide a foundation for change that is both hopeful and realistic.

The narrative account of autonomy also serves the practical needs of a broad and diverse feminist movement. The narrative model provides a way of understanding autonomy even under conditions of oppression. The realization of women's inequality need not lead to the simple picture of victimhood that many women found so difficult to embrace, as long as one retains some capacity for agency.

One of the most striking examples of the effect of this shift in models is the way the narrative model illuminates forms of resistance that were largely invisible under the old model.¹¹³ As many writers have pointed out (particularly women from post-colonial societies and women of color), resistance can take varied and sometimes subtle forms.¹¹⁴ For example, some of the less privileged forms of resistance include: refusing to stand out; pretending to accept the dominant values while not actually accepting them; and playing the subordinate position assigned to one with irony.¹¹⁵ When one focuses on the relationship between the action and the actor's own story about her life and identity, such devalued forms of resistance become recognizable exercises of autonomy.

Finally, the narrative model serves the personal need of many feminists to see themselves and others as complex, multi-dimensional people. The narrative model does not require any oversimplification in favor of either social causality or individuality: we are both shaped and shaping, in a variety of ways and degrees that are understandable only in a rich and contextual account. This model does not, of course, offer specific answers to women searching for ways to deal with the sexism in their own lives, but it does suggest a process for them to engage in that respects their own experiences and values. It does not demand that

111. See Carol J. Greenhouse, *Constructive Approaches to Law, Culture, and Identity*, 28 *LAW & SOC. REV.* 1231, 1240 (1994) (“[T]he analytical relevance of ‘identity’ emerges as *social action*—as experience, not as a representational space or, even less, a category or type.”) (emphasis in original).

112. See Fallon, *supra* note 103, at 877 (describing his conception of descriptive autonomy).

113. See Mansbridge, *supra* note 30, at 365 (“Resistance describes any act, no matter how small or private, by a member of a subordinate class that is intended either to mitigate or deny claims made by superordinate classes or to advance its own claims against those classes.”).

114. See, e.g., COLLINS, *supra* note 61, at 111 (describing the “‘inside’ of a changed consciousness as a sphere of freedom”); BESSIE HEAD, *A QUESTION OF POWER* 39 (1973) (describing the African proverb, “Be ordinary”).

115. See Carole Anne Taylor, *Positioning Subjects and Objects: Agency, Narration, Relationality*, *HYPATIA*, Winter 1993, at 55, 60.

they flatten out the details of their own lives in order to understand and deal with their situation.

There are, of course, many other issues that will need to be resolved to make the narrative model of autonomy a working element in feminist theory, but I hope that this brief sketch has been sufficient to show the outlines of such a model. In particular, I have tried to demonstrate that this narrative approach avoids the difficulties caused for the older model of autonomy by social constructionism and that the narrative model serves the needs of feminism. Now it is time to tie this excursion into feminist theory back into the discussion of civil society.

C. The Role of Civil Society in Feminist Theory

My suggestion is that civil society—understood in the third sense discussed in Part I, as constitutive communities—is the locus in which narrative autonomy is created, exercised, and maintained. Feminists concerned about this issue of autonomy should, then, attempt the reconstruction of the concept of civil society in light of the criticisms raised earlier,¹¹⁶ rather than abandoning the concept entirely. Indeed, I believe that thinking about these communities as sites for the development and exercise of autonomy is a useful way to explain why the standard communitarian story about them must be modified in some of the ways that many feminists have suggested.

Narrative autonomy, as I have described it, is inherently relational and social. In that sense, it is founded on “community” as a matter of definition, if “community” simply means relationships with other people. But we need to be able to say more about which sorts of relationships to others support this narrative version of autonomy. In the previous Part, I suggested some fairly specific ways in which social institutions might provide a basis for narrative autonomy. Many of these tasks are presently performed by the traditional constitutive communities at the heart of communitarian theory. For example, families may offer the personal recognition and responsiveness necessary for self-esteem and self-respect. Or a religious community may provide the conceptual framework in which a person acquires the moral competency to act as a self-defining agent.

The category of traditional constitutive communities is, however, not a sufficient specification of those social relations conducive to narrative autonomy. First, much destruction of autonomy also takes place in these communities, as many women’s experiences in the family demonstrate. In other words, the category is too broad. Moreover, communities that have not traditionally been considered constitutive communities may also do this work; for example, women’s support groups have often helped their members to retell their own stories. Thus, the category is also too narrow.

What we need to do is to examine directly the particular characteristics of communities to see which ones are necessary or helpful to this process of creating and sustaining narrative autonomy. I can only suggest a few of these characteristics here. My tentative conclusion is, however, that the resulting

116. See *supra* notes 27-42 and accompanying text.

category of communities will be a version of communitarianism modified in light of the feminist objections raised earlier: the communities must be constitutive, personal, and responsive; they need not be found rather than chosen, nor need they be face to face; and they must be multiple.

The communities that are most likely to generate the preconditions for narrative autonomy are those that are constitutive of their members' identities in important ways, rather than those made up of primarily instrumental relationships. First, constitutive communities are more likely to provide the necessary foundation for the skills involved in telling one's own story. In an instrumental relationship, a person is unlikely to experience the kind of recognition and security that allows for the development of self-esteem and self-trust. The sense that the other person values you for yourself (rather than for your usefulness to her) is essential to the development of self-esteem.¹¹⁷ Similarly, the vulnerability that is part of both the search for self-knowledge and self-trust is difficult, perhaps impossible, outside of a relationship where one feels secure.¹¹⁸ That sense of security, in turn, is unlikely to arise in a relationship based simply on the instrumental value of each party to the other.

Constitutive communities are tied to the narrative model of autonomy in another way as well: they provide the substance out of which the narrative is constructed. At the heart of the concept of narrative autonomy is the connection between action and identity. To the extent that a constitutive community shapes its members' identities, it provides the normative concepts and expectations that they will use in the process of retelling their stories. One way to capture this function is through the concept of normative competence described above: the shared framework created by a constitutive community is essential to the normative competence component of autonomy.¹¹⁹

The communities that support and create narrative autonomy must also be personal. By "personal," I mean that the relationships are multi-dimensional; that is, the parties must relate to each other as whole persons rather than focusing exclusively on some narrow aspect of each other. One necessary implication of this multi-valence is that such relationships will include an emotional element of attachment along with other elements. This meaning of personal is, therefore, related to the colloquial usage that calls emotional relationships personal. In this sense, instrumental relationships are always limited and impersonal, but relationships within a constitutive community may include both personal and impersonal relations.¹²⁰

117. Such an experience of being valued is not inevitable in a constitutive relationship, of course, but it is possible there. If one were to begin to value another person in an instrumental relationship in this way, the relationship would no longer simply be instrumental but would be transformed into one more constitutive (e.g., a friendship rather than a business partnership).

118. Cf. Nedelsky, *supra* note 77, at 174 (Trust, security, and protection are essential to making a safe place in which a child may develop autonomy.).

119. See *supra* note 89 and accompanying text.

120. The emotional element may bring to mind Sandel's category of "sentimental community": community understood as consisting of the benevolent motivations and feelings of antecedently defined selves. SANDEL, *supra* note 9, at 148-49. It is clear, as Sandel points out, that not all sentimental communities are also constitutive. He does not discuss, however,

An impersonal relation could not provide the recognition, valuing, and security necessary to generate and sustain the personal skills involved in retelling one's own story. For exactly the same reasons discussed under the issue of constitutiveness above,¹²¹ the sense of being valued for oneself and the necessary vulnerability of self-examination could not exist outside of a relationship characterized by a multi-dimensional attachment that includes some emotional commitment.

For a relationship to be personal, however, does not necessarily require that it be face-to-face. One can have a personal relationship through letters (or even e-mail) with someone never encountered face-to-face. It is the breadth and depth of the relationship that is relevant, not the geographical proximity of the people involved. Thus, the traditional view of constitutive communities as personal is consistent with the needs of the narrative model, but the assumption that they are face-to-face is not.¹²²

There are two more important modifications of the traditional view of constitutive communities that are also necessary in order to press them into service for narrative autonomy. First, the category of communities that promotes narrative autonomy is not limited to "found" or "given" communities, but includes "communities of choice." Communitarian theorists have often focused on the nature of constitutive communities as discovered rather than chosen.¹²³ This focus is understandable in light of their need to distinguish these communities from the voluntary associations of liberal political theory. Nonetheless, this dichotomy is an oversimplification that misrepresents many women's experiences of community in an important way.

whether or not all constitutive communities are also sentimental. I am inclined to believe that at least some of the relationships within a community must be personal for each individual who counts that community as partially constitutive of her identity. It is difficult to imagine a community made up entirely of impersonal (i.e., limited and non-emotional) relationships that could, nonetheless, be so central to the identities of its members that it could be called constitutive. Perhaps truly imaginary communities—ones in which a person has no contact with any other actual member—provide an example for exploring this possibility. For a fascinating discussion of such a possibility, see BENEDICT ANDERSON, *IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM* 6-7 (1991).

Even assuming that such non-sentimental constitutive communities exist, however, the argument in text is intended to show that they do not function in the ways necessary to support narrative autonomy. Thus, assuming that constitutive communities are not simply a subset of sentimental ones, the personal character that defines sentimental communities would be an independently necessary element of the category of communities I am defining.

121. See *supra* notes 117-18 and accompanying text.

122. Iris Marion Young has argued that this "face-to-face" assumption grows out of a desire to privilege unmediated relationships over mediated ones; a goal that is illusory since, she argues, all relationships are mediated. See Young, *supra* note 36, at 247. Thus, any requirement that communal relations be "direct," whether that means unmediated or face-to-face, is a requirement that arises from the same constellation of (mistaken) assumptions. See, e.g., BRUNO BETTELHEIM, *THE INFORMED HEART: AUTONOMY IN A MASS AGE* 95-97 (1960) (arguing that the relations that foster autonomy are direct and personal, rather than large-scale, anonymous, and abstract).

123. See SANDEL, *supra* note 9, at 150.

Communal obligations, and the senses of identity that give rise to them, "are always a mixture of the given and the voluntary, moving back and forth between these poles over the lifetime of the individual and the community."¹²⁴ For all but the most vulnerable and most coerced,¹²⁵ membership in a community is a relation they have constructed for themselves from the materials that have, admittedly, been given to them. Thus, membership is simultaneously found and chosen in a complex, ambiguous, and often changing mix.

This process of accepting membership in a community may be more or less self-conscious, more or less self-critical. For many people in the traditional communities favored by communitarian theory, the process may in fact be very unreflective, so that the communal relation feels more found than created to them. It is also possible, however, for the process of accepting membership in a community to take the form of telling precisely the kind of reflective story about one's life that narrative autonomy demands.

If found communities are simply those in which this active process of accepting membership takes place after you have already become a member, while chosen communities are ones where it takes place before, then this distinction is largely irrelevant from the perspective of the narrative model of autonomy. If, on the other hand, this narrative process is itself what is meant by "choice," then current communitarian theory's preference for "found" over "chosen" communities would appear to privilege the unreflective, uncritical acceptance of communal membership and norms. A focus on narrative autonomy suggests that the better view is exactly the reverse: we should prefer communities that encourage and support the exercise of this narrative autonomy.

This broadening of the category of communities to include those that are "chosen"—in the sense that they are subjected to this narrative process—does not weaken the central, and valid, point in the communitarian argument.¹²⁶ It may be the case that all constitutive communities are in part found because the identities to which they connect are "already there" when we come to examine

124. Mansbridge, *supra* note 30, at 354.

125. Obviously, very young children, people who are seriously incapacitated by physical or mental illness, and people who live under conditions of extreme coercion (e.g., prisoners) may have relatively little power to construct their relations. For them, membership in certain communities may be overwhelmingly on the terms given by those in power over them. These differences in degree matter and these are precisely the problems that the concept of autonomy is designed to highlight. Nonetheless, it is important to realize that even in these situations it is rarely, if ever, the case that a person does not play some role in constructing her relationships or constituting her community. See *supra* notes 114-15 and accompanying text (discussing subtle forms of resistance), notes 93-94 and accompanying text (discussing how young children shape their interaction with their parents).

126. The liberal "voluntary associations" that communitarians are so anxious to exclude still would not qualify for this category of communities because they are not constitutive of their members' identities. Communitarians want to insist that the process of acquiring or losing membership in a family or a church is simply different for most people from the process of deciding whether or not to join the Rotary Club. They are right about that, but the difference is not that the first community is found and the second chosen. The difference is that the first is generally constitutive and the second generally is not.

them.¹²⁷ But to assume that constitutive communities cannot also be partially chosen is to ignore the space for the exercise of narrative autonomy that constitutive communities can, and should, create for their members. This criticism, in other words, suggests that we should recognize and encourage the positive contributions of constitutive communities to the autonomy of their members.

The second major criticism of the category of traditional constitutive communities argues that we must also recognize, and protect against, their negative potential for oppression. One aspect of that oppression (although certainly not the only one) is the suppression of individual autonomy. Communities that discourage their members from undertaking self-exploration and critical judgment undermine their ability to acquire and practice narrative autonomy. Communities that discourage some of their members from such activities (e.g., families that teach girls to be submissive and boys to be challenging) create internal inequality based on a denial of autonomy. Communities that exclude potential members, either on the ground that they could not have this autonomy (e.g., racist policies) or that they have more of it than they should (e.g., homophobic policies) generate inter-communal inequality based on a denial of autonomy.

Thus, issues of structural inequality and of general oppression are relevant to the question whether a community promotes narrative autonomy. A community characterized by suppression of some or all of its members will not encourage narrative autonomy (or not for everyone) and should not be included in the category being developed here, even if it is otherwise very constitutive and personal. In other words, we must add a further requirement to the list: the communities must be non-oppressive.

I realize that this requirement opens up a great number of questions and difficulties. Do the communities have to be fully democratic, or is some autocracy acceptable as long as those in control remain responsive to the membership? If the former, then many religious groups that people often consider central to their identities would not qualify (not to mention families); if the latter, then a great deal more needs to be said about the forms and quantities of responsiveness required. The difficulties specifying the meanings and degrees of equality are also formidable, and are well-known enough not to require repetition here.¹²⁸

Perhaps these hard questions could be softened somewhat by recognizing that these issues are matters of degree and context. We probably should not be seeking to specify some minimum conditions of non-oppression that would be necessary in order for a community to qualify as part of this category. Such

127. Indeed, the feminist critics of communitarianism recognize this “found” aspect of what they call “chosen” communities, *see, e.g.*, Friedman, *supra* note 27, at 202-03 (describing the choice to join a lesbian community as based on the discovery of one’s sexual identity). The point in this criticism is not, in other words, to erase the “givenness” of such bonds, but to add the element of choice (understood in this narrative sense) to the picture.

128. For a sampling of the literature on equality, see generally *THE IDEA OF EQUALITY* (George L. Abernethy ed., 1959); *NOMOS IX: EQUALITY* (J. Roland Pennock & John W. Chapman eds., 1967).

minimum criteria are not particularly necessary; since civil society is a category of political theory rather than of legal doctrine, nothing immediately turns on whether a particular community is considered in or out. Nor are minimum criteria likely to be workable across all the different communal contexts. The degree of inequality that we can and should accept in a family is not the same as in a neighborhood or a labor union. A more useful approach would be to consider the conditions of relative equality or non-oppression within actual communities that are more or less likely to encourage widely distributed autonomy. It would then be a relevant criticism of a community to say that it does not function as well as it could or should as part of this conception of civil society, but it would not be necessary to say that it is simply not included in civil society.

Despite the difficulties that will undoubtedly remain, I think it is essential that some concept of non-oppression play a role in the feminist reconceptualization of civil society. First, it is critical to include this element in order to address women's experiences of oppression within traditional constitutive communities.¹²⁹ Second, it ties this version of civil society back to the concerns that have shaped the concept through all of its various incarnations in different political theories. Those other conceptions of civil society served a particular role in those other political theories: as an image of social relations that are neither fragmenting and alienating, on the one hand, nor oppressive, on the other hand.¹³⁰ Including non-oppression as an element of the definition here insures that the concept of civil society we are developing will serve the same function for feminist theory: it will define a category of social relations that is constitutive and personal, rather than alienating, but that nurtures narrative autonomy, rather than oppressing individuals or classes.¹³¹

Finally, the communities that make up civil society must be plural and overlapping. One community alone will not do for everyone; indeed, one community alone will not do for anyone: we all must be members of multiple communities. This demand is not particularly onerous. First, it would take massive coercion to move us from our present many-layered society of conflicting and complementary communities to a society constituted by some monolithic community, and that coercion would, undoubtedly, violate a conception of narrative autonomy for wholly independent reasons. Second, it is not clear that any community could really be a monolith—even if we imagine complete cultural homogeneity, there would still be families, workplaces, or neighborhoods that would generate their own ties, ties that would vary, however slightly or quietly, from the larger community's.

Despite its relative practical insignificance, however, the plurality requirement is important for several theoretical purposes. First, many people presently experience themselves as having many different aspects: for example, wife and mother, teacher and colleague, scholar, neighbor, and so on. Each of these

129. See Mansbridge, *supra* note 30, at 339-40.

130. See *supra* part I.A.

131. See Nelson, *supra* note 30, at 24 (the goal of the third wave of feminism is to negotiate living spaces where people are neither atomistic nor the subjects of authoritarian communities). This balance may be parallel to the balance between universality and particularity that Milton Regan sees as necessary for feminist theory. See Regan, *supra* note 78, at 452-53.

aspects is tied to a social world and in each of those social worlds the person needs a community that can provide her with the basis for narrative autonomy.¹³² In other words, we need plural communities because we are not simple, unified selves.

Second, we need plural communities because it is, in part, the tensions and contradictions between communal norms that generate both the space for criticizing our communities and the vocabularies in which to do so. Our membership in multiple communities allows, sometimes even forces, us to confront and challenge the assumptions given to us by one of those communities.¹³³ And we often find ourselves relying on the norms provided by some other community in order to express the basis for our challenge. Moreover, such challenges can themselves be the basis for forming a new community, one whose purpose is to support and facilitate the challenge to the original community (e.g., a women's law student association). These "communities of resistance" can be crucial to their members' ability to sustain the challenge and to cause the original community to respond to it.¹³⁴ Thus, multiple communities provide the impetus, the conceptual framework, and the social support for the critical assessment of communal norms and obligations so central to narrative autonomy.

Finally, insisting on multiple, overlapping communities is one way of incorporating the permanence and value of difference into the foundation of civil society. Because each of us has multiple associations, even within a given community the members will differ in their other associations and communal identities. The valuing of these differences, rather than a yearning for similarity and unity, is one of the major shifts in emphasis that a feminist approach would bring to communitarianism.¹³⁵ As Iris Marion Young puts it, we must strive for "openness to unassimilated otherness with justice and appreciation."¹³⁶ The sense that such differences are a source of strength because they facilitate narrative autonomy could contribute to acceptance and appreciation.

III. CONCLUSION

The concept of civil society, and the focus on the communities that compose it, has played a major role in several different lines of political theory. As feminist theorists work to articulate their own vision of an integrated but non-oppressive relationship between individuals and their communities, this concept offers potential benefits to them as well. In order to fulfill that potential, however, civil society must be reconceptualized. We must abandon those

132. See Ann Ferguson, *Feminist Communities and Moral Revolution*, in FEMINISM AND COMMUNITY, *supra* note 15, at 367, 379-80.

133. See Marilyn Friedman, *supra* note 27, at 194.

134. See Ferguson, *supra* note 132, at 371-72. This process of challenge should be seen as healthy for the original community rather than threatening to it. As Adrienne Rich says, "To separate from parts of a legacy in a conscious, loving and responsible way . . . is not to spurn tradition, but to take it very seriously." Rich, *supra* note 66, at 401.

135. See Weiss, *supra* note 57, at 182.

136. Young, *supra* note 36, at 254.

versions that rely on a public/private distinction that is untenable from a feminist point of view. And we must modify the more congenial, communitarian version in light of the objections raised by feminists.

With those modifications, however, the communitarian focus on groups that constitute their members' identities has an important role to play in feminist theory. This vision of civil society provides a foundation for a concept of narrative agency that can help to resolve some of the serious difficulties—theoretical, practical, and personal—presently facing feminism. It offers a vision of social relations that addresses not only the distinctive experiences and concerns of women, but also some of the abiding issues in moral and political theory. And it suggests both the path for future study to bring us greater understanding and the path for future social action to make a feminist vision of community a reality.