A Family Affair: Political Liberalism and the Gendered Division of Labor

By

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List of Acronyms

CR: Criterion of Reciprocity
GDL: Gendered Division of Labor
GEM: Gender Empowerment Measure
LPL: Liberal Principle of Legitimacy
OECD: Organization for Economic Cooperation and Development
RCJ: Restricted Conception of Justice
Abstract

Despite women’s increased labor force participation, household divisions of labor remain highly unequal, as women continue to perform the vast majority of unpaid housework and childcare. Recent research shows that gendered allocations of domestic work have harmful consequences for women and for men, and that political interventions can be effective in inducing families to share work more equally. But according to opponents, political power cannot legitimately be used to change the ways individuals behave within their own families. The project of my dissertation is to show that political interventions aimed at bringing about a more equitable sharing of paid and unpaid work within families are not illegitimate. Indeed, I argue that, under the circumstances which in fact obtain in our society, it is politically illegitimate to abstain from enacting these interventions. My argument turns on the fundamental liberal concept of citizenship. I argue that citizens, properly construed as free and equal, would insist that the state protect the “genuinely available opportunity” for citizens to enact gender egalitarian lifestyles. I argue, moreover, that our current gendered norms and labor structures effectively foreclose the availability of such lifestyles. Because the conception of citizens as free and equal persons is at the normative heart of liberalism, liberal theories of justice not only can countenance political interventions to redress this situation; their most basic theoretical commitments demand such interventions.
Chapter 1:
Political Liberalism and the Gendered Division of Labor

Over the past several decades, women have significantly increased their participation in the paid labor force, and we have witnessed a corresponding increase in the number of dual-earner families. Because women’s increased labor-force participation means that fewer families have a full-time “housewife” to care for the home and family, many expected the transition of women into the workplace to be accompanied by an increase in the amount of unpaid domestic labor performed by men. For the most part, this increase has not been forthcoming. Household divisions of labor remain unequal, with women in every industrialized country continuing to do the majority of housework and childcare.¹

In this dissertation, I defend the political legitimacy of governmental policies aimed at remedying this stubborn inequality. In order to give the most powerful defense of the political legitimacy of such interventions, I will impose some rather demanding constraints on the reasons I provide in support of my position. Specifically, I will argue that governmental interventions aimed at mitigating the gendered division of labor are justified—in fact, required—on the basis of basic liberal considerations, even if we forego comprehensive liberalism in favor of political liberalism. Unlike comprehensive liberalism, political liberalism imposes serious constraints on the legitimate grounds of governmental intervention, and many have thought it straightforwardly incompatible with feminist projects. Specifically, feminists have objected to political liberalism, alleging that it cannot license interventions intended to remedy gender inegalitarian allocations of paid and unpaid work.

¹ Coltrane 2000; Gershuny and Sullivan 2003. The exception is among extremely highly educated professional men. See Klumb et al. 2006.
My ultimate goal is to show that remedying the gendered division of labor is a legitimate end of governmental intervention, even assuming the exacting constraints imposed by political liberalism. More strongly, I will argue that, under certain circumstances which in fact obtain in our society, political liberalism demands interventions to undermine the gendered division of labor. Because of political liberalism’s general presumption against the type of intervention I will be considering, this constitutes a strong case in favor of the political legitimacy of that type of intervention generally.

In this introductory chapter, I do four things: First, I briefly discuss the gendered division of labor as it is set forth in two fundamental texts. Second, I set out the various policy interventions that have been proposed as remedies to the gendered division of labor. I will not be interested in defending any particular proposals or sets of proposals. Rather, my main goal is to defend the political legitimacy of the aim of these proposals: the aim of mitigating or dismantling the gendered division of labor. I think it will be helpful, however, to have on the table a menu of the various concrete initiatives that may be developed in service of that aim, even though I will make no attempt to adjudicate among them or endorse one comprehensive policy agenda.

Third, I discuss political liberalism and the robust constraints it imposes on legitimate political interventions. In particular, I elucidate the apparent tension between political liberalism and gender egalitarianism, explaining why many have thought that political liberalism rules out the kinds of interventions that might make families more gender egalitarian.

Finally, I give a brief review of the body of recent empirical literature regarding families’ allocation of paid and unpaid work. My objective here is to justify my project in three ways: First, I want to demonstrate that work remains unequally distributed according to gender despite changes over recent decades in the precise nature of the gendered division of labor. Second, I
want to show that this inequality is disadvantageous: Both women and men are made worse off by the norm of work specialization according to gender. Third, I want to demonstrate that political interventions can change the behavior of families regarding their allocation of work, and in particular that interventions can bring about progress toward greater gender egalitarianism. Because the gendered division of labor persists, because it is harmful, and because interventions can be effective, my project is not a mere intellectual exercise. It is important to assess the political legitimacy of the menu of policy proposals on the table.

Before beginning, a preliminary point: My discussion of the family does not assume any particular form of the family. In particular, I am not assuming that the family is heterosexual, or that adult family members are married. On my understanding, unmarried or same-sex partnerships can constitute families. Nonetheless, I often focus on heterosexual families. My interest is in the family as a setting for the gendered division of labor, and while I do not assume that no gendered division of labor can exist among same-sex partners, heterosexual families are far more instrumental in sustaining gender inegalitarianism as a social norm, and their allocation of work by gender is a much more familiar case.

1. The Terrain

The gendered division of labor has widely been recognized as “the core of gender injustice.”

The gendered division of labor and its implications for families have been explored most

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2 I follow Rawls in this understanding of the family (Rawls 1999b, p. 596, n. 60). But see Nussbaum 2000a, pp. 60-1 and Nussbaum 200b, p. 504, where she argues that Rawls does not go far enough in recognizing alternative forms of the family. (According to Rawls, “no particular form of the family (monogamous, heterosexual, or otherwise) is required” provided the family can care for children and raise them in ways compatible with political citizenship, and provided that the family form is compatible with other political values (Rawls 1999b, p. 596).)

3 Gheaus 2012, p. 18. See also Mary Wollstonecraft, Simone de Beauvoir, Susan Moller Okin, Arlie Hochschild, John Exdell, and Carole Pateman.
famously in groundbreaking books by Susan Moller Okin and Arlie Hochschild. The correlation between work and gender has changed since these texts were published, in ways that I discuss later in this chapter. Nonetheless, these works remain relevant for their conceptualization of the division of labor generally, as well as the disadvantages it brings about. According to Okin, women are made vulnerable by the gendered division of labor long before they actually face choices about how to distribute their time between publicly remunerated work and private, unpaid work. They are first made vulnerable because they expect—and because others expect—that they will spend some considerable portion of their adult lives primarily engaged in the care of dependents. This expectation leads them to make certain choices about the careers and life trajectories they will prepare for. And it leads others—high school guidance counselors, for example—to prepare them for particular careers and life trajectories.

Though fewer and fewer women plan on foregoing paid work completely in favor of raising children, many still choose careers that will accommodate the needs of a primary caretaker: needs to suspend and resume work for periods of time to give birth, recover from pregnancy, or care for infants; needs to limit hours spent away from children during non-school hours; and needs to be available to children at a moment’s notice should they become sick or otherwise need unplanned attention. Our labor markets are set up such that jobs which accommodate these needs—jobs in fields like nursing, teaching, sales, service, and administrative services—tend to be low paying, low prestige positions with little room for growth and advancement.

Young men, on the other hand, tend to make early career choices without the worry that their work will need to be conducive to primary care-giving. Thus, we see many more men than women occupying the prestigious professional positions that reward long hours and steady

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commitment with high pay and advancement opportunities. According to Okin, the gendered nature of occupational trajectories has offset women’s tremendous educational advances relative to men, such that women continue to earn less despite being equally well educated.\(^5\)

Once women form families of their own, their vulnerability deepens. Partly because of the expectations they have regarding the domestic and paid labor they will do and partly because of workplace discrimination or the wage gap that still exists between sexes, women who enter heterosexual partnerships often do not do so on equal footing with their male partners. For this reason, “answers to questions such as whose work life and work needs take priority, and how the unpaid work of the family will be allocated…are likely to be strongly influenced by the differences in earning power between husbands and wives.”\(^6\) Because the woman prioritizes unpaid labor to free her partner to devote himself to paid labor, she ends up foregoing opportunities to develop her own earning potential and labor marketability. It is important to note that this trend persists even among dual-earning families. Women who work outside the home continue to perform a larger share of domestic work than their husbands, and the husband’s career continues to be the priority when other demands press on the family.

This need not be the result of overtly sexist attitudes. Because of the way labor markets determine career trajectories and remuneration schedules, labor specialization is the option that often best serves families’ interests. For example, because the vast majority of part-time work opportunities are low-paying and low-status, with rapidly-leveling off prospects for advancement and no benefits, it is an unappealing option for both partners to work part time. Meanwhile, the socialization practices discussed above render men and women unequally prepared for caring

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\(^5\) Okin 1989a, p. 144.

\(^6\) Okin 1989 a, p.146.
work and paid work, such that a gendered labor specialization turns out to best serve families’ interests, with the man specializing in paid work and the woman prioritizing unpaid work.

Gendered labor specialization becomes so pervasive as to constitute a social norm which reinforces—and is reinforced by—statistical discrimination on the part of the employer. Statistical discrimination occurs when decision-makers (employers) use aggregate group characteristics to assess individuals’ qualifications. Because men are likelier to make paid work a first priority, male job candidates appear relatively more attractive to employers working with limited information. In this way, labor inequalities within the home and workplace powerfully reinforce and perpetuate one another.

Okin emphasizes that these choices can have tremendous negative consequences for women whose labor marketability steadily declines over the course of their marriage, both in absolute terms and relative to the labor marketability of their husbands. Apart from the negative consequences of reduced labor marketability itself, this may have the further consequence of generating power imbalances within domestic partnerships. But as we will see shortly, the negative consequences of the gendered division of labor do not accrue just to women. Men are also negatively impacted. If labor were uncorrelated with gender, men would enjoy more harmonious and fulfilling domestic lives, a richer and more rewarding intimacy with their children and other dependents, and the myriad benefits that would result from women occupying a larger share of high-status positions in the paid labor force.

Hochschild focuses on the structure of the care system and the time binds it generates: Because jobs with limited and flexible hours are in short supply and generally poorly

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According to Okin, “whereas the ratio between an average full-time working woman’s earnings and a full-time working man’s is 83:100 between the ages of twenty-one to twenty-nine, the wage gap by ages forty-five to sixty has increased to 60:100” (Okin 1989a, p. 155). Okin also discusses the vulnerability of women after divorce, but I set aside the divorce-related implications of the gendered division of labor in this project.
compensated, the remuneration necessary for the maintenance of a family can only be attained through full-time employment. And because full-time employment has become extraordinarily demanding over recent decades, especially for high-paid and high-status positions,\(^8\) it is becoming increasingly less compatible with serious caregiving commitments. In short, the structure of full-time employment presumes that employees either do not have domestic responsibilities, or have someone else at home to see to them. As the massive influx of women into paid work has far outpaced men’s increased assumption of domestic responsibilities, women continue to be that “someone else” who shoulders the major responsibility for domestic work.

The upshot of this is that women are faced with two options: They might opt to balance serious commitments to both work and family. On this choice, they will be competing for status and advancement at work with men who have much less onerous domestic commitments; and they will likely face nearly unmanageable time demands, working full time and then performing a “second shift” at home. Alternatively, they might opt for a serious commitment to family only, combined with, at most, a peripheral commitment to work. This option will leave them (somewhat!) less time-poor, but this benefit does not come for free: The costs include lost enjoyments that would have come from work outside the home, and lost financial independence that would have come with serious commitments to paid labor. There is also a cost in terms of additional family income, as it becomes increasingly difficult for families to subsist comfortably on one income—or even one and a half.\(^9\) Until men step up more in the home, women will not enjoy a truly manageable option to balance paid and unpaid work on equal footing with men.

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8 See, for example, Hochschild 1989, p. xxv.
9 According to Hochschild, a two-income family now brings in just about what one income used to earn when pay was based on union wages and manufacturing was highly valued work (Hochschild 1989, p. xxiv-xxv).
This is not just a story about men being recalcitrant. Men are struggling to meet the ever-increasing demands of full-time employment, while simultaneously facing greater expectations to participate more—if still not equally—in the work of maintaining the home and family. The time bind for men may be different and less severe than it is for women, but it is real all the same. This adds a further dimension to our assessment of the consequences of the gendered division of labor. Men and women are experiencing less leisure time, less relaxed, unstructured time with their families, and higher levels of stress from balancing increasing work demands. Hochschild refers to this as the “speed-up” in work and family life, and though it affects men and women both, it affects women more: It is women who are increasingly expected to juggle serious commitments to paid work with the major responsibility for performing and/or orchestrating the work that needs to be done to care for the home and family.  

2. The Menu of Policy Proposals

In response to this problem, many theorists have proposed policy initiatives which, they argue, would increase men’s time spent on domestic work and thus enable women to work more outside the home. Many of these proposals are based on the premise that gender inequality is perpetuated by a labor structure and social policies that have “failed to respond to changing social and economic realities.” Our labor structures, in short, still work on the assumption that workers are supported by a partner—someone who is either not employed outside the home, or who is employed in a much less demanding capacity than the worker she supports. This partner is implicitly assumed to be available to care for the home and family, thereby freeing up the primary worker to prioritize paid labor. This assumption that workers have “someone at home”

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11 Gornick and Meyers 2009, p. 4.
creates a time bind for women who do have serious commitments to work outside the home and for men who are increasingly being expected to assume a share of the domestic work while simultaneously facing greater demands in the workplace. Moreover, the threat of this time bind serves to discourage women from taking up serious commitments to paid work.

There is considerable variation in terms of the details of the proposals; there is also a general consensus that any successful intervention will have to be sensitive to the social, political, and economic features of the country in which it is implemented. Nonetheless, we can discern a few kinds of initiatives which have—in one form or another—received support by theorists interested in enabling families to more equitably share paid work, domestic work, and leisure time. These interventions, it is argued, will bring about greater gender egalitarianism in the short run by incentivizing egalitarian choices, and they will bring about still greater gender egalitarianism in the long run as they gradually wear away at the social norms perpetuating the gendered division of labor. These policy proposals can be grouped into three categories: family leave initiatives, work time regulation, or substitute care provisions.12

Family leave policies would require that employers allow caregivers to take paid time off, with job protection, after childbirth or adoption.13 The duration of leave would be calibrated so as not to disadvantage parents in terms of their career trajectories, and pay replacement might be up to one hundred percent of earnings subject to some earning cap.14 Particularly in the case of...

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12 Anti-discrimination/affirmative action policies have also been endorsed. I do not include such policies on the menu of proposals I set forth here, however, because their legitimacy is not in dispute the way the legitimacy of the other proposals is. The reasons for this will become clear once I discuss the features of political liberalism which appear to rule out the controversial proposals as illegitimate.


14 Gornick and Meyers 2009.
family leave policies, the details matter: family leave policies could further entrench the gendered division of labor if they are not designed carefully to avoid that result. Some theorists have expressed doubts about whether these policies can be designed in ways that will be politically feasible and avoid further entrenching gender inequality.\(^\text{15}\)

Those advocating paid family leave provisions as a mechanism for promoting gender egalitarianism generally propose that restrictions or incentives be attached to encourage fathers to take leave.\(^\text{16}\) For example, leave may be allocated to mothers and fathers separately, on a non-transferable basis so that the father’s leave time, if not taken up, is forfeit.\(^\text{17}\) Or requirements may be imposed so that both parents must take equal periods of leave in order for either parent to take leave.\(^\text{18}\) Most proposals emphasize flexibility: parents should be able to take their benefits on a full- or part-time basis, all at once or incrementally over several years.\(^\text{19}\) Wage replacement rates should be high, to lessen the earnings disincentive for taking up the leave. And to avoid employer discrimination against likely parents, any employer contributions to the funding of leave policies should not be in proportion to their share of employees who actually take leave.\(^\text{20}\)

Work time regulations would decrease the length of the work day and week, thereby enabling workers to reallocate work time from paid labor to domestic labor and care work.\(^\text{21}\) Work time

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\(^\text{15}\) Bergmann 1998 and 2009; Deven and Moss 2002; Hook 2006; Morgan 2009.
\(^\text{16}\) But see McDonald 2009.
\(^\text{17}\) See, for example, Gornick and Meyers 2009 and Kenworthy 2009.
\(^\text{18}\) Bergmann 2009 and Brighouse and Olin Wright 2009. But see Gheaus and Robeyns 2011 for concerns about this approach, and a suggestion that the manipulation of defaults might be a more appealing and less aggressively coercive way to encourage men to take up caring leave.
\(^\text{19}\) Gornick and Meyers 2009.
\(^\text{20}\) Gornick and Meyers 2009.
regulation policies that grant rights to a minimum number of paid days off have also been endorsed, as have policies that increase the supply and quality of reduced- and part-time work opportunities so that part-time workers enjoy pay and benefit parity with full-time workers.22

Finally, the public provision of childcare and education has been endorsed by many theorists as a measure to promote gender equality in the home and workplace.23 By providing parents with a variety of high-quality childcare options, we can ease the work-family tradeoffs that mothers and fathers face. Meanwhile, childcare professionals, who are themselves mostly women, should be protected by standards of professional training and compensation. Such publicly provided substitute caregiving could take the form of child-based entitlements provided at the national level which enable parents to choose among a variety of caregiving arrangements that match up with parents’ working hours.24

What these proposals have in common is that they promote gender equality by encouraging men to do more domestic work and enabling women to do more work outside the home. They do this by manipulating the structural incentives associated with female specialization in domestic work and male specialization in paid work such that equal sharing becomes more attractive. In some cases, they manipulate incentives by constraining the choices families face; in other cases, they change the structure of public care and paid work in order to indirectly change the burdens and payoffs of the various alternatives available to families. In short, the interventions involve

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23 For defenses and endorsements of different versions of substitute caregiving policies, see Gornick and Meyers 2009, Bergmann 2009, Jacobs and Gerson 2004, Crittenden 2001, Heymann 2000, Folbre 2009, Zippel 2009, Hartmann & Lovell 2009; Hochschild 1989. For worries that these policies reinforce global inequalities associated with rich countries importing caregiving labor from poor countries, see Hassim 2009. For an argument in favor of substitute caregiving for dependents more broadly construed, see Folbre 2009 and Hartmann and Lovell 2009. For concerns that non-parental childcare within the first year may be detrimental to child wellbeing, see Kenworthy 2009. Some theorists endorse the inclusion of certain provisions to ensure that non-parental childcare not take the place of men’s contributions. See Coltrane 2009. See also Perkins Gilman 1989 and 1992.

24 Gornick and Meyers 2009.
gentle enactments of political power: The government intervenes to manipulate incentives with the objective of inducing families to share work more equally.

In the short run, these interventions induce families to share work more equally by changing the incentives regulating paid and unpaid labor allocation so that men and women take up both kinds of work more equally in the here and now. In the long run, the interventions work by normalizing equal sharing in order to weaken and eventually remove the social norms which perpetuate gender differentiation in paid and unpaid labor. While the immediate manipulation of behavior by way of changing incentives and the long-term modification of behavior by way of changing norms are clearly different objectives, they are profoundly interdependent.

I will refer loosely to this aim of political intervention as “gender egalitarianism,” but two caveats about this terminology are in order: First, “egalitarianism” is not meant to indicate that men and women perform identical roles, but rather that roles are not determined on the basis of social norms which perpetuate gendered allocations of work.25 We might think of the term as referring more to the norms which influence families’ allocations of work, rather than to the allocations themselves. Second, and relatedly, I want to leave open the question of whether gender egalitarianism is a strictly distributive ideal. Because it refers to social norms rather than particular allocations of labor, its realization is fully compatible with some families continuing to specialize in certain kinds of work. While work itself may continue, in some cases, to be distributed unequally between men and women, this inequality is not grounded in some further

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25 Certain individuals within particular families may continue to specialize in certain kinds of tasks, but these choices would no longer be reinforced by social norms about gender. Women on average may continue to perform more unpaid domestic work. This trend may continue, for example, because single women are relatively more able to raise biologically related children on their own. But a society in which social policies are in place to incentivize equal sharing of paid and unpaid work will be one with greater gender equality than we see in the status quo. It is a further question, of course, whether gender egalitarianism about paid and unpaid work would constitutes gender egalitarianism simpliciter, or whether further conditions would need to be met.
inequality in the way men and women are affected by the norms regulating paid and unpaid work, or by the institutions which order the labor market itself.

Regardless of the particular mechanisms at work, the case for this family of proposals—indeed, the case for gender egalitarianism as an objective of public policy generally—rests on two crucial premises: The first crucial premise is that things would be in some sense better if paid and unpaid work were distributed more equally between men and women than is currently the case. Later, I will briefly canvass the empirical evidence in support of the premise that a move toward gender egalitarianism would constitute an improvement over the status quo. But it is not with this premise that I am principally concerned here.

Rather, the goal of this dissertation is to defend the second crucial premise necessary for a successful argument in support of gender egalitarian policies in general: that gender equality is a legitimate objective of governmental intervention. Specifically, I defend the legitimacy of gender egalitarianism as an objective of governmental intervention from within the framework of political liberalism. I use this framework for two reasons: First, political liberalism imposes particularly demanding burdens on the legitimacy of political interventions. I find the burdens imposed by political liberalism attractive, but even if these burdens turn out to be too demanding, this project will remain relevant: A defense of gender egalitarianism that meets the burdens imposed by political liberalism will a fortiori meet the demands imposed by more permissive liberalisms. So the project should be of interest to defenders of liberalism generally.

Second, liberalism and feminism share a long and storied history, with advocates of feminist political interventions sometimes articulating their arguments from within the liberal framework and sometimes railing against that framework. When John Rawls famously distinguished his theory of justice as a political liberalism, as distinct from a comprehensive liberalism, the tension
between feminist and liberal goals reached a new intensity. As Okin put it, “the distinction between comprehensive and political liberalism that [Rawls] introduces in *Political Liberalism* severely diminishes the capacity of his theory of justice to answer feminist criticism.”

In articulating and defending political liberalism and its accompanying notion of legitimate coercive governmental intervention, Rawls *seemed* to extinguish some of the most promising strategies for reconciling liberalism with feminist goals: Because of political liberalism’s demanding constraints on legitimate intervention, it became harder for feminists to justify gender egalitarian interventions from within the liberal framework. Harder, I will argue, but not impossible. And there is reason not to give up, given the great appeal of liberalism, both to feminists and to all those interested in bringing about a more just society. My hope is that by defending gender egalitarianism as a legitimate objective of political intervention, I will be illustrating one promising strategy for a more general reconciliation of liberalism and feminism.

3. Political Liberalism and Political Legitimacy

So what *is* political liberalism, and why does it impose such stringent constraints on legitimate political intervention? It is helpful to contrast political liberalism with comprehensive liberalism: Whereas comprehensive liberalism is formulated on the basis of a comprehensive liberal conception of the good, political liberalisms must be formulated independently of any particular comprehensive conception of the good. So while a comprehensive liberalism can be

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26 Okin 2004, p. 1538, and Okin 1994, p. 25, where she says that “central aspects of *Political Liberalism* render the problem of applying the principles of justice to the family and the gender structure of society more intractable than they were in theory.”
built on the idea that, for example, substantive freedom and autonomy make people’s lives go better, a political liberalism foregoes any such notions about what is good for people.\textsuperscript{27}

For political liberalism, justice is a restricted political ideal, the full realization of which is fully compatible with citizens affirming and practicing non-liberal conceptions of the good. Though liberal values like autonomy and equality play a role within political liberalism, the scope of these values is restricted, and citizens are free not to affirm liberal values in their personal lives. Because the scope of liberal values is restricted to the public, political domain of society, political liberalisms must respect the right of, for example, religious fundamentalists to reject such liberal values as autonomy and moral equality within their personal lives.

We can take Rawls’s formulation of political liberalism as representative of political liberalism more broadly. Rawls’s political liberalism takes modern democratic societies to be characterized by deep and intractable, yet reasonable, pluralism. This means that citizens living under free institutions in a democratic society will come to affirm different and irreconcilable conceptions of the good, which Rawls refers to as “comprehensive doctrines.” Rawls defines comprehensive doctrines as “conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is thought to inform our conduct, and in the limit to our life as a whole.”\textsuperscript{28} The project of political liberalism is to uncover “the fair terms of social cooperation between citizens characterized as free and equal yet divided by profound doctrinal conflict.”\textsuperscript{29} In other

\textsuperscript{27} I adopt the convention in the literature of following the Rawlsian articulation of political liberalism most closely. See Rawls 1993. Other defenses and elaborations of political liberalism can be found in Ackerman 1980 and 1994; Larmore 1987 and 1996; and Moon 1993.

\textsuperscript{28} Rawls 1993, p. 13.

\textsuperscript{29} Rawls 1993, p. xxv.
words, we want to find principles of justice that can stably regulate a society characterized by profound disagreement regarding moral, philosophical, and religious matters.

According to Rawls, this project must be executed by finding principles for the regulation of the basic institutions of society that command the support of persons as free and equal citizens, regardless of the particular comprehensive doctrine those persons subscribe to. In other words, the principles regulating political society must be able to serve as the focus of an “overlapping consensus” of all reasonable comprehensive doctrines. This means that the principles are justifiable in terms of reasons that do not themselves depend on some particular comprehensive doctrine, but that those principles are simultaneously acceptable from within any reasonable comprehensive doctrine. For political liberals, “reasonable” must be defined rather inclusively; the very point of political liberalism, after all, is to determine principles for the stable regulation of a society characterized by profound disagreement about what constitutes a good life. We cannot, then, simply rule out non-liberal comprehensive doctrines as unreasonable and thus unprotected. Essentially, a doctrine must be counted as reasonable so long as it does not call for the violation of any citizens’ basic liberties—such as their freedom of speech or conscience, or their freedom to vote and run for public office—and so long as it is compatible with the various burdens citizens face as citizens in a society marked by reasonable pluralism.\(^{30}\)

In order for principles of justice to serve as the focus of an overlapping consensus, they must be justifiable in terms of reasons that everyone can be expected to accept as “free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or

\(^{30}\)Rawls says, for example, that “except for certain kinds of fundamentalism, all the main historical religions…may be seen as reasonable comprehensive doctrines” (Rawls 1993, p. 170). Because Rawls uses “reasonable” as a quasi-technical term, we should not expect it to include all and only doctrines that we would typically consider reasonable. In Rawls’s own words, his account of reasonable comprehensive doctrines is “deliberately loose” (Rawls 1993, p. 59.). See also Rawls 1993, p. 196.
Such mutually acceptable reasons will express fundamental ideas already implicit in society’s public political culture, or be available to common human reasonability. In this way, a conception of justice can win the support of diverse citizens who recognize the need to stably regulate individuals’ pursuit of their own comprehensive doctrines over time. We can understand the criterion for legitimate political intervention within political liberalism according to what Rawls calls the “liberal principle of legitimacy”: “[O]ur exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in light of principles and ideals acceptable to their common human reason.”

We can see, now, why Rawls’s move from comprehensive to political liberalism was thought by gender egalitarians to be a move in the wrong direction. Not only does political liberalism seem to lack the resources to justify political intervention to bring about more gender egalitarian families; it seems to straightforwardly rule out such intervention as illegitimate. Because gender egalitarianism is itself a family of comprehensive doctrines, and because political liberalism limits reasons for political intervention to those freestanding of any particular comprehensive doctrine, gender egalitarian considerations are inadmissible as reasons which justify governmental intervention within political liberalism.

Even worse for gender egalitarians, political liberalism appears to positively proscribe gender egalitarian interventions as illegitimate. We can see this in two ways: First, it appears that the menu of gender egalitarian proposals will be unacceptable to citizens who affirm comprehensive

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31 Rawls 1999b, p. 578.
32 Rawls 1993, p. 137.
33 More accurately, it is a family of partially comprehensive doctrines. A partially comprehensive doctrine is one which “comprises a number of, but by no means all, nonpolitical values and virtues and is rather loosely articulated.” (Rawls 1993, p. 13).
doctrines which entail, for example, that strict gender roles are to be adhered to in the family. These interventions appear to be unacceptable to those citizens on the ground that the interventions threaten the citizens’ way of life, or invoke comprehensive values the citizens reject. Because gender egalitarian political interventions seem not to be acceptable to all reasonable citizens, then, they appear to be straightforwardly ruled out as illegitimate by the liberal principle of legitimacy.

Some might protest that gender egalitarian interventions are not ruled out, on the grounds that the citizens’ gender inegalitarian comprehensive doctrine is unreasonable. But recall that political liberals invoke a very permissive notion of reasonableness—a notion made necessary by the fact of reasonable pluralism which motivates political liberalism in the first place. Because gender inegalitarianism regarding work allocation need not be accompanied by any convictions that basic liberties should be denied on the basis of gender, many gender inegalitarian comprehensive doctrines must be accepted as reasonable.

There is a second way to see that political liberalism appears to positively proscribe gender egalitarian political interventions as illegitimate: Because families are a primary setting for individuals’ pursuit of their own particular comprehensive doctrines, political liberals (and liberals generally) have traditionally afforded families considerable leeway to arrange themselves according to the comprehensive doctrines their members affirm. This is true, of course, only insofar as the comprehensive doctrines do not violate the basic liberties of their members; spousal rape and domestic abuse clearly constitute legitimate grounds for intervention. But so long as the comprehensive doctrines which order families are reasonable, political liberalism appears to delineate the domestic life of families as a realm protected from governmental
intrusion. At the least, it imposes a strong presumption against such intrusion. For these reasons, political liberalism appears to classify gender egalitarian political interventions as illegitimate.

4. The Gendered Division of Labor Now

Some will no doubt think that this project has no practical import. They will argue that men are pitching in more at home, and that over the past several decades, beliefs about the appropriate roles of men and women in the workplace have undergone a vast shift in the direction of egalitarianism. But empirical work shows that the gendered division of labor is alive and well, and that women continued to be disadvantaged by their performance of such a large share of domestic work. \(^{34}\) Granted, men are doing more in the home, \(^{35}\) and women have continued to make great strides forward outside the home, both in the labor market and in social and political domains more broadly. \(^{36}\) But these changes have been insufficient to establish an egalitarian distribution of labor. Thus, the question of the political legitimacy of gender egalitarian political interventions is not merely an intellectual exercise. It is an issue with real-world implications.

Research shows that women continue to perform the vast majority of the unpaid labor necessary for maintaining the home and caring for the family. \(^{37}\) This inequality persists in both urban and rural areas, in both developed and developing societies, and regardless of structural

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\(^{34}\) For a helpful review of the scholarly literature published between 1989 and 1999, see Coltrane 2000. For a review of the literature published between 2000 and 2009, see Lachance-Grzela and Bouchard 2010.

\(^{35}\) Men’s share of housework has risen faster than men’s hourly contribution, since the narrowing gap is driven primarily by a decrease in the number of hours women devote to housework. Coltrane 2000 and 2009; Cunningham 2007; Robinson and Godbey 1997, and Sullivan and Gershuny 2001.

\(^{36}\) Coltrane 2000.

features about the family.\textsuperscript{38} Recently, a number of scholars have suggested that, absent political interventions, further narrowing of this inequality will not be forthcoming anytime soon.\textsuperscript{39}

Attitudes about who should perform unpaid labor have proven much more entrenched than attitudes about women’s ability to perform paid work outside the home, and changes in actual domestic behavior have been even more sluggish than changes in attitudes.

Today in the United States, women perform about two thirds of all routine household tasks.\textsuperscript{40} This figure is, at best, a marginal improvement when compared with the size of the disparity we saw in the 1990’s.\textsuperscript{41} One study found that, on an average week, American women perform 13.2 hours of routine household labor compared with 6.6 hours performed by their male spouses.\textsuperscript{42} In OECD (Organization for Economic Cooperation and Development) countries generally, employed fathers spend less than one-fourth as much time as their female partners on routine housework.\textsuperscript{43} And while housework is gendered even for single men and women, the housework load of women increases—and that of men decreases—with cohabitation and marriage.\textsuperscript{44}

In addition to the disparity in the amounts of housework men and women actually do, there is a disparity in the mental and emotional energy men and women devote to household maintenance: Apart from performing most of the housework, women are in charge of the planning, management, and organizational aspects of housework.\textsuperscript{45} Studies show that both men

\textsuperscript{38} Davis 2010.
\textsuperscript{39} Bianchi et al. 2000; Cunningham 2007.
\textsuperscript{40} Breen and Cooke 2005; Claffey and Mickelson 2009; Estes et al. 2007; Gershuny 2000; Greenstein 2000 and 2009; Hook 2006; Knudsen and Waerness 2008.
\textsuperscript{41} Demo and Acoc 1993; Hersch and Stratton 1997; Presser 1994.
\textsuperscript{42} Fuwa and Cohen 2007.
\textsuperscript{43} Gornick and Meyers 2009. The OECD is an organization of 34 democratic countries with market economies, formed with the intention of stimulating economic progress and world trade.
\textsuperscript{44} Batalova and Cohen 2002; Geist and Cohen 2011; Gupta 1999; Nock 1998; Shelton 1992.
\textsuperscript{45} Mannino and Deutsch 2007.
and women continue to treat domestic work as primarily the responsibility of women. Women almost always assume a managerial role, while men’s performance of housework is thought of as optional—as “pitching in” or “helping.”\textsuperscript{46} Whereas women’s contributions to domestic work are assumed, men’s contributions are objects of negotiation.\textsuperscript{47} Women tend to feel more responsible for the wellbeing of family members, and are more likely than men to adjust their schedules to accommodate the family.\textsuperscript{48} Even when families pay others to perform domestic work for them, women continue to take responsibility for monitoring and supervising the work done.\textsuperscript{49}

Unpaid childcare—like unpaid routine domestic work generally—remains unequally distributed according to gender. For every one stay-at-home father, there are 54 stay-at-home mothers.\textsuperscript{50} On average, employed fathers in OECD countries spend less than half as much time caring for children as do their employed female partners. Indeed, one partial explanation for women’s reduced time spent on non-caring domestic labor is that they have lowered their housekeeping standards in order to accommodate both paid work and the increasing time demands of parenting; mothers’ time spent with children has not decreased in spite of the fact that mothers’ working hours have gone up dramatically.\textsuperscript{51} On an average day in U.S. households with children under age six, women spend 1.1 hours providing physical care for children compared with 26 minutes spent by men.\textsuperscript{52} And again, the actual hands-on work is only one

\textsuperscript{46} Blain 1994; Coltrane 1996 and 2000; Gunter and Gunter 1990; Hawkins et al. 1994; Mannino and Deutsch 2007; Mederer 1993; West and Fenstermaker 1993.
\textsuperscript{47} Robinson and Spitze 1992.
\textsuperscript{48} Sanchez and Thomson 1997; Shelton 1992; Spain and Bianchi 1996.
\textsuperscript{49} Coltrane 2000.
\textsuperscript{50} Fields 2004.
\textsuperscript{51} Gornick and Meyers 2009; Coltrane 2009; Bianchi 2000; Macdonald 2009.
\textsuperscript{52} U.S. Department of Labor American Time Use Survey 2010.
component of the labor involved in caring work: Women continue to report a significantly higher sense of responsibility for childcare than do men.\textsuperscript{53}

The presence of children has implications for the performance of domestic labor, even when that labor is not caring labor. One study showed that, on average, women complete six extra hours of housework (\textit{excluding} childcare) per week after the birth of a first child, while no change is noticed among men.\textsuperscript{54} In general, the transitions into marriage and into parenthood are thought to be accompanied by a larger increase in women’s domestic labor than in men’s,\textsuperscript{55} and a shift toward a less egalitarian sharing of family work generally.\textsuperscript{56}

Meanwhile, men spend more time engaged in leisure activities than do women, and more time exercising.\textsuperscript{57} Most studies of time spent on caring and domestic labor do not include housework or childcare performed as a \textit{secondary} activity—for example, doing laundry while watching television or supervising children while having dinner with friends. But it is illuminating that studies which \textit{do} register domestic work as a secondary activity consistently find greater gender gaps than those that do not.\textsuperscript{58} Women are much more likely to be looking after children even when engaged in activities which count as leisure time or physical exercise, thus calling into question the recuperative value of women’s leisure time relative to men’s.\textsuperscript{59}

\textsuperscript{53} Poortman and van der lippe 2009.
\textsuperscript{54} Baxter et al. 2008.
\textsuperscript{55} Blair and Lichter 1991; Cowan and Cowan 1992; South and Spitze 1994.
\textsuperscript{56} Cowan and Cowan 1992; Johnson and Huston 1998; MacDermid et al. 1990; Shelton 1992; Craig and Mullan 2010.
\textsuperscript{57} U.S. Department of Labor American Time Use Survey 2010.
\textsuperscript{58} Mullan and Craig 2009; Craig 2007.
\textsuperscript{59} U.S. Department of Labor American Time Use Survey 2010.
The most recent data show that women and men now spend roughly equal amounts of time working when both paid and unpaid work are taken together. Nonetheless, inequalities between men and women in time spent on paid work or on unpaid domestic work matter independently. They matter, first, because they constitute an injustice to women insofar as they impede further progress toward women’s equality outside the home—in work, in politics, and in social life generally. And indeed, the unequal distribution of domestic labor continues to disadvantage women outside the home, limiting their opportunities within professional, political, and social domains. The domestic workload women shoulder limits their career prospects and reinforces subtle discriminatory practices among employers.

Second, gender inequality in paid and unpaid work matters because there is good reason to believe that women, men, and children would all enjoy a higher level of wellbeing if paid and unpaid work were more equally shared between men and women. The unequal distribution of housework and childcare hinders the attainment of various beneficial family outcomes and serves as one of the greatest sources of conflict between partners. A big reason for this is that, while some people derive pleasure from doing household labor in small doses, most people

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60 See, for example U.S. Department of Labor American Time Use Survey 2010; Gershuny and Sullivan 2003.
61 The following several paragraphs constitute the extent of my defense of the “first crucial premise” I referred to above.
62 See Poeschl 2008; Lothaller et al. 2009. See Gittell 2009 for an argument that women’s role as the family caregiver explains the fact that women continue to earn less than men. See Ross-Smith and Chesterman 2009 for an argument that the gendered division of domestic labor explains the limited occupational choices that women face.
63 There are important questions about whether gender egalitarianism would enhance the wellbeing of men and women holding fixed their current attitudes and preferences, or whether (less weakly) it will enhance the wellbeing of men and women only after gender-differentiated norms surrounding work are removed, when those norms no longer influence individuals’ attitudes and preferences. My hunch (which is supported by my reading of the empirical literature) is that both are true. For a more extensive discussion, see Brighouse and Olin Wright 2009.
64 Breen and Cooke 2005.
report that they do not like housework and prefer not to have to do it.\textsuperscript{66} Given the fact that women perform so much more of this kind of work than men, it is unsurprising that employed wives enjoy less leisure time and experience more stress than do their employed husbands.\textsuperscript{67} Moreover, research shows that the performance of large amounts of routine housework is associated with depression,\textsuperscript{68} and that most people—both women and men—derive personal fulfillment from their careers and enjoy working outside the home.\textsuperscript{69} But it is not only women who stand to gain by men doing more at home. An egalitarian sharing of housework has been shown to have positive effects on marriages\textsuperscript{70} and on men’s emotional development.\textsuperscript{71}

Like inequalities in the distribution of housework, inequalities in the distribution of childcare have been shown to impact on women’s prospects for achievement outside the home. The gender gap in pay widens over the life course, in part because women prioritize family care, and in part because of a “motherhood penalty” imposed by employers on the basis of statistical discrimination against women with caregiving responsibilities.\textsuperscript{72} Employed mothers are more likely than employed fathers to take leaves or career breaks in order to take care of children or

\textsuperscript{66} DeVault 1991; Robinson and Milkie 1997 and 1998. People seem to prefer the more time flexible, discretionary work that is considered stereotypically male work, such as household repairs and yard care. See Coltrane 1998; Larson et al. 1994. See also Poortman and van der Lippe 2009, who find that men and women differ somewhat in their attitudes toward domestic labor. Attitudes toward childcare are much more favorable than are attitudes toward noncaring housework, as demonstrated in Poortman and van der Lippe 2009.


\textsuperscript{68} Barnett and Shen 1997; Glass and Fujimoto 1994; Golding 1990; Larson et al. 1994.

\textsuperscript{69} Coltrane 2009.

\textsuperscript{70} Marital satisfaction has been shown to increase as the distribution of housework becomes more egalitarian. See Biernat and Wortman 1991; Erickson 1993; Milkie et al. 2002; Orbuch and Eyster 1997.

\textsuperscript{71} See Hawkins and Roberts 1992; Mintz and Mahalik 1996; Rasmussen et al. 1996.

\textsuperscript{72} Glass 2004; Correll et al 2007.
other dependent family members; partly as a result, they are less likely to occupy the most
prestigious positions, and they continue to earn less than their male counterparts.\footnote{Gornick and Meyers 2009, Zippel 2009, Coltrane 2009.}

The unequal distribution of childcare impacts heavily on the wellbeing of parents and the
quality of domestic life generally. One explanation of this is that actual parenting behaviors have
not caught up with increasingly egalitarian attitudes about how parenting \textit{should} be distributed.
One study, which found a general consensus that parenting should be shared equally, also found
that most respondents believe their \textit{actual} distribution of labor falls short of this ideal: Both
fathers and mothers reported that fathers were less than ideally involved in caregiving, and more
than ideally involved in breadwinning (although mothers perceived a greater gap than did fathers
between the ideal and actual distributions).\footnote{Milkie et al. 2002.}

Moreover, mothers and fathers who report sub-optimal father involvement in caregiving have
a greater likelihood of perceiving unfairness (to the mother) in their household division of labor.
This perceived unfairness engenders anger on the part of the mother, guilt on the part of the
father, and stress all around.\footnote{LaRossa 1988.} Perceptions of unfairness have been linked to a variety of negative
personal and marital outcomes.\footnote{Greenstein 1996.} The study concludes that steps to reduce discrepancies between
actual and ideal parenting distributions could effectively enhance mothers’ and fathers’
wellbeing.\footnote{Milkie et al. 2002.}

Parenthood is not only important because it further entrenches an already gendered division
of labor within particular families; it also enables us to learn about the ways in which gendered
norms of household labor are passed from generation to generation. Research has linked adult
children’s gender-role attitudes to parents’ housework allocation,\textsuperscript{78} parents’ gender-role attitudes,\textsuperscript{79} and mother’s labor force participation.\textsuperscript{80} Data from a longitudinal panel study of mothers and children has demonstrated that parents’ characteristics have a long-lasting impact on their children’s division of domestic labor as adults, and that this is only partly mediated by their influence on children’s gender-role attitudes.\textsuperscript{81}

The empirical data are clear: The gendered division of labor is alive and well, and it has important implications for both men and women, both inside and outside the home. Nonetheless, some may think that the structural interventions I am attempting to defend here will be ineffective in remedying the situation. Others will insist that some of these interventions will actually have the effect of exacerbating the gendered division of labor. For example, some have argued that more generous parental leave policies will be used primarily by mothers, thus limiting women’s financial resources and long-term employment prospects and reinforcing traditional gender roles in which women care for the home while men earn the paycheck.\textsuperscript{82}

My project is not to endorse or defend any particular interventions, or to weigh into the debate regarding the relative efficacy of particular interventions in particular contexts. Rather, my project is to see whether any governmental interventions aimed at mitigating the gendered division of labor can be approved as legitimate exercises of political power within political

\textsuperscript{78} Cunningham 2001.
\textsuperscript{79} Booth and Amato 1994.
\textsuperscript{80} Wilkie 1988.
\textsuperscript{81} Cunningham 2001. In particular, parents’ allocation of labor during sons’ very early years significantly bears on sons’ future domestic participation: When fathers do more stereotypically female tasks while their sons are very young, sons participate more as adults. And mothers’ early labor force participation impacts significantly on daughters’ future housework allocation: the more the mother works outside the home, the less the daughter contributes to stereotypically female housework as an adult. In both cases, this effect is only partly attributable to gender-role attitude influence. In general, parents’ behaviors early during childhood, and parents’ attitudes during later childhood, are shown to impact children’s future allocation of domestic labor.
\textsuperscript{82} See, for example, Bergmann 1998 and 2009; Deven and Moss 2002; Hook 2006.
liberalism. In executing this project, I will attempt to develop an argument for *gender egalitarianism as a legitimate aim of political intervention*, and I will do so using only considerations available to the political liberal. Whether any particular intervention effectively and cost-efficiently accomplishes gender egalitarian goals is another matter altogether.

Still, we might worry that the gendered division of labor is so deeply entrenched as to render it generally unsusceptible to change by way of political intervention. We might think that no particular policy or combination of policies could effectively induce men to do more work in the home and free up women to do more outside it. If vindicated, this worry would not undermine the political legitimacy of gender egalitarianism as a political aim. But if that aim cannot feasibly be attained, that would certainly undermine the practical import of my project.

Fortunately, the empirical literature bears out a much more optimistic conclusion: The gendered division of labor *is* susceptible to change by way of social policy, and the change is in the right direction. The data show that family support policies, such as schedule flexibility, parental leave, and employer-provided childcare, do not reinforce the gendered division of labor.83 In Sweden, for example, the implementation of a policy which enabled parents to reduce work hours by 25 percent was *not* accompanied by a decline in full-time work among mothers of young children.84 Moreover, the data show that a careful and coherent implementation of social policies which is sensitive to the context and circumstances can be effective in bringing about a more egalitarian division of household labor.85 For example, one study showed that men who used family support policies such as sick leave and parental leave did a larger share of routine housework than those who did not use such policies, and their wives did a smaller share of

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83 See, for example, Estes et al. 2007.
84 Kenworthy 2009.
85 See, for example, Bianchi et al. 2000; Ciscel et al. 2000; Estes et al. 2007; Sayer 2005.
routine housework; this relationship persists even in the presence of robust controls for factors that would predict both housework performance and policy use among men.\textsuperscript{86}

Further evidence for the malleability of the gendered division of labor can be derived from a growing body of research attempting to determine which factors account for families’ work allocations. Despite the consensus that gender is the strongest determinant of household labor participation, there are divergent theories regarding the correct explanation for this phenomenon, and thus regarding what predicts the extent to which individual households will allocate domestic labor according to gender. Whereas more traditional explanations for the gendered division of household labor look to “micro-level” explanations, scholars of the past decade have increasingly argued for the importance of structural and cultural, or “macro-level” factors in explaining the division of household labor. Accordingly, recent research has begun to compare the political, economic, and cultural contexts of different countries. This research examines how these contexts influence the division of household labor among particular couples,\textsuperscript{87} as well as the ways in which social policy can modify these contexts and thereby modify the gendered division of labor within households.\textsuperscript{88} There is a growing consensus that policies implemented to increase men’s performance of domestic work have been successful.\textsuperscript{89}

The Gender Empowerment Measure, or GEM, as defined by the 2004 United Nations Development Program, extrapolates macro-level indicators of gender equality such as women’s professional opportunities, economic power, and political participation from measures of percentage of parliamentary seats occupied by women, percentage of female administrators and

\begin{itemize}
\item \textsuperscript{86} Estes et al. 2007.
\item \textsuperscript{87} See Cooke and Baxter 2010; Davis and Greenstein 2004; Fuwa 2004; Fuwa and Cohen 2007; Geist 2005; Geist and Cohen 2011; and Hook 2006.
\item \textsuperscript{88} See Batalova and Cohen 2002; Fuwa 2004; Fuwa and Cohen 2007; Geist 2005.
\item \textsuperscript{89} Crompton 2009; Coltrane 2009.
\end{itemize}
managers, proportion of female professional and technical workers, and women’s share of total earned income as compared with men’s. Studies suggest that couples in more gender egalitarian societies as measured by GEM tend toward a more gender egalitarian distribution of household labor, even when controlling for individual couple characteristics. One study found that macro-level gender equality affects not just the way couples allocate household tasks, but also perceptions of domestic labor more generally: In countries where women’s employment is more common, even single men spend more time performing household labor.

Similar results have been found using indicators other than GEM. Studies have found that household labor is shared more equally in countries with social-democratic regimes that actively endorse gender equality (such as Sweden and Norway), as compared with conservative welfare-state countries which actively support traditional gender roles (such as Japan, Italy, and Austria). Countries categorized as liberal with a focus on individuality (such as Australia, Canada, and the United States) are more mixed in terms of how individual households allocate domestic labor. More generally, those living in liberal welfare states enjoy egalitarian divisions of labor compared to those living in conservative welfare states or Eastern European countries. Again, this pattern persists despite the presence of controls for individual characteristics.

A study looking at gender inequalities in five countries with different family policy environments, work-time regimes, and cultural attitudes toward family care found that, in all countries, mothers do more childcare than fathers even when both are employed outside the home. But significant variation between countries in the extent of this inequality suggests that

90 See, for example, Batalova and Cohen 2002; Fuwa 2004; Knudsen and Waerness 2008.
91 Hook 2006; Geist and Cohen 2011.
92 Geist and Cohen 2011.
93 Geist and Cohen 2011.
94 Geist 2005.
policy and cultural context make a difference. In Denmark, where there is institutional support for women’s paid labor, policies designed to encourage father involvement in child care, and relatively low overall paid work time, child care was most equally distributed among genders.\textsuperscript{95} Other researchers have investigated the extent to which the implementation of work regulation, work-family balance measures, and gender equality measures in the workplace can influence the division of household labor. Though results are not entirely consistent, there is considerable evidence supporting the hypothesis that these interventions \textit{do play a role} in changing behavior within households, causing families to distribute work more equally.

Some evidence suggests that limitations on standard employee working time increase men’s performance of unpaid domestic labor,\textsuperscript{96} and some have even suggested that decreasing full-time work hours might be the most effective policy for equalizing domestic work across genders.\textsuperscript{97} Other evidence shows an increase in men’s participation in part-time work in several European countries coincident with the enactment of measures aimed at improving the quality and availability of that type of work.\textsuperscript{98} Other studies have found that publicly funded childcare, flexible scheduling, and affirmative hiring practices enabled women to perform more paid labor and less domestic labor.\textsuperscript{99} For example, studies show that couples in countries that offer longer-term parental leave policies have a more egalitarian division of household labor than countries with shorter parental leaves, provided that men are eligible to take these leaves.\textsuperscript{100}

\textsuperscript{95} Craig and Mullan 2010.
\textsuperscript{96} Gornick and Meyers 2003; Hook 2006; Jacobs and Gerson 2004.
\textsuperscript{97} Mutari and Figart 2001.
\textsuperscript{98} Gornick and Meyers 2009.
\textsuperscript{100} But in countries that only offer maternity leave, lengthy leaves are associated with \textit{less} egalitarian distributions of household labor. See Fuwa and Cohen 2007; Hook 2006.
In general, it is becoming more and more widely recognized that a country’s social and cultural environment, family and work support policies, and political and economic regime matter a great deal in determining the way domestic labor is distributed within the home.\textsuperscript{101} All this suggests that political interventions can shape economic, social, and political contexts so as to bring about greater gender equality in domestic, political, and paid labor spheres.\textsuperscript{102}

Studies that attempt to measure the effects of macro-level variables control for the more traditional micro-level explanations for the gendered division of household labor. But some of the micro-level explanations are themselves susceptible to manipulation via social and political interventions, and \textit{their} influence has long been established in the literature.\textsuperscript{103} Three micro-level theoretical perspectives have received the most attention, and the three are increasingly being recognized as collaborators, rather than competitors.\textsuperscript{104}

First, the relative resources perspective has it that a partner’s external resources, such as income, work status, and education, grant decision-making power which enables them to bargain their way out of routine housework (which, it is assumed, is work that most people generally prefer to avoid). This perspective predicts that a person with more income (and education) will

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\textsuperscript{101} Cooke and Baxter 2010; Geist and Cohen 2011.

\textsuperscript{102} It has been suggested, moreover, that the inconsistencies in the data should not be taken as evidence that interventions are ineffective. These inconsistencies are most likely due to the fact that the equalizing effects of social policies have been offset by simultaneous social change pushing in the opposite direction. For example, recent increases in pressure and competitiveness in the workplace are likely to have worked against efforts to increase men’s participation in domestic labor (Crompton et al. 2005; Lewis and Smithson 2006). Additionally, progressive social policies have been repealed or reversed frequently over recent decades as political regimes have changed. Because gender-equalizing social policies are likely to require some time to have an impact, it is likely that we have not yet seen how effective they can be (Crompton et al. 2005; Bernhardt et al. 2009). Finally, where gender egalitarian policies have been enacted, they have not always been carefully targeted with the objective of gender equality in mind; nor have they taken the forms endorsed by advocates of gender egalitarianism. For example, some family leave policies have been implemented to serve the purpose of increasing fertility, rather than promoting gender equality (Morgan 2009). And no currently existing leave policies include strong incentives for fathers to take leave. All this suggests that, when enacted under the right circumstances, gender egalitarian interventions have the potential to be even more effective than these early results demonstrate.

\textsuperscript{103} For a review of the research on these three categories of micro level factors, see Hook 2010.

\textsuperscript{104} Cunningham 2007; Lachance-Grzela and Bouchard 2010.
do less housework. This prediction is borne out in study after study, whether relative resources are measured in terms of income or education or both.\(^{105}\) Importantly, while domestic work is less unequal in households in which both partners contribute equal amounts of income, women continue to do the majority of housework even in these families.\(^{106}\) Moreover, the relationship between resources contributed to the household and time spent on domestic work is not linear. Men with higher levels of education do more domestic work than men with less education.\(^{107}\) And some studies suggest that the equalizing effect of women’s higher income is reversed once women begin earning more than their husbands. This reversal is most evident among long-term unemployed husbands. It seems to suggest that men respond to a perceived threat to their masculinity—their wives contributing the larger share of household income—by reverting to more traditional gender roles within the home.\(^{108}\)

Second, the time availability perspective holds that domestic partners divide household work according to the time they each have available for the performance of that work, which is itself constricted by the time each partner spends working outside the home. This perspective predicts that people who spend more time in paid work will spend less time working in the home. Proponents of this perspective have focused on such structural dimensions of paid employment as hours worked, employment status, and employment history. Results show that employment status affects both partners’ performance of housework and childcare, with full-time and part-

\(^{105}\) Bianchi et al. 2000; Cunningham 2007; Davis and Greenstein 2004; Erickson 2005; Fuwa 2004; Kundsen and Waerness 2008; Mannino and Deutsch 2007; Parkman 2004; Pinto and Coltrane 2009. See Coltrane 2000 for a review of the evidence substantiating the relative resources perspective generated during the 1990s.

\(^{106}\) Evertsson and Nermo 2007.

\(^{107}\) Gershuny and Sullivan 2003.

time employment negatively impacting on housework performance irrespective of gender.\textsuperscript{109} Actual hours of employment has an effect above and beyond simple employment status: The more hours a woman works, the smaller her share of household work and the greater her partner’s share.\textsuperscript{110} But here again, women continue to assume a much larger share of domestic work, even when both partners spend equal amounts of time working outside the home.\textsuperscript{111} According to one study, full-time employed American men put about forty percent as much time into housework as they do into paid work, whereas full-time employed American women put about 80 percent as much time into housework as they do into paid work.\textsuperscript{112}

Finally, the gender ideology perspective predicts that people socialized to have certain beliefs about gendered allocations of work will act in conformity with those beliefs.\textsuperscript{113} This perspective predicts a positive relationship between egalitarian divisions of household labor and egalitarian gender attitudes, and a negative relationship between egalitarian divisions of household labor and traditional gender attitudes which favor the male breadwinner female homemaker structure. Data support this perspective even though studies vary in how they measure gender ideology.\textsuperscript{114} Some evidence suggests that men’s egalitarian gender ideology is

\textsuperscript{109} See Bianchi et al. 2000; Ciabattari 2004; Gershuny and Sullivan 2003; Nooman et al. 2007. See Coltrane 2000 for a review of evidence from the 90’s supporting the time availability perspective, which reveals women’s employment as the strongest and most consistent predictor of women’s housework share. (Men’s employment is a much weaker predictor of men’s share.)

\textsuperscript{110} Cunningham 2007; Knudsen and Waerness 2008; Kroska 2004; Mannino and Deutsch 2007; Nooman et al. 2007; Pinto and Coltrane 2009.

\textsuperscript{111} Bartley et al. 2005; Lincoln 2008.

\textsuperscript{112} Lincoln 2008.

\textsuperscript{113} See Badr and Acitelli 2008; Bianchi et al. 2000; Erickson 2005; Ferree 1991; Hochschild 1989; Hood 1983; Knudsen and Waerness 2008; Komter 1989; Pestello and Voydanoff 1991; West and Fenstermaker 1993 for one variant of the gender ideology perspective: the gender construction perspective. The gender construction perspective holds that the performance of specific household tasks provides opportunities for individuals to demonstrate their competent membership in a sex category.

\textsuperscript{114} Arrighi and Maume 2000; Davis et al. 2007; Fuwa 2004; Knudsen and Waerness 2008; Parkman 2004. Gender ideology is typically measured by respondents’ assessments of statements about gender roles and the jobs of men.
associated with their partner doing less housework, but not with them doing more, and that women’s egalitarian ideology is associated with them doing less, but not with their husbands doing more. Further evidence in support of the gender ideology perspective has been found in the non-linearity of the relationship between resources and housework contribution, since this non-linearity is thought to be explainable in terms of husbands compensating for perceived threats to their masculinity by participating less in household work—and thereby acting on ideological views about the proper roles of wives and husbands. Furthermore, the gender ideology perspective is useful in explaining why the division of household labor remains unequal despite women’s advances outside the home.

Insofar as some combination of these micro-level perspectives explains the persistence of the gendered division of labor, there is further reason to believe that the phenomenon is susceptible to change via social and political interventions. Work support policies can increase the relative resources which women bring into their domestic partnerships, and will increase the amount of time they spend working outside the home. Thus, through relative resource and time availability mechanisms, these interventions have the potential to equalize shares of unpaid work within the home. And gender ideology has been shown to be affected by educational attainments and women and mothers and fathers within a household. See Coltrane 2000 for a review of evidence from the 1990s that supports the gender ideology perspective.

117 Some recent research suggests that macro-level factors actually moderate the relationship between micro-level factors and the gendered division of labor (Cunningham 2005; Davis and Greenstein 2004; Fuwa 2004; Fuwa and Cohen 2007; Geist 2009, 2010; van der Lippe et al. 2011). These studies suggest that women are more successful at using their personal characteristics (relative resources, time spent working outside the home, gender ideology) in negotiating a more favorable distribution of household labor in countries where more gender egalitarian circumstances exist at the macro-level, and that macro-level inequality lessens the equalizing effect of micro-level factors (Fuwa 2004; Knudsen and Waerness 2008; Braun et al. 2008; Stier and Lewin-Epstein 2008). For example, the equalizing potential of employment status and gender attitudes on the allocation of domestic labor was stronger in countries where more women occupied positions of power (Fuwa 2004) and in countries with affirmative action policies favoring women’s employment (Fuwa and Cohen 2007).
and by employment.\textsuperscript{118} This suggests that similar interventions can bring about more gender egalitarian households by way of gender ideology mechanisms as well.

Clearly, the mechanisms through which individuals within particular households arrange their allocation of labor are complex and involve various factors at both the individual level and the societal level. But both the individual- and societal-level factors are susceptible to change through political and social interventions. Of course, the causal relationships among policy, attitudes and beliefs, and behavior are complex and multi-directional. But social policy can affect choices individuals make about how to distribute work within the family by “influencing the terms of bargaining, the benefits of specialization, and the ease or difficulty of adhering to gender norms.”\textsuperscript{119} By implementing interventions in coherent and purposeful packages that are responsive to the particular circumstances at hand, we have every reason to be optimistic that we can bring about a more gender egalitarian distribution of labor within particular households.

There is much more to be said about the nature and consequences of the gendered division of labor. Nonetheless, I will take it as established that the correlation between work and gender persists; that it is bad for women, men, and families generally; and that political interventions have the potential to bring about greater gender egalitarianism in families’ allocation of work. In the rest of this dissertation, I will take up the question of whether interventions which aim to do so are politically legitimate.

\textsuperscript{118} See, for example, Fan and Marini 2000.

\textsuperscript{119} Hook 2006, p. 642.
Chapter 2:
Restricting Justice:
Political Interventions in the Home and in the Market

I have set myself two main tasks in this dissertation: first, to show that the constraints imposed by political liberalism do not positively rule out gender egalitarian political interventions as illegitimate; second, to develop a positive argument for gender egalitarian political interventions using only considerations that are admissible within political liberalism. In this chapter, I take up the first of these tasks. I focus on what I take to be the most powerful reason for thinking that political liberalism proscribes gender egalitarian interventions: the claim—affirmed by critics and proponents alike—that political liberalism restricts the subject matter of justice in such a way as to exclude families’ allocations of work from its purview.

Because families’ work allocations are excluded from the subject matter of justice (the claim goes) there can be no claims of justice on which to ground political interventions to make domestic work more equal, and no possibility of defending gender egalitarian interventions from within a politically liberal theory of justice. There would be no point to developing a positive argument for such interventions, because the interventions would be ruled out for the same reasons we rule out imposing a society-wide dress code: Citizens’ domestic work allocations, like citizens’ clothing tastes, would simply not be a part of the subject matter of justice.

My project in this chapter is to argue that political liberalism does not restrict justice in such a way as to rule out the possibility of legitimate interventions targeted at the gendered division of labor. I argue that the purview of justice is restricted, but that individuals’ interactions within families—and in particular their allocations of work—can nonetheless be the target of
legitimate political interventions, if a positive case for such interventions is available. To situate my argument within the context of a debate already in progress, I broaden the scope of my discussion to the behavior of individuals within households and within labor markets, asking whether these behaviors are immune to political interventions because of the restricted scope of principles of justice.

1. What Does Justice Judge?

Liberal theorists of justice like John Rawls have long maintained that a theory of justice should apply primarily to the institutional mechanisms of society, and only derivatively to the behavior of individuals within institutions. Institutions of taxation, for example, may be just or unjust by the lights of a theory of justice, but such a theory should deem the behavior of individuals unjust only insofar as those individuals fail to comply with just institutions.120

Critics of this restricted conception of justice (hereafter, “RCJ”) argue that a theory of justice should judge individual behavior directly, even when that behavior complies with just institutions. These critics have tended to focus on two kinds of behavior which they argue should fall within the subject matter of a theory of justice: the “market-maximizing” behavior of economic agents who demand incentives to exercise marketable talents in socially beneficial ways,121 and the “housework-shirking” behavior of family members who distribute power and labor unequally according to gender.122 By embracing RCJ, these critics maintain, liberal theorists of justice implausibly place these behaviors beyond the reach of justice. Call this the “restrictiveness objection” to RCJ. A second objection to RCJ threatens to undermine RCJ from

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120 Or insofar as they fail to contribute to the building of just institutions when those institutions do not yet exist (Rawls 1999, p. 99).
within: This criticism alleges that RCJ is arbitrary, because the theorists who embrace it lack a principled justification for restricting the subject matter of their theories to institutions while exempting the behavior of individuals within those institutions. Call this the “arbitrariness objection” to RCJ.\textsuperscript{123}

My project in this chapter is to defend RCJ against both objections. Along the way, I consider and reject an alternative strategy for defending RCJ, which invokes a “special justificatory burden” allegedly faced by political institutions. I use insights gleaned from the inadequacies of this rival strategy to build my own defense against the two objections: Working from within the framework of political liberalism, I demonstrate first that a theory of justice can non-arbitrarily be restricted to the institutional structure by which the state exercises legitimate power over the lives of its citizens (what I call the “political apparatus”) and second that such a restriction does not result in an implausibly narrow subject matter of justice. I conclude that neither objection undermines RCJ. That I situate my defense within the framework of political liberalism is noteworthy: That framework imposes stringent requirements on legitimate exercises of political power. In showing that RCJ is not implausibly restrictive even by the lights of this demanding conception of legitimate political power, I overcome a strong argumentative burden.

I do not defend RCJ as it has typically been understood, however. A crucial premise in my argument is that the delineation of the political apparatus is itself a substantive normative task, the performance of which must be responsive to relevant differences among enactments of political power. I argue for a more expansive notion of legitimate political power than either critics or defenders of RCJ have tended to adopt. My defense of RCJ thus occupies a conceptual middle ground within the debate about the subject matter of justice: I join defenders of RCJ in

\textsuperscript{123} For opposition to RCJ, see Cohen 1992, 1995, 2000 and Murphy 1998. In this paper, I focus primarily on Cohen’s formulation of the two objections. For defenses of RCJ, see Williams 1998, Pogge 2000, Daniels 2003, Scheffler 2006, and Neufeld 2009. I address Scheffler’s and Neufeld’s defenses later in this paper.
maintaining that a theory of justice applies directly only to the political apparatus of society, so that a society with just institutions is no less just for being home to housework-shirkers and market-maximizers. But I agree with critics of RCJ that market-maximizing and housework-shirking should not be beyond the reach of a theory of justice. I reconcile RCJ with this conviction by defending a view of political legitimacy according to which housework-shirking and market-maximizing can be targets of legitimate political interventions. So while a society is not made less just by housework-shirking and market-maximizing behavior within it, it can be less just for having a political apparatus that enables this behavior or perpetuates social norms that encourage it.

I first elaborate on the arbitrariness objection and the restrictiveness objection as they are applied to their most popular target: The RCJ developed by John Rawls’s. I then consider a strategy that has been pursued in the literature for defending RCJ against the arbitrariness objection, and argue that the strategy is inadequate. I use insights gleaned from the inadequacies of this rival strategy to mount my own defense against the two objections, working from within the framework of political liberalism to demonstrate that justice can non-arbitrarily be restricted to the political apparatus of society. Finally, I argue that such a restriction is not implausibly restrictive because it does not locate housework-shirking and market-maximizing behaviors beyond the reach of principles of justice. This clears the way for a positive argument for gender egalitarian political interventions to be executed within the framework of political liberalism. I turn to that task in subsequent chapters.

2. The Restriction and the Two Objections
The most popular target of both criticisms is RCJ as defended by John Rawls. Rawls insists that “the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.”\(^{124}\) The principles of justice, he specifies, “must not be confused with the principles which apply to individuals and their actions in particular circumstances” as “[t]he two kinds of principles apply to different subjects and must be discussed separately.”\(^{125}\) Thus, Rawls refrains from offering a complete moral system and restricts the purview of his theory to the political apparatus.

The Arbitrariness Objection

Unfortunately, Rawls is not always clear on what he includes within the basic structure and thus within the primary subject matter of justice. Generally, he includes just those institutions that are part of the system through which the state coercively limits the freedom of individuals.\(^{126}\) But when Rawls discusses his rationale for limiting the purview of justice to the basic structure, he commits himself to what some have argued is a more expansive basic structure that includes any major social institution that profoundly influences citizens’ life prospects. Rawls claims, for example, that the “basic structure is the primary subject of justice because its effects are so profound and present from the start.”\(^{127}\)

G.A. Cohen identifies a tension between RCJ and Rawls’s stated justification for it:\(^{128}\) If “profundity of impact” is the justification for including an institution within the basic structure,

\(^{124}\) Rawls 1999a, p. 6.

\(^{125}\) Rawls 1999a, p. 47.

\(^{126}\) For textual support of this interpretation, see Rawls 1993, pp. 282-83.

\(^{127}\) Rawls 1999a, p. 7. This is just one of the justifications Rawls gives for restricting the purview of justice.

\(^{128}\) Okin also makes this point. See Okin 1993. See Murphy 1998 for a slightly different rendering of the arbitrariness objection. See Pogge 2000 for a response more specifically directed at Murphy.
then the basic structure should include all institutions which exert a profound impact on the life prospects of citizens. But, as Cohen argues, there are non-political institutions that exert a less formal, though no doubt equally profound impact on citizens. And these institutions are partly constituted by individual behaviors that cumulatively shape social norms—norms that, in turn, profoundly influence citizens’ beliefs, behaviors, and aspirations.

We can illustrate by contrasting two kinds of social mechanisms: the institutions which make up society’s penal system, and the informal social norms that sustain the heterosexual family as the dominant model for domestic life. The penal code profoundly influences citizens’ lives by determining the conditions under which they can avoid lawful imprisonment. But social norms valorizing heterosexuality also profoundly influence citizens, by shaping the values citizens come to affirm and the people they aspire to be. These mechanisms operate in different ways—the former through society’s formal constitution and laws; the latter in part through the choices and behaviors of individual citizens—but the formal, legal mechanisms are no more profound in their impact than are the informal social norms sustained by individual behavior. The RCJ must be rejected, according to Cohen, because it restricts the purview of justice in a way which is arbitrary given Rawls’s stated rationale for it.129

Notice that one could defend RCJ against the arbitrariness objection without accepting Rawls’s stated rationale for that restriction. RCJ is arbitrary only if no principled justification can be given for it. I will argue in due course that some principled justification can be given.

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129 Cohen 1997, p. 21. Cohen’s articulation of the arbitrariness objection is part of a larger and more complex argument. The larger argument takes the form of a dilemma for RCJ. In Cohen’s own words:

[Rawls] must either admit application of the principles of justice to (legally optional) social practices, and, indeed, to patterns of personal choice that are not legally prescribed, both because they are the substance of those practices, and because they are similarly profound in effect, in which case the restriction of justice to structure, in any sense, collapses; or, if he restricts his concern to the coercive structure only, then he saddles himself with a purely arbitrary delineation of his subject matter (Cohen 1997, 22).

For other articulations of the arbitrariness objection to RCJ, see Baynes 2006 and Williams 1998.
Because a principled justification is available, the failure of Rawls’s proposed justification—if indeed it does fail—need not concern defenders of RCJ.

The Restrictiveness Objection

RCJ maintains that a theory of justice applies first and foremost to the political apparatus of society. According to the restrictiveness objection, it thereby implausibly excludes individual behavior from the primary purview of justice. In particular, critics of RCJ have focused on two kinds of behavior that they claim should be part of the subject matter of justice: the behavior of the market-maximizers who demand material incentives to exercise their talents in socially beneficial ways, and the behavior of housework-shirkers who allocate work and power within domestic relationships unequally according to gender.

First consider the market-maximizers. Under RCJ, Cohen argues, a theory of justice does not judge the behavior of individuals within the political apparatus. Thus, a distribution of income and wealth is just so long as distributive institutions comply with principles of justice. And a distribution remains just irrespective of the (legally permissible) behavior of individuals within those institutions. According to Cohen, this implication is unacceptable. Because political

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130 According to Rawls, any theory of justice does imply certain principles for the behavior of individuals, by specifying how individuals are to comport themselves in their interactions with institutions. In particular, Rawls’s theory of justice includes a duty of justice for individuals which “requires us to support and to comply with just institutions that exist and apply to us” and “to further just arrangements not yet established, at least when this can be done without too much cost to ourselves” (Rawls 1999a p. 99). In other words, Rawls counts on us to have a “strong and normally effective” sense of justice (Rawls 1999a p. 398), and he counts on his principles to specify an arrangement of social institutions which is not only just, but which also encourages the development of this sense of justice among citizens. So while the principles of justice do not apply to the behavior of particular individuals within society’s institutions, they do have important implications for the ways in which citizens should comport themselves in a just society. We can take Rawls’s difference principle as a case in point. The difference principle maintains, roughly, that institutions are to be arranged in such a way as to optimize the position of the least advantaged. Among the various possible ways of arranging society’s institutions, then, the difference principle approves that arrangement which features the highest “floor”—that arrangement within which the worst off will be better off than they would be in any other feasible arrangement. This principle will, for example, approve of one particular tax scheme among the various possible schemes. But it will not dictate that within society’s institutions, individuals interact with one another exclusively in ways that benefit the least advantaged. What it will mean for individuals is that they have a duty to support and comply with institutions approved by the difference principle, and to work toward such just institutions insofar as we do not yet have them.
institutions are blunt instruments, just institutions leave considerable space for individuals to (legally) influence the distribution of income and wealth. Assume egalitarian principles of justice. Working within just (egalitarian) institutions, talented marketeers can demand incentives that enhance their earnings, thereby disrupting equality. If justice judges only institutions, then a society with just institutions whose talented demand such incentives will be no less just than a more egalitarian society whose talented do not demand the incentives. But this is implausible, according to proponents of the restrictiveness objection. If individuals can help or hinder the goals of justice, then their behavior should not be beyond the reach of principles of justice.

Now consider the housework-shirkers. According to Cohen, RCJ renders justice blind to social norms that reinforce unequal sharing of paid and unpaid work and power among male and female domestic partners. Because those norms are constituted and perpetuated by the behavior of individuals within families, and because RCJ allegedly locates those behaviors beyond the legitimate reach of a theory of justice, the norms themselves appear to be beyond the reach of any theory of justice that upholds RCJ. The disadvantageous effects of strong gender norms are well documented, as are the disadvantageous effects of particular enactments of them in particular families. According to critics, RCJ is implausible because it renders principles of justice insufficiently attentive to these disadvantages.

In assessing the housework-shirking objection, we have to tread carefully. Proponents of RCJ do allow some behavior of family members to count as a legitimate target of political

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131 In this context, “talented” just means that these individuals “are so positioned that, happily for them, they… command a high salary and… can vary their productivity according to exactly how high [that salary] is” (Cohen 1997, pp. 6-7).

intervention. In explicating his most considered position on the matter, Rawls clarifies that the behavior of individuals within families does fall within the purview of justice insofar as that behavior constitutes a violation of the rights of another family member.\footnote{He says this:}{Political principles do not apply directly to its internal life, but they do impose essential constraints on the family as an institution and so guarantee the basic rights and liberties, and the freedom and opportunities, of all its members. This they do, as I have said, by specifying the basic rights of equal citizens who are the members of families. The family as part of the basic structure cannot violate these freedoms. Since wives are equally citizens with their husbands, they have all the same basic rights, liberties, and opportunities as their husbands; and this, together with the correct application of the other principles of justice, suffices to secure their equality and independence (Rawls 1997, p. 597).} But because highly unequal distributions of various domestic benefits and burdens need not violate rights, critics maintain that RCJ is implausibly restrictive. The exclusion of housework-shirking from the legitimate reach of justice is implausible, they say, given the profound disadvantages caused by the norms sustaining the gendered division of labor.

3. The Political Apparatus of Society

Whether RCJ in fact excludes these behaviors from the reach of justice depends on what is included within the political apparatus. And while it may be tempting to conceptualize the political apparatus narrowly, enactments of political power can take many different forms. The state exercises political power when it physically forces a citizen to adopt a preferred course of action, but it also exercises political power in obstructing alternative courses of action that would otherwise be available. Similarly, the state exercises political power by reducing the costs of a preferred course of action, or raising the costs of non-preferred courses. The most common exercises of political power fall on the less forceful end of the spectrum. Often, the state intervenes by manipulating the incentives that attach to various options in an attempt to change the context against which citizens make choices. By penalizing tax evasion, the state raises the
cost of choosing not to pay. By offering educational or employment benefits to those who serve in the military, the state lowers the cost of service. And by offering tax incentives and other benefits to married couples, the state encourages the formation of stable, legally-recognized partnerships.\textsuperscript{134}

Just as the state offers incentives intended to induce individuals to serve in the military or form stable domestic partnerships, the state \textit{could} exercise political power to discourage market-maximizing and housework-shirking. It could impose an educational curriculum that instills an egalitarian ethos, or “culture of justice,” in order to discourage market-maximizing,\textsuperscript{135} or provide high quality subsidized childcare to encourage egalitarian sharing of work within domestic partnerships.\textsuperscript{136} Of course, these political interventions may be illegitimate. But whether or not they are is a substantive philosophical question. In his hasty rejection of RCJ, Cohen treats the delineation of the political apparatus as if it were settled pre-theoretically. But for proponents of RCJ, determining the political apparatus is a \textit{normative} matter. RCJ restricts the subject matter of justice to the aspects of society that are \textit{rightfully} part of the political apparatus. Thus, an assessment of RCJ must await an account of legitimate enactments of political power. Only with such an account in hand can we determine the reach of justice as determined by RCJ, and only then can we determine whether that reach is sufficiently expansive.

One of Cohen’s own examples illuminates this point: Cohen asks us to imagine a sick child who desperately needs medical treatment. Because of their religious beliefs, the child’s parents prefer that she not be treated. Cohen uses this case to press the arbitrariness objection to RCJ: Because the behavior of the parents \textit{clearly} has a profound impact on the child, the case

\textsuperscript{134} Some argue that the state exercises political power to sustain the gendered division of labor, incentivizing gender inequalitarian distributions of paid and unpaid work through the implementation of tax incentives (McCaffery 1999).

\textsuperscript{135} See Cohen 1992, p. 315 for his first use of the term “ethos.”

\textsuperscript{136} Other gender egalitarian interventions include leave initiatives and work time regulations (See Chapter 1).
allegedly shows that RCJ excludes from the purview of justice some aspects of society which profoundly impact citizens’ lives. But notice that this case makes Cohen’s point only if the parents’ behavior is in fact outside the reach of legitimate exercises of political power. We can imagine societies that recognize a legally-enforceable right of children to life-sustaining medical care, regardless of the wishes of the parents. To determine whether the parents’ behavior falls within the reach of justice on RCJ, we must ask: Is it legitimate for the state to exercise power to induce the parents to accept treatment on behalf of their child? If so, then political institutions can be designed to provide that inducement, and an adequate theory of justice will judge society unjust insofar as its institutions fail to do so. Depending on the extent of legitimate political power, RCJ need not render justice blind to the behavior of individuals within social institutions.

Cohen’s assumption that the parents’ behavior is excluded from the restricted purview of justice is understandable. Behavior within families is thought to exemplify the kind of behavior that RCJ excludes from the reach of justice. Presently, I will defend a much more expansive account of legitimate political power. On this account, institutions can legitimately use certain types of political power to target certain behaviors of individuals typically thought to be beyond the reach of justice. Any theory of justice which accommodates my account of legitimate political power will deem social institutions unjust insofar as those institutions fail to target those behaviors in the specified (legitimate) ways. Under certain circumstances, these targetable behaviors include market-maximizing and housework-shirking. Once we have on hand an account of legitimate political power, we will see that RCJ restricts the subject matter of justice in a way which is neither arbitrary nor implausibly narrow. Before developing my account of legitimate political power, I consider a rival strategy for defusing the arbitrariness objection. I think the strategy is unsuccessful, but its difficulties are enlightening.
4. **Does Political Power Face a Special Justificatory Burden?**

Recent attempts to defend RCJ have alleged that enactments of political power face a “special justificatory burden.” These defenses begin by noticing that in just, liberal societies, exercises of political power are purportedly sanctioned by citizens as a collective body. Exercises of political power must therefore meet the justificatory burden of being acceptable to free and equal citizens. And political institutions face a second justificatory burden, the strategy maintains, because citizens are generally unable to withdraw from the jurisdiction of those institutions. Proponents of this strategy argue that an application of principles of justice to the political apparatus provides a way to meet these burdens. Because the application of principles of justice to political institutions is called for by the justificatory burdens those institutions face, RCJ is not arbitrary.

Political power does indeed face a justificatory burden. Still, this defense of RCJ is unsatisfactory. In order to justify a restriction of the subject matter of justice to the political apparatus, we need to establish not just that exercises of political power face a justificatory burden, but that exercises of political power face a justificatory burden that does not apply to omissions of political power. RCJ restricts the subject matter of a theory of justice to the political institutions of society, thereby excluding all individual behavior that is neither mandated nor prohibited by those institutions. If some omissions of political power face the same justificatory burdens that exercises of political power face, then we are left without a principled justification.

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137 For variations of this strategy, see Neufeld 2009 and Scheffler 2006. (This is one of several ways that Scheffler tries to disarm Cohen’s objection to RCJ.) Neufeld and Scheffler both refer to RCJ as a restriction of justice to the “coercive” apparatus of society, where coercion is understood broadly to include any exercise of political power. In this they follow Rawls: “Political power is always coercive power applied by the state and its apparatus of enforcement” (Rawls 2001, p. 40; Rawls 1993, p. 68).

for excluding those individual behaviors that social institutions leave unregulated. I will argue that omissions do indeed face the same justificatory burdens. Because the justificatory burdens are not unique to enactments of political power relative to omissions, they will not serve as a principled justification for restricting the purview of justice to the political apparatus of society.

Consider the first justificatory burden: Political power is justified only insofar as it is acceptable to free and equal citizens. Notice that, in order for any exercises of political power to be justified, conditions must obtain under which persons can develop as free and equal citizens. Without free and equal citizenship, then, no just liberal state could exist. Moreover, free and equal citizens are characterized as possessing a higher-order interest in preserving their capacities for free and equal citizenship. Thus, free and equal citizens will not only accept, but will in fact insist upon, those exercises of political power that are necessary for the preservation of the capacities of citizenship. Because there are circumstances under which political power would be necessary to protect these capacities—for example, when individuals’ basic liberties are being trampled—there are enactments of political power upon which citizens will insist.

Political power is thought to face a special justificatory burden because some instances of it will prove unacceptable to free and equal citizens, and thus lack legitimacy. But we have just seen that there are circumstances that would undermine the very possibility for free and equal citizenship, and that political power will sometimes be necessary to remedy those circumstances. It follows that some omissions of political power will likewise prove unacceptable to free and equal citizens. Thus, omissions face the same justificatory burden that exercises of political power face: They are illegitimate insofar as they are unacceptable to free and equal citizens. The fact that exercises of political power are purportedly justified by the collective will of free and

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139 Rawls 1993, pp. 142-3.
equal citizens does not establish that political power faces a *unique* justificatory burden relative to omissions of political power.

Now consider the second justificatory burden: the difficulty of amending the political apparatus or exempting oneself from its jurisdiction. Exercises of political power are indeed difficult to avoid. We cannot easily opt out of our society’s taxation scheme, for example, or effect meaningful changes to that scheme through our individual actions. But *political* power is not unique in its inescapability. Coercive enactments of non-political (hereafter “private”) power can be just as inescapable. Most children are born to parents who mold them, coerce them, and generally exert great power over them. If anything, the private power exercised by one’s family of origin is *less* escapable and *less* amenable to change than is the political power of the state over its citizens. So the difficulty-of-opting-out burden is not unique to political power relative to private power imposed by agents like parents of young children. Moreover, it is only because the state omits certain exercises of political power within the family that parents are able so pervasively and inescapably to exert private power over their children. Thus, *omissions* of political power enable enactments of private power. Insofar as private power is inescapable, and *omissions* of political power enable the exercise of private power, the omissions of political power themselves acquire this feature of inescapability. It follows that this justificatory burden is not unique to exercises of political power as compared with omissions of political power.

Return for a moment to Cohen’s sick child. By declining the treatment, the child’s parents exercise private power over the child. And the child can no more escape that power than can she escape the political power of the state. But notice that the parents’ exercise of private power is possible only if the state omits a particular enactment of political power: the enactment of laws which demand life-sustaining medical treatment on behalf of sick children. More
generally, private power is possible only if the state omits certain exercises of political power. There may well be a presumption in favor of political omissions, but this presumption cannot be grounded in the deep inescapability or the deep resistance to change of political power. Because private power often also has this feature, and because private power is only possible because the state omits exercises of political power that would disrupt it, exercises of political power are not categorically less avoidable than omissions of political power. Neither of the proposed justificatory burdens constitutes a principled, non-arbitrary justification for RCJ.

In fact, we cannot defend RCJ against the arbitrariness objection by appeal to any special justificatory burden faced by enactments of political power. The strategy fails because it is insufficiently attentive to the substantively normative project of delineating the political apparatus. The political conception of the person as citizen that animates the problem of justice in the first place imposes not just negative constraints on how far the political apparatus can legimtimately extend, but also positive requirements on how far it must extend: The apparatus must be expansive enough to protect the development of the kind of moral personality that animates liberal conceptions of justice in the first place. Because citizenship imposes both negative constraints and positive requirements on political power, there will be both illegitimate enactments of power and illegitimate omissions. Some enactments of power, in other words, will be positively required. And the legitimacy of both enactments and omissions is grounded in the same consideration: The tacit consent of free and equal citizens. Because the same consideration that legitimizes the enactments also legitimizes the omissions, there can be no justificatory burden which categorically distinguishes between the two and thus renders RCJ non-arbitrary.

Moreover, even if this strategy did provide a non-arbitrary justification for restricting the principles of justice to the political apparatus, it offers no help in answering the restrictiveness
objection to RCJ. Because the special burden strategy attempts to ground RCJ in the very nature of political power, it operates independently of any particular account of legitimate political power. It has nothing to say about how broad or restrictive the political apparatus ought to be, but restricts justice to the political apparatus on any rendering of what that apparatus encompasses. In short, the justificatory burden strategy attaches justice to the political apparatus without attaching the political apparatus to anything at all, thus leaving us without resources for responding to worries that the political apparatus is too restrictive a purview of justice. In contrast, the strategy I pursue justifies the restriction of justice to the political apparatus using the very same considerations that justify the delineation of the political apparatus itself. Because my strategy begins with an account of the legitimate political apparatus, it enables us to answer both the arbitrariness objection and the restrictiveness objection in a unified, coherent way.¹⁴⁰

In the remainder of this chapter, I execute this strategy. I look to political liberalism for a theoretical framework from which we can develop an account of the legitimate political apparatus. I argue that the considerations that determine the size and shape of the legitimate political apparatus also justify RCJ. In other words, the facts that make the delineation of the political apparatus principled and non-arbitrary also make a restriction of justice to that apparatus principled and non-arbitrary. After defending the RCJ against the arbitrariness objection, I turn finally to the task of defending it against the restrictiveness objection.

5. Political Liberalism and the Political Apparatus

¹⁴⁰ Of course, nothing rules out the possibility of two entirely independent responses to the two objections. Nonetheless, it is a merit of the strategy I pursue in the remainder of this chapter that it grounds the restriction of justice to the political apparatus in the very same considerations that justify the delineation of the political apparatus itself.
We can understand political liberalism as occupying a range on one end of a spectrum, with comprehensive liberalism occupying a range on the other end. Comprehensive liberal theories of justice are based on comprehensive liberal conceptions of the good: conceptions which affirm liberal values like equality, autonomy, and liberty as substantive values that can legitimately guide the organization of political institutions and justify political action. Comprehensive liberals affirm liberal values as the right or true values: They accept as a matter of fact that liberty, autonomy, and equality are good for people, and that their goodness justifies the role those values play in legitimizing political action.

Political liberalism, in contrast, maintains that political institutions and the principles on which they are built must be justifiable independently of any particular comprehensive conception of the good, including any comprehensive liberal conception. Political liberalism is motivated by the realization that citizens living under free, democratic institutions will inevitably come to affirm different and incompatible conceptions of the good, or beliefs about what is of value in life. Any political system based on one particular conception of the good will lose the support of those who affirm incompatible conceptions. A political system based on substantive liberal values like autonomy and equality, for example, will fail to retain the reasoned allegiance of religious fundamentalists who reject those values as fundamental constituents of a good life. In order to ensure that society is stable for the right reasons, then, political liberalism dispenses with comprehensive value judgments, including the liberal notion that equality and autonomy are good for people. Within the framework of political liberalism, exercises of political power are illegitimate insofar as they can be justified only by appeal to the truth of liberal values.

141 In Rawls’s words, political liberalism attempts to uncover “the fair terms of social cooperation between citizens characterized as free and equal yet divided by profound doctrinal conflict” (Rawls 1993, p. xxv).
Two theoretical commitments of political liberalism are especially relevant for our purposes. First, exercises and omissions of political power must be capable of commanding the support of reasonable citizens. To meet this burden, the exercises must not depend for their justification on some particular conception of the good, and they must be acceptable from within all reasonable conceptions of the good. We can understand this criterion for legitimate governmental intervention (and non-intervention) within political liberalism according to Rawls’s “liberal principle of legitimacy” (hereafter, LPL): “[O]ur exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in light of principles and ideals acceptable to their common human reason.”\textsuperscript{142}

Crucially, the acceptability to citizens of any particular exercise of political power is a normative matter. In order for an exercise of political power to be approved by LPL, it need not be acceptable to actual individuals taken as they are. Instead, it must be one which hypothetical citizens would find acceptable given a particular characterization of citizenship. Within political liberalism, citizens are characterized as reasonable and rational, free and equal, and with a higher-order interest in preserving the capacities of citizenship.\textsuperscript{143} Because not all actual citizens are in fact so constituted (if any are), determining whether exercises of political power are “acceptable to citizens” is not an empirical matter, but a substantive philosophical project.

The second theoretical commitment of political liberalism is the restricted scope of justice: Within political liberalism, justice is a restricted political ideal, the full realization of which must leave ample space for citizens to affirm and practice non-liberal conceptions of the

\textsuperscript{142} Rawls 1993, p. 137. LPL is derived from the criterion of reciprocity, which is political liberalism’s fundamental normative ideal (Rawls 1993, p. xlv).

\textsuperscript{143} Rawls 1993, pp. 142-3.
good in their personal lives. Though liberal values like autonomy and equality continue to play a role within political liberalism, the scope of these values is limited. For example, political liberalisms must respect the right of religious fundamentalists to reject such liberal values as autonomy within their personal and spiritual lives. It is precisely because political conceptions of justice limit the scope of justice to the political apparatus of society that social institutions can maintain the reasoned allegiance of citizens over time, no matter what values and ideals those citizens embrace in their personal lives.\textsuperscript{144}

We can see now why it makes sense to work from within the framework of political liberalism in executing our project. First, whereas comprehensive liberals undertake to specify the \textit{true} principles of justice, political liberals are more concerned with the issue of political legitimacy. Because ours is a question of the legitimacy of political interventions, this is an appropriate setting for our inquiry. Second, political liberalism imposes a particularly demanding burden on the legitimacy of political interventions: Interventions must comply with the liberal principle of legitimacy. This will be especially relevant when we turn to the restrictiveness objection to RCJ. Because political liberalism imposes exacting burdens on legitimate political interventions relative to comprehensive liberalisms, it will ground a relatively restrictive notion of the purview of justice. My defense of RCJ will maintain that that restriction is not \textit{implausibly} restrictive, even working from within this relatively restrictive notion of legitimate political interventions. In setting my defense of RCJ within the framework of political liberalism, then, I am setting myself a demanding argumentative burden. If my defense is successful, the fact that it overcame such a demanding burden will make it all the more powerful.

\textsuperscript{144} Assuming those values and ideals are reasonable. In political liberalism, a conception of the good counts as reasonable so long as it does not call for the violation of basic liberties and so long as it is compatible with the various burdens citizens face \textit{as} citizens in a society marked by reasonable pluralism.
Within political liberalism, LPL delineates the size and shape of the political apparatus. That apparatus consists in those aspects of citizens’ lives which they can reasonably agree to subject to exercises of political power. Because LPL delineates the political apparatus in this principled way, and because of what justice is, the restriction of principles of justice to that apparatus is principled as well. The project of justice is to find the fair terms of social cooperation among free and equal citizens. Working within political liberalism, the political apparatus of society includes only those aspects of citizens’ lives which they would agree to order politically on mutually defensible grounds, and all those aspects of citizens’ lives which they would insist be ordered on mutually defensible grounds. If justice consists in the fair terms of cooperation among free and equal citizens, then the subject matter of justice must consist in those aspects of citizens’ lives which they can reasonably agree should be regulated on terms that are mutually defensible among them. Of course, critics of RCJ need not be political liberals, and thus may reject the account of the political apparatus defended here. But because RCJ can be justified on principled grounds, critics cannot maintain the charge of arbitrariness. The arbitrariness objection is therefore unpersuasive.

6. Housework-Shirkers, Market-Maximizers, and The Liberal Principle of Legitimacy

We might think that any defense against the restrictiveness objection situated within the framework of political liberalism is doomed to fail. Political liberalism imposes demanding standards for legitimate exercises of political power, and one of the theoretical commitments of

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145 Cohen is a case in point.
146 Moreover, there is a prima facie reason to think that RCJ might cohere after all with the “profundity of effect” justification Rawls used to motivate it in the first place. Recall that, for Rawls, it is the “profound effect” of certain aspects of citizens’ lives that justifies applying principles of justice to them. It is not at all implausible to think that citizens would agree that behaviors are susceptible to legitimate exercises of political power to the extent that those behaviors profoundly impact the lives of other citizens.
political liberalism is that political power cannot legitimately be justified on the basis of substantive liberal values like equality. Recall the two kinds of individual behavior that RCJ is thought to implausibly exclude from the reach of justice: market-maximizing behavior, which disrupts the distributional goals of just institutions, and housework-shirking behavior, which perpetuates harmful gendered institutions and social norms. Political interventions to equalize work across genders or to equalize material wellbeing across social groups cannot legitimately be grounded in, for example, the claim that all persons are substantively morally equal regardless of gender or social class background. The substantive moral equality of persons is part of a (family of) comprehensive conception(s) of the good that not all citizens share; it thus cannot legitimately ground enactments of political power. RCJ appears straightforwardly to locate the behavior of housework-shirkers and market-maximizers beyond the reach of justice.

But appearances are deceiving. Recall that in political liberalism, the scope of justice is set by LPL. This explains why liberal values like equality and autonomy can play a restricted role within political liberalism, even though the truth of those values cannot be invoked to justify exercises of political power. The legitimate role of these values in a politically liberal society—like the scope of justice more generally—is determined by the consent of citizens. And equality and autonomy can be supported as political values by citizens who affirm reasonable comprehensive doctrines, even though not all citizens accept them as substantive values.

Consider the religious fundamentalist who rejects the importance of autonomy to human flourishing, and who rejects the substantive equality of all persons. The fundamentalist cannot accept institutions and principles of justice grounded on equality and autonomy as substantive ideals, because such institutions and principles may leave him insufficiently free to reject those values in his personal life. A society that accepts the substantive value of equality, for example,
may deem it acceptable to justify acts of political power on the premise that citizens are better off insofar as they enjoy equal status within their families. Such a society runs the risk of passing legislation that is insufficiently attentive to the reasonable preferences of some citizens to embrace gender hierarchies in their homes. But as a citizen, the religious fundamentalist will support equality as a restricted political value. He knows that his political equality must be protected in order to secure protection for his practice of a non-liberal conception of the good which rejects the premise that men and women have substantively equal capacities and predilections. Similarly, he will support autonomy as a restricted political value. If his political autonomy were not ensured, neither would his freedom to reject substantive autonomy be secure.

Because his basic liberties derive from his status as an autonomous citizen capable of choosing a conception of the good, he must accept autonomy as a virtue of citizenship in order to secure the basis for his right to freedom of conscience. In short, citizens accept equality and autonomy as political values, if only to secure their freedom to reject them as substantive values.

So within political liberalism, the justification for restricting justice derives from LPL: Only in their restricted versions are liberal values acceptable to free and equal citizens; thus, only in their restricted versions can these values justify enactments of political power. To determine how restrictively RCJ draws the purview of justice, we must ask: Which exercises of political power would citizens accept, and with respect to which aspects of their lives? I make no attempt here to give a comprehensive answer to this question. Instead, I argue that citizens can reasonably be expected to accept a good deal more political intrusion than political liberals—and their opponents—have traditionally thought. Insofar as the considerations I raise are compelling, they will serve to undermine the restrictiveness objection by demonstrating that market-
maximizing and housework-shirking are susceptible to legitimate exercises of political power, and therefore fall within the reach of principles of justice as determined by RCJ.

I have argued that the political apparatus includes only those aspects of citizens’ lives that they could agree to order politically on mutually defensible grounds, and all those aspects of citizens’ lives that they would insist be ordered on mutually defensible grounds. Recall that, for the purposes of applying LPL, citizenship must be understood normatively: We do not ask whether an exercise of political power is acceptable to citizens as they in fact are, with actual conceptions of the good and loyalties to particular moral, religious, or philosophical doctrines; rather, we ask whether the exercise of power would be acceptable to citizens as characterized according to political liberalism’s conceptualization of the political person. We ask: Is this exercise of political power acceptable to free and equal citizens with capacities for a conception of the good and a sense of justice and with a higher-order interest in preserving those capacities?

In answering this question, we can attribute to citizens two motivating projects, both implied by political liberalism’s characterization of citizenship. First, because of their capacity for a conception of the good, citizens will be motivated to ensure that they have adequate space in which to act on that conception, and adequate protection from outside interference in doing so. In some cases, this motivating project will cause citizens to reject exercises of political power. They might reject the establishment of an official state religion, for example, in order to protect their right to practice a religion of their own choosing. In other cases, this motivating project will lead citizens to accept political interventions, or even insist upon them. This will occur when citizens call upon the state to exert political power to protect themselves or others from exercises of private power. Citizens may, for example, accept certain exercises of political power within families to protect children from objectionable parental behavior.
The second motivating project of free and equal citizens is to ensure that conditions obtain under which it is possible for all individuals to develop into free and equal citizens. This is implied by political liberalism’s characterization of citizens as possessing a higher-order interest in the development of the capacities of citizenship. If society failed to secure the conditions necessary for individuals’ realization of citizenship, then no particular citizen could be assured the protection of her own capacities as a citizen. Moreover, political personhood is necessary to get the very project of justice off the ground. In order for ideals of justice to meaningfully guide social cooperation, we must understand individuals as free and equal citizens, capable of forming and living out a conception of the good, and capable of conforming their behavior to principles of justice. If individuals were not political persons in this sense, they would have no need for finding fair terms of mutual cooperation, and no capacity for complying with those terms once found. Because citizens have an interest in living in a stable and just society, they will be motivated to secure social conditions consistent with the development of citizenship for all.

As with the first motivating project, this generates both positive requirements and negative constraints on the legitimate use of political power. The state must abstain from intrusions into citizens’ personal lives that can be justified only by appeal to values that those citizens may reasonably reject. But the state must also ensure for citizens adequate space in which to develop their capacities for a conception of the good and a sense of justice, and it must ensure their access to other necessary means for the development of those capacities. Once again, this might mean intervening to protect citizens from certain exercises of private power. And it might mean intervening to ensure access to certain social necessities without which one could not reasonably be expected to develop as a citizen—for example, an adequate income attached to
a social position from which one can derive self-respect.\textsuperscript{147} Because citizens are motivated to secure social conditions consistent with the development of citizenship, they will accept enactments of political power necessary to establish and preserve those conditions.

Because the realization of citizens’ motivating projects requires different exercises of political power in different circumstances, the acceptability to citizens of an exercise of political power will depend on the character of the society in question. Consider the political liberties (the freedoms to vote, to participate in public political deliberation, and to run for public office). Citizens will insist upon enactments of political power necessary to protect these liberties. Moreover, citizens will insist on the preservation of conditions under which it is materially possible for them to actually exercise these liberties. Thus, we must understand the liberties not merely in formal terms, as the absence of restraints that prevent citizens from voting or running for office. Protection of the liberties also requires access to the all-purpose means necessary for the effective exercise of those liberties.\textsuperscript{148} Insofar as political power must be exerted to ensure that citizens’ liberties are protected in this robust sense, those political interventions are legitimate within the theoretical apparatus of political liberalism.

But whether political power must be exercised to protect citizens’ political liberties—and to what extent it must be exercised—is context-dependent. In a society thoroughly pervaded by an ethos of sharing and community, it may well be that no coercive redistribution of income and wealth would be necessary to ensure for all citizens adequate all-purpose means to, for example, run for public office. Thus, no such redistribution would be justified on the grounds of protecting

\textsuperscript{147} Similarly, Rawls argues that a just society must ensure for all citizens adequate all-purpose means to make effective use of the basic liberties and opportunities (Rawls 1993, pp. xlv, 6).

\textsuperscript{148} Rawls 1999a, p. 179; 1993, pp. 324-31.
the fair value of that liberty. But in a society characterized by vast inequality with severe poverty and deprivation on the losing end, redistribution is straightforwardly justified as a means to the protection of the fair value of basic liberties. Insofar as political interventions are necessary to ensure that every citizen meet the threshold of material wealth necessary for the effective exercise of the basic liberties, those interventions are legitimate.

The two motivating projects of citizenship might sometimes be in tension with one another (or with other motivating projects of citizenship). Because interventions that further one motivating project may frustrate another, citizens will not automatically accept all interventions that can be justified by appeal to one of the projects. Thus, we will sometimes have to adjudicate competing considerations in determining which exercises of political power are legitimate. This need to manage trade-offs has a further implication for the acceptability of exercises of political power. Whether any particular exercise of political power is acceptable to citizens depends on how much and what kind of force the exercise involves. Citizens may accept less forceful exercises of power where more forceful exercises are unacceptable. They may accept interventions that *incentivize* certain behaviors while rejecting the legal *criminalization* of alternative behaviors, for example. This will occur when the more forceful exercises threaten *other* motivating projects of citizenship, but the less forceful exercises do not.

Suppose that being raised to affirm non-liberal, fundamentalist religious doctrines impedes children’s development of citizenship. Even so, citizens will reject legal statutes prohibiting religious fundamentalists from raising their children to affirm non-liberal fundamentalist doctrines. Citizens will reject such statutes because raising one’s child to share one’s own values is an important way to enact one’s conception of the good, and citizens will

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149 This is, of course, consistent with redistribution being justified on some other grounds.
want this transmission of values protected. They will reject the statutes, which would have
furthered their motivating project of protecting children’s development of citizenship, because
the statutes are unacceptably imical to a different motivating project: the protection of adequate
space for citizens to exercise their conceptions of the good. But insofar as this trade-off is
required, citizens will be inclined to accept offsetting exercises of political power to advance the
compromised motivating project. In this case, citizens will accept gentler interventions to protect
children’s development of citizenship—interventions that pose less of a threat to the ability of
parents to share their fundamentalist conceptions of the good with their children. For example,
citizens might accept legal requirements on the contents of primary education specifying that
children must be educated to understand their basic rights and liberties as citizens.

Because some motivating projects of citizenship may be threatened by forceful exercises
of political power but not by gentler exercises, the legitimacy of political interventions is
contingent on the type of force those interventions involve. Because exercises of political power
generally impose some restrictions on some citizens’ enactments of their conception of the good,
citizens will generally not accept a more forceful intervention where a gentler one would suffice.
Accordingly, LPL imposes a presumption in favor of enacting the gentlest intervention sufficient
to accomplish the objective in question. The upshot is this: Because political interventions
vary in their forcefulness, we cannot infer from the illegitimacy of certain interventions that the
behaviors targeted by those interventions are beyond the reach of justice. It would clearly be
illegitimate to criminalize housework-shirking. But we cannot infer from this that household

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150 Similarly, citizens will not accept interventions intended to maximize the realization of citizenship above the
threshold at which citizenship is genuinely attainable for all. In the tradition of political liberalism, we can think of
free and equal citizenship as a “threshold concept”: What matters, from the perspective of the political conception of
justice, is not that citizens realize the virtues of political personhood as fully as possible, but that they attain them to
a sufficient degree. I will not weigh in here on what constitutes a sufficient realization of political personhood. I take
it as clear that a person whose conception of the good casts her as a sub-equal and who recognizes no other
conceptions as feasible alternatives will not attain a sufficient conception of herself as a free and equal citizen.
allocations of labor are beyond the reach of justice. Gentler exercises of political power may be acceptable to citizens. In the case considered above, the fundamentalist parents’ transmission of their values to their children may still fall within the reach of principles of justice, even though some forceful interruptions of that transmission constitute illegitimate uses of political power.

In conceptualizing the political apparatus, then, we must keep several considerations in mind: First, citizens are motivated to ensure that conditions obtain which are conducive both to citizens’ enactment of their conceptions of the good, and to the development of citizenship among all individuals. These motivating projects have implications not just for enactments of political power they will reject, but additionally for enactments upon which they will insist. Second, whether or not a political intervention is acceptable to citizens depends on the circumstances in which it is to be enacted, because the interventions needed to realize the two motivating projects will vary depending on circumstances. Finally, whether or not a political intervention is acceptable to citizens depends on the type of political power being exercised. Relatively gentle interventions may be legitimate where more forceful interventions are not.

These considerations imply that the political apparatus is a great deal more expansive than critics of RCJ assume it to be. Imagine a large community of citizens who share an illiberal conception of the good. These citizens believe that men and women are naturally unequal in their capacities and predilections, and that this inequality justifies a rigidly gendered allocation of power and labor. Due to the insularity of the community, members interact almost exclusively with other members, and illiberal values are reliably transmitted from parents to children. Under these circumstances, I contend, citizens will accept such exercises of political power as incentives for women to work outside the home and for men to care for children. These interventions are acceptable to citizens because children cannot develop a conception of
themselves as equal citizens when substantive equality is never apparent to them as a feasible option. This is not to say that the acceptance of an illiberal doctrine necessarily compromises political personhood. Citizens who affirm doctrines that deny their substantive equality may well retain conceptions of themselves as equal citizens if they experience themselves as choosing among feasible alternatives, some of which affirm their substantive equality. But those who grow up under circumstances that prevent them from recognizing substantive equality even as a feasible option are unlikely to conceive of themselves as equal in any sense—including as equal citizens. Under these circumstances, political intervention is necessary to preserve the recognizability of substantive equality as a feasible option. The incentives mentioned above would therefore further citizens’ motivating project of preserving social conditions under which all individuals can develop as citizens.

But citizens are not only motivated to protect the capacity of all to develop as citizens. They are also motivated to protect adequate space for citizens to exercise conceptions of the good. They will therefore reject interventions that use more force than is necessary to protect the children’s development of citizenship. For example, they will reject state-mandated equal sharing of household chores. But by incentivizing paid work among women and caring work among men, the state might establish enough heterogeneity to preserve children’s ability to see substantive equality as a feasible option, and thereby preserve the capacity of the children to develop as citizens. This intervention furthers a motivating project of citizenship without sacrificing any comparable progress toward other motivating projects. Because citizens will accept—and perhaps insist upon—this exercise of political power, it is legitimate by the lights of LPL. Gendered housework allocations are not beyond the reach of a restricted theory of justice.
Now consider a scenario meant to demonstrate that RCJ does not place market-maximizing behavior beyond the reach of justice: For generations, every “talented” citizen has demanded material incentives in exchange for the exercise of her productive talents. The result is persistent social class stratification. Citizens recognize a clear social demarcation between high-status workers who can demand high wages for their (trained) marketable talents and lower-status workers who cannot. Over time, the inequality may jeopardize the development of political personhood. Entrenched inequalities between social classes that persist across generations may undermine citizens’ capacity to see themselves as political equals. When this occurs, citizens will accept exercises of political power intended to restore conditions conducive to the development of citizenship. They may, for example, accept the imposition of curricular requirements that students be educated to the virtues of social solidarity and fraternity. This intervention would aim to discourage market-maximizing behavior, thereby furthering citizens’ motivating project of protecting the development of citizenship. And the intervention is sufficiently gentle that the progress toward this motivating project is purchased at a relatively small cost to citizens’ project of preserving adequate space for citizens to practice their conceptions of the good.

Based on political liberalism’s characterization of citizenship, citizens will accept—and perhaps even insist upon—the most gentle interventions sufficient to preserve social conditions conducive the development of citizenship. Under certain circumstances, these interventions include exercises of power that aim to protect the development of citizenship by discouraging the inequality-generating behaviors of individuals within households and labor markets. Because citizens can accept interventions that target housework-shirking and market-maximizing, institutions that aim to amend these behaviors can be a part of the legitimate political apparatus
delineated by political liberalism’s LPL. Thus, individual behaviors such as housework-shirking and market-maximizing do fall within the reach of principles of justice set by RCJ. Like the arbitrariness objection, the restrictiveness objection is unpersuasive.

7. Conclusion

My proposed resolution of the dispute regarding the subject matter of justice offers something appealing to both sides. On the one hand, my defense of RCJ secures the status of justice as a restricted political ideal. Principles of justice apply, first and foremost, to the political apparatus of society. On the other hand, the reach of justice delineated by RCJ is more expansive than either critics or proponents of RCJ have taken it to be, because the political apparatus is more expansive than it initially appeared to be.

Even so, I suspect that neither camp will find my account fully satisfactory. My defense of RCJ legitimizes exercises of political power that Rawls would likely have found objectionable. And though I have argued that RCJ can identify institutions as unjust insofar as those institutions fail to target housework-shirking and market-maximizing behavior, my account still prevents us from categorizing that behavior itself as an injustice, something that Cohen apparently thinks a theory of justice should permit. Moreover, interventions to discourage housework-shirking and market-maximizing have been shown to be legitimate only insofar as those behaviors perpetuate norms and institutions that undermine citizenship.

But the conceptual middle ground has much to recommend it. First, my defense of RCJ is principled: It is grounded within the framework of political liberalism, set by that framework’s LPL. And it is justified on the basis of salient considerations regarding the acceptability of political interventions to free and equal citizens. Second, the account I have defended constitutes
an intuitively plausible picture of what justice judges. It can render nuanced judgments about the legitimacy of political interventions that are sensitive to the type of power being exercised, the purpose of its exercise, and the circumstances in which it is to be exercised. And my account accommodates the intuition that housework-shirking and market-maximizing ought not to be categorically beyond the reach of principles of justice. Under certain circumstances, certain exercises of political power may be legitimate means of inducing individuals to form more gender egalitarian families or to exercise marketable talents in socially beneficial ways. By showing how such exercises of power can be legitimate, my approach firmly locates these individual behaviors within the reach of justice, while retaining the restriction of justice to the political apparatus.

By locating families’ work allocations within the purview of justice, my approach shows that critics have been wrong to think that gender egalitarian political interventions are ruled out from the start on the basis of political liberalism’s restricted purview of justice. The way is clear for a politically liberal defense of gender egalitarian political interventions, if only a positive argument for those interventions can be given. To be successful, this argument must rely only on considerations that are permissible reasons to ground exercises of political power within political liberalism. In the next chapter, I turn to the project of developing just such an argument.
Chapter 3:
Gendered Homes and the Norms that Reinforce Them:
How NOT to Argue for Gender Egalitarian Political Interventions

In Chapter One, I reviewed some of the empirical literature on the gendered division of labor. This review demonstrated that household divisions of labor remain unequal, with women in every industrialized country continuing to do the majority of housework and childcare. The review also established that the gendered division of labor has harmful consequences, and that it is susceptible to change via political interventions that make gender egalitarian allocations of paid and unpaid labor more attractive and less costly than they are under the status quo. Such interventions include family leave policies, work time regulation, and public provision of childcare. But the potential efficacy of these policies offers little hope to political liberals who hope to bring about a more gender egalitarian society if the constraints of political liberalism rule out gender egalitarianism as an illegitimate aim of governmental intervention.

I have set myself two main tasks in this dissertation: first, to show that political liberalism does not rule out gender egalitarianism as an illegitimate aim of governmental intervention; second, to develop a positive argument for gender egalitarian political interventions using only considerations that are admissible within political liberalism. In Chapter Two, I focused on the first of these tasks, arguing that household allocations of labor are not categorically beyond the reach of justice, and that political interventions aimed at inducing couples to share work more

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151 See Chapter One for an explanation of these terms. Also see Chapter One for an explanation of what domestic arrangements I stipulatively include within the category “families.” (Unmarried cohabitating couples can count as families, as can homosexual couples.)

152 See Chapter One for an explanation of political liberalism and why it initially appears to rule out gender egalitarian political interventions.
equally could be legitimate exercises of political power if a positive case could be made for such interventions. I indicated how that positive case might proceed in the extreme cases where the gendered division of labor undermines citizenship itself. But in the more mundane cases with which we are all too familiar, that positive case is notoriously difficult to build. Recall that a basic tenet of political liberalism is that individuals’ preferred ways of life should enjoy substantial protection against intrusive enactments of political power, particularly when practiced within one’s home and family. So any argument for gender egalitarian interventions must overcome a strong presumption against interventions to change what goes on within families.

Moreover, the disadvantages associated with the gendered division of labor have primarily been cast in the terms of some comprehensive view of the good; in other words, these disadvantages are explained in terms of normative ideals like the substantive value of equality, the importance of fathers sharing intimacy with their children, and the importance of all individuals having the opportunity to perform socially valued work outside the home. Within the framework of political liberalism, these ideals are inadmissible grounds for political intervention, precisely because they rely on one particular—and controversial—view of the good life. So in addition to the general presumption against political intrusion into the family, we face a particular presumption against gender egalitarian intrusions into the family.

But these presumptions can be overridden. What we need is a positive argument in favor of gender egalitarian political interventions. This argument must be developed using only reasons that are admissible within political liberalism, and it must be strong enough to overcome the presumptions against such interventions. This rest of this dissertation is devoted to the development of one such argument. In this chapter, I offer a preliminary taxonomy of four

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153 In Chapter Four, I raise and consider the possibility that citizenship is undermined even in the “mundane” cases.
initially appealing strategies for developing the argument. I assess these strategies, arguing that they are unsatisfactory and will not generate an ultimately successful argument. Along the way, I show that the problems which beset these four strategies afford useful insights from which we can generate some desiderata for a more promising strategy.

We first need a clear idea of the kind of gender egalitarianism that political liberalism is allegedly unequipped to adopt as a political aim. We can better understand the problematic class of interventions by considering the gender-equalizing interventions which are not difficult to justify. Political liberalism has no problem proscribing gendered domestic arrangements—like abusive arrangements—that violate family members’ basic liberties. And it has no problem proscribing gendered domestic arrangements in which a family member is involved against her will, as in the case of a forced marriage. Because enactments of gender inegalitarianism which involve rights violations are unreasonable enactments, they enjoy no protection within political liberalism; and because citizens’ rights are always to be protected, political liberalism has clear political grounds on which to intervene to protect those rights, even if that protection requires intrusion into the family. The problematic cases are those in which there is no rights violation, and (adult) family members voluntarily participate in the domestic partnership and the gendered allocation of labor enacted in that partnerships. In this class of cases, political liberalism appears to have no grounds on which to intervene to induce families to share work more equally. And yet, it is this class of enactments of gender inegalitarianism which perpetuate the norms sustaining the gendered division of labor, and this class of enactments which the structural policy proposals aim to change. I will refer to these enactments of gender inegalitarianism as “the

\[154\] Children’s early participation in families is always non-voluntary. This will be discussed in more detail later.
apparently benign cases” because, taken in isolation, they seem morally unproblematic. And yet they are constitutive of social norms which are harmful to women, men, and families generally.

It will be helpful to develop a hypothetical case study which is representative of these apparently benign cases. Consider Karen and Dave: As a child, Karen was prepared well for her future role as a wife and mother. She was taught the skills necessary for managing a home and caring for others, while her brother was encouraged to develop aspirations for high-status professional accomplishments. Her parents sent subtle messages that set her on her path: They bought her toys like dolls that required looking after; they praised her for being kind while they praised her brother for being brave and independent; and, while they encouraged her to pursue a career of her own, they taught her that home and hearth come first, and expressed enthusiasm over careers that allowed for the flexibility required of a primary caregiver.

After finishing her nursing program, Karen met and married Dave. She went to work as a nurse and he went to work as an accountant. In various small ways, they prioritized his career over hers. They judged this arrangement to serve their interests as a family: Dave made more money and had more opportunity for career advancement, and the couple’s medical insurance and other benefits were provided by his employer. Moreover, he cared more deeply about his professional development, as he had been taught to seek fulfillment in career achievement, while she had been taught to seek it in interpersonal relationships. Because his career was more time- and energy-consuming, she did almost all of the domestic work. Neither objected.

When Karen and Dave had children, she took time off work to care for them until they started preschool. This seemed to them the sensible option, since her career allowed for greater flexibility than his and since his accounted for a greater share of the family income. After the birth of their second child, there was little financial incentive for Karen to hurry back to work;
the cost of substitute childcare for two children would claim nearly her entire paycheck anyway. When the kids were old enough to attend school, Karen went back to work. Because her participation in the workforce up to that time had been intermittent, she had missed out on several opportunities for career advancement. By now, it was a foregone conclusion that Karen would be the one to take time off work to care for the children when they were sick. But if Karen and Dave had stopped to deliberate about who should care for the children, they would have decided in favor of Karen anyway, as her absence from work was much less costly to the family.

Over the years, Karen struggled to balance her nursing career with her responsibilities to her family, prioritizing her family when home and work responsibilities came into unavoidable conflict. Dave devoted himself more and more exclusively to his career, in part because his income was so important to the family, and in part because Karen had developed such a competence in domestic matters that she could take care of things at home so efficiently.

On the face of it, this arrangement appears to be fully protected from within a politically liberal conception of justice, since (I assume for now) nobody’s rights are being violated, and since proscribing or modifying the arrangement could only be justified on the grounds of some comprehensive conception of the good which affirms the value of, for example, equal sharing of roles in marriage—a value which we cannot reasonably expect all citizens to affirm. It appears, then, that political interventions intended to bring about a more equal sharing of work in families like Karen and Dave’s are illegitimate according to political liberalism.

A family’s distribution of household labor and resources can serve to infringe on the basic liberties of family members, and a reasonable political conception will disallow such distributions. Karen and Dave are intended to exemplify the problem cases for political liberalism—those cases which appear objectionable to gender egalitarians despite being apparently immune from intervention on the grounds of political liberalism. In the case of Karen and Dave, nothing about their domestic arrangement is infringing on either of their basic liberties, as Rawls understands them. (In order to isolate the issue that remains when all basic rights are protected, we can assume that all the characters in the scenario (Karen and Dave and their children) enjoy(ed) an excellent public education and healthcare, and that these were not provided unequally on the basis of sex.)
How might we resist that conclusion, and argue that such interventions are legitimate options for politically liberal societies? How might we develop an argument in favor of political interventions that incentivize gender egalitarianism—interventions like family leave policies, work time regulation, and public provision of childcare—when the gender inegalitarian enactments these interventions target are so apparently benign?

1. **The Theoretical Modifications Strategy**

One popular response has been to adapt the theoretical framework of political liberalism in order to enable it to respond to the harms caused by gender inegalitarianism. Two theoretical modifications in particular appear promising, because they directly target the features of political liberalism which allegedly render gender equalizing interventions illegitimate: First, we might revise the way political liberalism draws the distinction between the personal and the political such that all political principles of justice apply to interactions within families. Second, we might impose more exacting standards on the kinds of lifestyles protected by political conceptions of justice such that gender inegalitarianism is left unprotected and thus liable to censure.\(^\text{156}\)

Before we consider the revisions, we should briefly discuss the features of political liberalism which they target. Consider first liberalism’s distinction between the personal and the political. Liberals have long been reluctant to treat the family as a subject of justice, and this has long drawn sharp criticism from those concerned about gender justice. Classic liberals simply assumed that justice refers to relations among families, rather than among individuals belonging to families.\(^\text{157}\) They assumed the family to be a natural unit, in some sense prior to any

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\(^\text{156}\) Both of these strategies have been defended by Susan Okin. See Okin 1987, 1989, 1994, 2004, and 2005. (Okin defends these strategies, but elsewhere says that she does not fit neatly into either the political or the comprehensive category of liberalism, but rather occupies “a position in between.” See Okin 1999, p. 129.)

\(^\text{157}\) See Kymlicka 2002, p. 386.
considerations of justice.\textsuperscript{158} Justice was the virtue of the “public” realm of adult men dealing with other adult men as representatives, or “heads” of families; family relationships were a “private” domain regulated by natural affections and sympathies. Contemporary liberals have rejected the premise that only adult men can properly participate in the public realm; in name at least, they affirm gender equality in the public realm. For the most part, though, they retain the premise that the family is a “private” domain immune to claims of justice.\textsuperscript{159}

In Rawls’s political liberalism, the public/private distinction is superseded by a separation between the personal domain in which citizens are free to pursue and practice their own comprehensive conceptions of the good,\textsuperscript{160} and the public domain in which they execute their roles as citizens, with all the accompanying duties to support the freestanding political conception of justice and to express their interests using the language of public reason, or “publicly shared methods of inquiry and forms of reasoning.”\textsuperscript{161} Rawls characterizes the family as personal primarily because the internal workings of the family and the way in which children are raised within it fall outside the proper scope of the political conception. But some feminist theorists have found this an unacceptable classification.

Some have also charged Rawls with inconsistency for including the family within the basic structure of society while simultaneously classifying it as non-political and maintaining that the principles of distributive justice cannot legitimately be applied to the domestic

\textsuperscript{158} Pateman 1980.
\textsuperscript{159} See, for example, Mill and Mill 1970.
\textsuperscript{160} Rawls defines comprehensive conceptions of the good as “conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is thought to inform our conduct, and in the limit to our life as a whole” (Rawls 1993, p. 13).
interactions of family members.\textsuperscript{162} Because the basic structure of society is, for Rawls, the primary subject of justice, and because Rawls includes the family within that basic structure, some feminists have thought that liberal principles of justice—including principles of distributive justice—should apply directly to the internal workings of the family. For his part, Rawls labels it a “misconception” that “the principles of justice do not apply to the family and hence…do not secure equal justice for women and their children.”\textsuperscript{163} But he maintains that the principles of distributive justice cannot legitimately be mandated \textit{within} the family, because the principles “are to apply directly to [the basic] structure, but are not to apply directly to the internal life of the many associations within it”.\textsuperscript{164}

\begin{quote}
\textit{[P]olitical principles do not apply directly to its internal life, but they do impose essential constraints on the family as an institution and so guarantee the basic rights and liberties, and the freedom and opportunities, of all its members. This they do, as I have said, by specifying the basic rights of equal citizens who are the members of families. The family as part of the basic structure cannot violate these freedoms. Since wives are equally citizens with their husbands, they have all the same basic rights, liberties, and opportunities as their husbands; and this, together with the correct application of the other principles of justice, suffices to secure their equality and independence.}\textsuperscript{165}
\end{quote}

\begin{flushright}
\textsuperscript{162} See, for example, Okin 1993 and Abbey 2007.
\textsuperscript{163} Rawls 1999b, p. 596.
\textsuperscript{164} Rawls 1999b, p. 596.
\textsuperscript{165} Rawls 1999b, p. 597.
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Here Rawls distinguishes the person as citizen from the person as family member. In their capacity as citizens, family members enjoy the same protections as any other citizens. But in their capacity as family members, people are free, for example, not to arrange their domestic lives in compliance with particular distributive principles that liberals deem just:

As citizens we have reasons to impose the constraints specified by the political principles of justice on associations; while as members of associations we have reasons for limiting those constraints so that they leave room for a free and flourishing internal life appropriate to the association in question. Here…we see the need for the division of labor between different kinds of principles. We wouldn’t want political principles of justice—including principles of distributive justice—to apply directly to the internal life of the family.166

In the previous chapter, I briefly discussed a reason to agree with Rawls that it is not inconsistent to classify the family as part of the subject of justice while maintaining that distributive principles of justice do not apply to interactions among its members.167 But critics of Rawls’s treatment of the family have voiced an even deeper concern: It is by classifying the family as non-political, they argue, that political liberalism institutionalizes the protection of gender inegalitarian allocations of work.168 More precisely, it is the combination of two

166 Rawls 1999b, pp. 597-8.
167 See also DeWijze 2000, Lloyd 1994.
168 This classification of the family as non-political has raised two further objections. (I consider the second in Chapter Four.) First, the protection of the family as a space to act out illiberal comprehensive doctrines allegedly limits the capacity of families to provide moral education for children—a role which political liberalism relies on families to perform. Second, the classification of the family as non-political implies the protection of comprehensive doctrines which deny the substantive equality of women; this in turn jeopardizes women’s political equality—an
structural features of political liberalism that jointly protect the enactment of gender inegalitarianism: first, the classification of the family as non-political; second, the classification of gender inegalitarian comprehensive doctrines as among those reasonable doctrines that receive protection within political liberalism. This classification of gender inegalitarian doctrines as reasonable is the second feature of political liberalism which gender egalitarians have proposed to amend.

From Rawls's explanation of what constitutes a “reasonable” conception of the good, it is clear that the designation is intended to be quite inclusive. He asserts, for example, that with a few possible exceptions, “all the main historical religions…may be seen as reasonable comprehensive doctrines.” But as his opponents have pointed out, this commits him to accepting highly gender inegalitarian comprehensive doctrines as reasonable. Some religious doctrines, for example, take gendered family roles to be both natural and essential to the proper functioning of the family. And indeed, Rawls explicitly includes gender inegalitarian comprehensive doctrines among those meriting the designation “reasonable.”

Put simply, what distinguishes the reasonable from the unreasonable is a matter of whether the doctrine recognizes the political equality of all citizens—whether it endorses the use of state power to remove the rights and liberties of other citizens. Racist comprehensive doctrines which deny the moral right of racial minorities to vote or hold office are unreasonable.

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170 For example, Okin has discussed many of the ways in which orthodox strains of major world religions still “discriminate against women and reinforce their subordination within religious practices, and within and outside the family.” See Okin 2004, p. 1556. See also Okin 2005, p. 242 and Okin 1994, p. 31.
171 John Exdell discusses the tension between contemporary feminists and religious fundamentalists (conservative religious adherents who “justify their moral and political views by appealing to divine commandments revealed in a sacred text”) with regard to their analyses of family roles (Exdell 1994, p. 444). See also Luker 1984, p. 161).
because they deny the political equality of those minorities. Similarly, gender inegalitarian doctrines which deny women’s political rights are unreasonable. But it is not these blatantly sexist doctrines with which we are concerned here. Rather we are concerned with the apparently benign cases of gendered allocations of unpaid labor which are fully consistent with women’s equality within the political sphere. These enactments of gender inegalitarianism deny women’s substantive equality, but respect women as political equals. They are thus classified as reasonable within political liberalism. Doctrines which affirm or imply the propriety of gendered allocations of labor are protected so long as they do not deny women’s equal citizenship.

So political liberalism protects apparently benign gender inegalitarian comprehensive doctrines as reasonable, and protects the internal life of the family as a space in which those doctrines can be acted out. It is these two features that make it apparently unable to institute the reforms that would incentivize a more equal sharing of work between Karen and Dave, and the other domestic partners in their society whose behaviors collectively perpetuate and are perpetuated by the norms of the gendered division of labor. Because these norms are harmful, these features of political liberalism appear problematic to gender egalitarians.

This brings us to the proposed theoretical revisions to political liberalism. Proponents of gender egalitarianism have proposed, first, to re-draw the distinction between the personal and the political such that all political principles of justice—including distributive principles—apply directly to the internal workings of families.¹⁷³ Second, they have proposed to impose more stringent conditions on the kinds of comprehensive doctrines protected (deemed reasonable) by political liberalism.¹⁷⁴ These more stringent conditions would classify even apparently benign

¹⁷⁴ For defenses of this second proposal, see Okin 1987, 1989, 1994, 2004, and 2005; and Brake 2004. Brake suggests extending “the category of the unreasonable to include beliefs without sufficient evidence [including] most forms of revealed religion, atheism, and beliefs about essential natures of particular races, men, or women” (Brake 2004).
gender inegalitarian doctrines as unreasonable and therefore not protected, thus enabling the state to legitimately proscribe the enactment of those doctrines within the family. The strategy, in a nutshell, is to work from within the theoretical apparatus of political liberalism, adjusting its constraints and distinctions to make it less tolerant of gender inegalitarianism.

This strategy is unpromising for two reasons: First, the strategy does not actually work from within political liberalism at all, because the proposed theoretical amendments target features of political liberalism that are derived from the liberal principle of legitimacy (LPL), which is an essential feature of that theory. Consider first the proposed revision to the personal/political distinction: In political liberalism, the personal/political distinction tracks the circumstances under which the state can legitimately exercise power. Political liberalism’s LPL maintains that coercive exercises of state power are only legitimate when “all citizens as free and equal may reasonably be expected to endorse [them] in the light of principles and ideals acceptable to their common reason.” Because citizens as free and equal cannot reasonably be expected to endorse the use of political power to mandate certain distributions of resources within families, those uses of political power are ruled out as illegitimate.

LPL establishes a general presumption against political interventions in families—a presumption that does not exist, for example, with respect to political interventions into court systems. Calling the former “personal” and the later “political” is merely semantic, but the terms track a real distinction: Whether or not an intervention into the family is ultimately legitimate, it

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2004, p. 305). Blake’s strategy is to exclude sexist and gender inegalitarian comprehensive doctrines on the grounds that those doctrines are epistemically objectionable in a way which demonstrates a lack of respect for humanity.

175 The proposed modifications may more directly target essential features of political liberalism, if the personal/political distinction and the classification of doctrines as reasonable or unreasonable are themselves essential features. I opt for the weaker, less controversial claim that those features are derived from the liberal principle of legitimacy, because the weaker claim is sufficient to show that the proposed modifications take us outside the scope of political liberalism.

176 Rawls 1993, p. 137.
must overcome a presumption which interventions into political institutions do not face. And that presumption is implied by LPL, an \textit{essential} normative ideal of political liberalism.

Similar considerations show that the second proposed amendment would take us outside the scope of political liberalism. Because of political liberalism’s LPL, comprehensive doctrines \textit{must} be protected unless all reasonable citizens, as free and equal, can accept their exclusion from the realm of protected doctrines. Doctrines which imply the denial of individuals’ equal basic political liberties \textit{can} be legitimately excluded, because free and equal citizens—even those who approve of substantive inequalities outside the political domain—know that the basic liberties of all must be protected. If they were \textit{not} protected, non-liberal citizens could not be sure that their society would continue to respect their right to practice their non-liberal conception of the good within their personal lives. These citizens can therefore accept the exclusion of doctrines which, for example, seek to use state power to deny women the right to vote. But they cannot—as free and equal citizens—accept the exclusion of doctrines which imply, for example, the naturalness of allocating domestic activities according to gender.

To put the point another way: Free and equal citizens living under just institutions will recognize the legitimacy of governmental interventions to protect the capacity of everyone to be free and equal in the political sphere; moreover, those citizens will recognize the legitimacy of those interventions \textit{even if} the citizens affirm illiberal comprehensive doctrines, because they will want to protect their freedom to continue practicing those illiberal doctrines. But they will \textit{not} recognize the legitimacy of state intervention to ensure substantive equality of individuals in all domains of life. Like the personal/political distinction, the reasonableness of doctrines that
respect the political liberties but deny the substantive equality of women is derived from LPL, an essential feature of political liberalism.\textsuperscript{177}

The Theoretical Modifications Strategy is unpromising because the proposed theoretical amendments target features of political liberalism that are derived from the fundamental normative ideal of political liberalism; it therefore cannot be executed \textit{within} political liberalism. But there is a second problem: The proposed amendments are independently unappealing. On the proposed amendments, there would be no presumption against political interventions into the family, and no protection for comprehensive doctrines which deny the substantive equality of women. What the proposed amendments would do, essentially, is generate a society in which political power could be used, for example, to ensure an equal sharing of housework within families. Such interventions would be “on the table” in the sense of being up for vote. Gender inegalitarian families would have no principled protection from such coercive intrusions.

Set aside complications regarding how precisely to operationalize a mandate that families allocate work equally, and assume that the principle these amendments give rise to requires adult members of households to contribute equal amounts of time to the maintenance of the home and family. The proposed amendments would then put “on the table” such political interventions as required reporting of hours spent on domestic work. Of course, these interventions would be unlikely to gain popular support, and they are profoundly impractical. But surely popular opinion and pragmatic difficulties should not be the only barriers to such interventions. Indeed, part of the appeal of political liberalism is that it rules out these interventions on \textit{principled} grounds. They are taken off the table from the start, on the grounds that they produce unacceptable barriers to the practice of certain comprehensive doctrines which are fully consistent with the

\textsuperscript{177} Nussbaum makes a similar point in responding to this proposal from Okin. See Nussbaum 2000.
equal political citizenship of all, that they therefore cannot be endorsed by all reasonable citizens as free and equal, and that they thus violate the liberal principle of legitimacy.

I submit that we should find the legitimacy of such interventions an unacceptable implication of the proposed amendments. The Theoretical Modifications Strategy does not constitute a promising politically liberal strategy for justifying gender egalitarian political interventions. The proposed modifications violate essential features of political liberalism and so cannot be justified from within that framework. And the ways in which they violate political liberalism help show just what is so appealing about that framework in the first place. It takes particular forms of political coercion off the table from the start, on principled grounds.

2. **The Voluntariness Strategy**

The Voluntariness Strategy for generating a politically liberal argument for gender egalitarian political interventions turns on the fact that political liberalism implies the illegitimacy of governmental intervention within the family only insofar as the interventions would be targeted at voluntary behavior among family members. Rawls says that political liberalism permits an unequal distribution of power, labor, and resources within families so long as that distribution does not undermine any members’ basic liberties, and so long as that *distribution is fully voluntary*. If the behavior is non-voluntary, this opens up the possibility of legitimate intervention consistent with political liberalism. The state can legitimately intervene, for example, to aid and protect someone who chooses to exit a domestic situation in which she was formerly being held against her will, as in the case of a forced marriage. In Rawls’s words:

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178 Rawls 1999b, pp. 599-600.
To try to minimize gendered division of labor means, in political liberalism, to try to reach a social condition in which the remaining division of labor is voluntary. This allows in principle that considerable gendered division of labor may persist. It is only involuntary division of labor that is to be reduced to zero.\textsuperscript{179}

The case of a woman forced to endure an unwelcome domestic situation is quite obviously non-voluntary. In the apparently benign cases, on the other hand, the interactions within the family \textit{seem} to be fully voluntary. Of course, children’s involvement in families cannot be said to be voluntary even in the best of cases, and I will have more to say about this presently. But both Karen and Dave \textit{seem} to be participating in the domestic partnership voluntarily, and both \textit{seem} to be enacting a gendered division of labor voluntarily. Nonetheless, some theorists have suggested that there are important elements of non-voluntariness even in the apparently benign enactments of gender inequalitarianism, and that political liberalism’s voluntariness requirement thus grounds political intervention in even in those cases.\textsuperscript{180} We might consider, then, whether political liberalism can license gender egalitarian interventions on the basis of this allegedly pervasive non-voluntariness. After all, if the apparently benign cases have the feature that licenses intervention in the \textit{non}-benign cases—the feature of being non-voluntary—then interventions can presumably be defended on the same grounds.

I certainly agree that the perceived voluntariness of gender inegalitarian family arrangements can be \textit{merely} apparent. If Karen was socialized to perceive gendered allocations of work as natural and inevitable, and if she saw no feasible alternatives being enacted

\textsuperscript{179} Rawls 1999b, p. 600.

\textsuperscript{180} For defenses of the claim that there is objectionable non-voluntariness even in apparently benign cases of gender inequalitarianism, see MacKinnon 1989; Nussbaum 2000 and 2003; Okin 2004; Hartley and Watson 2009; Gheaus 2012; Kernohan 1998; Williams 1989; and Cudd 2004. See also Walker 1995. For a defense of the claim that liberals must respect even adaptive preferences, see Levey 2005.
successfully by those around her, then there may well be something importantly non-voluntary about her participation in the gendered division of labor now. Nonetheless, I do not think that this is a promising strategy for developing a politically liberal response to gender inegalitarianism. Any standard of voluntariness robust enough to classify the apparently benign cases as non-voluntary will be *too* robust to be permissible within political liberalism; and any standard of voluntariness weak enough to be permissible within political liberalism will not be robust enough to classify the apparently benign cases as non-voluntary. In other words: Only the obviously non-benign cases are non-voluntary in a way that political liberalism can register. The apparently benign cases, in contrast, meet the standard of voluntariness relevant within political liberalism, even if they fail to meet some more stringent standard of voluntariness.

To give a non-voluntariness justification for political interventions targeted at seemingly benign family arrangements, we would need to invoke a very robust standard of voluntariness. Such a standard is necessary to establish that gender inegalitarianism is non-voluntary even when it *appears* voluntary and even when nobody’s rights are being violated. Suppose we wanted to show that Karen’s choice to prioritize caregiving was non-voluntary and thus susceptible to political interventions. To do this, we would need a notion of voluntariness according to which agents’ behavior can be non-voluntary *even if* those agents strongly affirm their actions as voluntary and intimately identify with their choices. And we would need a notion of voluntariness according to which the mechanisms leading to gender inegalitarian behavior constitute voluntariness-undermining mechanisms. What *are* the mechanisms that lead to gender inegalitarian households in the apparently benign cases where the obvious forms of force and coercion are absent? One view has it that gender inegalitarianism is *natural*. By nature, men have an inclination and propensity for paid work, while women are inclined toward caring, domestic
work, and excel in that domain. A rival view maintains that gender inegalitarianism is the result of various social forces, like preference-shaping childhood experiences (whether one is given dolls or building blocks to play with, for example) and reinforcing adulthood experiences (the difficulty of combining serious commitments to both paid and caring work, for example).

I will not comment here on the debate over the causes of the gendered division of labor. In order for the voluntariness strategy to get off the ground, whichever forces are at play must render the behavior they bring about non-voluntary. To be sure, such forces may well render behavior non-voluntary in some important sense of voluntariness. Ultimately, individuals do not control such natural characteristics as their innate skills and abilities, or the kinds of work for which they are naturally well-suited. And, ultimately, individuals do not control the social forces which shape their early development, or many of the social forces they face as adults. On some important notion of voluntariness, then, we are bound to recognize gendered allocations of work as non-voluntary in many if not all of the apparently benign cases.

But the goal here is not to develop an account of free will. Rather, the goal is to determine whether some suitable notion of voluntariness can serve to license gender egalitarian political intervention within political liberalism. The question, then, is whether the deep, metaphysical notion of voluntariness which counts mundane natural and social forces as voluntariness-undermining mechanisms is a suitable notion to ground political intervention. I submit that it is not, and that no notion of voluntariness robust enough to count these processes as voluntariness-underminers can play such a role within a political conception of justice.

181 According to John Stuart Mill, it is impossible for us to determine the extent to which gender differences are inborn and the extent to which they are social, because there is no gender-free environment for us to examine to compare with our own (Mill1998). For more on the causal mechanisms at play in the gendered division of labor, see Padavic and Reskin 2002 and Williams 2000.
For one thing, the “deep” notion of voluntariness which classifies apparently benign enactments of the gendered division of labor non-voluntary must also classify as non-voluntary many other features of persons which political liberalism must accept as voluntary. The “deep” notion of voluntariness would classify most people’s conceptions of the good as non-voluntary, because those conceptions are profoundly shaped by, for example, preference-molding childhood experiences. But political liberalism must accept agents’ conceptions of the good—at least in the vast majority of cases—as voluntary.\(^\text{182}\) It is because agents’ conceptions of the good are recognized as generally voluntary that agents can give free and rational consent to the authority of the state, which grounds the bindingness of the state’s authority. Thus, to impose a standard of voluntariness this robust is to jeopardize the very project of political liberalism.

There is no principled way to classify citizens’ conceptions of the good as voluntary while simultaneously categorizing gender inegalitarian domestic arrangements as non-voluntary. For one thing, gender inegalitarianism is itself a part of many citizens’ conceptions of the good, since many conceptions of the good have implications for the kinds of work people should engage in. Even when gender inegalitarianism is not affirmed by citizens as part of their conceptions of the good, gender inegalitarian attitudes are formed by way of the same mechanisms that mold those conceptions of the good. We cannot classify these mechanisms as voluntariness-underminers in the one case but not in the other.

In classifying citizens’ conceptions of the good as non-voluntary, this “deep” notion of voluntariness shows itself to be too demanding to be permissible within political liberalism. A notion of voluntariness suitable for use within a political conception of justice must be permissive enough to classify conceptions of good as voluntary in the standard case of citizens

\(^{182}\) See Rawls on the priority of the right over the good (Rawls 1993, pp. 174, 180, 187).
sincerely and reasonably endorsing those conceptions. Thus, it must be permissive enough to allow for behavior to be deemed voluntary even when the behavior results from natural mechanisms such as genetic predispositions, or social mechanisms such as early socialization processes. But any sufficiently permissive notion of voluntariness would also classify gender inegalitarianism as voluntary, since the same natural and social mechanisms are at work in both cases. To the extent that we invoke a notion of voluntariness weak enough to be acceptable within the framework of political liberalism, we cannot classify the apparently benign cases of gender inegalitarianism as non-voluntary. To the extent that we invoke a notion of voluntariness robust enough to classify the apparently benign cases as non-voluntary, that notion will be inadmissible within the framework of political liberalism. On these grounds, political liberals should give up on the voluntariness strategy as a way to reconcile political liberalism with gender egalitarianism.

Moreover, even if we could invoke this “deep” notion of voluntariness to generate a politically liberal argument for gender egalitarian political interventions, I submit that this strategy is independently unappealing for a simple, intuitive reason: The “deep” standard of voluntariness would classify as non-voluntary many of the choices and convictions that we take to be beyond the appropriate scope of state censure. It could classify as non-voluntary the choice to remain affiliated with a religion that one was raised to accept as true, on the grounds that that choice results from early socialization processes over which one had no control. Political liberals should reject a standard of voluntariness that classifies religious conviction as non-voluntary, because such a standard dissolves the principled case against state interference in the practice of otherwise permissible religious conceptions. Not only is that result contrary to the most basic tenets of political liberalism; it is independently intuitively implausible.
Another way we can see that “deep” non-voluntariness is insufficient to make agents’ behavior a legitimate target of state intervention is by examining the case of children. Children within families engage in all sorts of behavior non-voluntarily, and are in fact having their deepest values, beliefs, and conceptions of the good shaped by forces over which they have no ultimate control. But this non-voluntariness does not justify state intervention. The state should not, for example, make it illegal for parents to coerce children into eating their vegetables. And this does not apply uniquely to children who are young enough to be constitutionally incapable of voluntary behavior. Parents who want to force their thirteen-year-olds to stay home non-voluntarily on an occasional Friday night should not be prohibited by the state from doing so. Provided that the non-voluntariness involved in raising children does not also pose a serious risk of harm to those children, there are no grounds for state intervention.

We can use this insight about children to help explain our intuition that “deep” non-voluntariness is insufficient to justify intervention in the case of adults. Just as harm is relevant to the justification of intervention in the case of children, so too does harm play a role in the case of adults. Consider two women: Both affirm conceptions of the good which were acquired in such a way as to render them non-voluntary on the “deep” notion of voluntariness. But whereas one woman derives great satisfaction from her unpaid domestic work and enjoys the support and sincere gratitude of her family, the other acutely experiences the vulnerabilities that accompany that role. Her male partner is physically and emotionally abusive, and though she would love to dissolve the partnership, she fears that she will be unable to support her children alone.

What strikes us as most objectionable is not what the two cases have in common—that both women’s situations are in some sense non-voluntary. To ensure that the two women’s situations are equally non-voluntary, we can specify that the first woman would face the same obstacles as the second woman if she (the first) were to exit her relationship.
detail which makes the second case distinct—that the woman is harmed by her arrangement. Of course, it may be that both women are harmed, and it may be that both cases justify governmental interventions. Or perhaps neither does. I will leave these questions open for the time being. The two points I want to emphasize are these: First, “deep,” metaphysical non-voluntariness is insufficient to justify intervention; second, harm plays an important role in our intuitive all-things-considered judgments regarding whether intervention is called for. These points suggest, I think, that an ultimately successful strategy for developing a politically liberal argument in favor of gender egalitarian political interventions must begin with a careful investigation into the harm which gender inegalitarianism causes.

The harm invoked will have to be fully explainable in terms of political values if it is to ground a promising strategy for political liberals. And it may well be that some suitably permissive notion of voluntariness will have a role to play in diagnosing the harm. But while the non-voluntariness strategy attempts to justify interventions on the grounds that particular gender inegalitarian arrangements are non-voluntary, a successful strategy must take seriously the possibility that the harms of gender inegalitarianism would remain even if (counterfactually) every particular gender inegalitarian household were fully voluntary.

Imagine a society in which every single family is gender inegalitarian, because every single family subscribes to a conception of the good according to which gender inegalitarianism enables men and women to flourish in the performance of their natural roles. Imagine further that this situation is fully voluntary, according to whatever standard of voluntariness you would impose. The gender inegalitarian doctrines were voluntarily acquired, and are now voluntarily practiced. Finally, imagine that domestic and paid labor are rewarded just as they are in our

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184 One might object that such a case could never actually happen. But the feasibility of the hypothetical situation doesn’t matter for the point I’m making.
actual society. The voluntariness strategy could find nothing objectionable about this hypothetical society, because by stipulation, there is no non-voluntariness to which that strategy could appeal to generate a case for intervention. But there is something which warrants intervention: The norms that would inevitably be generated to sustain gender inequalitarianism in such a society, combined with the paid and unpaid labor structures we have stipulated, would harm individuals in that society. I will cash out this harm more explicitly in subsequent chapters; for now I rely on our intuitive response to this case to show that the problem with gender inequalitarianism isn’t just about non-voluntariness. Non-voluntariness is neither necessary nor sufficient for establishing the legitimacy of political interventions.

Still, this leaves open the possibility that considerations of voluntariness have a role to play in diagnosing the harm in question. When we consider the hypothetical society described above, we are likely to worry not just about the harm to current citizens but also about harms to future citizens. Part of our concern is about their prospects for making voluntary gender egalitarian choices in the future. Raised by parents who practice and teach gender inequalitarianism in a society that homogenously affirms gender inequalitarianism, prospective citizens are unlikely to even consider alternatives; after all, they see none being enacted around them. They are even less likely to perceive gender egalitarianism as a genuinely available option or to have the efficacy to generate circumstances under which it is feasible that they would be able to pursue that option. The difference between this hypothetical society and our actual society in this respect is just a matter of degree: While gender inequalitarianism in our society falls short of being all-pervasive, it is a deeply entrenched norm that may undermine future citizens’ ability to perceive gender egalitarianism as a genuinely available option or to
voluntarily choose to enact it. This is not the only harm, but it is one that we should not lose sight of, provided that it can be cashed out in terms of a suitably political rendering of voluntariness.

This assessment of the voluntariness strategy reinforces the importance of developing an argument that can ground *structural* intervention of the type discussed in Chapter One: interventions like family leave policies, substitute care provision, and work time reform. The voluntariness strategy set out to identify a characteristic of particular enactments of gender inegalitarian doctrines—non-voluntariness—that would justify intervention *in the range of cases that share that characteristic*. A more promising strategy will not find fault with particular enactments of gender inegalitarianism, no matter how broad the range of enactments that share the fault. Rather, a promising strategy will find fault with the social norms which sustain gender inegalitarianism. Such a strategy will thereby point toward interventions that modify the structural features of society against which individual families make decisions about how to allocate work. In diagnosing the apparently benign cases, we must redirect our focus *away from* the features which render particular arrangements liable to censure, and *toward* the considerations that can legitimate state intervention to enable and encourage individuals to form more gender egalitarian families.

I suggest, then, that we turn our attention explicitly to the *harms* of gender inegalitarianism, to see if consideration of harm can generate a politically liberal strategy for grounding gender egalitarian interventions within families. The strategy we seek will ground *structural* responses to gender inegalitarianism which make it easier for families to choose egalitarian alternatives, but which do not force them on families who continue to prefer gender *inegalitarianism*. 
A challenge arises when we attempt to ground a politically liberal argument for gender egalitarian political interventions on the harms that gender inegalitarianism causes: The harms invoked must be what I will refer to as “political harms” if they are to be permissible considerations within the framework of political liberalism. A political harm is one which is fully explainable in terms of political values, without recourse to any particular comprehensive doctrine. Recall that a basic tenet of political liberalism has it that the state cannot justifiably intervene on the basis of the “whole truth” as defined by any particular conception of the good. It follows from this that the state cannot justifiably intervene to promote that doctrine’s understanding of what is good for someone, or to prevent harm as defined by that doctrine’s understanding of what is bad for someone. The state cannot, for example, intervene to encourage an atheist to embrace the tenets of Protestantism on the grounds that doing so is good for the atheist, because it is only good for the atheist if we accept the tenets of Protestantism. The harm invokes non-political values, and thus cannot legitimately ground political intervention.

Similarly, we cannot argue for the legitimacy of gender egalitarian political interventions by invoking the good of substantive equality within one’s intimate relationships, or the harm of being reliant on one’s intimate partner for meeting one’s basic needs. That good, and that harm, can be understood only if we invoke a conception of the good which affirms the substantive equality of women. But such a conception is off limits if we are to work within the confines of political liberalism. If the harms of gender inegalitarianism cannot be fully explained in terms of political values—if they are not political harms—then they cannot be invoked in constructing a politically liberal response to gender inegalitarianism. In the next two sections, I consider two political harm which we might think gender inegalitarianism inflicts.
3. The Basic Liberties Strategy

The harm of having one’s basic liberties violated is straightforwardly explainable solely in terms of political values: Having one’s basic liberties protected is necessary for one’s development of political citizenship and for effective participation in the political life of society. If gender inegalitarianism within families constitutes a violation of family members’ basic liberties, then there is an obvious case for intervention within political liberalism.

Certainly some family arrangements do constitute rights violations. A husband who physically assaults his wife violates her basic right to physical security, and there is a clear reason for coercive political intervention to protect that right. But this straightforward case is not among those I have undertaken to examine. The alleged problem cases for political liberalism are the cases in which there is (apparently) no infringement on basic liberties, and therefore (allegedly) no grounds for intervention. Karen and Dave were intended to represent this class of apparently benign cases. Each partner fully respects the other’s physical boundaries, and each enjoys a degree of privacy within the relationship. Neither dictates the extent or nature of the other’s political involvement or religious affiliations.

Still, one might argue that there is an infringement of basic liberties, even in the apparently benign cases. The Basic Liberties Strategy alleges that the protection of basic liberties requires far more than political liberals have thought. Despite appearances to the contrary, Karen’s (or Dave’s, or Karen’s and Dave’s) basic liberties are being violated. Gender egalitarian political interventions are justified because they are necessary to secure those liberties.

The Basic Liberties Strategy is unpromising. First, it is simply implausible that either Karen’s or Dave’s rights are being violated. Their rights to physical security and freedom from assault appear intact; Karen may well find herself physically insecure in the event of a divorce,
but her right to physical security is not being violated by the partnership itself. Nor does there appear to be any infringement of the right to vote, hold public office, speak out on political issues, or practice a religion of one’s choosing or none at all. Karen may be sufficiently burdened by the demands she faces in caring for her home and family that she does not see running for public office as a real possibility for her. But so may Dave be sufficiently burdened by his bread-winning that running for public office seems to him to be out of the question. Surely, protecting a citizens’ right to hold public office does not require ensuring that their schedules always remain free enough for effective campaigning. The same can be said for the other basic liberties: Protecting a citizens’ freedom of conscience cannot require ensuring that she has enough time to attend church on Sundays. Where, then, is the alleged rights violation?

It might be suggested that Karen’s participation in activities like voting, running for office, and speaking out publicly about important issues is made less likely or less frequent by her partnership with Dave in a way that Dave does not experience symmetrically. And indeed, Karen may have less free time with which she can engage in these activities than she would have absent a gender inegalitarian domestic partnership. Meanwhile, Dave might enjoy more time and more energy to devote to political activity because Karen frees him from the burden of caring for home and family. We can imagine scenario upon scenario, and a basic liberties strategist might argue that Karen’s basic liberties are violated simply because her gender inegalitarian domestic arrangement renders her less likely to vote, run for office, speak up about matters of public concern, or practice her religion. Similarly, a basic liberties strategist might argue that Karen’s basic liberties are violated because her domestic arrangement makes it more likely that her rights to physical security will be violated in the future, should her partnership end in divorce.
Understood this way, the Basic Liberties Strategy hinges on at least one of two premises. Either reducing the probability of some agent exercising a right (or reducing it by a substantial margin) *itself* constitutes a violation of that right. *Or* enhancing an agent’s susceptibility to future rights violations (or enhancing it by a significant margin) *itself* constitutes a rights violation.

But both of these premises are false. A rights violation must involve more than simply rendering someone less likely to exercise a right, and it must involve more than making it likelier that the right will be violated at some future time. Examples that illustrate this point come readily to mind. A parent may raise his child to be cynical about the efficacy of political participation, thereby making that child less likely to vote and run for office as an adult. Perhaps this is bad parenting, but it hardly constitutes a violation of the child’s rights. I might encourage my friend to leave her home to come with me to a party, thereby making it more likely that she will be assaulted. But I have not thereby violated her right to physical security. A professor may assign a sufficiently heavy workload to render it less likely that her students will freely exercise their religion, but she does not thereby violate their right to religious freedom.

Classifying these cases as rights violations makes rights violations far too common and far too innocent. Notice, too, that the case against classifying these as rights violations does not depend on the assumption that a rights violation must be perpetrated by an individual right violator. A state that holds free and fair elections for its highest offices every two years no more violates its citizens political liberties than does a state that holds free and fair elections annually, even if holding more frequent elections increases the likelihood that citizens will vote.

Other problems with the Basic Liberties Strategy mirror those that plague the Voluntariness Strategy. While there is clearly *something* important about protecting the basic liberties and while this clearly has implications for how we should deal with gender
inegalitarianism, we will be even more inclined once we get clear about the precise nature of these implications to reject the strategy itself. The activities protected by the basic liberties are very important components of political citizenship, and so we should be concerned about social institutions that render it less likely that certain socially-defined groups will be actively engaged in those activities. And we should be concerned if social institutions render it more likely that some groups will suffer more frequent and severe violations of their basic liberties at some point in the future. Accordingly, we may be able to make a politically liberal case for intervention on the grounds that women are harmed by social institutions which systematically discourage them from fully exercising their basic liberties, or which systematically make future violations of those liberties likelier. But this strategy is importantly different from one which claims that violations of basic liberties are occurring in the apparently benign cases represented by Karen and Dave.

This difference matters, because it corresponds to further differences in the kinds of interventions that our concern to protect basic liberties justifies. If a man actually violates his partner’s basic right to physical security, this violation calls for a direct intervention into the family to protect the victim. We might, for example, bring criminal charges against the man. But this kind of direct intervention into the family would be inappropriate in the case of Karen and Dave, even if their arrangement makes Karen statistically more likely (relative to staying single) to have her right to physical security violated at some point in the future. Suppose counterfactually that we could make a plausible case for the claim that there is an infringement of basic liberties in the apparently benign cases. This would legitimize the kinds of direct, aggressively coercive political interventions that rights violations call for. And we do not think those kinds of interventions appropriate in these cases—perhaps in part because they may themselves constitute rights violations.
Recognizing the importance of the behaviors protected by our basic rights and recognizing that gender inegalitarian norms pose some threat of harm with respect to those behaviors need not commit us to diagnosing that harm as a rights violation. If gender inegalitarianism harms Karen by systematically rendering her more susceptible to future rights violations, or systematically hindering her from exercising her rights, this points toward an entirely different kind of political intervention than the direct, aggressive interventions justified by rights violations themselves. These diagnoses of the harm call for structural interventions like those canvassed in Chapter One, such as public expenditure for childcare to free Karen for paid work. The Basic Liberties Strategy is independently intuitively implausible, and it has the implausible implication of calling for the wrong kind of political response.

The problems with the Voluntariness Strategy and the Basic Liberties Strategy have important similarities. Both identify a violation that justifies political intervention in the non-controversial cases wherein intervention is obviously legitimate; both then go on to allege that that same violation occurs in the apparently benign cases. Because of this similarity, these strategies are undermined in the same way: Both locate the problem in particular enactments of gender inegalitarianism, rather than locating the problem in the norms and institutions which sustain gender inegalitarianism (and which are, in turn, reinforced by its pervasiveness). If Karen and Dave lived in a society characterized by a norm of equal sharing of paid and unpaid work, their inegalitarian arrangement may well be unobjectionable. What is objectionable is gender inegalitarianism as a social norm that influences the choices individuals make in a way that is disadvantageous to both men and women.

But we can glean important lessons from these failed strategies: First, we want to diagnose the harm of gender inegalitarian in such a way as to ground structural interventions of
the type included on the menu of policy proposals considered in Chapter One. These structural interventions do not target particular enactments of gender inegalitarianism, but rather amend the social background against which families make choices about how to allocate work, enabling them to make more egalitarian choices. Second, while neither rights violations nor involuntariness constitutes the harm of gender inegalitarianism in the apparently benign cases, considerations of basic liberties and voluntariness can point toward important aspects of this harm. Certainly it would be harmful if gender inegalitarianism systematically discouraged women from fully exercising their basic liberties, or from voluntarily choosing gender egalitarian domestic arrangements. We will have to bear these considerations in mind as we move forward.

4. The Mal-Distribution Strategy

According to the Mal-Distribution Strategy, gender egalitarian political interventions can be justified from within political liberalism on the grounds that gender inegalitarianism harms women by causing them to have a sub-equal or insufficient share of something the value of which is affirmed by a suitable political conception of justice. To pursue this strategy, we would identify some good(s) from within a political conception of justice, and argue for intervention on the grounds that gender inegalitarianism causes a harmful mal-distribution of those goods.185

185 S.A. Lloyd, Amy Baehr, Ingrid Robeyns, Anca Gheaus, and Martha Nussbaum have all pursued mal-distribution strategies for reconciling political liberalism and gender egalitarian political interventions. Lloyd and Baehr explicitly argue that their conceptions of the goods of justice can be grounded in public reason and can therefore form part of a political conception of justice. Lloyd includes the socially recognized values of liberty, equality, fairness, reciprocity, stability, security, the satisfaction of basic needs, opportunity, the survival and reproduction of society over time, and the public health. The political conception she defends calls for rough equality in citizens’ share of the benefits and burdens of social cooperation understood in terms of these publicly recognized values (Lloyd 1998). Baehr takes up the charge, interpreting Lloyd’s criterion of sexual equality as “a robust principle of antidiscrimination” and defending it as a legitimate component of a political conception of justice on the grounds that individuals behind the veil of ignorance would endorse it. She elaborates upon the principle by applying it to the mal-distribution of socially recognized values which results from women’s disproportionate performance of caring labor (Baehr 2008). Robeyns argues for a conception of gender justice which counts socially-caused inequalities in men’s and women’s capability sets as unjust (Robeyns 2007). Gheaus argues for a conception of gender justice which counts society as unjust so long as central components of good lives are unequally costly to men and women
The first hurdle is to show that the goods under consideration really could form a part of a political conception. In order to do so, we would have to make a case for them as goods already recognized within the public political culture of society, or as goods which reasonable citizens could reasonably be expected to endorse as free and equal. In making a case for a particular good as a political good, we cannot invoke any comprehensive conception of the good, as political liberalism deems such views inadmissible grounds on which to justify political interventions.

There’s room for disagreement about how substantive a conception of value political liberalism can embrace, and about how substantive a conception of value we would need in order to account for the harms of gender inegalitarianism. But in order to clarify the Mal-Distribution Strategy, just assume for a moment that positive health outcomes can count as goods within a political conception, and that women’s performance of such a large share of caring labor causes them to be sub-equals with respect to their allotment of this good.\textsuperscript{186} We might argue, for example, that women’s large share of caring labor causes them to have worse health outcomes because, as has in fact been shown, it causes them to experience more stress.\textsuperscript{187} If we could make a case that health outcomes are a good which a political conception of justice can permissibly affirm, then we could make a case for interventions that compensate caregivers for health deficits, or, better yet, we could make a case for interventions that arrange paid and non-paid labor environments so that the deficits do not occur in the first place.\textsuperscript{188}

\textsuperscript{186} See Lloyd 1998 and Baehr 2008.
\textsuperscript{187} See Chapter One of this dissertation.
\textsuperscript{188} See Kittay 1999 for an argument that the state ought to support care-givers.
But the Mal-Distribution Strategy, like the other strategies considered in this chapter, is inadequate. At best the strategy can show that some political conceptions of justice can recognize the harms of gender inegalitarianism; it cannot establish that political liberalism as such must recognize the harms of gender inegalitarianism. By this, I do not mean that it is a problem for the Mal-Distribution Strategy that it can establish no necessary connection between enactments of gender inegalitarianism and objectionable distributions of certain goods. We can certainly imagine scenarios in which particular enactments of gender inegalitarianism do not cause anyone to enjoy worse health outcomes, and so we would not want our strategy to establish a necessary connection between particular gender inegalitarian enactments and the harm in question. What is a problem is that the values invoked are not a part of political liberalism itself, but are, at best, components of some subset of permissible political conceptions.

We may be able to ground the value of positive health outcomes without invoking any comprehensive notions of the good life, and so political conceptions of justice may be able to affirm health outcomes as a suitable political good. But above the threshold necessary for the effective exercise of the basic liberties, positive health outcomes are not among the goods that every suitable political conception must recognize, such as the goods of equal citizenship. Even in a society in which gender inegalitarianism does cause a mal-distribution of positive health outcomes, then, it remains an open question whether a political conception of justice will register health outcomes as a political good and thus license interventions to correct the mal-distribution.

It would not be insignificant if the Mal-Distribution Strategy could establish that some political conceptions can recognize the health inequalities of gender inegalitarianism as harms. But it is better to ground interventions on the basis of a harm that is recognizable from within any political conception. That way, we will have shown that political liberalism as such licenses

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\(^{189}\) See Hartley and Watson 2010.
interventions to prevent or mitigate the harms of gender inegalitarianism—that any permissible political conception will call for interventions in response to those harms.

There is another problem for the Mal-Distribution Strategy. In order to pursue it successfully, we would not only have to show that the goods to be distributed are political goods; we would also have to show that the *distributional paradigm* can form part of a political conception. For example, if we think women’s share of the relevant good is sub-optimal because it is *sub-equal*, then we will need to argue for the importance of equality, using only considerations available from within political liberalism. I am optimistic that a fairly demanding egalitarian distributional paradigm *can* form part of a political conception. But just as the value of positive health outcomes is not *entailed* by political liberalism as such, the value of equality is not entailed by political liberalism as such either. So while political conceptions *may* judge unequal distributions of goods to be objectionable distributions, they need not do so.

We must also recognize further problems that certain candidate political values might present. Suppose the value of opportunity can be established using only political considerations. It may be that equality and opportunity can both form parts of a political conception; nevertheless, that conception may not register the *particular ways* in which (on average) men’s opportunities differ from women’s. The difference need not be quantitative; women and men might be roughly equal in terms of the *size* of their opportunity sets. And even if there *is* a quantifiable difference, a political value of opportunity is unlikely to admit of a straightforward correlation between the number of opportunities and the extent to which the

190 Lloyd (1998) and Baehr (2008) argue for equality as a political value; Nussbaum (2000a) seems to assume that some fairly egalitarian distributional paradigm can be defended on political grounds. Gheaus grounds her theory of gender justice in “a robust understanding of equality, according to which it is…unjust for some people to be worse off than others on account of their sex” (Gheaus 2012, p. 12).

191 Lloyd (1998) and Baehr (2008) think that it can.
value is realized. It is more likely that a proponent of the Mal-Distribution Strategy would identify inequalities in the quality of opportunity sets that men and women enjoy. But then these qualitative differences must themselves be comprehensible in terms of political values.

These complications do not ruin the Mal-Distribution Strategy, but they do paint a rather daunting picture of the burden it assumes: The mal-distribution strategist will have to argue that the values invoked are political, that the distributional paradigm invoked is political, and that the value and the distribution can be operationalized together in ways that register the mal-distributions of gender inegalitarianism. Sketchy descriptions of alleged political values like health and opportunities may make the execution of the Mal-Distribution Strategy appear much more promising than it in fact is. In any event, the subset of permissible political conceptions of justice which endorse all the requisite values as political values is likely to be very small indeed.

There is a further reason to reject this strategy, whether we judge it in light of the ambitious goal or the more modest one: It is implausible to analyze the harm of gender inegalitarianism in distributional terms. To be sure, the problem sounds distributional. The Karens of the world might have flourished more if they had engaged in more socially remunerated labor outside the home; the Daves of the world might have flourished more if they had been more intimately involved in caring for their homes and loved ones; and both the Karens and the Daves may have been discouraged from doing so by the gendered norms around working, the near unanimous compliance with those norms, and the myriad structural incentives to fall in line. The Karens do more work inside the home and the Daves do more work outside, and yet it seems a stretch to say that the harm here is one of distribution.

For one thing, unequal distributions only constitute harms when they are distributions of something valuable, and it is not obvious that one kind of work is intrinsically more valuable. It
may be that both Karen and Dave have suboptimal shares of something valuable, but it’s far from obvious that the harm here is about men and women having unequal amounts of something. Gender inegalitarianism does sometimes cause mal-distributions, such as the distribution of post-divorce incomes between men and women. But in the apparently benign cases with which we are concerned here, the problem isn’t easily framed in distributional terms.\textsuperscript{192}

And the problem remains whether we think of the mal-distribution in terms of kinds of work or in terms of other values implicated in gender inegalitarianism. One way to see this is to look at the kinds of interventions that this distributional diagnosis of the harm calls for. If the problem were one of distribution, then it would be remediable via mechanisms of compensation. More specifically, if the problem were one of women having worse health outcomes than men, then we could solve it by intervening so as to enhance the health outcomes of women. But such an intervention will do little (and that only indirectly) to change the fact that women and men are systematically socialized to have gendered preferences and aspirations and to allocate work in their domestic partnerships according to gender. And it will do little (and only indirectly) to change the fact that social institutions reinforce gendered choices about work. In short, improving women’s health would do little to undermine the gendered division of labor.

Moreover, when we intervene to remedy a mal-distribution, we don’t just compensate those on the losing end. We redistribute away from those on the winning end in order to finance that compensation. I do not mean to suggest here that such valuable things as opportunities or health outcomes are a zero sum game. But generally, a gain to one group is purchased at least partially at a cost to another group, even if only in the sense that the resources being used to compensate might have otherwise been directed toward the advantaged group. In the case of

\textsuperscript{192} My use of the terms “gender egalitarianism” and “gender inegalitarianism” may suggest otherwise. See Chapter One for an explanation of these terms.
gender inegalitarianism, we might assume that women would be the compensated group, and men the advantaged group. So we might think that we should invest in the value of women’s opportunity sets, even if doing so imposes a cost on men and *their* opportunity sets. But as we have seen, men can also be harmed by gender inegalitarianism.

The Davos of the world would likely be better off had they developed the kinds of intimacy with their children, spouses, and aging parents that caring labor fosters. If women’s opportunity sets are compromised by gender inegalitarianism, then there is a good case to be made for the claim that men’s are too. It is no solution to the problem, then, to constrain men’s opportunities (or to divert resources that might have been spent enhancing them) so that women’s opportunity sets may be improved. And I suspect that we would have similar concerns about redistributing other values affected by gender inegalitarianism. If the harm of gender inegalitarianism were distributional, then there should be no principled reason to oppose redistribution as a solution. And yet redistribution appears to be a highly problematic solution.

Ultimately, the Mal-Distribution Strategy does not offer a promising route to grounding gender egalitarian political interventions. But as with the other strategies, its inadequacies point the way toward something more promising. An ultimately successful strategy will identify the harm of gender inegalitarianism within the framework of political liberalism generally, rather than within the framework of a particular political conception. In so doing, that strategy will show how political liberalism *as such* can challenge gender inegalitarianism; it will show that egalitarian interventions can be grounded from within *any* political conception. And an ultimately successful strategy will not analyze the harm of gender inegalitarianism in distributional terms, even if the good unjustly distributed is a political one.
5. Conclusion

In this chapter, I have mapped out the conceptual terrain on which theorists have endeavored to build a case for gender egalitarian political interventions, and I have demonstrated that some of the most initially appealing strategies are unsatisfactory. Over the course of this evaluation, we have developed several desiderata for a successful strategy. Perhaps most importantly, a successful strategy must be duly diligent to the fact that the gendered division of labor is objectionable because of the social norms and institutions that sustain it. This does not entail that no particular enactments of the gendered division of labor are objectionable in their own right; on the contrary, some enactments will involve rights violations, blatant non-voluntariness, or mal-distributions which can indeed be registered within political liberalism. These enactments will call for the kinds of interventions appropriate for those harms.

But the apparently benign cases I am interested in do not constitute rights violations; nor are they non-voluntary according to any standard of voluntariness we can invoke within political liberalism; nor are they plausibly analyzed as mal-distributions of political values. In the apparently benign cases, the particular enactments of the gendered division of labor are unobjectionable. At least, they are unobjectionable when viewed through the lens of political liberalism. In order to have any hope of grounding a positive argument for gender egalitarian political interventions, then, we need to step back from these particular enactments and take a broader view: We need to look at the social norms which influence the choices individuals make about how to combine domestic responsibilities and paid labor, and the structural backdrop of our society against which they make those choices.

And indeed, this broader perspective accords with our intuitive understanding of what the gendered division of labor is and how it should be addressed. In a fully just society marked by
genuinely open options regarding how to live one’s life and whether to combine meaningful commitments to home and work, the occasional gender inegalitarian domestic arrangement need involve no injustice. The injustice lies in the conditions which make it so difficult to enact gender egalitarian alternatives, and in the disadvantages which accrue to those who comply with the status quo and to those who endeavor to resist it.

In the next two chapters, I will give substance and clarity to these musings. I will argue that the gendered division of labor, understood properly from the broader perspective, causes harms which political liberalism must register: It undermines the stability of society, and the value of stability follows from essential theoretical commitments of political liberalism. If my argument is sound, it will show that political interventions aimed at eroding the norms and institutions sustaining the gendered division of labor are not only legitimate within any political conception of justice, but also that they are positively required by political liberalism as such.
Chapter 4:
Citizenship, Reciprocity, and the Gendered Division of Labor

The project for the rest of the dissertation is to develop a positive argument to support the implementation of gender egalitarian interventions, using only considerations available within the theoretical framework of political liberalism. In this chapter, I consider a fundamental piece of the theoretical machinery of political liberalism: the conception of the person as citizen. I explore the role this conception plays in animating the fundamental normative principle of political liberalism: the Criterion of Reciprocity. I propose a politically liberal framework—based on the Criterion of Reciprocity and the conception of citizenship which animates it—within which we can develop positive arguments for substantive political interventions.

In the final chapter, I develop an argument, using this framework, for the conclusion that the basic theoretical commitments of political liberalism entail that any just politically liberal society must ensure for all citizens the opportunity to live out a gender egalitarian lifestyle. Moreover, the opportunity to live out such a lifestyle must be more than a mere formal possibility—it must be a “genuinely available opportunity” in a sense that I will specify. I go on to argue, in that chapter, that certain features of our society foreclose that opportunity, and that gender egalitarian interventions are necessary to preserve and protect it. The conclusion of my dissertation, then, is just this: The basic commitments of political liberalism entail that, in societies marked by entrenched gender norms and social institutions which take those norms for granted, gender egalitarian political interventions like those discussed in Chapter One are not only legitimate, but required. In other words, the politically liberal state cannot legitimately decline to enact them.
The plan for this chapter is as follows: Section 1 explains the normative idea of the person that animates political liberalism. Political personhood, within this framework, is to be understood as free and equal citizenship. This construal of the person as citizen has important implications for the substantive content of political liberalism, which will become clear in Section 2. There I discuss political liberalism’s fundamental normative principle, the Criterion of Reciprocity, and explain how that principle is related to the concept of citizenship. I then propose a framework for justifying progressive political interventions using only considerations that are fundamental to the theoretical apparatus of political liberalism: The Criterion of Reciprocity and the conception of citizenship which animates it. I go on in Section 3 to explore a recent attempt to justify progressive gender egalitarian social policies that exemplifies the framework I propose. In Sections 4 and 5, I argue that the attempt is ultimately unsuccessful. But the failure of this particular execution does not undermine the framework itself. I conclude the chapter by setting the stage for a novel argument which, working within the proposed framework and thus using only considerations permissible within political liberalism, establishes the legitimacy of gender egalitarian political interventions.

1. Political Liberalism’s Conception of the Person

Within the theoretical apparatus of political liberalism, persons are not construed as fully fleshed out individuals with comprehensive conceptions of the good; rather, they are construed in their political capacity, as free and equal citizens with “the intellectual and moral powers appropriate to that role…and capable also for the political virtues necessary for them to cooperate in maintaining a just political society.”\footnote{Rawls 1993, p. xlv.} We can start, then, by contrasting political
personhood as free and equal citizenship with what I will refer to as “background personhood”: the identity of a person as a fully fleshed out individual with a comprehensive conception of the good and various social affiliations. Background personhood is the substantive identity that an individual takes on or that is developed in her by the social institutions operating in the “background culture” of society. This background culture includes, among other things, the various associations such as churches, families, educational institutions, and media outlets, with which and within which individuals interact. Background personhood is the kind of personhood that individuals actually embody in their day-to-day lives.

Citizenship, in contrast, is a normative conception of the person. It does not describe individuals as they are; instead, it is an idealized conception of personhood which animates the liberal project of finding fair terms of social cooperation. Personhood as citizenship is based on the fact that persons possess two moral powers which qualify them to interact with one another as required within the politically liberal state. These two moral powers are the capacity for a sense of justice and a capacity for a conception of the good. The capacity for a sense of justice is “the capacity to understand, to apply, and to act from the public conception of justice which characterizes the fair terms of social cooperation.” The capacity for a conception of the good is “the capacity to form, to revise, and rationally to pursue a conception of one’s rational advantage or good.” The moral powers are threshold concepts: So long as we have them to a sufficient degree to enable us to be cooperating members of society, we are fully moral persons and thus free and equal citizens. In other words, our status as equal citizens does not depend on having the powers to an equal degree, but rather on being such that our attainment of those powers meets

194 Rawls 1999b, p. 576.
the minimum threshold for inclusion in the political community. Finally, citizens are characterized within political liberalism as having a higher-order interest in protecting their capacities as citizens. Not only do they possess the two moral powers; they also want to protect their capacities for a sense of justice and a conception of the good, as well as their capacities to act out the free and equal citizenship that the two moral powers confer upon them.

It is important to be clear about what it means to say that political personhood is a normative concept within political liberalism. The conception of citizenship at work here is not intended as an account of human nature. Whether that account is justified depends not on whether it accurately describes us as we are, but on “whether we can apply and affirm its principles and ideals in political life, and on whether we find the political conception of justice to which it belongs acceptable on due reflection.”\(^\text{197}\) The concept of the person as citizen is normative in that its “content is given by certain ideals, principles, and standards, and these norms articulate certain values, in this case political values.”\(^\text{198}\) We can get clearer on the normative nature of political liberalism’s conception of the person by considering the implications of citizens’ moral powers: Citizens are possessed of a sense of justice, which means that they “are prepared to offer one another fair terms of social cooperation…and they agree to act on those terms, even at the cost of their own interests in particular situations, provided that others also accept similar terms.”\(^\text{199}\) Individuals do not forfeit their status as citizens—they do not lose the rights and responsibilities of citizenship—when they fail to live up to the characterization of citizens as possessing an effective sense of justice. We fail regularly to

\(^{197}\) Rawls 1993, p. 87.

\(^{198}\) Rawls 1993, p. 11n.

\(^{199}\) Rawls 1993, p. xlii.
prioritize the terms of fair social cooperation over our own self-interest, and yet we are no less citizens for doing so.

Furthermore, political personhood and background personhood are not two discrete aspects of our identities which we must in some sense balance or adjudicate or reconcile or tease apart. It is not as if we are citizens sometimes and background persons at other times. We retain our status as citizens throughout our interactions with the background culture. We might say that we behave as citizens, or enact our citizenship, when we meet others on terms of freedom and equality to discuss matters of basic justice in the language of public reason. But we are not less citizens when, for example, we attend religious services with our children, or enjoy a cocktail with co-workers, or scrub our kitchen floors.

The reason for giving a normative characterization of citizenship within political liberalism is that such a characterization is necessary to provide content for a political theory of justice. If justice consists in the fair terms of social cooperation among citizens, then we must know something about how citizens are to be characterized in order to know what constitutes fair cooperation among them. The justification for the particular characterization utilized within political liberalism—that of citizens as free and equal, possessed of two moral powers and a higher-order interest in preserving those powers—is broadly coherentist: This characterization conforms with the basic presuppositions we bring to the project of political liberalism, and it provides a workable basis on which to develop a politically liberal theory of justice: It conforms with the presupposition that we are seeking terms of cooperation to regulate a society of individuals capable of conforming their behavior with those terms (thus, the characterization of citizens as possessing a sense of justice). It conforms with the presupposition that these terms of

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cooperation must fairly and stably order society despite profound and reasonable differences among individuals’ comprehensive moral, religious, and philosophical conceptions of the good (thus, the characterization of citizens as possessing a capacity for a conception of the good). And the characterization provides a workable basis on which to develop a politically liberal theory of justice, because it gives substance to political liberalism’s fundamental normative principle, the Criterion of Reciprocity. It is to that principle that I now turn.

2. The Criterion of Reciprocity

Because persons for the purposes of political liberalism are characterized as free and equal citizens, their charge within a just system of social cooperation is to comport themselves in ways that can be reasonably justified to others who are also free and equal citizens. This gives rise to the fundamental normative principle of political liberalism, the Criterion of Reciprocity (hereafter “CR”). CR dictates that “our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification of those actions.”201 Moreover, we must reasonably expect those reasons to be accepted by other citizens as free and equal citizens, and not merely as individuals who are “dominated or manipulated, or under the pressure of an inferior political or social position.”202 The Liberal Principle of Legitimacy (hereafter “LPL”) applies CR to the legitimate use of citizens’ collective action exercised as political power. LPL maintains, essentially, that political power can only be used in ways which satisfy CR. Both CR and LPL require that

201 Rawls 1993, p. xliiv.
202 Rawls 1999b, p. 578.
citizens cooperate with one another on terms that all parties can reasonably be expected to accept, not as adherents of a particular comprehensive doctrine, but as free and equal citizens.

Because both CR and LPL identify legitimate uses of political power as those which are acceptable to free and equal citizens, we can see all the more vividly the importance of political liberalism’s characterization of citizenship to the theoretical commitments of political liberalism. Based on this characterization of citizenship, CR imposes some absolute constraints on what can be considered just within a politically liberal society. In Rawls’s development of political liberalism, he set forth three conditions which must be met in order for the institutional structure of a society to comply with CR: First, society must specify and protect certain rights, liberties, and opportunities; second, it must afford a special priority to these rights, liberties, and opportunities, especially with respect to claims of the general good; and third, it must ensure for all citizens adequate all-purpose means to make effective use of these rights, liberties and opportunities.203 These conditions are implied by CR because free and equal citizens cannot consent to circumstances under which society fails to secure the three conditions.

For the purposes of applying CR and LPL, we must always understand citizenship as normative. This is more complicated than it may initially seem. Under dire circumstances, some individuals presumably would consent to the infringement of their rights and liberties. A desperate father might attempt to sell himself into slavery to provide food for his starving child. The father’s willingness to accept the infringement of his right to physical security does not mean that he is not a citizen. The father might even assert his willingness to have his rights infringed acting in his capacity as a citizen. He might, for example, advocate in the public sphere for the revocation of his rights. Nonetheless, he would not thereby cease to be a citizen.

203 Rawls 1993, pp. xlvi, 6.
What does it mean, then, to say that citizens cannot consent to circumstances under which society fails to secure the conditions outlined above? The claim is that citizenship, understood according to the normative characterization at work within political liberalism, precludes acceptance of certain circumstances. Actual individuals may accept political trade-offs that political liberalism’s conception of citizenship precludes. But in applying CR, it is the idealized, political conception of the person that determines the acceptability or unacceptability of social conditions and political interventions to remedy those conditions. Thus, in applying CR, we may invoke only the features of the person that are a part of political liberalism’s normative conception of citizenship. This normative conception includes the fact that citizens have a conception of the good and a corresponding background identity. But the content of that conception, and the nature of the background identity, are set aside for the purposes of applying CR. We ask only what a citizen could consent to, black-boxing those parts of individuals’ identities—like the content of their conceptions of the good—which extend beyond political liberalism’s characterization of citizenship. It is highly unlikely that any actual person could ever fully embody this notion of citizenship; we cannot “black box” our conceptions of the good in the way described here. But the fact that we never fully embody this normative conception of citizenship is no mark against it, given the role it plays as an animating, normative ideal within political liberalism. What we mean, then, when we say that “no citizen could consent to x,” is that x is incompatible with political liberalism’s normative characterization of citizenship: a characterization of the person as free and equal, with capacities for a sense of justice and a conception of the good, with an actual conception of the good (the content of which is a black box), and with higher-order interests in protecting these two moral powers. In applying CR, we
ask whether some particular social arrangement or exercise of state power is acceptable to persons understood solely in terms of this characterization.

I have said that no free and equal citizen could consent to their society’s failure to secure the three conditions set forth in Rawls’s political liberalism. A citizen normatively characterized as possessing a capacity to form and revise a conception of the good will insist that society protect her freedom to, for example, espouse a religion of her choosing, or none at all. Similarly with the other basic liberties, and with the prioritization thereof, and with the provision of the material necessities for the effective exercise of the liberties: Because citizens cannot accept society’s failure to secure these conditions, any society which does so fail straightforwardly violates CR. In this way, CR takes some social arrangements off the table from the start. Political liberalism rules out any conception of justice that fails to abide by that criterion.

But CR also constitutes an important theoretical resource upon which we can ground positive arguments for substantial political interventions. We saw in Chapter Two that LPL imposes not just negative constraints on legitimate exercises of political power, but also positive requirements which specify that some such exercises are required—that their omission is illegitimate. The negative constraints are derived from limits on the exercises of political power which are acceptable to citizens; the positive requirements are derived from limits on the extent to which omissions are acceptable to citizens. Similarly with CR, the normative principle on which LPL is based: Because CR not only rules out interventions which citizens cannot accept but also requires interventions whose omission citizens cannot accept, that principle can ground certain exercises of governmental power as not just legitimate, but positively required.

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204 CR is the “limiting feature” of a reasonable political conception of justice (Rawls 1999b, p. 581).
Consider three pieces of legislation: First, consider voter identification laws which systemically disenfranchise certain groups of would-be voters by requiring forms of identification which are extraordinarily difficult for members of those groups to obtain. (It may be extremely difficult, for example, for highly mobile families or families living in multi-family or multi-generational homes to show proof of permanent residence.) Second, consider similar identification requirements for receipt of certain welfare benefits previously available without such identification. Assume that the laws apply only to some portion of the available welfare benefits; they are intended, say, to reduce mobility rates among families with children in order to enhance the children’s educational prospects (since high family mobility is, let’s assume, causally implicated in poor academic outcomes among certain groups of children). Finally, consider zoning policies that require developers to provide high-quality, low-cost housing in safe neighborhoods with good schools. Assume that we combine these policies with housing subsidies so that low-income families can afford to live in the new housing units and stay in the housing units. The zoning policies are intended to provide a high quality education to low-income children by reducing their families’ mobility and providing them with access to schools which serve more advantaged students already living in these communities.

CR straightforwardly rules out the first piece of legislation as illegitimate. By disenfranchising individuals systematically based on demographic group membership, the voter identification laws described would undermine the ability of those individuals to participate in the public political sphere, thereby undermining their political equality. Because the legislation effectively undermines individuals’ ability to exercise their basic political liberties, it is unacceptable to citizens and thus violates CR. The second piece of legislation is also likely to be ruled out as illegitimate, depending on the distribution of income and wealth in society.
Depriving a family of a means-tested social provision may leave them below the threshold of material wellbeing at which they can effectively exercise their basic liberties. If the benefit provided families with resources necessary for effective participation in the political arena, then the identification laws which restrict access to that benefit will be unacceptable to citizens.

The third piece of legislation is perhaps the most interesting of all for my purposes. Under certain circumstances, it will be positively required by CR. Education is essential to securing fair opportunities for individuals to occupy competitive social positions later in life. It is also an important mechanism for ensuring that actual individuals develop the capacities of citizenship: Prospective citizens must be educated to understand their status as citizens and to effectively exercise the moral powers that status entails. Because citizens are characterized as having a higher-order interest in preserving their capacities as citizens, we can infer that citizens also have an interest in preserving the circumstances under which all are educated sufficiently well to effectively exercise their capacities as citizens. Housing segregation and high mobility among the disadvantaged are severe impediments to the provision of an adequate education. If providing affordable housing in safe communities is necessary to ensure that all students receive the kind of education which free and equal citizens would insist upon, then the failure to provide affordable housing is unacceptable to citizens and thus violates CR.

The residential zoning legislation thus exemplifies an exciting possibility: Because CR defines legitimacy as acceptability to citizens characterized normatively, some progressive social policies will turn out to be not only legitimate, but positively mandatory, within the framework of political liberalism. In accordance with CR, we must ask, “Would individuals characterized as citizens accept this political intervention? Would they accept the omission of this political intervention?” Insofar as citizens would not accept omissions of certain exercises of political
power—insofar as they would *insist on* the enactment of those exercises—CR demands those exercises. It follows that it is illegitimate—by the lights of the fundamental normative principle of political liberalism—for the state to abstain from those exercises of political power.

The discussion of the residential zoning legislation exemplifies a more general strategy for grounding progressive political interventions from within the constraints of political liberalism, by invoking the basic theoretical commitments of political liberalism. We begin with political liberalism’s conception of the person as citizen, and the characteristics of citizenship. From these characteristics, we can attribute to citizens certain fundamental interests. Finally, we can infer that citizens would insist on certain political interventions, under certain circumstances, to preserve or further the objects of those interests.

In the case of the zoning laws, we begin by invoking political liberalism’s characterization of citizens as possessing a higher-order interest in preserving their moral powers as citizens. Based on this characteristic, we can infer that citizens would have a secondary interest in ensuring that each person receive a sufficiently good education to develop those moral powers. This secondary interest is not explicit in political liberalism’s characterization of citizenship, but it is implied by that characterization. Finally, we can infer that citizens would insist upon certain exercises of political power which are, under the circumstances at hand, essential to the adequate realization of the secondary interest we have attributed to them. When circumstances are such that de facto segregation renders residential zoning laws a necessary means to the adequate realization of a sufficiently good education for citizenship, citizens would insist that the state intervene to enact those laws. Similarly, we have seen that when circumstances are such that progressive taxation policies are essential to the adequate exercise of the basic political liberties, citizens would insist that the state intervene to enact those policies. In
this way, CR acts not just as a negative constraint on what the state may legitimately do; it acts as a positive requirement on what the state cannot legitimately abstain from doing.

In the remainder of this dissertation, I apply this framework to justify gender egalitarian political interventions from within the apparatus of political liberalism. I argue that, under certain circumstances, citizens would accept gender egalitarian interventions. More strongly, I argue that, under certain circumstances, citizens would insist on those interventions. Because citizens would insist that the interventions be implemented, the basic theoretical commitments of political liberalism require them.

Notice that the argumentative framework set forth enables us to make arguments for progressive policy interventions without invoking substantive values that are specific to some particular comprehensive conception of the good. The argument for the zoning laws, for example, is not grounded in any claim as to the intrinsic value or choice-worthiness of a certain kind of education, or of an education that prepares students to live a certain kind of lifestyle affirmed from within a particular comprehensive doctrine. In justifying exercises of state power, political liberalism foregoes all considerations of what is substantively good for people, because free and equal citizens would find the grounds impermissible justification for such exercises. Rather, the framework generates arguments for progressive political interventions from essential features of political liberalism: CR, and the conception of citizenship that animates it. If my argument for gender egalitarian political interventions follows this framework and does so without affirming the substantive value of gender egalitarian lifestyles, then political liberals can avoid my conclusion only by abandoning one of the central tenets of political liberalism.

Before I execute my own argument for gender egalitarian political interventions, I want to examine a recent argument put forth by Christie Hartley and Lori Watson. Hartley and Watson
argue that CR can ground certain interventions intended to make society more gender just, including interventions intended to induce families to share paid and unpaid work more equally. Their argument, these theorists claim, demonstrates that political liberalism imposes substantive feminist requirements on the just liberal state.

Although I show that Hartley and Watson’s argument ultimately fails to establish the legitimacy of gender egalitarian political interventions, it exemplifies the framework I have just discussed, and points the way toward a more promising execution of that framework. I begin with an examination Hartley and Watson’s argument, which invokes an alleged systemic incompatibility between the gendered division of labor and the effective development and exercise of political personhood among actual individuals. I argue that their approach ultimately fails in this regard, because there is no systemic incompatibility. But my examination and ultimate rejection of Hartley and Watson’s argument sets the stage for my own argument from CR and political liberalism’s conception of citizenship to the conclusion that gender egalitarian political interventions can be not only legitimate, but positively mandatory.

3. The Incongruity Strategy: Does the GDL Undermine Citizenship?

According to Hartley and Watson, CR imposes substantive feminist requirements on the just politically liberal state. First, it demands political interventions to eliminate “pervasive social hierarchies that thwart the give and take of public reasons among free and equal citizens.” These pervasive social hierarchies are often perpetuated by gender norms regarding, for example, what kind of work men or women are best suited to. CR demands that these hierarchies be

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205 This is not to say that it fails to ground other interventions which many feminists have endorsed, such as the anti-pornography interventions that Hartley and Watson discuss in their paper.

dismantled, because citizens could not accept being subject to the domination they imply. Second, it demands that society ensure “the social conditions necessary for recognition respect among persons viewed as free and equal citizens.” Recognition respect exists only when citizens recognize and respect other citizens’ status as free and equal citizens. Because citizens could not accept circumstances under which others fail to recognize and respect them as citizens, CR demands that society establish and preserve whatever positive conditions are necessary for citizens to relate to one another in this capacity.

Hartley and Watson point out that Rawls himself recognized a civic education as one condition necessary for recognition respect. But they argue that recognition respect may impose additional requirements. In societies in which women’s physical integrity is routinely threatened, for example, it may require that violent pornography, rape, and domestic abuse be classified as civil rights violations. They conclude that “political liberalism’s criterion of reciprocity can curtail the…subordination of women with respect to the dimensions of social life central to equal citizenship and can deliver the social goods necessary for equal citizenship.”

Because the hierarchies and inequalities Hartley and Watson draw our attention to undermine the conditions necessary for individuals’ recognition of themselves and others as citizens, and because citizenship requires this recognition, the hierarchies and inequalities are incongruous with individuals’ development of citizenship. As Hartley and Watson put it, “[a] kind of bifurcation of self occurs as one tries to maintain competing or incongruent identities. In the case of members of socially dominated groups, the identity of free and equal citizen is incongruent with that aspect of their identity in which they are regarded as a social

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unequal….”210 Because the hierarchies and inequalities threaten to undermine the very conditions of citizenship, citizens will insist that they be dismantled, and that conditions be established which are conducive to their recognition of free and equal citizenship in themselves and others.

If this argument is successful, then political liberalism’s CR licenses political interventions which dismantle pervasive social hierarchies, and which provide the social conditions necessary for citizens to relate to one another as free and equal in domains central to citizenship. Because Hartley and Watson regard work as a dimension of social life central to citizenship,211 their argument appears to establish that CR licenses political interventions aimed at dismantling the gendered division of labor. Such interventions would be necessary to restore congruence between the personal, background identities which citizens develop in response to gendered labor norms, and the political identity of citizens as free and equal which the just politically liberal state must preserve. Call this the “Incongruity Strategy” for establishing the legitimacy of gender egalitarian political interventions from within political liberalism.

The Incongruity Strategy fits within the broader framework I have set forth above. It begins by ascribing to citizens an interest in preserving conditions which are conducive to the

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211 Hartley and Watson 2009, pp. 533-535; 2010, p. 17. (Though it is worth noting that Hartley and Watson themselves are ambivalent on this point. In Hartley and Watson 2009, they are optimistic that their arguments can support just the kinds of policies under consideration here. In Hartley and Watson 2010, they seem more reserved about the radical potential of their argument. They do not argue that the gendered division of labor constitutes a social hierarchy; nor do they think that all gender hierarchies—or hierarchies in general—must be dismantled. What they have argued for is the elimination of social hierarchies that compromise citizens’ abilities to view themselves and to be viewed by others as free and equal. In some places, they offer a very modest account of what this requires. They allege that “most comprehensive doctrines in modern democratic states” are compatible with the non-domination and recognition respect requirements imposed by CR (Hartley and Watson 2010, pp. 19-20). Since many comprehensive doctrines in modern democratic states approve or even celebrate gender inegalitarian work distributions, we might infer that Hartley and Watson do not intend their argument to ground the gender egalitarian interventions I am concerned to defend. Elsewhere, however, the theorists strike a different tone, suggesting that their argument can justify interventions to equalize labor market access between caregivers and non-caregivers (Hartley and Watson 2009, p. 533; 2010, p. 17).
realization of citizenship. Although Hartley and Watson do not make this explicit, this interest is implied by political liberalism’s characterization of citizens as having a higher order interest in the preservation of their two moral powers. Because there is (allegedly) an incongruity between the development of citizenship and the gendered division of labor, citizens’ interest in preserving conditions which are conducive to the realization of citizenship implies that they will insist on political interventions necessary to undermine the gendered division of labor.

The Incongruity Strategy has an impressive philosophical pedigree, though less sophisticated versions have long been refuted as inadequate. After the publication of *A Theory of Justice*, many feminists raised an important objection to Rawls’s theory: They claimed that unequal power relations within the family would undermine women’s realization of free and equal citizenship. Women cannot be free and equal in political life, opponents argued, if they are sub-equal within their families. In the language of the Incongruity Strategy: Inequality in the home is incongruous with equal citizenship. This objection has since been widely rejected, because unequal power relationships in the home apparently need not undermine women’s realization of free and equal citizenship. Many women have managed to achieve free and equal citizenship, with all the political equality which that status implies, despite being raised in non-egalitarian families. The alleged incongruity is refuted by the experience of these women.

But Hartley and Watson execute the Incongruity Strategy in a more sophisticated way which avoids the obvious counterexamples. They argue that the norms sustaining the gendered division of labor—rather than particular enactments of the gendered division of labor—undermine women’s standing as free and equal citizens. Like the earlier versions of the Incongruity Strategy, Hartley and Watson argue that certain forms of background culture

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212 See, for example, Okin 2004.
inequality are incongruous with individuals’ development of free and equal citizenship. Because of citizens’ interest in preserving circumstances conducive to the realization of citizenship, the argument concludes, citizens would insist on the remediation of the background culture inequality.

But does the gendered division of labor really prevent individuals from developing the skills and dispositions of citizenship? Even when understood as a set of social norms rather than in terms of particular enactments of gendered labor, is the gendered division of labor really incongruous with citizenship? In the sections that follow, I argue that Hartley and Watson fail to show that the alleged incongruity exists. I conclude that the Incongruity Strategy is an unsatisfactory execution of the framework I have set forth above. Citizens do indeed have an interest in preserving circumstances conducive to the realization of citizenship, but that does not yet imply their insistence on interventions to dismantle the gendered division of labor, since the gendered division of labor has not been shown to be incongruous with citizenship.

4. **Understanding the Burden: What Kind of Incongruity?**

Hartley and Watson do not argue that every social hierarchy is a legitimate target of political intervention. Such an argument would implausibly identify such hierarchies as high school student councils as legitimately susceptible to political intervention. In order to be susceptible to political interventions on the basis of their argument, social hierarchies must be incongruous with the development of political personhood. Hartley and Watson’s argument therefore rests on an empirical premise: If it is to establish that political liberalism approves gender egalitarian political interventions, it must be the case that the background inequalities caused by the gendered division of labor really do impede individuals’ development of
citizenship. Citizens will demand gender egalitarian interventions only if the alleged incongruence actually exists.

It is important to examine the argumentative burden the Incongruity Strategy confronts in this regard. In particular, we should explore the kind of incongruity that must exist in order for the strategy to effectively ground gender egalitarian interventions within the framework of political liberalism. In order for citizens to insist on remediation by way of gender egalitarian political interventions, the incongruity between the gendered division of labor and the attainment of citizenship must actually be caused by the gendered division of labor, rather than some other gendered social hierarchy; it must be systematic, and not merely inhibit the realization of citizenship in isolated cases; and it must be not merely arise above the threshold of citizenship which political liberalism is committed to protecting.

First, consider the causal aspect of the argumentative burden: In order to use the Incongruity Strategy to ground the legitimacy of interventions intended to remedy the gendered division of labor, we would need to establish that there is a threat to citizenship posed specifically by that gendered division of labor, rather than some other hierarchal aspect of gender. Hartley and Watson discuss several implications of their argument that reach beyond the gendered division of labor. For example, they propose that their argument might justify anti-pornography legislation, if the attainment of citizenship among women is undermined by a sexual power hierarchy maintained by the types of pornography that Hartley and Watson find objectionable. For our purposes, it is not sufficient to show that citizenship is undermined by some mechanism or other. If it is not undermined by the gendered division of labor, then the strategy will not justify interventions to dismantle that division.
Second, the incongruity must be systematic. It is not enough that the gendered division of labor inhibits the realization of citizenship in isolated cases. There are sure to be particular instances in which an enactment of the gendered division of labor undermines citizenship. But these isolated violations justify targeted interventions to preserve the possibility of citizenship for the individual in question. They do not justify systematic solutions of the type under consideration here. For example, imagine a domestic partnership in which a woman is forcefully made to perform housework against her will. In such a case, there is a clear justification for the state to intervene, and political liberalism can recognize that. But the approved intervention will not involve the manipulation of incentives to make gender egalitarianism relatively more attractive to partners negotiating the demands of paid and unpaid labor. Rather, the approved intervention will involve isolated intrusion to remedy the isolated violation. It will involve, for example, protection of the victim’s right to exit the partnership without the threat of violent repercussions. The gender egalitarian interventions I am concerned to defend are systemic solutions, and will only be mandated by CR as a remedy for systemic problems. If no systemic incompatibility exists, then citizens have—so far—no reason to insist on systemic solutions. Accordingly, the strategy under consideration will fail to show that gender egalitarian interventions are among those mandated by CR.

Finally, the incongruity must not merely arise above the threshold of citizenship which political liberalism is committed to protecting. CR does not demand that individuals’ realization of citizenship be maximized, because citizens would not accept the interventions that maximizing citizenship would require. For example, if we really wanted individuals to realize the values and dispositions of citizenship as fully as possible, we might dispense altogether with the family as an institution for raising children. Instead, we might raise all children from a young age in
institutions whose sole purpose is to train children for citizenship while protecting them from socializing influences that constitute any impediment at all to the realization of citizenship. They might be protected, for example, from time-consuming distractions such as intimate family life, which might take up energy children would otherwise spend developing their moral capacities as citizens. Justice would not require this because citizenship is a “threshold concept”: Citizens will insist on the preservation of conditions under which all individuals can attain the capacities of citizenship up the some threshold. The threshold itself will be set by CR, and I will refrain from attempting to locate it. The point is this: It is not enough to show that the gendered division of labor compromises citizenship to some degree. For the Incongruity Strategy to work, we must demonstrate that it undermines the realization of citizenship below the threshold—that it prevents individuals from attaining a level of citizenship which political liberalism must protect.

So the Incongruity Strategy faces a formidable burden. A crucial premise in that strategy’s argument for the legitimacy of gender egalitarian political interventions is that the gendered division of labor systematically undermines individuals’ realization of citizenship below the threshold which must be preserved. I do not claim that the premise is false, but it does remain unsupported. Later in this chapter, I begin to develop an argument for gender egalitarian political interventions that does not rely on such a daunting empirical premise. But first, I argue in the next section that the Incongruity Strategy could not justify gender egalitarian interventions of the type under consideration here, even if the empirical premise could be vindicated.

5. Is the GDL Hierarchical?

Despite its initial appeal, the Incongruity Strategy cannot establish the legitimacy of gender egalitarian political interventions from within the framework of political liberalism. Even
if the strategy can vindicate interventions which dismantle *pervasive social hierarchies* that undermine citizenship, the gendered division of labor is not *essentially* hierarchal. And the morally objectionable harms of the gendered division of labor do not inhere exclusively in its hierarchal features. When we stipulate away the hierarchy, the gendered division of labor remains morally objectionable. But the Incongruity Strategy cannot register a non-hierarchal gendered division of labor as a legitimate target of political remediation, because the alleged citizenship-undermining mechanism of gender is the hierarchy of income, power, and status associated with it. Because not all the harms of the gendered division of labor are caused by this hierarchal arrangement, the Incongruity Strategy cannot license interventions to protect against this full range of harms; nor can it license interventions to dismantle the gendered division of labor altogether. At most, it can license interventions to ensure that the gendered division of labor be non-hierarchal.

Gendered labor in our society is undeniably hierarchal. The norms sustaining the gendered division of labor interact with gendered institutions such as labor markets and childcare facilities in ways which affect the distribution of wealth, status, and power in society. As a result, these goods are distributed unequally between men and women. A few examples will be illustrative. In the United States, adequate and affordable childcare is notoriously difficult to procure. But most full-time jobs implicitly assume that employees are freed of major caregiving responsibilities. The result is that most parents encounter extraordinary difficulty combining full-time employment with serious child-rearing responsibilities. This difficulty might be gender-neutral but for the norm dictating that mothers—not fathers—be the primary caregivers of young children. Gender norms sustain a culture of intensive mothering that hinders women from exhibiting the single-minded focus on career that employers are increasingly coming to
Meanwhile, the fact that more women than men have (or will have) serious caregiving responsibilities that compete with their availability for paid work results in statistical discrimination against women in the workplace: Because men are likelier to (be able to) make paid work a first priority, male job candidates appear relatively more attractive to employers working with limited information. Apart from steering men and women into different social roles, gendered norms ensure that those roles will be rewarded unequally both in the market and in the home. Over time, the interaction of gendered norms and gendered institutions leads to significant inequalities in income, status, and power between men and women, thereby reinforcing women’s financial dependence on men. Gender, as we know it, is hierarchical.

But it need not be hierarchical. Imagine a society which compensates caregivers sufficiently to end their financial dependence on partners who work outside the home, and to offset foregone human and social capital that would otherwise be accumulated working outside the home. Assume also that this compensation is sufficient to ensure that caregivers do not face formidable barriers to exiting domestic partnerships; they will not end up non-reciprocally vulnerable if the partnership is dissolved. And assume that effective safeguards are in place to protect women from statistical discrimination in the workplace. Even with these stipulations in place, we can imagine that work remains gendered: Women continue specializing in “private” caring work, while men specialize in work outside the home. Perhaps we would need to impose other stipulations in order to render the gendered division of labor non-hierarchical. But the point remains: The gendered division of labor can survive stipulations that render it non-hierarchical;

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214 See Chapter Five for more on this mutually-reinforcing relationship between gender norms and gendered social institutions.
217 See Alstott 2004 for an argument in favor of a caregiver resource allowance. See Fraser 1997, pp. 55-59 for an argument against such allowances.
thus, is not essentially hierarchical. We can imagine a society in which gendered norms incline men and women systemically toward different background identities, but in which those identities are not arranged in a hierarchy of income, status, and power.

But would a non-hierarchical gendered division of labor remain morally objectionable? The hierarchy of income, power, and status that accompanies the gendered division of labor in our society is clearly problematic, and Hartley and Watson are hardly alone in identifying that hierarchy as the injustice of the gendered division of labor. But there are also serious harms that stem from the non-hierarchical features. Two harms in particular persist even when the hierarchy is stipulated away: First, there are harms of forced specialization: harms resulting from men and women being systematically obstructed from combining serious commitments to caring for others with similarly serious commitments to attainment in the world of paid labor. It is harmful that domestic partners who genuinely want to share work equally are effectively prevented from doing so by a labor market that assumes that workers have no serious caring responsibilities. Studies demonstrate the rarity of truly egalitarian families and document the hardships they face negotiating social institutions like labor markets and childcare facilities. Men and women will face obstacles should they undertake to combine serious commitments to their careers with similarly serious commitments to caring for dependents.

Second, there are harms of gendered forced specialization. These harms result from the ways in which social norms differentiate between men and women and push them into social roles that might not best suit their interests and temperament. Men are systemically molded into breadwinners and then pushed by society’s norms to occupy those roles. Many find the roles

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218 See Hirschmann 2003 for an argument that differences are unobjectionable when unaccompanied by power imbalances.

unfulfilling and would have been better off specializing in caregiving, even assuming no genuinely open route to combining the two roles. Meanwhile, women are systemically molded into caregivers and then pushed by society’s norms into occupying caregiving roles (or pushed out of occupying breadwinning roles). Many women find this specialization in caregiving unfulfilling and would likely have been better off specializing in paid labor.220 While the first type of harm I discussed is caused by the foreclosing of genuine opportunities to combine two worthy life projects, this second type of harm is caused by the social context against which individuals choose how to specialize, given that they cannot realistically choose not to specialize. The gendered division of labor structures society according to assumptions that women are better suited to or more inclined to enjoy caregiving, while men are better suited to and more inclined to enjoy negotiating the world of paid work. But these assumptions are problematic: In some cases, they are self-fulfilling, as individuals come to embody the attributes expected of them, despite wearing those attributes uncomfortably. Some comply with gender norms—even those which they find oppressive, or would find oppressive if the norms were not so heavily internalized—in order to avoid sanctions. These sanctions can be severe, diminishing individuals’ material, social, and emotional wellbeing.221 In other cases, individuals reject the prescribed attributes, at their own peril. Being forced to choose a social role one finds unfulfilling in order to avoid social sanctions is a serious harm, as is being actually subjected to sanctions for violating expectations. This harm persists, even after stipulating away the hierarchical features of the gendered division of labor.

Some might argue that specialization according to work is itself hierarchical. But work specialization can be hierarchical only if either of two conditions obtains: Either the kinds of

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221 Valian 1998.
work must be unequally socially rewarded, or they must be unequally intrinsically valuable. I have stipulated away the first possibility by specifying a hypothetical society in which financial wellbeing, power, and status accrue equally to caring and non-caring work. Thus, the contention that the gendered division of labor is essentially hierarchical is only plausible if it can be established that paid work outside the home as intrinsically superior to caring work. But it is false that paid work is intrinsically superior to the work of caring for loved ones during times of need and vulnerability. Even if some kinds of paid work are intrinsically superior to some kinds of caring work, paid work is not intrinsically superior. Some forms of paid work involve essentially the same tasks as unpaid caregiving: cleaning homes, preparing meals, looking after children, teaching them, shopping for food, laundering clothes. Granted, there are differences between doing these things for pay and doing them without pay. For example, when one performs these tasks without pay, it is likelier that the beneficiaries of one’s efforts are loved ones. But it is highly unlikely that this constitutes an intrinsic difference between paid and unpaid work, as many instances of paid labor involve caring for loved ones—either because the caregiver loves the people for whom she is paid to care, or because the paid work earns a paycheck necessary for the caring of a loved one—and some instances of unpaid care do not involve love. In any case, this difference does not establish that caring work is intrinsically superior to paid work. If anything, it would show just the opposite.

The harms of forced specialization and the harms of gendered forced specialization remain, even when the hierarchal elements of the gendered division of labor are stipulated away. Because the Incongruity Strategy locates the alleged incongruity in the hierarchal features of the gendered division of labor, it cannot establish the legitimacy of interventions aimed at protecting citizens from the full spectrum of harms caused by that division. At best, it can justify gender
egalitarian political interventions that undermine the hierarchical features of the gendered division of labor. But those of us who would use the tools of political reform to bring about a more gender just society should be concerned about the full range of harms systematically imposed by the gendered division of labor, including those which survive the elimination of the hierarchy.

The Incongruity Strategy does not deliver on its promise to defend gender egalitarian political interventions from within the framework of political liberalism. Even if it can be established—and it has not been yet—that the hierarchal features of the gendered division of labor systematically impede the development of citizenship below the threshold which must be protected, no incongruity between citizenship and the non-hierarchical feature of the gendered division of labor has been established. Some of the most debilitating harms of the gendered division of labor are attributable to its non-hierarchal features, and the interventions which the Incongruity Strategy supports offer no protection against those harms.

But the inadequacy of the Incongruity Strategy does not undermine the framework set forth in Section 2. In the next chapter, I develop a novel argument which works within that framework to establish the legitimacy of gender egalitarian political interventions. Recall how the framework operates: We begin with political liberalism’s characterization of citizenship. Using that characterization, we can attribute to citizens certain fundamental interests, from which we can infer that citizens would, under certain circumstances, insist on certain enactments of political power. The Incongruity Strategy’s inadequacies derived from its exclusive reliance on citizens’ interest in citizenship itself, and their associated interest in preserving conditions conducive to the realization of citizenship. But citizens are not merely characterized as wanting to preserve the conditions necessary for the realization of citizenship. In fact, from political
liberalism’s normative characterization of citizenship, we can derive a much richer conception of citizens’ interests. In my execution of this framework, I argue that political liberalism’s characterization of citizenship implies that citizens have a fundamental interest in preserving circumstances conducive to the long term stability of their society. From this interest, I demonstrate that we can infer citizens’ insistence on circumstances conducive to the enactment of gender egalitarian lifestyles. Because our current gender norms and social institutions constitute formidable obstacles to the enactment of gender egalitarian lifestyles, we can in turn infer that citizens would insist on gender egalitarian political interventions to remove those obstacles and ensure the genuine availability of gender egalitarian lifestyles. Because citizens would demand these interventions, CR requires them as a condition for the legitimacy of the just, politically liberal state. It is to this argument that I now turn.
Chapter 5:
Obstacles to Equality:
A Stability Argument for Gender Egalitarian Political Interventions

In Chapter 4, I proposed a framework for developing arguments for the legitimacy of progressive political interventions: We begin with political liberalism’s characterization of citizenship. Based on that characterization, we can attribute to citizens certain fundamental interests, from which we can infer that citizens would, under certain circumstances, insist on certain enactments of political power. Because citizens would demand those enactments, the Criterion of Reciprocity (CR) requires them as a condition for the legitimacy of the just, politically liberal state.

Importantly, the arguments developed from within this framework are compliant with the restrictions imposed by political liberalism. The interventions are not grounded in any particular conceptions of the good, or any claims as to the intrinsic value or choice-worthiness of certain lifestyles. In justifying exercises of state power, political liberalism foregoes all considerations of what is substantively good for people, because free and equal citizens would find such considerations impermissible justification for political interventions. Instead, the arguments generated by the framework I developed proceed by way of premises that derive from essential features of political liberalism: CR and the conception of citizenship that animates it.

In this chapter, I work within this framework to develop a novel argument for gender egalitarian political interventions. Because my argument abides by this framework and does so without affirming the substantive value of gender egalitarian lifestyles, political liberals can avoid my conclusion only by abandoning one of the central tenets of political liberalism.
The argument proceeds as follows: Citizens have a strong interest in the preservation of social circumstances that are conducive to the long-term stability of the society in which they live (Section 1). And citizens know that in a just, politically liberal society, a critical mass of individuals can reasonably be expected to affirm substantively liberal conceptions of the good (Sections 2 and 3). They know, moreover, that citizens who affirm substantively liberal conceptions of the good will value their capacity to choose whether to arrange their domestic lives according to traditional gendered norms (Section 4). Given this knowledge, citizens can infer that society risks instability insofar as it tolerates formidable systemic obstacles which effectively foreclose the option of living gender egalitarian lifestyles. To preserve social circumstances conducive to long-term stability, citizens will reason, the state must remove such obstacles (Section 5). In our society, persistent gendered norms and social institutions built upon those norms constitute formidable obstacles to the enactment of gender egalitarian lifestyles (Section 6 and 7). Under these circumstances, then, citizens’ interest in stability will lead them to insist on gender egalitarian political interventions to remove these obstacles and preserve the genuine opportunity to enact gender egalitarian lifestyles. I conclude in Section 8 by responding to an important objection to my argument.

1. Citizens’ Interest in Stability

First, why do citizens have an interest in ensuring that their society be stably regulated across time by a just political regime? We can see that they have such an interest by examining various fundamental components of political liberalism’s characterization of citizenship. First, citizens possess a sense of justice. This means that they have a strong and normally effective desire to see that justice is done for themselves and others. Because the just society is one that effectively
ensures the satisfaction of that characteristic desire, citizens have an interest in the preservation of the just society.

Second, citizens are characterized as possessing a capacity to form and revise a conception of the good. A just politically liberal state is one that ensures the various conditions under which citizens can execute this power (e.g.: freedom of conscience); thus, citizens will have an interest in ensuring the stability of that state over time.

Thirdly, citizens are possessed of a higher-order interest in protecting these moral powers. Because the just politically liberal state ascribes a fundamental normative importance to the protection of citizens’ two moral powers, their interest in protecting those powers will motivate them to ensure that that state be stably persistent over time.

Finally, the just society is one which, by definition, abides by CR. CR, in turn, maintains that all legitimate exercises of political power must be acceptable to citizens. Citizens have an interest in preserving the conditions under which the just politically liberal state is preserved over time because that state is subject to their acceptance as citizens and thus gives them due respect as persons. For these reasons, the characterization of citizenship implies that citizens will be motivated to preserve a just and stable politically liberal regime.

Two points are worth noting. First, because citizens have such a strong interest in protecting their moral powers as citizens, their interest in stability will be correspondingly strong. Because any interest attributed to citizens will have to be weighed against countervailing interests of citizens, the strength of the interest is an important consideration to keep in mind. Ultimately, I will conclude that citizens have an interest in preserving the genuinely available opportunity for people to lead gender egalitarian lifestyles. Because that interest follows from their interest in stability, it will be a strong interest indeed, and not easily overridden.
Consider one strong countervailing interest of citizens: their interest in limiting governmental intrusion so as to ensure a free space in which to pursue their conceptions of the good. This interest in limiting governmental intrusion will be constrained by citizens’ interest in ensuring social circumstances conducive to the long-term stability of their society, much as, in previous chapters, I argued that their interest in limiting governmental intrusion will be constrained by their countervailing interest in ensuring social circumstances conducive to the development of citizenship. Of course, space in which to pursue one’s conception of the good is important, and citizens would not purchase stability at the cost of—for example—a state which violates their basic liberties. But because the gender egalitarian interventions under consideration here merely manipulate structural incentives against which individuals make choices about work allocation, and because they leave individuals free to choose gender inegalitarian lifestyles, they impose only minimal limitations on citizens’ pursuit of their conceptions of the good. Thus, if they can be shown to be essential to the realization of citizens’ interest in preserving conditions conducive to stability, the realization of that interest will justify this minor cost in terms of citizens’ prerogative to pursue their comprehensive doctrines, free of state intervention.

A second point: The argument I am developing derives citizens’ interest in stability from a fundamental characteristic of citizenship to which political liberalism is committed. Political liberals must accept that citizens have the two moral powers and a higher order interest in their preservation in order to explain why, for example, a just politically liberal state is one which protects the basic liberties and their fair value: It is because citizens, thusly characterized, would insist upon the protection of those liberties and their fair value. Thus, if it can be shown that further interests of citizens follow from this basic characterization, and that those interests would induce citizens to insist upon more progressive interventions, then the legitimacy of those
interventions can be denied only by abandoning the same central tenet of political liberalism which grounds that theory’s commitment to the protection of basic liberties.

There is another way to express this: It has commonly been thought by political liberals that progressive political interventions can be justified only by invoking a “thick” theory of the good, or one which includes the endorsement of various comprehensive values, such as equality. If successful, my argument will constitute a defense of gender egalitarian interventions using only a “thin” theory of the good which does not endorse values like equality as comprehensive values. But my argument proceeds by way of demonstrating that political liberalism’s “thin” conception of citizenship entails a much richer conception than political liberals have noticed. Because political liberals are so strongly committed to this “thin” conception of citizenship, their basic theoretical commitments commit them to the richer conception, and thus to the legitimacy of progressive political interventions which that conception implies.

The task for the remainder of this chapter is to argue that citizens’ interest in preserving the just politically liberal regime stably across time in turn implies that citizens will insist on the preservation of the “genuinely available opportunity” for gender egalitarianism, by which I mean that they will insist that there be no formidable, systemic social obstacles to the enactment of gender egalitarian lifestyles. I turn in the next sections to the second step in this argument: The claim that in a just, politically liberal society, a critical mass of individuals can reasonably be expected to affirm substantively liberal conceptions of the good.

2. The Prevalence of Liberal Lifestyles: A Matter of Political Sociology
The social institutions under which individuals come of age are a strong force in socializing them and inclining them to adopt particular comprehensive doctrines in their own lives.\footnote{222} Citizens growing up in a politically liberal society can reasonably be expected to embrace aspects of liberalism as part of their guiding philosophical and moral doctrines, because growing up under institutions ordered by the political values of liberalism will tend also to engender the corresponding substantive values as well.

Consider the myriad ways in which individuals in the just, politically liberal society are exposed to liberal notions of equality and autonomy: First, they are systematically taught their rights and duties as citizens, so that they are capable of giving reasoned and informed support to just political institutions. They are taught from a young age that each of them is a political equal with all others, and that this has important implications for how they must treat one another. They are taught that every citizen has certain basic liberties that must be protected, and is entitled to the basic material necessities for the effective exercise of those liberties.\footnote{223}

Apart from being an explicit component of citizens’ education, the values and dispositions of liberalism—as political values—will be reinforced in society’s other political institutions. Citizens’ basic liberties will be enshrined in law; the requirements of equal opportunity will be enforced within labor markets, and the tax scheme will be calibrated to ensure access to the material wellbeing necessary for making effective use of these liberties and opportunities. Of

\footnote{222} It may be objected that a just politically liberal state cannot legitimately be so constituted that it systemically inclines citizens to accept particular comprehensive doctrines. To do so would be to favor those doctrines over others. On the contrary, a liberal state can legitimately exert a non-neutral influence over its citizens, provided that it not do so on the grounds of some judgment about the intrinsic choice-worthiness of that doctrine, and so long as the promotion of that doctrine is not the aim of the governmental actions and institutions. As Rawls says, “[I]t is surely impossible for the basic structure of a just constitutional regime not to have important effects and influences as to which comprehensive doctrines endure and gain adherents over time; and it is futile to try to counteract these effects and influences…We must accept the facts of commonsense political sociology” (Rawls 1993, p. 193).

\footnote{223} That individuals must be educated to understand their citizenship and the rights and opportunities it demands is itself a requirement of stability: If society failed to educate citizens in this way, then it could not be relied upon to persist stably across time. See Rawls 1993 p. 142.
course, this is not to say that political institutions are the only (or even the primary) mechanism by which citizens come to embrace particular conceptions of the good. On the contrary, citizens’ families of origin ordinarily exert a much stronger and deeper influence. But social institutions and the political principles that regulate them do play a sufficiently important role that we can reasonably expect that a society whose political institutions are ordered by the values of liberalism will be one in which those values are also widely embraced within the background culture as well. And we can reasonably expect that the extent to which liberal values prevail within the background culture will only increase over time so long as those values stably order political institutions, precisely because families of origin exert their own strong influence on the conceptions of the good that children come to affirm. Individuals under the influence of liberal institutions who come to embrace liberal values in their own lives will tend to share those values with their children. Those children, in turn, are even likelier to come to endorse those values, as they are reinforced within their families of origin and within the political culture of their society.

Because individuals in a just, liberal society must be educated to understand liberal political values, and because those values will be reinforced in their interactions with other institutions of the state, liberal values will play an important role in the development of their conceptions of the good. And individuals who come to affirm liberal comprehensive values as a result of being socialized under liberal political institutions will tend, in turn, to raise their children to affirm liberal values themselves. As a result, we can reasonably expect that, over time, liberal comprehensive values will come to be affirmed broadly throughout a society ordered by liberal political values. More importantly, citizens know that liberal comprehensive values are likely to be broadly endorsed throughout the just, politically liberal society.
A couple of remarks are in order: First, attributing this expectation to citizens does not amount to attributing to citizens any endorsement of the liberal values for themselves. When, in applying CR, we ask what exercises of political power citizens would accept, we invoke only the fact that citizens have a capacity for a conception of the good, and we black-box the content of that conception. Citizens know that they may come to affirm non-liberal values. But they also know that many of their compatriots will affirm the values of liberalism under the influence of politically liberal social institutions. Second, attributing this expectation to citizens does not amount to attributing the false belief that all or even nearly all individuals in a politically liberal society will come to affirm liberal values. The very inspiration for political liberalism came from the realization that citizens exercising their rational capacities under free institutions would inevitably come to affirm different and irreconcilable conceptions of the good. Citizens will expect widespread—but not universal—endorsement of liberal values. But merely widespread endorsement of liberal values is sufficient for the purposes of my argument. Finally, it is worth reiterating that this argument itself does not proceed by way of invoking liberal values. It merely notes that widespread endorsement of liberal values is likely to prevail over time under a liberal political regime. This is fully consistent with those values being misguided; thus the argument has not (yet) violated any constraints on the liberal commitment to forego comprehensive values as a justification for exercises of political power.

I have argued that commonsense considerations of political sociology would convince citizens that liberal values are, over time, likely to be widely endorsed within the background structure of any society ordered by liberal political values. But even if these commonsense considerations were insufficient, there is a further argument for the conclusion that liberal values will be widely endorsed, and that citizens will know this to be the case: Citizens themselves have
strategic reasons to *insist* that comprehensive liberal values maintain broad adherence in society. Once again, these reasons can be derived without attributing to citizens themselves any commitment to liberal values. It is to this supplemental argument that I now turn.

3. **The Prevalence of Liberal Lifestyles: Strategic Considerations**

Recall that political liberalism’s “thin” characterization of citizenship attributes to citizens a moral power for a conception of the good: a capacity to form, reflect on, and revise their set of values, or their philosophical, religious, or moral outlook on life. It also attributes to citizens a higher-order interest in *protecting* that capacity: Citizens will want to ensure that conditions obtain under which individuals can exercise their capacity for a conception of the good, including their capacity to *revise* that conception. In service of this interest, citizens will want to ensure that conditions obtain under which individuals can endorse their conceptions of the good within a context of genuine choice, against a background of genuinely available reasonable alternatives. And in order for individuals to have the genuine capacity to revise—or even to reflect upon—their conception of the good, they must call upon the values and dispositions of liberalism. Citizens will therefore have an interest in ensuring that the values and dispositions of a substantively liberal lifestyle remain in broad social circulation.

In claiming that citizens have an interest in preserving conditions under which individuals’ conceptions of the good can be voluntarily held, I am not suggesting that they place great value on their capacity for voluntary choice. To do so would be to assume that citizens themselves have a conception of the good which involves valuing substantive autonomy and free choice in their personal lives. And in applying CR and asking what exercises of political power citizens would accept, we cannot assume any particular content of citizens’ conceptions of the good.
Rather, I am claiming that citizens normatively characterized, with a higher-order interest in protecting the moral capacity for a conception of the good, have an interest in preserving conditions under which those conception can be voluntarily chosen. They have this interest regardless of the content of their own conceptions of the good, and they have this interest despite knowing that their conceptions of the good may lead them to reject the substantive value of autonomous and voluntary choice in their personal lives.

So an interest in preserving conditions under which individuals can voluntarily reflect on and revise their conceptions of the good is implied by citizens’ higher order-interest in protecting their capacity for a conception of the good. What conditions are conducive to the possibility of voluntary reflection and revision? The most straightforward requirement this standard of voluntariness imposes is this: Conceptions of the good must be endorsed within a context of genuine choice, against a background of genuinely available alternatives.

Imagine that you are locked in a cell and you know you cannot get out. The cell need not be a particularly unpleasant place to be; on the contrary, it might be precisely where you want to be. You may have even chosen to be locked in for some quite sensible reason. Nonetheless, you are now locked in and cannot leave. You might, in some sense, consider your detainment voluntary. But you cannot amend the situation. You cannot leave the cell. You have no genuinely available option but to be in the cell; thus, you cannot revise your situation. Similarly, an individual who lacks genuinely available alternatives to the doctrine she endorses cannot revise that doctrine. Her doctrine is therefore not voluntarily held in the sense implied by the characterization of citizens as capable of revising their conceptions of the good. Moreover, knowing that one is locked in the cell leaves one powerless to even rationally reflect upon whether or not to leave. Lacking the option to leave, one cannot reasonably reflect upon whether or not one ought to stay.
So protecting conditions conducive to the exercise of the capacity for a conception of the good implies ensuring that actual conceptions of the good are endorsed within a context of genuine choice, against a background of genuinely available alternatives. Perhaps voluntariness requires additionally that the genuinely available alternatives themselves meet some further specifications. Whatever additional requirements there may be, these need not concern us here. What matters for our purposes is this: In order for individuals to enjoy a context of genuine choice—in order that they have the genuine capacity to revise, or even to reflect upon, their conception of the good—they must call upon the values and dispositions of liberalism.

Imagine that Joan, a devout Catholic, wakes up one day to the realization that she never really believed in transubstantiation. Over a period of months, maybe years, Joan comes to believe that she cannot participate in the social, cultural, or spiritual components of Catholicism while rejecting this doctrinal conviction. She has been a Catholic all her life, and her crisis of faith now threatens alienation from many of her most deeply-valued personal associations and social networks. It also threatens intrapersonal alienation, as Joan’s faith has been an important part of her self-conception as well as her daily routine. Moreover, Joan’s political and ethical views have been largely influenced by her religious affiliation. During this crisis of faith, Joan reflects carefully on whether to remain in the Catholic community or instead embrace some other spiritual tradition more closely aligned with her doctrinal convictions.

No matter what choice she ultimately makes, one thing remains true of this period of reflection: During it, Joan will exercise many of the capacities and dispositions celebrated and fostered by substantively liberal conceptions of the good. She will exercise her capacity to attain critical distance from the social affiliations with which she identifies, such as her Catholic spiritual identity and perhaps her political identity as a Catholic. In exercising this capacity, she
will reflect on and reconsider her acceptance of those roles in light of reasonable and rational considerations. Because this behavior is an expression of Joan’s equality and autonomy, we can think of the capacities and dispositions that Joan exercises as substantively liberal capacities and dispositions. No matter that Joan never considers the possibility of choosing a substantively liberal lifestyle for herself, or that she doesn’t authentically endorse the capacities and dispositions she exercises as intrinsically valuable. She is, nonetheless, exercising capacities and dispositions valued by substantively liberal conceptions of the good.

Though Joan never considers the possibility of enacting a substantively liberal lifestyle, she does call upon the capacities and dispositions of substantive liberalism in reflecting on her conception of the good. The very process of reflection and revision which citizens are committed to protecting involves the exercise of liberal dispositions and capacities. One cannot reflect on one’s conception of the good without the critical distance that can only be achieved by exercising an autonomous identification of oneself as conceptually independent of that conception; nor can one reflect on one’s conception of the good without assuming a moral equality that undergirds one’s worthiness to choose for oneself whether or accept or reject particular social roles. Of course, individuals may decline ever to reflect on their conceptions of the good, and may therefore never need to call upon these capacities and dispositions of liberalism. But citizens have a higher-order interest to protecting the moral power to reflect on and revise one’s conception of the good. As such, citizens will insist on the preservation of social circumstances under which individuals can call upon the capacities and dispositions of liberalism to reflect on their conceptions of the good, should they ever choose to do so.

It will be helpful at this point to consider the difference between autonomy as a political value on the one hand, and on the other hand, autonomy as a substantive value which one might
embrace as a part of one’s comprehensive doctrine. Autonomy as a political value is “the legal independence and assured political integrity of citizens and their sharing with other citizens equally in the exercise of political power.” Autonomy as a substantive value is “a certain mode of life and reflection that critically examines our deepest ends and ideals.” The two forms of autonomy are not the same, and political liberalism cannot legitimately promote substantive autonomy for its own sake. But CR opens up a different justification which the state can invoke to ground interventions to protect individuals’ capacities to be substantively autonomous: The capacity for autonomous reflection is a necessary condition for reflecting on one’s conceptions of the good. Because of citizens’ interest in the protection of this moral power, citizens would insist on the preservation of circumstances under which individuals can reflect autonomously on their conceptions of the good, should they choose to do so. Actual individuals may never, in fact, undergo such reflection and revision. But citizens will be committed to the preservation of the option, and if individuals are unable to call upon the capacities and dispositions of a substantively liberal lifestyle, then this moral power is jeopardized.

But how to ensure that individuals can call upon the capacities and dispositions of liberalism, should they choose to exercise their moral powers? The only way to ensure unencumbered access to the liberal values upon which one will need to call during periods of reflection and revision is by ensuring that those values are in broad social circulation. As a strategic matter, then, citizens have an interest in ensuring that the capacities and dispositions of liberalism are exercised sufficiently broadly that even those who reject them as intrinsically valuable could call upon them should they need to reflect upon their own conceptions of the good. We can compare the values of liberalism in this respect with those of any other lifestyle. If sufficiently many

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Catholics came to reject their Catholic comprehensive doctrines, then the values and dispositions those doctrines celebrate could not be relied upon to remain a part of the social currency. One can easily imagine, for example, that a decline in Catholicism would be accompanied by a decline in the extent to which values like sexual denial and abnegation circulate in society. Similarly, the preservation of liberal lifestyles is crucial if we are to ensure that liberal capacities and dispositions remain in broad social circulation. And they must remain in broad social circulation, if citizens are to have access to them when they need to call upon them for reflecting on and revising their conceptions of the good.

Citizens are characterized in a way which implies that they may need to call upon the substantive values of liberalism, and so they will have a strategic reason to ensure that those values remain in sufficiently broad social circulation. This means protecting the opportunity of citizens to live out lives of substantive equality and autonomy and ensuring that citizens take up liberal lifestyles in sufficient numbers to maintain the broad social circulation of liberal values. If the commonsense political sociology argument developed in the previous section is right—and empirical evidence discussed in Section 7 bears it out—then this will require nothing more than removing formidable systemic obstacles to the enactment of substantively liberal lifestyles. But if, after obstacles were removed, liberal lifestyles are not taken up broadly enough to maintain the availability of liberal capacities and dispositions, then citizens would have an interest in their state incentivizing those lifestyles. And the interest would be strong enough to override a general interest in avoiding governmental intrusion: Only by maintaining the broad availability of liberal capacities and dispositions can citizens ensure that they can be enacted by individuals in the ways necessary to render those individuals’ conceptions of the good voluntarily held.
Once again, some cautionary points are in order. First, my claim is not that individuals must be able to voluntarily hold their conception of the good \textit{in the sense of having chosen it independently of any outside influence}. By the lights of the standard of voluntariness relevant here, conceptions of the good may be fully voluntary despite being profoundly affected by forces beyond the individuals’ control. It may, after all, be fully reasonable and rational to choose to endorse a particular conception \textit{precisely because} that is the conception embraced by a community in which one values her membership. Joan may choose to reaffirm her Catholicism precisely because she so deeply values the relationships that would be strained by her spiritual defection. Voluntariness of the sort which citizens are concerned to protect does not require that Joan’s choice be free of external influence, any more than it requires that Joan \textit{actually choose} to reflect autonomously on her conception of the good. But it \textit{does} require that she be equipped to reflect autonomously should she choose to do so. And so Joan’s conception of the good is \textit{not} voluntary if she lacks the basic capacities for reflecting on that conception.

Second, recall that no politically liberal argument can proceed by way of premises which affirm the substantive value of autonomy or equality. The argument developed in this section abides by this constraint. What I have argued is that citizens have an interest in substantively liberal lifestyles being broadly enacted throughout their society, \textit{not} because those lifestyles are intrinsically better than alternatives, but because the broad enactment of liberal values is essential to ensuring that individuals’ conceptions of the good can be voluntarily held. Because ensuring that conceptions of the good can be voluntarily held is essential to the preservation of the moral powers, and because citizens have a strong interest in the preservation of those powers, citizens have a derivative interest in securing the broad circulation of liberal capacities and dispositions.
We might worry, though, that the argument ultimately proves too much. If, even after incentives are implemented, very few individuals choose substantively liberal lifestyles, then the argument appears to imply that political power may legitimately be used to force individuals to enact substantively liberal values against their will, in order to ensure that liberal capacities and dispositions remain accessible. Surely this is a result that political liberals must reject, and with it the argument alleged to imply it.

Fortunately, the argument I have developed does not have this unpalatable implication. My argument establishes that preserving the broad accessibility of liberal capacities and dispositions is a legitimate aim of political interventions. But in order to determine which particular interventions are justified, all-things-considered, this interest of citizens must be weighed against other interests. And the interest I have identified here would be overridden were it to conflict with citizens’ interest in avoiding state-mandated lifestyle choices which very severely curtail their ability to pursue their own conceptions of the good. The upshot is that forcing individuals to lead substantively liberal lifestyles is ruled out as illegitimate, though incentivizing liberal lifestyles may be fully legitimate. Moreover, the interest I have identified is not at all likely to conflict with citizens’ interest in avoiding state-mandated lifestyle choices, because incentivizing liberal lifestyles—or even just removing obstacles to the enactment of those lifestyles—will be sufficient to maintain the broad availability of liberal values under any foreseeable set of circumstances. This is so because a critical mass of citizens already prefer these lifestyles, and will reliably choose them if that option is available to them.

So the interest I have identified in this section will generally only justify the use of political power to remove barriers to the enactment of liberal lifestyles. Under some foreseeable circumstances—when necessary to ensure the general accessibility of the capacities and
dispositions of liberalism—that interest would justify the use of political power to *incentivize* liberal lifestyles. These circumstances are not at all likely, nor are they circumstances under which the incentives would jeopardize some other interest of citizens that is secure under the status quo: If individuals lack the capacity to critically reflect upon their conceptions of the good, then interventions to remedy the situation cannot be accused of undermining their exercise of that conception in any meaningful way. In any case, incentivizing certain types of lifestyles for strategic purposes approved by political liberalism leaves ample room for citizens to reject those lifestyles and opt for alternatives instead.

Under *no* circumstances will the interest I have identified justify the use of political power to *force* individuals to enact liberal lifestyles, because the interest I have identified would be outweighed by citizens’ interest in avoiding state-mandated lifestyle choices. But in fact, citizens’ interest in avoiding state-mandated lifestyle choices will not even come into play. As will become clear in the next section, many citizens *want* to live substantively liberal lifestyles, including gender egalitarian lifestyles, and are frustrated that social norms and institutions effectively foreclose that opportunity. Though incentivizing liberal lifestyles would be legitimate, the evidence suggests that the mere removal of these obstructions would be sufficient to ensure the broad accessibility of liberal capacities and dispositions. The objection under consideration fails. Under no circumstances does the argument I am developing imply the legitimacy of forcing individuals to enact liberal lifestyles. Under reasonably foreseeable circumstances, it implies only the legitimacy of incentivizing liberal lifestyles. And under the circumstances we actually confront, it implies only the legitimacy of removing systemic obstacles to the enactment of those lifestyles in order to make them truly accessible.
Once again, this special protection for liberal lifestyles is *not* grounded in any alleged intrinsic value of those lifestyles. Rather, it is grounded in three considerations, each permissibly invoked within political liberalism: first, that citizens are characterized as possessing a higher-order interest in protecting the moral powers, including the power to reflect upon and critically revise a conception of the good; second, that substantively liberal capacities and dispositions are necessary to enable individuals to reflect upon and critically revise their conceptions of the good; and third, that access to the capacities and dispositions of liberalism can be ensured only by a protection of the lifestyles of which they are a part. Citizens therefore have a strategic interest in ensuring that substantively liberal lifestyles are broadly enacted in their society, which derives from their interest in protecting the moral power for a conception of the good. Thus, even if the commonsense considerations of political sociology discussed in Section 2 were insufficient grounds on which to attribute to citizens the knowledge that substantively liberal conceptions of the good will be widely held, citizens have a strategic reason to ensure that this will be the case.

4. **Equality, Autonomy, and Gender Egalitarianism**

So citizens know that in a just, politically liberal society, a critical mass of individuals can reasonably be expected to affirm substantively liberal conceptions of the good. As a matter of basic political sociology, those who come of age in a society ordered by politically liberal values will tend to embrace the substantive versions of those values as well. But even if this were *not* the case, citizens have an interest in ensuring that liberal capacities and dispositions circulate broadly throughout society, and would therefore approve exercises of political power to incentivize liberal lifestyles if those lifestyles were taken up in insufficient numbers to preserve the accessibility of liberal values and dispositions.
An important conclusion follows from the fact that citizens know that a critical mass of individuals will affirm substantively liberal conceptions of the good: They also know that a critical mass of individuals will value their capacity to choose whether to arrange their domestic lives according to traditional gendered norms. Substantively liberal conceptions of the good affirm such liberal values as equality and autonomy as substantive values. This means that citizens who affirm liberal conceptions of the good will endorse equality and autonomy not merely as ideals which rightfully describe the political relationship among individuals; they will endorse equality and autonomy as ideals which ought to characterize interactions among individuals and between individuals and institutions even beyond the political sphere. Citizens who affirm liberal conceptions of the good believe that individuals are moral equals, and ought to be treated as autonomous individuals, in all domains of life. The precise meaning of substantive moral equality and autonomy is the subject of much dispute. No reasonable liberal view maintains that individuals must be treated identically in all regards in order to be treated as moral equals, or that any restriction on autonomy is morally objectionable. But both substantive autonomy and substantive equality clearly dictate that household allocations of labor should not be determined by gendered social norms at least so long as individuals within those households do not authentically endorse those norms.

Consider autonomy first. Affirming autonomy as a substantive value means valuing individuals’ capacity to attain critical distance—should they want it—from the various social identities they assume. In order to enjoy this critical distance, individuals must enjoy a path to exiting the organizations and affiliations from which social identities are derived. For example, a substantively autonomous person enjoys the ability to disavow a religious or political affiliation with which she previously identified. Most importantly for our purposes, she enjoys the ability to
question, revise, and even reject the social roles she populates in virtue of her gender, such as her
to role as a member of a partnership who prioritizes care-giving, and relies upon her partner to
prioritize wage-earning. The capacity to critically revise the gender roles one enacts within the
household and labor market is part of a full realization of autonomy, and the ability to opt out of
those roles and live a life of gender egalitarianism is implied by the capacity for critical revision.

Now consider the liberal value of equality. Affirming equality as a substantive value means
valuing one’s capacity to reject or subordinate those aspects of her identity that locate her within
unequal social relationships. For example, a substantively equal person can reject religious
affiliations that cast her in a sub-equal position within a power and status hierarchy. Even if the
social roles prescribed by a religious affiliation were not arranged hierarchically, a substantively
equal person can decline to have her social role be determined by accidental characteristics not
relevant to her fulfillment of that role. A person who values equality will value her capacity to
reject the vocational roles that society assigns to her on the basis of her sex, because she knows
that being female does not automatically render her less competent (or less inclined) to perform
alternative roles. A person who values equality as a substantive value will oppose social
arrangements predicated on the assumption that one’s sex can rightfully dictate one’s vocation.

A substantively liberal lifestyle is one that affirms autonomy and equality as substantive
values. Insofar as these liberal values are widespread throughout society, individuals will value
the capacity to choose to either affirm or reject traditional gender roles in their domestic
arrangements. Because this choice entails the genuine availability of gender egalitarian options, a
society which broadly affirms substantively liberal values will be one characterized by broad
insistence on the preservation of the genuinely available opportunity for gender egalitarianism.
Because citizens characterized according to political liberalism’s “thin” conception of citizenship
have a strong interest in preserving social conditions conducive to the long-term stability of their society, they would respond to this predictable feature of just, politically liberal societies by insisting on the preservation of the genuinely available opportunity for individuals to enact gender egalitarian lifestyles. It is to that argument that I now turn.

5. Opportunities for Egalitarianism: A Requirement for Stability

Because citizens have an interest in the long-term stability of their society, and because they can expect that society to be characterized by broad insistence on the preservation of the genuinely available opportunity for gender egalitarianism, citizens will insist that their state preserve the genuine availability of that opportunity by removing formidable systemic obstacles to the enactment of gender egalitarian lifestyles. The reason is simple: A society that systemically obstructs the enactment of a set of values that individuals within it are systematically inclined to embrace is not a society that can be relied upon to be stable over time.

This need be no more than a strategic point. If a considerable portion of the population is inclined to prefer a certain kind of lifestyle, then it would behoove the state to ensure that that lifestyle is genuinely accessible to them. By failing to do so, the state would be risking large scale instability, as individuals become frustrated and discontented when their reasonable lifestyle preferences—preferences which they share with many of their compatriots—are systemically obstructed. Nothing about this possibility of instability is specific to liberalism: In a society whose public political culture happened to incline individuals to affirm Catholic conceptions of the good, for example, the state should ensure that citizens have a genuinely available opportunity to be Catholics. If, on the other hand, the state were to allow the reasonable lifestyle preferences of the population to be systematically obstructed, society would run the risk
of large-scale discontent and instability, as the many individuals wanting to live out Catholic values found themselves effectively prevented from doing so. For the same reasons, a liberal state that inclines individuals to prefer gender egalitarian lifestyles should ensure that those individuals do not face barriers to enacting those lifestyles—it should ensure, that is, that the lifestyles be genuinely accessible. By failing to do so, the state runs the risk of instability.

As always, we must remember that citizens are characterized by multiple interests, that these interests will not always be harmonious, and that we must weigh them against one another in applying CR. And once again, there are competing and overridingly strong interests of citizens which ensure that the stability argument not prove too much. Because of their interest in protecting their basic liberties, for example, there are some conceptions of the good for which citizens would not afford special protections, even if doing so were necessary to preserve stability. They would not approve interventions to ensure unobstructed enactment of lifestyles which involve denying the basic liberties of others. Perhaps there are foreseeable circumstances under which the protection of racist values that celebrate the disenfranchisement of groups based on race is a necessary condition for stability. In such a case, citizens would weigh their interests such that their interest in stability is subordinated to their interest in protecting the basic liberties of all. But substantively liberal lifestyles are not among the unreasonable lifestyles which threaten other interests of citizenship; thus, no overridingly strong interest of citizenship outweighs citizens’ interest in stability in the case of protecting the genuinely available opportunity for gender egalitarianism.

I do not claim that a failure to protect a genuine opportunity for gender egalitarianism will necessarily generate instability. My claim is that such a failure jeopardizes stability. It makes stability more difficult to achieve, and less likely to persist. Not all individuals will come to
prefer gender egalitarianism. And even though many will, individuals sometimes demonstrate remarkable tolerance for a society that frustrates the lifestyle preferences they share with many of their compatriots. But given their strong interest in maintaining stability and their inability to predict the future with certainty, citizens will be motivated to amend conditions that pose a serious threat to stability, even if those circumstances do not make instability inevitable. Because citizens can predict that stability is significantly likelier to the extent that the state protects the reasonable lifestyle preferences that a large portion of its inhabitants are likely to share, citizens will insist that the state enact those protections. In a just, politically liberal state, citizens can expect a large portion of society to want the genuinely available opportunity to enact gender egalitarian lifestyles. Citizens thus have an interest in the preservation of that opportunity. They have an interest in the removal of systematic obstructions to gender egalitarianism.

Because gender egalitarian political interventions just are exercises of political power which aim to remove obstacles to the enactment of gender egalitarian lifestyles, these interventions may, under some circumstances, further citizens’ interest in preserving the genuinely available option of gender egalitarianism. Insofar as that furtherance can be purchased without undue cost to some other interest of citizenship, citizens would insist on those interventions under those circumstances. I have argued throughout that the gender egalitarian interventions with which I am concerned—interventions which merely incentivize gender egalitarian lifestyles and thereby amend norms and social structures in the long run—do not impose undue cost to other interests of citizenship, given the strength of citizens’ interest in ensuring stability. So, under certain circumstances, citizens would insist upon gender egalitarian political interventions. By the lights of CR, those interventions can be not only legitimate, but mandatory.
But do the circumstances just alluded to obtain in our society? In order for citizens to insist on gender egalitarian political interventions, two conditions must obtain: First, those interventions must be a feasible means of removing systemic obstacles to the enactment of gender egalitarian lifestyles. In Chapter 1, I reviewed recent empirical evidence to demonstrate that this condition does, in fact, obtain. Gender egalitarian political interventions like work time regulations, subsidized dependent care, and paid family leave initiatives can induce families to share work more equally. By prompting more gender egalitarian choices in the short run, these interventions undermine social norms that sustain the gendered division of labor and ultimately trigger the reform of social institutions predicated upon those norms.

But do those gendered norms and social institutions constitute formidable obstacles to the enactment of gender egalitarian lifestyles in the first place? This brings me to the second condition which must obtain in order for citizens to insist on gender egalitarian interventions: Society must be characterized by systemic obstacles which block the genuine availability of the opportunity to live a gender egalitarian lifestyle. In the next two sections, I argue that our society is, indeed, characterized by such obstacles: Gendered norms regarding the proper allocation of work and gendered social institutions which take those norms for granted constitute mechanisms by which gender egalitarian lifestyle preferences are systematically frustrated. In Section 6, I discuss the workings of these obstacles. In Section 7, I canvass empirical evidence demonstrating that people are, indeed, frustrated by the inaccessibility of gender egalitarian lifestyles.

6. Foreclosed Opportunities for Egalitarianism

In this section, I argue that the social structures and social norms which characterize our society constitute formidable systemic obstacles to the enactment of gender egalitarian lifestyles.
My goal is to illustrate the ways in which labor markets, childcare structures, parenting norms, and gender norms interact with and reinforce one another so as to effectively foreclose gender egalitarianism as a genuinely available opportunity.

Consider first our society’s labor market structures. Employers have increasingly come to see themselves as entitled to demand that their employees perform as “ideal workers”: workers who work very long hours and take little or no time off for caregiving work.\footnote{Williams 2000.} Importantly, it is no longer only elite professions that are structured around this assumption that employers are entitled to ideal workers. The ideal worker norm pervades most decent jobs paying a living wage, including full-time blue collar jobs as well as high-level professional jobs. Employers expect that their employees will not only meet the increasing time demands of full time work, but also work overtime when the needs of the workplace demand it.\footnote{Gerson 2010, p. 118, 168.} Increasingly, employees are expected to be “on call,” even in industries where this availability has not traditionally been demanded, and in many fields, ideal worker status requires a willingness to relocate.\footnote{Williams 2000, pp. 24, 71-2, 75; Gerson 2010.} For families, part-time work is not a viable alternative to having at least one adult performing as an ideal worker in a full-time position, because part-time work carries a severe wage penalty relative to full-time work, and generally no benefits.\footnote{Williams 2000, pp. 72-5, 96. See also Epstein et al. 1999.} Even when workplaces offer allegedly “family-friendly” policies, those options impose severe career penalties: they often come at the cost of slower advancement and even the risk of losing one’s job.\footnote{Maume 2006; Jacobs and Gerson 2004, Williams 2000, p. 74, 94.} As one theorist puts it, “more than ever, workplaces are greedy organizations with scant room for other loyalties.”\footnote{Gerson 2010, pp. 119-20.}
Seminal works like *Your Money or Your Life* by Joe Dominguez and Vicky Robin, *The Overworked American* by Juliet Schor, and *The Time Bind* by Arlie Hochschild document the increasing number of hours in the American work week. The result is more illness and stress among workers, and less *quality* time spent with family. More recent work by Jerry Jacobs and Kathleen Gerson focuses on the working time of couples: Drawing on data from the *Current Population Survey* from 1970-2000, Jacobs and Gerson show that the combined working time of couples has risen dramatically: “As revolutionary social and economic shifts have propelled most women into the workplace and left most American households depending on either two workers or one parent, deepening time dilemmas are a logical consequence of the clash between changing family forms and intransigent, time-greedy workplaces.”

The ideal worker assumption has become so pervasive that workers generally have come to be expected to either have no serious caregiving responsibilities that will require them to subordinate the demands of paid labor, or to have “someone else at home” to see to those responsibilities when they arise. In short, ideal workers are defined as workers “with immunity from family work.” Employees who need to take time off for caring work—be it home maintenance, childbearing, child rearing, elder care, or disabled care—clearly do not meet this specification of the ideal worker. Nor do employees who simply need to be able to perform caring work, should the need arise. The point is that job market success requires ideal-worker status. Because most caregivers are women, few women have ideal-worker status. But the hardships imposed by the ideal worker norm transcend gender specialization: few people with...
caregiving responsibilities have ideal worker status. If one wants to achieve success in labor markets as they are structured today, one apparently has three options: remain free of caregiving duties, or have a domestic partner to perform those duties, or relegate those duties to the market.

What of the option to relegate caring duties to the market? The commodification of childcare work has not been an attractive option for parents in our society, for good reason. First, the norms of parenting increasingly dictate that raising children must involve a very time-intensive commitment in order to be done adequately. 235 In her extensive ethnographic studies of parenting styles, Annette Lareau has documented the ways in which modern middle-class parenting norms dictate that children receive intensive attention from parents, both in meeting children’s everyday needs and in enhancing their human capital. 236 Though Lareau emphasizes that the intensive parenting prescribed by modern parenting norms may not be intrinsically better for children than less intensive parenting practices, intensive parenting is clearly advantageous for children raised in a society that valorizes intensive parenting.

Because society valorizes intensive parenting, parents have two reasons to parent intensively, even if they themselves do not subscribe to the idea that parenting requires this kind of commitment. First, parents who fail to provide intensive attention are perceived by the institutions with which they interact—institutions like schools, social services, and medical providers—as inadequately involved in their children’s lives. 237 Surveys show that parents feel as though allegedly “voluntary” involvement in children’s schooling is really mandatory, and that they feel strong pressure to be regularly present in their children’s schools. 238 And because

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236 Lareau 2003.
238 Williams 2000, p. 34.
schools are among the institutions that tend to endorse intensive parenting norms, the regular presence of parents is an important means of establishing goodwill. In fact, schools’ endorsement of intensive parenting accounts in part for the positive correlation between parental involvement and children’s school success.\(^{239}\) Social institutions like schools, social services, and medical providers do not accept paid childcare providers as adequate substitutes for the intimate involvement of parents; thus, parents who want their children to benefit from the social approval that attaches to intensive parenting must provide that intensive parenting themselves.

Second, colleges and prospective employers value a breadth and depth of extracurricular experiences that commodified childcare is generally unable to provide. To enhance their children’s future prospects for college success and job marketability, parents are expected to enroll them in human-capital-enhancing experiences like piano lessons and character-building experiences like team sports. Insofar as parents care about their children’s future prospects—and these days, parents are expected to care about little else—they must ensure that their children participate in a broad array of extracurricular activities. Perhaps some paid childcare providers can accommodate schedules filled with extracurricular activities. But the work of taxiing children from activity to activity, remembering to bring the snacks, cheering with gusto from the sidelines, and supervising the team during an impromptu post-game pizza party involves a kind of attentive caregiving that few parents are in a position to purchase on the market. Lillian Rubin describes this phenomenon aptly: “The notion that mom should be there for the children always and without fail, that her primary job is to tend and nurture them, that without her constant ministrations their future is in jeopardy, is deeply embedded in our national psyche.”\(^{240}\)

\(^{239}\) Williams 2000, p. 34.

\(^{240}\) Rubin 1994, p. 79.
But intensive parenting norms are only one reason that many families do not find the commodification of childcare to be a viable strategy for responding to the ideal worker assumption. The United States has a long history of failing to provide adequate supports for the commodification of childcare, and as a result, childcare facilities in the US are notoriously poor substitutions for parental care. In 1971, President Nixon vetoed the Comprehensive Child Development Act due to pressure from a lobbying campaign that lambasted the legislation’s preference for “communal approaches to child-rearing over and against the family centered approach.” Similar legislation was defeated in 1975 on the grounds that it constituted an effort to “Sovietize the family.” Still today, the US offers less governmental support for childcare than any other industrialized nation. The results of our resistance to provide social support for substitute caregiving are evident: In countries like France that have significant governmental support for substitute childcare, childcare facilities are safe and well-regulated. Childcare workers enjoy high status and good remuneration, and as a result are well-qualified for the work they do. In contrast, child care positions in the United States are low-wage and low-status positions, marked by high turnover rates, and frequently occupied by those unqualified to fill them. There are, of course, notable exceptions, and some parents enjoy excellent substitute childcare options. But social and economic forces continue to exert downward pressure on the quality of childcare in the US. These forces include lack of social support, and the fact that (because of intensive parenting norms) most consumers of substitute care work out of economic necessity and are thus ill-equipped to finance the cost of quality childcare on their own.

\[241\] Williams 2000, p. 49.
\[242\] Williams 2000, p. 49.
\[243\] Williams 2000, pp. 49-50.
So employers feel entitled to workers who are immune from caregiving responsibilities, and society thinks children are entitled to a parent whose life is framed around caregiving. Meanwhile, inadequate social support renders commodified childcare an untenable large-scale alternative to intensive parental care. The consequence of this interaction between labor institutions, childcare institutions, and parenting norms is that partners are effectively forced to specialize: To meet the needs of the domestic unit, one partner must prioritize paid work, and one must prioritize caregiving. And because the ideal worker assumption is so demanding, the specialization tends to be stark, and deeply entrenched. This is enough to show that gender egalitarianism is not a genuinely available option for couples: Because of the ideal worker assumption, the dearth of high-quality substitute childcare, and intensive parenting norms, partners do not enjoy a viable option of sharing paid work and caring work equally. The norms and institutions just described effectively foreclose the availability of the equal sharing option.

So far, none of the considerations explored dictates that forced specialization must be gendered. It is consistent with intensive parenting norms as I have been discussing them that fathers specialize in caring labor, and mothers specialize in paid labor. And nothing about the ideal worker assumption obviously rules this out as a viable strategy. But this strategy is discouraged by the deeply entrenched gender norms that characterize our society. While intensive parenting norms dictate that children are entitled to a parent whose primary project is caregiving, gender norms continue to specify that that parent ought to be the child’s mother. In this way, gender norms participate in the reciprocally reinforcing relationship between social institutions and parenting norms, adding an additional layer of complexity and impermeability to the systemic social obstacles that render gender egalitarian lifestyles inaccessible.
The nexus of factors discussed above effectively force couples to specialize, and gender norms mediate partners’ strategies for handling this forced specialization. These gender norms have changed as more and more women have entered the paid workforce in response to declining wages and the need for supplemental income to support a household. But one aspect of gender norms retains a strong hold: When work and family conflict, women are still expected to take primary responsibility for the home, and men are still expected to take primary responsibility for earning a paycheck.244 And, as we have seen, the demands of workplaces, intensive parenting norms, and a dearth of high-quality, affordable substitute caregiving make it a virtual inevitability that work and family will conflict. Because jobs that tolerate non-ideal workers tend to be low-paid and low-status, and to offer little in the way of long-term prospects for advancement, most families still depend on the income of an ideal worker. Thus, men become ideal workers, and women, who specialize (or are presumed to specialize) in caring work, are unable (or presumed to be unable) to fulfill the role of ideal worker.

But gender norms do more than just mediate partners’ choices about how to navigate the realities of forced specialization. They also provide some explanation for why institutions are designed in ways that force specialization in the first place. Gender norms can explain the ideal worker assumption that characterizes labor markets, the notoriously poor-quality of commodified childcare options, and the parenting norms that prescribe the kind of time-intensive parenting that now typifies middle-class family life. The design of our labor markets arose in response to the traditional gendered division of labor, which features a husband breadwinner and a wife homemaker. Though husbands increasingly want to take on more caregiving responsibilities, and wives aspire to fulfilling careers outside the home, labor markets retain the gendered

244 See, for example, Gerson 2010, p. 78.
assumptions that whoever earns the bread really does only that, and whoever cannot do only that has someone else to do it on her behalf. So gender norms constitute a partial explanation of the ideal worker assumption, and they continue to interact with labor markets in mutually reinforcing ways, though both gender norms and gendered social institutions are unsatisfactory by the lights of a population that, increasingly, is striving for gender equalitarian domestic arrangements.

Similarly, gender norms have helped cause—and have since helped perpetuate—an inadequate childcare system, since assumptions that women would provide the bulk of caregiving in the home have absolved society of any pressure to support high-quality substitute caregiving. And gender norms can explain intensive parenting norms, as mothers presumed to specialize in caregiving are increasingly presumed also to develop habits and skills typical of specialization, and thus to perform caregiving labor quite attentively and expertly.

In summation, the picture is this: gender norms and parenting norms interact reciprocally with gendered labor markets and childcare institutions to effectively foreclose the opportunity to choose gender egalitarian lifestyles. And the fact that women and men often use the rhetoric of “choice” to describe their decisions to specialize poses no threat to the veracity of this picture; nor does the fact that economists have defended “human capital” theories of women’s “self-selection” into low-paid, low-status positions.245 In fact, men and women do enjoy choices. Men may either perform as ideal workers, thus enjoying little to no involvement in caregiving. Or they may decline to perform as ideal workers, thus incurring sanctions for violating gender norms and facing the lack of power, status, and security that choice entails. Meanwhile, women may either perform as ideal workers, thus incurring sanctions for violating parenting and gender norms and enjoying little to no involvement in caregiving. Or they may accept less prestigious

\[245 \text{ See Williams 2000, p. 12, 82-3.} \]
and part-time positions at a severe wage penalty (or withdraw from the world of paid labor entirely), thus incurring the lack of power, status, and security that that choice entails. Neither men nor women enjoy a viable, truly accessible opportunity to participate equally in caring and paid labor. Formidable systemic social obstacles effectively foreclose that option.

7. Empirical Evidence: The Instability Foreshadowed

I have argued that systemic obstacles like childcare markets, labor markets, gender norms, and parenting norms effectively foreclose the opportunity to enact gender egalitarian lifestyles. I have argued, moreover, that this will generate discontent within a society whose political apparatus is ordered by liberal values, because such a society will be one in which a broad portion of the population can reasonably be expected to want the option to lead gender egalitarian lifestyles. Because citizens have a strong interest in ensuring stability, and because they know that this large-scale discontent would jeopardize stability, they thus have an ancillary interest in removing these systemic obstacles and preserving the genuinely available opportunity for individuals to choose gender egalitarianism.

In order for my argument to be successful, I need not demonstrate that stability is in fact inevitable, or even that it is in fact rendered likely by these systemic obstacles. What matters is that citizens would predict instability. Insofar as citizens would insist on gender egalitarian interventions to forestall an instability that they deem likely, those interventions are legitimate and required. So my argument would not be undermined by an actual lack of stability in our society, which is one ordered by liberal political values.

Nonetheless, if there were a threat of instability in our society, and if that instability were due to dissatisfaction with the inability to choose gender egalitarian lifestyles, then this would
constitute support for crucial premises in my argument: First, it would support the claim that individuals who come of age in politically liberal societies will value the opportunity for gender egalitarian lifestyles. (In fact, the evidence suggests that people want more than just mere opportunities for gender egalitarianism; they want to enact gender egalitarianism.) Second, it would support the claim that preserving that opportunity is an important means of avoiding instability. And in fact, there’s good empirical evidence that people want to lead gender egalitarian lifestyles, and that their inability to do so does pose a long-term threat to stability.

In her extensive interviews with men and women between the ages of eighteen and thirty-two, Kathleen Gerson found that most respondents hoped to form egalitarian partnerships wherein paid and caring work are shared equally among partners. This majority preference for gender egalitarian households held regardless of the structure of the respondents’ families of origin (single-parent, rigidly traditional, or dual-earner) and regardless of race or class.246 And it held among men and women independently: Eighty percent of women reported wanting gender egalitarian domestic arrangements, and nearly seventy percent of men reported having this preference.247 Gerson concludes that “if social arrangements allowed men and women to enact their values, most would prefer to balance market and nonmarket work rather than specializing in one at the expense of the other.”248

But strikingly, most respondents were doubtful that they could actually attain a gender egalitarian arrangement.249 They expressed worry and doubt about the possibility of parenting well while simultaneously meeting the growing demands of the modern workplace. Skeptical

247 Gerson 2010, p. 11.
249 Gerson 2010, pp. 104-123.
about the possibility of achieving an equal balance between work and home, young men and women have apparently given considerable thought to their “fallback strategies.” And as it turns out, though men and women both report a strong preference for gender egalitarianism, their fallback strategies diverge sharply. While most women prefer “self-reliance” over “economic dependence within a traditional marriage,” most men prefer a “neotraditional” arrangement whereby they prioritize earning and perform as ideal workers, while their partners specialize in caregiving and earn, at most, supplemental income. Gerson sums up her findings as follows:

The rise of self-reliant women, who stress emotional and economic autonomy, and neotraditional men, who grant women’s choice to work but also want to maintain their position as the breadwinning specialist, portends a new work-family divide. But this division does not reflect the highest aspirations of most women or men…Young adults overwhelmingly want to forge a lasting marriage or marriage-like relationship, to create a flexible and egalitarian bond with their intimate partner, and to blend home and work in their own lives. When it comes to their aspirations, women and men share many hopes and dreams. But fears that time-demanding workplaces, unreliable partners, and a dearth of caretaking supports will place these ideals out of reach propels them down different paths…Demanding workplaces and privatized child rearing make work-family integration and egalitarian commitment difficult to achieve.

The strong preference for gender egalitarianism is borne out in study after study. “Sharing household chores” now ranks third on respondents’ list of factors contributing to a happy

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251 Gerson 2010, pp. 11-2.
marriage, and there is no difference between men and women in their assessment of the
importance of sharing. Two-thirds of people under age thirty-two strongly support gender
equality in the home and workplace, and a full ninety percent more closely identified with that
view than with the view that women’s place is in the home. A majority of full-time workers
prefer lower incomes in exchange for more time to perform caregiving work. Eighty percent
of men and ninety percent of women who work over fifty hours per week wished that they could
work less. Sixty-five percent of fathers report feeling that mothers and fathers should provide
equal amounts of caregiving for their children. Seventy-two percent of both women and men
aged eighteen to twenty-nine agreed that the best marriage is one in which husband and wife
both take care of the house and work outside of it, and sixty-two percent of the general public
agreed that a marriage where the husband and wife share caregiving and earning responsibilities
equally would be more satisfying than a marriage with a traditional division of labor.

The preference for gender egalitarianism is perhaps most evident in the conflicts that arise
when individuals find themselves unable to attain it: Only thirty percent of fathers who wanted to
share childcare equally with their wives actually managed to do so. It is unsurprising, then,
that forty-five percent of employed men report experiencing work-life conflict, and that sixty
percent of employed men in two-career households experience conflict. As Stephanie Coontz
argues in a New York Times article, “structural impediments prevent people from acting on their

252 Pew Research Center 2007. “Sharing household chores” was ranked in importance behind only faithfulness, and
having a healthy sexual relationship.
253 Teixeira 2009. For similar findings about gender egalitarian preferences, see Musick, Meier, and Bumpass 2007.
254 Bond and Galinsky 2004.
256 Harrington et. al. 2011.
258 Harrington et. al. 2011.
egalitarian values, forcing men and women into personal accommodations and rationalizations that do not reflect their preferences. The gender revolution is not in a stall. It has hit a wall.”

The preference for gender egalitarianism has been growing for some time. As early as 1989, a *Time/CNN* poll found that “helping women balance work and family” topped the list of the most important goals for the women’s movement, with “getting government funding for programs such as child care and maternity leave” coming in number two. Another 1989 poll found strong support for redesigning the structure of labor markets: Nearly eight out of ten respondents preferred a career path with slower prospects for advancement and more time for caregiving to a career path with a steep upward trajectory but less time available for caring work. Fifty-four percent chose more flexible work hours as their first priority for workplace reform. And by a three-to-one margin, respondents reported that time pressures on working families were getting more worrisome. Over half of men surveyed in a 1990 poll reported willingness to accept a twenty-five percent salary reduction in exchange for more family time.

Those who were already expressing strong preferences for gender egalitarianism in the late 80’s and early 90’s are the parent generation to the young men and women of the “gender revolution” whom Gerson interviewed. And indeed, the men and women in Gerson’s study report being strongly influenced by their parents’ struggle to reconcile gender egalitarian aspirations with the realities of greedy workplaces and low-quality childcare options. Overwhelmingly, the picture that emerges from Gerson’s study is one of young men and women who are skeptical about their prospects for achieving gender egalitarian lifestyles because they

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260 Coontz 2013.
263 *Family Matters*, p. 9
264 Berry 1993, p. 22.
witnessed—and experienced secondhand—the overwhelming obstacles their parent’s generation faced in their own pursuit of gender egalitarianism. Gerson puts it like this: “After watching their parents struggle to blend work and family, a new generation recognizes the need to restructure the conditions of work if they are to reshape the balance between earning and caring.” And despite differences in the strategies they enact for navigating the obstacles to gender egalitarianism, young men and women’s frustration with the inaccessibility of gender egalitarian lifestyles is heightened by the difficulties this inaccessibility generated within their families of origin. Unless the obstacles to gender egalitarianism are removed, frustration and discontent are only likely to grow stronger moving forward.

Couples who increasingly prefer gender egalitarianism still encounter formidable obstacles to their enactment of that lifestyle, and they report increasing frustration as a result. Frustration is generated by the inaccessibility of gender egalitarianism in another way as well: Notice that men and women’s fallback strategies are not only different; they are conflicting. Gerson’s research shows that when partners who both prefer egalitarian sharing of work encounter formidable obstacles, women tend to prefer independence as a fallback position, whereas men prefer to revert to a more traditional gendered arrangement. Since these fallback strategies are incompatible, relationships suffer. One recent study found a general consensus that parenting should be shared equally, but most respondents believed their actual distribution of labor fell short of this ideal: Both fathers and mothers reported that fathers were less than ideally involved in caregiving, and more than ideally involved in breadwinning. Moreover, mothers and fathers

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265 See, for example, Gerson 2010 pp. 72-99, 128, 218.
266 Gerson 2010, 200.
268 Milkie et al. 2002.
who report sub-optimal father involvement in caregiving have a greater likelihood of perceiving unfairness (to the mother) in their household division of labor, engendering anger on the part of the mother, guilt on the part of the father, and greater stress all around.\textsuperscript{269} This perceived unfairness has been linked to a variety of negative personal, marital, and life course outcomes.\textsuperscript{270} And while truly gender egalitarian partnerships are extraordinarily rare, partners who come closest to equal sharing tend to have higher marital quality and fewer marital conflicts.\textsuperscript{271}

8. Objections

In this chapter, I have developed an argument for gender egalitarian political interventions which abides by all the constraints imposed by political liberalism, and which uses only premises permissibly invoked within political liberalism to justify exercises of political power. The legitimacy of gender egalitarian political interventions, in fact, follows from considerations that lie at the very heart of political liberalism: Citizens have a strong interest in the preservation of social circumstances that are conducive to the long-term stability of the society in which they live, and citizens know that in a just, politically liberal society, a critical mass of individuals can reasonably be expected to affirm substantively liberal conceptions of the good. They know, moreover, that individuals who affirm substantively liberal conceptions of the good will value their capacity to \textit{choose} whether to arrange their domestic lives according to traditional gendered norms. Given this knowledge, citizens will infer that society risks instability insofar as it tolerates formidable systemic obstacles which effectively foreclose the option of living gender egalitarian lifestyles. To preserve social circumstances conducive to long-term stability, they will

\textsuperscript{269} LaRossa 1988.
\textsuperscript{270} Greenstein 1996.
\textsuperscript{271} Cooke 2006, Amato et al. 2007.
reason, the state must remove such obstacles. Our society is characterized by persistent gendered norms and social institutions that constitute formidable obstacles to the enactment of gender egalitarian lifestyles. Under these circumstances, then, citizens’ interest in stability will lead them to insist on gender egalitarian political interventions to remove these obstacles and preserve the genuine opportunity to enact gender egalitarian lifestyles.

An important objection is likely to be raised against this argument, and in concluding this chapter, I would like to offer some response to this objection. It is likely to be objected that I have, at best, developed an argument for gender egalitarian political interventions which complies with the letter of political liberalism, but that in doing so, I have violated the spirit of political liberalism, and defeated the very objective of that framework: to specify a set of conditions under which a diverse society can be regulated stably over time by a system of just political institutions. The objector I have in mind might (tentatively) grant that citizens (understood according to the normative characterization prescribed by political liberalism) would accept and even insist upon gender egalitarian interventions. But this objector will maintain that actual persons in a diverse society will embrace conceptions of the good which reject gender egalitarianism. Thus (she will argue), institutions which incentivize gender egalitarian lifestyles will not win the allegiance of all actual reasonable persons (which include those who reject gender egalitarianism); thus (she will conclude) we no longer have a set of conditions under which a diverse society can be stably regulated over time by a system of just political institutions to which all actual reasonable persons can give their reasoned consent.

I grant that many actual persons will find the interventions I have defended troubling. One preliminary point that should be noted is that the gender egalitarian interventions I have endorsed need not become permanent. They are legitimate only so long as they are essential means of
remedying gendered norms and institutions which constitute formidable systemic obstacles to
gender egalitarianism. Because in our society, so many individuals prefer to lead gender
egalitarian lifestyles, we have good reason to believe that, once these obstacles are removed, they
will be supplanted with institutions more hospitable to individuals’ lifestyle preferences, and
incentivizing gender egalitarianism will no longer be necessary. Nonetheless, I grant the
objector’s point that—at least in the short run—the interventions I have endorsed will be
opposed by some actual persons who prefer that gender egalitarianism remain inaccessible.

But I do not think that this objection undermines my argument for gender egalitarian political
interventions. In concluding, I offer three responses to this objection which I think establish that
political liberals should accept my conclusion, despite the worry raised by this objection.

First, while there is a sense in which the interventions I am endorsing are obviously non-
neutral, and might therefore be opposed by some actual persons who oppose gender
egalitarianism, the interventions are neutral in the way required by political liberalism. The
interventions are neutral in the sense that they can be justified without invoking any controversial
premises asserting the intrinsic choice-worthiness of particular lifestyles. The interventions do,
as a matter of fact, promote gender egalitarian lifestyles, in the sense of enhancing the likelihood
that citizens will take up those lifestyles. But they are justified in such a way as to render their
promotion of gender egalitarianism accidental in a crucial respect: They promote gender
egalitarianism not because gender egalitarian lifestyles are held up as good lifestyles, but because
ensuring stability requires maintaining the accessibility of gender egalitarian lifestyles, and
maintaining the accessibility of those lifestyles requires that—temporarily—we actively promote
those lifestyles. The interventions are neutral in their justification; the arguments invoke only
public reasons that all citizens—and all actual persons—can reasonably be expected to accept.
The interventions are therefore neutral by the lights of the only criterion of neutrality that political liberalism can consistently impose. No political regime will be entirely neutral in its effect, and political liberals have long recognized that they cannot impose a standard of neutrality which forbids any political intervention that has the effect of inclining citizens to embrace particular conceptions of the good. As Rawls puts it, “it is surely impossible for the basic structure of a just constitutional regime not to have important effects and influences as to which comprehensive doctrines endure and gain adherents over time; and it is futile to try to counteract these effects and influences…We must accept the facts of commonsense political sociology.” Inevitably, political institutions will influence the lifestyle choices and values of those living under them. What matters is that we can justify publicly to one another the choices we make regarding how individuals will be influenced. And I have shown how gender egalitarian interventions can be justified on grounds that all reasonable citizens can reasonably be expected to accept. We can verify this by seeing that the interventions I have endorsed meet Rawls’s criteria for legitimate interventions within liberal political conceptions of justice: These interventions “apply to the basic political and social institutions…of society” (see Chapter 2); they “can be presented independently from comprehensive doctrines of any kind;” and they “can be worked out from fundamental ideas implicit in the public political culture of a constitutional regime, such as the conceptions of citizens as free and equal persons…” It was, in fact, the task of this chapter to demonstrate the latter two points.

Second, in applying CR and assessing the acceptability to citizens of particular political interventions, political liberalism must rely on the idealized, value-laden conceptualization of citizenship rather than assessing the acceptability of interventions to actual citizens as we find

272 Rawls 1993, p 193. See also Rawls 1993, pp. 192-5.
them in society. The considerations just raised demonstrate that (virtually?) any intervention could conceivably be opposed by some actual persons, even some actual reasonable persons. Legitimate interventions effectively discourage particular lifestyles and encourage others. Even uncontroversially legitimate interventions to protect basic liberties might be expected to encourage lifestyles in which those liberties are exercised at the expense of lifestyles in which they are not. Actual citizens who affirm conceptions of the good which eschew the intrinsic importance of exercising political liberties may not like it that their society expends scarce resources to protect those liberties. But were they sincerely acting and reflecting purely in their capacity as citizens, these individuals would acknowledge that this protection is required within the just politically liberal society. It is precisely this counterfactual consideration of what individuals would accept were they acting purely in their capacity as citizens that the normative, value-laden characterization of citizenship captures. That we cannot read off that counterfactual consideration straightforwardly from what actual persons do in fact accept or oppose should come as no surprise, given the extreme difficulty actual persons encounter in setting aside the content of their conception of the good to reflect just as free and equal citizens possessed of the two moral powers and a higher-order interest the preservation of those powers.

That political liberalism must rely on the idealized conceptualization of citizenship in applying CR can be seen in an additional way: Only by invoking that idealized conceptualization of citizenship can political liberals establish the absolute prohibitions and protections that are defining features of their theory. According to Rawls, any just politically liberal society must meet three conditions: It must specify and protect certain rights, liberties, and opportunities; it must afford a special priority to those rights, liberties, and opportunities; and it must ensure for all citizens adequate all-purpose means to make effective use of those rights, liberties, and
opportunities. These conditions are implied by CR—the fundamental normative principle of political liberalism—because free and equal citizens could not consent to circumstances under which society fails to secure the three conditions.

And yet one can easily imagine circumstances under which actual persons—even actual reasonable persons—would consent a violation of the three conditions. An actual person who cares sufficiently strongly about his own conception of the good might consent to society’s prioritization of his values over the protection of his basic liberties and opportunities, thereby accepting a violation of the second condition. An actual citizen who is disinclined to exercise her political liberties might consent to society’s failure to provide the means to make effective use of those liberties, preferring instead that society provide for other needs. She would thereby accept a violation of the third condition. In both cases, the individuals consent to the violation on the basis of the actual content of their conceptions of the good, which subordinate the protections of liberalism to other value considerations. In order to secure the protections that political liberals take to be definitive of their theory, then, they must use the idealized conceptualization of citizenship in applying CR: the conceptualization in which the actual content of citizens’ conceptions of the good is obscured and citizens are characterized just as political persons with two moral powers and a higher-order interest in the protection of those powers. My argument is not subject to the objection that I use an idealized conceptualization of citizenship; it is precisely this conceptualization of citizenship that must be invoked in applying CR.

Still, it may be objected that political liberals must attend to the instability among actual persons to which gender egalitarian political interventions may give rise, given that the long-term stability of the justly regulated society of diverse citizens is the motivating objective of

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political liberalism. This brings me to the third response I would give in defense of the argument I have developed here: The motivating objective of political liberalism is not merely stability; rather, the motivating objective is \textit{stability for the right reasons}. We want stability through justice, not stability by way of the suppression of dissent. We want stability based on a legitimate political order, not stability based on some accident of fortune whereby citizens happen to assent to a certain social arrangement, or assent to that arrangement based on false beliefs, or naiveté, or resignation to the status quo. And it is the very purpose of CR to specify the conditions of legitimacy—the conditions under which stability can prevail \textit{for the right reasons}.

I find the contention that gender egalitarian political interventions threaten actual stability highly dubious. These interventions enable those who prefer gender egalitarianism to enact that lifestyle, while leaving others free not to. But in any case, the fact that gender egalitarian political interventions could threaten actual stability poses no challenge to the legitimacy of those interventions. There is a similar possibility that interventions to protect the basic liberties may threaten actual stability, since some citizens would prefer to trade those protections for other social goods. The mere possibility that some set of interventions will—under some foreseeable set of circumstances—generate actual social instability does \textit{not} undermine the legitimacy of those interventions. Some actual citizens will dislike some legitimate interventions which are necessary to make society more just. What we must avoid is an instability borne of the unfair subordination of particular reasonable conceptions of the good—an instability borne of a political regime which invokes controversial comprehensive value considerations in justifying its exercises of power. The entire point of this chapter has been to demonstrate that gender egalitarian political interventions need not pose a threat of \textit{that} kind of instability. Gender egalitarian interventions can and must be implemented if our society is to be just by the lights of
political liberalism, and stable for the right reasons. That these interventions are not only legitimate but required follows from the most fundamental theoretical commitments of political liberalism. Political liberals should accept gender egalitarian political interventions as legitimate exercises of political power, and gender egalitarians should accept political liberalism as an adequate framework from within which to execute their demands for a more gender just society.
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