A Lesbian Feminist Critique of Susan Okin's Justice, Gender and the Family: Lesbian Families with Children as a Non-Heterosexist Model for the Development of Morality and Justice

Deborah M. Henson

Follow this and additional works at: http://repository.uchastings.edu/hwlj

Recommended Citation
Available at: http://repository.uchastings.edu/hwlj/vol4/iss2/4
A Lesbian Feminist Critique of Susan Okin's Justice, Gender, and the Family: Lesbian Families With Children as a Non-heterosexist Model for the Development of Morality and Justice

by Deborah M. Henson*

Consider a family structure in which both partners are the same sex and thus have to choose certain divisions of labor rather than having traditional notions of gender-based role functioning upon which to rely. Although, theoretically, the choices these two persons make would not necessarily be more egalitarian than the choices made by two persons in a heterosexual relationship, the potential for radical difference is present. How would the negotiation of roles, responsibilities, child-rearing, and wage-earning affect the children raised by these individuals? They would be exposed to different lessons in childhood; the building blocks of their moral development would be distinct from those of their heterosexually-raised peers. How would this distinction affect their sense of justice, morality, fairness, and equality for people in their community? My conclusion is that the non-gendered lesbian family structure provides a model of a non-heterosexist family¹ that supports and extends Okin's analysis of social justice.

* LL.M., University of California at Berkeley (Boalt Hall), 1993; J.D., cum laude Loyola University School of Law, New Orleans, 1991; M.S.W., Tulane University, 1977. This article is one of several papers written during Ms. Henson's LL.M. studies specializing in lesbian and gay family law and anti-discrimination law. In addition to being a lawyer, Ms. Henson is a clinical social worker and has been in private practice since 1981. She sees mostly lesbians in individual, couple and/or group therapy. She and her partner had their first child, Cody Ryan, last March in Berkeley during her LL.M. studies at Boalt.

The author wishes to thank Charlotte Patterson for sending copies of her comprehensive research on lesbian families with children to Ms. Henson prior to their being published.

1. That is, a family where the adults are not functioning in traditional gender-based roles. This type of family could also be referred to as "non-genderized."
To develop these ideas, I first review Okin’s criticisms of social justice theorists in more detail and discuss her recommendations for reforming Rawlsian theory. Second, I present some aspects of lesbian feminist theory, particularly regarding critiques of feminist theory and liberalism, and the varying ideas on separatism as a means of creating new values. Third, I review the existing social science research concerning the impact of the lesbian family structure on children’s psychosocial development. Fourth, I present a lesbian feminist critique of feminist theory, distinguishing between the two perspectives as applied to lesbian families with children. Finally, I attempt to create a coherent framework wherein the lesbian family’s unique contribution to the formation of morality and justice, in the Rawlsian sense, is proposed as a model for optimum child development.

In Justice, Gender, and the Family, Susan Okin criticizes different social justice theorists, John Rawls in particular, for not critically addressing the deficiencies inherent in the basic formative structure of our morality: the family. She submits that the traditional family is an unjust institution because of its gender-based inequalities. Because the family is the fundamental environment in which individuals, as children, learn the basic principles of morality, Okin notes that justice theories lack substantive support for how individuals could act within justice principles when they neglect the injustices in the very foundational structure which develops morality.

Critiquing John Rawls’s theory of justice as fairness, Okin also proposes that his theory has the potential for being a feminist theory (i.e., suggestive of the need for fundamental change) if we ensure that the people in the original position are unaware of their sex, as well as their other characteristics, so that gender roles and social/economic injustice between the sexes would be entirely eliminated.

Okin contends that unless children are raised with equal caretaking input by both mothers and fathers, there cannot be true equality. She acknowledges, but does not analyze, single parent households and homosexual families with children. She advocates creation of the “genderless” heterosexual family structure which requires fundamental changes in the workplace as well as the home to enable both parents to equally raise their children.

2. SUSAN MOLLER OKIN, JUSTICE, GENDER, AND THE FAMILY (1989). Okin is a political science professor at Stanford University.
4. The “original position” is a hypothetical construction basic to John Rawls’s fundamental theory of justice. The notion is that free, rational persons would come together to construct a social contract based on their own self-interests, with the proviso that no one at the bargaining table would know “his” (Rawls later clarifies that of course he also meant to include women) social class, natural assets or abilities, intelligence, or other social and personal characteristics. RAWLS, supra note 3, at 12.
I essentially agree with Okin regarding her criticism of Rawlsian theory from a feminist vantage point. I believe, however, that Okin stops short of developing a comprehensive theory by continuing to place her focus entirely on modifying the traditional heterosexual family unit. Although she recommends some reasonable methods for changing the gender-based division of labor, at least in theory (e.g., by restructuring the workplace values to include more emphasis on family commitments, and having paychecks made out to both of the partners in the relationship to equalize any economic disparities in wage differentials), she fails to take the next logical step which would further enhance her theory: Considering lesbian and gay families as a non-gender-structured ("genderless") model for raising children within a more just, egalitarian family. My intention in this paper is to take that step for Okin, thereby supplementing and, in my opinion, improving her theory, as she did for Rawls. I use the example of lesbian couples who choose to raise children as illustrative of this non-heterosexist model for moral development.

Okin criticizes Rawls for the same reason that she criticizes other social justice theorists of the last two decades: they have ignored the fundamental inequality between the sexes while advocating for a society based on principles of social equality and justice. Theorists either ignore the differential power structure in the traditional gender-structured family or, in Rawls’s case, even assume that the family is just. She argues that this neglect "flies in the face of a great deal of persuasive feminist argument" and that "[s]cholars have clearly revealed the interconnections between the gender structure inside and outside the family and the extent to which the personal is political."  

Okin is particularly concerned that Rawls includes the family in his theoretical construct, but does so in a way that assumes all is well with the traditional gender-structured unit. She quotes Rawls as follows: "For us, 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

---


6. Okin explains that in the context of discussing the family as the first school of moral development, Rawls “specifically mentions the family as a just institution — not, however, to consider whether the family ‘in some form’ is a just institution but to assume it.” OKIN, supra note 2, at 94 (quoting RAWLS, supra note 3, at 463, 490).

7. Id. at 10.
cooperation.” Rawls adds that: “The basic structure is the primary subject of justice because its effects are so profound and present from the start.”

Rawls underscores the family’s importance, framing it as the primary institution of moral development. He posits that a just, well-ordered society is not possible without its members developing “a strong and normally effective desire to act as the principles of justice require.” He continues in this section to elaborate on the way in which moral development proceeds throughout childhood, focusing on the importance of feelings, attachments, mutual trust, and empathy derived initially from within the first social context, the family.

Okin points out that Rawls’s theory depends upon individuals learning this early sense of equality and justice within the family, but argues that his assumption of the justness of the family is false. She considers his theory to be less believable because of this error:

If gendered families are not just, but are, rather, a relic of caste or feudal societies in which roles, responsibilities, and resources are

8. Id. at 92 (quoting RAWLS, supra note 3, at 7).
9. Id. (emphasis added by Okin). Rawls initially includes the family as one of these major social institutions, although in a subsequent article, he omits the family as part of the basic structure. John Rawls, The Basic Structure as Subject, 14 AM. PHIL. Q. 159 (1977). Other examples of what Rawls considers major social institutions include “the political constitution, the legal protection of essential freedoms, competitive markets, and private property.” OKIN, supra note 2, at 93 (summarizing from Rawls’s description of same in RAWLS, A THEORY OF JUSTICE, supra note 3, at 7).
10. For example, Rawls discusses the gradual acquisition of the sense of justice by children as they grow up and describes what he calls the two stages of this process. The first is the “morality of authority” stage whereby the children first learn that they are subject to their parents’ authority, but then expand this concept through their parents’ expressions of unconditional love, to develop a reciprocal sense of love and trust for their parents. Rawls postulates that children then incorporate their parents’ standards if their parents demonstrate fair, loving guidelines for the children to follow. He summarizes the completion of this first stage as follows:

The child’s having a morality of authority consists in his being disposed without the prospect of reward or punishment to follow certain precepts that not only may appear to him largely arbitrary but which in no way appeal to his original inclinations. If he acquires the desire to abide by these prohibitions, it is because he sees them as addressed to him by powerful persons who have his love and trust, and who also act in conformity with them.

RAWLS, supra note 3, at 466.

Rawls’s second stage of moral development is called the “morality of association” and is learned “by the moral standards appropriate to the individual’s role in the various associations to which he belongs.” Id. at 468. The family is one small association. Others include the school and the neighborhood where Rawls envisions children learn to develop empathy for others’ situations: “It seems plausible, then, that acquiring a morality of association (represented by some structure of ideals) rests upon the development of the intellectual skills required to regard things from a variety of points of view and to think of these together as aspects of one system of cooperation.” Id.
11. Id. at 454.
12. Id. at 462-72.
distributed not in accordance with the two principles of justice but in accordance with innate differences that are imbued with enormous social significance, then Rawls’s whole structure of moral development would seem to be built on shaky ground.  

She argues that even with the parental love and nurturing that Rawls feels are so crucial to adequate moral development, if children are raised observing power and privilege differentials between their parents, they will not be able to engage in the kind of moral deliberation which is based on Rawls’s principles of social justice and equality.  

Okin reforms Rawls’s theory not only by considering that an additional characteristic of which people in the original position are unaware is gender, but also by modifying the public versus private schism which Rawls created in his later works. She asserts that the feminist potential of his theory, with these modifications, is enormous in challenging the gender-structured family institution as well as society’s inequalities in general.  

In developing her theory, Okin discusses the vulnerability of women inside the institution of traditional marriage: “[W]omen are made vulnerable, both economically and socially, by the interconnected traditions of female responsibility for rearing children and female subordination and dependence, of which both the history and the contemporary practices of marriage form a significant part.” The economic vulnerability of women with the resulting power differential between women and men is one of her

13. OKIN, supra note 2, at 99. The “two principles of justice” which Okin refers to in this statement are “the principle of equal basic liberty, and the ‘difference principle’ combined with the requirement of fair equality of opportunity.” Id. at 93 (referring to Rawls’s delineation of his two theories in RAWLS, A THEORY OF JUSTICE, supra note 3, at 60-61).

14. Id. at 100.

15. Id. at 110-33, 170-86.

16. Okin explains:

In innumerable ways, the principles of justice that Rawls arrives at are inconsistent with a gender-structured society and with traditional family roles. The critical impact of a feminist application of Rawls’s theory comes chiefly from his second principle, which requires that inequalities be both “to the greatest benefit of the least advantaged” and “attached to offices and positions open to all.” . . . Gender . . . could no longer form a legitimate part of the social structure, whether inside or outside the family.

Id. at 103 (citing RAWLS, supra note 3, at 302). Okin further concludes that:

[T]he feminist potential of Rawls’s method of thinking [i.e., the original position and the veil of ignorance concepts] and his conclusions is considerable. . . . Once we dispense with the traditional liberal assumptions about public versus domestic, political versus nonpolitical spheres of life, we can use Rawls’s theory as a tool with which to think about how to achieve justice between the sexes both within the family and in society at large.

Id. at 108-09.

17. Id. at 139.
major concerns. She refers to the comprehensive work of Philip Blumstein and Pepper Schwartz which studied thousands of heterosexual married and unmarried couples, as well as lesbian and gay male couples. They found that the most sex-role-oriented relationships were those of the first category whereas the most egalitarian relationships were the homosexual couples. The married couples still, for the most part, separated the wage-earning work from the domestic work along gender lines. The heterosexual unmarried couples were less likely to pattern their relationships in this manner, while the homosexual couples, according to the researchers, made the fewest assumptions about traditional expectations and role behavior.

What Okin failed to point out, and what Blumstein and Schwartz emphasized in their findings, was the differences in domination/subordination between, on the one hand, the three types of couples which included a male member and, on the other hand, lesbian couples. In heterosexual and gay male couples, relationship power (in the form of control over decision-making) was linked to the economic prowess of the partner who earned the most money. This dynamic was absent in

18. PHILIP BLUMSTEIN & PEPPER SCHWARTZ, AMERICAN COUPLES (1983). The researchers utilized lengthy written questionnaires which each partner filled out privately (the partners never saw each other’s answers) and selected face-to-face interviews. Additionally, the couple was left alone with a tape recorder as they resolved certain dilemmas presented by the interviewers. Eighteen months later, follow-up questionnaires were mailed to the participants. Id. at 15-16. The study covered the entire country through media coverage asking for volunteers in a number of large cities including Seattle, San Francisco, New York, Chicago, Washington D.C., Los Angeles, Wichita and Dayton. Id. at 17. Usable questionnaires (i.e., filled out and returned by both partners of a couple who lived together and had a sexual relationship) were compiled for 4,314 heterosexual couples (married and cohabiting), 969 gay male couples, and 788 lesbian couples. Id. at 547 n.2. Couples selected for intensive, two and one-half hour interviewing included: 129 heterosexual couples, 98 gay male couples, and 93 lesbian couples. Id. at 548 n.6. The couples selected for interviewing lived in Seattle, San Francisco, or New York.

The average age of the participants was between 30 and 40 years old. Id. at 595 (table 4). Most of the couples (94%-97%) were white. Id. at 595 (table 5). The couples had an average of 15 years of education. Id. at 596 (table 6). Approximately half of the partners were in professional or technical occupations and another one-fourth were managers or administrators. Id. at 597 (table 8). The annual income of the participants varied as follows: most husbands earned between $15,000 - $50,000; most wives earned under $10,000; most cohabiting men earned between $10,000 - $50,000; most cohabiting women earned between under $5,000 - $25,000; most gay men earned between $10,000 - $25,000; and most lesbians earned between under $5,000 - $25,000. Id. at 598 (table 9). The majority of heterosexual women had some children living at home more than six months per year, but many other participants did not have children living at home. The figures are as follows (for children living at home for over 6 months per year): 53% of husbands had no children and 39% had 1-2 children; 50% of wives had no children and 41% had 1-2 children; 94% of male cohabiters had no children and 5% had 1-2 children; 84% of female cohabiters had no children and 15% had 1-2 children; 92% of lesbians had no children and 6% had 1-2 children. Id. at 600 (table 12). Gay men were not asked about children.

19. Id. at 53.
lesbian relationships.\textsuperscript{20} The authors emphasize that the lesbian couples which they interviewed did not typically use income “to establish dominance in their relationship” and that “[t]hey make a conscious effort to keep their relationship free of any form of domination, especially if it derives from something as impersonal as money.”\textsuperscript{21}

The Blumstein/Schwartz study was conducted in the early 1980’s and did not include lesbian couples who chose to conceive and raise children in the context of their relationship. The children of lesbians surveyed in the study were conceived in heterosexual unions prior to the woman’s change of lifestyle; thus, no data was available concerning any differences which may be significant in lesbian couples who choose to add this component of child-bearing to their relationship. One might speculate that in this scenario the bonding between the couple and the support received from their respective families of origin would be even greater, thereby adding the dimension of stability to the lesbian family which Blumstein and Schwartz posit may be missing in same-sex couples.\textsuperscript{22}

Okin acknowledges non-traditional families, such as single-parent, lesbian and gay families, but does not analyze the differences between them and traditional families in terms of developing a sense of justice. She instead advocates for an altered version of the traditional family framework: “I shall argue here that any just and fair solution to the urgent problem of women’s and children’s vulnerability must encourage and facilitate the equal sharing by men and women of paid and unpaid work, of productive and reproductive labor. . . . A just future would be one without gender.”\textsuperscript{23}

\textsuperscript{20} \textit{Id.} at 55, 60, 75-76.  
\textsuperscript{21} \textit{Id.} at 55, 60.  
\textsuperscript{22} In concluding about gender differences among the four types of couples, Blumstein and Schwartz note:  
An extremely important effect of having one male and one female in heterosexual couples is that each gender is automatically assigned certain duties and privileges.  
. . . For heterosexual couples, gender provides a shortcut and avoids the decision-making process.  
With this enormous advantage comes two enormous disadvantages. First, while the heterosexual model offers more stability and certainty, it inhibits change, innovation, and choice regarding roles and tasks. Second, the heterosexual model, which provides so much efficiency, is predicated on the man being the dominant partner. . . . Same-sex couples cannot, obviously, rely on gender to guide their decisions about who will do what in the relationship. But they do not have the inequality that gender builds into heterosexual relationships.  
. . . Same-sex couples who wish to build a relationship based on equality are a step ahead of heterosexual couples, but the price they pay is the lack of traditions or guidelines.  
\textit{Id.} at 324-25 (emphasis in original).  
\textsuperscript{23} \textit{OKIN, supra} note 2, at 171.
Although she does not apply her theory to lesbian and gay families per se, she aptly describes qualities of just, gender-free families to include: (1) co-equal parents with shared roles; (2) equal distribution of labor; and (3) equal respect and interdependence. These relationship characteristics may be even more achievable for same-sex couples than for heterosexual couples because of the formers’ lack of expectations and typical role division as highlighted by Blumstein and Schwartz. For lesbian couples in particular, the greater awareness and avoidance of power differentials in the relationship bode well for the achievement of the above family dynamics.

Lesbian feminist theorists offer some important insights into the structure of lesbian relationships by analyzing certain values common in the lesbian subculture. Lesbian feminists differ in some fundamental respects from feminist theorists and, of course, even differ among themselves. Some of the fundamental ideas presented by lesbian theorists, however, help distinguish certain aspects of lesbian relationships from the feminist (heterosexual) framework and assist in developing the theory that lesbian families have the potential to be non-heterosexist models of an egalitarian family structure.

One of the first criticisms levelled at feminist theory by most of the lesbian theorists is that feminists use men as a comparison for women, thus circling within the patriarchal framework rather than creating a distinct, women-centered value structure. For example, Sarah Hoagland criticizes feminist reform for focusing on men’s conceptions of women rather than “creating and developing women’s values about themselves.”

An illustration of this point can be found in Okin’s work wherein she advocates change in the gender-structured family system. For her to reap success in terms of the systemic, gender-neutral change she seeks, men will have to be willing to change their lives dramatically, both at home and in the workplace (both of which they control by economic superiority which gives them greater decision-making authority).

Two other criticisms of feminist theory which are shared by most lesbian feminists are the omission or neglect of a pluralistic, multicultural perspective and the resistance of most feminists to embrace some degree of separatism in their reform strategies. Hoagland, for one, advocates the use of separatism to accomplish the desired moral revolution. Noting that,

24. *Id.* at 185.
25. She believes that this focus forces women to defend men’s accusations of feminists in the media as manhaters, witches, lesbians, and amazons — to appear feminine to prove to men that they are not attempting to threaten male egos. Moreover, this focus on men’s reactions results in the success or failure of women’s efforts being dependent upon “the intelligence, willingness, and benevolence of the men they’re seeking to convince to enact reform.” *Sarah Lucia Hoagland, Lesbian Ethics: Toward New Value* 57 (1988). Hoagland is a professor of Philosophy and Women’s Studies at Northeastern University in Chicago.
in traditional ethics, it is not considered a viable option for moral agents to withdraw or separate as a political strategy, she counters that separating is a fundamental aspect of creating new values:

In certain respects, to engage, to participate, in a situation or in a system is to affirm its central values. This is true whether we actively uphold the system, attempt to change it through designated avenues of reform, or rebel against it through designated avenues of rebellion. . . . For in acting in any of these capacities, we are operating within the system's parameters and are thus giving the system meaning by helping to hold its axis (what goes unquestioned) in place.26

Hoagland distinguishes between the cause of women's oppression and the solution:

Through all of this, I am not trying to argue that heterosexuality is the "cause" of oppression. I do mean to suggest, however, that any revolution which does not challenge it will be incomplete and will eventually revert to the values of oppression. Heterosexuality is the form of social organization through which other forms of oppression, at times more vicious forms, become credible, palatable, even desirable. Heterosexuality — that is, the balance between masculine predation upon and masculine protection of a feminine object of masculine attention — de-skills a woman, makes her emotionally, socially, and economically dependent, and allows another to dominate her "for her own good" all in the name of "love." In no other situation are people expected to love, identify with, and become other to those who dominate them to the extent that women are supposed to love, identify with, and become other to men.27

She juxtaposes imperialism, colonialism, and ethnocentrism with the belief system, perpetuated by heterosexuality, that advocates that it is appropriate to dominate others for their own good. Oppression in general is thereby buttressed by the continuation of heterosexuality in our society.

26. *Id.* at 57. According to Hoagland, separatism functions in four main ways to deconstruct the dominant/subordinate relationship of women and men. First, as a way of detaching from the existing conceptual framework, separatism allows more objective analysis of the framework in order to understand the underlying values and decide if they are the values of choice. Second, separatism is one method for undermining heterosexual patterns of domination. Third, separatism provides a means of peeling away external layers of the self. And, fourth, separatism is a withdrawal from heterosexuality, thereby refocusing on the creation of new values which are more women-centered and pluralistic. *Id.* at 24-68.

27. *Id.* at 67.
Not embracing separatism as enthusiastically, Shane Phelan believes that white, middle-class lesbian feminists have the potential to learn from others dealing with oppression — women of color, in particular — who continue to live in and remain committed to overtly homophobic cultures. These women are often economically unable to withdraw from their culture and form separatist communities even though African-American lesbians, in their struggle for equality, are generally unsupported by African-American men and ignored by African-American feminists. Still, some African-American feminists have questioned whether separatism is in fact "an adequate and progressive political analysis and strategy . . . since it so completely denies any but the sexual sources of women's oppression, negating the facts of class and race."29

Somewhere in the middle of the separatism spectrum falls Carol Douglas who distinguishes temporary separatism from separatism as an end goal.30 Some lesbians urge separatism only to help foster a sense of identity, with reintegration into the larger society following. Many women of color have criticized separatism as a goal and even as a temporary strategy because of the way it requires them to abandon essential parts of themselves connected with their race. Other lesbian feminists have resisted separatism because they felt that it would preclude organizing a large enough women's movement to be an effective force.31

Although the multicultural issue is emphasized by most lesbian theorists, much disagreement exists concerning the degree to which separatism should be utilized and to what end (i.e., as a temporary political strategy for social change, or on a permanent basis as an end goal in itself).32

Not unlike the criticisms aimed at feminist theory, lesbian theorists (and indeed many feminist theorists) believe that traditional liberalism fails to adequately address the real life problems and political disenfranchisement

28. SHANE PHelan, IDENTITY POLITICS: LESBIAN FEMINISM AND THE LIMITS OF COMMUNITY 54-59 (1989). Phelan is a political science professor at the University of New Mexico.
29. Id. at 163-64 (quoting the COMBAHEE RIVER COLLECTIVE, A Black Feminist Statement, in FEMINIST FRAMEWORKS: ALTERNATIVE THEORETICAL ACCOUNTS OF THE RELATIONS BETWEEN MEN AND WOMEN (Alison Jaggar and Paula S. Rothenberg eds., 1984)).
31. Id. at 255-61.
32. The above discussion illustrates the contrast between the positions of Hoagland, Phelan, and Douglas in terms of their differing approaches to separatism even though all three see it as advantageous for political and social change. See also RUTHANN ROBSON, LESBIAN (OUT)LAW: SURVIVAL UNDER THE RULE OF LAW (1992). Robson is a law professor at City University of New York.
of lesbians or women in general. Hoagland, in particular, distinguishes between moral reform and moral revolution by defining reform as: "the attempt to bring human action into greater conformity with existing ethical principles and thereby alleviating any injustice which results from the breach of those principles." Focusing only on reform discourages examination of the underlying values around which the principles revolve, or the structure at the heart of the principles. That approach forecloses the possibility of the creation of new values, an endeavor that lesbians (and, no doubt, other minority groups) are eager to pursue. The preference for revolution, or radical systemic change, leads some to reject the concept of justice as well because of its being construed as part of an existing framework which perpetuates the dominance/subordination split in our culture.

Hoagland believes that the development of lesbian ethics holds the possibility for the creation of new values, those which are not inextricably tied to the dominance/subordination schema. This creation is her goal and separatism is her means of achieving that end result. Traditional liberalism has little place in her schema.

On the other hand, Shane Phelan argues against creating unified categories into which individual differences disappear in an attempt to have the lesbian feminist group speak with one voice. It is this aspect of her theory which differs markedly with other lesbian theorists and causes Phelan to want to preserve some of the tenets, although with revision, of liberalism. She recommends that lesbian feminists adopt some parts of liberalism, not blatantly reject it:

34. [D]ominance and subordination lie at the heart of social interactions in the form of the institution of heterosexuality, and so long as that axis remains intact, oppression will be a reality—all forms of oppression, not just male domination of women. . . . [T]he relationship of dominance and subordination undermines moral agency.

Id. at 21-22. Further, she believes that by turning to justice as a means of ensuring impartiality, we give up our moral agency. "While a focus on duty fragments our integrity, a focus on justice undermines it. When lesbians aspire to the ethics of the fathers, we lack imagination." Id. at 265.
35. Id. at 25, 54-55, 62.
36. Phelan, supra note 28, at 57.
37. Phelan sees the lesbian feminist movement as being a significant political movement—a new Enlightenment of sorts. She definitely sees it as broader than merely a movement for lesbians. She discusses how lesbian feminists, in searching for a positive identity, have had to endure a certain closure necessitated by the construction of a new community and history. As a result, some lesbian feminists share the opinion that traditional liberal theories are unable to relate their ideals of justice, tolerance, and dignity to real life decisions and policies. "The level of abstraction required to maintain a consistent stance of liberalism either isolates one from others in an attempt to live one's principles or forces one to explain a variety of exceptions and qualifications of the principles that arise in everyday life with actual others." Id. at 139.
[L]iberalism constitutes the basis for any American commitment to individual rights and tolerance of diversity. Communitarianism, both left and right, is constantly pressed to reconcile itself to the premise of individualism so powerful in the United States. Even as they challenge liberalism, American social movements draw on the strength of the liberal appeal to rights and autonomy. . . . We must look not for theory that abandons liberalism, but for theory that builds on it, using the parts we cannot dispense with and working to transform them so as to foster a freer order than liberalism can, in fact, endorse or deliver.38

Lesbian theorists often emphasize the different attributes of lesbian culture that more than adequately replace traditional ethics' focus on duty and obligation. For example, Hoagland describes lesbian culture as emphasizing connectedness, caring, and responsiveness. Her view of morality is "a system whose aim is, not to control individuals, but to make possible, to encourage and enable, individual development."39 Therefore, having looked at some of the lesbian relationship values and underlying ideology, one reasonable conclusion seems to be that lesbian couples have the potential to create egalitarian, respectful, esteem-enhancing family systems capable of inculcating the basic building blocks of morality and justice in children raised therein. This model would seemingly eliminate what Okin calls the "shaky ground" of gender-based, unjust families on which Rawls's theory of justice rests.40

However, one practical question remains: Do children raised in lesbian families demonstrate psychological or behavioral problems indicative of maladjustment in this type of non-traditional family? If so, then it would be impossible for them to incorporate an adequate sense of justice and fairness; instead, they would be developmentally preoccupied with the emotional and psychological adjustment difficulties. The social science literature does not indicate that children raised by lesbians experience problems of this nature. In fact, there is some recent evidence that children born to or adopted by lesbians (as opposed to being born or adopted in a heterosexual union) report a greater sense of well-being than do children of heterosexual mothers.41

38. Id. at 149.
39. HOAGLAND, supra note 25, at 285 (emphasis in original).
40. OKIN, supra note 2, at 99. See supra notes 10-14 and accompanying text.
One of the most recent surveys of the literature studying the development of children raised in lesbian and gay homes was conducted by psychologist Charlotte Patterson at the University of Virginia.42 A review of her work is appropriate here because of my assertion that lesbian families constitute a non-heterosexist model for helping children develop a framework of justice.

Patterson found that the various studies focused on sexual identity, personal development, and social relationships of children raised in gay or lesbian families. Most of the studies that she analyzed compared the development of children of homosexual parents with children of heterosexual parents, but often the studies involved children where divorce was a component in both straight and gay families (e.g., in the case of most of the lesbian parents, they had conceived children within the context of a heterosexual relationship, divorced, and then the study considered their children's subsequent development). None of the studies has shown that the development of the children of lesbian or gay parents was compromised in any significant respect when compared to the development of children in heterosexual families with comparable circumstances: "Indeed, the evidence to date suggests that home environments provided by gay and lesbian parents are as likely as those provided by heterosexual parents to support and enable children's psychosocial growth."43

Patterson suggests that instead of the particular family structure (such as heterosexual, two-parent, etc.) that constitutes the major influence on children's development, it is rather certain kinds of family interaction, or processes, that comprise the beneficial factors in promoting positive child development. She explains that research on families of divorce support this notion that the family process is the biggest determinant of outcome for children, not the formal structure of the post-divorce familial environment.44

Additionally, although psychoanalytic and social learning theories emphasize the importance of having both a heterosexual male and female available to the developing child, Patterson points to two major child development theorists whose theories support the notion of the importance of process over structure. Bowlby's attachment theory and Kohut's self-psychology both stress the importance of function rather than family structure. In attachment theory, the emphasis is on sensitive parenting, while in self-psychology the crucial factors include mirroring and idealizing processes.45

42. Patterson, Children of Lesbian and Gay Parents, supra note 41.
43. Id. at 1036.
44. Id. at 1036-37.
45. Id. at 1037 (referring to J. BOWLBY, A SECURE BASE: PARENT-CHILD ATTACHMENT AND HEALTHY HUMAN DEVELOPMENT (1988) and H. KOHUT, THE ANALYSIS OF THE SELF
Patterson calls for future research to investigate this notion of process over structure in lesbian and gay families. She urges researchers to focus more broadly on issues of diversity within lesbian and gay families with children and to question how children of homosexual parents will turn out differently from children of heterosexual parents. She suggests that future studies may in fact show that children of lesbian and gay parents grow up with increased tolerance for others whose viewpoints differ from their own, and with a greater comfort for multicultural environments as self-reports from children who have grown up in lesbian homes has already indicated. However, she encourages future research to study these and other dimensions of growing up in lesbian and gay families.

Patterson conducted her own study of children conceived by lesbians who were already out (as opposed to conceiving the children in heterosexual unions and then coming out). She interviewed and tested 37 families, most of which were headed by a lesbian couple (70%). Sixty-six mothers participated in the study. There were also 37 children — 19 girls and 18 boys. After interviewing the family together, having both mothers (if applicable) fill out lengthy questionnaires, and conducting an individual interview with the child in which she administered psychological assessment tests (measuring child competence, behavior problems, self-concept, and sexual identity), Patterson concluded:

The results of the present study have significant implications for a number of influential psychological theories of human development. In particular, the fact that children born to lesbian mothers showed normal personal and social development represents an important challenge to developmental theories that emphasize the importance of structural aspects of home environments. . . . The psychological health of these children demonstrates that structural properties of family environments such as father presence vs. absence and parental sexual orientation cannot be crucial for successful developmental outcomes to occur.

One interesting finding in her study was in the area of the children’s self-concepts. On two scales, differences emerged between children of lesbians and those of heterosexual parents. Children of lesbians had greater stress reactions than did children of heterosexuals, but they also had a

46. Patterson refers to the stories of children of lesbian mothers about their experiences growing up in families with lesbian mothers. Id. at 1038 (citing DIFFERENT MOTHERS: SONS AND DAUGHTERS OF LESBIANS TALK ABOUT THEIR LIVES (Louise Rafkin ed., 1990)).
48. Id. at 22.
greater overall sense of well-being. Stress reactions included feeling angry, scared, or upset. Well-being included feeling joyful, content, and comfortable with themselves.

Perhaps the inference to be drawn from this finding (although Patterson did not suggest this) is that children of lesbians are more comfortable acknowledging their feelings in general, including the range of difficult, or “stressful,” ones as well as the more positive ones. This would indeed seem to connote a greater sense of well-being in a child who could freely experience and express feelings of any type in his or her family. In fact, this environment of familial affection is exactly the type described by Rawls as necessary for children’s moral development; that is, a family which focuses on the importance of feelings, attachments, mutual trust, and empathy.

Thus, even if children are not emotionally scarred (as some still think) by being raised in lesbian homes, how would lesbian families facilitate the incorporation by the children of a different sense of justice and morality? For one, the children would grow up with the female parents in both the traditionally female and male roles. Either both mothers would work outside the home and be primary caretakers part-time, or one would work outside and the other would be the primary caretaker. Even in the latter case, unlike traditional heterosexual households, the lesbian parents would probably share household tasks more evenly. In either situation, because both parents are women, the message conveyed to the children is that women work outside the home and raise children, rather than the heterosexist message that primarily fathers work (or if both work, the fathers still have more power and privilege in the family because they are exempt from certain work activities related to the home and childrearing) and that mothers primarily raise children and take care of the home (even if they also work). Parents in lesbian families would be seen as individuals who both nurture others and work outside the home.

What sort of a sense of justice would children acquire from being raised in these families? Would the child generalize the model of these female adults as being capable of both traditional gender roles onto male adults as well? If so, would this not provide a sense for the children that adults are whole persons with a variety of options for self-expression, rather than gender-structured, dominant-subordinate individuals because of some characteristic as arbitrary as the gender with which one is born? Or, would children of lesbians be unable to generalize the capabilities of the parent-females onto males in the culture, and instead tend to develop a reverse sexism where females are more highly regarded and males are devalued?

49. Id. at 16-18.
50. See supra text accompanying notes 9-12.
If this were true, then it would portend poorly for the intrapsychic development of both girl and boy children.

Examining these issues from a lesbian feminist vantage point, I will consider in turn each criticism of feminist theory as discussed by the lesbian theorists above and apply it to lesbian families. The first point is the primary criticism of feminism by lesbian feminists: using men and the male value system for comparison purposes for women’s reform. Rather than comparing themselves to men, lesbians tend to compare themselves to their peer group — other lesbians. If they have children, then lesbian couples are more likely to develop a peer group which includes other lesbian families with children to share activities, child care, and other child-oriented time. The comparison of values and family structure with each other as they spend time together would more naturally follow than comparing their families’ values and structure with heterosexual families’ values and structure which, as Okin points out, are more gender-structured. Perhaps lesbian mothers would also use heterosexual women with whom they work or socialize as comparisons, but many straight women may envy the mutual support offered in lesbian relationships that is often unavailable in heterosexual families.

Lesbian couples are less likely to bring to the relationship traditional gender-associated notions and expectations as the Blumstein/Schwartz study points out. Being gay in this society requires a redefinition of roles on many levels, with family structure being only one. Although, both members of the couple were no doubt themselves raised in a gender-structured family thereby bringing certain traditional notions into the relationship, compromises and adjustments will have to be made to accomplish all the tasks of the relationship (both those seen as traditionally male and female) because both partners are the same gender. Creative sharing or swapping of duties often follows, but obviously the decisions are not made based upon gender.

Additionally, Hoagland points out that feminist reform requires the willingness of male participation for its ultimate success. Okin’s theory is an example of this dependency upon men to change their roles, both in the home and workplace. In the lesbian family scenario, no requirements exist for men to change in order to create a gender-free family structure. Male participation with the children, although often welcomed and even actively sought by lesbian mothers, is not dependent upon requiring males to alter their sex-typed behavior. Rather, heterosexual and

51. See supra notes 18, 20-21 and accompanying text. See also Patterson, Children of the Lesbian Baby Boom: Behavioral Adjustment, Self-Concepts, and Sexual Identity, supra note 41, at 21.
52. HOAGLAND, supra note 25, at 57.
53. OKIN, supra note 2, at 107, 171-80.
homosexual male friends of the lesbian couple (men who are probably less
gender-role defined than the stereotypical American male) would be invited,
not required, to participate with the children. Certainly, the lesbian mothers
would be free to limit or eliminate contact with individuals (male and
female) who they deem detrimental as models for the children. This
situation is in stark contrast to the one described by Okin where the
heterosexual male would be the father of the children, or the partner of the
mother, and therefore, a necessary and permanent fixture in the children's
lives regardless of the male's willingness or ability to change his
heterosexist behavior.

Therefore, in terms of comparison to entrenched heterosexist values and
structure, the lesbian family structure has the potential for the creation of
new values of egalitarian intimacy and childrearing. Children growing up
in families organized in this manner would have more opportunities to learn
a different value system and sense of morality than children raised in
traditionally gender-structured families.

The second point of criticism targeted at feminist theorists by lesbian
feminists concerns the neglect of a multicultural perspective. Although
lesbian theorists suggest that in building lesbian communities, a plurality
of races, classes, and ethnic origins exists, in reality I suspect that most
lesbians are similar to others in society and tend to associate with people
from their own neighborhoods, cultural groups, churches, and political
organizations. Except for the latter, the class and probably even the race
of one's friends will likely be the same. Political organizations may give
more opportunity for a true plurality, but even that composition is limited
by those who can afford time to attend meetings and do unpaid work in the
community, not to mention the issue of whether child care is offered for
those lesbians who have children. Patterson noted in her study of the
children born to or adopted by lesbian mothers that:

Although there was some diversity, the lesbian mothers in this
sample were predominantly white, well-educated, and relatively
affluent. Because only two mothers who were contacted refused
to take part in the study, sample characteristics cannot be attributed
to differential refusal rates among families with characteristics
other than those that were most common in this sample.54

This finding is particularly interesting since the sample for the study lived
in the San Francisco Bay Area. If Patterson had sampled lesbians from the
Midwest or the South who had chosen to bear or adopt children, one would
find an even greater proportion of white, middle- to upper-class lesbians.

54. Patterson, Children of the Lesbian Baby Boom: Behavioral Adjustment, Self-Concepts,
and Sexual Identity, supra note 41, at 21.
Nonetheless, even given this relative lack of diversity within lesbian families where children are conceived once the women have come out, there are many lesbians of color (as there are white lesbians) who have had children in prior heterosexual relationships and are now raising them in a lesbian context. The possibility certainly exists for the mixing of cultures, thereby raising the children with greater exposure to diversity. I am, however, skeptical of the frequency with which this actually occurs in spite of good intentions.

The next point of criticism by lesbian theorists of feminism is its general unwillingness to consider separatism as a means of change. As demonstrated above by the different authors’ opinions, there is much disagreement among lesbian theorists concerning the appropriate degree and purpose of separatism, but the authors cited generally agree that some separate lesbian space is necessary for the creation of a more socially just community and a new value system. Women of color often disparage separatism as a viable strategy, as do others who advocate remaining linked with more diverse groups even when the views of other groups may be different from those of lesbians. These, of course, are generalizations based on the viewpoints of only a few theorists.

For the purpose of proposing ways in which lesbians raising children can create a gender-free and just family structure, the issue of separatism must be examined carefully. On the one hand, in order to engage in what Hoagland calls the “moral revolution” which involves the creation of new values, certainly some separate lesbian space and energy is needed. Examples of this are informal socializing, as well as structured conferences and political agenda-setting activities. I agree with the theorists reviewed that lesbians need some degree of withdrawal from the dominant culture in order to de-program heterosexist, homophobic thinking and begin shaping new values and behavior.

On the other hand, in the context of raising children, boys or girls, the point at which separatism begins to exclude boys over a certain age (often at about eight years of age) would seem to produce counterproductive results if the goal of separatism is to create, and demonstrate, new values. I am wary of the need for such an exclusionary policy of the sort that is often dictated by some women’s groups, music festivals, and similar sorts of retreat settings where boy children are unwelcome. The message, far from being one of fairness and equality, is instead a reverse sort of misogyny. Boys and girls (through inclusion of the girls while their brothers are excluded) learn that lesbians devalue and avoid males, rather than the more desirable lesson that lesbians refuse to tolerate heterosexist,

55. See supra notes 26-31 and accompanying text (specifically: Hoagland, Phelan, and Douglas).
homophobic behavior regardless of the gender or age of the perpetrator. The argument for the exclusionary policy is often something like “We need to feel safe at these retreats” or “We need this space as a separate woman-space to be creative, revolutionary, etc.” However, if the focus were on certain unacceptable behavior, and the goal was educating participants in terms of attitudes and roles, I believe that adequate compromises could be negotiated (e.g., certain places or times in the festivals could be designated as “women only” or “lesbian only” which would be similar to the already prevalent use of reserving certain areas as “chemical-free” or “alcohol-free,” etc.).

Thus, lesbian couples have the potential to create families with new value systems, perhaps radically different from the more prevalent heterosexual model that is emerging based on theories of liberalism and feminism. Lesbians, as distinguished from their heterosexual counterparts, do not as frequently compare themselves to men or heterosexual role models, and do not need to rely on men’s goodwill or inclination to relinquish some of their power in personal spheres. Egalitarianism within the relationship is therefore more attainable. Additionally, lesbian families may offer more racial and ethnic diversity to their children, although this claim requires further study. And, finally, some degree of separatism from the dominant culture has allowed the lesbian subculture the necessary support and space to creatively challenge traditional gender-based role structures and is crucial to the continuation of that endeavor. However, this author suggests a moderated system of separatism of pre-adolescent children to avoid the pitfalls of reverse misogyny and to enhance the opportunity for teaching all children the values which lesbians are actively developing.

To return to Okin’s framework, her recommendations for gender-free families contain several characteristics that are perhaps, at present, best modeled by lesbian families. First, although in heterosexual terms, Okin believes that “the example of co-equal parents with shared roles, combining love with justice, would provide a far better example of human relations for children than the domination and dependence that often occur in traditional marriage.” Lesbian couples, for the various reasons discussed, have a greater potential for egalitarian sharing of roles than do heterosexual couples.

Second, Okin advocates for the equal distribution of labor, both paid and unpaid. Her solution for a couple’s wish that one partner would stay home with the children is that the paycheck of the other partner would be

56. One example is where “liberated” men “help out” with the housework and take a more active role with the children.

57. OKIN, supra note 2, at 185.
equally divided — the employer would make out two equal checks, one to the paid partner and one to the unpaid partner. Failing that, she states that the paid and unpaid labor should then be equally divided. Applying this characteristic to lesbian families, most lesbian couples with children will probably have both partners working outside the home due to economic necessity or choice. However, it is possible that this would not be the case and, instead, the couple would choose for one partner to remain at home with the children, particularly when they are young. Regardless of which pattern is adopted, the reality of both partners being women and therefore having been socialized (to some extent) to nurture others and care for the home would lead to a more likely pattern of shared household and childrearing tasks than is generally the case in heterosexual families. At least, this is a logical conclusion from the current societal patterns. Additional research showing exactly how labor is distributed in lesbian families with children would be helpful in understanding the dynamics in these families.

The last quality of a gender-free family, according to Okin, is that of equal respect and interdependence. She explains that “[t]he fairness of the distribution of labor, the equal respect, and the interdependence of his or her parents would surely be a powerful first example to a child in a family with equally shared roles.”58 These qualities are more likely to be present in lesbian families.59 If both partners are actively caring for the children (although not necessarily each one for exactly 50% of the time), taking major responsibility for the maintenance of the home, and working outside the home or remaining in the home by agreement for a few years, the potential for a sense of equal respect is great. The partners would be interdependent on each other, even in the latter situation where one has agreed to stay home.

58. Id. (emphasis in original).
59. One important factor underlying the existence of mutual respect and interdependence is a relative power balance between the partners. If one partner consistently has more decision-making authority, that partner also commands greater respect of sorts while the other partner is more dependent. To achieve mutual (i.e., equal) respect and true interdependence, power and control in the relationship must be evenly distributed.

In discussing the income and power dynamics found in the couples they studied, Blumstein and Schwartz note that only lesbian couples manage to escape the domination/subordination relationship pattern that money seems to promote in relationships which include men:

[Even gay male couples gain advantage over one another when one partner has a high income . . . . But we also see, by looking at lesbian couples, that money need not have that effect. These patterns have led us to conclude that it is men — who for generations have learned in the work place the equation that money equals power — who have re-created this experience in the home. Wives and cohabiting women fall prey to the logic that money talks. But women seem capable of escaping the ruthless impact of money when no man is present.

Blumstein & Schwartz, supra note 18, at 55-56.
I think the different and essential element in lesbian families is that of choice of roles, as opposed to some predetermined sense that it is the duty of one of the partners, or an inextricable part of her identity, to stay home and assume the major caretaking/housekeeping role in the family. The element of choice also presumes a component of flexibility that is not present in the heterosexual context. If the two moms can choose that one of them will stay home at this point in time, it is conceivable that the choice could be changed and the other would stay home at a future point in time, if necessary. That flexibility is not usually part of the picture in the typical heterosexual family.

Because of the existence of the patriarchal culture which shows men more often than women in power positions, children raised in non-sexist (i.e., non-gender-structured) families by lesbians have the potential to experience a balancing of the patriarchal influence of the culture. They would see males in public power roles (politics, authoritarians, etc.) because society provides that picture in abundance. They would experience females (their mothers and friends) in both private and public spheres of power. Therefore, the children arguably would develop a morality of fundamental justice without the inequalities presented in heterosexist families.

The potentially missing element, of course, is the aspect of nurturing from adult males. Children of lesbians would grow up with their mothers demonstrating both nurturing and career-oriented characteristics, and the children would experience in everyday life the latter characteristics in males. But, in order to develop a vision and morality based on egalitarian justice in the genderless sense for which Okin advocates, children in lesbian families would need to experience males as well as females being in nurturing, caretaking roles. If the lesbian mothers were careful to incorporate men with these qualities (e.g., straight and gay men friends, male child care workers and teachers, etc.) into the children's lives, then it seems that the overall experience of the children would lead to their perception that individuals, regardless of their gender, are capable of the full range of human expression and deserving of equal treatment in all respects.

In summary, the lesbian family structure has greater potential to serve as a model for the development of a sense of justice, fairness and equality as envisioned by Rawls, Okin and many others than does the heterosexual, "genderless" model presented by Okin. Based on the research, lesbian couples are more likely than gay male couples to avoid the traditional, genderized power differentials based on earning prowess. Because of the lack of gender-based expectations brought into their relationships, and the reality of both partners being of the same gender and therefore having to distribute both the traditional male and female tasks, it is likely that the partners will share paid and unpaid labor, be interdependent, and have
equal respect for each other. These qualities have been identified, by Okin and others, as leading to an enhanced atmosphere of egalitarianism and fairness wherein children would more likely develop a fundamental sense of justice necessary to create desired changes in our society.