

‘Either Care or Rights’ won’t do: Moving Beyond the Rights-Care Split

Keywords: ethics of care, ethics of justice, rights, citizenship.

March 2015.

ABSTRACT

This article contributes to the literature that sees no necessary disjunctions, or inevitable contradictions, between a feminist ethics of care and an ethics of justice in International Relations (IR) – the latter associated with rights, and mostly equated with masculinist norms. In order to do so, it will firstly advocate the need for enhanced ‘care’ components in rights language, and thereby illustrate which transformative elements and normative framework the ethics of care privileges when it comes to rights. Further, in an effort to scrutinize what the ethics of care finds problematic with a liberal (and cosmopolitan) revision of rights, Martha Nussbaum’s capabilities approach will be examined from a care perspective. To another extent, the article will emphasize that care ethics should be more mindful of the importance of rights for its moral orientation as well as for people who care – increasingly women from the developing world moving from the global South to the global North – and, thereby, advocate citizenship rights that value and embed care. Indeed, this article will call for adjustments along the lines of care and justice constitutive of a moral shift that reinforces the under-scrutinized links between them. Overall, it will attempt to break down the binary oppositions between care and justice, which is deemed detrimental to the thickness of morality.

INTRODUCTION

The ‘ethics of care’ and the ‘ethics of rights’ have been mainly juxtaposed as starkly opposed moral orientations in IR. Joan Tronto, a contemporary feminist care theorist writes that the ‘ethics of care’ contrasts with what Carol Gilligan refers to as an ‘ethics of rights.’¹ The work of moral psychologists such as Gilligan, upon which a feminist ethics of care is inspired, rejects Lawrence Kohlberg’s claim that women’s morality is an inferior stage of human development, and instead asserts that it is different, and concerned with real, non-abstract, problems and peoples. Indeed, Gilligan’s theory of the ethics of care has been formulated in sharp contrast to, and in critique of, Kohlberg’s masculine theories of justice – thereby situating the ethics of care in opposition to an ethics of justice. This lingering impression has permeated International Relations (IR) with the effects that the ethics of care is often perceived as antithetical to rights. Indeed, some scholars have noted that the ethics of care seeks to *replace* the conventional ‘ethic of rights.’² The ethics of care is principally formulated against deontological and Kantian theories of rights which reject the moral universalism of cosmopolitanism. What is more, a *critical* feminist ethics of care – as principally formulated by Fiona Robinson – defends a global and non-essentializing version of its theoretical and epistemological antecedent.

¹ Cockburn 2005, 72.

² See Cockburn 2005, 71.

Margaret Walker, a moral philosopher inspired by an ethics of care, underlines the randomness involved in privileging one moral epistemology over the other. She thereby questions, ‘Why are moral philosophers exempt from the bias that they might attribute to all others?’³ As I argue, a bias based either on rights or care cannot be acceptable in a substantial and thick moral vision. Indeed, the issue consists not of rejecting the ‘ethics of rights’, but rather lies in questioning the privileging of one overarching vision of morality. In other words, the values embedded in the ethics of care are not only an alternative to rights language; they constitute as critical a moral worldview as rights language does. Reposing on the binary opposition care/rights actually mirrors the strict dichotomies with which Western thought is plagued. This also supports the feminine/masculine binary, and as such should be a cause of concern for care feminists who seek to do away with polarizations. The dichotomy between justice and care that is detrimental to the thickness of morality is also evoked in Robinson’s ensuing reference to care ethicist Selma Sevenhuijsen. ‘As Selma Sevenhuijsen argues, associating the “mother figure” with values such as concreteness, care, and compassion as opposed to the abstraction and justice runs the risk of reproducing the mode of arguing in binary oppositions, with which Western thinking is so thoroughly permeated.’⁴ This binary opposition, however, is not solely about the essentialisation of the virtues and practice of care as feminine, but also pertains to the strict opposition between care and justice as a system of values. As it stands, ethics of care feminists, though not rejecting rights and recognizing their importance, consistently assert the superiority of a care ethic over rights-language.⁵ Ethics of care feminists, thereby, inadvertently contribute to sustaining the dichotomy between care and justice. To this end, my analysis will not juxtapose one kind of morality, that is, ‘either care or justice’ – as it is often presented in scholarly articles – but will demonstrate their complementarity and indispensability for dismantling hierarchical global relations of power.

This article is mainly focused on shifting the theoretical priorities of a restricted moral vision in two ways: (1) an enhanced recognition of care values in the language of rights (2) an emphasis on the importance of rights in care ethics and practice in particular in relation to citizenship rights in transnational relations. I borrow the term ‘shift in theoretical priorities’ from philosopher Cheshire Calhoun. Calhoun is right in arguing that,

... theorists in the justice tradition have not said much, except in passing, about the ethics of care, and are unlikely to say much in the future without a *radical shift in theoretical priorities* and concentrating almost exclusively on rights of interference, impartiality, rationality, autonomy, and principles – characteristic of rights language – creates an *ideology of the moral domain* which has undesirable political implications for women.⁶ (Emphasis mine)

³ Tronto 2011, 164.

⁴ Sevenhuijsen (in Robinson) 2011, 132

⁵ See Robinson, Tronto, Hankivsky. See Held 1995.

⁶ Calhoun 1988, 453. Emphasis mine.

Indeed, this occurs in the context of gendered dichotomies and the reification of gender stereotypes: it goes without saying that justice is not the exclusive moral domain of men, nor is care specifically reserved for women. Instead, this *shift in theoretical priorities* highlights difference, contextual sensitivity, interdependence, and relational mutuality. I thereby extend the debates on rights by stretching it with elements from an ethics of care, but also highlight the importance of rights for care by focusing on citizenship rights. In this sense, care ethics and rights-language are mutually self-reinforcing. The hope, in this article, is that both care ethics and rights will be enriched in line with the suggested shifts in theoretical priorities: rights reshaped by care values, and care uplifted by the tangible policy shifts rights can bring.

In part I of this article, I will juxtapose the ‘ethics of care’ with the ‘ethics of rights’ which boils down to contrasting two moral matrices that gave rise to the ‘values’ of rights on the one hand and the ‘values’ of ‘care’ on the other. When the ethics of care criticizes rights, they also criticize the liberal universalistic and impartial bias which captures its ideals. The universalist orientation, upon which the moral unit ‘human beings’ reposes, eschews a salient facet for feminist ethicists of care: the inherent connectedness of human beings in distinction to the autonomous ontology underlying the universalisms of rights. I will make the distinction between autonomy and the importance of relationships, and between universalism – along with its corresponding features of “sameness” and “masculinity” – and the need for recognizing difference. I will also scrutinize the dire consequences of the public-private split for ‘care’ and women. For ethics of care feminists, the valorization of the experiences of the private sphere and the activities of caring can bring about an alternative morality that not only brings the ‘private’ into the public sphere, but challenges the naturalization of the dichotomy in the first place. I hereby contribute to the literature that extends rights with care values and displace an atomistic ontology towards an enhanced recognition of difference and interdependence. As noted, this analysis is undertaken in the context of the complementarity of care and rights.

Even though care discourse acknowledges rights, it often goes on to dismiss their adequacy as an appropriate vision that offers substance to morality. Therefore, I will also show how the ethics of care can criticize certain aspects of rights practice - including the specificity of rights for particular groups – in a straw-man fashion, and by so doing, underestimate the ways in which rights have already been reinvented in order to be more contextual and specific. As such, the article does not only take the view of defending care in relation to rights, but also demonstrates how care feminists can be unbending in their criticism of rights and thereby sustain the care-justice dichotomy.

In part II, I will conduct a critical analysis of Martha Nussbaum’s capabilities approach from a care perspective. This highlights that the care perspective is more than a ‘care and stir’ approach, but lies in the ‘substantial revision’ of rights with the view of integrating care as a principal thread that runs through rights. Further, there is a criticism on the part of care ethics of the universalizing of capabilities – a critique that parallels the ‘Social Darwinism’ in rights that ‘Third World’ feminists such as Gayatri Spivak cautions against. Finally, in part III, I underline the importance of rights for care, as observed in

the increased movement of (mostly female) care workers from the global South to the North.⁷ I underline the (unacknowledged) cosmopolitan inflection with which critical feminist ethicists argue for a ‘multi-scalar’ citizenship which extends from the household to the transnational level of global relations. Despite varying moral foundations, the prescriptive elements of a feminist and critical cosmopolitanism and the transnational advocacy of care feminists for global care workers, remain akin. Accordingly, the article further shows how the ethics of care cuts through transnational feminisms *in spite of* diverging epistemological and moral foundations.

I. Embedding Rights in Care

a) Universal Humanity, Sameness and the Public-Private Split

Feminists have argued that one of the reasons the Enlightenment and subsequent political philosophy it generates has not delivered the promise of the universality of humanity is inextricably anchored in the premise that the individual it posits is intrinsically ‘masculine’;⁸ this universalism excludes half of humanity, and more precisely most of humanity, as the category ‘woman’ is often tied to peoples affiliated with the feminine – including minorities and peoples from the ‘South’. The Enlightenment and its ensuing liberalism propounded a political philosophy that severed itself from concrete individuals, celebrating abstraction, disembodiment, reason, contract, autonomy, the public sphere and civil and political rights. The predicament is anchored in the fact that by adopting a liberal model of human rights, which propounds gender-neutral universals, women are rendered either the same as men (which thereby ignores systemic relations of oppression), or regarded as a specificity to be added onto an androcentric model (which treats difference as an oddity).⁹ In this model, difference is viewed not in terms of relations between ‘similarly different’ human beings, but as a comparison to a so-called ‘neutral’ norm. Difference is translated into deviance/inferiority masking the realities and patterns of embedded inequalities and established hierarchies.¹⁰ As Virginia Held has argued, ‘dominant moral theories seem to have been modeled on the experience of men in the public life of state and market.’¹¹

Rights-talk fed by a masculine discourse has contributed to the legal, political, and economic exclusion of specific groups. The 1948 Universal Declaration of Human Rights (UDHR), for example, equates rights-bearer with head of the household, property owner,

⁷ Though Fiona Williams maintains – and rightly so – that such movements are more complex than the simple configuration of female migrants moving from the South to the North (Williams 2011, 25) even if other migratory patterns exist within regions of the North and the South, the relationship is always a hierarchical one and reposes on notions of servitude. Even if migratory patterns are not always *strictly* from the global South to the North, they are always between an economically subordinate and an economically privileged.

⁸ Pateman 1988; Elshtain 1993

⁹ Cook 1994, 11

¹⁰ Narayan 2000, 94

¹¹ Held 2006, 61

or wage earner.¹² It goes without saying that rights, as they are presently conceptualized, cannot be disentangled from the liberal universalism from which they emerged. Indeed, 'the theorizing of Thomas Hobbes and John Locke serves as the foundation of contemporary human rights conceptualization and practice'¹³ with its many attendant exclusionary practices. What Locke had in mind, along with early drafters of the Universal Declaration, with regards to 'natural' and 'human' rights, mainly conformed to (male) household heads,¹⁴ reflecting Locke's philosophical and political idea of the individual as masculine. Parisi writes further, 'Both androcentrism and the public-private split are embedded in patriarchy... understood here to mean the degree to which society is 'male-dominated, male-identified, and male centered.'¹⁵ To feminists of all persuasions, the challenge lies in upsetting rights values that are based on patriarchy – including masculinity, 'sameness', as well as the private-public split – and their corresponding practices. Is it then worth preserving the concept of a 'universal humanity' at all, and if so, why?

b) Universal humanity and the moral self

A universalizing vision of 'common humanity' stems from a conception of the moral self as devoid of characteristics, for instance Hobbes's vision of the self, which correlates men in the state of nature as completely detached from one another. Hobbes wrote, 'Let us return again to the state of nature, and consider men as if but even now sprung out of the earth, and suddenly, like mushrooms, come to full maturity without all kind of engagement with each other...'¹⁶ For ethics of care feminists this limited version of the 'self' does not only eschew the many particularities that define us, but also the webs of relationships, which embed us. Fiona Robinson writes, 'Care ethicists argue that the dominant moral and political ontology of autonomy – of isolated, self-reliant moral selves – does not adequately reflect people's lived experience in most communities around the world.'¹⁷ She goes on to note the debilitating effects for women, 'One of the effects of this ontology has been to obscure the particular experiences of women, who are most likely to define themselves in and through their relations with their children and other family members – including the elderly or chronically ill – or with friends or members of their communities.'¹⁸ The main issue, for feminist of the ethics of care, is the absence of recognition of the interdependent context of human life that centralizes the place of care for all human beings. Everyone has been, at various stages, attached to others. No one is standing alone as 'autonomous man' and defending his or her rights legalistically and contractually against other independent others. This is namely, 'the contest of rights', which feminists of the ethics of care find inappropriate and advance, in its stead, the alternative conception of morality that supports an ontology of relationality and mutuality in which 'everyone will be responded and included' and in which 'no one

¹² Hutchings 2000, 126; Peterson 1990, 303-4

¹³ Parisi 2002, 571

¹⁴ Okin 2000, 28

¹⁵ Parisi 2002, 577

¹⁶ Hobbes 1651 -1949, 100

¹⁷ Robinson 2011, 131

¹⁸ Robinson 2011, 131

will be left alone or hurt.’¹⁹ Human rights are but one aspect in this vision of morality along with the concepts of responsibility for others.

Indeed, while the notion of a ‘common humanity’ has its shares of theoretical debates and contentions, some feminists contend that it should not be made more preponderant than the differences that characterize us. Feminists in moral theory inspired by an ethics of care, such as Elizabeth Porter, have tied the concept of universal humanity to the value of vulnerability. She writes, ‘... the need for a politics of compassion is premised on a shared humanity, that is, our universal vulnerability to risk and the urgency to maintain human dignity.’²⁰ Seyla Benhabib has made the famous distinction between the ‘concrete’ and ‘generalized’ other, which supports her idea of a differentiated universalism in which the concrete other is more immersed in webs of relationships and a concrete history.²¹ Further, Porter argues that without ‘common humanity,’ differences could easily slip into the maintenance of domineering relations. In its absence, she argues, there can be a danger of paternalism: feelings of compassion may be turned into charity and condescension as notions of equal worth dissipate.²² For ethics of care feminists, this commitment to a differentiated humanity remains misplaced as, in their eyes, these arguments for humanity stem from a deep commitment to a political liberalism imbricated with the perils of modernity and the superiority of Western liberalism. For the sake of our argument, let’s move on to argue that differences matter. Beyond foundational discontent, how can differences be understood within the context of rights? As Porter writes, ‘caring for someone necessarily encompasses a concern for his or her equality and rights.’²³ Yet, what are the elements that thwart genuine human equality?

Instead of accepting the human devoid of characteristics such as ‘race, colour, sex, language, religion or other opinion’ (UDHR, article 2), I will argue that these characteristics should be crucial and mainly constitute the reasons why rights violations occur. Indeed, by focusing on the invisibility, and the irrelevance, of these characteristics, two main problems occur: 1) it dismisses the causes of violations as being caused by race, gender, religion, colour, class and so on 2) this leads to seeking an equality that is formal, and not substantive, as it disregards the conditions in which injustices occur specifically that of a gendered globalization or structural inequalities that are namely based on race, gender or other criteria. Reflecting so-called neutrality, the UDHR and its two ensuing Covenants, the Covenant on Civil and Political Rights (ICCPR) and the Covenant on Economic, Social, and Cultural Rights (ICESC) proclaim the equality of men and women without regard to sex²⁴ underlining ‘sameness’ as its guiding principle. As Laura Parisi notes, “With the UDHR, other covenants laid stress on “sameness” and “did not take into

¹⁹ Gilligan 1982, 59-63

²⁰ Porter 2006, 99.

²¹ Benhabib 1992, 149

²² Porter 2006, 102.

²³ Porter 2006, 108

²⁴ Okin 2000, 27

account men and women's qualitatively different experiences in the public spheres nor did they tackle structures that perpetuated gender hierarchies."²⁵

If, indeed, women should not be discriminated against *because of their sex* (that is, deprived of dignity and rights because they are women), the reality on the ground is that the main discriminations that affect women are sex-related (namely, their rights are infringed because they are women). Women can be violated in the same way as men – and in this way their rights are recognized, such as the violations pertaining to brutality in prisons or arbitrary arrests – but can be also violated in many ways that men are not. Namely the sex-related violations they encounter (where women are more affected than men) include domestic violence, female circumcision, rape, pornography, or trafficking, and a parallel can be drawn to the global violence enshrined in the feminization of impoverishment. As Calhoun writes, ‘... we would be well advised to consider the question of gender bias more carefully before concluding that our moral theory speaks in an androgynous voice.’²⁶ Calhoun goes on to notice, ‘... unless we are also quite knowledgeable about the substantial differences between persons, particularly central differences due to gender, race, and class, we may be tempted to slide into supposing that our common humanity includes more substantive similarities than it does in fact.’²⁷ Hankivsky speaks of the latter as care ethic's value of contextual sensitivity, which pays attention to determinants like race, class, gender, nationality, religion, geography and so on to show how ‘differences’ matter.²⁸ She writes that this principle of the ethics of care is a safeguard against assimilation, ‘recognizing and respecting the worth of human differences presents a real challenge to liberal notions of uniformity and sameness.’²⁹ Not only does the dearth of the recognition of differences leads to the ‘self as mushroom’ but also disregards the values that come with the celebration of the plurality of being.

This is quite crucial as it prevents difference as being pre-fixed by a norm. Ethics of care feminists shift the theoretical priorities in rights and consequently bring forward the values lacking in a narcissistic vision of the self that is detached from care, namely relationships, contextual sensitivity, responsibilities and the mutuality that surge from the thickness of our engagements with others. Focusing too much on humanity (a narcissistic universalism) whose aim is to restore bias might restore bias due to its lack of emphasis on difference. To quote Cockburn once more, ‘The concrete other is far more predisposed toward an ethic of care that emphasizes responsibilities, relationships, practices, customs, feelings and activities, in other words an idea of the self that actually engages in the daily lives of children, women and men.’³⁰ Feminists have sought to restore the bias, and the feminism embedded in the ethics of care is especially helpful in restoring this lack of emphasis on differences.

²⁵ Parisi 2002, 572

²⁶ Calhoun 1988, 452

²⁷ Calhoun 1988, 454

²⁸ Hankivsky 2006, 100.

²⁹ Hankivsky 2006, 100

³⁰ Cockburn 2005, 76

c) The ‘Public-Private Split’

Human rights language reflects and reifies the private-public split, what constitutes the ‘political’, and the limited applicability of regulations and laws to the world of the public sphere. Here, the private is simply subsumed within male rights with damaging repercussions on the particularities and needs of women. Matters which are more likely to affect women are, thereby, relegated to the ‘non-political’. The language of a masculine citizenship – with its corollary of civil and political rights – does not more precisely cover the world of women and children who are more inclined to suffer from socio-economic deprivations. For feminists of the ethics of care, thus, IR should pay attention to the experiences of women in the private sphere (and with a word of caution, without advocating it as ‘superior’ or endorsing the sexual division of labor)³¹. The primacy of civil and political rights (the public realm of government and state) over economic, social, and cultural rights (the private sphere of households and families) cannot answer to the needs of women. They also mirror the fact that rights have mostly responded to the needs of privileged members of ‘Northern’ societies in which civil and political rights are preponderant. Yet, the issue is also about the dismissal of the sphere of reproductive work, which remains undervalued and the ways in which moral theory has treated the private sphere as ‘less important.’³² For care feminists, the private-public split also mirrors the fact that care has been formulated as an intimate activity enclosed in the privacy of homes that it is irrelevant to the public world. ‘The value of women’s private domestic work has been too quickly dismissed in the past by those who assumed that public productive labour is self-evidently more important than private reproductive labour.’³³ This dismissal of the sphere of ‘reproductive work’ is intimately linked to socio-economic security, including food security, ‘housing, health care, social assistance, education and adequate sanitation and facilities support for a range of caregiving roles and responsibilities’³⁴ emphasizing the need for more than civil rights. It, further, crosses over the public and private in a way that does more than support their binary opposition.

Care feminists would more readily highlight the importance of health, childcare, elderly care and disability rights which are intrinsically linked to care as a practical activity. These rights would more intimately impact the lives of women and those they care for. As Romany has pointed out, ‘The patriarchal narrative that separates the economic and social framework from the political and the civil generates a story of ‘civility’ and citizenship that neglects the socio-economic structures in which women’s subordination occurs.’³⁵ The undervaluing of care in ethics and its concomitant values, but also the undervaluing of care as a practice, has many repercussions in the world of human rights. This can be seen more clearly in the increased demand for the migration of care workers and, can be also directly linked to various waves of human trafficking that impact workers globally. In this sense, care is closely tied to contemporary citizenship – as shall be more closely scrutinized in part III. This divide is not, therefore, solely based on civil

³¹ Tronto 1996, 145; Walker, 1998

³² Calhoun 1988, 460.

³³ Calhoun 1988, 460.

³⁴ Hankivsky 2006, 98

³⁵ Celina Romany 1994, 109

and political rights on the one hand, and socio-economic rights on the other, but also on the face of globalization and neo-liberalism on the one hand (what Chang and Ling term ‘techno-muscular capitalism’),³⁶ and the devaluing of the values and practice of care on the other (values of nurturance).

To care ethicists, the private-public dichotomy touches upon that of masculinity-femininity and how these binary oppositions, so typical of Western thinking, has allowed for the essentialisation of gender roles as well as the devaluing of care. The values of responsiveness and responsibility to particular others will be that of a positive care image as a healthy expression of both masculinity and femininity.³⁷ To Robinson, this amounts to ‘a reconceptualization of traditional understandings of the nature of and relationship between the ‘public’ and the ‘private’ spheres’³⁸ as well as the de-essentialisation of caring as an ethics and practice for both men and women. It is thereby not solely about ‘taking care out of the private sphere’, but also about challenging the ‘gendered dichotomies that have created two separate realms of human existence.’³⁹ This is why ‘gender equality’ – which seeks to increase the number of ‘working’ women – remains a problematic articulation for care ethics in that the main policies surrounding inequality disregard the issue of unremunerated reproductive labour and the ‘double burden’ that affect many women, bypassing the context in which inequality is allowed to flourish.

d) Ethics of care’s conceptions on rights

Robinson and Mahon find the categories ‘children’s rights’ or ‘women’s rights’ (embedded in ‘gender equality’) inappropriate insofar as they divide human beings into clear-cut categories when social realities are based on webs of connection. This is what Robinson terms the ‘fractured’ nature of rights.⁴⁰ This analysis, however, fails to see the reasons why these categorizations within human rights language have become highly successful to tackle discrimination and the historical groundings for such categorizations. It, furthermore, deepens the care-justice dichotomy. In their absence, rights inadvertently fall back into the liberal universalism feminist care ethicists seek to eschew at all costs with its blatant disregard for difference. Robinson writes with regard to women’s rights’ approach to trafficking, ‘it is destined always to see trafficking as a women’s rights “issue” and thus, of relevance only to women.’ She goes on to state, ‘it is also likely to remain plagued by debates over universality and difference – especially among so-called “First World” and “Third World” women.’⁴¹

First, the debate on human rights is bound to repose on the negotiation between ‘universalism’, ‘sameness’ and ‘difference’ as it is being re-appropriated by the very peoples for whom rights remain evasive. The avoidance of this debate may also re-inscribe discrimination for vulnerable categories. For instance, in 1979, CEDAW made

³⁶ Chang and Ling 2000, 27.

³⁷ Robinson 2011, 136

³⁸ Robinson 2011, 131.

³⁹ Robinson 2011, 136.

⁴⁰ Robinson 2011, 141.

⁴¹ Robinson 2011, 151.

crucial, but still tentative, breakthroughs in that its preamble calling for a New International Economic Order (NIEO) to recognize global inequalities as well as the contribution of women in the home that weakens the private-public distinction.⁴² Parisi writes, 'in this way, feminists were trying to resolve the 'sameness' vs 'difference' debate that has historically served as justification for discrimination against women.'⁴³ Emphasizing 'difference' implicates debating the negative impact of the universalization of rights at the expense of groups who are not represented in the prototype 'human.' It also endows specific groups with, for instance, child-specific rights protections, which respond to their needs. This is in line with the principle of contextual sensitivity so often highlighted in the ethics of care. As Parisi has explained the recognition of specific rights of women acknowledges men's and women's different experiences in the public sphere, and constitutes a step toward recognizing gendered hierarchical relations of power.

Second, the specificity of human rights and categories such as 'women's rights' and 'children's rights' have been developed, with great caution and tremendous efforts, to counter the debilitating discriminatory philosophical foundations that rights are based on universal sameness – a statement that ethics of care feminists would concur with. Self-understandably, this, in no way, diminishes the connections between individuals and groups, as it underlies the principle of intersectionality,⁴⁴ that is, the interdependence of the rights of women with those of men and children. This is a fine line to tread as intersectionality may become too unspecified, but Yuval-Davis still concedes, 'in concrete experiences of oppression, being oppressed, for example, as 'a Black person' is always constructed and intermeshed in other social divisions (for example, gender, social class, disability status, sexuality, age, nationality, immigration status, geography etc).'⁴⁵

While Yuval-Davis seeks to challenge the simplicity of the interconnections, human rights activists such as Charlotte Bunch has underlined the interconnectedness of rights⁴⁶ such as those of women with other groups who may be depending on them. Indeed, if global caregivers (especially mothers) were entitled to rights of social protection at home, the prospect of the formation of transnational families might be less likely to occur, providing their children with increased emotional security. Further, Van den Anker writes, 'To those who ask 'what about men' I would like to hold out that the fact that men are also exploited means not that we need to give up on gender-specific research; it means that the ways in which men are exploited as men need to be researched in more detail and addressed in similarly contextual policies.'⁴⁷ This does not have to be undertaken in a contextually-blind fashion or by disregarding the life-sustaining webs of relationships that support personhood or a relational ontology. Indeed, from 1985 onwards, the 'sameness' model, which has led to strategies that pinpoint the specificities of groups, was namely undertaken with the view of challenging the 'universalist' ethos in which 'sameness' was embedded. These 'major theoretical shifts in both theory and

⁴² Parisi 2002, 575

⁴³ Parisi 2002, 575

⁴⁴ Yuval Davis 2006.

⁴⁵ Yuval Davis 2006, 195

⁴⁶ Yuval Davis 2006, 203

⁴⁷ Van den Anker 2007, 179.

practice' entailed 'focusing on gender relations as a category of analysis and delineated gender-specific experiences' as well as the rejection of the 'sameness' principle of liberal feminists that corroborated the close relationship between liberalism and rights.⁴⁸ The development of human rights demonstrates a spirit of 'trial and error' in which rights are always being fought for, and constantly contested, in order to reflect the social realities that impede their realization. For instance, indigenous women have pushed for increased recognition of the effects of globalization and its impacts on the environment and poverty – which was subsequently recognized by Beijing+5.⁴⁹ This shows that rather than being a 'monolithic moral category', rights are constantly subjected to modifying shifts. They remain a 'tool' that is used in different fashions, rather than a wholly completed project.

II. The Capabilities Approach: A Care Critique

a) Nussbaum's reinvention of rights

The capabilities approach has been initiated by Amartya Sen and elaborated by Martha Nussbaum. In this section, I will conduct a critical overview of Nussbaum's work with the view that her revision of rights is still too tied to modernity and the liberalism that ushered rights. Nussbaum herself is clear about the latter as she writes that the capability approach which is meant to serve women in the developing world, is based 'on a cross-cultural normative approach account of central human capabilities, closely allied to a form of political liberalism...'⁵⁰ Indeed, her reinvention of rights in terms of 'human capabilities' is an example of what care feminists find problematic with rights language, even though it has been 'reinvented' in terms of combined capabilities. First, it goes without saying that Martha Nussbaum is an advocate of liberal cosmopolitanism and she is clear that her approach follows closely the rights approach.⁵¹ As she writes, '... capabilities as I conceive them have a very close relationship to human rights, as understood in contemporary international discussions. In effect, they cover the terrain covered by both the so-called first generation rights' (political and civil liberties) and the so-called 'second-generation rights' (economic and social rights).'⁵² Hers is a list of human capabilities – 'bodily health', 'bodily integrity', 'play', 'control over one's environment' and the propensity to care – which she defines as the ability and the choice to carry fundamental functions such as eating and having time for needed leisure. It also comes from the premise that women are globally more disadvantaged than men. She writes – in a way that is close to Kant's categorical imperative, '...women are not treated as ends in their own right... Instead, they are treated as mere instruments of the ends of others – reproducers, caregivers, sexual outlets, agents of a family's general prosperity.'⁵³

⁴⁸ Parisi 2002, 580

⁴⁹ Parisi 2002, 582

⁵⁰ Nussbaum 2000b, 222

⁵¹ '... the separate person should be the basic unit for political distribution.' Nussbaum 2000b, 246.

⁵² Nussbaum 2000b, 237.

⁵³ Nussbaum 2000b, 220.

Nussbaum has introduced her capability approach on the basis that rights remain insufficient to fulfill the needs of most vulnerable peoples. Nussbaum precisely argues that even though laws that protect the rights of women may be enshrined in constitutions, there are many factors that may deter a person from signaling that a crime has actually occurred, including the fact that they may be rarely punished even when reported.⁵⁴ In this sense, there should also be closer introspection of the societal structures that allow for, and condone, the violation of rights. Indeed, she importantly notes that even though liberty may be enshrined on paper, it is no guarantee that it will be in practice.⁵⁵ Furthermore, a right does not easily translate into a capability. She writes, ‘Many women who have, in a sense, a ‘choice’ to go to school simply cannot do so: the economic circumstances of their lives makes this impossible.’⁵⁶ Human capabilities are about ‘what people are actually able to do and to be’ and are coterminous with ‘the dignity of the human being’ as well as the freedom of choice.⁵⁷ Her approach is really about *securing* rights, instead of writing them. She makes the distinction between functioning and capability in that an individual may have the functioning of ‘eating’, but may decide to fast (capability). A starving person does not have the functioning of food and is deprived of the liberty of choice. A capability, in other words, is the opportunity and freedom to choose a functioning. Benería explains, ‘While a capability is the ability to do, a functioning is the actual achievement. Thus, capabilities can be linked to the removal of obstacles in peoples’ lives’ so that they may choose the kind of life they want to live.⁵⁸ With regards to human rights, female genital mutilation deprives somebody of the ability of sexual functioning.⁵⁹ She thus grounds rights in the idea of combined capabilities. Freedom means, therefore not only having a nominal right, but also being in the material position to exercise this right. ‘Women in many nations have a nominal right of political participation without having this right in the sense of a capability: for example, they may be threatened with violence should they leave their home’.⁶⁰

The ethics of care shares important similarities with the capabilities approach, including the role of human capabilities and flourishing in societies through realizing the functions of health, education, and care.⁶¹ It also shares the premise that one has to look at the daily lives of peoples instead of merely thinking about what is good for them. As Nussbaum writes, ‘... the fact that one nation or region is, in general, more prosperous than another is only a part of the story: it does not tell us what the government has done for women in various social classes, or how they are doing. To know that, we would need *to look at their lives*.’⁶² (Emphasis mine) Although Nussbaum may differ in her prescription – what it needed to make lives better – by looking at a list of criteria, she still chooses to look at aspects of life that are exponentially related to health care, education and land rights. Yet,

⁵⁴ Nussbaum 2000b, 222

⁵⁵ Nussbaum 2000b, 227

⁵⁶ Nussbaum 2000b, 227

⁵⁷ Nussbaum 2000b, 220-1

⁵⁸ Benería 2008, 12.

⁵⁹ Nussbaum 2000b, 235

⁶⁰ Nussbaum 2000b, 238

⁶¹ Hankivsky 2006, 104.

⁶² Nussbaum 2000b, 228

for Robinson the capabilities approach does not criticize the matrix of rights sufficiently, nor does it tackle the effects gendered globalization on the lives of the poorest of the poor.⁶³ Benería here acutely argues that one has to look at why the shift from capabilities to achieved functionings, which requires an act of choice, cannot be so easily converted. ‘Choice’ may be limited by social constraints, but there also needs to be a ‘willingness to move in a direction of a ‘universal caregiver state’ in order to build the time pressures faced by households...’⁶⁴ Benería notes that there needs to be more of a decoupling from neo-liberal policies that give rise to a dearth of functionings. Also, the critique of care feminists would actually be very similar to that of postcolonial feminists who would take issue, as I see it, with the capabilities approach, namely its claim to be ‘cross-cultural’ and also the universal atomistic ontology on which it reposes. As Benería writes, ‘She views this list as being universally valid despite her claim that capabilities are more specific, and hence more locally adaptable and culturally specific than human rights.’⁶⁵

Although Nussbaum is categorical that her approach follows a ‘cross-cultural’ approach, she firstly admits that it is a by-product of political liberalism and Aristotelian philosophy, and that people from former colonies would not un-problematically espouse its tenets despite it being for their own good. For Nussbaum, her capabilities approach bypasses the debate of the origins of rights as exclusively Western as it is founded on ‘what people are able to be and to do’, which is universal. Yet, it may be argued that the capabilities approach follows Western parameters. Nussbaum actually writes, ‘... even if one defends theory as valuable for practice, it may still be problematic to use concepts that originate in one culture to describe and assess realities in another – and all the more problematic if the culture described has been colonized and oppressed by the describer’s culture.’⁶⁶ Postcolonial feminists would take issue with the fact that Nussbaum’s approach ‘knows best’ what people need. Nussbaum contends, ‘The ‘capabilities approach’... looks at what women are actually able to do and to be, undeterred by the fact that oppressed and uneducated women may say, or even think, that some of these capabilities are not for them.’⁶⁷ In spite of this nonetheless, they might be able to provide some interesting ‘data’: ‘As has already happened with human rights approaches, we need to rely on the ingenuity of those who suffer from deprivation, they will help us find ways to describe, and even to quantify, their predicament.’⁶⁸ The lessons of modernity are here clear to see for those who are viewed as ‘backward’ and in need of more humanity and dignity. Even if Nussbaum writes that cultures are dynamic and that Western cultures are typically described as progressive compared to static Eastern cultures,⁶⁹ she falls back on emphasizing Western values. Drucilla Cornell writes in this instance, ‘What many human rights advocate do not note, however, is that their definition of the wrongs they are ‘righting’ carries with it an ethically dangerous representation of those others for whom they seek to do the right thing.’ Gayatri Spivak maintains that there *may be* a

⁶³ Robinson in Hankivsky 2006, 104.

⁶⁴ Benería 2008, 18. See also Robeyns.

⁶⁵ Benería 2008, 13.

⁶⁶ Benería 2008, 239

⁶⁷ Benería 2008, 241

⁶⁸ Benería 2008, 242

⁶⁹ Nussbaum 2000b, 225

Social Darwinist discourse behind rights in that there are ‘enforcers’ and the ‘represented’, i.e. those who are forever in need of help. Cornell goes on to state that a social Darwinist discourse is ‘one of the many teleologies that end up privileging the West as the most progressive formation of humanity’s being.’⁷⁰ Cornell writes, ‘Although Nussbaum wishes to leave space for a cultural interpretation of basic human capabilities, she believes it is possible to describe in normative terms the proper contents and functions of these capabilities and therefore what it means to be a full human being.’⁷¹ For Spivak, Nussbaum dispenses capabilities in a way that remains too tied to a ‘view from above’ rather than a deep commitment of being with others as a co-drafter of rights.

b) Nussbaum on care

Nussbaum recognizes both the specificity of women and their unrecognized and disproportional contribution to care work. ‘One area of life that contributes especially greatly to women’s inequality is the area of care. Women are the world’s primary, and usually only, caregivers for people in a condition of extreme dependency. Women perform this crucial work, often, without pay and without recognition that it is work.’⁷² She goes on to describe a less individualistic view of the person ‘... the capabilities approach, using a different concept of the human being, one that builds in need and dependency into the first phases of political thinking, is better suited to good deliberation on this urgent set of issues.’⁷³ For care feminists, this would be an ‘add’ and ‘stir’ approach to care without examining radical implications of its tenets. Indeed, as Nussbaum recognizes the moral abilities of responsiveness to the needs of others and other virtues that are tied to care, she goes to state that these are valuable insofar as they can find their place within a universalist feminism. For care feminists, this falls short of realizing the radical implications of an ethics of care in an era of gendered globalization. Indeed, while care feminists highlight a ‘relational account of individuals’ they do so without resorting to the ‘abstract universalism characteristic of much cosmopolitan and legal discourse.’⁷⁴

Rightly so, Nussbaum notes that care cannot be only equated with virtues as the home can be a site of love as well as site of abuse, especially for women and children.⁷⁵ Nussbaum recognizes that human beings begin their lives as helpless and dependent creatures unlike typical social contract theorists embedded in liberal approaches; yet, her approach falls short of recognizing interdependence in its entirety. For instance, she views that helplessness is a condition that occurs at the beginning or possibly at the end of life, which she juxtaposes to a state of weakness. Ontologically, however, the ethics of care would view vulnerability as being a natural part of the human condition as ‘all are

⁷⁰ Cornell 2010, 106

⁷¹ Cornell 2010, 107

⁷² Cornell 2010, 222

⁷³ Nussbaum 2000b, 237. Robeyns, however, still finds that Nussbaum’s CA is still very much premised on individualism. (See Beneria 2008, 17)

⁷⁴ Hutchings in Hankivsky 2006, 98.

⁷⁵ Nussbaum 2000a, 243

givers and recipients of care.’⁷⁶ Daniel Engster encapsulates this idea eloquently, ‘it is not just that we have depended and probably will depend someday upon the care of others, it is that human life is deeply implicated in relations of dependency and caring.’⁷⁷ Nussbaum also juxtaposes the needs of human beings in an Aristotelian fashion seeing humans as ‘animal beings whose lives are characterized by profound neediness as well as by dignity.’⁷⁸ This would remain insufficient for care feminists, as similar to Andrew Linklater, Nussbaum adds the ‘care factor’ without looking at the complete implications that its ethics and praxis would have on political philosophy and contemporary transnational relations. Furthermore, care feminists would find that her approach to care belies the degree to which she views care solely as a possible exploitative tool that can strip women of their capabilities instead of an activity that holds value in itself. She writes, ‘... a good society must arrange to provide care for those in condition of extreme dependency, without exploiting women as they have traditionally been exploited, and thus depriving them of other important capabilities.’⁷⁹ In short, critical care feminists would look favorably at many of Nussbaum’s capabilities approach, but would still categorize it as overwhelmingly liberal and as overlooking the many webs of relationships that define personhood in gendered neo-liberal globalization.

III. Migration and rights: The importance of rights for care

a) A care analysis of migration

The commodification and transnationalization of care have to be viewed within the context of gendered and racialized globalization as well as a neo-liberal framework that allows for its occurrence through its transnational policies. Globalization supports this dual trend towards hegemonic masculinities in a world endowed of rights and elite world citizenship, as well as the feminization of low-wage migrants and the dearth of rights. For Robinson, a vision of masculinity has permitted binary oppositions between care and work, including the privatization of care and the practice of care as a feminine and low-value activity. These masculine norms have permeated the global institutions and social policies that manipulate images of care as an undervalued work reserved for migrant women of color along with social constructions of docility, servility, and self-sacrifice. As far as the sex trade is concerned, such images can be correlated to foreignness and exoticism.⁸⁰ In turn, the institutions of hegemonic masculinity adopt policies such as Structural Adjustment Policies (SAPs) that deepen poverty in the global South and push women to migrate in an urge to provide for their children with profit-making activities of survival. Robinson and Mahon write, ‘In the global South, IMF-sponsored structural adjustment policies prompt states to encourage the out-migration of care workers as they become increasingly reliant on the flow of remittances.’⁸¹ As such institutions of neo-liberal restructurings contribute to visions of care that are dependent, foreign, weak

⁷⁶ Tronto 2011, 163.

⁷⁷ Quoted in Hankivsky 2006, 152.

⁷⁸ Nussbaum 2000b, 236

⁷⁹ Nussbaum 2000b, 236

⁸⁰ Robinson 2011, 137

⁸¹ Robinson and Mahon 2011, 178

contributing to the feminization, racialization, and denigration of the activities of care. There is thereby the construction of binary oppositions of the masculine as autonomous and separated from care that is constructed as dependent, emotional, and reliant. In a way, the autonomy of businessmen and 'working' women is celebrated without recognition of the layers of dependency upon which such autonomy reposes and which may permit the exploitation, even enslavement, of others.⁸² As Tronto writes, 'Every human society depends upon the production of citizens through their birth and child rearing. Every worker must be "reproduced" in order to survive and to return to work the next day.'⁸³ How does care analysis differ from rights-analysis of female (care) migration?

Human trafficking and the migration of female care workers carry great risks – among them violence and exploitation – and these flows are largely dependent upon the state policies that lead to such migratory patterns globally as well as the global policies of the International Monetary Fund and World Bank through SAPs. Such policies in countries like the Philippines lead to poor health care, an unstable labor market, and poor schooling.⁸⁴ In this way, 'context', 'responsiveness', 'relationality' and 'vulnerability' are not solely concepts embedded in an abstract atomistic ontology in IR, but also fundamental to understanding why women migrate, leave their families behind, and, by doing so, carry immense risks to do so. 'Contextual sensitivity' highlights the vulnerable political situation in nations such as Ukraine and how women are deeply embedded in webs of relationships with others, which leads to their migration. As such, the departure from their homes stems from a desire to remit their earnings home and take care of dependents - what Saskia Sassen has famously termed the 'feminization of survival'.⁸⁵

It is, thus, the case that these women do not leave for mere economic factors, but for fulfilling the dearth of care and support that their children and families experience. Hankivsky writes in relation to Ukrainian migrants, 'The majority of female migrants including those who may find themselves in the sex-trafficking industry, may differ in terms of geography, age, and education, but they are often similar in that they are mothers.'⁸⁶ Sarvasy and Longo also corroborate the fact that Filipina migrant care workers are mostly women of whom 'a critical care consists of mothers and breadwinners.'⁸⁷ Oftentimes, the combination of poverty and caregiving responsibilities constitutes a push factor in the migration of women whose stories highlight the frustration they feel when failing to meet their responsibilities towards dependents (the responsibility to provide care). The migratory movement of women may also be linked to underlying causes in countries of origin such as mass poverty, but also the lack of welfare policies. If the state fails to provide these basic needs, women will be likely to be leaving their countries to replace the role of the state. Shapkina writes, 'by introducing economic reforms but failing to protect the well-being of the people and shield them from economic

⁸² Robinson 2011, 135.

⁸³ Quoted in Tronto 2011, 175.

⁸⁴ Parreñas 2001, 22

⁸⁵ Hankivsky 2006, 153

⁸⁶ Hankivsky 2006, 153.

⁸⁷ See also Sarvasy and Longo 2004, 402

deprivation, the state contributed to the operation of sex-trafficking markets.’⁸⁸ Most importantly, Hankivsky explains, ‘... these circumstances are not unique to the Ukrainian context: they also characterize the lives of women internationally who are, by a combination of factors, inextricably linked to their complex web of relations.’⁸⁹ For ethics of care feminists, care values and webs of relationships explain the migration of women in a way that rights language cannot. By neglecting the role that care plays in our lives, policies remain blind to what fosters the well-being of peoples and the social fabric – what Arlie Hochschild has termed a social ecology or ‘emotional commons.’⁹⁰ The devaluation of care is inexorably linked to *who* matters as social actors – in a neo-liberal context that encourages the commodification and transnationalization of care. Why is, then, rights language so fundamental to a critical ethics of care and care workers?

b) Citizenship rights and care: weakening the dichotomy

The causes of migration of women are, indeed, increasingly intertwined with policies tied to care deficits at home. This debate may in turn underline the dearth of rights that care workers may experience in the North. Indeed, migrant women in the North suffer from poor pay, long hours, and sexual exploitation.⁹¹ As such, many activist and scholars – even care ethics feminists – fall back on the ‘rights’ of migrant workers and are anxious to see these promptly realized. The dearth of rights for all migrants is inexorably tied to the ‘denationalization of economies’ and the ‘renationalization of politics’⁹² in globalization resulting in xenophobia and border control restrictions in receiving countries with dire policy implications. This leads to the temporary membership of raced care workers instead of the promotion of their residency and full membership into the societies they have come to serve through the rearing of the children of the global North. As Parreñas writes, ‘with the rise of xenophobia, society promotes the temporary membership of migrants, their stunted incorporation into the nation-state, and the formation of transnational families.’⁹³ ‘Denationalized economies’ want the labor of care workers and their contributions to national and global economies, as well as the rearing of their children, but a ‘renationalized politics’ seeks their stunted inclusion into the nation-state thus eroding their rights of citizenship and the many rights attendant to these. Parreñas speaks of the ‘partial citizenship’ of migrant care workers and sees the continuity between the erosion of rights and the racialization and feminization of care workers. As she writes, ‘For the most part, economic gains achieved in migration entail the loss of civil and political rights, first from the nation of citizenship, which loses juridical-legislation rights, and second from the host nation-state, which relegates unequal rights to migrants along the lines of race, class, and gender.’⁹⁴ Most importantly, and in parallel to care feminists – but also human rights activists and scholars – she notes the discrepancies between international human rights codes which support the rights of

⁸⁸ Hankivsky 2011, 158

⁸⁹ Hankivsky 2011, 156

⁹⁰ Hankivsky 2011, 160. Hochschild 2013, 149.

⁹¹ Hochschild 2013, 147.

⁹² See Sassen in Parreñas 2001, 247

⁹³ Parreñas 2001, 248

⁹⁴ Parreñas 2005, 48

transnational migrants, and the host societies which fail to implement them and on which they are mostly and inevitably dependent.⁹⁵

Overlooking the crucial role that rights language has to play in ensuring the immediate rights of domestic migrant workers can be overly risky. For instance, activist and labor organizer Ai-Jen Poo, along with the organization she founded ‘Domestic Workers United’, has helped push the New York Domestic Workers Bill of Rights into law in 2010. This not only put domestic workers and the work they do in the limelight, but also ensures basic protections such as overtime pay; paid leave; one day of rest per week; as well as and protections from sexual harassment and discrimination included in the state’s Human Rights Law.⁹⁶ Poo is now pushing for such bills to be passed across the United States. Now heading the National Domestic Workers Alliance, she has ‘spearheaded a campaign to change federal labor rules that are soon expected to bring minimum wage and overtime protection to some 1.7 million home care workers.’⁹⁷ The role of law in ensuring basic protections for workers is essential as they have been excluded from labor law protections – as a legacy of slavery⁹⁸ – even though they are more likely, due to the nature and isolation of their work, to be exploited to verbal and sexual abuse as well as other violations, especially as live-in-caregivers and undocumented migrants. In 2011, the ILO passed a convention on decent work for domestic workers, which sets standards such as weekly days off, limits to hours of work, and protection from violation and abuse.

These laws and conventions have also been the inspiration for domestic workers themselves to gather, share stories, and claim their rights. Sharing stories is as important a part of working to guarantee the passing of bills into law as it promotes solidarity based on care work. In this way, Ai-Jen Poo notes that the aim of these efforts is to guarantee a sense of dignity and humanity to domestic workers. It also places the value of care at the heart of social and public policy. While laws remain imperfect, they have succeeded in changing the daily lives of (some) domestic workers who are guaranteed more protections, duly pay, and more time for rest. Here the language of rights has modified working conditions for domestic workers: for example, the New York “nanny bill” has allowed domestic workers to claim back pay, collect penalties and interest that are due.⁹⁹ Care workers demonstrate this disjuncture between care, equality, and rights. In the space ‘across borders’, migrant Filipina care workers have pressed for their rights through acts of resistance and appeals that changed Marcos’ 1982 forced remittances policy through the International Labor Organization (ILO). As they write, “Filipinas use their deterritorialized citizenship to remind the Philippine Government that they are citizens with economic rights and political rights, not just commodities to be exchanged.”¹⁰⁰ More importantly, this negotiation of rights and duties in the deterritorialized space are a push for governments and stakeholders to bring care within the public arena beyond the level

⁹⁵ Parreñas 2005, 52

⁹⁶ Lerner 2013, 69

⁹⁷ Lerner 2013, 66.

⁹⁸ Al Jazeera America 2014.

⁹⁹ Lerner 2013, 69

¹⁰⁰ Sarvasy and Longo 2004, 404

of the (invisible) private household. For Sarvasy and Longo, this pressing of rights across borders undermines ‘the rigidity of the feminized public-private divide.’¹⁰¹

It goes without saying that activists such as Poo, who works tirelessly for workers’ rights, are also deeply aware of the structures that permit such violations in a social system tied to class, race, and the value of care in global economies. Such activists are also deeply aware of the relational ties, which they forego – namely the well-being of their own families – to work for the well-being of others and the crucial role care plays for the flourishing of human societies. Rights, in this way, do not dismiss the economic structures that place (or rather fail to place) social value on the worker, and the global class identities and hierarchical gendered and raced systems. Sharon Lerner writes that Poo was inspired by Gloria Steinem’s 1994 essay ‘Revaluing Economics’ which notes that ‘pay is all too often based not on the difficulty or importance of the task, but on the “sex, race and class” of the people doing it.’¹⁰² Joan Tronto similarly speaks of the ‘marking’ of care workers with the ‘stigma of care work’ which renders care undemocratic: ‘They are viewed as part of a feminized, multicultural workforce... they are clearly designated as appropriate to do servile work and are marked by race, colour, religion, creed, accent, national origin and so forth.’¹⁰³ More importantly, she goes on to state, ‘Yet, the harm of such marking is multifaceted. In the first place, it signals that marked people are better suited for care work and, thus, are not *equals*.’¹⁰⁴ (Emphasis mine)

Like Parreñas, who more explicitly underlines the value of rights for workers, Tronto speaks of ‘equality’ – a concept very much interrelated to, and embedded in, rights and justice. In this regard, in order to strive for more *equality*, Poo situates care ‘values’ into the heart of public debate. She, furthermore, locates ‘love’ – an unexplored value in public policy – at the core of her work.¹⁰⁵ Here Lerner elaborates upon Poo’s motivations, ‘She sees love as the force creating the complex tangle of human relations around domestic work – motivating immigrant parents to leave their homelands so they can support their children, for instance, and driving American working parents to seek out nannies for their own kids. But she also sees human emotion as the key to sorting out that tangle.’¹⁰⁶ Rights-activism is here closely interlinked to an understanding of the human relations that characterize care work and the emotions inevitably tied to it. In this way, care ethics and rights language work together to promote workers’ well-being. This demonstrates that care will be all the more enhanced with more recognition from the law, and not from bypassing, or undervaluing, the laws that undermine or ignore care. In similar fashion, for Narayan, more attention to the needs of those who are rights-deprived fosters more adequate forms of justice. She writes, ‘attention to the needs, predicaments

¹⁰¹ Sarvasy and Longo 2004, 406

¹⁰² Lerner 2013, 68.

¹⁰³ Tronto 2011, 173

¹⁰⁴ Tronto 2011, 174

¹⁰⁵ Lerner 2013, 68.

¹⁰⁶ Lerner 2013, 70

and suffering' of those who are rights-deprived... 'might result in social policies that institutionalize welfare rights, rights to adequate medical care, and so forth.'¹⁰⁷

c) Cosmopolitanism and citizenship rights in justice and care

Drawing on a feminist contemporary citizenship and Kantian rights of hospitality in the context of mass gendered migration, Sarvasy and Longo have argued that the contemporary world citizen is not the cosmopolitan jet-setting businessman, but rather female migrant workers who leave their families, including their children, to engage in care relations across borders, as well as provide remittances to their countries of origins.¹⁰⁸ On this feminist view, international relations, development, and the migration that yields specific types of workers, are relational, raced, classed, and geopolitical as well as gendered. What do care feminists find problematic with Sarvasy's and Longo's analysis?

Joan Tronto's critique of Sarvasy and Longo's analysis is based on the premise that Kantian rights of hospitality – which is a premise of his vision of world citizenship as grounded in rights – are deficient to start with. First, they don't take into consideration the randomness of birth and are anchored in the perspective of the rights of the established citizens. As such, Tronto is right to point out that such an analysis will fail to appreciate that the rights of citizenship should not depend on the burden of the visitor to defend or demand. It is important to note that Tronto's arguments based on the ethics of care, as Sarvasy and Longo readily admit, object to Kantian views, whether ethical or political, and understandably so, based on the ethics of care's outright rejection of Western liberalism. But Sarvasy and Longo's argument is perhaps more subtle than Tronto appears to argue despite their 'allegiance' to Immanuel Kant. It points more so to the fact that migrant workers, as they are exploited by their own state or the families which they serve, are defying and redrafting the very laws which fail to protect them. As such, their rights are negotiated in a space, which they themselves inhabit – the space between state protection, the global governance system, and the 'in-between'. Their acts of resistance are but a construction of the agency they exercise to practice their rights. As Tronto rightly notes, 'The right of hospitality never de-centres the position of the original citizen as "the one who was here first" and never challenges the basically unequal footing upon which original citizens and guest workers stand.'¹⁰⁹ Nonetheless, it is namely because of the 'unequal footing' in which they are situated that guest workers have to claim 'their rights' – the language there is in the institutions of governance to make them subjects rather than objects – real peoples rather than disposable commodities. This is supported by the ethics of care, which calls for a shift in priorities regarding globalization. As Hankivsky writes, 'The centrality of care in all human life counters the increasing focus on commodification and wealth creation as key to well-being. In addition, this perspective can bring about a shift in priorities regarding globalization as it

¹⁰⁷ Narayan 1995, 139

¹⁰⁸ Sarvasy and Longo 2004, 392-415

¹⁰⁹ Tronto 2011, 172-3

views people as constantly enmeshed in relationships of care rather than simply focused on pursuing their own goals and maximizing their own individual interests.’¹¹⁰

Here Tronto falls back into asserting the superiority of care ethics over the language of justice. By persisting in securing the dichotomy between justice and care, however, crucial substantial points might be lost. Indeed, what is interesting is that Tronto’s solution to the plight of migrant care workers in a transnational global political economy closely resembles that of Sarvasy and Longo’s: grounding the rights of citizenship on caring relations. Here Tronto falls back on care as a ground for citizenship. The broadening of citizenship should include care workers, and value the practice and ethics, which care propounds. As Tronto writes, ‘Since the care work of transnational care workers often stretches beyond national limits, all of the care relations in which a care worker is involved should make her or him eligible for citizenship *by virtue of her/his care relationship with those who are engaged in caring relations with citizens*.’¹¹¹ A bigger objection one might have in general is questioning why the grounding for citizenship should be based on any kinds of performance – whether economically valued or not – rather than on rights of humanity – the right to belong to a community by virtue of being human. Even Tronto writes, ‘some might object that transnational care workers have not done enough to earn their citizenship. In order to take this objection seriously, though, we need to ask whether the accident of birth in a particular nation-state should be “enough” to earn citizenship?’¹¹² In so saying, Tronto is close to cosmopolitans who question the rigidity of the links between accident of birth, nation-state belonging, and world citizenship. Such ethical prescriptions belie the degree to which despite objections that are foundational, ethics of care feminists are more ‘cosmopolitan’ than acquiesced. Fiona Robinson actually defends the ethics of care against charges that it does not concern *distant* others as misunderstood from its principle of ‘responsibility to particular others.’ As she writes, “on the contrary”, this principle, “does not preclude concern for distant others or those who are not “like” us...”¹¹³ Thinking of care values signifies problematizing the modern cosmopolitan framework that is universalizing in the first place, and not simply tacking them onto cosmopolitan ones, but elements that reflect a clear cosmopolitan intent – despite modifying the wording and clearly rejecting the universalisms of cosmopolitanism – is plain to see. In the words of Robinson, ‘Key normative concepts in political philosophy, including citizenship... can no longer be sustained at the level of the nation-state.’¹¹⁴ Such concerns have also been addressed in trends towards contradictory cosmopolitanisms or more rooted cosmopolitanisms.¹¹⁵

Further, Robinson notes the links between the values of care, care as a practice or social reproduction, and its crucial role for contemporary citizenship. As she writes, ‘a critical feminist ethics of care must reclaim the role of caring values as a positive, valuable aspect of all societies and of caring labour as an important practice of contemporary

¹¹⁰ Tronto 1995. Hankivsky 2006, 100

¹¹¹ Tronto 2011, 175

¹¹² Tronto 2011, 176.

¹¹³ Robinson 2011, 132

¹¹⁴ Robinson and Mahon 2011, 182

¹¹⁵ See Cheah and Robbins, 1998. Appiah, 1998, 91.

citizenship.’¹¹⁶ Here Robinson follows in the steps of Sarvasy and Longo as they point to a ‘multi-scalar’ citizenship, a multiple and overlapping vision of citizenship that involves migrant care workers. Yet, while Robinson downplays the role of rights in securing the valuing of care, Sarvasy and Longo consider it an integral part in modifying social relations and public recognition. ‘The case of migrant domestic workers illustrates how the pressing of rights brings paid care workers and inevitably the issue of care into public discourse and policy.’¹¹⁷ The expansion of citizenship to involve caregivers implicates the recognition of care as a life-sustaining activity upon which all ‘economics’ dwells. As Bosniak crucially observes, ‘to characterize a set of social practices in the language of citizenship is to honor them with recognition as politically and socially consequential.’¹¹⁸

Conclusion.

A critical ethics of care promotes an alternative moral vision, and make crucial shifts, in which: 1) universalism and autonomy are supplemented, rather than replaced, by the relational self and interdependence which displaces the focus on a specific norm; 2) relationships and responsibilities are as important as rules and rights, 3) contextual sensitivity which highlights difference challenges ‘sameness’ and reiterates the differences that are crucial to the plurality of modes of being. Hankivsky notes that ethics of care feminists seek to move beyond even most progressive interpretation of rights as grounded in global ethics in order to confront issues of power first and foremost. Yet, as Ai-Jen Poo’s work demonstrates, most activists do not think of ‘rights and obligations’, but of vulnerability, and even ‘love’ as public policy when they, along with care workers, push for rights and listen to each other’s stories. They do so with the hindsight that care grounded in rights promotes a greater understanding of the dichotomies between paid and unpaid work, the ‘double burden’, and the effects of globalization on the migration of care workers from the global South to the North. In other words, a greater recognition of care will lead to the drafting of rights embedded in care: rights embedded in the principle that all are in need of care and need to care. What the ethics of care calls for is a cultural shift towards a more robust recognition of care in our lives and its incorporation into the judicial, legal and political systems.

The inappropriateness of citizenship laws reflects the unequal power relations between nations that produce global servants and masters. Through their deterritorialized acts of resistance however, domestic migrant workers demonstrate the power they have as global citizens to modify care discourse. ‘Unlike a women’s right approach’, Robinson states, ‘a critical care ethics approach can help us to understand why women are economically and physically exploited and subject to violence through elucidating the connections between femininity and subservience, on the one hand, and masculinity and autonomy, on the other.’¹¹⁹ While this knowledge is essential in understanding economic and physical exploitation, the language of rights is what the international community has devised to redress injustices in an increasingly globalized world. Sarvasy and Longo crucially infer,

¹¹⁶ Robinson 2011, 136.

¹¹⁷ Sarvasy and Longo 2004, 396

¹¹⁸ Quoted in Sarvasy and Longo 2004, 396.

¹¹⁹ Robinson 2011, 142

‘This more democratic version of multilayered citizenship approach does not, however, guarantee emancipatory results. It shares all the *weaknesses of any rights based policies* situated within contexts of unequal power relations and biased legal procedures.’¹²⁰ (Emphasis mine) Yet, as they write, ‘it offers a necessary corrective to the dominant commodification/exploitation model of analysis of the globalization of care, because domestic workers around the world are pressing for their rights. As they engage in rights politics, they bring care workers and the issue of care into global public discourse...’¹²¹ Feminists working within the realm of rights are aware of the deep flaws that comes with the language of rights, but are also cognizant of their importance for rights-deprived groups. Narayan writes that rights have been ‘instrumental’ in social and political movements namely because they transformed certain groups of people into “fellow citizens whose concerns mattered, into people whose human worth mattered.”¹²² It goes without saying that however flawed, incomplete, and inadequate, rights are there to be appropriated by the vulnerable. This site of appropriation is the very space care workers have taken to press for their rights as global care ‘citizens.’ As Samantha Brennan points out, ‘feminists need to work within the realm of rights to articulate an alternative account of the content of our rights.’¹²³ Claiming the superiority of ‘care ethics’ over ‘rights language’ might end up creating the same binary oppositions feminist ethics of care dispute and inadvertently weaken the richness of a critical ethics of care.

References

Al Jazeera America. Advocate for domestic workers’ rights wins MacArthur ‘genius’ award. <<http://america.aljazeera.com/articles/2014/9/17/leader-of-domesticworkerswinsmacarthurgeniusaward.html>>

Appiah, Kwame Anthony. 1998. Cosmopolitan Patriots. In *Cosmopolitics: Thinking and Feeling beyond the Nation*, eds Pheng Cheah and Bruce Robbins, 91-116. MN: University of Minnesota Press.

Benería, Lourdes. 2008. The crisis of care, international migration and public policy. *Feminist Economics* 14 (3): 1-21

Benhabib, Seyla. 1987. The generalized and the concrete other: The Kohlberg-Gilligan controversy and feminist theory. In *Feminism as critique*, ed. Seyla Benhabib and Drucilla Cornell, 77-96. Minneapolis: University of Minnesota Press.

Brennan, Samantha. 1999. Reconciling feminist politics and feminist ethics on the issue of rights. *Journal of Social Philosophy* 30 (2): 260-275.

Calhoun, Cheshire. 1988. Justice, Care, Gender Bias. *The Journal of Philosophy* 85 (9): 451-463

¹²⁰ Sarvasy and Longo 2004, 409

¹²¹ Sarvasy and Longo 2004, 409

¹²² Narayan 1995, 138

¹²³ Brennan 1999, 272

Chang, Kimberly A. and Ling, L.H.M. 2000. Globalization and its intimate other: Filipina domestic workers in Hong Kong. In *Gender and global restructuring: Sightings, sites and resistances*, eds. Marianne H. Marchand and Anne Sisson Runyan, 27-43. London & New York: Routledge.

Cockburn, Tom. 2005. Children and the feminist ethic of care. *Childhood: A Global Journal of Child Research* 12 (1): 71-89

Cook, Rebecca J. 1994. Women's international human rights law: The way forward. In *Human rights of women: national and international perspectives*, ed. Rebecca J. Cook, 3-37. Philadelphia: University of Pennsylvania Press.

Cornell, Drucilla, 2010. The ethical affirmation of human rights: Gayatri Spivak's intervention. In *Can the subaltern speak? Reflections on the history of an idea*, ed. Rosalind Morris, 100-114. Columbia University Press.

Elshtain, Jean Bethke. 1993. *Public man, private woman: Women in social and political thought*. Princeton, NJ: Princeton University Press.

Gilligan, Carol. (1982) 1993. *In a different voice: psychological theory and women's development*. Cambridge, MA: Harvard University Press.

Hankivsky, Olena. 2006. Imagining ethical globalization: The contributions of a care ethic. *Journal of Global Ethics* 2(1): 91-110.

-----, 2011. The dark side of care: The push factors of human trafficking. In *Feminist ethics and social policy: Towards a new global political economy of care*, eds Fiona Robinson and Rianne Mahon, 145- 161. Vancouver: University of British Columbia Press.

Held, Virginia. 1995. The meshing of care and justice. *Hypatia* 10 (2): 128-132.

Hobbes, Thomas. 1949. *De cive or The citizen*. New York: Appleton-Century-Crofts, Inc.

Hochschild, Arlie Russell. 2013. *So how's the family? And other essays*. Berkeley: University of California Press.

Hutchings, Kimberly. 2002. Speaking and hearing: Habermasian discourse ethics, feminism and international relations. *Review of International Studies* 31(1): 155-165.

-----, 2000. Towards a feminist international ethics. *Review of International Studies* 26 (Special Issue): 111-130.

Mahon, Rianne and Fiona Robinson. 2011. Introduction. In *Feminist ethics and social policy: Towards a new global political economy of care*, eds Rianne Mahon and Fiona

Robinson, 1-17. Vancouver: University of British Columbia Press.

Mahon, Rianne and Robinson, Fiona. Conclusion: Integrating the ethics and social politics of care. In *Feminist ethics and social policy: Towards a new global political economy of care*, eds Rianne Mahon and Fiona Robinson, 178-183. Vancouver: University of British Columbia Press.

Mahon, Rianne and Robinson, Fiona. 2011 (eds). *Feminist ethics and social policy: Towards a new global political economy of care*. Vancouver: University of British Columbia Press.

Narayan, Uma. 1995. Colonialism and Its Others: Considerations on Rights and Care Discourses. *Hypatia* 10 (2): 133-140.

-----, 2000. Essence of culture and a sense of history: A feminist critique of cultural essentialism. In *Decentering the center: Philosophy for a multicultural, postcolonial, and feminist world*, ed. Uma Narayan and Sandra Harding, 80-101. Bloomington: Indiana University Press.

Nussbaum, Martha. 2000a. *Women and Human Development: The Capabilities Approach*. The University of Chicago: Cambridge University Press.

.....2000b. Women's Capabilities and Social Justice. *Journal of Human Development*. 1(2): 219-242.

Okin, Susan Moller. Feminism, women's human rights, and cultural differences. In *Decentering the center: Philosophy for a multicultural, postcolonial, and feminist world*, ed. Uma Narayan and Sandra Harding, 26-47. Bloomington: Indiana University Press.

Parisi, Laura. 2002. Feminist praxis and women's human rights. *Journal of Human Rights* 1(4): 571-585

Parreñas, Rhacel. 2005. *Children of Global Migration: Transnational Families and Gendered Woes*. Stanford University Press.

..... 2001. *Servants of Globalization: Women, Migration and Domestic work*. Stanford University Press.

Pateman, Carole. 1988. *The sexual contract*. Cambridge: Polity Press.

Peterson, V. Spike. 1990. Whose rights? A critique of the "givens" in human rights discourse. *Alternatives* XV: 303-44.

Porter, Elizabeth. 2006. Can Politics practice Compassion? *Hypatia* 21(4): 97-123.

Robinson, Fiona. Care ethics and the transnationalization of care: Reflections on autonomy, hegemonic masculinities, and globalization. In *Feminist ethics and social policy: Towards a new global political economy of care*, eds Rianne Mahon and Fiona Robinson, 127-144. Vancouver: University of British Columbia Press.

..... 2011. Stop talking and listen: Discourse ethics and feminist care ethics in international political theory. *Millennium: Journal of International Studies* 39 (3): 845-860.

..... 2011. *The Ethics of Care: A Feminist Approach to Human Security*. Philadelphia: Temple University Press.

Romany, Celina. 1994. State responsibility goes private: A feminist critique of the public/private distinction in international human rights law. In *Human rights of women: national and international perspectives*, Rebecca J. Cook, 85-116. Philadelphia: University of Pennsylvania Press.

Sassen, Saskia. 2002. Global cities and survival circuits. In *Global woman: Nannies, maids, and sex workers in the new economy*, eds. Arlie Russell Hochschild and Barbara Ehrenreich, 254-274. New York: Henry Holt.

..... 2000. Women's burden: Counter-geographies of globalization and the feminization of survival. *Journal of International Affairs* 53 (2): 503-524.

Sarvasy, Wendy and Patrizia Longo. 2004. The globalization of care. *International Feminist Journal of Politics* 6(3): 392-415.

Sevenhuijsen, Selma L. 1991. The morality of feminism. *Hypatia* 6 (2): 173-191.

Standford Social Innovation Review. Case Study. Labor of Love by Sharon Lerner. Summer 2013. 66-71.

Tronto, Joan. 1996. Care as a political concept. In *Revisioning the political: feminist reconstructions of traditional concepts in Western political theory*, ed. Nancy J. Hirschmann and Christine Di Stefano, 139-57. Boulder, CO: Westview Press.

..... 2011. A feminist democratic ethics of care and care workers: Citizenship and responsibility. In *Feminist ethics and social policy: Towards a new global political economy of care*, eds Rianne Mahon and Fiona Robinson, 162-177. Vancouver: University of British Columbia Press.

Van den Anker, Christien . 2007. Trafficking and women's rights: Beyond the sex industry to 'Other Industries'. *Journal of Global Ethics* 2(2): 163-182.

Walker, Margaret. 1998. *Moral understandings: A feminist study in ethics*. London: Routledge.

Williams, Fiona. 2011. Towards a transnational analysis of the political economy of care. In *Feminist ethics and social policy: Towards a new global political economy of care*, eds Rianne Mahon and Fiona Robinson, 21-38. Vancouver: University of British Columbia Press.

Yuval Davis, Nira. 2006. Intersectionality and feminist politics. *European Journal of Women Studies*. vol. 13(3):193-210.