

**Syllabus & Handout**  
IDH2930

**The Feminine Voice**

**Section 3139; Class Number 31110**

**Day: Friday; Period: 7-8**

**Hume 119**

**Instructor:** Professor Larry A. DiMatteo (larry.dimatteo@warrington.ufl.edu)

**Book:** Carol Gilligan, *In a Different Voice: Psychological Theory & Women's Moral Development* (Harvard University Press, 1982, 1993), 174pp

**Description:** Provides basic philosophical and theoretical framework for understanding the distinctly feminine voice in the general theory of moral development and its application in ethical decision-making. This is a discussion-oriented course in which each student's view is welcomed and expected. Another area touched upon in the course is how does the feminine voice is psychological theory informs feminism and the meaning of feminism? We also explore how gender stereotypes have influenced the development of law.

**Objectives:**

- Explore the findings and an influence of Carol Gilligan's 'theory of women's moral development;'
- Review the influence of *In a Different Voice* in ethical thinking (Ethics of Care)
- Explore the different types and meanings of feminism.
- Examine bias in law based upon gender stereotypes.

**Grade:** Small Group Discussions & Debates (50%); Two Short Essays (1500-1750 words each) (40%); Report on Feminism (10%)

**Essay Style:** 12 font, 1.5 spacing, indented paragraphs, no spacing between paragraphs, 1-inch margins.



## Instructor Bio

Dr. DiMatteo is the Huber Hurst Professor of Contract Law & Legal Studies, past Chair of the Management Department, and former Editor-in-Chief of the *American Business Law Journal*. He teaches courses in commercial law, law for entrepreneurs, international business law, and legal aspects of technology management. Dr. DiMatteo is a graduate of the Cornell and Harvard Law Schools. He also has a PhD in Business & Commercial Law from Monash University (Australia). Dr. DiMatteo is the author or editor of 15 books and has over 130 publications. His most recent books include: *Artificial Intelligence: Global Aspects on Law & Ethics* (Cambridge University 2022); *Lawyering in the Digital Age* (Cambridge University 2021); *Smart Contracts, Blockchain Technology & Digital Platforms* (Cambridge University 2020); *Chinese Contract Law* (Cambridge University Press 2018). He was named the 2011-2012 University of Florida Teacher-Scholar of the Year. Dr. DiMatteo is a three-time winner the Hough Graduate School Teacher of the Year and is a Fulbright Scholar.

**Academic Honesty Policy:** The University's policies regarding academic honesty, the honor code, and student conduct related to the honor code will be strictly enforced. Full information regarding these policies is available at the following links: Academic Honesty: <http://www.registrar.ufl.edu/catalog/policies/students.html#honesty> Honor Code: <http://www.dso.ufl.edu/sccr/honorcodes/honorcode.php> Student Conduct: <http://www.dso.ufl.edu/sccr/honorcodes/conductcode.php>

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**Class Demeanor Policy:** Students are expected to contribute in a positive and constructive manner. Any student purposively affecting the course negatively or another student negatively will be asked to leave the course and will be reported to appropriate university administration. The instructor anticipates that all students on this course will be supportive of one-another and patient with the difficult material they are engaging. Students are expected to assist in maintaining a classroom environment that is conducive to learning. In order to assure that all students have the opportunity to gain from time spent in class, unless otherwise approved by the instructor, students are prohibited from engaging in any form of distraction. Inappropriate behavior in the classroom shall result, minimally, in a request to leave class. If you have questions about appropriate classroom demeanor, please notify the instructor.

**Excused/unexcused absences/ arriving late to class:** Any excused absence must be documented by a doctor's note and a copy of this note provided to the instructor. Unexcused absences will incur a five percent grade penalty per incident. Late arrivals to class will be treated as unexcused absences and will incur a five percent grade penalty per incident.

### **Schedule (16 hours)**

Jan 7 Introductions. What does the word morality mean to you? Ethical schools of thought.

Jan 14 *In a Different Voice*: Female Moral Development: 'Story of Amy and Jake'

Jan 21 *In a Different Voice*

Jan 28 Framing of moral problems (case of the flying Baptist). Thinking outside of the box (dilemma). Is thinking outside the box a good thing? When does formal rules (legal rules as rule utilitarianism) versus contextualism take precedence?

Feb 4 Essay #1 Due: Short Presentations (5 minutes)

Feb 11 Feminism. How would you define 'feminism'? Why is history (with some important exceptions) been characterized by patriarchal societies?

### Student Reports on Videos

Feb 18 Gender Stereotypes & Bias in American Law

Debora L. Threedy, *Dancing around Gender: Lessons from Arthur Murray on Gender and Contracts* (2010) 45 Wake Forest Law Review 749.

Orit Gan, *Anti-Stereotyping Theory and Contract Law* (2019) 42 Harvard Journal of Law and Gender 83.

Catharine A. MacKinnon, *Are Women Human? and Other International Dialogues* (2006) 18 Yale Journal of Law and Feminism 523.

Feb 25 Essay #2 Presentations

## **Additional Course Materials, Topics & Problems**

### **Videos**

‘Kohlberg’s Theory of Moral Development & Heinz Dilemma’ 8:45:

<https://www.youtube.com/watch?v=f0axVjiTe9Q>

‘Gilligan’s Theory of Moral Development’ 6:53:

<https://www.youtube.com/watch?v=ZwUGEIsxIDk>

‘Carol Gilligan on Stereotypes’ 2:47: <https://www.youtube.com/watch?v=xC48d0YVdh8>

Carol Gilligan, ‘Women & Moral Development’ 6:30:

[https://www.youtube.com/watch?v=2W\\_9MozRoKE&list=RDLVN6dvwXfFmZ4&index=4](https://www.youtube.com/watch?v=2W_9MozRoKE&list=RDLVN6dvwXfFmZ4&index=4)

Carol Gilligan, ‘Moral Injury & Ethics of Care’ 52:46:

<https://www.youtube.com/watch?v=axTmbbXPJ8g>

Michael McGowan, ‘Feminists Ethics of Care (Introduction)’ 25:37:

<https://www.youtube.com/watch?v=mCNmf2E34-M&list=RDLVN6dvwXfFmZ4&index=3>

Nathan Sasser, ‘Introduction to Feminism & Feminists Ethics’ 8:45):

<https://www.youtube.com/watch?v=iAGCoGf3LBY&list=RDLVN6dvwXfFmZ4&index=22>

## **Feminine Voice Discussion**

### **The Problem of Women**

Whose perception of self is so much more tenaciously embedded in relationships

The solution has been to consider women as either deviant or deficient in their development

Relational bias in women's thinking versus impartiality.

Instead of being seen as a developmental deficiency, this bias appears to reflect a different social and moral understanding

## Context

### *Developmental Psychology*

Carol Gilligan's work influenced the field of developmental psychology which is sometimes known as lifespan psychology. This branch of psychology deals with the social, cognitive, moral, and emotional development of people at every stage of life. Developmental psychology began with a heavy focus on children but grew to include studies and theories about people at all stages of development. Developmental psychologists chart the stages of moral and psychological development of babies, children, young adults, and older adults. Gilligan draws upon the work of many developmental psychologists in her analysis of the ways in which male and female children develop different conceptions of morality. She is known for reexamining the findings of developmental psychology because its conclusions might not fully capture the moral development of women.

### *Lawrence Kohlberg on Moral Development*

Gilligan draws upon psychologist, professor, and Harvard University colleague Lawrence Kohlberg's (1927–87) work with children and moral dilemmas to inform *In a Different Voice*. She notes that it was a given that the participants in psychological experiments were male. She applies Kohlberg's experimental framework to girls of the same age and analyzes the gendered differences in moral reasoning that form the central focus of *In a Different Voice*. Kohlberg interviewed 72 lower and middle class, white, male children about a moral dilemma in which a man must decide whether to steal medicine that he cannot afford for his ailing wife. He generalized his findings to create Kohlberg's stages of moral development, a concept that became foundational in the field of developmental psychology.

Kohlberg's theory of moral development indicates that children and adults go through six stages as they develop a sense of morality. Stages one and two are the preconventional stages during which children only understand that they want to avoid punishment. Stages three and four are the conventional stages in which gaining approval of other people and following rules become the basis for moral decisions. In postconventional stages five and six people transition from following the law to following values like justice and equality. Kohlberg noted that many people do not reach the final stage of moral development.

Kohlberg's theory of moral development explained in detail the ways that children developed cognitively rather than behaviorally. Gilligan engages girls in some of the same moral discussions and psychological experiments that Kohlberg had previously conducted only on boys. She finds that girls are more likely to base ethical decisions on the way that others are affected rather than simply on reasoned consideration. Gilligan argues that Kohlberg's theory was unrealistically biased toward male perspectives and that female voices must be taken into consideration when describing moral development.

## **In A Different Voice (book)**

Kohlberg (1971) Women third of his six-stage; 'what pleases or helps others and is approved of by them.' Keeps them from developing a more independent and abstract ethical conception in which concern for others derives from principles of justice rather than from compassion and care.

*In a Different Voice* synthesizes years of research involving interviews and discussions with girls as young as six years old and women of indeterminate ages. They describe their personal experiences in their own voices excerpted throughout the text.

### ***Chapter 1: Woman's Place in Man's Life Cycle***

Gilligan traces the misguided concept that men are the norm upon which everyone should be measured. From the biblical Garden of Eden story in which the first woman is created out of the rib of the first man to the gendered analysis of theorists like founder of psychoanalysis Sigmund Freud (1856–1939), women have been considered within unquestioned, masculine frameworks throughout history. Gilligan quotes Freud arguing that females are less oriented toward justice and more inclined to let emotions take over than to make sound decisions.

Gilligan explains that traditional psychologists like Freud assumed that females were intellectually, biologically, and socially inferior. She summarizes the work of the recent psychologists who challenged Freud on these beliefs. Psychologists began to understand that the responsibility for reproduction and childcare shaped female personalities as more relationship-driven than morality-driven. Over time other psychologists began to describe the differences between the way that gender roles define people's lives through social frameworks. Researchers focused on the importance of peer groups in children's development, noting that girls tended to play cooperatively while boys tended to play competitively.

Gilligan argues that most psychologists did not account for gender differences in their studies of how children developed. Instead, they preferred to generalize research about and by men to apply to all people. She believes that the female approach to morality can be understood as different from men's and studied on its own terms. Gilligan says that women are criticized for being overly sensitive or unable to make clear-cut moral decisions as well as men can. These supposed weaknesses do not represent anything that is lacking about females, according to Gilligan. Instead, the differences point to the messages sent to people of both genders by society.

People of both genders are socialized to live by significant differences in value systems based on the relative importance of relationships with others. Much can be learned about people's moral development from examining these gendered differences. Women's approach to morality differs from that of men because of the ways that they are socialized as caretakers of others: "Sensitivity to the needs of others and the assumption of the responsibility for taking care led women to attend to voices other than their own and to include in their judgement other points of view." Men are encouraged by society to think as individuals while noticing the effects on others is secondary. Their tendency to solve moral problems as if they were mathematical equations

speaks to their understanding of their role in the world as a problem solver rather than a caretaker.

## ***Chapter 2: Images of Relationship***

Gilligan describes a psychology experiment in which two six-year-old children, a boy and a girl, are given a moral dilemma to consider. The dilemma involves a man named Heinz who has to decide whether to steal a drug that he cannot afford in order to save his ill wife. The boy decides that Heinz should steal the drug and explains that logically speaking, life is more valuable than property. The girl expresses a more complex vision of the consequences for all of the people involved such as Heinz going to jail then being unable to care for his wife at all or get more of the drug when it runs out. She advocates for a different resolution to the moral dilemma such as Heinz negotiating an agreement with the pharmacist.

Gilligan argues that the different responses from the boy and the girl reveal important differences in moral reasoning. According to Gilligan psychologists traditionally consider the boy's response as "correct" and the girl's response as "indecisive." She instead asserts that the girl's conception of morality is based on "a narrative of relationships that extends over time" while the boy's response represents the male tendency to treat moral dilemmas as "math problems with humans." While both approaches to moral dilemmas are useful, they are different rather than correct or incorrect. Gilligan discusses other experiments that compare the responses of boys and girls to support the notion that girls make decisions based on how they will affect others and boys use a more logical approach that assumes a "right answer."

Gilligan does not claim that one moral approach is more correct than the other. Both approaches speak to the mixed nature of human life: "These disparate visions in their tension reflect the paradoxical truths of human experience—that we know ourselves as separate only insofar as we live in connection with others, and that we experience relationship only insofar as we differentiate other from self." Gilligan suggests that an ideal moral framework might look like a balance between a relationship-focused approach and a problem-solving mentality to moral issues.

## ***Chapter 3: Concepts of Morality and Self***

Gilligan refers to interviews she conducted with college students about their conception of morality to reinforce her argument that women understand morality as providing "a way of solving conflicts so that no one will be hurt." According to Gilligan this avoidance of conflict can lead to trouble with taking a stand as they consider the needs of others instead of their own. Gilligan asserts that focusing too much on others' needs and perceptions in a male-dominated society "bespeaks a self, uncertain of its strength, unwilling to deal with choice, and avoiding confrontation." She uses birth control and abortion as examples to reveal the ways that society often judges choices as selfish or immoral.

Gilligan examines the expectation by society to become mothers and caretakers, but women are not encouraged to look out for their own interests or care for themselves. This situation is harmful to women, according to Gilligan, because "in order to be able to care for another, one

must first be able to care responsibly for oneself." Because they are so often judged and punished for their choices, women often experience a "reluctance to speak publicly in their own voice, given the constraints imposed on them by their lack of power and the politics of relations between the sexes."

Gilligan argues that females must belatedly learn to take care of their own needs after they spend years or decades prioritizing the needs of others. She explores the contradictory messages society sends because it holds women responsible for their choices while at the same time judging them as selfish for making choices that prioritize their own well-being. Gilligan asserts that the mixed messages sent by society often harm the development of identity and sense of self. When women must address critical moral decisions the judgement of society is particularly unhelpful.

#### ***Chapter 4: Crisis and Transition***

Gilligan uses the term "ethic of care" to describe women's sense of morality as relationship-oriented because they are uniquely responsible for pregnancy, childbirth, and childcare. Gilligan describes these crises as times when they experience significant psychological growth but can also feel a sense of defeat and disconnection. She describes a study she conducted with female study participants who had experienced unwanted pregnancies. These women first looked to others for the reasons why they find themselves in crisis. They gradually develop moral responsibility for their own choice of whether to have an abortion.

The "ethic of care" is connected explicitly to women's unique connection to human reproduction which relates to their responsibility to provide childcare. They are socialized to prioritize the needs of others, first as daughters then as mothers. Gilligan describes how they face crises along the way that challenge their socialized desire to care for others at their own expense. In crisis situations those who listen to their own internal voices and depend on them when making decisions often emerge morally and psychologically stronger after a crisis.

For Gilligan, unwanted pregnancies are crises in which women can develop a stronger "inner voice." On the other hand, those who find themselves in crisis can instead experience "defeat" by making decisions according to others' wishes. Gilligan shows that females who describe themselves as giving up responsibility for their own choices and "floating" or "drifting" through their crises are less fortunate. They suffer psychologically because they avoid developing a mature sense of morality by continuing to prioritize the needs of others while ignoring their own voices.

#### ***Chapter 5: Women's Rights and Women's Judgments***

Gilligan explores the ways in which women's conception of morality is shaped by history. She explains that as women have fought for and gained rights over time, such as the right to vote or reproductive rights, their motives have often been questioned as selfish and harmful to society. This general condemnation reflects a society in which self-sacrifice is viewed as more fitting than acting based on their own needs. Exercising the adult responsibility to make choices for themselves can evoke anger and harsh judgement from society at large. Gilligan argues that this



widespread social consensus that females should ignore their own needs and look toward caring for others is very powerful.

Gilligan states that for many years women were denied "the right to include oneself in the compass of morality." She argues that the "ethic of care," the female tendency to prioritize the needs of others, over time matures into an "ethic of responsibility," characterized by focusing on their own needs, making responsible choices, and engaging in mutually satisfying relationships. Women face many obstacles as they develop their sense of responsibility for themselves.

Gilligan analyzes "the opposition between selfishness and responsibility." Both of these traits are paradoxically expected of females by society. Decision-making becomes fraught with complications as women feel "suspended between an ideal of selflessness and the truth of their own agency and needs." Gilligan uses interviews with college students at different points in their lives to demonstrate the ways in which they develop their sense of morality given these pervasive social constraints.

### ***Chapter 6: Visions of Maturity***

Gilligan describes discussions in her courses in which female students compared themselves to literary characters they admired. Her students described themselves as "helpless" and unable to "take a stand" in comparison to the novel characters they studied. Gilligan also describes a study in which she interviewed adults who were successful in their careers about their experiences growing up. She notes that they described their identity in terms of others. In describing their own development, female study participants "describe a relationship, depicting their identity in the connection of future mother, present wife, adopted child, or past lover."

Gilligan explores the ways in which relationships are interpreted differently in society. She also argues that women are more encouraged than men to have close relationships with others. Modern society prizes separation from a person's family yet pushes women to define themselves based on their attachments and relationships. Gilligan contends that these mixed messages confuse and frustrate women as they attempt to develop relational identities while remaining in touch with their feelings.

As these women achieved milestones in their educations and careers, they felt challenged at every step of the way by "the conflict they encounter between achievement and care." Gilligan studied men at similar levels of career achievement and found that their sense of identity was much clearer and stronger. They "radiate the confidence of certain truth" and describe themselves as separate and distinct from the other people in their lives. Girls are socialized to care for others but do not focus on developing their own unique identities. Gilligan argues that girls must be supported in their efforts to nurture a sense of their own voices and needs within a society that frames these needs as selfish. *In a Different Voice* continues to inspire many scholars to reevaluate the certainties of academic fields considering unique, previously silenced voices and lived experiences.

## ***Summary***

Carol Gilligan begins by reviewing the many areas in which psychology erases the female experience. *In a Different Voice* is Gilligan's analysis of her findings when she had girls and women address the same moral dilemmas that had previously been presented only to boys and men in developmental psychologists' work. Gilligan argues that morality is traditionally understood through a male lens due to the all-male participants. Through extensive interviews and discussions, Gilligan develops the notions of the "ethic of care" and the "ethic of responsibility." She finds that females are socialized to understand morality in terms of trying not to hurt people. Gilligan asserts that this relationship-based approach to decision-making differs from how boys and men often see morality. They tend to view moral dilemmas as "logic problems" that have been corrected and incorrect answers. Gilligan argues that the unique nature of women's ethical framework does not fit the categories designed by male researchers based on their findings with male participants. The field of developmental psychology has devalued women's sense of morality rather than accommodate the categories so that they are more inclusive.

Gilligan demonstrates that women face unique crises related to pregnancy and caretaking at various points in their lives. Gilligan argues that these crises can either become sources of harm or sources of strength. The study participants describe their moral development as learning over time to balance the "ethic of care" and the "ethic of responsibility." The "ethic of care" focuses on the responses of other people. The "ethic of responsibility" holds that we are responsible for our actions and choices as individuals. Women developing a sense of their voices and identities often take a back seat to others' desires and conceptions of morality according to Gilligan. Gilligan argues that some women learn over time to "take a stand" and make decisions that take their own well-being into account. Others suffer lives of self-sacrifice and self-denial in which they look outside of themselves for moral strength and guidance. *In a Different Voice* offers evidence and analysis of the ways in which all people can learn from female perspectives on morality.

## ***Moral Development and Gender Roles***

Carol Gilligan offers evidence that developmental psychologists have traditionally based their understanding of the moral development of children on research that involves only male participants. *In a Different Voice* offers a detailed analysis of the truths that are ignored and erased when only male voices are heard in the conversation on moral development. She explores the ways in which girls react differently to the same moral dilemmas that boys were presented in developmental psychologists' studies such as Lawrence Kohlberg's (1927–87) study.

Gilligan argues that women's lives are shaped around caretaking activities and are often thrown into crisis because of challenges that are unique to them. She spends time discussing the difficulties caused by unwanted pregnancies, real moral dilemmas that have no clear or correct outcome. Interviews with older individuals looking back at their moral development show how their lives and senses of morality were shaped by reproduction and caretaking. Gilligan contends that women often struggle to identify or tend to their own needs given the constraints they face due to both society and biology.

## ***Ethics of Care***

Gilligan argues that the central focus of a traditionally female understanding of morality is taking care of others. She states that women are expected to take care of men. According to Gilligan's research, women consistently define themselves through their relationships with others. They describe the stages of their lives according to their roles as daughters, wives, and mothers. Gilligan describes that a female orientation toward the world is often in relation to other people and their conception of morality is shaped by this orientation. She contrasts women's relationship-driven morality with men's socialized development of confident individual identities that they consider as standing on their own, unrelated to the web of relationships supporting their lives.

Gilligan repeats Lawrence Kohlberg's study involving the moral dilemma of whether a man who cannot afford medication for his wife should steal it. Kohlberg (1927–87) created his stages of moral development based on his interviews of six-year-old boys. Gilligan duplicates the study with girls at the same age. Gilligan finds that boys and girls reason in different ways as they struggle to decide whether the man should steal medication for his ailing wife. Boys tended to address the dilemma about stealing medicine as a logical problem to be worked out. They quickly answered that the man should steal the drug because life was more important than property. The girls in Gilligan's study react differently. They engage in dialogue about the varied outcomes of the potential decisions in terms of how they would affect the man, his wife, and the pharmacist in the scenario. They think about the ways in which a simple solution such as stealing or not stealing could have unintended consequences. Gilligan describes the traditionally female approach to morality in which girls are socialized to consider the needs of everyone involved in a situation as the "ethic of care."

## ***Ethic of Responsibility***

Gilligan develops the notion of a more individually focused "ethic of responsibility" that women develop throughout their lives. Men are socialized to develop identities as individuals who are responsible for their own actions and women are socialized to rely on and defer to other people they are in relationships with. They face many unique challenges in life surrounding reproduction and caretaking. Women also must choose between their own needs and the needs of others in their families.

Gilligan argues that as they endure these moral crises women often begin to understand that they need to prioritize their own well-being. This development can lead belatedly to the development of stronger individual identities. Gilligan cautions that the crises can become harmful and set lives on negative paths for women who do not rise to the occasion to stand up for their needs when in crisis. Gilligan discusses the ways in which society reinforces and expects boys and men to assert their identities in ways that prioritize their own needs but often judges women as selfish when they similarly take responsibility for their own choices. Gilligan argues that social forces work against women realizing unique identities as moral individuals with a voice of their own. Some women are more successful in enduring these social forces than others, in Gilligan's telling.

## Quotations

1. The way people talk about their lives is of significance.

Gilligan makes this observation while explaining the benefits of interviews as research tools. She argues that interviews allow participants to express their own unique voices and perspectives.

2. Sensitivity to the needs of others leads women to attend to voices other than their own.

According to Gilligan women's traditional social role as caretakers of others causes women to ignore their own needs. She contends that women are often more attuned to the voices and judgements of other people in their lives than to their own.

3. Women's place in man's life cycle has been the weaver of networks of relationships.

Gilligan describes the ways that women are socialized to act as "nurturer, caretaker, and helpmate" for men. Women create and maintain the family relationships that sustain human existence while men are expected to develop their own identities as individuals.

4. While women have taken care of men, men have tended to assume or devalue that care.

Gilligan's research demonstrates the tendency of women to see themselves as and act as caretakers of men and children. Because women are socialized to embrace this role, their caretaking efforts are rarely returned or appreciated, according to Gilligan.

5. When she relied on her perceptions in defining what was happening; the absolutes of moral judgement dissolved.

Gilligan argues that young women often begin their moral development by considering the impact of their decisions on others. She explains that as girls develop their own sense of identity, they begin to make moral decisions based less on clear-cut ethical rules and more on their own experience.

6. The truths of psychological theory have blinded psychologists to the truth of women's experience.

Gilligan notes that developmental psychologists tended to use only male subjects in their research then generalize these subjects' experiences to stand for people's experiences in general. Gilligan sees this erasure of women's voices in developmental psychology as harmful to the accuracy and integrity of findings in the field.

7. We know ourselves as separate only insofar as we live in connection with others.

Gilligan explores contradictions about moral reasoning and finds that people cannot base decisions only on their own needs nor only on others' needs. To Gilligan, a person's identity development must be balanced with their understanding of themselves in relationship to others.

8. The blind willingness to sacrifice people to truth has always been the danger of an ethics abstracted from life.

Gilligan refers to the historical tendency of leaders to expose the people in their charge to harm and death in service of supposedly ethical ideals. She implies that any system of moral understanding must be based on the realities people face in life.

9. The common thread is the hope that in morality lies a way of solving conflicts so that no one will be hurt.

Gilligan describes the ways that girls and women tend to view moral decisions in terms of their effects on other people. Women are socialized to avoid hurting others even when the situation calls for prioritizing their own needs and perspectives.

10. To be able to care for another, one must first be able to care responsibly for oneself.

Gilligan asserts that women cannot truly take care of others until they address their own identities, desires, and needs. Gilligan emphasizes that society sends strong messages that a woman's priority must be to take care of others.

11. A concern with individual survival comes to be branded as 'selfish' counterposed to the 'responsibility' of a life lived in relationships.

Gilligan argues that society judge women harshly when they make decisions based on their own needs. Even when they need to make certain decisions to support their own survival, women are called irresponsible when they attend to their individual needs over the needs of others.

12. Life, however valuable, can only be sustained by care in relationships.

Gilligan returns to the theme of the dual nature of life which is lived both individually and in connection with others. According to Gilligan both personal identity and relationships are necessary aspects of the human experience.

13. The notion that virtue for women lies in self-sacrifice has complicated the course of women's development.

Gilligan argues that society often considers it women's duty to sacrifice their own needs to serve others in their care. She maintains that the tendency of women to act according to

society's gender expectations has held them back in terms of moral, cognitive, and social progress.

14. She began to see conflict ... as a part of rather than a threat to relationships.

Gilligan describes the moral development of women as heavily influenced by the desire to avoid hurting others. This desire can lead women to unrealistically try to avoid conflict in general even though it is a natural part of any intimate relationship.

15. Among the most pressing items is the need to delineate in women's own terms the experience of their adult life.

*In a Different Voice* is Gilligan's analysis of women's and girls' reporting of their own experiences navigating their growth and development. Gilligan encourages researchers to continue to focus on women's own descriptions of their unique experiences of life in order to represent the human experience more fully.

### Critique

*Ethics of Care*: based on socialized gender roles, which in turn is reflected in the devaluation of a care approach. Rather than the either-or approach adopted by Gilligan, who regarded care-based morality as an alternative to justice-based morality, Nel Noddings has promoted the view that women's capacity for care is a human strength, which can and should be taught to and expected of men as well as women; caring then is the social responsibility of both men and women

### How do people make decisions about morality?

**The male approach** to morality is that individuals have certain basic rights, and that you must respect the rights of others. So, morality imposes restrictions on what you can do.

**The female approach** to morality is that people have responsibilities towards others. So, morality is an imperative to care for others.

Gilligan summarizes that male morality has a “justice orientation”, and female morality has a “responsibility orientation”.

She also outlines **3 stages in moral development**. The first is a **selfish stage**, the second is a **belief in conventional morality**, and the third is **post-conventional**. This is a progression from selfish, to social, to principled morality.

Women learn to care for others, and that selfishness is wrong. In stage 2 (conventional), women typically feel it is wrong to act in their own interests, and that they should value instead the interests of others. They equate concern for themselves with selfishness. In stage 3 (post-conventional), they learn that it is just as wrong to ignore their own interests as it is to ignore the interests of others. A connection, or relation, involves two people, and if either one is slighted, it harms the relationship.

“The moral imperative that emerges in interviews with women is to care, a responsibility to discern and alleviate the ‘real and recognizable trouble’ of this world. For men, the moral imperative is to respect the rights of others and thus to protect the rights to life and self-fulfillment. Women's insistence on care is at first self-critical rather than self-protective, while men initially conceive obligation to others negatively in terms of noninterference. For women, the integration of rights and responsibilities takes place through an understanding of the psychological logic of relationships. This understanding tempers the self-destructive potential of a self-critical morality by asserting the need of all persons [including themselves] for care. In the development of a postconventional ethical understanding, women come to see the violence inherent in inequality, while men come to see the limitation of a conception of justice blinded to the differences in human life.”

### **Gilligan's Observations**

(1) When boys have a dispute during play, they actively resolve it. When girls have a dispute, they quit playing [to protect the relationship]. responsibility connotes an act of care rather than restraint of aggression (38)

(2) Men's desire to limit interference vs. women's desire to respond is consonant with men's desire for separation vs. women's desire for connection. Fits in with the stereotype of men fearing commitment.

[in the third stage, women learn to] include self and other in the compass of care. And, at the same time, to accept responsibility for decisions. (90)

(3) The Druggist Dilemma (whether to steal medicine for a sick wife) [For women] the rights of life and property are weighed not in the abstract for logical priority, but in terms of the actual consequences their violation will have on the people involved.

(4) Women' moral concerns focus on concern is the concern for hurting. But, at the same time, being selfless harms the self and hence harms one's relationships

(5) The concept of a separate self, uncompromised by the constraints of reality is an adolescent ideal. [Erikson] (98) In Erikson, the sole precursor to adult intimacy and love is the trust acquired in infancy. All intervening experience is comprised of steps towards autonomy. (98) Gilligan's: shows a weakness of the male model of morality.

(6) Even when women reach Kohlberg's 6<sup>th</sup> state of moral development, the feminine voice (relations & care-based) is never completely expunged.

(7) Gilligan's 6<sup>th</sup> stage (female post-conventional morality) “responsibility and caring about yourself and others.” But realize that the principle put into practice is still going to leave you with conflict. So, you must accept responsibility for your decisions.

(8) Women versus Men: men like a hierarchical ordering of principles. This is analogous to “You Just Don't Understand” showing how in social relations, men care about establishing a hierarchy or pecking order, whereas women care about connecting with others. (99)

(9) Women's reluctance to judge is not moral relativism, but rather a recognition of the intricacies of real-world situations, and the uniqueness of individuals' experiences. Male post-conventional: minimize violence caused by unilateral action. (101)

(10) Problem with generalizations; theory versus praxis; richness of personality

## Meaning of Feminism

### *Introduction: Women's Rights and Feminism in the United States*

Feminism in the United States is part of a worldwide history that is centuries long. Feminism refers to any organized activity in support of women's rights. American movements to attain equal rights in all aspects of life and society are considered as "waves" of feminism. First Wave feminism involves the struggle for the right to vote. It began with the Seneca Falls Convention (1848), an assembly of prominent leaders in the women's rights movement. The First Wave achieved the right to vote for white women in 1920 with the 19th amendment to the constitution. Activists such as formerly enslaved religious orator and abolitionist leader Sojourner Truth (c.1797–1883) spoke out from the beginning against the exclusion of women of color from the American women's rights movement.

Second Wave feminism refers to women's rights movements of the 1960s. Feminism expanded its reach and included critiques of traditional family structures and gender roles. Second Wave feminists focused on legal battles for equal pay, reproductive rights, access to childcare, and the end of discrimination because of sex. Third Wave feminism began in the 1990s when feminists began to focus on diversifying the perspectives included in the conversation on women's rights. Gilligan is one of many Third Wave feminists who sought to bring feminist perspectives to a wide variety of contexts.

Some observers of American culture describe a Fourth Wave of feminism that is currently unfolding. Those who assert the existence of this Fourth Wave say that it is uniquely set in the social media landscape. Feminists of the Fourth Wave focus on political and social issues including sexual assault, gender diversity, and the ways that racism and sexism intersect in people's lives. These feminists are distinguished by their proficient use of social media to amplify their messages.

## 12 Views of Feminism

- (1) Courtney Martin, '**Reinventing Feminism**,' 11:10:  
[https://www.ted.com/talks/courtney\\_e\\_martin\\_this\\_isn\\_t\\_her\\_mother\\_s\\_feminism](https://www.ted.com/talks/courtney_e_martin_this_isn_t_her_mother_s_feminism)
- (2) Hanna Rosen, '**Data on Rise of Women**' (End of Men), 15:56:  
[https://www.ted.com/talks/hanna\\_rosin\\_new\\_data\\_on\\_the\\_rise\\_of\\_women](https://www.ted.com/talks/hanna_rosin_new_data_on_the_rise_of_women)
- (3) Kimberlé Crenshaw, '**Urgency of Intersectionality**,' 18:40:  
[https://www.ted.com/talks/kimberle\\_crenshaw\\_the\\_urgency\\_of\\_intersectionality](https://www.ted.com/talks/kimberle_crenshaw_the_urgency_of_intersectionality)
- (4) Sheryl Sandberg, '**Why we have too few women leaders**,' 14:42:  
[https://www.ted.com/talks/sheryl\\_sandberg\\_why\\_we\\_have\\_too\\_few\\_women\\_leaders](https://www.ted.com/talks/sheryl_sandberg_why_we_have_too_few_women_leaders)
- (5) Roxane Gay, '**Confessions of a Bad Feminist**,' 11:19,  
[https://www.ted.com/talks/roxane\\_gay\\_confessions\\_of\\_a\\_bad\\_feminist](https://www.ted.com/talks/roxane_gay_confessions_of_a_bad_feminist)



- (6) Alaa Murabit, '**What my religion really says about women**,' 12:04:  
[https://www.ted.com/talks/alaa\\_murabit\\_what\\_my\\_religion\\_really\\_says\\_about\\_women](https://www.ted.com/talks/alaa_murabit_what_my_religion_really_says_about_women)
- (7) Madeleine Albright, '**On being a woman and diplomat**,' 12:44:  
[https://www.ted.com/talks/madeleine\\_albright\\_on\\_being\\_a\\_woman\\_and\\_a\\_diplomat](https://www.ted.com/talks/madeleine_albright_on_being_a_woman_and_a_diplomat)
- (8) Halla Tómasdóttir, '**It's time for woman to run for office**,' 19:10,  
[https://www.ted.com/talks/halla\\_tomasdottir\\_it\\_s\\_time\\_for\\_women\\_to\\_run\\_for\\_office](https://www.ted.com/talks/halla_tomasdottir_it_s_time_for_women_to_run_for_office)
- (9) Sandi Toksvig, '**A political party for women equality**,' 19:23,  
[https://www.ted.com/talks/sandi\\_toksvig\\_a\\_political\\_party\\_for\\_women\\_s\\_equality?language=en](https://www.ted.com/talks/sandi_toksvig_a_political_party_for_women_s_equality?language=en)
- (10) Chinaka Hodge, '**What will you tell your daughters about 2016**,' 3:48:  
[https://www.ted.com/talks/chinaka\\_hodge\\_what\\_will\\_you\\_tell\\_your\\_daughters\\_about\\_2016](https://www.ted.com/talks/chinaka_hodge_what_will_you_tell_your_daughters_about_2016)
- (11) Chimamanda Ngozi Adichie, '**We should all be feminists**,' 29:19:  
[https://www.ted.com/talks/chimamanda\\_ngozi\\_adichie\\_we\\_should\\_all\\_be\\_feminists](https://www.ted.com/talks/chimamanda_ngozi_adichie_we_should_all_be_feminists)
- (12) Gretchen Carlson, '**How we can end sexual harassment at work**,' 14:35:  
[https://www.ted.com/talks/gretchen\\_carlson\\_how\\_we\\_can\\_end\\_sexual\\_harassment\\_at\\_work](https://www.ted.com/talks/gretchen_carlson_how_we_can_end_sexual_harassment_at_work)

## **Gender Bias in the Law**

### ***Husband and Wife-Covenants Not to Compete-Married Women's Right to Contract in Nebraska, Robert Berkshire (1953) 33 Nebraska Law Review 110***

Partners in a mortuary business made a contract containing a clause to the effect that if the second party to the agreement quit the partnership, he could not "set up or establish" a competing business either directly for himself or in association with others in the vicinity of North Platte for a period of ten years. This partner's wife set up a competing business in partnership with a complete stranger to the original contract. The husband quit the old business and worked for the new business but received no pay. The wife, while apparently doing little to aid the business, took a partner's share of the profits.

**Held:** Although this was a valid covenant not to compete, the court will not grant equitable relief by specifically enforcing the contract against the business, the wife, or the former partner (the husband). The common law developed the theory that the wife did not have capacity to make contracts in her own name,<sup>2</sup> basing the rule upon the concept of the unity of husband and wife. It was a "man's world," and because the wife's sole responsibility was to take care of the home and family, she did not need these rights. She could, however, act through her husband. With the entry of women into business fields this situation became impractical, and through "married women's statutes," which were liberally construed, some of the common law disabilities were

removed. The result is that today the law recognizes that unity exists partially between the husband and wife in that they in fact live together and their possessions are largely mingled. To consider the husband and wife completely independent before the law would be to ignore basic economic, sociological, and psychological facts. The problem in the instant case is how far should the law go in recognizing the independence of the wife?

When considering the legal status of the married woman, the courts and legislatures must weigh the merits of two conflicting considerations: (1) allowing the wife to contract, thereby giving her greater freedom in the business world; and (2) protecting third parties from injury due to possible collusion between the husband and wife. Subsequent proceeding to claim the privilege is strong because of the great number of such investigations currently being conducted. The logical application of the rule of the instant case would require that the waiver have no effect in the later criminal prosecution.

Describing the effect of the Nebraska 'married woman's statutes.' An early decision assumed that the statutes did away completely with the technical common law unity of the husband and wife. However, this has not been the case in practice, and the Court recently recognized this when it observed that the common law disabilities of the married woman to contract exist in Nebraska except in so far as they have been abrogated by statute.

The right of the wife to contract independently has been recognized in these situations: contracts made by the wife as surety for the husband where there is a specific intention to bind her separate estate; a contract made independently by the wife in the engagement or learning of a specific skill; specific contracts in which the husband agrees to pay the wife for extra or unusual services rendered outside the scope of domestic duties.' The close relationship in fact between husband and wife has been recognized in other contract situations. When the wife acts as surety for her husband, but a specific intention to bind her separate estate is not included in the contract, the court will admit evidence that the wife did not intend to bind her separate estate and thus protect her separate estate.' An implied contract for the husband to pay the wife for services, even services which were rendered outside the home, will not be recognized,' though express contracts of this type in some cases may be.' The wife is liable by statute to third persons for family necessities if satisfaction is not obtained from the husband. In other fields of the law, a close husband-wife relationship is recognized.'

### **Arthur Murray Dance Studio Cases**

'Every society has a set of stock stories about itself, which are constantly retold and eventually take on a mythic status. These stories explain to the members of that society who they are and what values they hold most dear. These stock stories are both descriptive and prescriptive: they not only frame our sense of what has happened and how events will unfold in the future, but also explain how those events should unfold.'

'Lonely, vulnerable, typically elderly widow/spinster attends a dance class or demonstration at an Arthur Murray Studio. There, an attentive, presumably attractive, young male dance instructor "sweeps her off her feet" and in no time at all, she has signed up for hundreds, if not thousands, of hours of dance instruction, costing her thousands, if not tens of thousands, of dollars. At some

point, she comes to her senses and demands a refund, seeking to rescind her contracts on the basis of one of a suite of contract defenses.'

### **Parker v. Arthur Murray, Inc. (1973)**

The operative facts are not in dispute. In November 1959, plaintiff went to the Arthur Murray Studio in Oak Park to redeem a certificate entitling him to three free dancing lessons. At that time, he was a 37-year-old college-educated bachelor who lived alone in a one-room attic apartment in Berwyn, Illinois. During the free lessons the instructor told plaintiff he had "exceptional potential to be a fine and accomplished dancer" and generally encouraged further participation. Plaintiff thereupon signed a contract for 75 hours of lessons at a cost of \$1000. At the bottom of the contract were the bold-type words, "NON-CANCELLABLE NEGOTIABLE CONTRACT." This initial encounter set the pattern for the future relationship between the parties. Plaintiff attended lessons regularly. He was praised and encouraged regularly by the instructors, despite his lack of progress. Contract extensions and new contracts for additional instructional hours were executed. Each written extension contained the bold-type words, "NON-CANCELLABLE CONTRACT," and each written contract contained the bold-type words, "NON-CANCELLABLE NEGOTIABLE CONTRACT." Some of the agreements also contained the bold-type statement, "I UNDERSTAND THAT NO REFUNDS WILL BE MADE UNDER THE TERMS OF THIS CONTRACT."

On September 24, 1961 plaintiff was severely injured in an automobile collision, rendering him incapable of continuing his dancing lessons. At that time, he had contracted for a total of 2734 hours of lessons, for which he had paid \$24,812.80. Despite written demand defendants refused to return any of the money, and this suit in equity ensued. At the close of plaintiff's case the trial judge dismissed the fraud count, describing the instructors' sales techniques as merely "a matter of pumping salesmanship." At the close of all the evidence a decree was entered under Count I in favor of plaintiff for all prepaid sums, plus interest, but minus stipulated sums attributable to completed lessons. Plaintiff was granted rescission on the ground of impossibility of performance.

### **Vokes v. Arthur Murray, Inc. (1968)**

Plaintiff Mrs. Audrey E. Vokes, a widow of 51 years and without family, had a yen to be "an accomplished dancer" with the hopes of finding "new interest in life". So, on February 10, 1961, a dubious fate, with the assist of a motivated acquaintance, procured her to attend a "dance party" at Davenport's "School of Dancing" where she whiled away the pleasant hours, sometimes in a private room, absorbing his accomplished sales technique, during which her grace and poise were elaborated upon and her rosy future as "an excellent dancer" was painted for her in vivid and glowing colors. As an incident to this interlude, he sold her eight 1/2-hour dance lessons to be utilized within one calendar month therefrom, for the sum of \$14.50 cash in hand paid, obviously a baited "come on".

Thus, she embarked upon an almost endless pursuit of the terpsichorean art during which, over a period of less than sixteen months, she was sold fourteen "dance courses" totaling in the aggregate 2302 hours of dancing lessons for a total cash outlay of \$31,090.45, all at Davenport's

dance emporium. All of these fourteen courses were evidenced by execution of a written "Enrollment Agreement — Arthur Murray's School of Dancing" with the addendum in heavy black print, "No one will be informed that you are taking dancing lessons. Your relations with us are held in strict confidence", setting forth the number of "dancing lessons" and the "lessons in rhythm sessions" currently sold to her from time to time, and always of course accompanied by payment of cash of the realm.

Procured from her by means and methods which went beyond the unsavory, yet legally permissible, perimeter of "sales puffing" and intruded well into the forbidden area of undue influence, the suggestion of falsehood, the suppression of truth, and the free exercise of rational judgment, if what plaintiff alleged in her complaint was true. From the time of her first contact with the dancing school in February 1961, she was influenced unwittingly by a constant and continuous barrage of flattery, false praise, excessive compliments, and panegyric encomiums, to such extent that it would be not only inequitable, but unconscionable.

Even in contractual situations where a party to a transaction owes no duty to disclose facts within his knowledge or to answer inquiries respecting such facts, the law is if he undertakes to do so he must disclose the *whole truth*.

We repeat that where parties are dealing on a contractual basis at arm's length with no inequities or inherently unfair practices employed, the Courts will in general "leave the parties where they find themselves". But in the case, from the showing made in her complaint, plaintiff is entitled to her day in Court.

### **Lawless v. Ennis, 415 P.2d 465 (Ariz. Ct. App. 1966)**

"Maude Ennis, a 69-year-old lonely, unhappy widow, whose life was one boring bridge game after another, received a telephone call one day while she was at home, pondering what to do about her vacuous existence.

It was the Arthur Murray Studio calling. Would Mrs. Ennis like to come to the studio for a free trial lesson?

She said, 'No.'

A few days later Arthur Murray called again, making the same offer. Finally, Mrs. Ennis bored and lonely with time hanging heavily upon her hands, with the clock of life ticking on, went to Arthur Murray's.

The studio was nice. Many people were there, enjoying themselves at what appeared to be a party. The instructors were gentlemen; they were very polite, very solicitous, and intent upon showing Mrs. Ennis a good time. And of getting her to sign a contract.

Shortly thereafter, she signed the first of three contracts, the last of which was for \$13,120 and entitled her to a lifetime membership.

When the lifetime membership was presented to Mrs. Ennis (during a party at the studio) she was told that she ought to act quickly, as Arthur and Kathryn Murray were coming to town, and that if her application for life membership was accepted, she would be personally introduced to

them. She was also told that life memberships would soon be closing and that she had better act quickly.

Mrs. Ennis was accepted as lifetime student. She was invited to a party at the studio and told she would be introduced to the Murrays. She was driven out to the Arizona Biltmore by one of the instructors.

She was told to wait in the lobby. A few minutes later the Murrays appeared, shook hands with Mrs. Ennis, congratulated her upon being accepted as a lifetime student and left.

Thereafter, Mrs. Ennis was repeatedly requested to produce a letter from her physician. She did, from one she hadn't seen in approximately a year.

### **Porter v. Arthur Murray, Inc., 57 Cal. Rptr. 554 (Ct. App. 1967)**

Frank W. Porter (Porter), born in 1901, was a post office employee from 1925 until his retirement in 1957. His second wife died on November 15, 1961. In 1961 a new and exciting life opened for Porter: he discovered the Arthur Murray School of Dancing (School), or it discovered Porter.

Porter signed 11 different contracts with School, the first on September 23, 1961, the last on July 11, 1962--for "25 hours of dancing lessons"; agreed to extend his course of 25 hours to 309 hours; October 13, for "850 hours and then increased to 900 hours; December 8, the possible threat of a shortage of dancing lessons persuaded Porter that 1,200 to 2,232 hours additional as a judicious investment. Accordingly, an "Enrollment Agreement" was signed by Porter in which he agreed to take a course of from 1,200 to 2,232 hours. Greater triumphs, however, were in store for Porter. He was given the opportunity to become a "1st Patron Charter Club Member." So rare a prize was not to be refused. On February 23, 1962, he paid a token \$2,000 for that privilege. Since club membership alone might be a hollow thing, the same contract provided for 200 hours of dancing lessons for an additional \$2,000, which was paid. Those lessons were to expire only when used. Porter achieved an additional coup by a provision that 50 hours should be added "for each portrait of patron charter."

Held: Awarded refund of payment for future lessons since the studio was closed for a time; but no refund for fraud on lessons already used.