

**TSILLY DAGAN:** I'm Tsilly Dagan, the professor of taxation law at Oxford University, and one of the directors of the MSc in Taxation at Oxford as a faculty of law, and my co-convenor for the workshop-- for this workshop series-- is Ruth Mason, the Edwin S. Cohen distinguished professor of law and taxation at the University of Virginia, and an affiliated faculty member of the Virginia Center for tax law. Now the purpose of this workshop, as many of you know by now, is to foster communication between tax scholars and non-tax scholars.

And I think by now, everybody is familiar with our format. Ruth and I invited a tax academic that we admire to choose a work for discussion written by a non-tax academic that they admire. We then invite the author of the work to discuss it with us here online. All of our sessions are open to the public, and in order to find out more about upcoming sessions, you can join our mailing list or watch social media for our announcement.

So first, I would like to introduce our commentator for today. Ruth and I are excited to have with us Miranda Stewart. Welcome, Miranda, to this workshop. Miranda Stewart is Professor of Law at the University of Melbourne Law School, where she is director of the tax group. She's also a fellow at the Tax and Transfer Policy Institute at the Crawford School of Public Policy at the Australian National University, where she has been the inaugural director of the Institute from 2014 until 2017.

Miranda has more than 25 years of research, practical and leadership experience in tax law, and policy, in academia, government, and the private sector. And both Ruth and myself are big fans of her scholarship, which spans a wide range of topics, including taxation of large and small business entities, not for profits, and individual international taxation, of course, and the role of tax in development, reform processes, and budget institutions. And the topic for today, which is a big part of her scholarship, gender equality in tax and transfer systems.

It's perhaps especially important to note Miranda's enduring interest in the resilience, legitimacy, and fairness of the tax system to support good government. Miranda is co-editor and author of several books. We don't have the time to go over all of them right now, but let me just mention a few names. *Tax, Social Policy, and Gender*; *Sham Transactions*; *Tax, Law and Development*; *Death and Taxes*, to name just a few. Miranda has many years of experience both in Australia, but also overseas. So among other things, she has been a visiting scholar at Christchurch, Oxford, and the Center of Business Taxation at the Said Business School. And she's taught all over New York University School of Law, Osgood Hall Law School, York University, and the University of Florida.

We're delighted that Miranda wanted to join us today, and we are very thankful for the fact that you wanted to discuss with us today the work of Martha Fineman, who is joining us today. Welcome, Martha. So, Martha, I think, perhaps needs no introduction, but nevertheless, I'll do the honors. Martha is a Robert W. Woodruff professor at Emory Law School. She is an internationally renowned scholar of law and society, no doubt a leading authority on critical legal theory and feminist jurisprudence. Prior to joining Emory, Martha taught at the University of Wisconsin, Columbia University, and Cornell Law School, where she held the Dorothea Clarke Professorship, the first endowed chair in feminist jurisprudence in the US.

And at Emory, Martha serves as the founding director of the feminism and legal theory project, as well as the vulnerability and the human condition initiative, which emerged from that project. She has received numerous awards for writing and teaching, including the prestigious Kalven Jr. Prize for work in the law and society tradition, the Ruth Bader Ginsburg Lifetime Achievement Award, and others. Martha's scholarship leads and expands the boundaries of feminist jurisprudence. Of particular importance is her path breaking legal framework based on vulnerability theory, which many of us are familiar with, and that theory offers an alternative paradigm to a human rights approach to state responsibility and social justice. But today, we will start with an earlier stage in Martha's scholarship, and focus on dependency, and hopefully if time allows, perhaps we'll have some time to discuss some of the vulnerability approach as well.

So Miranda has selected for us, for today, a book chapter by Martha entitled "Cracking The Foundational Myths Of Independence, Autonomy, and Self-sufficiency," and we're very grateful that Martha has agreed to join us today to discuss it. The paper, as you can see, points the spotlight to a topic of utmost importance, the reliance of the market on the provision of non-market services. It highlights dependency as a major feature of the human condition, as a universal and inevitable part of the human development, rather than being a pathological, avoidable result of individual failings.

The paper asks fundamental questions that I believe stand, and should stand, at the core of any discussion of tax law and policy-- importantly, how to properly value in society's resources, and how to fairly redistribute them. So welcome Miranda and Martha. Before we jump into the paper, I just wanted to note the formats. And Miranda will start by commenting on Martha's work, Martha will respond, and then Miranda and Martha will engage in some back-and-forth conversation. And depending on the time, Ruth and I may make some remarks, to which, Miranda and Martha, you are welcome to respond before we open up the conversation to for the participants to take part in it.

So participant, if you would like to be in the [INAUDIBLE], please use the Raise Hand function in your Zoom browser. If you can't find it, just click on participants, and then Raise Hand. I'm sure everybody is fluent in Zoom terminology by now, but nevertheless. Please note that this session is recorded, and the first part, before the Q&A, may be posted on our website-- which includes, by the way or all of our prior sessions. So you're welcome to check those out after today's session.

Also please, if you may, convey your name and [INAUDIBLE] affiliation in the chat box so that we who's here, and so that we can share this information with Martha and Miranda after the session. And so without further ado, let me please turn things over to Miranda. Go ahead.

**MIRANDA  
STEWART:**

Great. Thank you so much, Tsilly and Ruth. Greetings, everybody from the other side of the world, and also a long way down south on the planet. I had to put an artificial background up, because I'm in my office at 10 past 11:00 at night, and everything is dark, pretty much. So I thought I would show you a sunny picture of the Melbourne University campus.

It's really wonderful to see so many people here, and I'm tremendously honored that Martha agreed to join us. So I should say that, and I should also say congratulations to Tsilly and Ruth. This is really a wonderful initiative, really interesting series of conversations so far. My participation so far has been, basically, the recordings, given the time zone issue. And I have to say, I can't see too many Australians here, but I do know there are a few down under people who would like to see the recording, or listen to the recording as well. So you do have a more global impact perhaps than is obvious online.

So yeah-- so actually, just before I start, Tsilly, we sort of thought 15, 20 minutes. Obviously, I may take less than that initially, even. Can I get a sense of how long we're going altogether?

**TSILLY DAGAN:** So we aim at anywhere between an hour and an hour and a half, but feel free to take your time.

**MIRANDA STEWART:** Yeah, OK. That's great. OK, so let me take a step back into why I had the-- the first choice when Sally and Ruth said who might you like to talk to, and whose work might you like to talk about, which is not tax, but which has been inspirational and influential. And I have to say, Martha was actually my first the thing that came to mind as I was sort of thinking through the audience thinking through the kinds of issues we might want to address. And so I was really delighted that my first choice not only was suitable for the event, but also that Martha was available and interested.

So it's a bit of a step back. Before I get right into the chapter that I've suggested people read, I'm sure there are some in the audience who've read much more of Martha's work, but perhaps not everyone is so familiar with it. It's a bit of a personal story as well. So if I take a step back to the 1990s, which is showing my age in that biography of 25 years experience. I suspect that's now on the low side. I need to update the biography. There's a few more years in there now.

So in the late 1990s, I did graduate study at NYU. So I came over from Australia to the US, and I met some of the folks who are on this call sort of in that time as well. I was doing my international tax study, but I was also really exploring American legal scholarship more broadly, I guess-- not just through sort of formal coursework, but also building the research projects. I already had coming out of legal practice, and aiming for an academic career, I guess.

And I had already done some work on feminist legal theory in Australia, and some study, and some reading and writing in that area with Australian scholars. And one reason why that was that's interesting is that Australian feminist legal scholarship, obviously, it covers a whole range of areas of law as it does elsewhere in the world. But because of the design of our welfare state-- and then on the revenue side, our tax system-- there was a lot even in the '90s, and in the '80s, and going back even earlier than that, there was already quite a lot of feminist scholarship about the welfare state and about-- even about taxation in Australia.

So there was some early scholarship in the US obviously on these issues, and also in Canada that I'm familiar with. And these are the Anglo jurisdictions. Clearly things are happening in other jurisdictions, and other languages that I'm not familiar with. And there was actually a fair amount of cross-fertilization also with the Nordic states. I see [INAUDIBLE] is-- they are very nice to see you, and Australian scholars were sort of learning from the Nordic-- the feminist scholars in the Nordic states, especially in the way they were thinking about social welfare.

So I'm sort of open to these ideas of trying to understand those intersections when I was reading the American literature. And I was also very fortunate to have made those connections at NYU and otherwise in terms of the other kind of scholarship that was happening at those schools, not just tax, and to have the opportunity to attend-- I think I attended a couple. I remember one in particular at Cornell, the feminist legal theory workshops that Martha initiated. So I think perhaps 1998 might have been when I attended, so I think they had been going for some time already before that in various different guises.

And so I met quite a lot of American scholars working on feminist theory, and also queer theory, and other critical-- critical race theory. These things were being brought together in the workshops. And there were some other tax scholars in the US who were using this theory as well. So that was very inspirational.

And it kind of also fed into some of my-- a couple of my earlier publications, and I sort of keep coming back to this from time to time when I'm not thinking about BEPS or other international tax stuff, is this relationship between gender equality, family, and care, and dependency responsibilities. And so, most recently I've come back into these questions again sort of thinking about it as a population-wide question, like a demographic issue in a sense, about aging populations, and declining fertility, and the distribution of responsibility for care-- care and resources, I suppose, in the population.

So I chose this particular chapter because it seemed to me to be quite a nice, concise way of introducing some of these ideas, which seem to be thematic in Martha's work. So the chapter is from the sort book *Feminism Confronts Homo Economicus*, which is a good kind of theme for tax lawyers, thinking about rational economic man, thinking about the way that individuals behave in the market, and how that relates to how we think about the family and the state.

And so, the whole book is an edited collection Martha has one or two other pieces in there, and obviously other scholars doing interesting work, discussing those issues, and the development of those issues in that critique. And then this particular chapter-- sorry, I'm just wanting to get that up in front of me-- "Cracking the Foundational Myths: Independence, Autonomy, and Self-sufficiency." So I might just highlight a couple-- sort of a few things in the chapter. I'm hoping that those in the room, at least, have been able to have that in front of you. Hopefully, if you haven't read it before, you had a chance to have a bit of a look at it.

So it's from 2005, but to me it sort of summarizes and brings together some of the themes that I had encountered in Martha's work in the 1990s. So it's a-- Martha can correct me if I've misunderstood that, but it seemed to me it to be that good summary. So a couple of interesting aspects here, this issue of-- the situation of the caregiver and the situation of women, mostly characterized as homemakers, caregivers, in that family and household, in feminist analysis-- or in our analysis about thinking about tax and the family, or welfare in the family, it always seemed to me that the carer-slash-mother sort of appears and disappears in the discourse.

Like it's sometimes really visible. Sometimes we put that carer kind of front and center as being the only thing or the main thing that this position, this role in the family does, and sometimes we don't see it at all, because we just see the household as a single unit. We don't see that activity inside the household, or we only see the breadwinner. We only see it when it encounters the market in some sort of public way, waged way.

So in this chapter, it seems to me Martha sort of interrogates that question, right, about how do we understand that carer role, and how do we understand the person as an individual-- basically the person in their relationship to others in the family, but also to the population as a whole, to the community, or society, through the state. And so she's testing not only what is the carer and how do we think about that, but is it really a good idea, on the other hand, just to think of us as individuals, to kind of separate out that?

That difference is a bit-- was a bit confrontational to me, I guess, because my initial approach in terms of feminist theory and thinking about gender equality was to kind of require us to think of women as individuals, to separate out women from that relational role in the family and caregiving role. So what's interesting and challenging about Martha's work here and earlier is that she tests both propositions-- both the proposition that you're always relational and caring, and the proposition that you might always want to be an individual who's independent and should be characterized as a separate individual in the market, or in government policy. It is interesting, when I go back to this chapter, Martha-- it's been a few years since I had read it-- is that quite a lot of what you say does sort of ring true now.

So even just on the first page, on 179, you talk about the idea of the assumed family as an ideological construct, but with a particular population, and a particular gendered form. And we could sort apply that in any different context today to think about what is the particular form it takes in a particular context. If I just move forward through the chapter a little bit, some of the headings that Martha uses really draw out these core themes in sort of feminist analysis, both of social welfare and of taxation.

So the classic dichotomy of the public and the private, and the-- again, the kind of complexity of that public and private, that the family is perceived really as private. We had this privatization of care. But then as Martha points out, and I think Tsilly has already mentioned as well, the market and the state depend absolutely on that care in order for those public realms to function. That is that it's saying that it becomes private doesn't mean it disappears. It actually just-- it becomes sort the foundation for what then is constructed as public.

So two of the things that Martha does explicitly-- and this brings us to the dependency idea in the paper-- is first of all to highlight, I guess, the reality of dependency for all of us. So this is the human condition, this idea that we all are, at different times in our lives, dependent. And you could just say that the most simple level, and rather than engaging with more complex kinds of dependency, Martha sort of points at we can just say biological dependence, and leave it at that as a kind of starting point at least. So we are all infants. We are all, or most of us, many of us get sick at different times, get tired. We have to sleep, some of us get old.

And so we have this life course of moving in and out of states of being more or less dependent. So there's that kind of life course idea of primary dependence, if you like. There's a much more general way, it seems to me, that Martha is talking about dependence here, and that is that idea that, in our societies as we currently live in them, and in our system, we are all fully dependent on each other, on our governmental systems, and on the way that we construct our markets. We couldn't exist as humans without this sort of broader set of social infrastructures, if you like. They kind of construct us as humans. We can't live outside society.

So this is not-- I mean, this is a point that law and society scholars make in many different ways in their work, but it's important, I think, to say that we're not dependent only in terms of our biological life, and from infants, and so on, which is the most obvious dependence, but we're also dependent for our very kind of conceptual and kind of physical existence on this broader collective.

Another important thing that I think Martha brings up here, which is really, of course, directly relevant to gender inequality-- driven by the fact that women do most of the care work even today in societies, both in the market, often underpaid, or in the home-- is this concept of derivative dependency. So to explicitly point out that the caretaker doing the labor is also dependent, because they are using their time and resources to care for others, that creates a derivative dependency. But that derivative dependency is something that should be a collective problem, and not just an individual problem.

And so, I think-- I haven't actually seen so much of that in other work, Martha, to make that explicit that this dependency is derivative, or kind of as we think of financial derivatives, or mathematical derivation, and stuff from the underlying biological dependency. So Martha sort of moves through those concepts. You have that heading of derivative dependency, and the basic gender equality point is that this is unjust, right? That we have this unjust and excessive burden of care and dependency that falls much more on women than men, but also we could observe on poor women, or on women of color.

So she sort points out that there is this sort of much more complex set of disadvantage that results from this derivative dependency when the collective fails to step up to provide the needed resources for the caregiver. And of course, she points out the foregone costs of the paid labor market, and so on, and the fact that we need the resources for that caregiving.

A couple of other interesting things that I want to highlight, and then I might sort of stop with the narrative, because again, I think people have probably looked at it, the chapter has an interesting section on subsidy. It's an interesting way of thinking about the problem that we-- we think of that as a financial subsidy, whether it's a tax concession, a tax expenditure, or whether it's a direct payment. But again, that sense that, in the collective, we are all subsidized now, right? Everybody lives subsidized lives.

And again, these are ways of articulating the problem that I think are a bit unique to Martha, and that are not ways that I've seen in so many other arenas. In terms of the relationship to tax, of course, I won't talk so much about the Independence point, though that's also-- there's a lot in this chapter, I think. In the last part of the chapter, Martha, of course, talks about the idea of a more active state. So how do we then respond to both the primary dependency that we all have as part of the human condition over our life course, and the derivative dependency that is a consequence of having people who must be caregivers, right? Give being-- caretakers actually is a word that I think you use more, Martha.

And so what is the role of the welfare state, or the system of allocation and distribution of resources, which is taxation, and then payment-- of payments out or else or for public goods. "The state must," to quote, again from Martha, "The state must use its regulatory and redistributive authority." The state is the legitimate locus for collective decision making, and it is its role to legitimately use that authority to address the lack of resourcing of those especially who have derivative dependence.

Taxes and then cash payments are obviously a very important way that states do do this. And in fact, modern states have become very good at it. It's not that they always choose to do it, though. We don't always choose, but we have a lot of techniques for doing this with financial distribution, and also public goods. So that's just very briefly on that particular reading.

In terms of the way that I've used it-- I'll just take a couple more minutes, I guess. Soon after I returned to Australia, I wrote a paper about domesticating tax reform, the family, and tax and transfer law in Australia. And one of the things I-- so I sort of looked at our income tax law, and the tax [INAUDIBLE], and how that appears to be individual-based, appears to recognize us as individuals who have market activity and income, but actually had embedded with it a whole range of ways in which women are embedded in this household, and in this hierarchical kind of breadwinner-caretaker dynamic.

And some of the things that actually Australia's welfare state was doing were sort of radical, and a bit different-- not to idealize them, right? We still had a conservative government. We still had lots of constraints on our welfare system. But the welfare system had a very strong focus on the parent-child relationship as the most important relationship, rather than the sexual-family or breadwinner-homemaker relationship. And that contrasted quite strongly with the American welfare debates at the time, the welfare reform in the mid '90s-- reform, so-called-- which was really punitive for low income single mothers in particular.

Ironically, we had a conservative government in Australia in the '90s, and then the 2000s, which nonetheless did pay reasonable financial support to single mothers, because it focused on the parent-child relationship. So I was trying to draw out these complexities, but I was really using Martha's work from her earlier books on the family, and then these sorts of ideas about dependency. For example, the aspirational statement, Martha, that I argue that we leave our aspirations for the traditional family form behind, and reimagine what should be our core family connection. So it's sort of drawing on that work.

The last thing I'll say is the most recent work I've been doing is a sort of big book about tax and government, and trying to think more collectively about what is the role of taxation in financing the state, and going back again to Adam Smith, and all these sort of canonical sources of tax theory. And I found a quote that just reminds me of Martha's work, that I do sort of have as a sort of an epigraph in the book. It comes from, I guess, a slightly less well known American economist-- I'm just trying to find it now as I'm talking to you-- who-- Colm was the name. Gerhard Colm, C-O-L-M, in the 1930s to 1950s in the US.

And he said, "The human ends of government are individual and collective at the same time." And this actually seems, to me, quite consistent with what Martha is doing. And so. I'm sort of trying to, again, always unpack that intersection between tax law, focusing on us as individual market actors, and the collective responsibility in how we use that system to raise finance for this kind of collective responsibility across the population.

So, look, I'm going to leave it there, Tsilly, as my introduction. I could obviously go on for hours, but I should stop, because it's the middle of the night, and I really would like to hear from Martha. So in terms of the development of it, Martha, I'm interested in your views about that, and also to hear from you more about how you're still thinking about these ideas of dependency, and how the project has evolved over time since my first encounters with them, I guess.

**TSILLY DAGAN:** Thank you, Miranda. Martha, the floor is yours.

**MARTHA**  
**FINEMAN:**

Well, I want to first thank everyone for having me here, and this was an unexpected invitation. So I'll get into that, but just a few initial responses to what Miranda began with. I no longer think about this as a gender project. In other words, what I've done as a feminist theorist is to leave behind the demographic aspects of feminism, the sex-based identity, and move on to the larger gender implications here not attached to sex, but rather social roles and functions. So it's about the politics of feminism, but not centering sex as central in understanding it as, essentially, a discrimination project. This is-- my current project is not a discrimination project, but rather a social justice project that doesn't require discrimination in order to mandate social response or state activity. So that's really important.

Secondly, I question the continued utility and value of concepts such as equality, liberty, independence, and autonomy, that in fact those make no sense, and lead to a certain logic that individualizes responsibility in a way that is inconsistent with a justice-- justice project. So just in initial responses. So I've really moved well beyond-- and perhaps we'll see that as I speak further.

I also want to say that I am not a tax scholar, and I want to make that very clear. So this is like alien territory for me in many ways. My interest in tax has been pretty much confined or limited to looking at the rhetorical and ideological role that the tax system, as it's constructed, plays in the United States today. So the ideological construct of the taxpayer serves as a reason for not providing a robust social welfare system. It, or more appropriately he, provides the politically compelling justification for austerity measures. In other words, the taxpayer is here as this construct.

It is puzzling to me that wages or wealth are viewed as the property of this taxpayer, produced by some magical market forces that are somehow unrelated to the legal, social, political, and institutional processes that actually produce and distribute value and wealth in society. Our theories and policies revolve around the individual. Social context, and social contributions are obscured or ignored in the way that we think about this, and the taxpayer. This early piece begins my quest to rethink the process whereby wealth and value are generated and distributed in society, and it focuses on the institution of the family, and the social roles that are developed, or have been developed, within the family-- here, husband and wife, or breadwinner and caretaker, more appropriately.

First is the idea that the family is not a natural entity, but a social and political construct with a specific, assigned societal role and function. Importantly, the family is the way that we privatize dependency. In doing so-- in privatizing the dependency of the child, the elderly, the ill, and so forth-- we alleviate other societal institutions, particularly the market and the state, from responsibility in that regard. So they do not have to respond to dependency, since it's privatized within the family.

The second idea that I think is important is that dependency work, or caretaking that takes place in the family, is essentially societal preserving work. It is essential to the preservation and reproduction of society. It's necessary not only to the individual who's in need of care, but also essential to society itself-- to the well-being of society itself. Caretaking produces the citizen, the worker, the entrepreneur, the taxpayer, and so on, upon which society and non-family institutions rely. So that's an important part of this argument.

Third, that caretaking labor, the social identity of caretaker, caretaking, is unrecognized and unrewarded within this privatized family, so that the work that's done by someone performing this social role of caretaker is unrecognized and rewarded. This should be understood as creating a social debt-- that labor should be understood as creating a social debt, a societal debt that is payable, owed and payable, by the rest of us collectively-- perhaps through the tax system, for example. In other words, this work should be compensated-- recognized and compensated.

And in making this argument, I drew an analogy to the military. So individuals in their roles as draftees or volunteers serve society as soldiers-- our security as soldiers. But the resources they need to perform that vital role are provided collectively by society, by the politician and the taxpayer, and through the personnel and institutions that comprise the military infrastructure. In other words, their derivative dependency on resources is provided collectively through these other social identities and institutional arrangements.

The task of reproducing the next generation is no less essential. However, unlike the situation with the military, responsibility for and subsidy of that vital societal function has been privatized, assigned to the family, and within the family to those of us who served in the gendered roles of wife and mother-- at least at the time, I was thinking about them. So I argue that this is exploitive and unjust. The delegation of a vital social task should not mean the abdication of state or collective responsibility.

Now I wrote this original article in 1999, and I have further developed the ideas of dependency, and the relationship between dependency, and social institutions, and the idea of collective responsibility since in that 20 some year-- 20 some year period. And the basic premise, I think, is that dependency that I begin with now is that our dependency arises from the biological and developmental realities of the human body. So the place where we begin is with the ontological body, with the anthropological body, the universal body-- not with these notions, these abstract ideas of consent, liberty, equality, and so forth.

Now reasoning from the realities of the body, and not from these abstract notions of liberty, or equality, brings into focus the necessity of social structures, and our corresponding collective responsibility for those structures. It refocuses our critical analysis away from the individual to the institutional. Because we are fragile embodied beings, we are inevitably embedded beings, dependent on institutions and social structures throughout our lives. The realities of the body necessitate that we live in societal relations. They provide us with the resilience necessary not only to survive, but to thrive.

For that reason, the body should be seen as both the origin and the justification for society and its institutions. The fragility and dependency that inevitably is engendered by the body are the reasons we create families, communities, governing bodies, and other institutional structures. Now importantly, these structures that we create include more than just the family. They also-- or we are also dependent on the institutions of market, finance, politics, as well as health, education, and social welfare systems.

Significantly, these institutions are created through governing mechanisms using law and policies. They are creatures of law, shaped by family, corporate, contract, property, banking, employment, and other areas of law. They are also, incidentally, shaped by tax policy and law, and I want to come back to that in a bit.

These institutions are not inevitable in form, but influenced by history, culture, as well as power relations and politics. These institutions and relationships are mechanisms and distributions for the benefits of burdens of society. So they're mechanisms for the distribution of the benefits and burdens in society. Within them, individual complementary social identities are formed-- employer-employee, parent-child, shareholder-consumer, teacher-student, doctor-patient, and so forth.

And these are often relationships of inevitable inequality. They serve different roles, complementary roles, and function that are unequal, requiring unequal distribution of responsibility. These institutions and identities provide the background conditions, the infrastructure for the day-to-day lives of all of us, of every individual, as well as the economic, cultural, and political reproduction of society. We do not escape these institutions. We all live within them. They are [INAUDIBLE] embedded within them.

They also serve as the mechanisms for production of wealth, value, subsidy, and support. These institutions allocate privilege and power, they distribute risk and reward, they confer recognition and structure accommodation. They are essential to the success or failure not only of the individual, but of society. They are also interrelated, symbolically organized, so success in one affects our ability to succeed in the others.

Success in the family affects our-- in the educational system affects our ability to prosper in the employment situation, which affects our finances, which affects our ability to form our own families, which affect-- and so on, and so on. These are symbiotically related. You cannot consider one institution without considering the others.

Tax affects everything, I have been told recently. [CHUCKLING] And I'm not disputing that, but I do wonder how tax fits into this framework. Can tax policy help to structure these primary institutions of distribution more justly? And if so, how? How can we use tax policy? What labor is undervalued within these institutions? Whose contribution within these institutions should count, and how much?

How can the tax system be used to build and sustain a vital social welfare system, a social welfare infrastructure that is valued as essential to the security of the nation as is the armed forces-- not something that is there if we have enough extra funds over and politics permit. Or the larger question, I guess, that I would like this group to consider. Can tax policy be part of a larger social justice project? So thank you.

**TSILLY DAGAN:** Thanks, Martha. This was truly inspirational, so thank you for these comments. So before we open up for other comments, Miranda, would you would you like to jump in here?

**MIRANDA STEWART:** I'm sorry. I won't say too much, actually, because I think it would be really interesting to have the discussion in the group. A couple of things to think about as I'm sort of going back and looking back at this paper again, Martha, as well as listening to your remarks. One of the things I didn't highlight about the paper when I did sort of that initial dipping into it was actually the political element. So one of the other interesting things Martha does under the heading, I think, is the responsive state, is you actually raise the question of how does one politically have the collective discussion, the public discussion needed to work out how to do this allocation of resources, or this redistribution, and subsidy-- shifting that subsidy we could say, perhaps.

And it does seem to me that taxation is inherently-- is a political process, as well as a social process. Of course, we could say everything is political, so trying to get away from that sort of relativism. There is something very uniquely and specifically political about taxation as a process for redistributing and reorganizing resources in society, and that makes it very frustrating. Many of us in the room will know the failure of tax reform, the challenges of vested interests, the terrible fights in the public domain about taxation.

So there's a lot of negatives, if you like, of something that is so highly and explicitly political, but it also seems to me to be the saving-- the important thing, one of the really important things about taxation, is that it is that political process. It might help. So one possible answer to your question, what's the role of tax in this process, might give us a space for that political debate about resources. It's one way in which the society can have that political and democratic debate.

Maybe I'm being too Pollyanna-ish about this. I'd be interested in what other people in the room think, or whether it's beyond hope, the politics of taxation. So that would be one comment, yeah.

**MARTHA  
FINEMAN:**

So I just wanted to respond to that a little bit. One of the things that I'm trying to do is to make us rethink the concept of redistribution. So that when I talk about these institutions as being mechanisms distribution, this is the primary mechanism of original distribution. So it's through these institutions. Now part of the crafting these institutions in the initial sense of it is thinking about the ways that they will or won't be subsidized by law and by society-- so the corporation itself.

The state subsidizes these institutions through their construction, giving them certain kinds of rights, and obligations, and so forth, and so on-- entitlements and so forth. So that if we focus on that, then it doesn't take us to after the money has been distributed, how do we redistribute it, because I think that's a loaded question in this particular political context. So if we focus instead on the many ways that the state is active in constructing, and subsidizing, and privileging these institutions-- the employer versus the employee, the corporation versus the consumer-- whatever it is, that look at these comparatively in the initial context. So it's not a matter of redoing something, but how do we do it initially.

And again, these are the mundane areas of law, corporation law, family law, employment law. How do we construct those, and what's the role of tax? And just in the way that we think about these relationships for tax policy in that regard.

**MIRANDA  
STEWART:**

All right. I think just one more comment, Tsilly, and then I'll turn it over to you. I think that taxation-- it's interesting, that original idea. One might argue that tax is kind of constitutive of the state, so it is a kind of constitutional form of law. It constructs our political institutions in a real way. So I wouldn't think of taxation as just being about redistribution, although you're right that we often-- we very often do talk about tax and welfare in that way, that we are redistributing something that's already-- but there are many aspects of the way that taxation law constructs those relationships you've identified, employer-employee, parent-child, and so on, that it constitutes those in an original way.

**MARTHA  
FINEMAN:**

So let's talk about it that way again. Rhetoric matters, framing matters when we're talking about critical theory, all of it-- how we approach the questions, what questions we raise suggests the answers to be provided and the way that we think about things. So I agree with you, but let's make that explicit.

**MIRANDA** Yeah. So thanks, and Tsilly, I think we should open it up.

**STEWART:**

**TSILLY DAGAN:** That was great. So before I turn to Ruth for some questions, I want to try and take a shot at some of Martha's questions at the very end of her comment, and I want to note two things. One is I completely agree with your distinction between predistribution and redistribution. I think that's key. And I also agree with Miranda when she talked about the constitutive factor of taxation. Miranda was alluding to the constitutive part that tax has in the state, but obviously, again, something that she hinted at, the tax system has a critical role in constituting the identity of taxpayers.

And I don't think it's just rhetoric that we should look at. I think that the benefit of dealing with these issues of identity and of community through the tax system is because tax has a bite to it, right? It doesn't stop at rhetorics. It also allocates real resources. And so I just want to give you a very, very brief example of what do I mean by that.

So you mentioned two key concepts that I think are very fundamental to tax. One is the taxpayer, and the other is the market. So the taxpayer is, again, something that the tax system draws heavily on, but at the same time, it really constitutes what it means, right? So when we talk about the taxpayer, we usually talk about-- we have some normative vision, or version of what is a taxpayer.

We talk about a person that's, for example, lives by her workplace, right, and has commuting expenses between home and work are disallowed, because they are considered private rather than business related. We also talk about the taxpayer as healthy, and thus any accommodation for disabilities, or exemptions for people with disabilities, are considered a tax expenditure or a subsidy, rather than something that should be looked at as a natural part of the income producing process.

And importantly for our purposes, something that Miranda and I have been writing extensively about, is child care, right? So the normative taxpayer doesn't have any caring responsibilities. And hence having children is a private choice, and thus the expenses allocated to that private choice are private rather than looking at it the other way around, and saying I'm first and foremost a mother, and therefore when I go to work, I have to incur some childcare costs, which are part of my business expenditures, right, and therefore should be deductible. So that's just one realm in which it could be relevant, but obviously there are many other realms in which this identity feature of taxation is highly relevant.

And then, about the market, I completely agree with your analysis, which I found extremely important. The market is-- there's nothing natural about the market, right? Or you call it magical, or even the myth of the invisible hand of the market. And I think that's a key issue in tax policy, because many of us tend to skip the first- - or foundational part, and treat our incomes or our wealth as ours, right? While if we really think very seriously about that, because the market is constructed by society-- and I'm a market person, I fully support the market. I think this is one of the most ingenious are institutions of society, and yet the very establishment of the market should not overlook the fact that it in itself allocates resources in a very specific way, and tax has a major role in continuously reallocating those resources.

So we talk about the progressive system as one part of this, but I think you're absolutely right that we should look at other areas of our life, and identities, and communities as part of this reallocation mechanism that the tax should certainly be part of. So just a first take at that, and I'm sure others will have other takes on your very interesting question. So Ruth, would you like to come in here?

**RUTH MASON:** Yeah, so this discussion has been very rich, and I want to just take a step back and maybe point out some things that I've learned from it, and then and then bring it back to tax. So Martha, in your work, and I think just in this conversation, you've highlighted a couple of things that I think are really important, and not always intuitive. So one is this really interesting distinction that you're drawing between, for lack of a better term, mind and body, right?

So you go back to-- back as far as political philosophy goes, so we own something by mixing our labor with a very individualistic mind-based account. And you're saying, well no, we need to function, focus on the body. And once we do, we realize that there's all this dependency, and then all of these obligations arise out of the dependency.

The other thing that you're focusing on is-- so I think the body, can't get away from the body. Who can resist you? The body matters.

**MARTHA** [INAUDIBLE]

**FINEMAN:**

**RUTH MASON:** [INAUDIBLE]. But there's another aspect, another premise of your argument, that I think is easier to resist in part, and that's the idea that we should perpetuate society, right. And so if you take a radically individualistic approach, maybe you don't need to perpetuate society. Maybe we can-- that is, if you look at demographic trends, and we see the carers, right, and those who have been assigned the role of caring, jettisoning the part of caring that's-- that it's possible to jettison, right. They're not-- people aren't getting married. People aren't having children, right? Birth rates are falling. Marriage rates are falling.

It is-- does your work mean that we should be fighting those trends, and encouraging more natalist policies, for example? So that's a question. And then just to-- we've got so many issues out on the table now, but I want to get out one more. So you have this public-private distinction, and you say that we relegate caregiving responsibilities to the private sphere. And that's a social choice that has profound effects, because then those responsibilities get re-delegated within the private sphere to mostly women, right, and that women get impressed-- socially impressed-- into uncompensated labor.

This saps their energy, it takes them out of marketplace activities, it permanently reduces their sweat equity, and makes them, in your terms, derivatively dependent. I'm sympathetic to this account. I think it's a real credit to you and the other feminist legal scholars that what seemed like a radical idea at the time that you wrote it now seems like an idea about which there's widespread consensus.

But I want to think about this public-private distinction, and this touches, to, on Miranda's points about the individual versus the collective. And the public-private distinction is, I don't think you view that as it's self constructed. So the problem with the delegation to the private isn't that-- isn't the private sphere doesn't exist, right. It's just that within the private you get a re-delegation? Is that--

**MARTHA**  
**FINEMAN:**

That's not how I would think about it. And so I could take your various points here. Let me if I can remember what they were. First of all, the notion of the libertarians response-- even libertarians, even Hobbes, believed that you needed the state to perform some functions, right, because there could be threats to the individual, if in fact there weren't collective responses, or security responses, for example. Even a libertarian would in order to enforce the sacrosanct contract, or protect property, you need state mechanisms, you need courts, you need police, you need so forth and so on.

So what I want to suggest is that same security level is also evident when we're talking about having an infrastructure that really recognizes the social reproduction of society. So if you don't have a new generation, you won't have the individuals to fill the employment, and we face this. I mean, we solved this in part in the United States by immigration. So you bring people, but you need to reproduce society, you need to reproduce the working force.

You need to reproduce the people who are going to care for us in our old age. You need to reproduce these social actors, the doctors, the educators, the so forth and so on. So if society doesn't do that, it will fail and that's what happens to societies. And then we'll be-- the Proud Boys will take over, and all sorts of fun things like that. So I think that it's useful to think about, again, the work that is done by this ideological rhetoric of individualism, which is nonsense to begin with.

Which brings me to the point, too, I do not believe that the private-public sector is natural or inevitable. I think it's totally constructed. And I think that, again, it's done by the state delegating what are essentially social reproductive functions to various mediating institutions, be they the workplace, or the family, or the educational system, or whatever it is. And at best, what we have are quasi-private institutions.

But the question that I would ask is, if we're talking about an essentially state function, the reproduction of society, whose values, or what values are going to operate in this institution that's being created as quote, private? I mean, this question arises in the prison context, in the educational context, more and more in just daily life. When we privatize or say, OK, we're turning this over to individuals rather than to the collective, what values then-- is it the profit motive, is it efficiency, or do we actually care about things like equitable distribution, and justice, and so forth and so on? So I do think that that's there.

The other thing, the social identities part of this is extremely important, because again, these social identities, I would place them outside of the traditional way that we think about identities in the context of discrimination. So the problem with caretaking within the family is not that it's assigned to women. So the family has a social role, and that affects-- the social role assigned to the family naturally affects the social identities within the family. So the family's responsibilities are going to affect what those social roles within the family are.

But caretaking is the problem. It's not the identity of the caretaker, whether they're a male or female, or otherwise, but rather that the rest of our society, the other institutions, don't recognize, and accommodate, and respond to the needs of the caretaker. And it doesn't really depend on whether that caretaker is male or female. And again, I think it's really important to deal with these social identities-- employer-employee, parent-child, taxpayer-beneficiary, whatever those are.

It's really important to do that, because it moves us away from this concept of oh, that's discrimination on the basis of sex, for example. So the solution then is, oh, let's make it equal, because these relationships quite often are not and should not be equal relationships. There is no equality between parent and child. There's no equality between doctor and patient.

I mean, we pretend there is, but what that does is to actually obscure what should be unequal allocations of responsibility. Who has access to institutional resources? Who has better knowledge, who's better prepared to deal with this? What should be their responsibility, then, in dealing with the other? So it just puts us in a totally different footing in regard to the way that we're going to shape these institutions, and the identities within them. I don't if that responds to all your questions.

**RUTH MASON:** That was great, and I think we have quite a healthy queue now, so I want to make sure others get a chance. Thank you.

**TSILLY DAGAN:** Excellent. So let me move-- open the floor to others. [? Hayden, ?] also known as John Vella, I guess you're joining from John's computer. So please.

**AUDIENCE:** Not quite sure how that happened. Thank you very much. This has been fantastic, and I've really enjoyed it. Something that you said remind-- the comments you were making about changing the language and rhetoric around redistribution really reminded me of at least my take on the *Myth of Ownership*, the book by Nagel and Murphy, and kind of making this argument that the idea of pre-tax income is an irrelevant moral category.

And so when we're really thinking about justice outcomes, we should be focusing on what happens after tax. And really, the movement from pre-tax to after tax is not a particularly morally relevant one, and I think that ties in quite closely to this idea of it's not like this distribution, and then we're redistributing through taxes and subsidies. It's kind of all constitutive of the outcome. But I also think that points to the essential problem about trying to change the rhetoric, which is that tax, by its nature, goes from pre-tax to post-tax.

And so, trying to speak about that process in a way that really kind of shifts the rhetoric is difficult beyond just focusing on how the outcomes change at the end of the day. Are we making carers better off, or are we making them worse off compared to where they are now? Thanks.

**MIRANDA STEWART:** I might just jump in now. I'm sure, Martha, you've got the book. So the *Myth of Ownership*, I'm not sure if you're familiar with Liam Murphy and Thomas Nagel's book, but that might be something of interest to you, Martha, if you wanted to explore some of the tax stuff. The interesting thing that I think about that, and it does have a relationship back to my comments about tax-- Tsilly saying tax has an edge to it, and my comments about tax as a highly political sort of set of acts and processes, is that I agree with you, we should be thinking about these broader institutions, but we also have to work with what mechanisms and processes we have in society, and tax being one of those.

And the reality is that if you do not acknowledge that people think of their income as their own, if we could put it that way-- that their own property, or their own-- you fail to see the way people change their behavior in the tax system. So the reality is that people do change their taxable income, because they change their behavior. They tax plan, they tax avoid.

In order to do that, they have to start with something that, in law, is pre-tax income-- is something gross, something that the market generates. And so this is both an advantage and a disadvantage of thinking in a tax law frame, is that you actually-- the advantage is get to look at how people actually can behave, and change, and manipulate their pre and post-tax outcomes, which is real resources as they hit the road-- who gets what resources and how. So that's an advantage, but I'll leave you to go on down the queue, I guess.

**MARTHA  
FINEMAN:**

Just, can I say one thing about that? It's of interest to me-- and this is a United States perspective-- that we readily accept, or at least for the most part, the idea of minimum wage, but not the idea of maximum wage, for example, which I think is a place to start. But also, what counts as a debit, and what counts as a credit? What counts as a cost, and when we think about things like deductions-- so why is your labor force viewed as an expense rather than an asset?

I think that there's, again, just different ways of thinking about things. But mostly, what's required is not just focusing on tax law itself, but the way the tax policy also shapes the way we think about the corporation, the way we think about the employment relationship. So it comes into play in many different ways, not just on the tax policy itself. So [INAUDIBLE].

**TSILLY DAGAN:** Absolutely. Andy?

**ANDREW  
HAYASHI:**

Can you hear me OK? Yeah, OK. Thank you to you both. This is really wonderful, and I particularly enjoyed the chapter that Miranda assigned. It gave me a lot to think about. I was struck by the same thing I think Ruth was, and I wanted to hear I think a little bit more about that-- the grounding the collectivization of care taking responsibilities, and sort of social reproduction. And it made me wonder just along those lines, like how far-- how much that gets you.

So it seems intuitive enough that child care can be justified on that basis. But you could, I think, pretty easily imagine a society that doesn't take very much care of the elderly at all, and that might be immoral and terrible, and it may be a cruel society, but it certainly wouldn't cause society to collapse, and you can sort of infill with immigrants, right? And so in a world where people cross borders, I was wondering how many of these caretaking responsibilities you think can be collectivized on the basis of social reproduction. It wasn't obvious to me that that many could.

**MARTHA  
FINEMAN:**

Yeah, again, I don't want to focus just on caretaking. Again, the theory begins with the family as the institution where it's most evident that we are dependent on care from others, and that's what we're dependent upon, but it doesn't end there. And again, that's why it encompasses-- the theory now encompasses all institutions. So also essential to the reproduction of society is a healthy population. So that is the health care system.

We have to have an educated population. And in fact, one of the stunning statistics that I recently read in the United States is that more than half of the adult population in the United States cannot read and comprehend on a sixth grade level. What does that mean for the politics? What does that mean for the ability of our citizens to process complex information about things like COVID, or the environmental crisis, and what are the implications from that inability for the success-- the future success of our society?

So it's all of these institutions, our employment system we rely on to distribute benefits-- not only wages, but also access to health care, feelings of worth and dignity. I mean, what happens when our employment system is not functioning very well? So again, the initial piece 23 years ago focused on the family, but we have to think about all of these institutions in that context. All of these institutions actually are integral parts of the reproduction of society, and they have a role to play. And if they don't function, then society is going to suffer.

So you can say, so what, I'm great. I can always move to New Zealand or something, but it's [INAUDIBLE] everybody.

**MIRANDA** No, you can't. The border is closed now.

**STEWART:**

**MARTHA** Good for you.

**FINEMAN:**

**MIRANDA** No. Well, in Australia, we reopened. So you can come here, but I'm sorry. I'm interrupting.

**STEWART:**

**TSILLY DAGAN:** Well, thank you. [INAUDIBLE]?

**MIRANDA** Can I just make one-- sorry, I'm--

**STEWART:**

[INTERPOSING VOICES]

I'm keen to hear from [INAUDIBLE], so sorry about that. But just to come back to your age care point there that you raised, Andy, and I am thinking quite a lot about this issue of fertility decline. Ruth mentioned it as well. I mean in some countries, it's much more extreme than in others. Korea, the fertility rate is 0.9. In Australia, it's 1.6, which is considerably lower than even predicted five years-- ago more like 1.9. These are all below replacement.

I mean, countries like Australia and the US strong migration-- net migration countries, but actually the world over, right, we have fertility decline. It is kind of quite an interesting existential question to me about how much society cares actually about reproducing society. Like I don't think that's just a libertarian question, and I do believe quite strongly that taxation has a-- actually a really important role to play in that reproduction of society, that it's one of the ways in which we collectively commit to that. And so then I worry if the tax system becomes less resilient as well.

So I do think these things are connected, and the demography stuff is quite challenging. It's the families of writ large, if you like, across the population. Sorry, but please go ahead, Theodore.

**TSILLY DAGAN:** Yeah. Thank you. Ted, please.

**THEODORE SETO:**

Sure. So I wanted to follow up on what I thought was one of Martha's most important comments, which is that the way that we talk about these issues really, really matters. And I'm going to speak here from an American perspective. I'm not as familiar with how these conversations go on in Australia, or let's say the EU, but here the way we talk about child rearing is very, very heavily-- in tax-- it's very, very heavily influenced by the way economists talk about it.

And economists-- interestingly enough, most of them are male-- treat childcare as leisure. It's not labor. So they distinguish between labor and leisure. Labor is good, and leisure is not so good, because it doesn't increase GDP, and childcare is leisure. This then is a corollary, which Tsilly referred to a little bit earlier, which is, childcare is treated as consumption. It's not treated as productive at all.

And you see this in the American system, for example, in the EITC-- the earned income tax credit, which is our principal safety net. In order to get the EITC, you must do something productive. You must work. And what counts is work?

Well, childcare does not count as productive or as work in our system. So the vocabulary that we've adopted from economists has really serious implications in the policies that we currently implement on the ground. I published an article some time ago sort of focusing in on this, and it was called, "Does The Income Tax Cause Parents To Spend Too Much Time With Their Children?" Because that is the assumption underlying, for example, James Mirrlees's analysis. Mirrlees, who is a very progressive kind of guy, categorized childcare as leisure.

And one of the concerns that underlay-- that underlie-- that founds his analysis of optimal tax rates was that if we tax people too much, they will go and do things like, for example, take care of their children, which is-- according to economists-- not a good thing. So again, we need to find ways, I think, of reframing the economic foundation of our analysis in ways that are more consistent with treating child care as a societal process, not just an individual consumption process.

**TSILLY DAGAN:** Thank you. We have two more people on the line, and I was wondering whether you would like to short-- to very briefly refer to-- reply to Ted, and then maybe we can take Asa and Sandy's questions combined. Would this be a good idea?

**MARTHA FINEMAN:** Are you talking to me?

**TSILLY DAGAN:** Yeah. Martha and Miranda both. Briefly.

**MIRANDA STEWART:** Go ahead, Martha. Yeah.

**MARTHA FINEMAN:** I was just going to say, I recently have started to ask my students to imagine what our social policy would look like and our institutions and law would look like if we started from the presumption that everything should begin with the best interests of the child. How would we, in fact, construct our social institutions with them? And it's produced a lot of really interesting things. So that comment reminded me actually of that. Again, the framing, the value, what's presented first, which both defines what we focus on-- both defines the questions we ask, and the solutions that we seek.

So if we begin with the frame of independence, autonomy, blah, blah, blah, that's one thing. If we begin rather with the body, and dependency, and again, that-- different kinds of questions are asked, and different kinds of answers suggests themselves. So I'm going to look at Theodore's-- look up Theodore's paper.

**MIRANDA  
STEWART:**

Yes. [INAUDIBLE] that's right. There is a quick-- so one way that I suppose some feminist scholars have started to respond to the childcare as consumption, that analysis you had, is actually to redescribe it as investment. So this is a bit like Martha redefining the expensing of labor with labor as an asset, right, start to recharacterize that, and the sort of demographic fertility story is part of that, you know, that idea of investment in the future.

I'm not sure how successful we've been. There's some people, advocates here in Australia, who have also been adopting that word, infrastructure-- social infrastructure. So instead of we're just talking about roads and bridges, we're also of course talking about kids. That sort of thing.

**TSILLY DAGAN:** Thanks. I had a ton of commodification questions, but then I'm going to turn to Asa. Thanks for joining us. Please.

**ASA  
GUNNARSSON:**

And thank you for a very interesting discussion, and it's good that what I see in your work, Martha, is that you communicate with a lot of other sciences. I mean, you take-- this is a discussion if you were cross-disciplinary with economists, with sociologists, with those in politics. This is the fundament where you discuss the problems about gender inequality, and why-- and what is the kind of basis of-- what has captured women in poverty, in subordination, in all types of sectors in society.

So what-- I want to say something. I mean, we reach out to these questions from our different legal cultures, and we get trapped in-- and we get onto different positions, because of course, in Sweden, we really have decided about the parental leave insurance, that is really resource, the caregiving in the traditional family. But that is just one little thing, and it can easily be changed with a new government, and so on.

But I think that our responsibility here is to be a part of changing the narrative. And there I also agree with Ted that is, as I've been doing this gender and taxation for a long time now, I mean, there is hope. I mean, you're eating-- slowly, you're eating into the, and reach out to those institutions that you never thought would raise these questions at all, like the IMF, There's was [INAUDIBLE], and so on. And all the other conservative, organizations like the European Association of Tax Law Professors seems to be forced now to take up the task about gender and taxation.

So of course, one way of finding a kind of base, I think, take it out to kind of concentrate on what would be the children's perspective, you could also think about the human rights perspective, because there are some kind of fundamentals of what we think is a civil society. And it has been a bit modernized now, or kind of updated, in relation to the pandemic. And of course, also when we now are on the brink to a third World War, there is like-- human rights needs to be more substantive to kind of change the playing field, because that we know that if women kind of-- the women-- the women's work, like the caregiving, will continue to be low valued in monetary terms, and not a part of the public narrative.

I mean, then we just going to be more and more poor. It's not going to be a society for the future. It's not going to be a sustainable future at all. So that is something that is come into the-- there you have an opening in the tax policy narrative, and maybe you can change the playing field, who has the power over the narrative. That is a very big question now in the world. So that's my comment.

**TSILLY DAGAN:** Thanks. That's OK, I'll turn to Sandy Fredman now, and then give the floor back to Martha and Miranda. Sandy, please. Thanks for joining us.

**SANDY FREDMAN:** Yes. Thanks so much for convening this great event, and I've just been so fascinated to hear this discussion also not being a tax lawyer, but coming at this from many from decades now of work on the way in which caregiving, caretaking for women affects their role in the family and their role in the labor market, coming at it from a feminist perspective. So I was particularly interested in your point, Martha, about the need for caretakers to have the resources, to have-- to do their caretaking.

But what I wanted to now, my question is about the COVID pandemic, and the climate emergency, which has blown open the family as an institution, where work migrated back into the family, childcare and all other kinds of caretaking. And from the data that we see, it's still the women who do most of that caretaking. But on the other side, paid caretaking, caregivers have been, on the one hand even more important. But on the other hand, even less valued, both in terms of their own health, and the kind of pay that they got during the pandemic.

So my question with that plus the climate emergency is it's more and more clear that caretaking is a collective responsibility. We could not get through the pandemic or-- in principle at least, or the climate emergency without us all taking care of the environment, taking care of each other's health, taking care of the future of the planet.

And yet at the same time, the market rhetoric and the overwhelming ideology of the market is, in a way, even more salient at this particular point. So I'm glad to hear, Asa, that there is some hope. But on the other hand, I think these two-- in a way, this period that we're going through has polarized-- has on the one hand shown importance of care. On the other hand, even more the lack of valuing of care and caretaking in all these ways. So I just wondered how you think we could really genuinely change the discourse when this moment [INAUDIBLE] so little about the discourse has been changed.

**TSILLY DAGAN:** Wonderful. Thank you very much. Martha, can we start with you please? You're muted. [INAUDIBLE]. Sorry.

**MARTHA FINEMAN:** I was saying, I want to actually combine the two comments in a way and make this as short as possible. I am deeply suspicious of human rights discourse solving our problems. It's highly individualistic. It really focuses on the relationship between the state and the individual. And I think what we have to do is to rather focus-- I mean, although there's loads of concern. That's all constitutional law, and all this. Again, we have to focus not only on that, but primarily on what is it, how did these institutions shape their relationship we have as with individuals, with each other.

And again, these are the day-to-day relationships within these social identities that we really have to focus on. And this isn't a matter of human rights. This is a matter, again, of employment law, contract law, family law-- these mundane areas that are not resolvable by these grand principles like rights, and equality, and so forth and so on.

And then back to the question of COVID. I've been doing some work-- and I'll be glad to share it-- on the COVID crisis, but one of the problems with COVID is, in fact, that the way it's been presented by public health people is to individualize and compartmentalize the problems with COVID, to talk about specific populations as particularly vulnerable and susceptible to COVID, which in fact removes the whole idea of the collective impact. So that's one thing. And I think that that's problematic, and where it actually ended up is with individuals then asserting their rights to go without masks, or their rights to not be vaccinated-- or again, the rights paradigm, the individual against the collective need, particularly when the collective is defined in this fragmented way, as only some populations-- again, bringing it into this discrimination context.

I think the other thing about COVID, that if we look at it as a positive, is that one of the things that it's shown us is in fact that our system of valuing-- of contributions by workers-- is really seriously flawed. So the essential worker, I mean, we have to rethink who is essential workers in the context of COVID. The supermarket personnel, the person who puts the goods on-- the truck driver who delivers the goods. These are essential workers in the context of COVID, and we haven't even begun to integrate those realizations into the way that we think about, again, how we value things in society, whose labor, whose contributions are rewarded, and whose are facilitated, whose are supported, accommodated-- and we really have to begin to, again, rethink these fundamental relationships.

**TSILLY DAGAN:** Thanks so much. So Miranda, before we let you go get some sleep, would you please give us some concluding remarks and answers to Asa and Sandy?

**MIRANDA STEWART:** Thank you, Tsilly. I'm conscious in my part of the world it's 12:34 AM. I'm actually wide awake. It's been a very exciting conversation. I can see Hayden's laughing, because he knows what it's like to be at this side of the world, and then the other side of the world, and online in the middle of the night. So I will be brief.

I've just put into the chat-- I'll just send it-- the quote that I said from Gerhard Colm from this paper from 1936 that I use in my recent book, because I was just reminded of it again from Martha's comment about COVID somehow being pitting the individual against the collective, and perhaps Sandy's comments about the negative, or the battle that appears, as well as the optimistic idea. And to kind of continually insist that the human ends of government are individual and collective at the same time, that we are always both of these things in this collective.

And I do, again, to kind of come back to Martha's question about what is the role of tax policy, or how can we think about it. There's lots of different ways, and certainly [INAUDIBLE] work on the commodification role of tax actually in relation to the market is-- in constituting us as consumers, or workers, or so on is important. But it does seem to me that the taxation does connect the individual and the collective.

It's one of our legal and political processes that forces that connection, and that's why it's so uncomfortable. Right, that's why people don't like it. That's why it's always challenging to change. So that's also its promise, I suppose.

And then just to go back into your chapter as a kind of final comment on this idea of language, and using different language, and different framing to kind of switch the debate around, which I think is a lot of what Martha's work does-- it kind of inspires, because you turn those assumptions around. So your language of subsidy-- so you do have a sentence at page 186 in that chapter. Of course, we think of subsidy as transfers, or tax concessions, or whatever, or sometimes market benefits or something.

But you have that language, subsidy. The subsidy provided by the uncompensated labor of others in caring for us, and our dependency needs. So the caretakers are subsidizing us, the rest of us, who are healthy, active, market participants, and taxpayers. The caretakers are subsidizing the taxpayers, not the reverse. And then you also use debt in that way-- that the debt is owed to the caretakers, rather than from the care-- somehow some debt to society, or debt to the market. That would be the other way.

So I just wanted to re-emphasize that as very inspirational, and thank Martha again for, both for the work, which still inspires me, and Ruth, and Tsilly, and everyone for the occasion to talk about it. Thank you.

**TSILLY DAGAN:** Well, thank you. I think I speak in both Ruth and my own behalf in thanking you, and please join me in thanking Martha and Miranda for a truly inspirational session. Thank you.