



# Ethic of care and caring during a pandemic

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## TRANSCRIPT

Hello, and welcome to this blog post. I'm Professor Jill Marshall, and I'm the convenor and author of the Jurisprudence Module Guide on the LLB. I'd like to talk to you today about the ethic of care and caring during a pandemic. The high death rates sustained over the pandemic demonstrate the stark impact of COVID-19 on care home residents and social care workers.

Infection control and legally sanctioned isolation in care homes and private homes is much more difficult than in controlled clinical environments of hospitals. People receiving social care often have underlying conditions that make them more at risk of infection and death from COVID-19. Some people require extra physical help with aspects of daily living such as washing and eating, making complete isolation or ideas of self-isolation very difficult, if not completely impossible.

Care workers, largely women, are often poorly paid, on insecure contracts, and with the work that they do being undervalued and taken for granted. The sector is often hugely fragmented. Thousands of organizations provide care, and concerns have been raised about a lack of provision of Personal and Protective Equipment, PPE, for staff in care homes. Care workers often need to have very close physical contact with those they care for. In care homes, many people live in the same building or facility. This makes transmission of the virus amongst staff and patients more likely.

Now, there is an increasing call on government to ensure that family members can see their loved ones in care homes. There's still a lack of information on the numbers of COVID-19 cases and tests in care homes. The government announced policies and packages for infection control in care homes, yet there are many reports of a lack of PPE for staff, along with testing issues continuing to be occurring in care homes. Loved ones are unable to visit in most cases, except when specially arranged in outside spaces or through glass partitions, all specially arranged by the private care home provider.

Additionally, there is no full understanding of the impact on those receiving social care in the community or people with unmet needs for care, including those with learning disabilities. Recently, Public Health England released figures showing that during the first wave of the pandemic, 18 to 34-year-olds with learning disabilities were up to 30 times more likely to die from COVID-19 than the same age group in the general population.

In the context of our Jurisprudence Course, I want to connect this to the ideals of Western rationality, the rule of law, notions of what is just, and gendered ways of thinking that are privileged in this discourse. This is highlighted in your feminist legal theory chapter in the module guide. Those who hierarchically privilege abstraction, detachment, and impartiality, a so-called view from nowhere, fail to take account of the contextual modes of thought

and emotional components of reason. The issues that have dominated the task of governing and creating new legislation have been issues that have most concerned men. The potential for an alternative woman's perspective has been systematically ignored. Thus, male thought on ethics is viewed as superior morally to that of feminine modes of understanding.

Carol Gilligan, in her 1982 book, *In a Different Voice*, for example, takes aim at psychologist Kohlberg's theory of stages of moral reasoning. These had betrayed an increasing scale of complexity of ethical rationality with the peak being a norm or justice as an obligation to contract with impartiality in administering the law. In Kohlberg's scheme, the cognitive basis of moral reasoning is a developing ability to take elements out of concrete situations, and the particular acts of persons need to be removed. So, take them out of the concrete situations and their particular acts to abstract from experienced context. This abstraction will create formal qualities, especially reciprocity and the development of impartial and universal criteria.

Carol Gilligan argues from her empirical research that women and girls never seem to reach the highest level of Kohlberg's categories. They display particularized, contextual, attached reasoning, which is inter-relational. Gilligan calls this the ethic of care perspective. This is contrasted with the rational and traditional voice of law, the ethic of justice.

This ethic of care way of thinking has a lot of potential to make us consider the failure of the current system to adequately value and prioritize care, including to those who give and to who receive it in our society. So, I encourage you to think about the issues and the example that I've given today in this blog, to think about the ethic of justice, feminist legal theory.

Thanks for your time, and I hope you enjoyed listening to this very short blog.