

**Feminist Legal Theory**  
**Professor Janet Halley**  
**Fall 2019**

**Mondays and Tuesdays, 10:20 to 11:50am**  
**WCC 3007**

**3 credits**

**Class Meetings.** The central goals of this course are to enable students to distinguish among distinct strands of American feminism and to see how they can be and have been operationalized as law reform, critique, and resistance. To those ends, the typical segment of the course begins with classic readings and ends with a “case study” of a particular moment when feminists have had to decide, or might have to decide, how to make and enforce law, perhaps using the theories embodied in that segment’s classic texts. Often, however, different kinds of readings -- famous cases, law review debates, op eds, etc. -- better revealed the issues, so you will see a considerable variation within this pattern. The case studies are not role plays or moot courts or anything of the sort: they are readings that hopefully sharpen the issues by focusing close-in on a particular controversy. They are for discussion like all the other readings.

**Written work.** You have two ways to satisfy the written component of this course: by examination or by a series of response papers. If you wish to write a substantial scholarly paper in connection with this course, please propose it to me as an independent supervision by October 1. Instructions and deadlines for all three kinds of work follow.

With the exception of the examination, all assignments are due in the appropriate Canvas Drop Box by the end of the business day, 5pm, on the specified date. See below for further notes about submitting written work.

*Examination.* The Examination will be a last-day take home. Questions will be distributed in class and posted to Canvas on the last day of class, Monday, December 2. There will be choice among questions; you must answer 6 of them in answers of no more than 1250 words. Because this is a last-day take-home exam, it must be written on Exam4 and submitted to the Registrar per their rules, by the end of exam period, which is Wednesday, December 18. That is to say, you may submit it before but not after that deadline. Please note that, by a rule adopted by the Faculty, I will not be available to answer any questions about the exam after the beginning of exam period, Monday, December 9. So please if you have questions about the examination, be sure to convey them to me sufficiently before that time so that I can answer them.

Summary of dates for the Exam:

Questions distributed in class and on Canvas: Monday, December 2

Last day on which I can answer questions about the exam: Sunday, December 8.

Exam due on Exam4 and according to Registrar's rules and procedures:  
Wednesday, December 18.

*During-term Response Papers.* You may opt instead to write a series of 5 response papers, each 4 pages in length. These papers should focus on one week's readings, but you may also reach forward or back to other weeks that we have already completed for supplementary texts to discuss. You may address the whole day's assignment or any part of it. You must write about a different week's readings for each paper.

Response papers should be double-spaced, with 1-inch margins, using 12-point type. It is OK to run somewhat shorter or somewhat longer than 4 pages – but please do not deviate wildly from this target!

The papers must all be in the Drop Box (under the Assignments tab) on Canvas by the last day of examination period, Wednesday, December 18. You can post them all at that time if you like. But if you submit them earlier, I will read them and give feedback within 2 weeks, an offer that terminates at the end of the business day on Friday, November 8, so that I have time to read all the papers that come in by then even if there is an avalanche of them.

You may revise one of your response papers for a substitute score. The revised paper, if you chose to submit one, is due by Wednesday, December 18, the last day of examination period. You waive this right if you do not submit at least one paper by the "papers for comment" deadline of Friday, November 8 5pm.

Summary of due dates for Response Papers:

Deadline for papers receiving feedback during the term: Friday, November 8 5pm

Gaining a right to revise one paper for a substitute score by submitting at least one paper by this date: Friday, November 8 5pm

All papers due Wednesday, December 18.

Submit your papers under the Assignments tab on Canvas labeled for this purpose.

Response papers should be analytical in approach – not so much about your own political and/or normative views (though of course those may come in), but about the ideas, historical accounts, theories, descriptions of reality, rhetoric, legal arguments and rules, and/or plans for action set out in the readings. Comparisons of the readings, for instance, can be highly illuminating, as can analyses of the pro-and-con positions taken in a debate we have studied. So can close readings of particular texts. Early in the term I will

circulate and we will discuss questions from past examinations so that you can see the kind of project I envision for the response papers. I strongly urge you to submit at least some papers early and in time for feedback.

*Long paper.* For separate credit and in addition to the examination or response papers, students may write a 30-page scholarly paper. You must obtain the *written* permission of the instructor to exercise this option by Sunday, November 10. Here is how to do that. By Friday, September 27, submit to the appropriate Canvas Drop Box a “pre-proposal” indicating in a short paragraph what you want to write about and why, and indicating your proposed method of research. Your pre-proposal should address these questions: what sorts of materials will you research; how will you access them; and what analytic process do you propose to undertake; why do you think this research is important? I will get back to you with thoughts about how to frame the project, sources, other faculty to consult, etc. On Friday, October 25, you will submit a 5-page (12-point type, 1-inch margins, double spaced) prospectus of the paper, setting forth your hypothesis, the evidence you have gathered to explore it, your tentative conclusion(s), and the challenges that lie ahead as you develop the project into a full paper. In the next two weeks I will comment on your prospectus and approve papers that are in good enough shape; final approvals will go out, as indicated above, by Sunday, November 10. Topics must fall within the framework of this course. The final paper itself must be between 30 and 40 pages (12-point type, 1-inch margins, double spaced). The absolute deadline for this paper is the first day of January Term, Monday, January 6. Extensions will be granted only in cases of illness or family crisis or the like, in which the Dean of Students office recommends an extension as a solution for an individual student. I am on sabbatical after the end of Fall Term and will not be available to supervise course-connected papers once that leave begins.

Summary of due dates for an Independent Credit Long Paper:

Pre-proposal due: Friday, September 27

Prospectus due: Friday, October 25

Final approval must be obtained: Sunday, November 10

Independent-credit long papers: Monday, January 6

All assignments in the Long Paper process are due in the appropriate Canvas Drop Box.

*Important note on collaboration, credit, and plagiarism.* I encourage students to discuss their written assignments in this course with me, with fellow classmates, and with others. The limit to this is simple: *all written work submitted for credit in this course must be solely that of the student submitting it.* If you have learned something from someone else, or borrowed an idea from a book or class conversation or any other source other than your own thinking and working on your assignments, all you must do is *give credit*. In a Long Paper this can be via any recognized system of citation. In Response Papers and

exam answers it can be by short parenthetical: (Conversation with Named Classmate, Oct. 10); (Gibson-Graham, 216). Further instructions for the use of sources in writing exam answers will be distributed with the examination itself.

*Important note on attendance.* Consistent attendance is a requirement of this course. I will consult with the Dean of Students in cases of chronic absence. For Law School rules on chronic absence, including the process for involuntary withdrawal from courses, please see <https://hls.harvard.edu/dept/academics/handbook/rules-relating-to-law-school-studies/xi-leaves-and-withdrawals/>

*How to submit your written work.* You must use Canvas to submit Response Papers and all submissions relating to independent-credit long papers connected to this course. All Examinations must be submitted through the Registrar and according to its rules. No deviation from these instructions is permitted – thus, do not submit any work to me or my assistant by email! Do not submit an examination to Canvas or to me or my faculty assistant: this compromises the blind-grading policy. Penalties for lateness on written material submitted to Canvas are at the discretion of the instructor; penalties for lateness on the Examination are subject to Law School rules including the Administrative Board – so please submit on time!

**Grading.** The written-work component of the class constitutes 90% of the grade. Consistent attendance and participation are expected and will constitute 10% of the grade.

**Accommodations for students with disabilities.** To request an accommodation for a disability during the course, students should contact Accessibility Services in the Dean of Students Office at [accessibility@law.harvard.edu](mailto:accessibility@law.harvard.edu) or at 617-495-1880, or visit the office in WCC 3019.

Additional information, including advice about how to register for accommodations, can be found at <https://hls.harvard.edu/dept/dos/student-support/accessibility-services-resources/>.

**Use of computers.** The use of computers and other electronic devices is not allowed during class meeting times unless the professor specifically requests some or all students to go on line for a task. Notice will be provided in advance if students should bring an electronic device to class.

**Auditors.** I welcome auditors! I welcome your contributions but please offer them with awareness of my need to prepare enrolled students for their graded performances. And please commit to attending regularly, with a copy of the readings in hand.

In addition, auditors must register with the Registrar. This will gain you access to the course's Canvas page. Get my signature on the required form. You can find a link to the form here: <http://www.law.harvard.edu/academics/registrar/policies-forms/index.html>

**Office Hours:** I will have regular office hours on Wednesdays from 11am-12:30pm and 3-5pm. My assistant Terry Cyr, [tcyr@law.harvard.edu](mailto:tcyr@law.harvard.edu), makes my appointments. Please let her AND me know if you cannot make it to my scheduled office hours so that she and I can find a Plan B.

**Course Agenda Overview:**

1. Introduction: Personal and Collective Positioning vis á vis and within Feminism
2. Liberal Feminism
3. Dominance Feminism
4. Controversies in Feminism: Prostitution/Sex Work
5. Cultural Feminism
6. Socialist/Materialist Feminism
7. Economic Feminism in a Liberal Market Frame
8. Controversies in Feminism: Care/Work
9. Critical Race Feminism
10. Postmodern Feminism/Queer Theory
11. Controversies in Feminism: Title IX
12. Feminism and Conservatism

# 1. Introduction: Personal and Collective Positioning vis á vis and within Feminism (Sept. 3)

Solidarity, productive tension, disaffiliation, denunciation and schism

Andi Zeisler, “The Crisis of Bad Feminism is Worse than You Think”

[http://www.salon.com/2014/09/01/the\\_crisis\\_of\\_bad\\_feminism\\_is\\_worse\\_than\\_you\\_think](http://www.salon.com/2014/09/01/the_crisis_of_bad_feminism_is_worse_than_you_think)

Defining feminism

Janet Halley, *Split Decisions* (Princeton U.P. 2006):

- My Complete and Total Lack of Objectivity, pp. 11- 15;
- Terms, pp. 16- 26;
- Gayle Rubin, Thinking Sex, pp. 114-118

What relations between feminism and anti-racism? Anti-colonialism? Anti-poverty?

Chandra Mohanty, *Feminism without Borders: Decolonizing Theory, Practicing Solidarity* (Duke U.P. 2003), Chapter 4 “Sisterhood, Coalition, and the Politics of Experience,” pp. 106-123.

Nancy Fraser, “Feminism, Capitalism and the Cunning of History,” in Fraser, *Fortunes of Feminism: From State-Managed Capitalism to Neoliberal Crisis* (Verso, 2103), pp. 209-26; read the whole essay but focus on pp. 217-23.

## 2. Liberal Feminism, Part I (September 9, 10, 16, 17 & 23)<sup>1</sup>

### Monday, September 9: What is liberal feminism? And Autonomy/choice/privacy

#### What is liberal feminism?

Seneca Falls Declaration of Sentiments, in Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage, eds., *History of Woman Suffrage*, Vol. 1 (Fowler & Wells, 1881), pp. 70-71.

Sojourner Truth: Reminiscences by Frances D. Gage, Akron Convention (May 28-29, 1851), Elizabeth Cady Stanton, Susan B. Anthony and Matilda Joslyn Gage, eds, *History of Women's Suffrage*, Vol. 1, pp. 115-17.

*Optional:* JH, *Split Decisions*, "Liberal Feminism," p 79-80

#### Autonomy/choice/privacy

Roe v. Wade, 410 U.S. 113 (1973).

Harris v. McCrae, 448 U.S. 297 (1980).

Retraction of Norma McCorvey before the Senate Committee on the Judiciary, January 1, 1998

Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard UP, 1987), Chapter 8, "Privacy and Equality: Beyond Roe v. Wade," pp. 93-102; read the whole essay if you have time but if you don't, read pp. 94 ("The issues I will explore ...") – 97 (imperatives of male supremacy.); pp. 99 ("In the context of a sexual critique ...") – 100 ("not within and because of it.")

*Optional:* The opt-out revolution debate

Lisa Belkin, "The Opt-out Revolution," *New York Times*, Oct. 28, 2003, selections (and available at

<http://www.nytimes.com/2003/10/26/magazine/26WOMEN.html?pagewanted=9>)

Sheryl Sandberg, *Lean in for Graduates* (Knopf 2014), Chapter 1, "Introduction: Internalizing the Revolution," pp. 3-13.

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<sup>1</sup> For more on liberal feminism, see Economic Feminism in a Liberal Market Frame, below.

## **Tuesday, September 10: Freedom and harm**

### The harm principle and the feminist articulation of harm

John Stuart Mill, *On Liberty* (1859; Penguin 1974), pp. 68-74.

Robin West, *Caring for Justice* (NYU 1997), Chapter 2, “The Concept of Harm,” pp. 94-178; read 100-38.

### Case Study: Dealing with the complexity of harm in domestic violence law

Leigh Goodmark, “The Unintended Consequences of Domestic Violence Criminalization: Reassessing a Governance Feminist Success Story,” in Janet Halley, Prabha Kotiswaran, Rachel Rebouché and Hila Shamir, *Governance Feminism: Notes from the Field* (Minneapolis: University of Minnesota Press, 2019), pp. 124-55.

## **Monday, September 16 and Tuesday, September 17: Non-radicalism**

Gary Peller, *Race Consciousness*, 1990 *Duke L. J.* 758, selections.

Alice Echols, *Daring to be Bad: Radical Feminism in America, 1967-75* (Minneapolis: University of Minnesota Press, 1989), chapter 4, “Varieties of Radical Feminism – Redstockings, Cell 16, The Feminists, New York Radical Feminists,” pp. 139-202; read the whole chapter if you have time but if not concentrate on pp. 139, 167-202.

Echols, *Daring to be Bad*, Chapter 6, “The Ascendance of Cultural Feminism,” pp. 243-86.

## **Monday, 23: Sameness/difference – formal equality/substantive equality – equal treatment/special treatment**

Christine Littleton, “Reconstructing Sex Equality,” 75 *Cal. L. Rev.* 1279 (1987), from Katherine T. Bartlett and Rosanne Kennedy, *Feminist Legal Theory: Readings in Law and Gender* (Westview, 1991), pp. 35-56.

Vicki Schultz, “Taking Sex Discrimination Seriously,” 91 *Denver University L. Rev.* 995, 1066-1095 (2015).

### Case study: Formal v. Substantive Equality

*Craig v. Boren*, 429 U.S. 190 (1976).

*EEOC v. Sears Roebuck & Co.*, 839 F.2d 302 (7<sup>th</sup> Cir. 1988).

### Optional: Magic Realism and Legal Realism

JH, *SD*, “The Costs of Making Difference Costless”, pp. 285-90.



### **3. Power/Dominance Feminism (September 24 and 30)**

#### **Tuesday, September 24:**

Catherine A. MacKinnon "Feminism, Marxism, Method and the State: An Agenda for Theory," 7 *Signs* 515 (1982).

#### **Monday, September 30:**

MacKinnon, "Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence," 8 *Signs* 635 (1983)

Optional: JH, *SD*, Part Two, selections, "Power Feminism," pp. 41-58.

## 4. Controversies in Feminism: Prostitution/Sex Work (October 1 and 7):

### Tuesday, October 1:

Historical context: The sex wars

- Carole S. Vance, “Epilogue,” in Carole S. Vance, ed., *Pleasure and Danger: Exploring Female Sexuality* (Routledge & Kegan Paul, 1984), pp. 431-39.

### Case Study: Abolish, Decriminalize, or Regulate Prostitution?

Abolish:

- Website of the Coalition against Trafficking in Women, <http://www.catwinternational.org/>
- Andrea Dworkin, *Prostitution and Male Supremacy*, in *Life and Death* (1997), pp. 139-151.
- Melissa Farley, “‘Bad for the Body, Bad for the Heart’: Prostitution Harms Women Even if Legalized or Decriminalized,” 10 *Violence Against Women* 1087 (2004).

### Monday, October 7

Decriminalize:

- Website of the Global Alliance against Trafficking in Women, <http://www.gaatw.org/>
- Martha C. Nussbaum, “Whether from Reason or Prejudice: Taking Money for Bodily Services,” 27 *J. Legal Studies* 693, 693-707, 716 (1998).

Regulate Sex Work As Work:

- Elizabeth Bernstein, “Temporarily Yours: Intimacy, Authenticity, and the Commerce of Sex,” Chapter 6 of Bernstein, *The State, Sexuality and the Market*, pp. 142-166 (2007).

## 5. Cultural Feminism (Tuesday, October 8)

Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Harvard U.P. 1992, 1993), pp. 24-38, 172-74.

Robin West, *Caring for Justice* (NYU 1997), Chapter 2, "The Concept of Harm," pp. 94-178 (read the whole chapter, skimming the parts we have read before, pp. 100-38., Chapter 5, "Feminism, Postmodernism, and Law," pp. 259-292.

### Case study on emotional injury torts

*Twyman v. Twyman*, 855 S.W.2d 619 (Tex. 1993).

JH, *SD*, "Taking a Break to Decide (II)," pp. 348-63.

**No class meeting on October 14 & 15**

## 6. Socialist/Materialist Feminism (Monday, October 21)

### Monday, October 21: Classic and Postmodernist Marxist Feminism

Zillah Eisenstein, "Constructing a Theory of Capitalist Patriarchy" *Critical Sociology*, March 1999 25: 196-217

J.K. Gibson-Graham, *The End of Capitalism (as We Knew It)* (Minneapolis: U. of Minnesota P., 1996; rpt. with a new Introduction, 2006), Chapter 9, "Hewers of Cake and Drawers of Tea," pp. 206-37.

### Optional Reading

Janet Halley, Preface and Conclusion, in Halley, Prabha Kotiswaran, Rachel Rebouché and Hila Shamir, *Governance Feminism: An Introduction* (Minneapolis: University of Minnesota Press, 2018), pp. ix-xvi, 253-67.

### Case study: For women employees, what share of corporate wealth?

- *Lemons v. City of Denver*, 620 F.2d 228 (1980).
- *United Steel Workers of America, Local No. 1330 v. U.S. Steel Corp.*, 492 F. Supp. 1 (1980).
- Karl Klare, Teaching *Local 1330*: Reflections on Critical Legal Pedagogy, available at [http://iris.lib.neu.edu/cgi/viewcontent.cgi?article=1167&context=slaw\\_fac\\_pubs](http://iris.lib.neu.edu/cgi/viewcontent.cgi?article=1167&context=slaw_fac_pubs)
- Question: Can you rethink the *Sears* complaint as a claim upon the company's profits, profitability, or property?

## 7. Economic Feminism in a Liberal Market Frame (October 22 and 28)

### Tuesday, October 22: Critique

In this section, Olsen's essay will be our main theoretical reading. Read it carefully. Identify the critical pattern she discovers in feminist reform on the market and on the family.

Francis Olsen, "The Family and the Market: A Study of Ideology and Legal Reform," 96 *Harv. L. J.* 1497 (1983), read 1497 – 1560.

### Monday, October 28: Mapping the Field

For our second meeting, ask yourself how feminists represented in the following readings fit into or deviates from the state/market/family paradigm as illuminated by Olsen. If you had to arrange these reformers on a left/right spectrum, where would you put them? (You might also want to ask yourself: Which type of reformer is closer to the person you would like to be?)

Lucy Williams, *Poor Women's Work Experiences: Gaps in the 'Work/Family' Discussion*, in *Labour Law, Work, And Family: Critical And Comparative Perspectives* 195 (Joanne Conaghan & Kerry Rittich eds., 2005).

Hila Shamir, "A Labor Paradigm for Trafficking," 60 *UCLA L. Rev.* 76 (2012).

Anne Alstott, "Neoliberalism in US Family Law: Negative Liberty and Laissez-Faire Markets in the Minimal State," 77 *Law and Contemporary Problems* 25 (2005).

For a richer picture of Alstott's overall approach, see also:

Bruce A. Ackerman and Anne Alstott, "Why Stakeholding?," in Ackerman, Alstott, and Philippe van Parijs, *Redisigning Distribution: Basic Income and Stakeholder Grants as Alternative Cornerstones for a More Egalitarian Capitalism* (Verso: New York, 2006), pp. 43-52, 60-62.

Janet Halley and Libby Adler, "'You Play, You Pay': Feminism and Child Support Enforcement," in Halley, Prabha Kotiswaran, Hila Shamir and Rachel Rebouché, *Governance Feminism: Notes from the Field* (Minneapolis: University of Minnesota Press, 2019), p. 287-316. (For the questions posed above, you should focus not on Halley and Adler, but on the various governance feminists whose work they describe.)

## 8. Controversies within Feminism: Care/Work (Tuesday, October 29)

As you can learn from Olsen, a large part of the US-based feminist debate over women's disadvantage arising from dynamics in liberal market economies focuses on the relative roles played by "care work" in the home (almost always noncompensated) and paid work in labor markets (forced/free; informal/formal; piecework/waged/salaried). This is often called the "care/work debate." Tsoukala is our main theoretical reading. She lays out the terms of the debate as it has played out among legal feminists and provides her own critique of it.

Philomila Tsoukala, "The Costs of Moralizing Care," 16 *Columbia J. of Gender and the Law* 357 (2007). Read 364-82 (end of second paragraph) and 408-416.

Williams and Case play big roles in the debate that Tsoukala maps; and as you will see from the Williams piece, so does Vicki Schultz, whose (very long, major) piece "Life's Work" they are both responding to. **Skim**, asking yourself how each author fits into or deviates from the map drawn by Tsoukala.

Joan Williams, "'It's Snowing Down South': How to Help Mothers and Avoid Recycling the Sameness/Difference Debate," 102 *Colum. L. Rev.* 812 (2002).

Mary Ann Case, "How High the Apple Pie - A Few Troubling Questions about Where, Why, and How the Burden of Ca for Children Should Be Shifted," 76 *Chicago-Kent Law Review* 1753 (2001).

Review Gibson-Graham. How would they analyze and engage this debate among legal feminists?

Review Fraser. How would she analyze and engage this debate?

Review the disagreement between Littleton and Schultz. How would each of them analyze and engage this debate?

Revisit the optional readings on the opt-out revolution. Who shoulders the costs in the families Belkin studied and/or in Sandberg's vision?

## **9. Critical Race Feminism (Monday, November 4; Tuesday, November 5; Monday, November 11; Tuesday, November 12)**

**Class had to be cancelled due to the Professor's illness on Monday, November 4 and Tuesday, November 5.**

### **Monday, November 11**

Combahee River Collective Statement, in Barbara Smith, *Home Girls: A Black Feminist Anthology* (Rutgers U.P. 2000), pp. 264-74.

Angela P. Harris, "Race and Essentialism in Feminist Legal Theory," 42 *Stanford L. Rev.* 581 (1990).

### **Tuesday, November 12**

Patricia Williams, *Alchemy of Race and Rights*, excerpts

Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," 43 *Stanford L. Rev.* 1241 (1991), pp. 1241-45, 1251-52, 1265-75, 1296-1299.

Jennifer C. Nash, "Introduction: Feeling Black Feminism," in Nash, *Black Feminism Reimagined: After Intersectionality* (Duke U.P.: Durham, 2019), pp. 1-32.

### **Optional Lunch Meeting, Tuesday, November 12**

Same.

## **10. Postmodern Feminism/Queer Theory (Monday, November 18; Tuesday, November 19; Optional Lunch Meeting Tuesday, November 19)**

### **Monday, November 18: Queer Theory, Feminist and Non**

Judith Butler, *Gender Trouble* (Routledge 1990, rpt. 1999), 9-11, 30-31, 33, 40-41.

Michel Foucault, *The History of Sexuality, Volume 1: An Introduction*, trans. Robert Hurley (Random House, 1978), pp. 3-5, 6-9, 27-28, 42-49.

Eve Kosofsky Sedgwick, *Epistemology of the Closet* (Berkeley and Los Angeles: U. of California P., 1990), selections.

Sedgwick, *Tendencies* (Duke 1993), pp. 6-8.

JH, *SD*, pp. 269-70.

### **Tuesday, November 19: Sexual Orientation and Gender Identity (SOGI)**

Optional: A Philosophical Analysis of Conflicts and Congruences between and among Feminist and Trans Analysis of Sex and Gender

<https://plato.stanford.edu/entries/feminism-trans/>

#### Case Study: The Yogyakarta Principles

Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, Introduction (You do not need to read this whole document. Instead, figure out who composed this document and what status it has as an expression of positive law; then, take particular note of the footnotes defining sexual orientation and gender identity).

Aeyal Gross, "Post/Colonial Queer Globalisation and International Human Rights: Images of LGBT Rights," 4(2) *Jindal Global Law Review* 98-130 (Special Double Issue) (2013), esp. pp. 98-101 (through "the right to a family life."); and pp. 125-130.



Case Study: Trans Students' Bathroom Access

*G.G. v. Gloucester County School Board*, Brief of Plaintiff-Appellant G.G. in his appeal to the Fourth Circuit, October 21, 2015.

*G.G. v. Gloucester County School Board*, 822 F.3d 709 (4<sup>th</sup> Cir. 2016).

*Gloucester County School Board v. G.G.*, 2017 WL 192762 (U.S. Appellate Brief) (Amicus Brief of Women's Liberation Front and Family Policy Alliance in Support of Petitioner Gloucester County, on certiorari to the United States Supreme Court, Jan 10, 2017).

WOLF/FPA YouTube video: [https://www.youtube.com/watch?v=84zEJS\\_8KD4](https://www.youtube.com/watch?v=84zEJS_8KD4)

*Evancho v. Pine-Richland School* 2017 WL 770619 (Feb. 27, 2017).

*Crosby v. Reynolds*, 763 F. Supp. 666 (D. Maine, 1991).

**Tuesday, November 17: Optional Lunch Meeting: Feminist Pushback against Postmodernism. We will meet in our same room and lunch will be provided.**

Robin West, *Caring for Justice* (NYU 1997), Chapter 5, "Feminism, Postmodernism, and Law," pp. 259-292.

Catherine A. MacKinnon, "Points against Postmodernism," 75 Chi.-Kent Law Rev. 687 (2000).

Case study on emotional injury torts

*Twyman v. Twyman*, 855 S.W.2d 619 (Tex. 1993).

JH, *SD*, "Taking a Break to Decide (II)," pp. 348-63

## 11. Controversies in Feminism: Title IX (Monday, November 25 and Tuesday, November 26)

### Monday, November 25: Pleasure & Danger meets Dominance Feminism

- Katherine Franke, "Theorizing Yes: An Essay on Feminism, Law and Desire," 101 *Colum. L. Rev.* 181 (2001), selections.
- Duncan Kennedy, "Sexy Dressing" Kennedy, Duncan M. "Sexual Abuse, Sexy Dressing and the Eroticization of Domination," 26 *New England Law Review* 1309 (1992).
- Please compare with Austin, "The 'Black Community'" with "Sexy Dressing" on the dimension of method and approach to "identity politics": Regina Austin, "The "Black Community," Its Lawbreakers, and a Politics of Disidentification," 65 *S. Cal. L. Rev.* 1769 (1992)

### Tuesday, November 26: Case study: Campus sexual assault and Title IX

- Nicole Ng & Vivien Wang, "Enough Alcohol to Call it Rape?: After Complaint to University-Wide Committee on Sexual Misconduct, Two Students Wait," *Yale Daily News*, Nov. 7, 2014. <http://yaledailynews.com/blog/2014/11/07/after-uwc-complaint-two-students-wait> [<http://perma.cc/266G-RHR8>].
- Nicole Ng & Vivian Wang, *After Holloway Sides with UWC, Complainant Elects Against Appeal*, *YALE DAILY NEWS* (Nov. 13, 2014), <http://yaledailynews.com/blog/2014/11/13/uwc-appeals-process-questioned> [<http://perma.cc/H9DA-RSFW>].

## 12. Feminism and Conservatism (Monday, December 2)

Each of these pieces figures a very different relationship between feminism and conservatism. As you prepare for class, think comparatively across the three readings: what is conservatism for this author? What are the most important features of the author's feminism? How does she think feminism cohabits with, resists, or *is* conservatism?

Andrea Dworkin, *Right Wing Women* (Tarcher Perigee, 1983), 11-35.

Saba Mahmood, *The Politics of Piety: The Islamic Revival and the Feminist Subject*, Chapter 2, "Topography of the Piety Movement," pp. 40-78 (Princeton, 2005).

Jennifer C. Nash, "Strange Bedfellows: Black Feminism and Anti-Pornography Feminism," 26:4 *Social Text* 51 (2008).

### **Optional: Case Study: Women who voted for Trump**

Susan Chira, "Women Who Voted for Donald Trump, In their Own Words," NYT, January 15, 2017, p. 12.

Lauren Enriquez, "How the New Feminist Resistance Leaves out American Women," NYT 2/27, 2017, at <https://www.nytimes.com/2017/02/27/opinion/how-the-new-feminist-resistance-leaves-out-american-women.html>

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