

# FEMINIST LEGAL THEORY

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## INTRODUCTION

Twenty years ago the first Feminism and Legal Theory (“FLT”) workshop was held at the University of Wisconsin Law School. Begun initially as a summer program, the FLT Project provided a supportive forum for a variety of scholars from different disciplines who were interested in gender and law. Papers from the early sessions of the FLT workshops became a part of the very first feminist legal theory anthology, *At the Boundaries of Law: Feminism and Legal Theory*.<sup>1</sup>

In the intervening years a lot has transpired. The FLT Project continues to hold summer sessions, along with workshops and “uncomfortable conversations” each semester. We have moved well beyond, while not totally abandoning, the earlier preoccupation with issues of primary concern to women, such as domestic violence and reproductive freedom. Today, the FLT Project is as invested in its “Corporations and Capitalism” working group as it is in working with scholars who are engaging in path-breaking work on care and dependency.

Of course, when we speak of feminism, it is necessary to clearly state that there are many differences within feminism – difference in approach, emphasis, and objectives – that make sweeping generalizations difficult. Recognizing that there are many divergences in feminist theory, it is nonetheless possible to make some generalizations. Feminism is not anchored in any one

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1. *AT THE BOUNDARIES OF LAW: FEMINISM AND LEGAL THEORY* (Martha Albertson Fineman & Nancy Sweet Thomadsen eds., 1991) [hereinafter *BOUNDARIES*].

discipline. It presents a theory of gender and challenges the assertions and assumptions of gender-neutrality and objectivity in received disciplinary knowledge. Often credited with inserting the “woman question” into disciplinary dialogue, feminism has broadened and complicated the traditional framework of a variety of disciplines.<sup>2</sup> Because gender is theoretically relevant to almost all human endeavors, it is also relevant to almost all disciplines.<sup>3</sup>

### I. FEMINISMS AND FEMINISTS

Because feminism as a discipline focuses on the significance of gender and the societal inequality resulting from values and assumptions based on gender, feminist scholars are found in all disciplines. As a group, feminists are concerned with the implications of historic and contemporary exploitation of women within society, seeking the empowerment of women and the transformation of institutions dominated by men. In addition, many feminists also use distinctive feminist methods to bring women’s experiences to the foreground, such as consciousness raising or storytelling.<sup>4</sup> Such methods recognize the validity and importance of women’s experiences and ground feminist theory and research.

One important characteristic of feminism is that it represents the integration of practice and theory. As noted by historian Linda Gordon, feminism is “an analysis of women’s subordination for the purpose of figuring out how to change it.”<sup>5</sup> The recognized desirability of this practical aspect has made many feminists gravitate toward law and legal reform as objects of study and action. They have had many successes within law. In fact, it is fair to state that feminism, along with economics and, to some extent, psychology, has had a visible and immediate impact on law over the past several decades. The effect is apparent not only in the academic and in legal

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2. See, e.g., KEITH E. MELDER, *BEGINNINGS OF SISTERHOOD: THE AMERICAN WOMAN’S RIGHTS MOVEMENT, 1800-1850*, at 95-96 (1977) (discussing the emergence of the “woman question” within the abolitionist movement, while raising questions about the nature and function of gender).

3. See *BOUNDARIES*, *supra* note 1, at xv (“Disagreements [within the feminist community] aside, however, it seems clear to me that feminist legal theory has lessons for all of society, not just for women or legal scholars. Ultimately, it is the members of our audience that will judge the effectiveness of our individual and collective voices.”).

4. See MARTHA CHAMALLAS, *INTRODUCTION TO FEMINIST LEGAL THEORY* 10 (1999) (noting that feminist legal theorists frequently use narratives of battered women in researching domestic violence).

5. Linda Gordon, *The Struggle for Reproductive Freedom: Three Stages of Feminism*, in *CAPITALIST PATRIARCHY AND THE CASE FOR SOCIALIST FEMINISM* 107 n.1 (Zillah R. Eisenstein ed., 1979).

scholarship, but in the doctrine employed by courts and developed by legislative bodies.<sup>6</sup> The very institutions of law have been assessed and, occasionally, revised in the light of feminist insights and arguments.

The fact that feminism has had an impact is not surprising given the huge influx of women into law schools beginning in the 1970s.<sup>7</sup> While there were women in law schools prior to this period, their numbers have increased significantly during this time. Further, women have been integrated into the profession at all levels.<sup>8</sup> In the first wave of women to attend law school, many were explicitly interested in a feminist political agenda. They came to law schools with the mantra that “the personal is the political” ringing resolutely in their ears.<sup>9</sup> They were interested in reform and the role that law would play in the project of engineering a more gender-equal society. These early feminists were optimistic about using law to attain gender equality.

The strategies of early legal feminist reformers were varied and their perspectives were not always compatible. One basic divide that emerged early in the articulation of a legal approach to feminist theory is still significant today—the issue of gender difference. What were the differences between women and men? How were they to be addressed? The majority of early feminist legal theorists adopted a discrimination model to the issue of gender. Their objective was to outlaw biased treatment and provide laws that allowed women equal opportunities with men.<sup>10</sup>

This group of feminist legal scholars and practitioners were uneasy with too much attention to difference and instead wanted to emphasize women’s sameness with men. Less innovators than

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6. See Susan J. Carroll, Gender Symposium, *The Politics of Difference: Women Public Officials as Agents of Change*, 5 STAN. L. & POL’Y REV. 11, 12-13 (1994) (noting the impact women in public office are having on public policies).

7. See AMERICAN BAR ASSOCIATION, FACTS ABOUT WOMEN AND THE LAW 3 (1998) (indicating that the percentage of women enrolled in law school increased from a little over nine percent in 1971 to around thirty-four percent by 1981), available at <http://www.abanet.org/media/factbooks/womenlaw.pdf> (last viewed on Nov. 3, 2004).

8. See *id.* at 4 (showing that women have participated in the legal profession in a variety of positions, including as judges, practicing attorneys, and professors).

9. See CATHARINE A. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE 95 (1989) (reasoning that “since a woman’s problems are not hers individually but those of women as a whole, they cannot be addressed except as a whole. In this analysis of gender as a nonnatural characteristic of a division of power in society, the personal becomes the political”).

10. See, e.g., *Reed v. Reed*, 404 U.S. 71, 76 (1971) (holding that the Equal Protection Clause of the Fourteenth Amendment forbids states to give “mandatory preference” to a man over a woman as executor of an estate).

entrepreneurs within traditional legal principles, these feminists resorted to doctrinal arguments that women and men should be treated the same.<sup>11</sup> Employing and expanding upon existing equal protection jurisprudence, the attack was on differences codified in law as well as on the stereotypes that justified them.<sup>12</sup> The belief was that any recognition of difference or argument for “special treatment” would operate to the disadvantage of women. These feminists attacked discriminatory laws that denied women full participation in public institutions such as the jury (successful) and the military (unsuccessful).<sup>13</sup> They challenged financial and market institutions’ different treatment in areas like insurance and finance, and used Title VII of the Civil Rights Act of 1964 to make gains in equal treatment in access to employment and pay.<sup>14</sup> Consistent with the primary commitment to equality and gender neutrality, many of the early cases were actually brought on behalf of men excluded from women’s institutions or complaining about favored treatment for women.<sup>15</sup>

Other feminist scholars, however, wanted to develop and build upon the concept of gender difference.<sup>16</sup> Gender inequality was not only produced and maintained through exclusion from or discriminatory treatment within existing social structures. Facially neutral rules could also generate inequalities, particularly since

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11. See CATHARINE A. MACKINNON, *SEXUAL HARASSMENT OF WORKING WOMEN* 117 (1979) (noting that the approach of treating men and women equally focuses on the unfairness of disparate treatment based solely on sex, which can give meaning to the social context of one sex dominating the other).

12. See, e.g., *Frontiero v. Richardson*, 411 U.S. 677, 690-91 (1973) (invalidating a rule that treated male and female military personnel differently for purposes of determining dependent benefits). To receive the benefits under the statute, female personnel were required to prove that their spouses were actually dependents, while spouses of male officers were presumed to be dependents. *Id.*

13. See *Rostker v. Goldberg*, 453 U.S. 57, 83 (1981) (holding that the federal law requiring selective service registration by men, but not women, was constitutional).

14. See, e.g., *Weeks v. S. Bell Tel. & Tel. Co.*, 408 F.2d 228, 236 (5th Cir. 1969) (finding that Southern Bell violated Title VII of the Civil Rights Act of 1964 by refusing to consider a woman’s application for the position of switchman based on gender because the company did not prove that all or substantially all women would be unable to perform the duties involved, thereby placing the job within the bona fide occupational qualification exception); *Phillips v. Martin Marietta Corp.*, 400 U.S. 542, 543 (1971) (holding that a corporation violated Title VII of the Civil Rights Act of 1964 because of a job requirement that female applicants not have preschool age children).

15. See, e.g., *Craig v. Boren*, 429 U.S. 190, 204-05 (1976) (striking down legislation that prohibited the sale of 3.2 percent beer to men under the age of twenty-one and to women under the age of eighteen because the gender-based classification did not bare a fair and substantial relation to the objective of the legislation).

16. See MACKINNON, *supra* note 11, at 101 (stating that the “differences” approach does not “prohibit all differentiations between the sexes, but only those that are . . . inaccurate or overgeneralized distinctions between the sexes”).

women's and men's societal circumstances were so different. Such differences demand different treatment – mere formal equal treatment could not sufficiently address existing structural and ideological inequalities. This strand of feminism sought to question the legitimacy of existing gender norms and their implications for society's institutions and legal structures. The objective was not necessarily to eradicate these norms (a monumental task that has only begun), but to address the implications of gendered institutions. Institutions, including law were not perceived as neutral and potentially helpful in this regard. They were part of the problem as currently constructed.

This group of scholars and activists, labeled “difference feminists,” can be further divided according to how they understood the implications of difference. Some, labeled “cultural feminists,” argued that women were different from men and had a unique way of “knowing” or feeling.<sup>17</sup> For example, cultural feminist arguments were particularly significant in developing the movement to replace adversariness with mediation and other, gentler, forms of alternative dispute resolution.

By contrast, other arguments that focused on gender differences waged broader critiques of certain substantive areas of law.<sup>18</sup> These attacks were directed at a variety of laws and legal institutions, challenging them as illegitimate because they failed to reflect the differences between women and men.<sup>19</sup>

Recognition that differences between women and men existed (whether developed socially or biologically) led some feminists to call for law reforms addressing the position of women and the gendered nature of their lives. The argument was that women occupy a different and inferior or subordinate position in this society and this necessitated “special” concern and responsiveness.<sup>20</sup> Existing laws

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17. See, e.g., CAROL GILLIGAN, *IN A DIFFERENT CHOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* 6-9 (1982) (noting that based on the varied psychological development and experience of individuation and relationship, women possess different values and ways of interacting with others).

18. See, e.g., *Cal. Fed. Savings & Loan Ass'n v. Guerra*, 479 U.S. 272, 291-92 (1987) (upholding a California law that required employers to provide women unpaid pregnancy leave and reinstatement after childbirth as a “statute that allows women, as well as men, to have families without losing their jobs”). Justice Marshall's opinion utilized a feminist argument that pregnancy should not be compared to or treated as a temporary disability, but instead the Equal Protection issue should be decided on the basis of equal treatment of mothers and fathers. *Id.*

19. See, e.g., *Dothard v. Rawlinson*, 433 U.S. 321, 330-31 (1977) (invalidating a statute that set minimum height and weight requirements for prison guards because it had a discriminatory effect of excluding women).

20. See, e.g., MACKINNON, *supra* note 11, at 25, 193-213 (asserting that sexual harassment denies women the opportunity to choose where to study or work without

were attacked as reflective of male bias.<sup>21</sup> Some commentators went so far as to assert that the law itself was male.<sup>22</sup>

Such arguments, delegitimizing existing law and structures, eventually led to reforms that displaced the traditional (male) perspective and effectively transformed the way we think about things such as sexual assault and domestic violence.<sup>23</sup> Family law was another area in which critiques based on the inequity of gender differences were effective. Property division rules at divorce were altered in response to the argument that women as homemakers and mothers made valuable, even if non-monetary, contributions to the family.<sup>24</sup> A focus on gender differences also ushered in “new” legal concepts such as sexual harassment and the battered women’s syndrome.<sup>25</sup> Courts began to recognize that a “typical” woman’s reaction to an experience of “flirtation” in the workplace or repeated threats and actions of violence at home might not be the same as those of the law’s construct—the “reasonable man.”<sup>26</sup> These changes in the law show the success that feminists have achieved in working towards challenging the existing nature and structure of the law. As noted over ten years ago in *At the Boundaries of the Law*, “the task of

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being subject to sexual exactions, thereby limiting women in a way that men are not limited); see also CHAMALLAS, *supra* note 4, at 55 (stating that “MacKinnon’s argument was straightforward and powerful: Because sexual harassment was a central mechanism for perpetuating women’s inferior status in the workplace, it ought to be regarded as sex discrimination”).

21. See, e.g., *Corne v. Bausch & Lomb*, 390 F. Supp. 161, 163 (D. Ariz. 1975) (holding that even if, as alleged, female employees were subjected to verbal and physical sexual advances from their supervisor, there was no right to relief under the Civil Rights Act, where there was no employer policy served by the supervisor’s alleged conduct, no benefit to the employer was involved, and no relationship between the alleged conduct and the nature of employment). *But see* MACKINNON, *supra* note 11, at 38-39 (asserting that men typically engage in sexual harassment against women, and because men usually hold superior positions, they have the power to affect women’s careers).

22. See GILLIGAN, *supra* note 17, at 6 (noting that presumed neutrality gave way to the fact that categories of knowledge are human constructions and we have become accustomed to seeing life through men’s eyes).

23. See generally CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987).

24. See UNIFORM MARRIAGE & DIVORCE ACT § 307 (amended 1973), 9A Part I U.L.A. 288 (1998) (including the contribution of a spouse as a homemaker in its criteria for dividing marital property upon divorce).

25. See MACKINNON, *supra* note 11, at 27-28 (noting that the term “sexual harassment” came into existence in 1976, but that the previous lack of a social definition and silence on the issue did not mean an absence of harassment); Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 36 (1991) (relating how litigators and psychologists developed testimony on battered woman syndrome to explain how abuse affects victims).

26. See, e.g., *Ellison v. Brady*, 924 F.2d 872, 879 (9th Cir. 1991) (ruling that a “sex-blind” reasonable person standard tends to be male-biased and ignores the experiences of women).

feminists concerned with the law and legal institutions must be to create and explicate feminist methods and theories that explicitly challenge and compete with the existing totalizing nature of grand legal theory.”<sup>27</sup>

There is a tension between the idea of feminism as a method of analysis and gender neutrality or equality as its aspiration. How can the major feminist insight – that women live gendered lives, lives shaped by experiences within a society whose institutions and ideologies are founded upon and incorporate gendered assumptions – be reconciled with the equality paradigm as it is played out in law as sameness or equality of treatment? By and large, there is no reconciliation.<sup>28</sup> Equality norms and gender neutrality prevail; although, there is some minor concession to the realization that women’s unequal material circumstances might require some small, preferably temporary, concessions. For example, advocates of affirmative action begin with the premise that equality is not only desirable, but also attainable. The point of affirmative action is remedial—to ensure equal access and equal opportunity for equally distributed meritocracy and ability.<sup>30</sup>

In fact, if we look at the areas which take the idea of gender most seriously and in which it has had the greatest impact, what emerges is an interesting picture. Sexuality, “domestic” violence, and family law are areas that have historically and stereotypically been conceded to women or considered to be of special concern to women.<sup>31</sup> While rape and sexual harassment are “public” events that are sanctioned by law and the focus of regulation and policy, unease with both actions is the result of the fact that we view them as related to “private” activities such as consensual sex and flirtatious seduction. The idea of gender is less visible in situations where we do not view women as victims, as

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27. BOUNDARIES, *supra* note 1, at xiii.

28. *Id.*

Feminist legal theory can demonstrate that what is is not neutral. What is is as “biased” as that which challenges it . . . and there can be no refuge in the status quo. Law has developed over time in the context of theories and institutions which are controlled by men and reflect their concerns. Historically, law has been a “public” arena and its focus has been on public concerns. Traditionally, women belonged to the “private” recesses of society, in families, in relationships controlled and defined by men, in silence.

*Id.*

30. See *Califano v. Webster*, 430 U.S. 313, 317 (1977) (upholding a provision in the Social Security Act that calculated benefits in a more advantageous way for women than men, based on the permissible goal of “redressing our society’s longstanding disparate treatment of women”).

31. See MACKINNON, *supra* note 23, at 73 (noting that “women’s poverty, financial dependency, motherhood, and sexual accessibility . . . substantively make up women’s status *as women*”).

we do in some cases of rape or domestic violence, or where issues do not implicate the domestic sphere of home and family.<sup>32</sup> The dilemma for a feminist is how to bring a gender-focused analysis to bear in the more public and powerful institutional contexts. How can we argue that gender is relevant beyond the sexual, the violent, and the familial?

## II. DECONSTRUCTING THE PUBLIC/PRIVATE – ENGAGEMENT WITH LAW AND ECONOMICS

To some extent feminism's second significant critique – the deconstruction of the traditional public/private divide in law – does engage the institutions of power. This attack on the dichotomous view of the world resonates with the issue of difference. This view actually can incorporate the major insights of the feminist difference dialogue to focus on the gender implications of societal structures. This critique is even more important today given the rush to privatize so many activities previously considered as public or collective responsibility.<sup>33</sup>

In fact, it is surprising that some of today's extreme rhetoric extolling private rather than public responsibility for dependency has come from self-identified feminist legal scholars and others identified with progressive positions. Some are led to a privatizing position through the logic of economic analysis with its emphasis on efficiency and utility.<sup>34</sup> Of course, feminist theorists come in all ideological preferences, but most are at least skeptical about privatization as a route of first resort for serious social policy issues.<sup>35</sup> In fact, one of the few common threads in feminist theory has been woven by expanding on the fundamental insight that "the personal is the political."<sup>36</sup> Feminists have risen to breach the historic maintenance

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32. See *id.* at 101 (noting that the law of privacy restricts intrusions into the private sphere, but it is within this sphere that women are often deprived of identity and autonomy).

33. See Martha Albertson Fineman, *What Place for Family Privacy?*, 67 GEO. WASH. L. REV. 1207, 1209 (1999) (arguing that a more equitable scheme would distribute the burdens of dependency, with the market and the state assuming more of the economic and social costs inherent in the reproduction of society).

34. This opinion was expressed by several participants at the Uncomfortable Conversation on Children: Public Good and Personal Responsibility?, sponsored by the Feminism and Legal Theory Project and held on November 19-20, 1999 at Cornell Law School.

35. See Fineman, *supra* note 33, at 1211 (discussing the debate about the wisdom and effectiveness of using privacy to secure individual rights).

36. See, e.g., Catharine A. MacKinnon, *Feminism, Marxism, Method and the State: An Agenda for Theory*, 7 SIGNS: J. OF WOMEN IN CULTURE & SOC'Y 515, 535 (1982) ("['The personal is political'] means that women's distinctive experience as women occurs within that sphere that has been socially lived as the personal - private,

of a distinction between the “public” and the “private,” by writing volumes to show the interdependence and relationship between these “spheres,” demonstrating, for example, the treacherousness of the protection of family privacy from a wife or child’s perspective.<sup>37</sup>

Of particular relevance to the debates about dependency are feminist attempts to show the ways in which the dichotomous concepts of public and private have significant political implications.<sup>38</sup> These concepts represent more than mere labels. They interact as ideological channels for the allocation of societal resources, including the resources of power and authority. The concepts have tremendous political and practical implications. Designation of some institutions in legal discourse as “public,” while others are considered “private,” has implications for the manner and method of state regulation and perceived legitimacy of collective subsidy. This dichotomous classification also shapes contrasting norms of interaction and expectation within and between the designated societal spheres.<sup>39</sup>

The idea that the private is generally preferable under our system of government is more and more firmly enmeshed with our sense of social justice – enforcing the unwritten “social contract” that guides and gauges the relationship among individuals, societal institutions, and the state. As it evolves, our social contract seems to be expanding along the private axis. Privatization is increasingly seen as the solution to complicated social problems reflecting persistent inequality and poverty.<sup>40</sup>

This is the contemporary challenge for feminist legal scholars. Many reformers lobby to remove these persistent problems from

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emotional, interiorized, particular, individuated, intimate - so that what it is to *know* the *politics* of woman’s situation is to know women’s personal lives.”).

37. See Fineman, *supra* note 33, at 1217-20 (discussing the critique of privacy by feminists and child advocates including Catharine MacKinnon, Anita L. Allen, and Barbara Bennett Woodhouse).

38. See *id.* at 1223 (arguing that autonomy, an updated version of privacy, if extended to caretaker-dependant units would be beneficial to the unit and society); see also Martha Albertson Fineman, *Intimacy Outside of the Natural Family: The Limits of Privacy*, 23 CONN. L. REV. 955, 972 (1991) (concluding that the privacy doctrine, as presently conceived, will not extend to protect the decision making autonomy and dignity of poor and single mothers).

39. This is manifest in the historic designation of the “separate spheres” in common law. The family and other institutions of care and altruism occupied the private (female) sphere, while the market and state were in the public (male) domain. See *Bradwell v. Illinois*, 83 U.S. 130, 132 (1872) (Bradley, J., concurring) (“God designed the sexes to occupy separate spheres of action and . . . it belonged to men to make, apply, and execute the laws . . .”).

40. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. § 608 (2004) (seeking to solve teenage parenting concerns by requiring denial of public assistance to teenage parents unless they live with their own parents).

public control and relegate them to the sphere of private industry. “From welfare reform to the construction of ideal educational or prison systems, the assertion is that the private market can better address historic public issues than can the public government.”<sup>41</sup>

We must point out that the classification of the world into public and private contains some significant paradoxes. For example, while the state is designated the quintessential public and the family as the quintessential private institution, the market and its apparatus are distinctively chameleon-like. Markets are constructed as public (and therefore under a different, competitive set of norms) when contrasted with the family, but as private (and therefore not easily susceptible to public regulation) when paired with the state. The market reaps the best of both spheres.

In addition, while the family may be viewed as private, it is highly regulated and controlled by the state. Law defines who may marry whom and what formalities must be observed.<sup>42</sup> Only some relationships are “legitimate” or “legal” ones, which carry the weight of the state behind them. Law defines the consequences of marriage and parenthood during on-going relationships and imposes significant policy directives in the context of divorce.<sup>43</sup> Law also defines the responsibilities of a family and the role of the family within the larger society.<sup>44</sup>

So too, the public nature of the state spills over to affect the very workings of private life. The state always acts in ways that affect individuals. By shaping and regulating institutions such as the family, the state contributes to the way individuals construct their identities within society. The state establishes norms of citizenship and community. By scooping out what is public, it also defines what remains private. It is on this terrain that feminism can confront the politics and policies stingily constructed in the discourse of the Law

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41. Martha Albertson Fineman, Symposium on the Structures of Care Work, *Contract and Care*, 76 CHI.-KENT L. REV. 1403, 1405 (2001) (arguing for the assertion of collective or public responsibility for dependency, a status that historically has been assigned to the private sphere).

42. See, e.g., *Loving v. Virginia*, 388 U.S. 1, 7 (1967) (noting that marriage is a social relation subject to the state’s police power (citing *Maynard v. Hill*, 125 U.S. 190 (1888))).

43. See *Williams v. N.C.*, 325 U.S. 226, 230 (1945) (stating that divorce and marriage affect “personal rights of the deepest significance. It also touches basic interests of society. Since divorce, like marriage, creates a new status, every consideration of policy makes it desirable that the effect should be the same wherever the question arises”).

44. See Martha Albertson Fineman, *Our Sacred Institution: The Ideal of the Family in American Law and Society*, 1993 UTAH L. REV. 387, 400 (1993) (discussing the construction of family function in society and the distribution of roles within the family to meet those assigned functions).

and Economics movement.

Feminism is linked to the real world, therefore feminism changes and evolves. In the introduction to one of the first anthologies of feminist legal theory, I noted this evolutionary nature of feminist legal theory:

Feminist methodology at its best represents a contribution to a series of ongoing debates and discussion which take as a given that “truth” changes over time as circumstances change and that gains and losses, along with wisdom recorded, are not immutable but part of an evolving story. Feminist legal theory referencing women’s lives, then, must define and undertake the “tasks of the moment.” As the tasks of the future cannot yet be defined, any particular piece of feminist legal scholarship is only a step in the long journey feminist legal scholars have begun.<sup>45</sup>

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45. BOUNDARIES, *supra* note 1, at xv.