

# INSTITUTIONS AND THE DEVELOPMENT OF LEGAL THEORY:

  

## THE SIGNIFICANCE OF THE FEMINISM AND LEGAL THEORY PROJECT

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Today we celebrate twenty years of the Feminism and Legal Theory Project (“the Project”), started and developed by Professor Martha Fineman.<sup>1</sup> Not only has the Feminism and Legal Theory Project inspired us, guided us, and strengthened us, but, equally important, it has shaped the development of contemporary legal theory. Feminism is now an essential component of any theoretical project. Critical inquiry includes examining the significance of gender and attending to the positions and actions of women. The Feminism and Legal Theory Project has played an important role in fostering this intellectual agenda. We will have a chance later today to celebrate Martha Fineman herself and the many facets of her contribution to feminism and to legal theory.

But for now, and for most of the day, we celebrate just one of the many aspects of Martha’s contribution to all of us – the Feminism and Legal Theory Project. She conceptualized it, nurtured it, re-conceptualized it again and again, and then she made it happen. From the statement of an intriguing, challenging, and often unanticipated topic, through the compelling call for papers, to the clever clustering of submissions into panels designed to provoke new ideas, the warm welcome, the discussions that spawned collisions of tentative and brave efforts to develop new ideas and methods of

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1. The program today has been made possible by not just the organizations that are sponsoring this event, but by Professor Pamela Bridgewater who has galvanized a planning committee to realize each aspect of this program. That committee, consisting of Teemu Ruskola, Leti Volpp, Darren Hutchinson, Muneer Ahmad, Elizabeth Brooke, Vivian Hamilton, Margaret Johnson, Mary Clark, Nancy Polikoff, Bob Dinerstein, and me, has undertaken a collective effort under her leadership.

thought, the comfortable and delicious dinner, and the sad partings, Martha created every detail of an experience that both aspiring and accomplished feminist scholars yearned to attend. Every participant who had the opportunity to attend a workshop remembers and values each iteration of the Project. Together, these events have framed the multifaceted, chaotic, conflicting, and exhilarating developments in feminist legal thought. Several aspects of these workshops made them critical markers for many feminist scholars and for feminist thinking.

First, the name: Feminism and Legal Theory. The workshop is not titled “the feminist legal theory project,” which was arguably the most obvious name, especially at the time the Project started, given that many feminist scholars were engaged in creating an identifiable and coherent set of ideas and methods comprising feminist legal theory. Whatever the complexities and contradictions of that effort, the Project’s name reflects the assumption that the task of legal feminism goes beyond creating one more critical legal theory to making feminism a characteristic of all contemporary legal theory.

Second, we see in the Feminism and Legal Theory Project a celebration of struggle, conflict, and diversity. In the topics chosen and papers selected, the Project has sought out different perspectives and approaches, rejecting a quest for consistency. Rather than fearing disputes as presaging the demise or disintegration of legal feminism, the Feminism and Legal Theory Project has projected confidence that conflict produces renewed strength and vitality, thus, reinforcing one of the most dynamic and creative strands within feminist thought.

Next, the inclusionary practice of the Project, its openness to all in its structure and operation, has signaled that feminism is not an elite endeavor reserved for the privileged and the chosen. The Project has welcomed so many participants at every stage of intellectual development that the community concerned about feminism and legal theory is constantly expanding. Now, we take for granted the Project’s accessible structure. After answering a call for papers, a participant writes a brief abstract that is used in structuring the dialogue of the workshop. The papers range from the virtually complete and highly polished to the tentative and exploratory. The Project has created a repeatedly reconstituted space in which new scholars can get started and more established ones can ask new questions. Through this structure, we have felt emboldened to take on scary and difficult topics that, in a different format, might have overwhelmed us. We have been freed to experiment with ideas from other fields, to explore new territory, and to seek out as yet unformed connections. These often bold and sometimes outrageous

explorations, when permitted to be tentative and incomplete, have helped feminist scholars create and develop their theoretical skills, without having to attach themselves to the sometimes intimidating label of “theorist.” These forays have generated diverse and unexpected ways of viewing the world. While broadening the community of feminist legal scholars and strengthening feminist thinking, the Project has also connected the participants in a shared intellectual endeavor framed, at least initially, by the workshop topic. Everyone is struggling, searching, joined together in a common task. Not built around established stars, the Project puts all together to participate equally in developing some aspect of feminist thought.

Having generated new theoretical insights, the Feminism and Legal Theory Project has also helped feminist scholars formalize and legitimize their work. By organizing several of the workshop explorations and wanderings into book proposals, the Project has moved the dialogue beyond the workshop with several consequences. For the participants, these publications bring increased confidence in themselves as creators of feminist theory and provide recognition within their own institutions and within legal academia. The Project’s role in generating these anthologies also reinforces a vision of feminist scholarship as a collective endeavor. Thus the Project both nurtures individual feminist scholars and fosters a sense of participation in the collective transformation of critical thought. Also, as each book strengthens the feminist presence within legal theory, feminist scholars are emboldened to join theoretical debates in which they have a place.

For over twenty years, through moves from Madison to New York City to Ithaca and now to Atlanta, from one institutional home to another, the Feminism and Legal Theory Project has maintained its regularity. If not on a set schedule, workshops happen over and over and over again. I can only imagine that at moments Martha must have tired. But, a new call for papers has always arrived in the mail with an unexpected topic that identifies an issue in a way that peaks our interest, draws us in, and makes us think, “I could write a paragraph.” The paragraph grows to ten pages; then to a paper. We have come to depend upon the regularity of this process. Even if we lose the urge or are too overwhelmed to submit a proposal for one workshop, another one will come again, and we will have another chance to pursue a new thought and to engage in the collective creation of legal theory.

With an expansive vision of the subjects susceptible to feminist analysis, the Feminism and Legal Theory Project has focused on diverse aspects of life. Family, state, economy, society, culture,

psychology, law, sexuality – all present possible methodologies and structures of thought for reexamining issues about women and about gender. This broad and shifting context for the Project's work has conveyed that making feminism a part of legal theory is essential to exploring, criticizing, and re-conceptualizing all of life. In addition to crossing boundaries of disciplinary inquiry, the Project has made critical traditions other than feminism essential to its dialogue. For the Project, theoretical work around issues of race, ethnicity, sexual orientation, class, and disability are necessary components of an intellectual endeavor, struggling to comprehend and transform multiple structures of power and multiple experiences of oppression. The Project has sought to identify the interactions among the different components of the operation of power and to develop theories for understanding how and why these interactions occur.

Finally, the Feminism and Legal Project is a feminist institution and, in building a feminist movement, we need to understand the meaning of those institutions to each of us and to feminist thought. The characteristics I have identified in this essay provide an initial effort to conceptualize how and why this institution and our other institutions matter. Others would highlight different aspects of the Project that have shaped the development of feminist thought and contemporary legal theory. That the Feminism and Legal Theory Project exists in the world of legal academia in a way that we can identify and define, that we can evaluate for its impact, is a reflection not only of the value of the work that it has generated, but also of the extent to which Martha Fineman has institutionalized its contribution. We must stop to acknowledge that feminist thought and feminist theory are not the product of individual intellectual endeavor. While many undertake tasks of critical examination of patriarchy and oppression, the Feminism and Legal Theory Project helps us go beyond our individual work. The institution fosters our individual efforts and also reshapes them by making them a part of a joint endeavor. By creating a framework that exists outside of our individual scholarly work, the Project makes us more than atomized individuals building connections on our own. We have an institution to which we can turn and return and on which we can depend. We can find others whose work overlaps with our own and with whom we can join. Our efforts become less sporadic and random, less dependent upon the vicissitudes of our own daily strains. The Feminism and Legal Theory Project enables each of us to be a small part of a constructive effort to create theory and helps to produce a different kind of world.

As we know, institutions require creativity, hard work, perseverance,

and daily, regular, unglamorous attention, the work that often goes unrecognized, not unlike the work of caring, about which Martha has written so eloquently and insightfully. So today, we thank her for creating this institution of the Feminism and Legal Theory Project that has mattered so much to us and mattered so much to feminism. In addition to the thanks we offer, we also imitate her concept. For this day, we have structured an experience that draws upon the model of the Feminism and Legal Theory Project. We hope that you all enjoy it and participate in it as yet another event in an ongoing institution.