

Feminist Jurisprudence  
Summer 2010  
Prof. Kathy Abrams  
Syllabus

Part I

**I. Introduction**

Ann Scales, **Legal Feminism: Activism, Lawyering, and Legal Theory** (2006). [1-10, 83-99].

Martha Chamallas, **Introduction to Feminist Legal Theory** (2003). [1-22].

**II. Equality Theory**

**A. Equality Theory: Liberal or “Sameness” Feminism**

Martha Chamallas, **Introduction to Feminist Legal Theory** (2003). [23-38].

David Cole, Strategies of Difference: Litigating for Women’s Rights in a Man’s World, 2 L & Ineq. 33 (1984). [53-65]

Cary Franklin, The Anti-Stereotyping Principle in Constitutional Sex Discrimination Law, \_\_ N.Y.U. Law Review (forthcoming 2010) [1-30]

Frontiero v. Richardson, 411 U.S. 677 (1973).

**B. Challenges in Application**

Wendy Williams, The Equality Crisis: Some Reflections on Culture, Courts and Feminism, 7 Women’s Rts. L. Repr. 175 (1982). [entire, 175-200]

Michael M. v. Sonoma County Court, 450 U.S. 464 (1981). [B&H, 804-17]

United States v. Virginia (VMI), 518 U.S. 515 (1996). [B&H, 359-74].

Mari Matsuda, When the First Quail Calls: Multiple Consciousness as Jurisprudential Method, 14 Women’s Rts. L. Rep. 297 (1992). [entire, 297-300]

Margaret Montoya, Mascaras, Trenzas, Y Grenas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse, 17 Harv. Women’s L. J. 185 (1994). [193-98, 201-09]

Christine Littleton, Equality and Feminist Legal Theory, 48 U. Pitt. L. Rev. 1043 (1986-

87). [entire, 1043-59]

### **III. Difference and Care**

#### **A. Difference Theory: The “Ethic of Care”**

Martha Chamallas, **Introduction to Feminist Legal Theory** (2003). [39-44, 53-62].

Carol Gilligan, **In a Different Voice** (1980). [1-4, 24-65]

Carrie Menkel-Meadow, Portia in a Different Voice: Speculations on a Women’s Lawyering Process, 1 Berkeley Women’s L. J. 39 (1985). [49-60]

Leslie Bender, From Gender Difference to Feminist Solidarity: Using Carol Gilligan and an Ethic of Care in Law, 15 Vermont L. Rev. 1 (1990). [36-48]

#### **B. Difference Theory: Care Work and Social Structures**

Kathryn Abrams, The Second Coming of Care, 76 Chi-Kent L. Rev. 1605 (2001). [entire, 1605-17]

Martha Fineman, **The Neutered Mother, The Sexual Family and Other 20th Century Tragedies** (1995). [35-55]

Dorothy Roberts, Spiritual and Menial Housework, 9 Yale J. L. & Feminism 51 (1997). [51-70]

California Federated Savings & Loan Association v. Guerra, 479 U.S. 272 (1987). [B&H, 311-16]

Martha Fineman, **The Neutered Mother, The Sexual Family and Other 20th Century Tragedies** (1995). [226-36]

### **IV. Dominance Feminism**

#### **A. Dominance Theory**

Catharine MacKinnon, Difference and Dominance: On Sex Discrimination, and Afterword in **Feminism Unmodified** (1987). [32-45, 215-28]

Catharine MacKinnon, Feminism, Marxism and Method: Toward Feminist Jurisprudence, 8 Signs 635 (1983). [646-58]

Catharine MacKinnon, Reflections on Sex Equality Under Law, in Women’s Lives,

Men's Laws (2005) [127-46].

## **B. Theory in Action: Sexual Harassment**

Catharine MacKinnon, **The Sexual Harassment of Working Women** (1979). [1-23].

Tanya Kateri Hernandez, The Racism of Sexual Harassment, in Catherine MacKinnon & Reva Siegel, **Directions in Sexual Harassment Law** (2004). [479-95]

Sumi Cho, Converging Stereotypes in Racialized Harassment: Where the Model Minority Meets Suzie Wong, 1 *J. of Gender, Race, & Justice* 177 (1997). [182-99]

*Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986).

*Rabidue v. Osceola Refining Co.*, 805 F.2d 611 (6th Cir. 1986).

*Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993).

## V. Complex Subjects and Categorical Legal Analysis

### A. The Antiessentialist Critique: Race and Sexualized Coercion

[Monday June 14]

Kimberle Crenshaw, *Whose Story Is It, Anyway? Feminist and Antiracist Appropriations of Anita Hill*, in Toni Morrison, ed., **Race-ing Justice, Engendering Power** (1992).

[Tuesday June 15]

Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990).

e. christi cunningham, *Unmaddening: A Response to Angela Harris*, 4 YALE J.L. & FEMINISM 155 (1991).

[Wednesday June 16]

Catharine MacKinnon, *From Practice to Theory, or What is a **White** Woman Anyway?*, 4 YALE J.L. & FEMINISM 13 (1991).

Martha Mahoney, *Whiteness and Women, In Practice and Theory: A Reply to Catharine MacKinnon*, 5 YALE J.L. & FEMINISM 217, 242 (1993).

### B. Feminism Theory Meets Queer Theory

[Thursday June 18, Monday June 21]

Joan Nestle, *My Mother Liked to Fuck*, in Snitow et al, **The Powers of Desire** (1982).

Judith Butler, **Gender Trouble** (1996), pp. 30-34 [start w/pph beginning “The pro-sexuality movement...”], 128-41.

*Oncale v. Sundowner Refining Co.*, 523 U.S. 75 (1998).

[Tuesday June 22]

Katherine Franke, *What’s Wrong with Sexual Harassment*, 49 STAN. L. REV. 691

(1997). [beginning to 698; 737 (Goluszek) to end]

Janet Halley, *Sexuality Harassment*, in Wendy Brown and Janet Halley, eds., **Left Legalism/Left Critique** (2002).

## VI. Feminist Theories In Context

### A. Same-Sex Marriage [Wednesday June 23, Thursday June 24]

Lawrence v. Texas, 539 U.S. 558 (2003)

Thomas Stoddard, Why Gay People Should Seek the Right to Marry, *Out/Look*, Fall 1989, at 10-13.

Paula Ettelbrick, Since When is Marriage a Path to Liberation?, *Out/Look*, Fall 1989, at 14-17.

Goodridge v. Dept of Public Health, 798 N.E.2d 941 (Mass. 2003).

In re Marriage Cases, 183 P.3d 384 (Cal. 2008).

Melissa Murray, Marriage Rights and Parental Rights: Marriage, the State, and Proposition 8, \_\_ Stan. Civil Rts-Civil Lib. L. J. \_\_ (forthcoming 2009), 1-4, 10-37.

### B. Surrogacy [Monday June 28, Tuesday June 29]

*In the Matter of Baby M*, 109 N.J. 396, 537 A.2d 1227 (1988).

*Johnson v. Calvert*, 851 P.2d 776, *cert denied*, 510 U.S. 874, *cert dismissed* 510 U.S. 938 (1993).

Carmel Shalev, **Birth Power: The Case for Surrogacy** (1989). [152-66]

Andrea Dworkin, *The Coming Gynocide*, in **Right-Wing Women** (1978). [174-88]

Dorothy Roberts, *The Genetic Tie*, 62 U. CHICAGO L. REV. 209 (1995). [209-14, 230 (bottom)-38 (Part ID.), 247-73]

Noah Zatz, *Reworking Motherhood: Surrogacy, Labor and the Family* (unpublished ms, 1994) [7 (bottom pph) – 15, 17 (top) – 19 (through 1<sup>st</sup> pph), 195 (bottom) – 99]

**C. Abortion: Woman-Centered Arguments Against Reproductive Choice**  
[Tuesday June 29, Wednesday June 30]

*Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

*Gonzales v. Carhart*, 550 U.S. 124 (2007).

Reva Siegel, *The New Politics of Abortion*, 2007 U. ILL. L. REV. 991. [Intro p.1, 6-19 (stop where part C. starts)].

Jennifer Denbow, *Abortion: When Choice and Autonomy Conflict*, 20 Berkeley J. Gender L. & Just. 216 (2005).