

Issues in Legal Scholarship

Legal Feminism Now

Volume 9, Issue 2

2011

Article 8

LEGAL FEMINISM NOW

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Recommended Citation

Marc Spindelman (2011) "Feminism Without Feminism," *Issues in Legal Scholarship*: Vol. 9: Iss. 2 (Legal Feminism Now), Article 8.

Available at: <http://www.bepress.com/ils/vol9/iss2/art8>

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Feminism Without Feminism*

Marc Spindelman

Abstract

Taking a critical perspective on the question of feminism's situation, this essay urges feminists to consider the benefits, both theoretical and political, of doing feminism without feminism. Contrary to how this may sound, this is not to recommend the wholesale abandonment of feminism, or less, a break. Rather, it is to recognize how feminism has always been defined by underlying normativities and politics that are analytically separate and distinct from feminism itself. It is also to suggest that these normativities and politics have been the field of feminism's greatness and the source of its theorizing's deepest and most enduring strengths. With these suggestions in hand, the essay sketches possible agendas from different feminist perspectives, the idea being to point out how feminism's present and its future—a future without feminism but not without everything feminists have fought for and cared about—can be as bright a promise and sign of hope as it ever was in the high points of feminism's past.

KEYWORDS: feminism, feminist legal theory, radical feminism, postmodernist feminism, lesbian and gay rights, queer theory, male sexual victimization

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Feminists know something has happened to feminism. Both generally and in law things aren't what they were before. Is the difference, difference nothing more or have things taken a turn for the worse? Either way, were the changes that feminism is now facing inevitable, and as importantly, can they themselves be changed? In circles where feminism supplies an indispensable outlook on life, even fundamentally an identity in itself, little may be more urgent than figuring this out. The current call for collective deliberation about feminism's condition, particularly in law, is thus a welcome relief. With other efforts in similar directions, it signals that some much-needed work has finally begun.¹

What shape should this collective investigation into feminism's situation take? What exactly should its object be? One approach might be an examination into feminism's situation that focuses squarely on feminism itself, its current condition being assessed and articulated from the perspective of its various "strands."² Analyses produced in, among others, liberal feminist, radical feminist, cultural feminist, sex radical feminist, critical race feminist, postmodernist feminist, and socialist feminist registers could be generated, the results then being taken individually or together as crucial statements—maybe *the* crucial statements—on where feminism now stands.

Immediately recognizable in feminist theory circles, this approach to the present inquiry might be expected to yield significant results: important new knowledge of feminism's condition, likely with views on origin and possibly cure. But whatever affirmative good the analysis might produce, it would deliver while driving toward a dead end, privileging and hewing—even feeding—partisan modes of feminist thinking and engagement increasingly recognized by feminists across the board as past their expiration date.

Famously, partisan divisions between and among feminists once powerfully gripped feminist lives and dominated feminist work. These divisions have not lost all their potency or entirely disappeared yet. But, steadily in decline, they have ceased having the all-consuming urgency they previously possessed.

¹ Efforts in these general directions "outside" the legal academy include, for example, Nancy Fraser, *Feminism, Capitalism and the Cunning of History*, 56 *NEW LEFT REV.* 97 (2009); Susan Gubar, *What Ails Feminist Criticism*, 24 *CRITICAL INQUIRY* 878 (1998); Robyn Wiegman, *Academic Feminism Against Itself*, 14 *NWSA J.* 18 (2002); Robyn Wiegman, *What Ails Feminist Criticism? A Second Opinion*, 25 *CRITICAL INQUIRY* 362 (1999). Efforts "inside" the legal academy include Symposium, *The Feminism and Legal Theory Project: Celebrating Twenty Years of Feminist Pedagogy, Praxis and Prisms*, 13 *AM. U. J. GENDER SOC. POL'Y & L.* 1 (2005); Symposium, *The Future of Critical Race Feminism*, 39 *U.C. DAVIS L. REV.* 729 (2006); Symposium, *Rhetoric & Relevance: An Investigation into the Present & Future of Feminist Legal Theory*, 17 *MICH. J. GENDER & L.* 1 (2010); Symposium, *Unfinished Feminist Business*, 75 *CHI.-KENT L. REV.* 641 (2000).

² There are many breakdowns. One example is in CYNTHIA GRANT BOWMAN ET AL., *FEMINIST JURISPRUDENCE: CASES AND MATERIALS*, at xx–xxi (4th ed. 2011). (Thanks to Laura Rosenbury for the reminder.) Another appears in MARTHA CHAMALLAS, *INTRODUCTION TO FEMINIST LEGAL THEORY* (2d ed. 2003).

For some hard liners, the deterioration of feminism's longstanding camps and the walls separating them may look like part and parcel of a larger feminist slide. These divisions, after all, were no mere happenstance. They resulted from the expenditure of major political and intellectual energies—energies that, not coincidentally, also produced some of feminism's greatest and most insightful works. The erosion of feminism's partisan divisions may thus appear an indication of nothing so much as the tragic dwindling of feminism's life force. If only that process could be reversed, who wouldn't want it to be, whatever the price?

The answer, of course, is a great many other feminists, who happen to find themselves buoyed by the crumbling of feminism's internal divisions. Not blind to the great works associated with them, or the other achievements of the past, these feminists are keenly aware of the costs that feminism's dividing walls imposed, and also that there are salutary effects coming with their increasing collapse. From this perspective, a concern about the current investigation, such as it is, is that it not reignite the old ways of thinking, with their old enmities, when they are being overcome at long last. Approaching the current inquiry from within feminism's different strands, it is worried, might turn out to do exactly that, by squarely lodging conversation in its traditional grooves and ruts.

To see why this matters, it is worth recalling a little of what the old feminist modalities could be like for work that refused to respect their dividing lines. As one illustration, consider some reactions to Robin West's essay "The Difference in Women's Hedonic Lives."³ Published in 1987, the essay took aim at the then-preeminent, and warring, feminist legal camps—liberal and radical feminisms—in order to clear space for its own affirmative project.⁴ The essay proposed that, instead of focusing on enhancing choice (as liberals wanted) or fixing maldistributions of power (as radicals did), feminism begin promoting simply and directly women's happiness, overall. This hedonistic feminism intersected with, and diverged from, liberal and radical feminisms in complicated ways. But no feminist having ever thumped for women's misery, West's proposal might actually have been taken to chart a comprehensive course forward that no other form of legal feminism at the time did. Mildly put, feminists alienated by what West wrote about their views did not rush to seize the opportunity. More accurately, the work inspired in a number of them an active desire not only not to

³ Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN'S L.J. 81 (1987).

⁴ A few years earlier, Ann Ferguson described the split outside law in similar terms, as increasing polarization between "two camps on issues of feminist sexual morality": radical feminists, on the one hand, and "self-styled 'anti-prudes,' I term 'libertarian feminists,'" on the other. Ann Ferguson, *Sex War: The Debate Between Radical and Libertarian Feminists*, 10 SIGNS 106 (1984). To be sure, by the time West published "Hedonic Lives," these weren't the only forms of feminism operating in legal circles. See, e.g., Ellen C. DuBois, Mary C. Dunlap, Carol J. Gilligan, Catharine A. MacKinnon & Carrie J. Menkel-Meadow, *The James McCormick Mitchell Lecture: Feminist Discourse, Moral Values, and the Law—A Conversation*, 34 BUFF. L. REV. 11 (1985).

follow it but also to shred it apart: Parsed line by line, those sentences, graphs, and passages one could agree with, even praise, over here, and those one could not possibly abide, over there, to the side. Small comfort, perhaps, though some vindication to learn, with time, that there were silent cheers for the essay's brave independence behind party lines. Meanwhile, while some other feminists, equally famously, forged new paths,⁵ many others in feminism's ranks publicly stayed dissents from positions that were openly being advanced on their behalf.

Some of the good news accompanying the erosion of feminism's internal walls is that silence like that is no longer seen as either politically necessary or wise. Work is no longer measured or valued for how it is situated in relation to pre-existing party lines. The steady disappearance of camp-based thinking within feminism increasingly means that work in feminist theory can draw from and develop multiple feminist identifications, even define its own. It can also pick and choose from the full spectrum of resources, including conceptual resources, found anywhere within feminism—or beyond it—when engaging the problems and concerns it identifies. Grousing about how incredibly tight the space for thinking within feminism is, is familiar, but it is inaccurate. Feminist theorizing is on an open range.

To report on the goings-on there in somewhat general terms, the often superheated square-offs between and among feminists in different feminist camps have been replaced by multiple conversations between and among feminists who are slowly discovering points of contact and convergence behind old faction lines. This is happening incrementally and at too local a level to manage an accurate count. But bit-by-bit, these exercises—often amounting to small-scale and low-level instances of trust-building—are starting to yield some important results.

Some of these results are, so far, coming in, in the form of non-caricatured mutual understandings of previously opposing positions. This may not seem like much. But it is a real achievement for those who might otherwise be or once were positioned to consider themselves as soldiers of enemy camps. One way to measure the ground being gained is found in a frank recognition of what, in the past, was lost. Nobody seriously engaged in feminism over the last three or four decades could fail, after reflection, to imagine conversations that might have been life and world changing, which never took place—and may never now—because they were shut down dead in their tracks once certain feminist commitments or identifications were announced. In professional terms, the consequences have in

⁵ See, e.g., Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991); Mary Joe Frug, *A Postmodern Feminist Legal Manifesto (An Unfinished Draft)*, 105 HARV. L. REV. 1045 (1992); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 1 (1989).

some cases been steep: opportunities and networks closed to different feminists because of their feminist views and affiliations. Pointing this out seems likely to raise some hackles, but there is no reason for it to—not here. Far from intending to trigger recriminations, the purpose is to situate recent developments, which are actively resetting relations, against their historical conditions. Positioned this way, small strides toward mutual understandings can be seen for what they really are—not small, but big. The burdens and anxieties of being thought of as consorting with or giving aid and comfort across enemy lines may not be absolutely and entirely gone. Old ideas of loyalty die hard. But while they remain alive, they are not at this point keeping important conversations—many long overdue—from happening.

As significant as all this is, maybe more so in a way are the even more forward-leaning forms of cooperation between and among those with different sorts of feminist commitments that are afoot. Without much effort, the present conversation about feminism's condition—if one stands back to look at it—can be understood in precisely these terms. In other instances where cooperation among feminists of different traditions is taking root, results may remain invisible to unaccustomed eyes. But signs exist for those who look. In doubt? Ask around. Or start noticing who is thanked in whose work, how positions are being articulated compared to how they once (not so long ago) were, or what sources across what classic party lines are being cited, discussed, and how. Not strictly new in the history of feminism, including the history of legal academic feminism, which has always been a conversation of sorts, the new exchanges between and among feminists of what might still be regarded as somewhat different stripes are showing themselves capable of actively unraveling and reweaving feminism's strands, remaking them and their theories in new ways for a new generation and the circumstances of a new day.

Wonderful examples of the sorts of achievements these forms of feminist dialogue and cooperation can hope to produce are found in recent scholarship by, among others, Adrienne Davis and Laura Rosenbury and Jennifer Rothman.⁶ Part, though not all, of what makes these efforts as significant as they are, and as groundbreaking, is their shared refusal to bow to any conventional feminist party line. Though this scholarship emerges from different feminist traditions, and thus owes different sorts of intellectual debts, what makes it so fascinating and engaging, giving it the traction it has, is how it draws from and is responsive to so

⁶ See, e.g., Adrienne D. Davis, *But It Feels So Good to Be Bad: Abjection, Power, and Sexuality Exceptionalism in (Kara Walker's) Art and (Janet Halley's) Law*, 23 YALE J.L. & FEMINISM 1 (2011); Adrienne D. Davis, *Regulating Polygamy: Intimacy, Default Rules, and Bargaining for Equality*, 110 COLUM. L. REV. 1955 (2010); Laura A. Rosenbury & Jennifer E. Rothman, *Sex In and Out of Intimacy*, 59 EMORY L.J. 809 (2010).

many different kinds of feminism: The influences of critical race feminism, sex radical feminism, postmodernist feminism, liberal feminism, as well as radical and cultural feminisms, are, in addition to other things, discoverable and unmistakably felt throughout. Like other recent efforts in feminist theory, this work tends to be blasé about feminist labels and labeling. It seizes and deploys the theory tools it needs to do what it sets out to do, but without concern for their feminist provenance, except as it bears on analytic coherence. As hybrid work, this scholarship defies those who would attempt to use conventional feminist classifications to pin it down, hence diminish its significance and limit its reach. It is what it is and does what it does without a formal name in feminist theory. But it is definitely not post-feminist. What it is, is post-camp.

What will the ultimate consequences of work like this—and the milieu of conversation and collaboration to which it is contributing—be for feminist theory, hence anything else? It is too soon to say. This much, however, seems clear. However strong and enduring the work they foster, the conversations and collaborations that are happening remain in need of tending if they are to flourish as fully they as they might. An irony is palpable here: The very same divisions in feminism that helped create the theories and the conditions out of which the present possibilities grow, and to which they are thus indebted, now seem to pose something of a threat. Should the old feminist divisions be re-energized and re-engaged, especially should they return to the heights of their former power, they could well overcome the current moment, and, at an extreme, shut it down. To be sure, this is not the only or the biggest threat facing present efforts in feminist theory. But as one of the threats that feminists can themselves do something about, to avoid or try to, it would be a mistake to pretend it isn't there. Too much hangs in the balance to be lost—or, hopefully, gained.

Recognizing this, the question that needs to be asked is, Is there a way to conduct the current investigation into feminism's condition that doesn't start out by privileging and working from within feminism's classic camps? Or that if it does engage them, doesn't engage them in a way that seems likely to bring them—and their costs—fully back to life? Happily, there is, and it is an approach to the current investigation that has some additional benefits, to boot. But to see what it is, hence what its benefits are, it is necessary to look at feminism in a different light.

* * *

Feminism has been many things to many people: variously, a politics, an identity, a sisterhood, a family, a faith, a refuge, a home. Recognizing its profound importance to both individual and collective social life, it must nevertheless be said that, purely on an analytic level anyway, feminism is and only ever has been,

at most, an empty vessel. As a conceptual matter, feminism is merely a means of collecting and referring to certain normative projects and theories (many keyed, however roughly, to women's experiences, interests, and needs), as well as the procedures, including the strategies and tactics, for effectuating them.⁷ Much as it may have seemed otherwise, the work of deciding what feminism means is not performed by anything that inheres in feminism itself. Doing that lifting are the principles and procedures that, underlying feminism, contingently supply it with definition both in particular works and context and also at particular points in time.

Seen in this light, feminism's historic, internal battles may be recast as clashes of conflicting normative positions and theories that, for complex reasons, were staged as fights—even wars—within feminism, over its “real” or “true” meaning or the directions it should take. Practically, ascendancy over feminism's definition—one (perhaps the) prize in these fights—would accord the victor not only pride of place as feminism's standard-bearer, but also authority over the resources at feminism's command. The value of those assets—feminism's access to bodies and minds, as well as institutional resources—might rise or fall, depending partly on the provisional outcomes of the ongoing rumbles. But feminism's basic capacity to be hooked up to and driven by different normative engines has not changed, as attested by the history of legal feminism, which, at different times, has moved in liberal, radical, cultural, postmodernist, sex radical, critical race, and other feminist directions, sometimes—amazingly—all at once. If efforts to pin feminism's fixed and unchanging substantive essence down have persistently proven elusive—and they have—it is because there is no such thing in feminism to be found.⁸ No put-down is implied, only fact: Analytically, feminism's core, if it can properly be said to have a core, is a null set.

If this is right, significant consequences for the present discussion follow. If feminism is merely a way of collecting and referring to a set of underlying normative projects and theories, along with the procedures for effectuating them, the analytic focus when trying to sort out what is happening with feminism should not be placed on feminism itself. Instead of treating feminism as the proper object of inquiry, it should be treated as a transparency onto what is. Looking not *at* feminism but *through* it, what one sees, bracketing feminism's underlying

⁷ Needless to say, there have been and will continue to be complex interactions between the normative projects and theories associated with feminism and the procedures for mobilizing them. Separating them from one another for present purposes does not miss this.

⁸ Even a statement as seemingly obviously right as Mary Anne Case's recent observation that “all feminists repudiate female subordination,” Mary Anne Case, *What Feminists Have to Lose in Same-Sex Marriage Litigation*, 57 UCLA L. REV. 1199, 1201 (2010), can generate contest. From different directions, see, for example, COMING TO POWER (Samois eds., 3d ed. 1987), and Catharine A. MacKinnon, *Liberalism and the Death of Feminism*, in THE SEXUAL LIBERALS AND THE ATTACK ON FEMINISM 3 (Dorchen Leidholdt & Janice G. Raymond eds., 1990).

procedural dimensions, is an incredibly rich, highly variegated, vast, and ever-changing theoretical terrain.

A quick tour of this landscape might begin with a number of more or less basic principles that individually and together substantively comprise significant portions of what is presently known as feminist theory. Most readily, one perceives concepts and conceptions of, among other things, autonomy, equality, non-domination, pleasure, happiness, caregiving, dignity, honor, human rights, vulnerability, and human capabilities, many of which trace deeper normative roots. Looking at what these principles themselves produce, rather than what, if anything, produces them, one finds branches and sprouts specifying and elaborating their particular meanings in the contexts of the social conditions feminists famously care about. These conditions include not only life's sometimes joyous phases, including childhood, marriage and family life, but also the remainder of life's days, including events of adulthood, among them, work, illness, disability, aging, and dying and death, along with the practices and institutions surrounding them. More granularly, one observes, for instance, how the principle of autonomy is elaborated in ways that address and dissect the conditions of marriage and family life, and how concerns of equality and non-domination are tailored to expose the conditions and harms of sex, as well as how they intersect with classic conceptions of parenting, property, and the obligations of the State. One likewise notices notions of care being worked up in ways that affirm and critique and remake dominant norms of parenthood and professional life, including lawyering and doctoring. One even sees the "capabilities approach" to human flourishing and its ways of meeting and theorizing those times in life when capabilities are checked, as by infirmity and age. Rounding the examples out, one can scarcely miss how various principles are developed and converge on, if in different ways, reproductive rights, and the social, including legal limits, imposed on them.

Related to specifications like these, indeed, often integral to them, are important matters of method: ways of apprehending the social realities, both facts and truths, that are part of the normative theorizing feminists do. Considering the epistemic registers—really, the epistemic normativities—that have been relied on to produce the knowledge feminists have incorporated into their theoretical work, an abbreviated tally might begin with consciousness raising and storytelling, then turn to their more comprehensively systematized counterparts, which emerge from various traditions and academic disciplines.

Speaking only of law, as one such discipline, feminist theorists have, at times, imagined what law is in a positivist vein, treating it as the product of duly authorized State processes that generate determinate legal rules. Even in this

register, partly following Roscoe Pound,⁹ law is conceived of basically in dual fold: law on the books and law in action, though the split between them, specifically on the action side, has in recent years been raised to new levels of conceptual game.¹⁰ For its part, the law on the books in a conventional form, sometimes indulged by feminists, is a staid affair, comprised of the basic stuff of command and control. Law is a duly enacted rule with clear meaning that all subordinated to it are to understand—and obey. Law is the rule that says: Do this; don't do that, or pay if you do. Of law in action, one conventional iteration that surfaces in feminist theorizing is simply, if abstractly, stated like this: What legal actors do—or don't do—can be the “tougher and truer”¹¹ meaning of a legal rule than its plain black letter on a law book's page. An act, for instance, might be rape to the person to whom it happened and also in accord with the definition on the books, but if no prosecutor will prosecute the case because of, say, who the victim is or something she did, or no jury will convict, then that, and not something else, is the real law of rape. Footwork gets fancier where high-level, in-game understandings of the legal system's operations are engaged: where a legal rule's meanings (that's plural) are illuminated by examining the rule from the perspective of differently situated legal actors working in differently situated institutional contexts. One rule of law can have a great many faces. And, turns out, more still when what is in play is not a simple, one-part rule but a rule comprised of smaller pieces (as with the elements of a crime) or a rule that hangs together with others to form a more comprehensive rule-set (as with legal doctrines comprised of multiple individual rules).

Connected to these forms of positivist thinking, though in important ways conceptually distinct from them, are the normative and critical jurisprudential registers feminist have often practically theorized in.¹² Sometimes expressly, sometimes tacitly, positivist modes of legal analysis treat law as an autonomous or semi-autonomous sphere of human activity. That is no surprise given how their so-called rules of recognition operate: Law is an outcome of duly authorized processes of lawmaking, which generally presuppose the involvement of State

⁹ Roscoe Pound, *Law in Books and Law in Action*, 44 AM. L. REV. 12 (1910).

¹⁰ See, e.g., Duncan Kennedy, *Sexual Abuse, Sexy Dressing, and the Eroticization of Domination*, 26 N. ENG. L. REV. 1309 (1992).

¹¹ *Nashville, Chattanooga & St. Louis Ry. Co. v. Browning*, 310 U.S. 362, 369 (1940) (“It would be a narrow conception of jurisprudence to confine the notion of ‘laws’ to what is found written on the statute books, and to disregard the gloss which life has written upon it. . . . Deeply embedded traditional ways of carrying out state policy . . . are often tougher and truer law than the dead words of the written text.”). Justice Frankfurter later revised the statement in his opinion in *Poe v. Ullman*: “‘Deeply embedded traditional ways of carrying out a state policy . . .’—or not carrying it out—are often tougher and truer law than the dead words of the written text.” 367 U.S. 497, 502 (1961) (plurality opinion) (citation omitted).

¹² For a similar notation that aims in different directions, see Robin West, *Pornography as a Legal Text: Comments from a Legal Perspective*, in FOR ADULT USERS ONLY: THE DILEMMA OF VIOLENT PORNOGRAPHY 108 (Susan Gubar & Joan Hoff eds., 1989).

machinery taken to make law and law-making a specialized and distinct rule-making business. If feminist theorizing sometimes displays these tendencies of thought when taking a positivistic turn, it ceases doing so when it operates in more normative and critical jurisprudential registers. Shrinking boundary walls separating law from other spheres and dimensions of social life, law in these registers is seen as a dynamic, simultaneously effect and cause of what might loosely be thought of as “extra-legal” or “non-legal” social forces—forces that sometimes have their own systematic and regulatory structures and effects. Think, along these lines, of law reflecting and reinforcing social ideologies like, historically, “separate spheres,” or, historically and contemporaneously, white and male and heterosexual supremacies.¹³ Or think of law as being both a repository and an important site in the construction of culture and cultural values, including values like the “rule of law,” and under it, notions like tradition, neutrality, objectivity, and stability. Or think of law as “only one among many vectors in the production of social relations,”¹⁴ a device by which society reflects and reproduces itself, including its institutions, practices and norms, as well as social meanings. So much, anyway, is the idea behind plenty of feminist thinking about how the law constitutes and gives meaning to, say, the “family” and other kinship forms, including those it outlaws, but it informs an approach that is applicable, and applied, across a much broader range of topics.

At a more general level, these various ways of thinking and knowing about law, all of which are found operating now and again in feminist theorizing, are not mutually exclusive. Feminist analyses can be found that slide back and forth effortlessly between and among them, notwithstanding whispers, sometimes more precisely charges, of intellectual lassitude. Jurisprudential types sometimes regard feminist theorizing in law as a motley, meaning: an unsystematic and unsystematized, affair, a mishmash of jurisprudential approaches. That is only partially true. It doesn’t go nearly far enough. It is tempting to speculate there is not any formalized way of thinking about law or even any inchoate tendency that cannot be found in play in some way, someplace on the terrain of normative theory one sees when looking past feminism to the ground that has helped give it its meaning and name. Far from being a point of embarrassment, this is a strength, given the incredibly wide sweep of feminists’ theoretical claims and aims.

The payoff of this brief tour of the vastly larger theoretical terrain which gives feminist theory content and shape is that it points toward a particular way of answering the question, Where is feminism now? Insofar as the answer implicates feminism’s underlying theoretical ground, this wondrously rich, complicated,

¹³ One major, recent study of racist and sexist ideologies in tort law is in MARTHA CHAMALLAS & JENNIFER B. WRIGGINS, *THE MEASURE OF INJURY: RACE, GENDER AND TORT LAW* (2010).

¹⁴ Kathryn Abrams, *Legal Feminism and the Emotions: Three Moments in an Evolving Relationship*, 28 HARV. J.L. & GENDER 325, 335 (2005).

fertile, and yes, incredibly analytically messy terrain, is it. Resisting the urge to try to produce a grand unifying theory that would reconcile and pound out the inconsistencies of this ungainly whole, what is striking—truly striking—about this landscape are all the amazing and groundbreaking and world-historically important things that appear possible on it, if the full range of theoretical tools it makes available are put to use. It seems as though resources already exist to theorize most everything feminists have ever cared about. And, perhaps with effort, not to forget creativity, absolutely everything they do and all they ever might.

If this is right, what could possibly explain the sense—held by many feminists—that, as a vital and engaging intellectual project, feminist theory is stuck or completely kaput? As with many things, this may actually be less about what people, including feminists, *think* about the condition in which feminist theory finds itself than how they *feel* about it. Speaking candidly in emotional terms—terms scarcely bereft of intellectual content—there is a sense in which the idea of feminist theory closing up shop or going entirely out of business, if not the reality of it, might actually generate for at least some feminists a sensation of (near) relief. Feminists, after all, quite sensibly have mixed feelings about what it means to “do” feminist theory.¹⁵ Widely recognized is how some of the most significant products of feminist theorizing have come through the closest and most direct contact with life’s dark sides: the violence, the pains, the sorrows, the agonies and the brutalities of social existence, starting with the aches of enforced drudgework (think Betty Friedan¹⁶) to the realities of forced marriage, pregnancy, childbirth, and labor, to poverty and hunger and other forms of neglect and abuse, to the realities of murder, mass murder, and even genocide. If doing feminist theory means being in touch with human events like these, who wouldn’t be ambivalent about it? Who wouldn’t contemplate the feminist theory project with, in addition to a deep sense of commitment, conviction, and purpose, a sense of anxiety, apprehension, lack of desire, and even—particularly knowing what this work is up against—a sense of anticipatory exhaustion and dread? Andrea Dworkin, having lived the work for many years with face pressed bravely up against the intensities of the human condition, said: “I speak for many feminists, not only myself, when I tell you that I am tired of what I know and sad beyond any words I have about what has already been done to women up to this point[.]”¹⁷ On the way to finally stopping the trains, knowing of the need to catch one’s breath, she asked for “one day of respite, one day off, one day in which no

¹⁵ Mixed feelings about feminist theory in feminist theory aren’t new. See, e.g., Robin West, *Love, Rage and Legal Theory*, 1 YALE J.L. & FEMINISM 101 (1989).

¹⁶ BETTY FRIEDAN, *THE FEMININE MYSTIQUE* (1963).

¹⁷ ANDREA DWORKIN, *I Want a Twenty-Four-Hour Truce During Which There Is No Rape*, in LETTERS FROM A WAR ZONE 162, 170 (1993).

new bodies are piled up, one day in which no new agony is added to the old[.] . . . Even in wars, there are days of truce. . . . I want a twenty-four-hour truce during which there is no rape.”¹⁸ Nobody *wants* to do this work. Nobody would make the world be this way to be able to. Most everyone—and maybe exactly everyone—who does it would at some point like to take a break. That is partly why calls to theorize pleasure can be emotionally alluring even when they formally involve studying the harms of pleasures denied.¹⁹ Likewise, it helps explain, on an emotional level anyway, why one recent proposal to take a break from feminism was simultaneously so seductive and unnerving.²⁰ The emotional reverberations it caused, without the scorn it additionally heaped on feminist theorizing,²¹ stated their own prima facie case.

To the point at hand: Crediting the work on feminism and the emotions that feminists, including Kathryn Abrams, have been undertaking for some time, it seems important, as part of the larger conversation that is being engaged, to think openly and collectively about the emotions as they relate to the theory project.²² This might include studying and writing about the phenomenology of theory itself, including what happens emotionally along the way when certain social realities are encountered, and how those emotions can impact one’s vision, hence one’s theorizing, and in what ways. As importantly, this dimension of the conversation might also include thinking about the resources needed to keep doing the work, including opportunities for fellowship, particularly over time. More broadly, it might involve thinking about how the emotions shade and shape perceptions about the possibilities of theory, perceptions that, in turn, can define the theoretical work that gets done, hence both theory’s contents and its limits. Without such an understanding, what feels true about feminist theory’s prospects, either now or in the future, may matter more than what the theoretical opportunities, understood on a conceptual plane, actually are.

¹⁸ *Id.* at 170–71.

¹⁹ Examples include Katherine M. Franke, *Theorizing Yes: An Essay on Feminism, Law, and Desire*, 101 COLUM. L. REV. 181 (2001), and Carole S. Vance, *Pleasure and Danger: Toward a Politics of Sexuality*, in PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY 1 (Carole S. Vance ed., 1984).

²⁰ The point was urged in a number of places before being forwarded in JANET HALLEY, SPLIT DECISIONS: HOW AND WHY TO TAKE A BREAK FROM FEMINISM (2006).

²¹ For a collection of some examples, see Ann M. Bartow, Book Review, 26 WINDSOR Y.B. ACCESS JUST. 391 (2008).

²² See, e.g., Kathryn Abrams, *Barriers and Boundaries: Exploring Emotion in the Law of the Family*, 16 VA. J. SOC. POL’Y & L. 301 (2009); Kathryn Abrams, “*Fighting Fire with Fire*”: *Rethinking the Role of Disgust in Hate Crimes*, 90 CALIF. L. REV. 1423 (2002); Abrams, *supra* note 14; Kathryn Abrams, *The Progress of Passion*, 100 MICH. L. REV. 1602 (2002) (reviewing THE PASSIONS OF LAW (Susan A. Bandes ed., 1999)); Kathryn Abrams & Hila Keren, *Law in the Cultivation of Hope*, 95 CALIF. L. REV. 319 (2007); see also, e.g., Hila Keren, *Considering Affective Consideration*, 40 GOLDEN GATE U. L. REV. 165 (2010).

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Assuming equilibrium between how feminists think and feel about the prospects for doing theory can be reached, and that it converges on how bright those prospects are, there is plenty of work to be done. Where to begin?

One of the many projects calling out for attention involves pursuing the implications of feminism's analytic contentlessness for existing feminist theories. This entails much more than simply rewriting those theories without references to "feminism" in them. While different ways to approach the task can be imagined, all of them, speaking schematically, require juggling at least two different, albeit related, tasks at once.

The first is an effort in what might be thought of as a kind of translation. This is the work of taking existing feminist theories, close as possible, jot for jot, excepting their "feminism," which will be dropped, and rewriting them, as needed, directly into the language of their underlying normativities. Not as easy as it might sound. Feminist theories do not always explicitly specify all their basic grounds, and even in those cases where they do, they may draw on multiple normative registers as they cobble moves together into more comprehensive theoretical frames that, like stories, have their own normative arcs filled not only with big, bold obvious gestures, but also subtle emphases, inflections, and (sometimes) counterintuitive twists. The architecture of a theory—how it is initially grounded and launched and what's built on and what's taken to follow exactly from what, after that—can be a matter of great theoretical, as well as practical, concern. Even before existing feminist theories are translated, then, they must be carefully studied, often across a range of texts, so their structures are understood as deeply as they can be. Once they are, it may be possible to discover their discrete elements, down to their smallest nuance and last detail, in order to translate them faithfully into their ordinary normative registers, and, following that, to use them to reassemble the theories of which they are, once again, to be constitutive parts. Far from a drone's work, the effort to translate feminist theories into their underlying normative registers can be a labor-intensive, reconstructive art that will require more than an act or two of inspiration and creativity to get through and get right.

All the more so given the second task that the larger endeavor involves. In addition to all the careful translation work that must be done, the normative theories that result must be checked not only against their feminist theory originals for accuracy, but also, as importantly, against the current conditions of the social world, to make sure that the theories that result achieve and sustain a kind of reflective equilibrium with the social context in which they are being

produced.²³ If successful, this external validation procedure would ideally help turn out a final theoretical product that, in addition to being the best rendition of feminist theory without feminism, will also be the most airtight and up-to-date exercise in normative theory that can possibly be produced.²⁴ Practically, to achieve these ends, which can, in reality, diverge, some liberties may need to be taken. It may be discovered in translation, for instance, that perfect fidelity to a feminist theory's structure is not as well adapted to the social world that presently exists as a modified structure would be. Making the needed adjustments for fit may in some cases be small stuff, like moving little pieces of a theory's narrative arc around. Sometimes, a theory's structure may need more significant alterations, as through the refinement or removal of existing lines of analysis or the addition of new ones. In some cases, whole parts of a feminist theory's original structure might need to be eliminated to preserve its translation's validity in light of present-day social realities. At an extreme, it is possible that some feminist theories may simply not survive. Not, that is, because they cannot be translated into normative theory, but because the translation that results is too far out of sync with the social world to make the effort to harmonize them worth it; less arduous to raze the theory and start all over again.

To see why this might be so, it is helpful to emphasize the background intuition at work here. Feminist theories are often constructed at particular points in time for particular ends that exist in a particular social world as it is contingently constituted.²⁵ As time passes and social worlds change, even the most perfect theories can lose their precise calibration to the conditions they engage. It would not be the first time that efforts in normative theorizing have been outrun, hence been dated, by changing social circumstances and facts. If this has happened with a feminist theory, a translation of it will not hold up and be defensible as good normative theorizing until it is brought back up to date. In some cases, it will be easy to re-key translations of feminist theories to fit present-day social realities. Practically, there might be no need for any work if and when feminist theorizing is fresh. In other cases, the keying will require more—and sometimes, significant amounts of—effort. In some other cases, the possibilities

²³ In the context being described, contemplating a reflective equilibrium between normative theorizing and the social context in which it is produced is not necessarily to exclude a desire to have “thought unhinged from present political utility [be] taken seriously as a part of political struggle[.]” Robyn Wiegman, *On Being in Time with Feminism*, 65 *MOD. LANG. Q.* 161, 168 (2004).

²⁴ Neither this nor anything else being ventured in these pages should be taken as urging an uncritical acceptance of the existing terms of normative theory. More on which, another day.

²⁵ An important articulation of the point is in Catharine A. MacKinnon, *Points Against Postmodernism*, 75 *CHI.-KENT L. REV.* 687, 695 (2000) (“It is also worth repeating that sexual politics, in feminism, is not an overarching preexisting general theory that is appealed to in order to understand or explain, but a constantly provisional analysis in the process of being made by the social realities that produce(d) it.”).

for reform may be so remote it won't seem worth the candle to try to make a theory burn with a brilliance it might formerly have had. Lost to time, the theory may, in the present moment, do no more than serve as a reminder of what normative theorizing at its very best can, if only for a glimmer of a second, hope to achieve. Until the second hand turns and its excellence disappears.

As this last suggests, to think that feminist theories should be checked against existing social conditions and in some cases altered to meet them is not necessarily to venture a critique. To the contrary, in addition to understanding the obvious fact that, with time, things can change, the recognition that feminist theories need to be re-examined in light of present social circumstances emerges partly from an understanding that feminist theories have not lacked for practical successes. To appreciate what this means, consider the entire body of feminist theory work designed to address the realities of sexual abuse. Without question, feminist theories built more or less directly from the cold facts of the sexual victimization of girls and women by boys and men have produced a number of tectonic shifts in the social world. Some of them—particularly a number of highly visible law reform projects, themselves widely, if not universally, seen as major achievements²⁶—are well known. Others, still emerging, are not. Over time, for instance, and very slowly, feminist theories of sexual harm, operating through a vastly complex set of social adjustments and processes, including those wrought by law, have led a growing number of boys and men who have been sexually violated to begin to make sense of the individual and collective dimensions of their injuries. Following the courageous examples of the girls and women who have dared to speak out against their sexual violation, some male victims of sexual abuse, on their way to becoming a social movement, have broken a longstanding silence to say what they have endured. The abuses these men have suffered have not become a significant object of mainstream social scientific inquiry—yet.²⁷ But they are already revealing new ground that needs to be theorized, as they are generating new data to contemplate and comprehend. How existing feminist theories of sexual injury will ultimately respond to these challenges, including how, if at all, they may need to be reworked in light of them, remains to be seen.²⁸ If theoretical adjustments do result, it will not be because these theories of sexual violence and abuse failed to do something vitally

²⁶ See, e.g., DIRECTIONS IN SEXUAL HARASSMENT LAW (Catharine A. MacKinnon & Reva Siegel eds., 2004); CATHARINE A. MACKINNON, SEXUAL HARASSMENT OF WORKING WOMEN (1979).

²⁷ For a survey of some important parts of the extant literature on male sexual victimization, see Kay L. Levine, *No Penis, No Problem*, 33 FORD. URB. L.J. 357, 380–88 nn.107–44, 397–404 & nn.183–211 (2006); see also Marc Spindelman, *Surviving Lawrence v. Texas*, 102 MICH. L. REV. 1615, 1634 n.98, 1635 n.99, 1641 n.123, 1642 n.129, 1647 n.143 (2004).

²⁸ Efforts in these directions include Marc Spindelman, *Homosexuality's Horizon*, 54 EMORY L.J. 1361 (2005); Marc Spindelman, *Sex Equality Panic*, 13 COLUM. J. GENDER & L. 1 (2004); Spindelman, *supra* note 27.

important about the problems they addressed. Rather, it will be because in doing what they did, these theories opened up social seams that turned out to be even bigger and deeper and darker than most anyone could have imagined. To check and, as needed, to modify these theories to encompass the realities they have helped make visible is thus to witness and honor the many sacrifices behind them. No, efforts to assess feminist theories for their correspondence with the social world needn't generally be approached with a sense of disappointment or failure or loss. The positive social consequences of feminist theories should not be underestimated. This theorizing has not been for naught even if it must be changed.

Having reached this point, another noteworthy set of theoretical possibilities is in sight. As feminist theories are returned to their normative roots, they may, in their translations, encounter other ongoing theoretical projects that are being worked on in the same (or nearby) conceptual soil. Following these encounters, opportunities for cross-fertilization, as well as direct theoretical collaboration, might thus emerge. To fill this out, imagine what might happen, for example, to sex-affirmative feminism as it is translated into its underlying normative registers, and, from there, updated and rebuilt in light of existing social conditions. Without study, it is not entirely obvious what translations of sex-affirmative feminism will finally look like. Speaking very provisionally, they could be grounded, among other alternatives, in a liberal conception of individual autonomy that produces norms of sexual choice, a hedonistic utilitarianism, a notion like Michel Foucault's "bodies and pleasures,"²⁹ or in an even more expressly Nietzschean view of freedom in sex,³⁰ maybe some combination of different measures of all these (and other) things. Depending on how sex-affirmative feminism is translated, the resulting theorizing could conceivably discover other endeavors, like those operating as "queer theory," busy working around the same or similar concepts for the same or similar kinds of ends. Without assuming these projects must engage each other (there's no reason they have to), it might nevertheless be thought fruitful for each to explore the other's work in the context of its own. What would queer theoretic insights do for this newly translated sex-affirmative feminism, for instance, or the other way around?³¹ Alternatively, these projects, after initial explorations or after a jump straight into the deep end, could seek to develop joint complicities, on the thought

²⁹ MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY, VOL. I: AN INTRODUCTION* 157 (Robert Hurley trans., 1990).

³⁰ For an illustration of what such a theory may look like both on its own terms and viewed critically, see Marc Spindelman, *Sexual Freedom's Shadows*, 23 *YALE J.L. & FEMINISM* 179 (2011).

³¹ Some attempts in these directions have already been ventured. See, e.g., *FEMINISM MEETS QUEER THEORY* (Naomi Schor & Elizabeth Weed eds., 1997); *FEMINIST AND QUEER LEGAL THEORY* (Martha A. Fineman et al. eds., 2009).

that they might yield theorizing greater than the pure sum of its parts. If that project were pursued, what new ideas, about, for example, sexual subjectivity could be produced? Might it explore the importance of heterosexual men's pleasures to the pleasures that non-male and non-heterosexual sexual subjects are allowed, as well as those they are forced to do without? What useful knowledge, previously unknown, might thus be generated about the general management and distribution of pleasures? About the mechanisms for redistributing them across the social, including the sexual, grid? About where pleasures are located in the body and how to move them around? What of sexual shame and its uses? How about abjection and its? About how these concepts function when internalized and what benefits and harms—for individuals and for sex—the internalization produces? What about barebacking subculture's explorations of an erotics of injury and death?³² Should it be more generally pursued? Or, might enough *frisson* be generated through a more workaday concept like "consensual sexual harm," which could entail both a theory of "consensual sexual slavery" and "consensual rape"? Will sexuality be theorized in ways that imagine a limitless freedom or must its freedoms somehow be leashed?

To be entirely clear, none of this is in any way meant as an endorsement of these theoretical ventures or what they might produce. Not at all. The point of the example, aside from showing no tricks are hiding up any sleeve here, is to highlight the general possibilities for theoretical collaboration that may appear as the work of translating and updating existing feminist theories is pursued. It is also, significantly, to notice, if for now only in passing, what further possibilities these theoretical collaborations may themselves open up: Subjectivity and consciousness might be altered in the process, with resulting effects for politics, hence the social world.³³ The road ahead may thus contain not only translations of feminist theory that are fully up to date and so available for all to consider and accept or reject on their own terms. But those theories, in different ways, may themselves also unleash additional chains of theoretical events capable of reconfiguring politics, hence social life, in ways that cannot now be foreseen. Hard to believe? Who, a generation ago, would have thought that thinking about how working women were being sexually harassed might some day, years later, help rock the Catholic Church to its heights, generating talk about bringing a Pope down, because of what some Catholic priests sexually did to—among others, including girls and women (often overlooked)—some young boys and men? As notions of individual and collective, including institutional, responsibility are

³² See, e.g., TIM DEAN, UNLIMITED INTIMACY: REFLECTIONS ON THE SUBCULTURE OF BAREBACKING (2009). This work is reviewed in Spindelman, *supra* note 30.

³³ These prospects for theory, often tacitly understood, are given expression in HALLEY, *supra* note 20, at 3–10.

reshaped in this context, faith no longer being a cover for harm, who can be sure what will follow?

Stated directly, nobody should fear that accepting the analytic point that “feminism” is an essentially empty concept entails abandoning the hopes and dreams for the future that feminism has been associated with.³⁴ No death knells for theorizing about what feminists care about are ringing. As before, the effort of translating and updating feminist theorizing—which may set the stage for further developments—is actually a way to recapture and widen what is in feminist theory’s orbit. The opportunities for theorizing are there. They exist. They need only be seized. Without fetishizing paradox, the *koan* here is: Abandon feminism to reclaim it. Including its theory.

Naturally, this is not to imagine the road ahead will be all sunny and bright. It won’t be. Disagreements and clashes—some small, some significant, some monumental—are already in the offing. But even disagreements may have a future that is not fully determined by feminist theory’s past. When they arise, as they certainly will, they need not amount to time-lapsed replays of the old feminist fights. Partly, this will be because so many feminists are still so very wary of the forms those hostilities took that, aware of their costs, they may seek out alternatives before returning to the old play book. More importantly, as feminist theories are translated and updated, and perhaps expanded in new and different ways, the resulting theories might entail a different sort of disposition toward disagreement and clash. Unlike the days when challenges that came in were perceived as threatening walls built to protect and defend the theories behind them, the new feminist theorizing could understand its contingency in ways that turn at least some attacks into occasions for further victories, opportunities to revise and expand and strengthen theories that are only ever ongoing works-in-progress anyway. The hard cases—the really hard cases—will be those instances in which disagreements hit deep, on fundamental matters of principle, in ways that threaten to reduce theoretical architecture to rubble. Disagreements like these should be expected, too. While it is possible to wait until they happen to figure out how they should be handled, another option is to begin conversation early to try to generate consensus around at least some ground rules for some basic forms of clash.

All this talk about the possibilities for feminist theory—as important as it is—is, in a certain respect, a little misleading. Some of the affirmative trajectories being actively imagined here are trajectories that others have sensed and followed in different sorts of ways. More and more people seem to be doing feminist theory work, carrying out older feminist theory projects, without doing so in the name of feminism. Getting concrete, whether they would characterize their work this way

³⁴ Cf. W.B. Gallie, *Essentially Contested Concepts*, 56 PROC. ARISTOTELIAN SOC’Y 167 (1956).

or not, Ruth Colker's scholarship on disability,³⁵ as well as Elizabeth Emens's on polyamory,³⁶ have this feel, though the trajectories seem to resonate even more fully in Catharine MacKinnon's sex equality theory and Robin West's engagements on a range of topics, particularly including constitutionalism and jurisprudence.³⁷ In another day, these efforts—certainly, some of them—might have been expressly situated within a feminist theory frame.³⁸ Whatever reasons there are in different cases for not doing so now,³⁹ this work collectively confirms that feminists need not be concerned about the prospect of doing feminism without feminism. This work is there, doing what it is doing to discover and change the world, continuous with an older tradition of apprehending existing social conditions in order, where appropriate, to change them. Agree with the particular programs this work is pursuing, as some do, want to join it, as many have, or object to it and want to slow it down or even stop it.⁴⁰ For present purposes, the work's specific normative content is not the point. What matters is what it is doing and at what level on the fertile terrain of normative theory—without “feminism” as such. This work shows that it is possible to fully rediscover the sense of significance, of engagement, of the present and of the future, that helped make feminism be and seem as crucial and vital as it once was and did, hence so worth fighting for and about. Varied in the theoretical tools it uses as well as in its aims, this work proves that things are happening in the realm of normative theory: Among them, futures thought truly worth living are being staked out. If the world is not seized as efforts like these are attempting, if the present in all its complexity is not engaged with the full might of all the

³⁵ See, e.g., Ruth Colker, *Anti-Subordination Above All: A Disability Perspective*, 82 NOTRE DAME L. REV. 1415 (2007).

³⁶ Elizabeth F. Emens, *Monogamy's Law: Compulsory Monogamy and Polyamorous Existence*, 29 N.Y.U. REV. L. & SOC. CHANGE 277 (2004).

³⁷ For MacKinnon's efforts, see, for example, CATHARINE A. MACKINNON, *SEX EQUALITY* (2001); CATHARINE A. MACKINNON, *SEX EQUALITY* (2nd ed. 2007), as well as a number of other works developing sex equality theory. (Robin West's review of MacKinnon's sex equality casebook, and the work behind it, appears as Robin West, *Law's Nobility*, 17 YALE J.L. & FEMINISM 385 (2005).) West's own efforts in these directions can be found in different locations, including Robin West, *Katrina, the Constitution, and the Legal Question Doctrine*, 81 CHI.-KENT L. REV. 1127 (2006), and Robin West, *Unenumerated Duties*, 9 U. PA. J. CONST. L. 221 (2006). A somewhat more classic approach is presented by Robin West, *From Choice to Reproductive Justice: De-Constitutionalizing Abortion Rights*, 118 YALE L.J. 1394 (2009).

³⁸ See, e.g., CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987); CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* (1989); Ruth Colker, *Anti-Subordination Above All: Sex, Race, and Equal Protection*, 61 N.Y.U. L. REV. 1003 (1986); Robin West, *Deconstructing the CLS-FEM Split*, 2 WISC. WOMEN'S L.J. 85 (1986) (still a must-read); Robin West, *Feminism, Critical Social Theory and Law*, 1989 U. CHI. LEGAL F. 59 (1989); Robin West, *The Feminist-Conservative Anti-Pornography Alliance and the 1986 Attorney General's Commission on Pornography Report*, 12 AM. B. FOUND. RES. J. 681 (1987); Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1 (1988).

³⁹ See, e.g., MacKinnon, *supra* note 8.

⁴⁰ For a not wholly unrelated discussion, see Marc Spindelman, *Gay Men and Sex Equality*, 46 TULSA L. REV. 123 (2011).

theoretical tools that are available, in what directions and by whom will the changes that are certain to come be made? To ask this is to raise, again, the question of how feminists feel about the future, including the future of feminist theory. Feminism was once a dazzlingly bright sign of hope. Is it still? If not, can it be again? Through work being done that can be joined—even if in pursuit of normatively opposite ends—the answer is it can. How's that for a programmatic theory of yes?

In light of this hope, which features a hope that it itself spreads, a few words about feminism's procedural dimensions are in order on the way to a close. Feminist practice over the last several decades has generated a massive body of political knowledge and experience. Clear at this point is that, as a conceptual matter, it adds nothing to this knowledge and experience to describe it as "feminist." As knowledge and experience, it is what it is. The relevant question is: What, if anything is to be done with it? Should efforts be undertaken to systematize it in some way? Can the strategies, tactics, actions, interventions that have been tried and succeeded, those that have been tried but have not worked, and those that have been thought of but not yet tried, be worked up into a workbook or book of maxims?⁴¹ If so, should it be publicly written and shared? If it is, what might that do to its value? Can the knowledge and experience be collected and handed down some other way? Should it be?

As these general questions are engaged, a related and perhaps more pressing set of concerns suggests itself. Within feminism, broadly if loosely understood, certain protocols were developed around how conversation should be staged to keep it in women's hands. The more one thinks about feminism without thinking about feminism, the more important conversational protocols like these might once again become. If consensus about their value is generated, how might these practices be reconstituted to ensure the domain of normative theorizing is and remains a safe space for those who wish to inhabit it? That, once secured, it remains, for instance, a place of women's equality, self-determination, and control? How to prevent men from practically boxing women out of the theories they would otherwise work to develop to guide and govern their own lives?

Depending on one's normative commitments, these questions may not be pertinent. For some, they may sound positively perverse, and not in a good way, like so much slave moralism that seeks to make theory "safe" when the true nature of ideas and thinking—real, serious ideas, and real, serious thinking—is

⁴¹ Cf. SAUL D. ALINSKY, *RULES FOR RADICALS: A PRAGMATIC PRIMER FOR REALISTIC RADICALS* (1989).

danger, and must be, for the results it produces to be great. But for those for whom these questions are germane, they are as important as they are practically complex. In the context of political efforts designed to address sexual injury, to take it again as an example, focus on process and its norms recognizes and affirms the realities and needs and injuries of survivors of abuse. Little imagination is required to understand how men, intending to or not, can conversationally silence female victims of sexual injury, thus stunting the conversation they might conduct or join, hence the theories that might be produced as a result. Less obvious but along similar lines is how else these possibilities can operate: with male survivors of same-sex abuse feeling, hence being, overrun and silenced by the voices of other men, as men, injured by female-inflicted sex abuse, can be by the voices of women. The actual psychology, hence how this plays out, can get much headier than that, with gender and authority coming to stand in for one another. This being so, as important as the process-based insights feminists of an earlier generation developed, they may in practice be no more than important starting points, resources to be drawn on, as the multiple and cross-cutting challenges of a broad-based conversation about how to theorize sexual violence, including what it is and how to stop it, are engaged. This seems likely to be true, though in different ways, for other parts of the overall conversation, where the range of injuries that social inequality regularly works are lived and felt. The idea is not to try to settle any of these possibilities at this point, only to flag them as items for discussion while setting the table for a conversation that may expand the more and more widely its potential impact is appreciated.

With so many possibilities, including so many questions and issues, on the table, where does this all leave feminism? Where might it take it? At this point, who can say for sure? It may be that, as a device for collecting and referring to a range of normative projects and theories, as well as the procedures, including the strategies and tactics, for effectuating them, feminism has entirely outlived its usefulness, these things being capable of being understood and pursued directly in their own, underlying terms. If so, the time may have come to leave feminism—though importantly not its content, not everything about it that has ever mattered—behind.

But it seems too soon to reach and embrace this conclusion with any sense of finality. There may very well be great utility to feminism that remains. Once the current conversation is firmly off the ground, it is possible to imagine bringing feminism back, even center stage, for any number of reasons. It could be a device for insisting on a shared commitment that ties a broad range of normative programs. It could be a way to theoretically foreground certain, say, women's

interests and needs. It could be a way of honoring all the achievements that have been heroically and hard won in feminism's name or simply as a device that acknowledges feminism's prepossessing ability to vex, threaten, and unnerve, marking feminism as a brand of critical theorizing, including real independent thinking, and of persistent demand for social change. Of course, the reintroduction of feminism into a set of inquiries that may have, by that point, come to function perfectly well without it might be poorly received, even resisted. Or more: thought to threaten the reversal or otherwise be destructive of gains that may have been made.

It must be acknowledged that there is something distasteful about seeming to leave feminism behind at a moment when it remains in so many ways under siege. Unlike other efforts that seek to take a break from feminism, what is being left behind in this approach is not what has really mattered about feminism itself. The fundamental normative projects and procedures designed to effectuate them that were undertaken in the name of feminism are to go on. Gone, if not necessarily forever, is only the sign under which that work took place, along with certain attitudes and modes of engagement widely recognized as better done without.

Looking to the future, the idea is that the substance and key procedures of feminism can be "revived and made fruitful once again"⁴² through new efforts in theory, including theorizing in law. The idea might sooner or later prove to be holographic. Or, so much the better, not. A renaissance of feminism without feminism—a future of renewed engagement with the problems of the world, a way of understanding its dynamics without shrinking from them, with the hopes of changing them in small and large scale ways—is a very real possibility, one that can be and in some respects already is being pursued. In its most audacious forms, feminism has always exceeded the material world, reflecting impossible dreams for a better tomorrow. One can carry feminism's thoughts and dreams forward without feminism itself, into a future that remains unwritten, but that may yet, with some luck, be lived.

⁴² LESZEK KOLAKOWSKI, *MAIN CURRENTS OF MARXISM: THE FOUNDERS, THE GOLDEN AGE, THE BREAKDOWN* 1211 (P.S. Falla trans., 2005).