

FOREWORD

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This Symposium inaugurates the Annual Feminist Legal Theory Lecture Series of the Washington College of Law's Gender, Work & Family Project. Martha Fineman,¹ in honor of her two towering achievements in feminist jurisprudence, is the first lecturer. The first achievement is her ground-breaking work on dependency, about which we will say more later. The second is her equally influential Feminist Theory Workshop, which she began at the University of Wisconsin, and has since moved to Columbia University and now to Cornell. The annual Workshop has provided the opportunity for scores of scholars to present papers related to feminist jurisprudence, helping to build a supportive intellectual and social network for feminists who can sometimes feel isolated in our respective institutions.

The Gender, Work & Family Project was born on an Amtrak train during the return trip to Washington, D.C. from the Critical Race Theory Conference at Yale University in 1997. After the extremely exciting and often fractious conference, we began to muse about the success of Critical Race Theory in creating an intellectual space within the academy for younger and established scholars and activists to physically meet, to struggle, and to work together to define a new paradigm of race scholarship and activism.² The mix was never tame and the conversations were often heated. But the results over a ten-year period were to build a social and intellectual network that

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1. Dorothea S. Clarke Professor of Feminist Jurisprudence, Cornell University Law School.

2. See, e.g., CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberle Crenshaw et al. eds., 1995); CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado ed., 1995); Richard Delgado & Jean Stefancic, *Critical Race Theory: An Annotated Bibliography*, 79 VA. L. REV. 461 (1993); Richard Delgado & Jean Stefancic, *Critical Race Theory: An Annotated Bibliography 1993, A Year of Transition*, 66 U. COLO. L. REV. 159 (1995); Symposium, *Minority Critiques of the Critical Legal Studies Movement*, 22 HARV. C.R.-C.L. L. REV. 297 (1987).

helped sustain and advance the careers of a generation of junior scholars, and gave new directions and emphasis to the work of more senior ones, ultimately resulting in what many have described as a significant paradigm shift in legal scholarship on race. The various physical conventions were instrumental in stimulating innovative ways to theorize racial oppression: describing it as socially constructed, showing its “co-synthetic” nature with other forms of oppression such as gender and sexual orientation, and connecting it to nationalism, colonialism, and post-colonialism.

Why, we mused from Stanford to Trenton, has feminist jurisprudence never developed a similar series of institutions? Why are there no national conferences on the future direction of legal feminism, or regional conferences for feminist legal scholars to come together, similar to the organization of the People of Color Conferences?³ Where is the institutionalized physical space for feminists to debate, grapple with, and probe the divisions and differences that will occur within any mature field of inquiry?⁴

In particular, more junior feminists often find themselves in an awkward position. While their job description may well make them vulnerable within their institutions, the absence of formal networks among feminists means that it is often difficult to find sustained support outside their institutions. So, with Martha Fineman’s Feminist Theory Workshop and Critical Race Theory Workshops as inspirations and models, we decided to form the Gender, Work & Family Project. Our particular agenda is not only to provide a safe space for struggle and support, but also to effect a paradigm shift in the ways we talk and think about different economic and other social meanings of gender, including race, sexual orientation, and class.

For the past two decades, with rigor and profound social commitment, feminist jurisprudence has conducted a rigorous and sustained inquiry into how rape, sexual harassment, domestic violence, and pornography subordinate women. Scholars in this field have skillfully linked the production of sexual norms of desire, sexuality, and attraction to the production of gender; that is, what it means to be a man or a woman in our culture. These feminists have shown how the eroticization of dominance systematically empowers men, while subordinating women and endangering their lives and

3. Annual regional People of Color Conferences have been hosted by different law schools over the last decade. The first national conference occurred last spring.

4. Various regions have at times hosted “FemCrit” meetings, but these seem to have faded away in recent years. Similarly, the Women and the Law Conferences have ceased to be convened.

bodily integrity. This inquiry into what might be called the sex/violence axis of gender formation has been elegantly, if contentiously, theorized, at times with stunning brilliance.

Yet, even as the sex/violence strand has become a mainstay of contemporary feminist legal theory, another core piece of anti-sexist analysis has been left under-attended. It is the conflict that people experience as they negotiate between their work lives and their family lives, especially once complicated by parental status. This area of feminist inquiry focuses on the devaluation of caregiving work, and manifests in different arenas as work/family conflict, the impoverishment of women upon divorce, the debate over "welfare reform," and controversies over when it is appropriate to commodify women's bodies and labor.

Work and family are also important arenas for the production of gender. Like the sex/violence analyses that have preceded it, scholarship on the economic meanings of gender will be enhanced by considering how gender operates as a "force field,"⁵ as parents prioritize their lives and make "choices" about how to mediate between home and the waged workplace. The time has come to meld the theoretical insights on gender performativity developed in other disciplines with the analysis of social power developed by critical race theory and dominance feminism, to rethink the ways feminists talk and think about work in the family and work in the market. This involves talking about class without falling into the old "does class trump gender?" debates; talking about the complex interactions of different fields of social power, such as race and sexual orientation; and talking about what we all owe to each other in an era when delusions of independence abound.

Once we reopen these topics, we need to overcome a number of different issues in order to effect the paradigm shift that is required to break new ground. We will meet again the old divisions of the sameness/difference debate.⁶ We must reframe those old battles in creative ways that leave room for a variety of feminist projects that are seen as mutually reinforcing, rather than mutually exclusive. This will require building connections between those whose project is to challenge heteronormativity and offer multiple ideals of the flourishing life; those whose goal is to socialize dependence; those whose goal is to redefine the relationship of market work and family work to end the marginalization of women; those whose goal is to

5. See JOAN WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT 37-39, 245-54, 256-60 (1998).

6. See Joan Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797 (1989).

restructure market work; those who seek to use the language of international human rights to right the wrongs of a world in which women own only a fraction of world wealth—and more.

As lawyers, we need to reach out to historians to recover the racialized meanings of the sexual economy⁷ and the complex histories of domesticity and feminism. Sociologists, economists, and anthropologists are deeply enmeshed in documenting our current gender arrangements; this work has made its way only sporadically into the law. Meanwhile, philosophers try to explain how feminists can retain confidence in our analyses, while leaving ourselves open to other women's realities. Psychologists offer insights into the sources and operations of gender in particular, and discrimination in general, for an era when the practice of discrimination has become far more subtle than it was when Title VII⁸ and other anti-discrimination statutes were passed.

The Gender, Work & Family Project is composed of two primary initiatives, Advocacy and Public Education. The Advocacy Initiative seeks to identify and change social, governmental, and workplace norms and practices that functionally bar women from simultaneously pursuing career advancement and family stability. The Public Education Initiative seeks to shift our understanding of the meaning of gender and the sources of work/family conflict. It also explores how work/family conflicts devolve into "gender wars" that pit men and women of different classes and races against each other. Through these two initiatives, the Project sponsors a series of public events and other programs. In addition to this Annual Feminist Legal Theory Lecture Series, to our knowledge the only annual lecture series dedicated to feminist jurisprudence in the country, the Project sponsors an annual workshop on feminist theory, which each year convenes a group to focus on a set topic and/or methodology. These academic workshops are explicitly intergenerational, interdisciplinary, multiracial, with people committed to diverse understandings of family and sexuality. We also seek to meld this academic work with activism, by convening colloquia to develop legislative and litigation strategies, and expose the effects of gender where gender analysis traditionally has not been part of the conversation. With these programs—the lecture series, the workshop, and the colloquia—we hope to create the physical

7. See Adrienne D. Davis, *The Private Law of Race and Sex: An Antebellum Perspective*, 51 STAN. L. REV. 221, 246-47 (1999).

8. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (1964).

space and on-going intellectual community to sustain feminist intellectual and activist work in a world still hostile after all these years.

In the course of these diverse fora, we hope to address and to help resolve the following questions. How can we end the racialized sexual economy we have inherited? How can we create a society where family work gives rise to entitlements, both from the government and within the family? How do we create new meanings of family not married to hetero-patriarchy? How do we negotiate between the task of envisioning new worlds without cramping our imaginations by insisting on short-term achievability? How do we balance visionary projects with the task of seizing the political moment to flip oppressive "realities" into emergent possibilities? How do we envision new ways of organizing work so that it does not clash with our ideals of family life? How do we enable women's "economic personality" without reifying existing structures of capitalism and market logic?⁹

Too often, these issues have divided feminists into bitter battles that have torn us from within, even as we remain embattled from without. As we return to difficult issues of family and economics, we must renew our commitment to creating a safe space in which to disagree in ways that still offer each other the support we so sorely need.

To achieve these goals, Martha Fineman's groundbreaking new work on dependence provides a good place to start.¹⁰ It is an extremely influential example of the type of feminist thinking designed to create new conceptual space, envisioning new modes of family life without being bound down by what Professor Peggy Radin has called issues of "transition."¹¹ Martha Fineman's previous work reopened settled understandings of what constitutes a family, urging us to consider whether we should abandon our traditional notion of the "sexual family," with its focus on the sexual bond between the adults, in favor of a new vision of family focused on the caretaking bond between dependents and their primary caretakers. In this work, she divides dependency into its constituent parts, separating inevitable from derivative dependency, and pointing out that the latter is not a universal experience. She again interrogates the "institutions of intimacy" that allow us "to privatize individual dependency,

9. See Davis, *supra* note 7.

10. Martha Albertson Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 AM. U.J. GENDER, SOC. POL'Y & L. 13 (2000).

11. See generally Margaret Jane Radin, *Market-Inalienability*, 100 HARV. L. REV. 1849 (1987).

pretending that it is not a public problem.” She opens the extraordinarily important question of who is subsidizing whom in a system where women (and some men) dedicate much of their adult lives to providing the care and sustenance required for a society to reproduce itself, a society that does not even acknowledge that that caretaking constitutes legitimate “work.”

Suzanna Walters¹² applauds Martha Fineman for taking on the discourse of “family values” that arose in the Reagan/Bush era.¹³ She starts by reminding us that right-wing attacks on the family target the full range of those who do not (or cannot) conform to the nuclear, patriarchally headed family: poor women, single mothers, gay and lesbian families. Walters then goes on to chastise feminists who have responded to the assault on families with weakness and deference: “feminists should proudly claim our contributions to the destruction of the patriarchal nuclear family instead of meekly arguing the ‘diverse’ family line.”¹⁴ While Walters finds Fineman’s work compelling and revelatory, she ultimately concludes that it, too, falls short of the full-scale critique that Walters believes is needed of the current political discourse on the family. Walters argues that the current icon of the family has “denuded” the public sphere of relational values, concomitantly producing the family as isolated and ultimately “anti-social.” She urges Fineman to sustain a more “deep and substantive engagement with the ideological conditions and social benefits that enact this alchemy that transforms the social family into the privatized family of female responsibility.”¹⁵ She fears that a solution grounded in redistribution, rather than in transformation through, for example, the socialization of child care, will only replicate and reproduce current relations of power, privilege, and ideology in which women get “more and more mired in domesticity.”¹⁶

Katherine Bartlett¹⁷ uses Martha Fineman’s lecture to take on the “grand theory” question of what constitutes “feminist” jurisprudence.¹⁸ She compares Fineman’s work to that of Catharine

12. Department of Sociology, Georgetown University.

13. Suzanna Danuta Walters, *Breaking Up Is Hard To Do: Comments on Martha Fineman’s “Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency,”* 8 AM. U. J. GENDER, SOC. POL’Y & L. 205 (2000).

14. *Id.* at 208.

15. *Id.* at 212.

16. *Id.* at 214.

17. Professor of Law, Duke University School of Law.

18. Katharine T. Bartlett, *Cracking Foundations as Feminist Method*, 8 AM. U. J. GENDER, SOC.

MacKinnon, noting that she is “puzzled” that although Fineman and MacKinnon are two of the leading feminist legal theorists, neither has engaged the other’s work in substantive ways. Bartlett plots each scholar’s theoretical trajectory, offering intriguing insights into their respective projects and claims. She then argues that Fineman and MacKinnon exemplify differing relationships between what she describes as feminist method and substance. While Bartlett finds the substance of their feminism to be consistent, she argues that Fineman and MacKinnon do not engage each other because of their divergent feminist methods. “[W]hile MacKinnon purports to explain an all-encompassing, ‘metaphysically nearly perfect’ system of male subordination of women, Fineman’s method deliberately eschews the ‘meta-narrative’ of ‘abstract grand theory presentations.’ Fineman favors, instead, ‘middle range’ theory, that is focused on specific contexts of women’s experiences. . . .”¹⁹ Through her grounded critique, Bartlett’s essay furthers efforts to distinguish feminism from other forms of jurisprudence and to develop criteria for measuring its content.

The basic subject of Peter Edelman’s²⁰ essay is a critique of recent welfare policy.²¹ He agrees with Fineman that current policy has not paid adequate attention to the child care needs of parents, but he argues: “We should be able to keep two ideas in our head: the value of work for parents and children both, and the need for a safety net to protect children.”²² The main thrust of Edelman’s essay is that he does not believe that Fineman gives sufficient weight to the positive effects of waged work outside the home. “I fear that . . . she does not accord enough importance to working outside the home as an avenue to achieve genuine independence, autonomy and a real sense of self-worth, and as a positive model for children.”²³ His essay first explains the value of waged work for parents and their children. He then goes on to sketch the preconditions he believes necessary to make work economically and personally fulfilling, rather than exploitative and demeaning, considering such things as rights to organize, the minimum wage, earned income tax credits, job training, and work-related benefits, including child care. Edelman

POL’Y & L. 31 (2000).

19. *Id.* at 52 (internal citations omitted).

20. Professor of Law, Georgetown University Law Center.

21. Peter B. Edelman, *Promoting Family by Promoting Work: The Hole in Martha Fineman’s Doughnut*, 8 AM. U.J. GENDER, SOC. POL’Y & L. 85 (2000).

22. *Id.* at 101.

23. *Id.* at 86.

identifies as one key source of disagreement with Fineman their respective visions of the state. Edelman argues that Fineman sees child care as falling into a void between a market/state binary, while he envisions a third sphere of civic society as critical in mediating work/family conflict. His essay concludes with a defense of some compulsion to work. "I would design the assistance program so that it is much more carrot than stick, but I think there has to be some stick."²⁴ Edelman's conclusion is that welfare policies, including their child care component, should be grounded in anti-poverty goals.

Twila Perry's²⁵ essay asks the questions: "On whom should women depend? Men? The government? Themselves?"²⁶ She uses concerns about essentialist views of women and the need for coalition-building to engage Martha Fineman's work. Perry praises Fineman's proposal for its attentiveness to both of these issues. Perry points out that Fineman's model of supporting dependency in "rejecting the idea of men as the economic backdrop to women's lives builds a bridge between more privileged women—usually those linked to economically powerful men—and women with ties to men who do not, and perhaps cannot, play the traditional role of strong economic provider."²⁷ This achieves the anti-essentialist goal of treating differently situated women's experiences as equally important for feminist theory and practice, arguing that "[s]eparating the issue of economic dependence on men from the reality of the caretaking work women actually do permits a clearer focus on the value of the work itself."²⁸ Perry concludes that this might unify women of different classes, races, and sexual orientations in political activism to gain supports for caretaking. But Perry also poses some concerns about women relying on the state. In her second section, she considers why the language of social debt as a justification for dependence support is both more compelling for feminists and potentially more threatening to established norms and stereotypes. She ends her essay by posing a series of questions about universal support for dependency.

Saul Levmore²⁹ adapts the framework of game theory to pose the

24. *Id.* at 98.

25. Professor of Law, Rutgers University School of Law-Newark.

26. Twila L. Perry, *Caretakers, Entitlement, and Diversity*, 8 AM. U. J. GENDER, SOC. POL'Y & L. 153 (2000).

27. *Id.* at 155.

28. *Id.* at 156.

29. William B. Graham Professor of Law, University of Chicago Law School.

question “Why do some social problems attract more private and public resources than others?”³⁰ His essay considers why the problems of struggling families have not attracted more resources from both the private and the public sectors. “If governments and private endeavors create great universities, build space stations, and generate fabulous national wealth, then why not some progress on the home front?”³¹ To try to understand social underinvestment in families, Levmore contrasts Fineman’s proposal with the large social investment in universities. He argues that donors look for “manageable” units that lend themselves to comparisons. “Donors and other investors may shy away from opportunities where they fear that they will have no way of judging the performance of that which they support.”³² Levmore details the features of universities, private and public, that make them such attractive objects for social support, while family initiatives are less attractive. He begins his analysis with private supports, and then considers how public investments mediate concerns both similar and distinct from private donors. Levmore concludes that proposals such as Fineman’s will be most successful when they stimulate creating institutions of manageable size that lend themselves to comparisons and competition.

Catherine J. Ross³³ and Naomi R. Cahn³⁴ explore Martha Fineman’s proposal to treat caretaking within the family as a public responsibility by examining the foster care system, “one of the primary existing efforts to assume collective responsibility for dependency” in the United States.³⁵ They explore the little-examined foster care system, and point out one important similarity between it and Fineman’s proposal: unlike Temporary Assistance for Needy Families (TANF), the foster care system engages in little interference into the caretaker’s life. Yet the foster care system also differs from Professor Fineman’s proposal in several ways, notably that it does typically pay for long-term care by family members, and that it attempts to distinguish between expenditures foster parents make on behalf of their foster children (which are treated as reimbursable) and parents’ time spent in daily supervision (which is not). Foster care is seen as short-term assistance so that families can return to self-

30. Saul Levmore, *Social Programs and Manageable Units*, 8 AM. U. J. GENDER, SOC. POL’Y & L. 103 (2000).

31. *Id.* at 103-04 (citing RICHARD R. NELSON, *THE MOON AND THE GHETTO* 13-18 (1977)).

32. *Id.* at 105.

33. Associate Professor of Law, George Washington University Law School.

34. Professor of Law, George Washington University Law School.

35. Catherine J. Ross & Naomi R. Cahn, *Subsidy for Caretaking in Families: Lessons from Foster Care*, 8 AM. U. J. GENDER, SOC. POL’Y & L. 55, 56 (2000).

sufficiency, not as a long-term subsidy for family caregivers. Ross and Cahn conclude that “[a]lthough we are not sanguine about the possibility of the national dialogue on the family that Professor Fineman recommends . . . [c]ritical engagement with the dilemmas of developing a thoughtful policy that protects children and their caretakers can only move our culture closer to the goal of valuing families.”³⁶

Mary Romero³⁷ uses narratives drawn from newspapers and other sources to uncover the concrete consequences of a system in which women are thrust into the role of caretakers without public support.³⁸ Despite the structural inconsistencies between our need for reproductive labor and the current organization of market work, she argues, women continue to think of the work/family problem in individualistic terms. What we need, Romero argues, is a collective solution that takes into account not only individuals’ unpaid caretaking work, but also the caretaking of the paid caretakers hired to care for children while their parents are working. She warns against “contrasting the nostalgia of Norman Rockwell family life with the evils of institutional caretaking.”³⁹ “A lens focused specifically on gender tends to limit the focus on the family and the issue of caretaking as one of supporting women’s unpaid labor,” whereas “broadening the lens to include” “other important indicators of inequality, namely race, class, and citizenship”⁴⁰ links issues of caretaking with “solutions that benefit both unpaid and paid workers.”⁴¹ “Broadening the lens” also links caretaking issues with “issues of corporate responsibility for paying for reproductive labor”⁴² and with workers’ demands both for decent wages and benefits and with flexible workplaces that “assure that workers have a right to earn livable wages under conditions that allow them to fulfill caretaking responsibilities.”⁴³

Martha McCluskey⁴⁴ first examines the “widening chasm” between Fineman’s vision and current political reality, dominated by the

36. *Id.* at 71.

37. Professor, School of Justice Studies, Arizona State University.

38. Mary Romero, *Bursting the Foundational Myths of Reproductive Labor under Capitalism: A Call for Brave New Families or Brave New Villages*, 8 AM. U. J. GENDER, SOC. POL’Y & L. 177 (2000).

39. *Id.* at 192.

40. *Id.* at 192-93.

41. *Id.* at 195.

42. *Id.* at 193.

43. *Id.* at 194.

44. Associate Professor of Law, State University of New York at Buffalo.

“movement away from social support”⁴⁵ associated with neo-liberal policies in many countries, and associated within the law with law and economics.⁴⁶ McCluskey begins from Fineman’s basic brilliant insight that we all live subsidized lives, and examines how neo-liberal rhetoric frames subsidies to capital and corporate interests as desirable methods of promoting efficiency and economic growth, while spending on social programs is framed as costly “redistribution,” fated to sap the economy of its strength. McCluskey documents both the boom in corporate subsidies and the decline in social spending and welfare support, and points out that the neo-liberals who stress the need for tough-minded cost-benefit calculations to assess social subsidies often argue for the primacy of spiritual ideals and social connections when defending corporate subsidies to football teams or other businesses. McCluskey argues, in conclusion, for a public discourse that translates moral and political issues out of neo-liberal language of efficiency, back into an inquiry into what constitutes a fair distribution of resources. “[L]aw and politics, not neutral economics, determines who must accept tough tradeoffs due to limited resources and who can reject such limits as ‘inefficient’”⁴⁷

Ann Shalleck⁴⁸ examines how Martha Fineman’s recent work “has attempted to reorient the discourse about poverty and welfare away from ideological rhetoric about family form to an examination of multiple aspects of dependency within different institutional structures.”⁴⁹ Shalleck argues that, “[a]t the root of Professor Fineman’s analysis of dependency is her critique of the traditional family.”⁵⁰ Shalleck argues that, although the traditional family retains a powerful ideological hold, “overwhelming empirical evidence” exists that the traditional family “is in serious and continuing decline in terms of people’s actual experience of family life.”⁵¹ She notes that “[i]t is difficult to overestimate the importance of Professor Fineman’s focus upon the essential role of marriage and the nuclear family in distorting our approach to dependency.”⁵² Shalleck then focuses on the ways in which current proposals for restructuring work

45. Martha T. McCluskey, *Subsidized Lives and the Ideology of Efficiency*, 8 AM. U. J. GENDER, SOC. POL’Y & L. 115, 118 (2000).

46. *Id.* at 117.

47. *Id.* at 151-52.

48. Carrington Shields Professor of Law, American University, Washington College of Law.

49. Ann Shalleck, *Foundational Myths and the Reality of Dependency: The Role of Marriage*, 8 AM. U. J. GENDER, SOC. POL’Y & L. 197-98 (2000).

50. *Id.* at 199.

51. *Id.* at 200.

52. *Id.* at 202.

are often “useless” to single mothers of limited income; she raises the question of whether such “‘accommodations’ actually support a modern form of companionate marriage.”⁵³ Perhaps they serve “as a way of preserving privileged women’s gender role as caretaker. While permitting this group of women some limited access to the world of work, these policies ensure that poor and working class women assume the double duty of full-time work and caretaking if they are to avoid the pitfalls of direct government income subsidy.”⁵⁴

Peter Cicchino⁵⁵ begins by noting that “[p]overty law in the United States is largely law about women and the children for whom they care.”⁵⁶ Martha Fineman offers, he argues, “a powerful, articulate, reasonable, and impassioned”⁵⁷—and distinctly feminist—voice in defense of the poor. Cicchino argues that hers is a “normative or moral argument about why we, as a society, *ought* to support caregivers.”⁵⁸ He recommends as a starting point for such moral arguments the traditional Aristotelian practice of beginning with “the universal and inevitable aspects of our common humanity as the starting point for . . . political and ethical inquiry.”⁵⁹ He details how Fineman’s “argument for the collective duty of care for caregivers fits well into that tradition.”⁶⁰ Finally, Cicchino argues that Fineman’s work represents a salutary trend in contemporary feminism. He warns that “a reflexive hostility to any claims about transcultural, transhistorical (universal and inevitable) qualities of human beings, leads to an irrational and politically self-defeating subjectivism.”⁶¹ “Fineman’s approach,” he concludes, “offers a way out of that irrational hostility.”⁶²

53. *Id.* at 203.

54. *Shalleck, supra* note 49, at 203.

55. Assistant Professor of Law, American University, Washington College of Law.

56. Peter M. Cicchino, *Building on Foundational Myths: Feminism and the Recovery of “Human Nature”: A Response to Martha Fineman*, 8 AM. U. J. GENDER, SOC. POL’Y & L. 73 (2000).

57. *Id.* at 74.

58. *Id.* (emphasis added).

59. *Id.* at 75.

60. *Id.* at 79.

61. Cicchino, *supra* note 56, at 82.

62. Cicchino, *supra* note 56, at 84.