ENVIRONMENTAL LAW: WHAT’S FEMINISM GOT TO DO WITH IT?
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Abstract
Despite the vast increase in environmental laws and institutions since the early 1970s, considerable threats to the environment remain and new risks are constantly being added. Why is this? And what does this have to do with feminism?

The most intransigent aspect of environmental protection is how to change perceptions and attitudes toward environmental problems, their nature, and what to do about them. Feminist legal theory has had a decisive influence in changing legal perceptions and attitudes. Feminist legal analysis has shown that the conceptual frameworks and underlying priorities of law have been part of the problem rather than the solution in tackling issues such as inequality and discrimination. Ecofeminist theory, methodology and practice can do the same for environmental law: it can unearth underlying frameworks and make grounded proposals for change.

An ecofeminist legal theory could make significant impacts by uncovering inherent biases within the law that not only fail to solve, but help to create (or at least perpetuate) structures, mindsets and institutions that lead to environmental harm: what Elaine Hughes calls “the predominant social attitudes codified in our environmental laws [which] do not reflect …ecofeminist principles.”¹ Ecofeminism can also help to improve environmental law by proposing alternative conceptual frameworks, legislative and regulatory reforms, and shifts in common law principles and doctrines. This is necessary in order to create more responsive legal tools for environmental protection, not only for women and other vulnerable populations, but for the environment itself.

My case study is a fiercely debated environmental issue – the regulation and litigation of genetically modified (GM) foods. By unpacking what it is about feminist legal analysis that has revealed the patriarchy, the power structures, the definitions of harm and the undervaluing of women in the law, I want to apply these insights and methods to this case study of environmental risk and harm. The kinds of questions I want to ask are: What is the role of the state in enabling environmental risk? How could feminist scepticism about accepted paradigms such as science and economics challenge the law on GM foods? What are the barriers to the law recognizing, valuing and defining the unique nature of environmental harms? What is the role of feminist judges in challenging the perceptions of objectivity and neutrality in environmental judgment? What is the role of language and narrative in legislative and judicial rulemaking governing GM foods? What embedded assumptions prevent legal principles from evolving to deal effectively with new kinds of risk?

Apart from revealing how ecofeminist legal theory can provide concrete suggestions for improving environmental law, my case study also allows us to consider the question in reverse: what does an ecofeminist critique of law have to offer to feminism? I argue that feminist legal theory itself could evolve by a closer concern with environmental problems. Analyzing the close connection between the underlying causes of harm to the environment and harm to women could assist feminism in questioning itself, its reach, its evolution, and its impact on other areas of law and society.