Workshop on Neofeminism

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Neofeminism???

• The question:
  – What would a feminism that continued to focus on the particular issue of women’s subordination look like when freed from the “feminist orthodoxies” that have proven so troubling?
The Starting Point

• “Second-wave” Feminism:
  – A temporal label to signify the most popular brands of feminism from the late 1960s - 1990s.

• I break second-wave feminist principles down to currently prevailing “orthodoxies,” both liberal and nonliberal:
  – Liberal feminism vs.
  – Not purely liberal brands of feminism
    • Dominance Feminism
    • Cultural Feminism
    • Autonomy Feminism
Liberalism

• Liberalism at the extremes
  – Progressive Liberalism (i.e. Rawls): Government should be constructed to encompass a basic welfare apparatus that represents the values of an “overlapping consensus” of moral agents
  – Libertarianism (Nozick): The only justified government is a minimal night-watchman that exist to prevent violations of a bare-bones set of rights

• Shared tenets of liberalism
  – Presumption in favor of liberty (vs. governmental regulation)
    • Fundamental Liberal Principle: “The burden of proof is supposed to be with those who are against liberty; who contend for any restriction or prohibition…. The a priori assumption is in favour of freedom.” (J.S. Mill).
  – Humans must be treated as autonomous individualistic moral agents
  – Government does not have to ensure substantive equality (although some liberal theorists require it to ensure “equal liberty”)
  – Commitment to individual rights
  – There is a realm of human interaction immune from government regulation (the private)
Liberal Feminism

• Basic tenets of “Liberal Feminism”
  – Support for “formal equality” within the current social, cultural, political, and legal structure
  – Commitment to women’s “rights” as vehicle of empowerment
  – Assumption that once women are granted rights or opportunities, they can freely choose to or not to exercise those rights or take those opportunities
  – Acceptance of public/private distinction and support for privacy (i.e. freedom from governmental regulation) as a “right.”

• Particular policies:
  – Women should have an equal opportunity to work outside the home
    • Once women have a formal opportunity to escape the domestic realm, if they choose to be in the domestic realm, that is their problem
  – Women should be able to consent to sex
    • Making unconsensual sex a crime takes care of the problem
Criticisms of Liberal Feminism

• General criticisms
  – Formal equality does little to achieve substantive equality given the pre-existing social, cultural, political, and legal environment
  – Women cannot make “free” choices given existing conditions
  – “Rights” are subject to varying political interpretations and thus may provide very little. In addition, bolstering “rights-talk” can undercut claims for outcome equality and welfare-based claims
    • Classic “Critique of Rights”
  – Preserving public/private distinction immunizes sexist private behavior

• Particular criticisms of policies:
  – Policy: Women should have an equal opportunity to work outside the home
    • Giving the women the “right to work” does not address why they may feel compelled to stay home
    • Formal equality does not address subtle workplace discrimination
    • Right-to-work arguments abandon the domestic realm
    • Viewing working outside home as unconditional good does not take into account history of women of color who were always make to work
  – Women should be able to consent to sex
    • Making unconsensual sex a crime does not address subtle coercion
    • Formal legal equality does not account for de facto influence of sexist stereotypes and rape myths.
Responses to the Limits of Liberalism

• General responses:
  – Equal Rights don’t work because
    • The “patriarchy” is everywhere
      – A sub-structural system of norms, practices, instincts, and signals that keep men “dominant” and women “subordinate”
    • Sexual domination keeps women subordinate
    • Women speak in a different voice
  – There must be robust governmental regulation of public and private behaviors
    • Government must stamp out all forms of sexual domination,
    • Government must stamp out gender based crimes, or
    • Government must instill an ethic of care

• Particular Responses:
  – Right-to-work
    • Make subtle discrimination illegal
    • Prioritize importance of “care work” to women
  – Rape
    • Change trial rules to account for subtle sexism
    • Emphasize prosecution
The “Feminist Orthodoxies”

• Absolutist views of good and bad:
  – Liberal feminism: Bad=being confined to the domestic realm. Good=being equal to (the same as?) men, especially in work environment.
  – Dominance feminism: Bad=sexual domination (sex), Good=eradicating sexual domination
  – Cultural feminism: Good=caring women, Bad=uncaring men
  – Other ideas: Good=jailing rapists and batterers, Bad=allowing them to go unpunished; Good=government intervention in private sexism, Bad=privacy in that context

• The use of state police power and prohibitory law to affect change
  – Eradicate sexual harassment
  – Eliminate rape and domestic violence through penal system
  – Put dead beat Dads in jail
  – Make rape the crime of genocide

• Acceptance of Agent/Object dichotomy
  – Liberal feminism: Women must be treated as free agents whose choices are binding
  – Dominance and other feminisms: Women have no real choice when it comes to sex and abuse
    • They cannot choose to be in porn or sex work
    • They cannot choose to drop dv cases
    • They cannot choose to wear a veil
Neofeminism as a Response to the Orthodoxies

• Rejection of Monolithic views of what women want and absolutist views of good and bad.
  – Women’s needs are ever shifting and culturally, socially, and economically contextual
  – Making certain women “equal” to their men can exacerbate other axes of their subornation: Class, race, poverty, etc.
  – Specific criticisms
    • Of liberal feminism: Not all women want or can do “man’s work.”
    • Of dominance feminism: Some women like sex or must engage in sex work
    • Of cultural feminism: Not all women are “caring” and want to do “care work.”
    • Of criminal law: Not all women will benefit from seeing rapists and batterers jailed
    • Of dismantling the public/private: Not all women want the government to interfere in their private (albeit sexist) relationships

• Rejection of the use of state police power and prohibitory law to force change.
  – Skepticism of bolstering of authoritarian police power in our already abusive carceral state
  – Emphasis on state distributive’s role rather than state’s policing role.

• Rejection of Agent/Object dichotomy
  – Women are neither pure objects or agents but rather navigate the space between an autonomous liberal selves and the constraints of social, cultural, and economic conditions
  – Emphasis should be on eliminating the unfair constraints on women’s agency rather than assuming their choices evidence a state of equality or denying their choices as meaningless
Dominance feminism shaped domestic violence law and policy

- The victimization narrative

- Essentialized definitions of violence and goals for women

- Overreliance on state to save women
Shifting to an anti-essentialist lens

• Rewrites the victim narrative

• Defines battering around individual women’s experiences

• Creates space for multiple goals

• Rethinks and reduces the role of the state
The Dark Side of Feminist Orthodoxy

Global Implications

1. Individual rights over community rights sometimes puts minority communities at risk from hostile majorities;
2. Faith in “progress” revives colonial discourses of civilization and barbarism;
3. Universal rights including “women’s rights as human rights” occlude the particularities of the local obscuring grassroots articulations of human flourishing and freedom;
4. Belief in essential attributes and the “commonality” of experience silence non-elite voices and experiences allowing elites to co-opt gender justice agendas.

5. Transnational feminism that presumes to know what is good for women based on the above revives colonial judgments about difference (often reducing difference to “culture” or “religion” rather than that “politics”), maintains an epistemic hegemony and promotes a global hierarchy that continues to privilege certain sites of knowledge production and the producers.
6. Reliance on the state to put pressure on other states to reform including through the use of therapeutic violence has had mixed results, sometimes exacerbating subordination for women rather than emancipating them. (Rape is genocide, marriage in the Global South is basically slavery).
Legal Feminism and the Family
Primary Goals, 1960’s – 1980’s

• Eliminating gender-roles as a fundamental organizing principle of family law.

• Particular attention to: Restructuring the relations between men and women in marriage.
Projects / “Successes”

- Eliminating sex-based classifications in family law through constitutional Equal Protection litigation
- No-Fault Divorce
- Equitable Distribution of Property
- Child Support: guidelines and enforcement
- Addressing family violence, e.g., mandatory arrest, protection orders, elimination of spousal tort immunities.
Ideal Result: Reconstructed, Egalitarian Marriage
Critique: Limits of Formal Equality

- Familial divisions of labor have remained gendered
- Women and children remain economically disadvantaged by divorce
Critique: Gender Essentialism

Feminist divorce reforms reinforced traditional gender roles by rewarding women’s investments in domestic labor.
Critique: Race Essentialism

• Women of color are less likely than white women to marry.

• Black married couples typically have less wealth.

• Fewer black men than white men have the kind of jobs that would make generous alimony awards even possible.

• Divorce reform was not a promising strategy to achieve economic independence for women of color.
Critique: Sexuality Essentialism

• Equitable distribution and other divorce reforms offer little to same-sex couples denied the right to marry or enter civil unions.

• More broadly, the state should not channel sex and reproduction into a unitary, socially-preferred institution. We should eliminate state-sponsored marriage.
New Frontiers in Family Law

- Disruption of heterosexual marriage as the central focus of family law.
- Greater demands on the state to provide economic support.
- Greater emphasis on (sexual) freedom; less on equality.
- Less concern about women’s victimization.
- Consideration of diverse intimate configurations, for example:
  - Friendship
  - Cohabitation
  - Extended Families
  - Multiple parenthood
  - Polyamory
  - Those without “family” in need of care
  - Unmarried parents
  - Families that cross national borders
- Attention to the distinctive ways that individuals may be oppressed and express their agency in the context of intimate relationships.
Questions

1. Are there “orthodoxies” associated with feminism that have become problematic and/or controversial and what are they?

2. In your own scholarship, do you reject any of these orthodoxies? If so how?

3. Is there some convergence of voices around new feminist principles? What are these principles?

4. What should be the focus of feminist scholarship (legal change, social and cultural change, rights, activism, advocacy)?

5. What are the benefits or drawbacks of giving this set of new feminist scholarship a blanket name? What should that name be?