

Feminist Judgments

From Theory
to Practice

Edited by
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Feminist Judgments From Theory To Practice

Loveday Hodson, Troy Lavers



Feminist Judgments From Theory To Practice:

Feminist Judgments Rosemary Hunter, Clare McGlynn, Erika Rackley, 2010-09-30 While feminist legal scholarship has thrived within universities and in some sectors of legal practice it has yet to have much impact within the judiciary or on judicial thinking Thus while feminist legal scholarship has generated comprehensive critiques of existing legal doctrine there has been little opportunity to test or apply feminist knowledge in practice in decisions in individual cases In this book a group of feminist legal scholars put theory into practice in judgment form by writing the missing feminist judgments in key cases The cases chosen are significant decisions in English law across a broad range of substantive areas The cases originate from a variety of levels but are primarily opinions of the Court of Appeal or the House of Lords In some instances they are written in a fictitious appeal but in others they are written as an additional concurring or dissenting judgment in the original case providing a powerful illustration of the way in which the case could have been decided differently even at the time it was heard Each case is accompanied by a commentary which renders the judgment accessible to a non specialist audience The commentary explains the original decision its background and doctrinal significance the issues it raises and how the feminist judgment deals with them differently The book also includes chapters examining the theoretical and conceptual issues raised by the process and practice of feminist judging and by the judgments themselves including the possibility of divergent feminist approaches to legal decision making From the foreword by Lady Hale Reading this book ought to be a chastening experience for any judge who believes himself or herself to be both true to their judicial oath and a neutral observer of the world If lawyers and judges like me have so much to learn from reading this book then surely other more sceptical lawyers and judges have even more to learn other scholars and not only feminists must also be fascinated by the window it opens onto the process of judicial reasoning not the straightforward predetermined march from A to B of popular belief but something altogether more complicated and uncertain And anyone will find it a very good read *Feminist Judgments*

Deborah S. Gordon, Browne C. Lewis, Carla Spivack, 2020-09-17 For women and other marginalized groups the reality is that the laws regulating estates and trusts may not be treating them fairly By using popular feminist legal theories as well as their own definitions of feminism the authors of this volume present rewritten opinions from well known estates and trust cases Covering eleven important cases this collection reflects the diversity in society and explores the need for greater diversity in the law By re examining these cases the contributors are able to demonstrate how women s property rights as well as the rights of other marginalized groups have been limited by the law **Feminist Judgments** Ann C. McGinley, Nicole

Buonocore Porter, 2020-10-15 This book provides 15 employment discrimination cases rewritten from feminist perspectives along with commentaries to demonstrate what could have been **The Ashgate Research Companion to Feminist Legal**

Theory Vanessa E. Munro, 2016-04-01 As a distinct scholarly contribution to law feminist legal theory is now well over three decades old Those three decades have seen consolidation and renewal of its central concerns as well as remarkable growth

dynamism and change This Companion celebrates the strength of feminist legal thought which is manifested in this dynamic combination of stability and change as well as in the diversity of perspectives and methodologies and the extensive range of subject matters which are now included within its ambit Bringing together contributors from across a range of jurisdictions and legal traditions the book provides a concise but critical review of existing theory in relation to the core issues or concepts that have animated and continue to animate feminism It provides an authoritative and scholarly review of contemporary feminist legal thought and seeks to contribute to the ongoing development of some of its new approaches perspectives and subject matters The Companion is divided into three parts dealing with Theory Concepts and Issues The first part addresses theoretical questions which are of significance to law but which also connect to feminist theory at the broadest and most interdisciplinary level The second part also draws on general feminist theory but with a more specific focus on debates about equality and difference race culture religion and sexuality The Issues section considers in detail more specific areas of substantive legal controversy

Feminist Judgments in International Law Loveday Hodson,Troy Lavers,2019-09-05 The emergence of feminist rewriting of key judgments has been one of the most interesting recent developments in legal methodology This unique enterprise has seen scholars collaborate in the real world task of reassessing jurisprudence in light of feminist perspectives This important new volume makes a significant contribution to the endeavour exploring how key judgments in international law might have differed if feminist judges had sat on the bench This collection asks whether feminist perspectives can offer meaningful and viable alternatives to international law norms and if so whether that application results in distinguishable differences in outcomes It answers these questions with particular reference to sources of international law the public and private divide State responsibility State immunities treaty law State sovereignty human rights protection global governance and the concept of violence in international law This landmark publication offers a truly innovative reassessment of international law Winner of the 2020 ASIL Certificate of Merit for a Preeminent Contribution to Creative Scholarship

Feminist Judgments of Aotearoa New Zealand Elisabeth McDonald,Rhonda Powell,Mamari Stephens,Rosemary Hunter,2017-11-30 This edited collection asks how key New Zealand judgments might read if they were written by a feminist judge Feminist judging is an emerging critical legal approach that works within the confines of common law legal method to challenge the myth of judicial neutrality and illustrate how the personal experiences and perspectives of judges may influence the reasoning and outcome of their decisions Uniquely this book includes a set of cases employing an approach based on mana wahine the use of Maori values that recognise the complex realities of Maori women s lives Through these feminist and mana wahine judgments it opens possibilities of more inclusive judicial decision making for the future This Project stops us in our tracks and asks us how could things have been different At key moments in our legal history what difference would it have made if feminist judges had been at the tiller By doing so it raises a host of important questions What does it take to be a feminist judge Would we want our judges to be feminists and if so why Is there a uniquely female

perspective to judging Professor Claudia Geiringer Faculty of Law Victoria University of Wellington With this book some of our leading jurists expose the biases and power structures that underpin legal rules and the interpretation of them Some also give voice to mana wahine perspectives on and about the law that have become invisible over time perpetuating the impacts of colonialism and patriarchy combined on Maori women I hope this book will be a catalyst for our nation to better understand and then seek to ameliorate these impacts Dr Claire Charters Associate Professor Faculty of Law University of Auckland The work is highly illuminating and is critical to the development of our legal system It is crucial not only for legal education so that students of the law open their minds to the different ways legal problems can be conceptualised and decided It is also crucial if we are going to have a truly just legal system where all the different voices and perspectives are fairly heard Professor Mark Henaghan Dean of the Faculty of Law University of Otago I believe this project is particularly important as few academics or researchers in New Zealand concentrate on judicial method I am therefore hopeful that it will provoke thoughtful debate in a critical area for society The Honourable Justice Helen Winkelmann New Zealand Court of Appeal

Scottish Feminist Judgments Sharon Cowan, Chloë Kennedy, Vanessa E Munro, 2019-12-12 An innovative collaboration between academics practitioners activists and artists this timely and provocative book rewrites 16 significant Scots law cases spanning a range of substantive topics from a feminist perspective Exposing power politics and partiality feminist judges provide alternative accounts that bring gender equity concerns to the fore whilst remaining bound by the facts and legal authorities encountered by the original court Paying particular attention to Scotland's distinctive national identity fluctuating experiences of political sovereignty and unique legal traditions and institutions this book contributes in a distinctive register to the emerging dialogue amongst feminist judgment projects across the globe Its judgments address concerns not only about gender equality but also about the interplay between gender class national identity and citizenship in contemporary Scotland The book also showcases unique contributions from leading artists which provoked by the enterprise of feminist judging or by individual cases offer a visceral and affective engagement with the legal The book will be of interest to academics practitioners and students of Scots law policy makers as well as to scholars of feminist and critical theory and law and gender internationally

Australian Feminist Judgments Heather Douglas, Francesca Bartlett, Trish Luker, Rosemary Hunter, 2014-11-20 This book brings together feminist academics and lawyers to present an impressive collection of alternative judgments in a series of Australian legal cases By re-imagining original legal decisions through a feminist lens the collection explores the possibilities limits and implications of feminist approaches to legal decision making Each case is accompanied by a brief commentary that places it in legal and historical context and explains what the feminist rewriting does differently to the original case The cases not only cover topics of long standing interest to feminist scholars such as family law sexual offences and discrimination law but also areas which have had less attention including Indigenous sovereignty constitutional law immigration taxation and environmental law The collection contributes a distinctly Australian

perspective to the growing international literature investigating the role of feminist legal theory in judicial decision making

The Judicial Mind Brice Dickson, Conor McCormick, 2021-11-11 This collection of essays is a tribute to Lord Kerr of Tonaghmore who died aged 72 on 1 December 2020 after having retired from the UK Supreme Court just two months earlier Brian Kerr was appointed as a judge of the High Court of Northern Ireland in 1993 He became the Lord Chief Justice of Northern Ireland in 2004 before being elevated to a peerage and appointed as the last Lord of Appeal in Ordinary in June 2009 Four months later as Lord Kerr he moved from the Appellate Committee of the House of Lords to the UK Supreme Court where after exactly 11 years he concluded his distinguished judicial career as the longest serving Justice to date During his career he established an exceptional reputation for independence of thought fairness and humanitarianism Lord Kerr s judicial mind has inspired and influenced a significant number of scholars and jurists throughout the UK and beyond In this book his unique brand of jurisprudence is examined alongside a catalogue of broader issues in which he displayed a keen interest during his lifetime The volume includes topical contributions from a range of legal experts in Britain and Ireland Lord Kerr s particular interest in public law human rights law criminal law and family law is featured prominently but so too is the importance of his dissenting judgments some influential jurisprudence of the Judicial Committee of the Privy Council where he sat on many occasions the legacy of his influence on the law and legal system of Northern Ireland and the significance of his place in the historical development of judicial roles and responsibilities more generally Routledge Handbook of Socio-Legal Theory and Methods Naomi Creutzfeldt, Marc Mason, Kirsten McConnachie, 2019-08-13 Drawing on a range of approaches from the social sciences and humanities this handbook explores theoretical and empirical perspectives that address the articulation of law in society and the social character of the rule of law The vast field of socio legal studies provides multiple lenses through which law can be considered Rather than seeking to define the field of socio legal studies this book takes up the experiences of researchers within the field First hand accounts of socio legal research projects allow the reader to engage with diverse theoretical and methodological approaches within this fluid interdisciplinary area The book provides a rich resource for those interested in deepening their understanding of the variety of theories and methods available when law is studied in its broadest social context as well as setting those within the history of the socio legal movement The chapters consider multiple disciplinary lenses including feminism anthropology and sociology as well as a variety of methodologies including narrative visual and spatial psychological economic and epidemiological approaches Moreover these are applied in a range of substantive contexts such as online hate speech environmental law biotechnology research in post conflict situations race and LGBT lawyers The handbook brings together younger contributors and some of the best known names in the socio legal field It offers a fresh perspective on the past present and future of sociolegal studies that will appeal to students and scholars with relevant interests in a range of subjects including law sociology and politics Chapter 7 of this book is freely available as a downloadable Open Access PDF at <http://www.taylorfrancis.com> under a

Creative Commons Attribution Non Commercial No Derivatives CC BY NC ND 4 0 license *Women's Legal Landmarks in the Interwar Years* Rosemary Auchmuty,Erika Rackley,Mari Takayanagi,2024-08-22 *Women's Legal Landmarks in the Interwar Years* shines new light on 33 legal landmarks many forgotten today that affected women in England and Wales between 1918 and 1939 It considers the work of feminist activists to bring about legal change which benefited or aimed to benefit women Areas explored include property inheritance adoption marriage access to health care criminal law employment opportunities pay pensions and political representation It also examines campaigns by key women's organisations and assesses the impact of early women lawyers and politicians While some of the landmarks effected change during this period others provided the foundation for measures in later decades Together the landmarks demonstrate that far from being a relatively quiet period of British feminism the interwar period played a key role in ongoing fights for recognition representation and justice *Thinking Critically About Law* Amy R Codling,2018-01-31 So you've arrived at university you've read the course handbook and you're ready to learn the law But is knowing the law enough to get you the very best marks And what do your lecturers mean when they say you need to develop critical and analytical skills When is it right to put your own views forward What are examiners looking for when they give feedback to say that your work is too descriptive This book explores what it means to think critically and offers practical tips and advice for students to develop the process skill and ability of thinking critically while studying law The book investigates the big questions such as What is law and What is thinking critically How can I use critical thinking to get better grades in assessments What is the role of critical thinking in the work place These questions and more are explored in *Thinking Critically About Law* Whether you have limited prior experience of critical thinking or are looking to improve your performance in assessments this book is the ideal tool to help you enhance your capacity to question challenge reflect and problematize what you learn about the law throughout your studies and beyond *Constitutions and Gender* Helen Irving,2017-06-30 *Constitutions and Gender* is a new and exciting field attracting scholarly attention and influencing practice around the world This timely handbook features contributions from leading pioneers and younger scholars applying a gendered lens to constitution making and design constitutional practice and citizenship and constitutional challenges to gender equality rights and values It offers a gendered perspective on the constitutional text and record of multiple jurisdictions from the long established to the world's newly emerging democracies *Constitutions and Gender* portrays a profound shift in our understanding of what constitutions stand for and what they do *Northern / Irish Feminist Judgments* Máiréad Enright,Julie McCandless,Aoife O'Donoghue,2017-02-09 The *Northern Irish Feminist Judgments Project* inaugurates a fresh dialogue on gender legal judgment judicial power and national identity in Ireland and Northern Ireland Through a process of judicial re-imagining the project takes account of the peculiarly Northern Irish concerns in shaping gender through judicial practice This collection following on from feminist judgments projects in Canada England and Australia takes the feminist judging methodology in challenging new directions

This book collects 26 rewritten judgments covering a range of substantive areas As well as opinions from appellate courts the book includes first instance decisions and a fictional review of a Tribunal of Inquiry Each feminist judgment is accompanied by a commentary putting the case in its social context and explaining the original decision The book also includes introductory chapters examining the project methodology constructions of national identity theoretical and conceptual issues pertaining to feminist judging and the legal context of both jurisdictions The book shines a light on past and future possibilities and limitations for judgment on the island of Ireland This book provides a rich and expansive addition to the feminist judgments catalogue The judgments demonstrate powerfully how Northern Irish judges have contributed to the gendered politics of national identity and how the narrow subject positions they have created for women and others could have been so much wider and more open Professor Rosemary Hunter School of Law Queen Mary University London The Northern Irish Feminist Judgments Project is inspirational reading for anyone interested in feminism or Irish studies It is a model of how to conduct feminist enquiry Its most innovative contribution to scholarship and politics is how the rewriting of landmark legal judgments from a feminist perspective allows us to imagine and therefore begin to construct a more egalitarian a more just future Associate Professor Katherine O'Donnell School of Philosophy University College Dublin If you let it this book will make you think It made me think it reminded me I suppose that legal writing can be wonderful rigorous creative deeply observant provocative Read it and see what it makes you think Professor Thérèse Murphy School of Law Queen's University Belfast

Research Handbook on Law, Society and Ageing Sue Westwood, Nancy J.

Knauer, 2024-08-06 In an era where the population is rapidly ageing this timely Research Handbook addresses the wide ranging social and legal issues concerning older people

Migration and the European Convention on Human Rights, 2021-02-25 This edited collection investigates where the European Convention on Human Rights as a living instrument stands on migration and the rights of migrants This book offers a comprehensive analysis of cases brought by migrants in different stages of migration covering the right to flee who is entitled to enter and remain in Europe and what treatment is owed to them when they come within the jurisdiction of a Council of Europe member state As such the book evaluates the case law of the European Convention on Human Rights concerning different categories of migrants including asylum seekers irregular migrants those who have migrated through domestic lawful routes and those who are currently second or third generation migrants in Europe The broad perspective adopted by the book allows for a systematic analysis of how and to what extent the Convention protects non-refoulement migrant children family rights of migrants status rights of migrants economic and social rights of migrants as well as cultural and religious rights of migrants

Sexuality and Transsexuality Under the European Convention on Human Rights Damian A Gonzalez Salzberg, 2019-02-07 This book undertakes a critical analysis of international human rights law through the lens of queer theory It pursues two main aims first to make use of queer theory to illustrate that the field of human rights law is underpinned by several assumptions that determine a

conception of the subject that is gendered and sexual in specific ways This gives rise to multiple legal and social consequences some of which challenge the very idea of universality of human rights Second the book proposes that human rights law can actually benefit from a better understanding of queer critiques since queer insights can help it to overcome heteronormative beliefs currently held In order to achieve these main aims the book focuses on the case law of the European Court of Human Rights the leading legal authority in the field of international human rights law The use of queer theory as the theoretical approach for these tasks serves to deconstruct several aspects of the Court s jurisprudence dealing with gender sexuality and kinship to later suggest potential paths to reconstruct such features in a queer er and more universal manner

Law, Women Judges and the Gender Order Kasey McLoughlin, 2021-11-18 This book seeks to understand how women judges are situated as legal knowers on the High Court of Australia by asking whether a near equal gender balance on the High Court has disrupted the Court s historically masculinist gender regime This book examines how the High Court s gender regime operates once there is more than one woman on the bench It explores the following questions How have the Court s gender relations accommodated the presence women on the bench How have the women themselves accommodated those pre existing gender relations How might legal judgments and reasoning change as a result of changing gender dynamics on the bench To develop answers to these and other questions the book pursues a methodology that conceptualises the High Court as an institution with a particular gender regime shaped historically by the dominant gender order of the wider society The intersection between the gendered individuals and the gendered institution in which they operate produces and reproduces that institution s gender regime Hence the enquiry is not so much asking have women judges made a difference but rather is asking how should we understand women judges relationship with the law a relationship that is shaped as much by the individual judge as by the institutional context in which they operate Scholars legal practitioners and researchers interested in judicial reasoning gender diversity and the legal profession gender and politics will be interested in this book because it breaks new ground as a case study of a Court s gender regime at a particular time

Revisiting Landmark Cases in Medical Law Shaun D. Pattinson, 2018-09-27 Is it lawful for a doctor to give a patient life shortening pain relief Can treatment be lawfully provided to a child under 16 on the basis of her consent alone Is it lawful to remove food and water provided by tube to a patient in a vegetative state Is a woman s refusal of a caesarean section recommended for the benefit of the fetus legally decisive These questions were central to the four focal cases revisited in this book This book revisits nine landmark cases For each a new leading judgment is attributed to an imagined judge Athena who operates within the constraints of the legal system of England and Wales Her judgments accord with an innovative legal theory referred to as modified law as integrity and are linked as a line of precedent The result is a re spinning of extant judicial threads into a web of legal principles with a greater claim to coherence and defensibility than those in the original cases The book will be of great interest to scholars and students of medical law criminal law bioethics

legal theory and moral philosophy Governing (Through) Rights Bal Sokhi-Bulley, 2016-09-22 Taking a critical attitude of dissatisfaction towards rights the central premise of this book is that rights are technologies of governmentality They are a regulating discourse that is itself managed through governing tactics and techniques hence governing through rights Part I examines the problem of government through rights The opening chapter describes governmentality as a methodology that is then used to interrogate the relationship between rights and governance in three contexts the international regional and local How rights regulate certain identities and conceptions of what is good governance is examined through the case study of non state actors specifically the NGO in the international setting through a case study of rights agencies and the role of experts indicators and the rights based approach in the European Union or regional setting and in terms of the local the challenge that the blossoming language of responsibility and community poses to rights in the name of less government Big Society is problematised In Part II on resisting government through rights the book also asks what counter conducts are possible using rights language questioning rioting as resistance and whether counter conduct can be read as an ethos of the political rights bearing subject and as a new ethical right Thus the book bridges a divide between critical theory ie Foucauldian understandings of power as governmentality and human rights law

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