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INTRODUCTION

This is the second *Frontiers of Legal Thought* collection published by the *Duke Law Journal*.¹ This collection of essays focuses on the roles of gender, race, and culture in the law. In at least one way, however, its title is misleading. The term "Frontiers" implies that these issues are somehow new—as if before the debut of feminism, critical legal studies, and critical race theory, that gender, race, and culture had no place in the law. In fact, they have been there all along.

The "Frontier" then is the effort to reveal the influence of gender, race, and culture in the legal system and the drive to make law include those it has forsaken. The works that comprise this Issue show how patriarchy and racism/white supremacy² shape the way we look at ourselves, others, and the law. These essays attempt to peel back the layers of apparent neutrality on family planning, poverty law, employment discrimination, and the way we think about the "outsiders" in the world—and suggest ways to reshape our legal thinking.

In *Images of Mothers in Poverty Discourses*,³ Martha Fineman examines society's treatment of unwed mothers and shows how the perpetuation of patriarchy has led to our refusal to provide meaningful help to families headed by single women. Instead of providing economic subsidies that would truly eliminate poverty, both conservatives and liberals dwell on a single solution: attaching a father to the "deviant" family unit (whether the mother likes it or not). Motherhood is thus a "colonized concept—an event physically practiced and experienced by women, but occupied and defined, given content and value, by the core concepts of patriarchal ideology."⁴ Rather than alleviating the real problem (pov-

1. See 1990 DUKE L.J. 193-586, 625-912. Several of these essays, and many others, were presented at the Frontiers of Legal Thought Conference on January 25-27, 1991 at the Duke University School of Law.

2. See Grillo & Wildman, *Obscuring the Importance of Race: The Implication of Making Comparisons Between Racism and Sexism (Or Other -isms)*, 1991 DUKE L.J. 397, 398.

3. 1991 DUKE L.J. 274.

4. *Id.* at 289-90.

erty), society expends its energy to coerce women into a "traditional" family form.

Ruth Colker's Essay, *An Equal Protection Analysis of United States Reproductive Health Policy: Gender, Race, Age, and Class*,⁵ also examines certain aspects of motherhood: contraception and abortion. Her Essay brings together an enormous amount of information that demonstrates the magnitude of the problem of unintended pregnancies, and uses this evidence to craft an argument for heightened judicial scrutiny of family planning restrictions. Colker argues that women are denied protection of their liberty interest in a group-based way, and points to the legislatures' "appalling disrespect for the value of the lives of pregnant adolescent females."⁶

Like Fineman, Colker assails the identification of the "crisis" of teenage and unwed motherhood as a woman's behavioral problem rather than as a result of society's inadequate and misguided response to the reality of a woman's situation. Colker argues that early childbirth does not necessarily lead to poor health and poverty. The result often occurs, however, because adolescent mothers do not get the assistance they need during their pregnancies and after their children are born.⁷ Similarly, unintended pregnancies and abortion are only problems because of society's failure to provide access to effective contraception. Rather than allow courts to continue tolerating legislatures' "conscious blindness" to the harms they cause women, Colker argues that the equal protection doctrine should require that courts ask "whether a legislature would have been willing to impose these kinds of burdens on women if it fully considered their well-being."⁸

In *A Hair Piece: Perspectives on the Intersection of Race and Gender*,⁹ Paulette Caldwell notes that resistance to domination can also come about in smaller, more mundane forms. "[H]air," she writes, "is such a little thing."¹⁰ Yet braided hairstyles have caused many African-American women to be fired from their jobs, leading Caldwell to "marvel[] with sadness that something as simple as a black woman's hair continues to threaten the social, political, and economic fabric of American life."¹¹ Caldwell draws on her own experience and the writings of black women through history to show how hair is part of a search for identification

5. 1991 DUKE L.J. 324.

6. *Id.* at 325.

7. *Id.* at 329.

8. *Id.* at 360.

9. 1991 DUKE L.J. 365.

10. *Id.* at 368.

11. *Id.* at 367.

with her race and culture against a system that measures value based on a person's willingness to conform to white ideals of beauty and propriety.

Caldwell also critiques the *Rogers v. American Airlines* decision, which treated race and gender as mutually exclusive forms of discrimination.¹² This attempt to categorize discrimination, she argues, ignores the interaction of racism and sexism, and, most importantly, makes black women invisible.

In their Essay, *Obscuring the Importance of Race: The Implication of Making Comparisons Between Racism and Sexism (Or Other -Isms)*,¹³ Trina Grillo and Stephanie Wildman also take up the issue of examining racism and sexism in isolation. They note that the importance of race is lost when we view racism and sexism as entirely separate but fungible categories. Moreover, when racism is "compared to" sexism, and a white woman claims to understand race discrimination because she has been a victim of gender discrimination, the experience of women of color is lost: The focus remains on women of the dominant race.

Joan Williams delves into the problems of categorizing people in her Essay *Dissolving the Sameness/Difference Debate: A Post-Modern Path Beyond Essentialism in Feminist and Critical Race Theory*.¹⁴ Williams argues that too much time and energy is spent on debating who is "really the same" and who is "really different" instead of focusing on the true problem: how existing standards are used to disadvantage outsiders. Williams reformulates the question of sameness and difference into a debate over policy rather than biology, and into a question of which differences should matter in which contexts.¹⁵ Women and minorities must not demand either mere entry or special accommodation; instead, they must demand transformation.¹⁶

These Essays attempt to break down the mask of neutrality and monolithism of the law, and reveal its hidden perspective. They seek to broaden the number and range of viewpoints included in legal thought because justice must include all the people under its power. When we begin to look at life with new and different filters, we can begin to make the law respond to those it has ignored.

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12. 527 F. Supp. 229 (S.D.N.Y. 1981).

13. Grillo & Wildman, *supra* note 2.

14. 1991 DUKE L.J. 296.

15. *See id.* at 308.

16. *Id.* at 305.