

- ALL CULTURAL / IS FILLED WITH MANY MICRO NARRATIVES / THAT DEPENDENT ON GND / TO CERTAINLY
- CAN BE SEEN / IN CULTURAL PRACTICES / CAUSE IN
  - ③ MODERN ERA → THE GND / ON RELATIONS BETWEEN MAN & WOMAN / WAS HETEROSEXUAL: MONOGAMOUS MARRIAGES
  - POST MODERN → THROUGH MORE ACCEPTABLE WAYS / IN WHICH SUCH RELATIONSHIPS / CAN BE UNDERSTOOD
- THERE'S NO LONGER / A SINGLE / CORRECT WAY / THAT VALID / FOR ALL TIMES; PLACES & PEOPLE
- ④ SCIENCE / CAN NO LONGER RELY / ON TRADITIONAL LEGITIMATING NARRATIVES / FOR ~~FOR~~ FROM MODERN & ENLIGHTENMENT
- SCIENCE / IS FORCED / TO RELY / ON "LITTLE NARRATIVES"
- IT'S A GOOD THING / AS IT UNDERMINES HEGEMONIC DISCOURSE (LEADERSHIP OF 1 GROUP OVER ANOTHER)

→ LEGAL THEORIES

↳ DECONSTRUCTION

- ~~LEGAL~~ ANALYSIS / OF ① CONCEPTUAL OPPOSITIONS & PARADOXES (STATEMENT, CONTRADICTION, ITSELF "I WILL ALWAYS LIVE" (IF TRUE, IT MUST BE FALSE))
- \* → ~~THE~~ METHOD / OF IDEOLOGICAL CRITIQUE (LOGICAL EXAM) / AS IDEOLOGIES / COMES FORTH (GROUP OR NATION THINKING)
- EX: RESPONSES TO "HE, SHE & THE" IN LEGAL WRITINGS
- EX: CONTAIN SOCIAL FEATURES AND PRIVILEGES / WHILE OTHERS ARE / SUPPRESSED OR UNDERMINED
- SIMPLEST FORM
  - INVOLVES IDENTIFICATION / OF A HIERARCHY / OF OPPOSING VALUES
  - ATTEMPTS TO REVERSE / THE HIERARCHY
- \* → GND / TEXT HAVE MULTIPLE MEANINGS / IN ORDER TO HIGHLIGHT THE IMPORTANCE OF BEING IN / THE COURT
- \* → DIRECT EXAMPLE
- \* → TURN LAW / UPSIDE DOWN / INSIDE OUT / TO REVEAL ITS FLAWS & IMPERFECTION
- RED LAW → DARK SIDE → DUST OF SUBSTANCE: OMISSION & APPEARANCE

→ SPECIFIC PHILOSOPHIES (CLS & FEMINIST)

- CRITICAL TOOL, TO ANALYSE LAW
- IT CRITICIZES, BUT DOESN'T HAVE, ALTERNATIVE THEMES

→ CRITICAL LEGAL STUDIES (CLS)

- CRITICS
  - DIVERSE GROUP OF LEGAL THINKERS / BELONG TO THE POLITICAL & SOCIAL MOVEMENT
  - TRYING TO LINK / THEIR INTELLECTUAL ACTIVITIES / TO POLITICAL GOALS
  - REVIS CARROLL HALL OF / RADICAL LEGAL REALISM (EARLY MODERN)
  - \* → USED IT TO CHALLENGE / TRADITIONAL LEGAL THINKING / QUESTIONED AUTHORITY LEADERSHIP / WHICH ENJOYED THE / POLITICS OF POWER
- PRESENTED AS PART OF / POST MODERN LEGAL PHILOSOPHY
- \* → CLS SAY / ITS IMPOSSIBLE TO ESTABLISH / A RATIONAL SOCIETY & LEGAL SYSTEM
- LEGAL SOCIAL TOOL / TO RESIST / LEGISLATION OF MODERN PROGRESS / ATTEND TO POWER PLAYS / WHERE BELONG THE / STAGE / TO AUTHORITY & JUSTICE
- \* → APPROACHES USED BY CRITICS (FC: INDETERMINACY & LAW IS POLITICS)
- FALSE CONSCIOUSNESS (HAVING FALSE KNOWLEDGE) → CREATES ILLUSIONS
- CRITICS / SEE LAWS AS / "UNJUST SOCIAL ORDER" / CREATE ILLUSION THAT / THE SYSTEM IS NATURAL
- ~~CRITICS~~ THE IDEA / TARGETS A FC / IN LAWS & SOCIETY.
- MEANING / POLITICAL & LEGAL PRINCIPLES / DEMAND SPECIFIC THINKING WAYS / ON LAWS & SOCIETIES
- LEADING TO BELIEF / THINGS ARE / WHAT IT IS / CAUSE IT MUST BE / THAT WAY
- ↳ APPOINTING LAWS / PEOPLE NEVER QUESTIONED IT / CAUSE THOUGHT IT WAS / NATURAL
- CLS STATES / SOCIETY IS CHARACTERISED BY / HIERARCHIES & VIOLENCE (STARTING POINT)
- ENJOYING / SOCIETY AS / HAPPY DEMOCRATIC FAMILY / CONSIDERING LEADERSHIP / WITH FICTIVE
- PEOPLE / BELIEVING IN / JUSTICE & NECESSITY OF SOCIO-ECO HIERARCHIES / SUFFERING FROM FC
- CRITICS
  - CAN / EXPOSE FC / TO TRANSFORM SOCIETY
  - TRIED TO SHOW / RULES REPRESENT INTEREST / OF RICH & POWERFUL
  - USED DECONSTRUCTION / SHOWING HOW BELIEFS IN / LEGAL DOCTRINES / SIDE-LINED ALTERNATIVES / IN LAW & SOCIETY
  - HINTS NEVER QUESTIONED / HOW SOCIETY STRUCTURED / AS MORE FOUNDED
  - CLAIMED / SOCIO-ECO HIERARCHIES / CALLED OR DESTABILISED / IF ITS BASIS / WAS EXPOSED / AS FICTIVE
- HUNDREDS / WHO DECONSTRUCTED LAWS / REFERRED AS THREATS → TOOK LAWS APART

→ CHALLENGING & QUESTIONING ACCEPTED NORMS & STRUCTURES

INDETERMINACY LAW IN THE CONTRARY CONTRADICTIONS

① → 'QUALITY OF BEING UNCLEAR & POORLY DEFINED'  
 ② → REINFORCING / LAWS OR RULES ARE INDETERMINATE / UNCLEAR / BASED ON OBSERVATION / FOR EVERY RULE OR PRINCIPLE  
 \* ③ → THERE'S CONTRADICTION / CONFLICT / UNLAWFUL (EX: → 1 SIDE → LAWS ASSOCIATED FOR PUNISHMENT / → 2 SIDE → LAWS GRANTED A RIGHT TO LIFE)

③ → Critics (important)  
 \* 1 → AGREE / THE INDETERMINACY IS PURE ENVIRONMENTAL / THAT / ITS IMPACTS IN SOCIETY / THESE CONTRA ARE THEN / REFLECTED IN LAWS  
 \* 2 → TRIED TO CONVINCED / STUDENTS & COLLEAGUES / SEE LAWS / WERE INDETERMINATE  
 3 → UNDERSTOOD / THE STATE OF (POST MODERN) LEGAL SCENARIOS / DISRUPT & DESTROY / SOCIETY HIERARCHY  
 ↳ THIS AS / SEPARATE PROBLEMS  
 ↳ THEN MEANING IT / TO GENUINE DOWN PROCESS / TO SOLVE IT  
 4 → CLAIMED ITS IMPOSSIBLE / TO RATIONALLY SORT / CONTRADICTIONS  
 ↳ KENNEDY CALLED IT "FUNDAMENTAL CONTRADICTIONS" (DUNCAN KENNEDY)  
 ↳ IT WILL REMAIN / RE-APPEAR / IN A FORM OF / CONFLICTING RULES  
 ↳ IT IS REFLECTED / IN LAWS & LEGAL DOCTRINES  
 ↳ CRISIS OF INDETERMINACY OF LAWS / WAS NATURE OF HUMAN EXISTENCE  
 ↳ CLAIMED / HUMAN EXISTENCE / WAS TORN / BETWEEN SELF & OTHER / ISOLATION & COMMUNITY

↳ STUDS & PARADIGMS / ARE VARIOUS & MORE OPEN ENDED / IT DOES NOT HAVE / TRUST & LOVE OF OTHERS / THIS LEADS PEOPLE / INTO COMMUNITIES & ALTRUISM (UNDETERMINATE)

LAW IS POLITICS

\* POLITICS MEANS / THE PURSUIT OF JUSTICE  
 \* LAW IS ESSENTIALLY / A POLITICAL ENTERPRISE  
 ② → WHEN JUDGES / DECIDE CASES / MUST CHOOSE BETWEEN  
 ↳ CONFLICTING INTERESTS / OF SOCIETY / X  
 ↳ THE POLITICAL CHOICE (WHEN IS EXERCISED IN THE DECISIONS)  
 ↳ POLITICS / MEANS / PURSUIT OF JUSTICE / A RESOURCE ALLOCATION / IN SOCIETY / THE CHOICE BETWEEN / VARIOUS SOCIETY INTERESTS / THIS CHOICE ARE ESSENTIALLY / "POLITICAL ENTERPRISE"  
 ↳ USE OF / FORMALISM & CONCRETISM / CONSIDERS THE / CONTRADICTIONS & TENSIONS / UNDERLINES / LEGAL THEORY / ORDER & SOCIETIES  
 ↳ FORMAL STATEMENT / PHASE OF CONCRETE TERMS

④ → RIGHTS & ENTITLEMENTS / GIVES POWER / OVER OTHERS  
 ↳ THIS / LIBERAL IDEA OF / PRECEPT TO ACT / WITHOUT HARMING OTHERS / CAN'T BE REALISED / AS SOME HAVE / MORE POWER THAN OTHER  
 ↳ JUDGES / MAKE DECISIONS / BASED ON / POLITICAL DECISIONS / CONSIDERATIONS  
 ↳ ZUMA TRIED TO / QUIT / FOR CORRUPTION (NICOLSON ACT)  
 ↳ IT WAS SAID / IN LAW / NO NEED TO / CONTINUE / THIS TAKEN OUT  
 ↳ DECIDED / CAUSE OF POLITICS  
 ↳ IF NICOLSON CHARGED / ZUMA / NO CAREER AFTER / FOR WIFE  
 ↳ THIS WAS CAUSE / ZUMA WAS / ANC PRESIDENT / & COMING TO / BE SA PRESIDENT  
 ↳ IT WAS DECIDED / CAUSE OF POLITICS / THIS CLS POINT OF VIEW

FEMINIST LEGAL THEORIES

↳ Feminist  
 ↳ CAROL GILLIGAN'S IDEA  
 \* MUCHUGHT / THEORY / IDEA / ON / LEGISLATION & EMPowerMENT / OF WOMEN  
 ↳ SOCIAL & POLITICAL MOVEMENT  
 ↳ Feminist Legal Theories  
 ↳ HAS NO / ROOTS / IN THE / FEMINIST MOVEMENT / BUT ISN'T / COMPLETELY / ASSOCIATED / WITH IT  
 ↳ IS / THEORIES OF LAW / DEALING WITH / ADJUDICATION / INTERPRETATION / & ETHICS  
 ↳ IMPOSSIBLE TO / SPEAK / OF / A FEMINIST THEORY

→ THE DIFFERENCE BETWEEN MODERN FLT / POST MODERN FLT → HAS TO DO WITH ESSENTIALIST → HAS / UNCHANGING / ESSENTIAL MEANING

→ ESSENTIALIST FEMINIST ~~THINKING~~

→ CONTEXT (CASES OF OVER 1000 WOMEN 1 & 2 (WOMEN BEGAN REPLACING MEN IN FACTORIES))

→ PEOPLE THINK / ALL MEN & WOMEN HAVE INNATE, UNCHANGING, UNIVERSAL CHARACTERISTICS → ESSENTIALIST VIEW, IN A FEMININE CONTEXTS

- THINK ALL WOMEN ARE EMOTIONAL / TALK TOO MUCH / LIKE PINK
- THINK ALL MEN ARE REGRESSIVE / LIKE BEER / SPORTS

\* SHAKESPEARE IDEA THAT MEN & WOMEN HAVE "ESSENTIAL CHARACTERISTICS" THAT NEVER CHANGES

→ MODERN LEGAL THEORY / LED TO 2 SCHOOL THOUGHTS (SEEMS OPPOSITE, BUT ITS NOT!!)

1. SAMENESS FEMINISM (LIBERAL) (BEGINNING OF 20TH CENTURY)

\* ALTHOUGH MEN & WOMEN LOOK DIFFERENT / THEY'RE "ESSENTIALLY THE SAME" → KIND OF AN ESSENTIALIST, SEES US, AS THE SAME

→ THEY DIFFER PHYSICALLY / BUT IN TALENTS, ACTIONS & MOTIVATION / THEY'RE THE SAME

→ THIS FEMINIST WHO WAS NEEDED AT THE TIME WHEN FEMINIST WAS FIGHTING FOR RIGHTS TO <sup>1</sup>WORK, <sup>2</sup>EQUAL PAY & <sup>3</sup>OPPORTUNITIES

→ THIS FEMINIST / WHO WAS EFFECTIVE TOOL & RESPONSIBLE FOR MANY ADVANCES MADE BY WOMEN

→ AREAS WHERE THEY DIFFERED SIGNIFICANTLY / THAT ITS LIMITATIONS BECAME APPARENT

→ WOMEN WERE DENIED MATERNITY / CAUSE MEN WOULD SMILE TO IT

→ UNDER THIS IDEA / MEN & WOMEN / ARE NOT THE SAME

→ ALTHOUGH IF WOMEN WERE "THE SAME" AS MEN (SAME RIGHTS / RESPONSIBILITIES) / COULDN'T CLAIM MORE / AS THEY'D BE THE SAME AS MEN / WHO CALL FOR MORE DIFFERENCES / FEMINISM WAS BORN

2. RATIONAL FEMINIST (DIFFERENCE FEMINIST = BOTH NEED "DIFFERENT RIGHTS")

→ CAROL GILLIGAN / CAUSE OF PSYCHOLOGICAL DEVELOPMENT / WOMEN ARE "ESSENTIALLY DIFFERENT" FROM MEN

① → MOST PROMINENT CLAIM / WOMEN ARE DIFFERENT / CAUSE OF PSYCHOLOGICAL DEVELOPMENT

→ MALE ATTITUDE / TOWARDS OTHERS / IS POSITIONAL

→ FEMALE ATTITUDE / IS RELATIONAL (RELATED TO OTHERS)

→ THERE'S A DIFFERENCE / FEMALE VALUES / LEADING TO CONTRAST / BETWEEN <sup>1</sup>FEMALE ETHIC OF CARE & <sup>2</sup>MALE ETHIC OF JUSTICE

→ MALE ETHIC / IS INDIVIDUALISTIC / FOCUSING ON <sup>1</sup>Autonomy, <sup>2</sup>ABSTRACT RULES & RIGHTS

→ FEMALE ETHIC / CONCERNED WITH RELATIONSHIPS / FOCUSING ON <sup>1</sup>TAKING CARE OF OTHERS

→ BOYS / DEVELOP BY <sup>1</sup>SEPARATING THEMSELVES FROM MOTHERS & <sup>2</sup>IDENTIFYING WITH FATHERS

→ GIRLS / DEVELOP BY <sup>1</sup>IDENTIFYING WITH MOTHERS / BUT DISTANCE THEMSELVES FROM MOTHERS / IN ORDER TO ASSUME INDEPENDENT MALE IDENTITY

\* RATIONAL FEMINIST

→ FELT / LIBERAL FEMINISM / CONTRIBUTED TO FEMALE OPPRESSION / CAUSE ADOPTED A MALE VOICE

→ CRITICIZES TRADITIONAL MALE LIBERAL THEORIES / FOR FOCUSING TOO MUCH ON RIGHTS / NOT ENOUGH ON RELATIONSHIPS

→ FOR THEM / LAWS DEAL WITH RELATIONS BETWEEN PEOPLE (PARENTS, CHILDREN & HUSBANDS)

→ THIS, LEGAL THINKING IS

→ MUST BE BASED ON / ANALYSIS OF RIGHTS

→ BUT / ON MAINTAINING SUPPORTING / RELATIONS

→ TRADITIONAL MALE ETHIC OF JUSTICE / MUST BE REPLACED WITH FEMALE ETHIC OF CARE

→ WOULD HAVE TO SEE / CASES OF ADULT RELATIONSHIPS / INSTEAD OF RIGHTS

→ BUT / THIS THEORY REDUCES WOMEN / TO ROLES OF "MARRIED CHILDREN"

→ THIS / STEREOTYPING WOMEN & GOING BACKWARDS / INSTEAD OF FORWARD

→ PREVIOUS WITH RATIONAL FEMINISM / IN THE ESSENTIALIST FEMINISM ("PEOPLE THINK...")

→ ITS CLEAR / THERE'S CLOSE SIMILARITIES BETWEEN / RATIONAL FEMINISM & COMMUNITARIANISM (COMMUNITY)

LEGAL THINKING

②

③

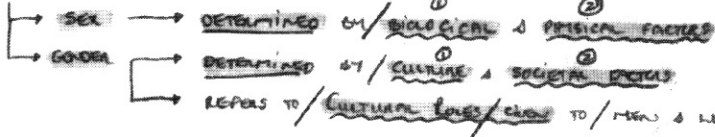
→ New Essentialist Feminist (gain momentum from 1960's/70's (Age Wave; Civil Rights Movement)

→ Simone de Beauvoir (French Feminist & Existentialist)

① → Summed up as ~~Essentialist~~ position, by saying: "I ~~am~~ <sup>①</sup> not born a woman / I ~~become~~ <sup>②</sup> a woman"

→ Post Modern Feminist

→ Distinction between Sex & Gender



\* → ~~SEX~~ / ~~IDENTITIES~~ DETERMINED / WHAT WE SEE AS / APPROPRIATE ROLES / FOR BOTH / ~~AND~~ THATS  
 → ~~ARE~~ THE ~~CAUSE~~ / ~~OF~~ / ~~DISCRIMINATION~~ / BASED ON / ~~SEX~~ & GENDER

→ Grand Narrative

③ → Men & Women / ~~ARE~~ THE WAY THEY DO / AS ~~SEXES~~ DETERMINED / WHAT THEY SEE AS / APPROPRIATE BEHAVIOUR  
 → MASCULINITY & FEMININITY / IS NOT A PRODUCT OF BIOLOGY / BUT SOCIAL CONDITIONS

→ Grand Narrative  
NO LEVEL ACCEPTED

→ Social Construction

④ → THE VIEW OF / WHATS FEMININE / DIFFERS OVER / TIME & AMONG SOCIETIES

→ Social construction  
Gender, not language  
is essential

→ Most VICTORIOUS / would regard Modern Women / as UNFEMININE

→ IMPOSSIBLE TO MAINTAIN / IN ESSENTIALIST UNDERSTANDING OF GENDER / IN Post Modern Feminist

→ THIS KIND OF FEMINIST / ~~ARGUES~~ AS EXPERIENCES / OF MANY WOMEN / INSTEAD OF "SINGLE DIVERGENT VOICES"

→ BUT, ITS CONSEQUENCES / → FRAGMENTATION OF FEMINIST THEORY  
 → EX WHITE MIDDLE CLASS WOMEN'S EXPERIENCE / ~~IS~~ NOT THE SAME / AS POOR, BLACK WOMEN

→ SINCE FEMINIST INTEREST / WOMEN'S EXPERIENCES ARE "ESSENTIALLY VALID & VALUABLE" / THE WHITE ONE SPECIAL IN DEM

LEGAL THEORY

→ Mary Joe Frug

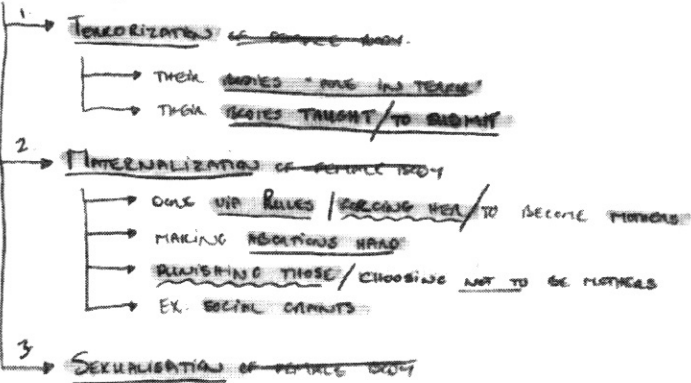
→ Post Modern Feminist / LEGAL THINKING / EX

→ USES Post Modern ANALYSIS / ILLUMINATING PROBLEMS / IN Rape & Prostitution

→ Argues / THE LAW ENCODES & ATTACHES / CERTAIN MEANINGS TO A BODY / FOR LEGAL ANALYSIS PURPOSE

→ ENCODES / THE FEMALE BODY / WITH MEANINGS, AT  
 → ATTACHING CERTAIN MEANINGS / TO FEMALE BODIES / FOR PURPOSES OF LEGAL ANALYSIS

→ HAPPENS IN 3 WAYS  
 → ~~LEGAL~~ ~~THEORY~~ / ILLUSTRATE THE



Rape Laws in the USA had these issues

→ HAPPENS / WHEN CERTAIN SEXUAL CONDUCT / IS PROHIBITED (Prostitution)

→ Recap

- Law / is a "MORAL CONSTRUCT"
- LAW PROTECTS MEN
- DIFFERENCE FEMINISM → Carol Gilligan → Both need "different rights"
- MEN & WOMEN ARE DIFFERENT
- THEY NEED THEIR OWN DIFFERENT RIGHTS

- ① 60% → THEORY OF PHILOSOPHY
- ② IF ASKED ABOUT "FOLLY OF PRINCIPLE" THE ANSWER MUST BE ABOUT DWORKIN & DISCUSS POSITIVISM
- ③ SOME PHILOSOPHER, NOT ASKED IN MORE THAN 1 QUESTION
- ④ IF ASKED IF "MEN OR WOMEN ARE STEREOTYPED" APPLY FEMINISM
- ⑤ IF THERE ARE "COMPETING VALUES" APPLY DWORKIN
- ⑥ IF ASKED "S vs. MARRIOTT" THE THEORY APPLIED IS HABERMAS & DISCUSS VARIOUS REALIST THEORIES (PROGRESSIVE REALIST)
- ⑦ IF ASKED "PRINCE" THE THEORY IS REALIST
- ⑧ KNOW LAW AS IT IS vs. LAW AS IT OUGHT TO BE
- ⑨ IN S vs. MARRIOTT
  - ↳ LAW AS IS, WAS POSITIVISM & DEATH PENALTY
  - ↳ LAW AS OUGHT, WAS HABERMAS & NATURAL LAW
- ⑩ YOU TUBE VIDEOS

