BARTLETT RHODE GROSSMAN

GENDER AND LAW
Theory, Doctrine, Commentary

Seventh Edition



ASPEN CASEBOOK SERIES

Gender and Law

Theory, Doctrine, Commentary Seventh Edition

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Published by Wolters Kluwer in New York.

Wolters Kluwer Legal & Regulatory US serves customers worldwide with CCH, Aspen Publishers, and Kluwer Law International products. (www.WKLegaledu.com)

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Wolters Kluwer Attn: Order Department PO Box 990 Frederick, MD 21705

Printed in the United States of America.

1234567890

ISBN 978-1-4548-8086-8

Library of Congress Cataloging-in-Publication Data

Names: Bartlett, Katharine T., author. | Rhode, Deborah L., author. | Grossman, Joanna L., author.

Title: Gender and law: theory, doctrine, commentary / Katharine T. Bartlett, A. Kenneth Pye Professor of Law, Duke University School of Law, Deborah L. Rhode, Ernest W. McFarland Professor of Law, Director, Stanford Center on the Legal Profession Director, Program in Law and Social Entrepreneurship Stanford University Law School Joanna L. Grossman, Sidney and Walter Siben Distinguished Professor of Family Law, Maurice A. Deane School of Law at Hofstra University.

Description: Seventh edition. | New York : Wolters Kluwer, [2016] | Series: Aspen casebook series | Includes index.

Identifiers: LCCN 2016036170 | ISBN 9781454880868

Subjects: LCSH: Women—Legal status, laws, etc.—United States. | Sex and law—United States. | Sex discrimination against women—Law and legislation—United States. | Feminist jurisprudence—United States. | LCGFT: Casebooks

Classification: LCC KF478 .B37 2016 | DDC 342.7308/78—dc23

LC record available at https://lccn.loc.gov/2016036170



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Preface

True to its initial vision, this seventh edition organizes the field of gender and law into six theoretical perspectives. These perspectives are not mutually exclusive, nor are they "total" theories intended to answer every doctrinal and policy question that may arise concerning the relationship between gender and law. Rather, they represent alternative diagnostic and normative lenses through which the relationship between law and gender can be understood and improved. We believe that each theoretical framework has significant value *and* limitations. The approach of this book works best if readers attempt to be both open to, and critical of, each perspective.

As the field of gender law has grown, it now touches virtually every area of law and policy. The majority of materials updating this edition continue to focus on work, intimate relationships and family, education, and sexual violence. This applies to most of the new cases added to the book such as United States v. Windsor and Obergefell v. Hodges (same-sex marriage), Videckis v. Pepperdine University (sexual harassment), and Young v. UPS (pregnancy discrimination). As before, however, the materials in this edition demonstrate how gender matters beyond these more obvious contexts—insurance and public benefits law, for example, as well as legal ethics, contract law, and property law. Further, while the majority of materials focus on gender as if it denoted the difference between male and female, this edition has significantly enlarged the attention given to issues that challenge this dichotomy, including transgender and intersex, and interspersed sexual orientation materials throughout the book rather than as a separate section. This edition also reflects the increasing international dimensions of gender law and policy.

This edition retains the integration of theory and practice for which the book is known. We have added dozens more problems, most of them from actual cases or disputes. If anyone believes that the gender problem in this society has been solved, we can report that the easiest part of keeping this book up to date remains finding fresh examples of gender controversy with the potential to challenge ordinary understandings of gender justice and gender progress.

We feel it once more necessary to say that, with respect to edited materials in this book, additions to, deletions from, and other alterations to quoted material are indicated by brackets and ellipses, except for footnotes and citations, which are typically deleted without notice. Where retained, original footnote numbering is used. Paragraph breaks and the order of paragraphs are occasionally modified without notice to make edited excerpts easier to follow.

We appreciate your use of this book and welcome your feedback, including feedback by students, to make it better. The book is committed to helping students think more critically, broadly, and deeply in their analysis of gender and law. But, like gender law more generally, the book is an ongoing work in progress. Thanks for being part of the process of keeping the field responsive to social and legal realities.

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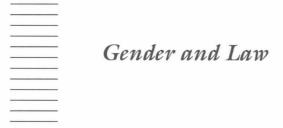
Acknowledgments

This book has been a truly collaborative effort. While each section had a lead author, it went through numerous drafts as we discussed, refined, expanded, shortened, reorganized and edited the material. In addition, the book benefitted from feedback from an expanding circle of faculty who use the book in their teaching, students enrolled in their courses, and practitioners who have used the book as a source. Since the last edition, Joanna Grossman, who has moved from Hofstra to SMU Dedman School of Law to become the Ellen K. Solender Endowed Chair in Women and the Law, has taken on the responsibilities of lead author from the book's original author, Katharine Bartlett. The book bears the stamp of another round of research assistants, including Grady Jung at Stanford and Brianne Richards at Hofstra, both of whom, like their predecessors, contributed greatly to the research and thought that went into this edition. Thanks also go to Christine Ryan, SJD student from Duke, for her very useful suggestions, and to Eun Sze from Stanford and Frances Avnet from Hofstra for their extraordinarily able administrative assistance.

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