



Feminist Lawyering and Teaching Uncontested Divorces: A Case Study & Discussion

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Divorce law has been one of the primary focuses of feminist reform. Ensuring greater accessibility to divorce through the availability of no fault laws, fairer property classification and distribution models, more equitable custody standards, and the recognition of the impact of domestic violence on children are a few of the areas which feminists have successfully struggled to modernize and “feminize” divorce laws. Feminists have also been instrumental in breaking the adversarial mold for divorce and have encouraged the availability of mediation and collaborative law proceedings. Although, these reforms and others have resulted in dramatic improvements in family related laws and procedures, numerous family law scholars and Gender Fairness studies show that women continue to experience a significant financial loss upon divorce and that mothers’ role in childrearing and caretaking are undervalued. The reasons for the ongoing disparities are multifaceted and one possible cause may be the high cost of legal assistance. Despite the adoption of no-fault laws in every state and the rise of pro se and unbundling legal services jurisdictions still experience significant divorce backlogs. The lack of legal representation for the poor and middle-class in matrimonial actions is a significant and growing problem in New York and other jurisdictions. This “access to justice” issue creates a significant problem for women and children. It similarly raises the issue of whether law schools are playing a substantial enough role in responding to these issues. One project, at Touro Law Center, is designed not only to help meet this access to justice need for legal representation in divorce, but to fill valuable pedagogical goals as well. The panel will discuss how the First Year Uncontested Divorce project is, in essence, a feminist approach to access to justice and teaching. It will describe the project, explain how exposing students to divorcing clients in their first year of law school may serve feminist goals of bringing divorce law out of the shadows and into the center of legal education, teaching students from the outset the importance of ethical and culturally competent representation, and beginning law students’ careers with a concrete understanding of the importance of consistent pro bono commitments. The panel will encourage discussion of the goals and methodology of the project.