

In Search of Law in Women's and Gender Studies: Toward Critical Womanist Legal Studies

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Abstract

In the context of recent critiques of Women's and Gender Studies' (WGS) institutionalization within the academy, this article foregrounds the role that a transdisciplinary and critical womanist legal studies may play in addressing some of the most significant concerns. It discusses the contours of a research approach, building on previous work in WGS as it intersects with critical legal scholarship from other locations in the academy with similar goals, purposes, and commitments to social justice. It also assesses the extent to which legal studies are evidenced in current published works in WGS journals and emphasizes how an increased emphasis on such scholarship permits researchers to usefully explore significant concerns in the field, including the operation of power and privilege, possible interventions in dominant cultural discourses, and legal constructions of intersecting roles of race, gender, class, and sexuality. Further, the article suggests that transdisciplinary critical womanist legal studies may help to address concerns that the successful institutionalization of WGS has narrowed the field's focus, blunted its critical edge, and separated academic work from grassroots communities and political action.
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Résumé

Dans le contexte des récentes critiques de l'institutionnalisation des Études sur le genre et les femmes (EGF) au sein du milieu universitaire, cet article met en avant le rôle que peuvent jouer les études juridiques transdis-

ciplinaires et critiques du « womanism » pour aborder certaines des préoccupations les plus importantes. Il discute des contours d'une approche de recherche, s'appuyant sur des travaux antérieurs en EGF et de leurs recoupements avec des connaissances juridiques critiques d'autres domaines du milieu universitaire ayant des buts, des objectifs et des engagements semblables envers la justice sociale. Il évalue également dans quelle mesure les études juridiques sont représentées dans les travaux actuels publiés dans les revues EGF et souligne comment une insistance accrue sur ce savoir permet aux chercheurs d'explorer utilement des préoccupations importantes dans ce domaine, y compris le fonctionnement du pouvoir et des privilèges, les interventions possibles dans les discours culturels dominants et les constructions juridiques des rôles entrecroisés liés à la race, au sexe, à la classe et à la sexualité. En outre, cet article suggère que des études juridiques transdisciplinaires et critiques du « womanism » peuvent aider à aborder les préoccupations que l'institutionnalisation réussie des EGF a rétréci la portée du domaine, émoussé son énergie critique et isolé les travaux universitaires des communautés de base et de l'action politique.

Introduction

In a recent assessment of doctoral dissertations produced in Women's Studies, Sally Kitch and Mary Margaret Fonow (2012) raise important questions about the role of doctoral research in knowledge production, given its role in shaping Women's Studies as a field. Acknowledging that "the field is still in transition from its multidisciplinary origins in programs composed of discipline-trained scholars to one composed of scholars who hold women's studies PhDs or certificates," they suggest that "it may be time for women's studies faculty and administrators to begin defining what constitutes research that is specific to the field." Included in this effort to gain greater clarity is the need to explore, in greater depth, "how to translate the more familiar interdisciplinary teaching mission in women's (gender/sexuality/feminist) studies into research agendas and methodologies" (100).

Kitch and Fonow's study is one of a number of important writings about the field of WGS published in the past fifteen years (e.g., Messer-Davidow 2002; Wiegman 2002a; Kennedy and Beins 2005a; Scott 2008; Orr, Braithwaite, and Lichtenstein 2012). In general, these writings assess, from multiple perspectives, the implications of WGS steadily securing departmental status in the university and adding graduate degrees in the field. Women's Studies, or Women's and Gender Studies as the field has, more recently, come to be known, has been characterized in these works in various and sometimes contradictory ways - as, among other things, being "on the edge" (Scott 2008), "on its own" (Wiegman 2002a), an "impossibility" (Brown 2008), a developing interdisciplinary field with a promising future (Wiegman 2005; Kennedy and Beins 2005b), a "failure" due to its "success" in achieving an established place in the academy (Martin 2008), and as either losing or retaining its connection to political activism as it has transformed from social movement to academic discipline (Messer-Davidow 2002; Wiegman 2002b; Orr 2012).

These self-reflexive assessments raise many significant questions for WGS as a field. It has achieved success in many institutions, growing from loosely organized programs that drew on faculty from disciplines across the university to departments that offer graduate programs staffed by tenure track faculty with full time appointments. The steady institutionalization, departmentalization, and professionalization of WGS

are notable achievements, reflecting important and painstaking work by committed faculty and administrators. However, these achievements have also produced challenges to a field that often portrays itself as critical, politically engaged with communities outside the academy, and fundamentally interdisciplinary or, more recently, "transdisciplinary" (Dölling and Hark 2000; Leavy 2011; Lichtenstein 2012).

Diane Lichtenstein (2012) identifies one of the most significant challenges associated with developments in WGS. Many of the field's pioneers viewed themselves as engaged in transgressive work, contesting prevailing academic structures and the departmental divisions of the university. "WGS has sought," Lichtenstein writes, "to challenge not only disciplinary borders and disciplinary rules of conduct but the very idea of boundaries as well as the institutional structures that maintain those boundaries." However, she goes on to argue that "[r]eliance on the narrative that 'the field is interdisciplinary' conceals a deep tension—that an intellectual project can be pursued in institutions whose structures function as obstacles to that project" (35). Lichtenstein draws attention to the lack of meaningful discussion in WGS about the field in relation to disciplines, interdisciplinarity, and how, or if, research topics in the field may be pursued in transgressive ways through established academic structures.

Lichtenstein's discussion highlights some difficulties associated with Kitch and Fonow's (2012) suggestion that WGS research in general and doctoral dissertation research in particular should be clearly defined. Quoting Ann Braithwaite (2012), who explores the concept of "discipline" as used in WGS, Lichtenstein (2012) argues that "the absence of engagement with questions about disciplines (and interdisciplinarity) is also a refusal...to ask what is counting as WGS, and how, in particular contexts." It is a refusal to ask, she suggests, "about the field's subject, about its borders and parameters, and about its relation to other fields of inquiry (or disciplines)." As such, interdisciplinarity as conceptualized in WGS would not seek to "dismantle disciplines," but might rather pose "a challenge to the arbitrariness of disciplinary boundaries" and "call those boundaries into question" (35-36).

This article constitutes a modest engagement with these discussions by positioning law and legal practices in the field of WGS. At a time when what we

once considered fundamental rights to such things as contraception, reproductive freedom, and voting are under assault in countries like the United States, is there scholarly work in Women's and Gender Studies that may help us to understand these trends and how we might respond? Is there research on law and legal practices in the field of WGS and in what ways, if at all, are these topics worthy of scholarly attention?

The article begins by examining the extent to which law and legal practices as research topics appear in major WGS journals and dissertation research. I propose a clearer acknowledgement of law and legal practices as important topics in WGS and outline an approach to legal studies that addresses major questions in the field. This approach is grounded in other critical legal projects located throughout the academy, including feminist, critical race, critical race feminist, queer, and Latcrit legal studies as well as interdisciplinary law and society research. As Mary Hawkesworth (2010) suggests, critical race theories, much like feminist theories in WGS, pose "dramatic challenges to traditional accounts of the world, taking issue with dominant disciplinary approaches to knowledge production..." Critical race and critical race feminist frameworks, she adds, "have contested androcentric, Eurocentric, and colonial 'ways to truth' that universalize the experiences of a fraction of the human population. They have challenged the power dynamics structuring exclusionary academic practices that have enabled unwarranted generalizations to remain unchallenged for centuries or indeed millennia. They have sought to identify and develop alternative research practices that further feminist and antiracist goals of social transformation" (691).¹ Critical legal theories—feminist, critical race, Latcrit, and queer—explore the political nature of law and legal interpretation, while challenging not only particular legal rules and practices, but also larger structures that produce patterns of power and privilege that have historically been of immense interest and concern to WGS.

Based in part on Layli Maparyan's (2012a) analysis of the field of WGS, the emergent project of "critical womanist legal studies" in WGS explicitly challenges the arbitrariness of disciplinary boundaries. In other words, it points toward a transdisciplinary engagement with questions that would potentially (re)connect WGS to communities outside the university's walls and to local and global activism. Rooted in the lived experiences of

women of color, womanism, as defined by Maparyan, is "a social change perspective...concerned with humanity as a whole and the elimination of all forms of oppression, whether named or unnamed" (27-28). A project of critical womanist legal studies, informed by Maparyan's view of womanism and WGS as a field, may, in a modest way, help to address some of the issues raised in recent critical analyses of the field as it has secured greater institutional status and legitimacy in the academy.

Law and Legal Practices in Current WGS Research

Kitch and Fonow (2012) concentrated their analysis on completed dissertations in Women's Studies between 2001 and 2008. The coding categories they employed to characterize dissertation topics as well as the descriptions they provided for these categories suggested that law was not a major focus of any of the dissertations completed during this period.² They closely read twenty-four dissertations, from which they identified five as being of "exemplary" quality. Based on their discussion, only one of the five, or one of the twenty-four dissertations analyzed in total, appeared to focus on law—namely, a study of the legal status of Indian women in India and the United States. In this study, the author "compared the legal standing of such women with their standing in their home country in order to discover how 'global flows of people, culture, media, and capital test the limits of anti-violence law and what kinds of legal subjects and their advocates are being produced and constrained within these transnational spaces'" (Kitch and Fonow 2012, 120). In general, there is little evidence in Kitch and Fonow's discussion that law and legal practices are subjects centrally and deeply engaged with in the dissertation research they examined.

What about research published in WGS journals? Table 1 depicts the number and percentage of law-related articles published in eight leading Women's Studies journals between 2008 and June 2013.³ Of the 1138 articles published in these journals in this six year period, 54 or less than five percent focused on law-related topics. Among the journals, the number of law-focused articles published ranged from one in *Frontiers* (or one percent of the total) to thirteen in *Signs* (or five percent of the total). Between 2008 and 2009, eighteen percent of the articles published in the *NWSA Journal* focused on law. In 2010, the journal changed its name to *Feminist Formations*. Of a total of 114 articles pub-

lished in both journals, thirteen or 11.4 percent focused on law-related topics.

Table 1
Law-Related Articles in Eight Leading Journals in Women's Studies: 2008-2013*

Journal Title	#of articles	#law-related articles	percent law-related articles
Feminist Formations (2010-2013)	64	4	6.25
Feminist Studies	141	9	6.38
Frontiers	99	1	1.01
Genders	51	3	5.88
Hypatia	244	4	1.64
Meridians	70	4	5.71
NWSA Journal (2008-2009)	50	9	18.00
Signs	243	13	5.35
Women's Studies Quarterly	176	7	3.98
Total	1138	54	4.75

*Includes all articles published and indexed up until June 2013. The statistical count does not include book reviews, poetry, or introductory editorial statements.

When examining the law-related articles published in these leading Women's Studies journals be-

tween 2008 and 2013, it is evident that they covered a rich array of topics (see Appendix A). For example, scholars disseminated research on law and legal discourses, courts, judges, lawyers, litigants, asylum seekers, prisons, police and policing, sex work and the law, reproductive rights, intersectionality and law, and transgender rights, among other topics. Several of the articles focused on law's role in constituting identities and forms of resistance to such constructions. Others explored the distinctive practices of specific legal actors and the role of intersecting identities in such practices.⁴

At the same time, the modest number and percentage of articles that focused on law-related topics published in leading Women's Studies journals over this six year period is noteworthy. I argue that law, legal discourse, and legal practices could be more fully integrated into WGS. As a field, for example, WGS prides itself on producing scholarship that is explicitly "intersectional" by focusing attention on the complexity of personal identities and the multiple systems of interlocking oppressions (Collins 2000) that characterize social life. Significantly, and perhaps ironically, the concept of "intersectionality" was coined and developed by Kimberlé Crenshaw (1989, 1991), a lawyer, law professor, and important critical race feminist legal scholar. A critical womanist approach to legal studies embedded in the field of WGS could be explicitly developed; it could build on the important work already done and integrate research and writing from intersecting and overlapping critical legal projects produced by scholars located elsewhere in the university. In the next section, I discuss some of the reasons for pursuing such a project and begin to outline some of its elements.

Institutionalization and Critical Womanist Legal Studies in WGS

It has become common place in commentaries about the historical development of WGS as a field to note that it has gained greater acceptance in the academy. Assessments of the implications of the field's increasing institutionalization, however, vary dramatically among commentators. In discussing the future of Women's Studies as a field, Elizabeth Lapovsky Kennedy and Agatha Beins (2005b), for example, emphasize the importance of acknowledging and assessing the success-

ful institutionalization of WGS in the university, while looking hopefully toward the future. Others, however, have expressed what Robyn Wiegman (2005) refers to as “post-exuberant despair,” viewing successful institutionalization “as a betrayal of the political urgencies and critical vocabularies that inaugurated the project” (41, 43). Some WGS practitioners, like those in other identity-focused and politically-informed fields, have articulated concerns that the field’s connection to its activist origins may have been severed or disturbed by institutional imperatives that encourage its development along more traditional, academic, and disciplinary pathways (see Braithwaite 2012 for a thoughtful treatment of these concerns). Others, however, focus on the promise of the field as an open, multi-vocal, interdisciplinary, or trans-disciplinary area of inquiry that continues to explore, using diverse approaches and theoretical formulations, major concerns of the field, including systems of power and oppression, subject formation and resistances to it, the constitution of intersecting identities and its implications, and avenues through which social justice and change may be pursued (Zimmerman 2005). Aimee Carillo Rowe (2012) summarizes many of these diverse and seemingly irreconcilable perspectives, suggesting that responses to WGS’ “emerging legitimization and ‘professionalization’ have ranged from hand-wringing, to nostalgia, to ‘breast-beating,’ from critical and deconstructive assessments to struggles over essentialism, to the formation of new estrangements and alliances” (293).

In an important recent exploration of WGS as a field of inquiry, Maparyan (2012a) outlines a broad and inclusive vision of the field’s potential future, a vision that embraces the benefits of successful institutionalization, while allowing the field to transcend the potential drawbacks and limitations. “WGS at this particular historical moment,” she writes, “*appears* as a multivalent, poly-vocal *site of convenience* for multiple overlapping and at times contradictory conversations about social change, social justice, human empowerment, environmental restoration, and, increasingly, spirituality.” By ‘site of convenience,’ Maparyan suggests “that people ‘show up’ to WGS, as students and as faculty members, because they desire to talk about these things writ large, not simply because they desire to ‘study women’ or ‘are feminist,’ and because they sense it is safe or even possible to do so there in ways that it is not in other sites.”

She approaches her conceptualization of WGS from “a global or national perch,” a view that “is not nearly as visible at the level of individual departments, or within the conferences, journals or textbooks associated with WGS,” which define the field more narrowly. This more narrow perspective contained within more stringent boundaries “seems to limit the discipline’s own consciousness of and self-realization about its necessarily polyform and dynamic attributes, which could be transformational and liberatory if they were better encompassed” (19-20).

Maparyan (2012a) laments the fact that “it sometimes feels as though like-minded people who ought to be collaborating on the larger project of liberation, at our university or on the planet, are often living out their political aspirations in separate universes” (24). WGS, for her, should and could be a portal of entry for diverse scholars and activists who would contribute diverse perspectives and approaches to further the goals of social transformation and liberation. A more open and inclusive WGS, explicitly informed by womanist perspectives (see, for example, Maparyan 2012b) “could serve as a forum for dialogue, for harmonizing and coordinating diverse perspectives” and could bring multiple theories and approaches to bear on central issues of concern, including “social change, social justice, human empowerment, environmental restoration, spirituality, in a context where sex, gender, and sexuality are among the privileged topics” (Maparyan 2012a, 25).

Systems of power and oppression, subject formation and resistance, the constitution of identities, social change, social justice, human empowerment, environmental restoration, spirituality—these are all issues that critical studies of law and legal practices could usefully address.⁵ Law and legal practices inform social, political, and economic policies with significant implications for sex, gender, sexuality, race, ethnicity, and other intersecting identities (e.g., Smart 1989; Valdes, McCristal Culp, and Harris 2002; Wing 2003; Lopez 2003, 2006; Pascoe, 2009; Pliley 2014). Law and legal practices are also integral parts of the cultural material that constitute identities and social life generally (e.g., Sarat and Simon 2003; Kessler 2007). WGS scholars have shown great interest in public policy as well as cultural studies. As law is clearly implicated in both of these areas, it seems that it constitutes a potentially

important focus for critical inquiry and research in a WGS that is, in Maparyan's (2012a) terms, a portal of entry for participation in a dialogue on broader questions of social justice and liberatory transformation.

The study of law and legal practices in the field of WGS and its potential impact on social transformation may be enhanced as practitioners find intersecting and overlapping approaches, questions, emphases, and methodologies in spaces seemingly perceived as lying outside of the field. In a useful and compelling discussion of the institutionalization of and transdisciplinarity in WGS, Irene Dölling and Sabine Hark (2000) suggest that "...increasing institutionalization carries with it the threat of a loss of critical potential, especially the capacity to reflect upon its own modes of knowledge production. Moving into the center, however, necessitates a higher level of self-reflexivity. Transdisciplinarity, understood as a critical evaluation of terms, concepts, and methods that transgress disciplinary boundaries, can be a means to this higher level of reflexivity" (1195).

As law and legal practices are centrally related to major concerns, issues, questions, and topics in WGS and are social phenomena studied by scholars from different disciplines who are involved in various critical projects—such as social scientists and humanists in the law and society movement and law professors in critical legal studies, critical race, feminist, critical race feminist, Latcrit, and queer legal studies⁶—they may be evaluated and deployed critically with greater frequency and depth. This process could lead to a greater reflexivity that would guard against the lethargy of a narrowing disciplinarity related to successful institutionalization. Dölling and Hark (2000) suggest that we should look beyond institutionally-created boundaries for intersections and interconnections among disciplines as we develop transdisciplinary research practices. "Transdisciplinarity," they write, "proceeds from the insight that disciplines are conventionally thought of territorially, as independent domains with clear boundaries. In fact, however, disciplines are characterized by multiple interconnections and shot through with cross-disciplinary pathways. Consequently, the boundaries between them must be understood—much like physical territorial boundaries—as arbitrary products, effects of social activity" (1196).

Toward Critical Womanist Legal Studies in a Transdisciplinary WGS

A programmatic commitment to critical womanist legal studies in WGS might begin with recognition of the role of law and legal practices in culture, politics, and policy and in constituting intersecting identities.⁷ Although the concept of "culture" may be understood in various ways, much of the most useful writing on it combines a conception of culture as a system of symbols with a view of it as practice.⁸ Often drawing explicitly on Pierre Bourdieu's (1977) theory of practice, scholars who employ this conception of culture focus attention on relationships between the action and interaction of "agents," "actors," or "subjects" and the systemic or structural forces that produce and disseminate social and cultural symbols. Seeking to transcend tensions in social theory between structuralist and subjectivist strains, a crucial assumption of this analytical approach is that practices of human agents play important roles in producing, reproducing, and transforming the structural forces that comprise a social system, while simultaneously being shaped by these forces. Lisa Wedeen's (2002) conception of culture as "semiotic practices" concisely captures the view that symbols and practices are mutually constitutive.

William Sewell (1992) developed a nuanced and dynamic variant of this conception of culture. Signs and symbols comprising abstract cultural codes form a "cultural schema," a set of conventions that includes assumptions, categories, metaphors, and narratives that structure practice and, in turn, are shaped by practice. Culture, according to Sewell, "should be understood as a dialectic of system and practice, as a dimension of social life autonomous from other such dimensions both in its logic and in its spatial configuration, and as a system of symbols possessing a real but thin coherence that is continually put at risk in practice and therefore subject to transformation" (52). Furthermore, semiotic practices are embedded in social relations, produced by and helping to constitute unequal relations of power and privilege. The "worlds of meaning," as Sewell called them, which emerge from these complex structures are not always unidirectional, but rather are often "contradictory, loosely integrated, contested, mutable, and highly permeable" (53).

Because culture, in this view, is polyphonic, contested, and often contradictory, dominant interests

and institutions seek to impose a definitive interpretation on these “worlds of meaning.” In particular, these forces seek to establish normative interpretations by organizing the meaning of difference. This highly political task is pursued in order “not only to normalize or homogenize but also to hierarchize, encapsulate, exclude, criminalize, hegemonize, or marginalize practices and populations that diverge from the sanctioned ideal” (Sewell 1992, 56). Sewell (1992) focused on “authoritative actors” whose actions “launched from the centers of power, ha[ve] the effect of turning what otherwise might be a babble of cultural voices into a semiotically and politically ordered field of differences” (56). Among other things, public officials, judges, courts, and lawyers employ categories of difference, binary oppositions such as normal/abnormal and legal/illegal to identify the normative as contrasted to a deviating “other.”

Law forms one crucial element in the “authoritative action” described by Sewell (1992). As Bourdieu (1987) suggested, law is one of several relatively autonomous “fields” of cultural production that, within the constraints of material relations, constitutes social relations and practices, while simultaneously being shaped and created by social practices. Law is a “discourse,” as Michel Foucault (1977) conceptualized the term, a way of depicting actions and relationships that emphasize some meanings and silence others. Law contributes to “worlds of meaning” in various ways, including the use of legal categories and metaphors, which distinguish one thing from another and, thereby, impose hierarchical rankings. Foucault referred to these as “dividing practices,” as a process of “binary branding...the constant division between the normal and the abnormal” (199). In a similar way, Bourdieu (1985) noted that “[i]t is no accident that the verb *kategoresthai*, which gives us our ‘categories’...means to accuse publicly” (729).

The constitution and contestation of categories of difference and the mutually constitutive relations between structures and practice have been important areas of theoretical inquiry in WGS. Studying law as cultural practice could highlight the contribution of law, legal discourse, and legal practices to, in Sewell’s (1992) terms, system and practice. Such work might focus on the way in which categories and classifications embedded in law construct “worlds of meaning” and how agents employ and resist such representations in practice. Law and legal discourse, in other words, can be

read as official theories of social relations or the telling, in AnaLouise Keating’s (2009) terms, of “status quo stories...that normalize and naturalize the existing social system, values, and standards so entirely that they deny the possibility of change” (83). Legal advocates committed to social change, who are “rebellious,” as conceptualized by critical race theorist Gerald Lopez (1992), may consult with relevant political communities and translate counter-hegemonic views and aspirations in the form of oppositional, transgressive stories in language understood by legal elites, such as judges, other lawyers, and lawmakers occupying various authoritative positions. In this way, the legal practices of politically engaged lawyers are viewed as involving translation and storytelling in a manner understood by those in power.

Scholars also have important roles to play in this important project. Nikol G. Alexander-Floyd (2010), writing in *Signs*, describes the important contributions of critical race feminism produced primarily in law schools to creating what she refers to as a “jurisprudence of resistance” (811). Alexander-Floyd focuses on three distinct areas in which black feminist legal theorists “have transformed the legal academy in particular and the academy more generally.” These include “critiquing the racial limitations of critical legal studies (CLS)⁹ and exposing subjectivity through the production of narrative, advancing intersectionality as a legal and research paradigm, and expanding our understanding of harassment and discrimination law to account for the experiences of black women” (811).

Alexander-Floyd’s article, published in a leading journal in the field, importantly connects WGS scholars to the work of critical race feminist scholars located primarily in law faculties or schools. In doing so, however, critical race feminist scholarship appears to be outside of the field of WGS, treated as theory and research done by experts working from a distant and different location.¹⁰ Indeed, the relative absence of critical legal studies in WGS journals or as dissertation topics may be a function of a belief that students and scholars in the field lack the expertise required to fully explore the development and impact of law and legal doctrines. This fundamentally disciplinary view of intellectual work may also explain why studies produced by legal academics—including critical legal scholars—often do not cite, discuss, or incorporate scholarship on law and legal practices published outside of law journals and

other specialized outlets that are directly connected to law schools.

Such narrow perspectives on what counts as scholarly or intellectual work in specific fields seem shortsighted and politically problematic. Scholars with multiple and diverse intellectual backgrounds who represent multiple and diverse disciplinary and interdisciplinary fields have much to contribute to theory and action on law's relationship to social change. Legal scholars may have unique insights to offer through their understanding of official judicial shifts in perspective. But other scholars, such as those in WGS, with training in different and often broader theoretical, substantive, and methodological matters, will also have the potential to make significant and unique contributions. WGS scholars, with their focus on individuals in social context and the impact of multiple systems of interlocking oppressions, may deepen, broaden, and complicate our understandings of the effects of formal law and state regulations as well as attempts to transform them in useful and progressive ways. The more that critical legal analyses draw on all of these intellectual strengths, the more systematic the studies, the more trenchant the critique, and the broader the thinking about alternatives as they relate to established legal institutions and beyond.

Critical womanist legal studies has the potential to enrich both fields of inquiry. It can sharpen the work produced by critical legal scholars who explore topics and issues of mutual interest and concern. Its integration into WGS would bring to the forefront laws and regulations that have a significant and differential impact on individuals in a hierarchical and discriminatory social world. This integration would also allow for the promotion of some of the multiple interconnections and cross-disciplinary pathways that Dölling and Hark (2000) suggest are characteristic of a more transdisciplinary field. Of equal importance, critical womanist legal studies in WGS could serve as an important space or forum, in Maparyan's (2012a) terms, for dialogue—a dialogue that could potentially act to harmonize and coordinate multiple theories and critical perspectives that seek social change and transformation.

Maparyan's (2012a) description of a WGS that is a portal of entry for scholars and activists to discuss and work collaboratively on larger liberatory projects intersects with conversations taking place in other academic locations where law, regulation, and legal prac-

tices are the focus of critical engagement. Feminist, critical race, critical race feminist, Latcrit, and queer legal studies share with WGS a commitment to social justice based on what critical race scholar Francisco Valdes (2000) and others call a "post or anti-subordination vision" (e.g., Hernandez-Truyol 2008; Bender and Valdes 2012). This vision, as articulated by Valdes (2000), is of "a society where 'difference' is not only tolerated and accepted but cultivated and celebrated, a society where legal principles and cultural practices accommodate and affirm, rather than burden or disdain, the public performance of difference across multiple axes of social and legal personhood" According to Valdes, "the pressing question is how do we help to theorize and materialize this vision of a multiply diverse and socially just inter/national community?" (842).

The role of law in moving toward a post-subordination society is part of a critical intellectual and social justice project that extends beyond the borders of law schools. While the potential of law and rights and the use of established institutional channels to challenge multiple hierarchies is contestable, it is still worthy of careful examination. If law is a fundamental aspect of a social world riven by racism, sexism, homophobia, transphobia, xenophobia, and other systems and ideologies that produce and support subordination, can law, rights, and legal practices be reconceived in ways that counteract, reconstruct, and reconstitute a world with an anti-subordination vision? Could this be accomplished through a more inclusive community of participants both within and outside the academy who would collaborate on what feminist scholars call the formation of a "cross-sector infrastructure" (Messer-Davidow 2002), a "radical belonging" across "power lines" (Rowe 2008), a focus on interconnectedness (Keating 2009, 2013), or what critical race scholars, such as Julie A. Su and Eric K. Yamamoto (2002), term "critical coalitions," "alliances based on a thoughtful and reciprocal interest in the goals and purposes of a collaborative and collective project" (Valdes 2000, 832).

Such critical collaborations, coalitions, and alliances would necessarily and productively include community activists who would help to guide the questions asked and the methods used to explore a specific issue. In the same way that previous generations of feminist and critical scholars learned about harassment and discrimination from those directly affected, contemporary

scholars who engage in critical womanist legal studies could learn a great deal about the legally constructed problems of marginalized groups, whose social location is shaped by various intersecting factors, including gender, racial and ethnic background, sexual identity, and citizenship, from relevant populations and front-line community activists. Working together with legal academics, interdisciplinary law and society scholars, and communities outside the walls of the academy, WGS scholars would contribute to fashioning strategies for a reconstructed legal regime that promotes an anti- or post-subordination vision and that challenges current ideologies that claim a postracial, postfeminist present (Crenshaw 2011). In this way, WGS could participate in what Valdes (2012) calls “rebellious knowledge production,” the production of knowledge with liberatory potential from the perspective of diverse, historically marginalized populations.

Opening WGS to the development of critical womanist legal studies, in collaboration with other critical scholars in the law and society community and in legal programs as well as with communities and community activists outside the walls of the academy, might begin to address some of the concerns that the success of WGS in finding a secure place in the university has narrowed its focus and produced a less critical endeavor with fewer connections to grassroots communities and political action. A more collaborative transdisciplinary critical womanist legal studies that incorporates work across and outside the academy has the potential to broaden, deepen, and enrich a critique of law as it impacts historically marginalized populations as well as to identify effective paths for social transformation.

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Endnotes

¹ Hawkesworth’s (2010) analysis of critical race and critical race feminist theories emerges out of a critique of the discipline of Political Science and the sub-field of political theory for not engaging with feminist and critical race theories or viewing them as part of these areas of scholarly and theoretical inquiry. For an analysis of the accomplishments of critical race theory in the context of WGS, see Alexander-Floyd (2010), who suggests that this body of work constitutes a “jurisprudence of resistance” worthy of attention among WGS scholars. Alexander-Floyd’s sympathetic assessment, however, seems to portray “critical race black feminism” as theories and research produced elsewhere, outside of WGS as a field.

² The coding categories included the following: identity/subjectivity, gender norms, resistance/activism/power, cultural texts, nationalism/citizenship, race, sexuality, and harassment/violence/victimization/trauma. The descriptions provided for each category did not mention law or legal practices as an aspect of the topic category, but many of the categories could have included a study of written laws and legal practices. These categories were based on review of the abstracts of 106 dissertations. Kitch and Fonow (2012) read a sample of 24 (of the 106) dissertations carefully and engaged in a deeper analysis of them.

³ The specific journals I selected were drawn from Kitch and Fonow’s (2012) study. They describe them as “the key interdisciplinary women’s studies journals...” (110). Kitch and Fonow examined the extent to which research published in these journals was utilized and cited in the dissertations they read. They found that “only 17 percent of sample dissertations had six or more citations from such journals, 25 percent had two to five, and one-third had none” (110). Based on their findings, they suggested that Women’s Studies doctoral courses should include more readings from these journals and that dissertation research should consult work “in the field” more thoroughly.

⁴ In a study of the thematic content of articles published in *Signs* over a five year period (to 2011), Hawkesworth (2011) coded the identified topics, from most to least prevalent, as follows: cultural production, political activism/engagement, women’s labor, war and terror, gendered migration, sexualities, historical studies, black feminist studies, reproductive and genetic technologies, marriage and families, identities, feminist theory, feminist science studies, and women’s health. Significantly, in discussing the approaches to these topics, Hawkesworth suggested that they employed multiple methodologies and approaches, one of which she labelled as “legal studies.” The other approaches listed included “cultural studies, deconstruction, discourse analysis, ethnography, film studies, genealogy, historical analysis, ideology critique, intertextual analysis, interviews, literary criticism, philosophical analysis, psychoanalysis, rhetorical analysis, and semiotics” (512).

⁵ For an example of critical legal theories that focus on spirituality, although not necessarily from a womanist perspective, see Gabel (2009, 2013).

⁶ For a good description of these critical projects in legal studies, see Inniss (2012). For a useful history of the law and society movement, see Trubek (1990).

⁷ For an excellent study that is explicitly framed in the field of WGS and that combines and addresses many of these elements and concerns, see Baker (2008).

⁸ This discussion is based, in part, on Kessler (2007, 207-213). On culture as symbol, see Geertz (1973, 1983). On culture as practice, see Bourdieu (1977). Other works I have found useful include Sewell (1992, 1999) and Wedeen (2002).

⁹ Critical Legal Studies (CLS) was a movement in legal studies that sought, through its theoretical works, to contribute to social change and transformation. It is especially known for its method of “trashing,” or deconstruction, of rights and its view that law is indeterminate and, therefore, not a trustworthy ally in struggles for social justice. See, for example, Tushnet (1984), Kelman (1989), and Gabel and Harris (1989). For a useful history, see Tushnet (1991). CLS scholarship and especially its negative view of rights were criticized by scholars of color for not considering the perspectives of people of color. See, for example, Williams (1987), Matsuda (1987), and Delgado (1987).

¹⁰ In a similar way, work in feminist jurisprudence is often distinguished from scholarship associated with Women’s and Gender Studies as a field. This includes the important work of the Feminism and Legal Theory Project located in the law school at Emory University.

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APPENDIX A

Law-Related Articles in Eight Leading Women's Studies Journals, 2008-2013

Feminist Formations [2010-2013]

Halva-Neubauer, Glen A., and Sara L. Zeigler. 2010. "Promoting Fetal Personhood: The Rhetorical and Legislative Strategies of the Pro-Life Movement after Planned Parenthood v. Casey." *Feminist Formations* 22 (2): 101-123.

Shehadeh, Lamia Rustum. 2011. "Gender-Relevant Legal Change in Lebanon." *Feminist Formations* 23 (1): 210-228.

Strobl, Staci. 2011. "Progressive or Neo-Traditional? Policewomen in Gulf Cooperation Council (GCC) Countries." *Feminist Formations* 23 (1): 51-74.

Ahmed, Fauzia Erfan. 2013. "The Compassionate Courtroom: Feminist Governance, Discourse, and Islam in a Bangladeshi Shalish." *Feminist Formations* 25

(1): 157-183.

Feminist Studies

García-López, Gladys, and Denise A. Segura. 2008. "'They Are Testing You All the Time': Negotiating Dual Femininities among Chicana Attorneys." *Feminist Studies* 34 (1/2): 229-258.

Maddali, Anita Ortiz. 2008. "Sophia's Choice: Problems Faced by Female Asylum-Seekers and Their U.S.-Citizen Children." *Feminist Studies* 34 (1/2): 277-290.

Elmore, Cindy. 2010. "On and On, Over and Over: The Gender War in Child Support Enforcement Court." *Feminist Studies* 36 (2): 397-403.

Evans, Jennifer V. 2010. "Decriminalization, Seduction, and 'Unnatural Desire' in East Germany." *Feminist Studies* 36 (3): 553-577.

Myers, Polly Reed. 2010. "Jane Doe v. Boeing Company: Transsexuality and Compulsory Gendering in Corporate Capitalism." *Feminist Studies* 36 (3): 493-517.

Moeller, Robert G. 2010. "The Regulation of Male Homosexuality in Postwar East and West Germany: An Introduction." *Feminist Studies* 36 (3): 521-527.

Moeller, Robert G. 2010. "Private Acts, Public Anxieties, and the Fight to Decriminalize Male Homosexuality in West Germany." *Feminist Studies* 36 (3): 528-552.

Basu, Srimati. 2011. "Sexual Property: Staging Rape and Marriage in Indian Law and Feminist Theory." *Feminist Studies* 37 (1): 185-211.

Ludlow, Jeannie. 2012. "Love and Goodness: Toward a New Abortion Politics." *Feminist Studies* 38 (2): 474-483.

Frontiers

Zeigler, Sara L., and Kendra B. Stewart. 2009. "Positioning Women's Rights within Asylum Policy." *Frontiers: A Journal of Women Studies* 30 (2): 115-142.

Genders

Shahani, Nishant. 2009. "Section 377 and the 'Trouble with Statism': Legal Intervention and Queer Performativity in Contemporary India." *Genders* 50: 1-27.

Wlodarczyk, Justyna. 2010. "Manufacturing Hysteria: The Import of U.S. Abortion Rhetorics to Poland." *Genders* 52: 1-40.

Springer, Kimberly. 2011. "Policing Black Women's Sexual Expression." *Genders* 54: 62-73.

Hypatia

Grebowicz, Margret. 2011. "Democracy and Pornography: On Speech, Rights, Privacies, and Pleasures in Conflict." *Hypatia* 26 (1): 150-165.

Gauthier, Jeffrey. 2011. "Prostitution, Sexual Autonomy, and Sex Discrimination." *Hypatia* 26 (1): 166-186.

Monahan, Camille. 2013 "The Failure of the Bona Fide Occupational Qualification in Cross-Gender Prison Guard Cases: A Problem beyond Equal Employment Opportunity." *Hypatia* 28 (1): 101-121.

Denike, Margaret. 2008. "The Human Rights of Others: Sovereignty, Legitimacy, and 'Just Causes' for the 'War on Terror.'" *Hypatia* 23 (2): 95-121.

Meridians

Sudbury, Julia. 2009. "Maroon Abolitionists: Black Gender-oppressed Activists in the Anti-Prison Movement in the U.S. and Canada." *Meridians: Feminism, Race, Transnationalism* 9 (1): 1-29.

Lodhia, Sharmila. 2009. "Legal Frankensteins and Monstrous Women: Judicial Narratives of the 'Family in Crisis.'" *Meridians: Feminism, Race, Transnationalism* 9 (2): 102-129.

Meiners, Erica R. 2009. "Never Innocent: Feminist Trouble with Sex Offender Registries and Protection in a Prison Nation." *Meridians: Feminism, Race, Transnationalism* 9 (2): 31-62.

Price, Kimala. 2010. "What is Reproductive Justice?: How Women of Color Activists Are Redefining the Pro-Choice Paradigm." *Meridians: Feminism, Race, Transnationalism* 10 (2): 42-65.

NWSA Journal [2008-2009]

Ludlow, Jeannie. 2008. "Sometimes, It's a Child and a Choice: Toward an Embodied Abortion Praxis." *NWSA Journal* 20 (1): 26-50.

Lawston, Jodie Michelle. 2008. "Women, the Criminal Justice System, and Incarceration: Processes of Power, Silence, and Resistance." *NWSA Journal* 20 (2): 1-18.

Schlesinger, Tract. 2008. "Equality at the Price of Justice." *NWSA Journal* 20 (2): 27-47.

Block, Diana, Urszula Wislanka, Cassie Pierson, and Pam Fadem. 2008. "The Fire Inside: Newsletter of the California Coalition for Women Prisoners." *NWSA Journal* 20 (2): 48-70.

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Irving, Toni. 2008. "Decoding Black Women: Policing Practices and Rape Prosecution on the Streets of Philadelphia." *NWSA Journal* 20 (2): 100-120.

Deeb-Sossa, Natalie, and Heather Kane. 2009. "Not Avoiding a 'Sensitive Topic': Strategies to Teach about Women's Reproductive Rights." *NWSA Journal* 21 (1): 151-177.

Slagter, Janet Trapp, and Kathryn Forbes. 2009. "Sexual Harassment Policy, Bureaucratic Audit Culture, and Women's Studies." *NWSA Journal* 21 (2): 144-170.

Gardner, Susan K. 2009. "Coming Out of the Sexual Harassment Closet: One Woman's Story of Politics and Change in Higher Education." *NWSA Journal* 21 (2): 171-195.

Signs: Journal of Women in Culture & Society

Berger, Susan A. 2009. "Production and Reproduction

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- Smith, Anna Marie. 2009. "Reproductive Technology, Family Law, and the Post-Welfare State: The California Same-Sex Parents' Rights "Victories" of 2005." *Signs: Journal of Women in Culture & Society*. 34 (4): 827-850.
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- MacKinnon, Catharine A. 2013. "Intersectionality as Method: A Note." *Signs: Journal of Women in Culture & Society* 38 (4): 1019-1030.
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- Miller, J. Hillis. 2011. "Resignifying Excitable Speech." *Women's Studies Quarterly* 39 (1/2): 223-227.
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- Sears, Clare. 2008. "Electric Brilliancy: Cross-Dressing Law and Freak Show Displays in Nineteenth-Century San Francisco." *Women's Studies Quarterly* 36 (3/4): 170-188.
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