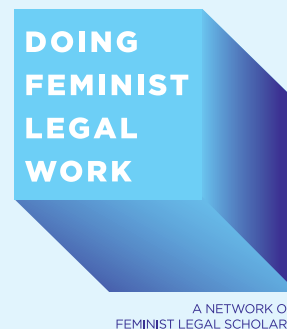




Doing Feminist Legal Work Best Practice Guide 2



DFLW Best Practice Guide 2

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Feminist Legal Pedagogies and How to do Them

Edited by Maebh Harding and Aoife O'Donoghue with assistance from Kiri O'Neill

This best practice guide brings together practical advice from legal academics about implementing feminist pedagogies within University teaching. It is hoped that teachers engaging with legal issues will find this teaching tool empowering and helpful in developing students' critical approaches to law.

Doing Feminist Legal Work (DFLW) is a new network of Feminist Legal Scholars funded by the Irish Research Council of Ireland under the New Foundations Shared Island Scheme.

What is feminist legal work?

Any form of action that ensures that issues of gender are central in legal policy making, legal education and public discussions.

What do we mean by feminist legal pedagogies?

Feminist pedagogies are different ways of re-imagining legal education to foster a critical approach to law and how it shapes and is shaped by issues of gender. Feminist legal pedagogies are reflective processes and practices which may require a reconsideration of the very nature of law, the power dynamics of the classroom and the way in which legal knowledge is constructed.



Can you do the Feminism Lectures? From Silo to Mainstream Thinking.

Máiréad Enright

Sometimes you will be drafted in to do a token class or a handful of classes as part of a course which has not centred feminist approaches. If your classes are 'siloed' off from the rest of the course material, it can give the students the impression that they are purely decorative, or somehow less rigorous or valid. To correct that impression, you can begin by reviewing the material the students are being taught elsewhere on the module. Sometimes, adopting a feminist perspective will mean covering substantive content that would not otherwise be taught. However, it can also be productive to model feminist critique by identifying the political arguments already advanced in the module and directly addressing them from a feminist perspective. For example, imagine you are tasked with constructing a few hours of 'feminist' lectures as part of a traditional jurisprudence course which presents a succession of named 'great men' of legal theory; say, Finnis, Hart, Kelsen, Dworkin. Rather than trying to present a comprehensive introduction to feminist legal theory, you could focus your lectures on just a few provocative questions, allowing students to return to what they have already learned. For example:

- Who is the legal person of traditional jurisprudence? How does Ngyaire Naffine's answer differ from that of Finnis?
- What is the relationship between law and violence? How does Emma Cunliffe problematise Hart's account of law and obedience?
- What is the relationship between law and morality? How does Nicola Lacey rethink the 'Hart-Devlin debates', especially in the light of Clare Devlin's testimony to her abusive family life?
- How do we produce legal knowledge? How would Margaret Davies challenge Hans Kelsen's 'pure theory'?

This kind of strategy introduces opportunities to model reparative critique; e.g. you could show, how Drucilla Cornell challenges and enriches Dworkin's account of reproductive autonomy without entirely discarding it. It also opens up issues internal to feminism; for example, you could introduce Robin West to discuss whether any elements of the 'new' natural law theory are salvageable for feminism but use Angela P. Harris's writing to challenge West's own gender essentialism.

Alternatively, it may be liberating to pretend the 'great men' lectures never happened and introduce students to a feminist perspective entirely on its own terms. We are entitled, and students are entitled, to space to fully explore our own ideas without being constrained by what has gone before. At the same time, as conservative and patriarchal arguments regain their hold in certain quarters, students may find something empowering in the feminist critical toolkit, directly applied to the canon.

Decentering and Decolonising Patriarchal Legal Structures (when they are still central to your subject discipline)

Maebh Harding

In teaching family law, on the 'other island' I have always tried to decenter patriarchal legal structures, question how the law shapes race, gender and class and to consider diverse perspectives about family. On return to Ireland full of fancy 'decolonising the curriculum' ideas this was easier said than done. Irish family law is centred around marriage, academic writing about Irish family law is a small scene and my University at least is still wed to teaching through traditional large lectures. Today, I really try to consider whose experiences I am centering and whose experiences are missing in terms of what I teach and how I teach it.

In my teaching I adopt a research-led 'law in context' pedagogy which situates law in its social, political and historical context. It is absolutely essential for students to relate "law in books" to law as experienced in Ireland's diverse society and be aware of the disproportionate effects on different social groups. Our new collaborative textbook *Family Law in Context* (Clarus Press 2023) goes beyond exposition of the law, engaging with debates on the nature of family law and law's impact on family life.

Acknowledging the uneven power relations of knowledge production, I recommend a broader range of reading materials than traditional academic sources, including podcasts (e.g. the care experience podcast), blogs, etc and I format my reading lists as google docs to allow students to add their own sources. This goes a little further than a tokenistic 'add and stir' model by encouraging students to consider what counts as a legal source.

I also encourage students to bring their own different experiences of law to the classroom. This requires careful consideration of the power dynamics within the classroom. My teaching necessarily involves emotive subjects of family, abuse and suffering. Together, we establish the ground rules for discussion for our learning community ensuring that my classroom is a space in which all students can be brave. I also regularly signpost appropriate wellbeing supports.

Doing Travel with Ideas

Yassin Brunger

Ideas are made in many places, and in our classroom communities, we have a prime opportunity to showcase them in the learning materials. A mixture of readings and viewings can make preparation multi-layered and engaging. With assigning readings, you can ‘travel’ with the students around the globe. This is not a matter of just finding a ‘case study’ but showcasing the intellectual contributions made when geographical boundaries are broken, and the power dynamics of knowledge production are disrupted.

This approach also ensures that we think of how we tell people’s stories and whose voices are heard. Developing the kind of ‘oppositional gaze’ that bell hooks encourages within feminist praxis. My guidance would be to embed audio-visual aids (e.g. podcasts, short videos, documentaries, news coverage) into the syllabus. This will bring the topics to life and platform the lived experiences of people and communities across the globe that can resonate with students in varied and interesting ways.

To compound the learning process, audio-visual materials would need to be accompanied by points for reflection (rather than questions). A slight but significant change in the vocabulary pivots away from the rigidity of the Q&A response, applicable to both reading materials and audio-visual media, but widens the space for deeper contemplation. This also enables the uncoupling of student contributions away from ‘getting the wrong answer’. You can facilitate a collective discussion that foregrounds commonalities and variety within those reflections remembering that a feminist pedagogy is rooted in fostering a classroom community that centres on dialogue and reflexivity.

The Feminist Practice of a Supportive Teaching Team

Sarah Craig

When reflecting on feminist legal teaching, an often underappreciated element is the teaching team itself. I believe that feminist legal teaching encompasses more than simply the lecturer-student perspective. The same safe, supportive and enriching environment we aim to create for our students should also be replicated with our co-teachers. I have been very fortunate to have taught alongside some fantastic feminist scholars and it truly makes the quality of teaching better for students when there is a supportive teaching team in place.

It is frequently the case for many early career researchers to ‘fill the gaps’ with teaching each academic year, resulting in a new set of materials to prepare. I found it to be good practice and considerably helpful when the module convenor (who often has more experience) has asked if there are topics which I felt more comfortable teaching, sharing of teaching materials or if there were weeks which might ensure a more even spread of the teaching allocation.

Doing Intersectional Teaching and Dealing with Resistance

Sahar Ahmed

When teaching the Law through a feminist lens, an intersectional approach that includes anti-racism is essential. When I teach the Law, this approach reifies systemic inequalities and connects the law to students’ lived experiences and marginalised identities. We must centre and contextualise systemic racism in the classroom by integrating race and inequality into course content, and linking classroom discussions to the wider community.

I developed my anti-racist pedagogical practice through a student outreach programme for secondary schools run by my alma mater; I applied the same approach at university level as an Assistant Professor of Law, teaching undergraduate core modules. My positionality affected my teaching; what worked in secondary schools did not necessarily work in the lecture hall. At secondary level, a process called ‘Student testimonies’, which were heavily influenced by the racial identities of my marginalised students, allowed them to have agency over the material being taught. An intersectional analysis also allowed me to use an anti-racist approach effectively in schools with predominantly poor, white, Irish students by framing content through critical class consciousness. However, when attempting to adopt anti-racist pedagogical approaches at university level, I faced lots of resistance. Feedback showed some students considered my approach “racist and sexist” – “makes everything about race and gender”. But the same material, when taught by white professors, was received significantly better. This suggests a deep structural problem.

Intersectional, feminist pedagogy is important to do even when not received well – but there are still questions to be answered as to whether it’s being effective at tackling structural inequality, and the privileges and biases both lecturers and students bring into the classroom.



Discussing Feminist Pedagogy at Royal Irish Academy, DFLW Workshop in September 2023

Feminism Across the School

Aoife O'Donoghue

There are some Schools known for their feminist and/or critical approaches to teaching, and much like what often happens to feminist modules, these Schools are seen as the exception, sometimes to be quarantined from everyone else's more legally sound approaches. But it is possible to create pedagogical practice across a School where every course is sensitive to issues of gender. Charters like Athena Swan sometimes offer an opportunity to open these discussions within a School, and if they do not, the question should really be, should that School even be doing Athena Swan?

For those lucky enough to teach a Gender and the Law, Feminist Legal Studies or other similar course, there is great latitude in what can be covered. Some of the options are touched upon in this guide. But what if we are thinking about the whole of an undergraduate or postgraduate course? The possibility of curriculum reviews can sometimes be met with hostility, with academic freedom often touted as an excuse to not examine our own practices. Yet, asking someone to, at a minimum, look at their reading lists and consider who is represented, is not attacking their academic freedom. It is asking that rigour be embedded and thought given to what voices we deem to be expert and why?

So, a first step is to look at reading lists and ask what percentage of materials across a course are female authored? For some topics, this is more straightforward than others. But when a colleague states that there are few women writing in my area (what area is that exactly?), there are a few steps that could be taken. First, is to highlight the absence to the students, the second, depending on the course, might be to include voices in other analogous disciplines or another jurisdiction, and a third, would be to encourage students to consider what impact this may have on the research conducted in the field. Another step is to look across a given year, 1st, 2nd, 3rd or in a Masters programme, and ask where do issues of feminism and gender arise, and whether students are challenged to be critical at each stage of their studies, and if not, where could that be introduced and normalised? This can be a shared exploration; colleagues can be encouraged to raise gender issues in class even if they themselves do not do feminist legal research. After all, many who teach on the core are not experts in those fields, but we have an expectation that we can educate ourselves to a minimum standard capable of raising issues of importance.

In the ideal world, every Law School would have a feminist course, but more than that it would be spread throughout the curriculum and normalised. Part of feminist praxis is to ask the rigour question, and to consider what a School without feminism is saying about itself.

Contributors



Dr Sahar Ahmed has university teaching experience at TCD, Maynooth and most recently as Assistant Professor in Law at the Sutherland School of Law, UCD. Sahar has a particular interest in the intersection of law, religion, and human rights, and her PhD thesis, completed at Trinity College Dublin's School of Law, examines and offers a reinterpretation of the right to freedom of religion under International Human Rights Law and Islamic jurisprudence. Sahar was called to the Bar of England and Wales in 2011, and is a barrister member of the Honourable Society of Gray's Inn.



Dr Yassin Brunger is a Lecturer in Human Rights Law at Queen's University, Belfast and a Fellow of Senator George J Mitchell Institute for Global Peace, Security, and Justice. She adopts critical approaches (e.g., feminist, queer, decolonial and critical race theories) to international law, human rights, and gender. Her primary research sits at the nexus of international law and international relations with a particular focus on gender, transitional justice, and critical theory. She has an extensive and sustained record of advising national and international groups working on gender-based violence in post-conflict and transitional settings.



Dr Sarah Craig is a Lecturer in Law at Ulster University. Her research and teaching interests are in the areas of International and EU Refugee Law, Equality and Gender. Her current research is focused on solidarity within the Common European Asylum System, specifically looking at regional solidarity and fair-sharing ambitions for persons fleeing persecution.



Professor Máiréad Enright is Professor of Feminist Legal Studies and Head of Research Impact at Birmingham University School of Law. She often works with and advises groups campaigning around reproductive rights and historical gender-based violence, especially in Ireland and Northern Ireland. From 2020-2021, she was a Leverhulme Research Fellow. Her project, 'Laws' Inheritances' examined how recent state efforts to redress institutional abuse in Ireland repeat or repurpose the legal structures that enabled the original abuse, and considers how that legal history could be inherited otherwise.'



Dr Maebh Harding is a Lecturer in Family and Child Law at University College Dublin. She is a co-editor of Family Law in Context, a new critical textbook on Irish family law published by Clarus Press in 2023. Her research combines a critical feminist perspective with empirical, historical and doctrinal rigour to challenge legal regulation of family life. She is a founder of the Doing Feminist Legal Work Network.



Professor Aoife O'Donoghue is Professor of Law at Queens University Belfast. Her research examines how legal structures enable or prevent states, institutions and individuals to (not) act and the ramifications of such actions. She researches utopias and tyranny and the impact of Brexit. She was one of the Directors of the Northern/Ireland Feminist Judgments Project and now co-leads Feminist Constitutional Futures.



Further Resources

Abrams, Jamie R. 'Feminist Pedagogy in Legal Education' (2021) 4 Legal Studies Research Paper Series Paper 1.

Adébí sí, Folúké, Ntina Tzouvala, Suhraiya Jivraj, *Decolonisation, Anti-Racism, and Legal Pedagogy: Strategies, Successes, and Challenges* (Taylor & Francis Group, 2023).

Adébí sí, Folúké, *Decolonisation and legal knowledge: reflections on power and possibility* (Policy Press, 2023).

Auchmuty, Rosemary, 'Using feminist judgments in the property law classroom' (2012) 46 *The Law Teacher* 227.

Bouclin, Suzanne, 'Some Guidelines for Feminist Legal Pedagogy' <https://nawl.ca/some-guidelines-for-feminist-legal-pedagogy/>

Crawford, B. J., Stanchi, K. M., Berger, L. L., Appleby, G., Appleton, S. F., Astoria, R., ... & Wilkins, P. A. 'Teaching with Feminist Judgments: A Global Conversation' (2020) 38 *Law and Inequality* 1.

Fitzsimons, Camilla, 'Feminist Pedagogy and Reproductive Rights' (LLM Thesis, TCD 2021-22) <https://mural.maynoothuniversity.ie/17030/1/CamillaFitzsimonsFeminist2022.pdf>

Govinda, Radhika, 'Decolonising Feminist Classrooms', in R. Govinda, F. Mackay, K. Menon and R. Sen (eds.), *Doing Feminisms in the Academy*, (New Delhi and Chicago: Zubaan Publications and The University of Chicago Press 2020).

hooks, bell, *The Oppositional Gaze: Black Female Spectators*, (2014 2nd edition Routledge)

hooks, bell, *Teaching to Transgress Education as the Practice of Freedom*, (2014, Routledge)

Jivraj, Suhraiya, 'Towards Anti-racist Legal pedagogy: A resource' (2020) <https://kar.kent.ac.uk/82763/>

MacKinnon, Catharine, 'Mainstreaming Feminism in Legal Education.' (2003) 53 *Journal of Legal Education* 199.

Monopoli, Paula A. 'Feminist Legal History and Legal Pedagogy' (2022) 108 *Virginia Law Review Online* 91.

Okech, Awino 'The Feminist Classroom in a Neoliberal University' in Ryan-Flood, R., Crowhurst, I. & Hawkins, L. (eds.) *Difficult Conversations: A Feminist Dialogue*. (2023, Routledge).

Shalleck, Ann, 'The Feminist Academic's Challenge to Legal Education: Creating Sites for Change' (2011) 20 *Journal of Law and Policy* 361.

Stanchi, Kathryn M 'Exploring the law of law teaching: A feminist process' (2000) 34 *J. Marshall L. Rev.* 193.

'Decolonising the Curriculum,' The Feminist Library Podcast. https://www.mixcloud.com/Feminist_Library/decolonising-the-curriculum/