

## SYMPOSIUM ARTICLES

### THE PATH FROM FEMINIST LEGAL THEORY TO ENVIRONMENTAL LAW AND POLICY

*Cynthia Grant Bowman\**

My personal path from feminist legal theory to an interest in environmental law and policy began with my move to Ithaca, New York in 2006. For decades, I specialized in issues about women, both domestic and international, but lived and worked in a large American city. The move to a house in the country and a workplace on a campus surrounded by natural beauty had a substantial impact on me, reconnecting me with a delight in the natural environment and arousing fear that it would be destroyed. I became involved in local environmental politics but viewed this as extracurricular and separate from my academic life and concerns. Gradually, however, I began to see the connections between feminist theory and ecology.

I was a latecomer to this realization. Numerous activists and theorists had developed these connections at least since the 1970s, both through national and local activism and in academic publications. Theory and practice were and are closely linked in this area. Women were among the first environmental activists. For example, women surrounded trees in northern India to prevent commercial logging and the devastation to the climate wrought by deforestation, and under Wangari Maathai's leadership in Kenya, women started the Green Belt Movement, with the goal of planting trees to restore oxygen to the atmosphere, nutrients to the soil, and water to key watersheds.<sup>1</sup> Each movement saw women's empowerment as central to its goals.<sup>2</sup>

Early ecofeminist theory tended to parallel some early strands of feminist theory—that of cultural feminists, such as Carol Gilligan and

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\* Dorothea S. Clarke Professor of Law, Cornell Law School.

<sup>1</sup> For a description of the Chipko movement, where Indians embraced trees in order to save them from logging, see VANDANA SHIVA, *STAYING ALIVE: WOMEN, ECOLOGY AND SURVIVAL IN INDIA* 67–77 (2010). For information on the Green Belt Movement, see WANGARI MAATHAI, *THE GREEN BELT MOVEMENT: SHARING THE APPROACH AND THE EXPERIENCE* (rev. ed. 2003).

<sup>2</sup> See MAATHAI, *supra* note 1, at 34–38; SHIVA, *supra* note 1, at 67.

Sara Ruddick,<sup>3</sup> and of feminist theologians, such as Rosemary Radford Ruether,<sup>4</sup> essentializing and biologizing the connection between women and nature as a kind of mystical, quasi-religious tie. Such scholars theorized that women's special sensitivity to nature and the environment rests upon their uniquely interconnected sense of self, itself a product of women's experiences of pregnancy, childbirth, and nurturing other human beings. In other words, because of women's roles as mothers and providers for their families, an innate concern with growth and generation, life and death, and preservation of the environment was natural. Subsequent feminist theorists began to describe the more complex connections among systems of patriarchy, gendered divisions of labor, and the economic bases of both.<sup>5</sup>

Nonetheless, a material truth underlies the connection between women and the environment, for women as a group still perform most of the tasks involved in nurturing children and providing for their households.<sup>6</sup> In fact, in many areas of the world, women's social and economic status, and in some cases their very survival and security, depend on their doing so.<sup>7</sup> As a result, women are strategically positioned to become central actors in the struggle for both environmental conservation and environmental justice. In Africa, for example, women perform the majority of agricultural work and are often the de facto heads of households.<sup>8</sup> Not only do they produce food for their families and the market, but they also gather firewood, fetch water, and make charcoal. All of these activities

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<sup>3</sup> See CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982) (discussing the inaccuracies of psychology's views of women); SARA RUDDICK, *MATERNAL THINKING: TOWARD A POLITICS OF PEACE* (1989).

<sup>4</sup> See, e.g., ROSEMARY RADFORD RUETHER, *NEW WOMAN, NEW EARTH: SEXIST IDEOLOGIES AND HUMAN LIBERATION* 3 (1975) (exploring the connections among sexism, racism, anti-Semitism, environmental destruction, and other forms of domination).

<sup>5</sup> See, e.g., Zillah Eisenstein, *Constructing a Theory of Capitalist Patriarchy and Socialist Feminism*, 25 *CRITICAL SOC.* 196 (1999) (developing a synthesis of feminist and Marxist theory).

<sup>6</sup> See, e.g., Akwa Labaris, *Women's Involvement in Environmental Protection and Management: A Case of Nasarawa State*, 10 *J. SUST. DEV. IN AFRICA* 179, 180 (2009) ("Women, being primarily responsible for domestic and household management, interact more intensively with both the natural environment and build the environment more than men."); Beth Anne Shelton & Daphne John, *The Division of Household Labor*, 22 *ANN. REV. SOC.* 299, 299 (1996) ("The most notable characteristic of the current division of household labor is that, whether employed or not, women continue to do the majority of housework.").

<sup>7</sup> See, e.g., Urmilla Bob, *Rural Women and Technology in South Africa: Case Studies from KwaZulu-Natal Province*, 61 *GEOJOURNAL* 291, 291 (2004) (discussing the well-documented role of women in sustaining households and communities in poor rural areas of South Africa).

<sup>8</sup> See, e.g., Becky L. Jacobs, *Unbound by Theory and Naming: Survival Feminism and the Women of the South African Victoria Mxenge Housing and Development Association*, 26 *BERKELEY J. GENDER L. & JUST.* 19, 30 (2011) ("A number of studies of working-class black African women have shown that these women defy stereotypical assumptions of passivity and dependency as heads of household and political activists.").

have a substantial impact on land, water, and energy resources. Thus, while women are the first affected as victims of environmental degradation and climate change, they are also powerful agents for change. As Professor Vivienne Bennett demonstrated in her presentation at the Cornell Law School conference described below, development organizations that ignore the role and voices of women risk making decisions and investments that have a harmful effect on food security in an area. Long ignored, major agencies such as the World Bank and the United Nations now understand this reality, and this understanding plays a significant role in policies adopted at international environmental conferences.<sup>9</sup> Moreover, many groups have organized throughout the world to encourage, support, and educate women to engage in their provisioning activities in an environmentally sustainable fashion and, through women, to educate future generations to adopt ways of life that will conserve rather than destroy the environment upon which they depend.<sup>10</sup>

In response to these concerns, a conference on Women, Sustainable Development, and Food Sovereignty/Security in a Changing World was convened at Cornell Law School on March 30-31, 2012, under the aegis of the Dorothea S. Clarke Program in Feminist Jurisprudence. Several other organizations also sponsored the conference, including the Atkinson Center for a Sustainable Future, the Institute for the Social Sciences, the Mario Einaudi Center for International Studies, and the Feminist, Gender and Sexuality Studies Program. Still other sponsors included a number of student organizations at the law school whose missions converged on the issues posed—Cornell Advocates for Human Rights, the Environmental Law Society, the Native American Law Students Association, and the Women’s Law Coalition.<sup>11</sup> I worked with representatives from these student organizations to conduct research on groups and individuals involved in advocacy and action concerning women and sustainable development in different areas of the world before deciding whom to invite to the conference. The planning committee also added two groups involved in similar activities here in Tompkins County—Sustainable Tompkins and Groundswell Ithaca—and asked each of them to send a representative to discuss the work of women in their respective endeavors.

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<sup>9</sup> See Itzá Castañeda et al., *Measurement and Reporting: Important Elements of Gender Mainstreaming in Environmental Policies*, 22 CORNELL J.L. & PUB. POL’Y 667, 668–69 (2013) (describing the many international instruments that mention women in development).

<sup>10</sup> See, e.g., WOMEN’S ENV’T & DEV. ORG., <http://www.wedo.org/about> (last visited Nov. 12, 2012).

<sup>11</sup> See *Conference on Women, Sustainable Development, and Food Sovereignty/Security in a Changing World*, CORNELL L. SCH., <http://www.lawschool.cornell.edu/Conferences/Women-and-Sustainable-Development/index.cfm> (last visited Nov. 12, 2012).

The conference that resulted brought together scholars and activists who had participated in or studied local, grassroots projects that involved women working on sustainable development. Participants came from around the world—including Nepal, Tunisia, India, Bangladesh, Latin America, the Mediterranean region, sub-Saharan Africa, and Native American cultures—to discuss ideas and visions for women and sustainable development and to share their own experiences with women-led sustainable development projects. We asked each participant to describe a local project that involved women in meaningful sustainable development on the community level and to analyze why it worked or did not.

Editors of the *Cornell Journal of Law and Public Policy* helped plan the conference and offered to publish some of the papers that might emerge from it in a symposium issue in the Journal. This issue includes several papers that resulted from the conference. Two of these papers address the theoretical and international legal underpinnings of work in this area, and the other is a socio-scientific examination of a particular project involving women in a sustainable development project in Tunisia.

Cornell Professor Shelley Feldman, whose paper appears within, introduced the conference and challenged the audience to think about the assumptions underlying sustainable development in relation to gender and the unintended consequences of different models of this relationship. Current notions of development derive from neoliberal foundations that focus on individuals, market relations, and privatization and assume that universal paradigms govern the process of development. What these notions ignore, Professor Feldman pointed out, are the local and particular and especially collective practices on which the livelihoods of a specific community may depend. In addition, “sustainability” in the neoliberal sense is understood as solely environmental or ecological, ignoring the importance of social sustainability and “the networks that once ensured livelihoods and social support.”

The unintended result of development initiatives founded on this paradigm is often an increase in women’s workload and the reinforcement of inequitable and gendered divisions of labor within the household. Similarly, Professor Feldman argued that a focus on food security—the ability to obtain food without concern for how it is produced—by turning individuals into market actors who can purchase food from large agro-corporations diverts attention from the necessity for “land reform and the safeguarding of water as a public good; securing the right of farmers, including women farmers, to produce food; the right of consumers to be able to decide what they consume, and how and by whom it is produced; and the right of countries to protect themselves from extremely low priced agricultural and food imports, recognizing

that agricultural policy choices should be made through democratic decision-making.”<sup>12</sup>

One of the neoliberal tools for individualizing development is microcredit, in which investors loan small amounts of money to individuals, allowing those individuals to pursue an enterprise. These schemes may be aimed at increasing conservation measures in a community by altering agricultural practices, and they are most frequently targeted at women. Alia Gana’s article about the impact of microcredit schemes on women involved in a development project in northern Tunisia provides a case study of the effects—intended and unintended—of such an intervention. Through surveys and interviews with members of the women’s development group in the area, Professor Gana assesses the socioeconomic impacts of a Food and Agriculture Organization-sponsored project to involve women in water and soil conservation by extending microcredit to finance poultry farming, sheep rearing, beekeeping, and livestock improvement by individual women. The project resulted in increased autonomy, self-confidence, and community involvement of both wives and daughters and improved their status within the household economy. However, it also increased women participants’ dependence on the market and their need for cash to repay the loans, which was not generated from the proceeds of the projects but from other household income. As a result, the poorest social groups were unable to succeed in these initiatives, which instead mired them more deeply in debt. In short, Professor Gana’s article not only illustrates Professor Feldman’s cautions concerning the unintended consequences of various development schemes but also demonstrates the complex interaction between gender relations and sustainable development.

The third article included in this symposium issue, by Itzá Castañeda, focuses on the treatment of gender and sustainable development in international agreements and policies. While most major international conventions pertaining to the environment give lip service to the inclusion of gender concerns, the implementation of these concerns is weak and typically limited to an ecofeminist or “women in development” approach. Such an approach simply notes women’s roles and their particular vulnerability to ecological change without situating these concerns in the historical and social relationships of gender, such as differential access to resources, household division of labor, and participation in decisionmaking. Similarly, monitoring and reporting instruments under the

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<sup>12</sup> Shelley Feldman, Professor of Development Sociology and Director of Feminist, Gender and Sexuality Studies, Cornell University, *Thinking with and Through Development Projects and Practices: Learning from Experience at Cornell Law School Conference on Women, Sustainable Development, and Food Sovereignty/Security in a Changing World* (March 30, 2012).

main conventions on climate change, desertification, and biodiversity lack specificity regarding gender equality. Instead, various international reports and indices present gender and the environment as running on parallel tracks without recognizing the important intersections between the two agendas. In addition, crucial data is lacking because the environmental data that national governments and international organizations collect is seldom disaggregated by sex. Itzá Castañeda emphasizes the urgent need for an integrated approach to gender, the environment, and sustainable development if genuine change is to take place.

These papers reflect only a few of the many presentations given at the Cornell conference in March 2012. Most of the presentations consisted of vivid descriptions of work performed in various parts of the world, accompanied by photographs and followed by lively discussion. I will mention only a few to give a sense of the variety of the projects described. Manohara Khadka of Nepal, for example, described a Sustainable Soil Management Program that uses a “farmer-to-farmer” teaching method to train local farmers—many of them women—in existing practices that will improve their production while also preserving the environment.<sup>13</sup> Such practices include farmyard manure management techniques, cattle urine collection and use, and the integration of legumes and cash crops into the existing farming system. Gail Holst-Warhaft, from Cornell, spoke about her experience teaming up with a Greek folksinger to teach children traditional folksongs that contain now-lost teachings about the importance of conserving water.<sup>14</sup> Udisha Saklani, from India, presented about the Kriti Eco-papers Unit, an urban project that combines recycling with the empowerment of women by teaching poor women to make handmade paper and stationary products from recycled paper.<sup>15</sup>

One lesson that emerged from these and other presentations was the importance of context, whether geographical (mountainous or desert, rural or urban) or cultural, as demonstrated by the unique connection be-

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<sup>13</sup> Manohara Khadka, International Centre for Integrated Mountain Development, Kathmandu, Nepal, *Enhancing Women’s Knowledge and Power in Agriculture Soil Management Programmes: Opportunities and Challenges for Sustainable Mountain Livelihoods in Nepal* at Cornell Law School Conference on Women, Sustainable Development, and Food Sovereignty/Security in a Changing World (March 30, 2012).

<sup>14</sup> Gail Holst-Warhaft, Adjunct Professor, Comparative Literature, Biological and Environmental Engineering, Cornell Institute for European Studies, Director, Mediterranean Initiative, *The Quilt with the Golden Bells: Saving Water through Song in Greece* at Cornell Law School Conference on Women, Sustainable Development, and Food Sovereignty/Security in a Changing World (March 31, 2012).

<sup>15</sup> Udisha Saklani, Coordinator, Kriti Ecopapers Unit, Dehradun, India, *From Waste to Sustainable Livelihoods: A Case Study of Kriti’s Ecopaper Unit* at Cornell Law School Conference on Women, Sustainable Development, and Food Sovereignty/Security in a Changing World (March 30, 2012).

tween water scarcity in Greece and the culture of song. While it might seem ideal to come up with a universal template for environmental preservation that would serve the purposes of food security and gender equality at the same time, this is simply not possible. Nonetheless, as Professor Feldman urged participants at the beginning of the conference, it is valuable to exchange specific and personal experiences that allow us to “think anew about building programs, identifying critical research issues, and contributing, however differently, across landscapes, to creating sustainable lives, livelihoods, and ecologies.”<sup>16</sup> And, I might add, to build personal and supportive relationships among us.

I am deeply grateful to the *Journal of Law and Public Policy* for helping to disseminate information about this critically important area by publishing this symposium issue.

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<sup>16</sup> Feldman, *supra* note 12.

