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CASSIOPEIA[©]

ANTHONY PAUL FARLEY^{*}

Sexism is an orientation.¹ The mark of gender is the compass that allows the sexists to move through the labyrinth of everyday existence. Man-over-woman is the sexist orientation and, therefore, the way that the sexist both navigates and designs the universe.²

Reorienting the universe is an impossible and a necessary task. It is also dangerous. "To do feminist legal theory" is to make this task one's own.³ As James Baldwin said of a group of students in another time and place: "They are in battle with more things than can be named."⁴ These essays are a testament to freedom. The freedom about which they testify takes the form of a belief that there are other lands and other ways of living that are infinitely and indescribably more beautiful than those found on our masters' maps. There is always a cost for such beauty, always a terrible price to be paid, always a frightening punishment to be overcome. The essays of this symposium, written in solidarity, are beautiful renderings of those other lands and those other ways of living.

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^{*} Associate Professor, Boston College Law School. J.D., Harvard Law School. I thank the authors of this astonishing collection of essays for sharing their feminist theories and processes with me, with each other, and with the legal academy. I thank the editors of the *Cardozo Women's Law Journal* for their diligent and good work on this project and for the privilege of being able to add my comment to this symposium. I thank the other commentators for the critical and insightful ways in which they were able to demonstrate what they learned, and what we can all learn, from the essays that were produced by Maria Grahn-Farley's feminist legal theory students. Finally, I thank Maria Grahn-Farley for her innovative and brilliant and loving teaching and scholarship.

¹ Sexism is an orientation in the same way that racism is an orientation. See generally Anthony Paul Farley, *The Black Body as Fetish Object*, 76 OR. L. REV. 457 (1997).

² Man-over-woman is an orientation in the same way that white-over-black is an orientation. See generally Anthony Paul Farley, *Lacan and Voting Rights*, 13 YALE J.L. & HUMAN. 283 (2001).

³ See generally Maria Grahn-Farley, *Foreword to To Do Feminist Legal Theory Symposium*, 9 CARDOZO WOMEN'S L.J. 197 (2003).

⁴ James Baldwin, *They Can't Turn Back*, in THE PRICE OF THE TICKET: COLLECTED NONFICTION 215, 221 (1985). Of that other group of students, in that other context, Baldwin wrote:

Everyone laughs at himself once he has come through this storm, but it is borne in on me, suddenly, that it is a storm, a storm, moreover, that not everyone survives and through which no one comes unscathed. Decisions made at this time always seem and, in fact, nearly always turn out to be decisions that determine the course and quality of a life.

Id. Baldwin's words are useful in thinking about the essayists of this symposium. To do feminist legal theory is to travel through just such a storm.

Maria Grahn-Farley writes: "The 'woman' is not. Anymore than the 'man.' There is, however, a system that marks bodies with origins, behaviors, natures and destinies."⁵ Sex, then, is a construction.⁶ Sex is an otherwise unremarkable constellation of physical features that is made to matter.⁷ Sexism precedes sex. There is no "sex" without sexism.

Sex is the compass and the constellation. We ourselves are the stars we steer by. We never leave the compass of the self. The self is itself a destiny, a destiny we read in our stars, a destiny we read into our stars. We read "man" and, upon reading that within ourselves, follow the directions we are provided and go in the direction of "man." We read "woman" and, upon reading that within ourselves, follow the directions we are provided and go in the direction "woman." We are encompassed by our selves as by the eternal and everlasting stars. It all seems fated. And chosen.

We fashion ourselves out of our destinies and we fashion our destinies out of ourselves. Sex is a destination. Sex is a destination and a direction toward which we are seemingly pointed at birth. We are born in a direction marked "man" or a direction marked "woman." And then, fearing the sunless sea, fearing the unbroken horizon, fearing the endlessness of life's voyage, we choose to follow the direction we seem to have been made (man or woman) to follow. We are our directions and our destinations. We arrive at ourselves by following our marks, for example, the mark of sex: man-over-woman. Our directions and destinations would be meaningless myths were it not for the fact – the lived experience – of man-over-woman. Diane Gentry writes: "Men view themselves as what women are not."⁸

What then are women? Women are what men view *themselves* as not being. If men are then women must not be. To view oneself as what the other is not is to claim the power to negate the other.⁹ This negation is a

⁵ Maria Grahn-Farley, *Not for Sale! Race & Gender in Post-Colonial Europe*, 17 N.Y.L. SCH. J. HUM. RTS. 271, 272 (2000).

⁶ Monique Wittig argues:

[W]hat we believe to be a physical and direct perception is only a sophisticated and mythic construction . . . which reinterprets physical features (in themselves as neutral as any others but marked by the social system) through the network of relationships in which they are perceived.

MONIQUE WITTIG, *One Is Not Born a Woman*, in *THE STRAIGHT MIND AND OTHER ESSAYS* 9, 11-12 (1992).

⁷ Anthony Paul Farley, *All Flesh Shall See It Together*, 19 CHICANO-LATINO L. REV. 163 (1998).

⁸ Diane Gentry, *Title VII Limitations: Keeping the Workplace Hostile*, 9 CARDOZO WOMEN'S L.J. 393, 397 (2003).

⁹ Mae Kuykendall's description of the "Unsayer" is important in understanding what I have described here as the power of negation:

I propose to describe Unsaying, which is the work of Unsayers. The Unsayer preempts, closes his ears, stifles, hushes, pretends, erases, shuts off the microphone, rewrites laws. I am. An Unsayer denies that I can be, misrepresents my facts and my text. The Unsayer believes that his speech can excise the fact of me or you.

demand for an affirmation: man-over-woman. This demand for “yes” requires, and is the expression of, hierarchy: man-over-woman.

Resistance is futile. Gentry writes: “Patriarchy is a resilient institution that adapts itself to various forms of resistance.”¹⁰ Whether or not our time is our own (as with play¹¹) or is our owners’ (as with work¹²) it is structured by sexism, a structure that is “resilient” and “adapt[ive].”¹³ Gentry argues: “The legal requirements for a prima facie case of sexual harassment reflect the narrowly prescribed roles that patriarchy affords women. Consequently, the male dominated work culture is fundamentally unaffected and effectively bolstered by the present state of the law.”¹⁴ Gentry’s argument about work mirrors Karin Grahn’s argument about recreation:

A middle-aged man in training suit and ice hockey helmet leans over me and starts yelling in my face. Another conflict, probably about something totally insignificant. It is not the first time this has happened. Sometimes I wonder if this is not just a way to try to intimidate me, and then to try to have a discussion with me about the activity. The message is clear, I as a figure skating coach must understand that the activity of this middle-aged man in training suit is much important than the activity that I’m running . . . It is not only I, as a coach, who meets the arrogance of the men. It is on every level.¹⁵

Mae Kuykendall, *Resistance to Same-Sex Marriage*, 34 HARV. C.R.–C.L. L. REV. 385, 385 (1999). I have described the work of Unsaying as erotic, as the pleasure of nobodiyng the Other. See generally, Farley, *The Black Body as Fetish Object*, *supra* note 1. The essayists of this symposium know about the Unsayers.

¹⁰ Gentry, *supra* note 8, at 396.

¹¹ Maria-Victoria Castro’s discussion of the Tango is a particularly acute analysis of sexism in play, and of the ever-present possibilities of missteps and reversals. Maria-Victoria Castro, *La Mujer Argentina Que Soy Yo/The Argentinean Woman that I Am*, 9 CARDOZO WOMEN’S L.J. 321 (2003).

¹² Ekee Ehrlich describes pregnancy as a sign that marks the bodily boundaries of the workspace:

My boss congratulated me on my pregnancy, but also added that he could not wait “forever” for me to feel better because he had “other mouths to feed.” He reminded me that in a couple of months, my law school finals would begin and so he expected me to ask for time off for that as well. I quickly reminded him that a couple of weeks were all that I was asking and that I would not be pregnant “forever.” You could almost touch the long silence that followed. Was he insinuating that I would remain pregnant forever? Or was my being a woman synonymous to pregnancy, which in some people’s minds is a constant, or a thing to be expected for as long as one is a woman?

Ekee Ehrlich, *Caution: Men at Work*, 9 CARDOZO WOMEN’S L.J. 409, 410 (2003); see also, Victoria Alexeeva, *Images of Women Lawyers: Over-Representation of Their Femininity in the Media*, 9 CARDOZO WOMEN’S L.J. 361 (2003) (arguing that the “femininity” of women-as-lawyers is over-represented on television).

¹³ Gentry, *supra* note 8, at 396.

¹⁴ *Id.* at 394.

¹⁵ Karin Grahn, *Hockeyboys, Ice Princesses, Gender Values & the Practice of Equality*, 9 CARDOZO WOMEN’S L.J. 449, 450 (2003). Grahn’s discussion of sexism in recreation is a response to Autumn Mesa’s essay on sexism in legal education. Autumn Mesa, *A Woman’s Climb Up the Law*

Sexism is an orientation.¹⁶ As Grahn writes, "it is on every level."¹⁷ "On every level" implies the existence of space. Sexism, then, is a method of orientating oneself in space. Feminist legal theory concerns itself with juridical space.¹⁸ What is it to orient oneself in juridical space, or, how does one navigate juridical space? Put another way, what is it to reorient oneself in a juridical space that has been designed according to man-over-woman, or, how does a feminist navigate juridical space? Grahn-Farley writes of the belief in law as a "specific pre-fixed system that can be discovered through the use of legal method as a mental map."¹⁹ A legal method, then, is a mental map or orientation. Feminist legal theory is a search for another method, another map, another orientation.

We are the stars we steer by. It is only after we have become our directions, man-over-woman, for example, that we become navigators of the legal system that produces and reproduces man-over-woman. The legal subject is man (it may also be expressed as man-over-woman). The legal

School Ladder, 9 CARDOZO WOMEN'S L.J. 379 (2003). If sexism (or sex) is, as I argue, an orientation that may accurately be expressed as man-over-woman, then it is unsurprising, though painful, that the forms of legal training described by Mesa in the U.S. and the forms of legal interpretation described by Grahn in Sweden both take the form of man-over-woman. The man-over-woman orientation is global, as is the form of life, man-over-woman, that it simultaneously engenders and is engendered by. Man-over-woman – sex or sexism – exists in the U.S. and it exists in Sweden and it exists wherever this sentence is being read. Most importantly, it effects the way sentences are read. It effects whether and how they are written. Sexism is disoriented by feminist legal theory. Man-over-woman is an orientation: a legal rule requiring equal treatment, for example, will be experienced as *disorienting* until it is read in a way that *reorients* the reader. That is, the rule – whatever it says – will be read in a way that is consistent with man-over-woman, thus establishing the reader's man-over-woman equilibrium, or the reader will remain disoriented. See generally Anthony Paul Farley, *The Poetics of Colorlined Space*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY 97 (Francisco Valdes, et al. eds., 2002).

¹⁶ Sexism – and it is the same as sex (where "sex" is thought of as natural or pre-social or metaphysically contractual, as with social contract theory) – is a violent orientation. Jacqueline Mertz writes of the ways in which the personal becomes political as violence is written into (or, sometimes, out of) law and thereby written into or out of sex:

It was 1970; I was seventeen, pregnant, and just about to graduate high school. My boyfriend was twenty, and in the army. What do I do? My boyfriend's answer for me was to punch me in the stomach so I would abort. Luckily, the abortion law had just passed in New York, and I was able to have a legal abortion.

Jacqueline Mertz, *Women of Color – What Their Voices Teach Us*, 9 CARDOZO WOMEN'S L.J. 205 (2003).

¹⁷ Grahn, *supra* note 15, at 451.

¹⁸ Space is something we impose in order to make the universe a universe for us. So is time. Juridical space, being space, and it is a time as well a space, is constructed. Juridical space seems to surrounds us. It also seems that we live within the time that comes from law. Juridical time extends into the future that lasts forever and into the past that exceeds all memory. See generally Farley, *Poetics*, *supra* note 15.

¹⁹ Maria Grahn-Farley, *The Law Room*, 36 NEW ENG. L. REV. 29, 34-35 (2001). Grahn-Farley uses the term "law room" to refer to "the closed space of a particular legal paragraph." Sexism a method or orienting oneself in juridical space. *Id.* at 34. Grahn-Farley writes, "[t]he closed space is only open to the legal subject, provided that the legal subject qualifies for entry according to the specific requisites . . ." *Id.*

subject is also woman (it may also be expressed as man-over-woman). The woman is man-over-woman. And so is the man.

We go in the direction we are pointed. We follow our birthmarks, or so it seems after we have been trained in the meaning of our birthmarks, the mark of sex, for example. If we are men, we orient ourselves through man-over-woman. If we are women, we orient ourselves through man-over-woman. We orient ourselves as we have been trained to orient ourselves.

Training is always, in the end, about bodies and pleasures.²⁰ Hierarchy is always about bodies and pleasures. The sum of our institutions is the sum of our training. Training, under hierarchy, is training in hierarchy. Training, under a sexist hierarchy (man-over-woman), is training in sexism (man-over-woman). Once trained, we take pleasure in responding in the way that our desire has been shaped by training. We point like a compass in the direction of our training.

Each move through juridical space carries with it the potential for disorientation. We recover ourselves and our wits through our ability to reorient ourselves.²¹ In a sexist system, we orient and reorient ourselves through our awareness of and attraction toward man-over-woman. And so the system, as read by those trained in its pleasures, always and everywhere reproduces even those hierarchies it seemingly instructs us to eradicate.

Sexism is always erotic. Every hierarchy is erotic. Every hierarchy is about bodies and pleasures and the reproduction of hierarchy through those bodies and pleasures. Within a hierarchical order of things, every thought begins and ends with, and is expressed and experienced through, a hierarchical arrangement of bodies and pleasures. Every hierarchy is the product of training that is only possible through the shaping of our faculty of desire. The legal system is hierarchy compulsively restated. Gentry seems to have discovered this terrible fact. She seems to have discovered the fact that man-over-woman always appears in the form of the erotic and, save for those instances in which it appears in the explicitly sexual, it is also denied as erotic and thereby denied as man-over-woman.²² It all seems fated and yet chosen.

What course did Gentry navigate to reach such a conclusion? Feminist legal theory is the course she navigated along with the other essayists of this symposium and Grahn-Farley, their professor:

The intellectual trajectory of a scholar is both biographical and

²⁰ I have borrowed this formulation, "bodies and pleasures," from Michel Foucault, who used it in another context and for a different purpose. See MICHEL FOUCAULT, VOL. I HISTORY OF SEXUALITY 157 (Robert Hurley trans. 1990).

²¹ For a useful discussion of something akin to my use of the term "orientation," see generally, IMMANUEL KANT, *What is Orientation in Thinking?* in IMMANUEL KANT POLITICAL WRITINGS 237 (Hans Reiss ed. and H.B. Nisbet trans., 1991).

²² See Gentry, *supra* note 8.

social, it has a lineage as well as an institutional genealogy. Scholarly paradigms, political positions, methodologies and objects of study or knowledge all draw upon and react to the roles and models of teachers, patrons and intellectual paternity [and maternity] or filiation more broadly.²³

Gentry, and the other essayists of this collection, steer by stars different from the repetitious constellations of man-over-woman that serve to guide most of what passes through law reviews as legal theory. They follow a different line, a different course, a different "zenotype."²⁴ They are moved, perhaps, by "intimations of [another] kingdom."²⁵

Immanuel Kant once observed: "Two things fill the mind with ever new and increasing admiration and reverence, the more often and steadily one reflects on them: the starry heavens above me and the moral law within me."²⁶ Both are the same. The "starry heavens above" and "the moral law within" the sexist are both the same: man-over-woman.²⁷ The "starry heavens" of the sexist are sexist (man-over-woman). The "moral law within" the sexist is sexist (man-over-woman). The sexist is man-over-woman and man-over-woman is the constellation the sexist follows all the way to his final destination: man-over-woman. The sexist navigates juridical space by orienting himself according to man-over-woman. Each interpretive turn is toward the destination man-over-woman. As long as there are words – and it does not matter what the words say – there is a way to follow those words toward the destination man-over-woman. Law is hierarchy restated as a direction and an always erotic attraction that draws us toward that direction.

Our stars are our selves. We choose ourselves through our navigational choices. Sexism is a form of the erotic, a bodily orientation, a form of attraction that is expressed as man-over-woman. Sexists express their desire for each other through the orientation man-over-woman. Sexists orient themselves in juridical space, and in every other space, by reference to their internalized sense of man-over-woman. What is to be done?

We might choose to navigate by different stars. And thus become different people and a different people. Every constellation is an interpretation and so we are always free to interpret differently. Recall:

That starred Ethiop queen that strove

To set her beauty's praise above

²³ Peter Goodrich, *Zenotypes*, 11 SOC. & LEGAL STUD. 425, 427 (2002).

²⁴ *Id.*

²⁵ MARIA ARISTODEMOU, *LAW & LITERATURE* 180 (2000).

²⁶ IMMANUEL KANT, *CRITIQUE OF PRACTICAL REASON* 5:162 (=133) (Mary Gregor ed. and trans., Cambridge: 1997)

²⁷ *Id.*

The sea-nymphs and their powers offended.²⁸

The tale, told simply, is that Cassiopeia believed in herself and was destroyed by the rulers of her universe. Cassiopeia and Cepheus were Queen and King of Ethiopia and Andromeda was their daughter. The Nereids (Sea-Nymphs) complained about Cassiopeia's pride to Neptune. The gods are easily enraged by mortal pride and so Neptune punished Cassiopeia by placing her upside-down among the stars. It was Neptune's desire to replace Cassiopeia's pride with humiliation.²⁹

Neptune's desire does not have to be our own. We can choose our own course. If we steer by the constellation Cassiopeia we may arrive at a different destination. To navigate by Cassiopeia is to regard her pride and her place with pleasure, to take her to heart, to reorient the moral law within and the starry heavens above. To navigate by Cassiopeia is to create a different form of human association.

The essayists of this symposium follow a different zenotype, they follow the constellation Cassiopeia, and by so doing – by doing feminist legal theory – take us to a different shore. If we follow Cassiopeia – if we orient ourselves by her constellation – then we turn the world upside down, place her right side up, and reorient ourselves through an image of ourselves as human and as beautiful, as Cassiopeia.

²⁸ JOHN MILTON, *Il Penseroso*, in THE POEMS OF JOHN MILTON 139, 141 (John Carey and Alastair Fowler eds., 1968)

²⁹ Neptune also informed Cepheus, through an oracle, that the land would only be spared from total destruction if he agreed to sacrifice Andromeda to the sea monster. Cepheus chained Andromeda to the cliffs by the sea but, happily, Andromeda was rescued. Perseus, with the aid of magic weapons supplied by Hermes, killed the monster and married Andromeda. For more of these and other tales, see generally JENNY MARCH, CASSELL DICTIONARY OF CLASSICAL MYTHOLOGY (1998).

