

MOTHER NATURE, LADY JUSTICE: ECOFEMINISM AND  
JUDICIAL DECISION-MAKING

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JUDICIAL DECISION-MAKING

by

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## **Abstract**

Ecofeminism offers a feminist perspective that links gender to how humans relate to the natural world. As such, this framework explores the connections between the oppression of nature and the oppression of women, such as widespread views that both women and nature are property, are to be dominated, and are most valuable when cultivated and curated by men. I apply this philosophical and sociological framework to judicial decision-making, where women judges should view environmental issues as women's issues and thus be more likely to vote in favor of the environmental protections relative to her male peers. I evaluate this theory using a mixed method design, focusing on environmental cases before the United States Supreme Court. Previous studies on gender and judicial decision-making examine how cases pertaining to women's issues can alter a woman judge's voting behavior; however, these studies have limited empirical analyses to cases that typically are associated with women's issues (e.g. reproductive rights, sex discrimination, sexual harassment, etc.). I thus expand this definition of women's issues and examine the power dynamics between women (oppression) and the environment (extraction). I first quantitatively analyze gendered voting patterns on the U.S. Supreme Court in environmental cases. Second, I linguistically analyze a set of solo-authored dissenting opinions to evaluate whether women authors differ in their language, attitudes, and framework pertaining to environmental issues compared to their male judge peers.

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PREVIEW

## **Chapter 1: Ecofeminism**

Ecofeminism serves as a theory where feminist thought meets ecology through a multifaceted emphasis on humanity's role in the environment through a feminist lens (Mies and Shiva 1993). Ecofeminism thus relies on a theme of ecological interdependence while synthesizing prominent theories of oppression found in feminist literature. Ecofeminist philosophy is grounded in the assumption that the exploitation and desire to dominate nature is equivalent to our society's exploitation of women (Mies and Shiva 1993). These parallels are highlighted by the conceptual framework of basic beliefs and assumptions about women and nature that are rooted in the patriarchy—specifically the dichotomies that maintain current power structures (such as man versus woman, nature and society, etc.).

The term “ecofeminism” is often traced back to Françoise d'Eaubonne's use of the term in 1974, though others argue that ecofeminism has its roots in peaceful activism beginning in 1970 (Mack-Canty 2004). Specifically, ecofeminism is tied to the Chipko Movement of the 1970's in which women living in villages located in Himalayan India protested the destruction of their forests (Mack-Canty 2004). These peaceful protests were comprised almost entirely of women who were protecting their natural resources by tying themselves to trees (Mack-Canty 2004). The first link between women's struggles—specifically those of indigenous women in developing countries—and the environment is formed through these protests by women whose lives are irrefutably tied to the resources that developed countries were attempting to exploit (Mack-Canty 2004).

Although ecofeminist activism was prominent in the 1970's and 1980's, ecofeminist theory gained theoretical footing in the third wave of feminism that lasted throughout the late-1980's and 1990's (Mack-Canty 2004). The third wave of feminism was primarily led by women of color and

indigenous women, who rejected the universalization of feminism promoted by leaders of the second wave of feminism (Mack-Canty 2004). Instead, the third wave of feminism acknowledged that there are many differences among women, and these differences demand that feminism move away from foundational theories and develop new theories of oppression that can account for the different socio-political barriers that contribute to the continued oppression of women of color and indigenous women (Mack-Canty 2004).

Ecofeminism began developing and incorporating theories based upon postcolonial feminism. Postcolonial feminism argues that Western colonialism and its effects play a large role in the oppression of women, racism, and environmental exploitation (Mack-Canty 2004). Specifically, postcolonial feminism critiques the global capitalist system which promotes “development” projects in developing countries and communities of color (Mack-Canty 2004). For example, the nature versus culture dichotomy is a central tenet of most Western ideologies, where “civilized” man is seen as having complete domination over “uncivilized” or primitive nature (Mack-Canty 2004; Lahar 1991). This belief directly informed the development of classical liberalism which brought about capitalism and colonialism (Mack-Canty 2004). The necessary spread of “civilization,” and thus capitalism, mandated and justified colonization and the exploitation of the environment, which holds value solely as a provider of resources for economic gain.

Environmental extraction became the key to promoting and funding western colonization, whereby extraction became a powerful form of domination and control. For instance, many developing nations have relied on agriculture to sustain their economy; however, these developing nations are subjected to pressure from the agricultural demands from developed (Western) nations such that they are incentivized (i.e. forced) to become a monoculture industry to promote exports

to provide these resources to developed (Western) nations (Lahar 1991). The transition to monoculture prompts a developing country to abandon centuries-old agricultural practices and techniques to favor the desires of the developed nations, such as being required to use genetically modified seeds to produce the “ideal” crop and abandoning sustainable practices. Furthermore, this relationship contributes to colonization where these developing nations internalize Western beliefs viewing natural resources as a commodity, valued only in terms of extractable units to be exploited (Lahar 1991).

Although humans appear to profit from the exploitation of the environment, capitalism also designates individuals as units that can be extracted for economic gain denoted which labors were valuable. This makes the value of people tied to their economic use. The demand for “viable” individuals to participate in the labor force (i.e. men) reduces the value of women, who are associated with less “civilized” and more “primitive” domestic work—which is rendered invisible, unpaid, and expected labor from women (MacGregor 2004)—through both the devaluation of the work and the people engaging in it. As a consequence, the devaluation of women causes a significant increase in violence against women (Shiva 1989), higher rates of female infanticide (Lahar 1991), and other mortality risks (Mack-Canty 2004).

Ecofeminism also highlights how the spread of western colonization further disseminated socio-political narratives that dictate political priorities and create false dichotomies between issues, where political goals and priorities are treated as trade-offs rather than complementary (Lahar 1991). For example, politicians may argue that it is more important to invest time and resources in the economy system rather than investing in environmental sustainability or “women’s issues” like education or healthcare. Care and care-related activities or careers are of lower value to a capitalist and liberal society, because they are seen as feminine (MacGregor 2004).