

ON “HAVING FUN AND RAISING HELL”:

SYMPOSIUM HONORING THE WORK OF PROFESSOR ANN
SCALESNANCY EHRENREICH[†]

FOREWORD

Professor Ann Catherine Scales was a dedicated and innovative teacher, scholar, and lawyer who spent her career challenging liberal legal shibboleths and working for actual, on-the-ground justice. Her life was tragically and prematurely ended in June of 2012, after just sixty years on the planet.¹ This Symposium, the print version of an event held on March 30, 2013, at the University of Denver Sturm College of Law, honors her work and her memory.²

Scales was among the founders of the field of feminist legal theory³ and the author of many influential works, including *The Emergence of Feminist Jurisprudence: An Essay*⁴ and *Legal Feminism: Activism, Lawyering, and Legal Theory*.⁵ She was also a lifelong lawyer, continuing to litigate cases throughout her academic career, and an inspirational and much-loved law professor.

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1. On June 24, 2012, Scales succumbed to brain injuries she had suffered from a fall down the stairs in her home earlier that month.

2. I organized the Symposium, but it was very much a group effort. Thanks are due to: Sturm College of Law Dean Martin Katz and the D.U. Workplace Law and Constitutional Rights and Remedies Programs, for sponsoring the event; Edward Shaoul and Aaron Belzer, former and current Editors in Chief of the *Denver University Law Review*, and their staffs, for embracing this unanticipated project; Stephanie Carroll, D.U. Administrative Director for Academic Programs, for stellar event planning support; D.U. Visiting Professor Nicole Porter and Lalita Corman, D.U. Faculty and Adjunct Support Specialist, for invaluable planning and organizing assistance; D.U. staff and student volunteers too numerous to mention; and finally, all the speakers (including some who did not write papers for this volume) who made the live Symposium such a moving and stimulating tribute to Ann Scales.

3. Her first piece, *Towards a Feminist Jurisprudence*, Ann C. Scales, 56 IND. L.J. 375 (1981), wasn't the first article on the topic, although some say she coined the term. See, e.g., Will Johnston, *A 'Conversation with . . . ' Series to Host Author and Lawyer Ann Scales on Tuesday, Oct. 5*, WAKE FOREST U. SCH. L. (Sept. 24, 2010), <http://news.law.wfu.edu/2010/09/a-4-conversation-with-...-series-to-host-author-and-lawyer-ann-scales-on-oct-5/>. But it beautifully synthesized and structured the swirling thoughts of the time, making her instantly famous among feminist law professors. She was twenty-eight years old when it was published.

4. Ann C. Scales, *The Emergence of Feminist Jurisprudence: An Essay*, 95 YALE L.J. 1373 (1986).

5. ANN SCALES, *LEGAL FEMINISM: ACTIVISM, LAWYERING, AND LEGAL THEORY* (2006).

Raised in Oklahoma and North Carolina, Scales graduated from Wellesley College⁶ and then attended Harvard Law School, where she helped to found the *Harvard Women's Law Journal*.⁷ After graduating from Harvard, she went to work for the firm of Hughes Hubbard and Reed LLP, where she helped defend Ford Motor Company in the infamous *Ford Pinto* case⁸ (about a car whose gas tank was subject to exploding during crashes).⁹ Years later, she described the epiphany that led her to leave Wall Street: At a Ford-sponsored event, she received a party favor that consisted of a cigarette lighter with a picture of the Pinto on it. The irony was too much for her after all, it was an incendiary device! Scales decided she had to quit.¹⁰

After practice, Scales moved into the “family business”—academia. Her father, James R. Scales, had served as President of Oklahoma Baptist University and then Wake Forest University, and her mother, Elizabeth Ann Randel Scales, had also been a professor.¹¹ Scales spent eighteen years on the faculty of the New Mexico School of Law before leaving to begin a second stint in the world of practice (this time on her own terms).¹² In 2003, she returned to law teaching—and we were fortunate that she landed here at the University of Denver Sturm College of Law.¹³ Over the course of her career, she taught courses on Constitutional Law, Civil Procedure, Appellate Advocacy, Family Law, Torts, Products Liability, Drugs and Devices, Jurisprudence, Gender and Law, and Civil Disobedience (among others), as well as a seminar on Pornography and

6. She earned her B.A. in History and Philosophy in 1974. Bridget Crawford, *In Memory of Ann Scales 1952–2012*, FEMINIST L. PROFESSORS (June 27, 2012), <http://www.feministlawprofessors.com/2012/06/memory-ann-scales-1952-2012/>.

7. While at Harvard, Scales also pushed the administration to increase the number of women in the law school. Here's how a friend and collaborator of hers, Fernande (Nan) Duffly, described the impact of that effort:

[Ann] was an amazing force for change and good, and she emboldened others to follow—including me. Seeing how few women and minorities were enrolled at Harvard, we demanded to know why and were told by the administration that admissions were blind, and more women and minorities needed to apply if we wanted to see more enrolled; so we asked for and received funding to recruit. Several of us, travelling in teams, went to colleges and universities around the country where we met with women and minority students to encourage them to apply—Ann was passionate, eloquent[,] and convincing, and I was happy to be on her team. It was a heady time, and it seemed possible that we would change not just Harvard, but the profession. She was really a blazing thing [back then], so bright and unstoppable.

E-mail from Fernande R.V. Duffly, Assoc. Justice, Mass. Supreme Judicial Court, to author (June 25, 2012, 2:33 PM) (on file with author).

8. *Grimshaw v. Ford Motor Co. (Ford Pinto)*, 174 Cal. Rptr. 348 (Ct. App. 1981); Ann Catherine Scales, Curriculum Vitae (on file with author).

9. *Ford Pinto*, 174 Cal. Rptr. at 358.

10. Wakelawschool, *Conversation with: Ann Scales*, YOUTUBE (Jan. 31, 2013), <http://www.youtube.com/watch?v=Flhw5-CdJsE&feature=youtu.be>.

11. *Ann C. Scales*, WIKIPEDIA, http://en.wikipedia.org/wiki/Ann_C._Scales (last modified Oct. 25, 2013, 8:48 PM). Her mother also worked for many years with the Red Cross. *Id.*

12. *Ann C. Scales (1952–2012)*, UNIVERSITY OF DENVER STURM COLLEGE OF LAW, <http://www.law.du.edu/index.php/profile/ann-scales> (last visited Nov. 5, 2013).

13. *Id.*

Hate Speech.¹⁴ In addition to teaching at New Mexico and Denver, she served as a visiting professor at the University of Iowa College of Law, Boston College Law School, the University of British Columbia, and the University of North Carolina School of Law.¹⁵

Scales was not only an influential scholar, but also a lawyer's lawyer, litigating cases during her years as an academic as well as while in private practice. Those efforts included a number of important cases involving the rights of women and sexual minorities. She was lead counsel on the landmark case of *New Mexico Right to Choose/NARAL v. Johnson*,¹⁶ in which the New Mexico Supreme Court held that the state's restriction of abortion funding for Medicaid-eligible women violated those women's equality rights.¹⁷ In *R. v. Butler*,¹⁸ a Canadian case in which she was also involved, the Canadian Supreme Court upheld the constitutionality of the obscenity provisions of the Canadian *Criminal Codes*.¹⁹ An ardent supporter of Title IX of the Education Amendments of 1972, Scales also consulted on the gang rape case involving the University of Colorado football program.²⁰ And she represented feminists who helped to bring the first women's marathon to the Olympics in 1984.²¹

As a number of papers in this Symposium describe, Scales's scholarship was greatly influenced by her instincts and experiences as a practicing lawyer.²² Concomitantly, the legal arguments she deployed as an attorney were also deeply and organically grounded in feminist legal theory. For those reasons, her work epitomizes the radical feminist commitments to deconstructing false dichotomies (including that between theory and practice);²³ challenging abstract, decontextualized legal rules;²⁴ and crafting workable solutions to help real people.²⁵

14. Ann Catherine Scales, Curriculum Vitae (on file with author).

15. *Ann C. Scales (1952–2012)*, UNIVERSITY OF DENVER STURM COLLEGE OF LAW, <http://www.law.du.edu/index.php/profile/ann-scales> (last visited Nov. 5, 2013).

16. *N.M. Right to Choose/NARAL v. Johnson*, 975 P.2d 841 (N.M. 1998).

17. *Id.* at 844. The case used an equality argument (based on the state's Equal Rights Amendment to the state constitution), rather than the more traditional privacy argument, to hold that poor women are entitled to state-funded abortions and that reproductive restrictions should be subject to strict scrutiny. *Id.* at 850–54, 858.

18. [1992] 1 S.C.R. 452 (Can.).

19. *Id.* at 490.

20. *Simpson v. Univ. of Colo. Boulder*, 500 F.3d 1170 (10th Cir. 2007). The case involved a Title IX claim on behalf of women students alleging they were raped by C.U. football players and recruits during a recruiting event. *Id.* at 1172. The university eventually settled for close to three million dollars. Ann Scales, *Student Gladiators and Sexual Assault: A New Analysis of Liability for Injuries Inflicted by College Athletes*, 15 MICH. J. GENDER & L. 205, 216 (2009).

21. Jean Strout, "I'm Only Gonna Tell you This One More Time:" Lessons from Ann Scales, HARVARD J.L. & GENDER (July 28, 2012), <http://harvardjlg.com/2012/07/im-only-gonna-tell-you-this-one-more-time-lessons-from-ann-scales/>.

22. Catharine A. MacKinnon, *Raising Hell, Making Miracles: The Everlovin' Legal Imagination of Ann Scales*, 91 DENV. U. L. REV. 13, 14–15 (2013).

23. See MARTHA CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY 96–100 (2003).

24. Scales insisted that legal rules be grounded in the lived experiences and concrete histories of the individuals (and groups) those rules affected. See, e.g., Ann Scales, *Law and Feminism: To-*

Yet her work definitely cannot be typecast. Scales was nothing if not her own person, and her writings include frequent engagements with race, class, and sexuality issues, in addition to gender issues. Moreover, her dry and incisive wit (fueled by a razor-sharp intelligence) combined with a conversational writing style to make her scholarship uniquely clear and accessible.²⁶ As one student reader put it, “She seems to be speaking directly to you, even responding to your questions.”²⁷

But Scales’s plain-spokenness was as much a matter of political commitment as personal style. She was a “small *d*” democrat about legal scholarship, loving big ideas but adamantly maintaining that they didn’t require big words. And for her the life of the mind was also the life of action; she had no patience for ideas that didn’t have the potential to change the world, or for people who spouted fancy prose without working to further justice.

As a law teacher, Scales brought to the classroom not only her wacky sense of humor but also a litigator’s intelligence and a passion for fairness, inclusion, and equality. Watching a video of her teaching Torts felt like being in a trial practice class. She constantly offered practice-oriented vignettes to help students visualize her points—asking them to imagine being the plaintiff’s lawyer meeting with her client, the defense attorney questioning a witness, the person who got hit by a hockey puck, etc. And of course she acted out each role-play, to the delight of the on-looking students. I seriously doubt anyone was ever bored in a Scales class.

gether in Struggle, 51 U. KAN. L. REV. 291, 292 (2003) (“Legal feminism constantly reminds us that law doesn’t exist in a vacuum. Equality law, for example, must address whatever makes some groups unequal, and that is—in a word—history. Amnesia is our worst enemy.”); *Id.* (“Feminist method is concrete. Even what we high-falutingly call ‘feminist jurisprudence’ follows entirely from real women’s accounts of actual oppression. Though Justice Holmes would likely disapprove of feminist lawyers, he would have to admit that our theory fits the facts.”).

25. See, e.g., Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women’s Movement*, 61 N.Y.U. L. REV. 589, 589 (1986) (critiquing the Critical Legal Studies’ “critique of rights” for ignoring the utility of rights arguments in “illuminat[ing] the common experience of women” and “affirm[ing] a sense of collective identity,” and concluding that “a focus on rights cannot, by itself, achieve social reconstruction, but . . . properly understood, rights discourse is a necessary aspect of any political and legal strategy for change”).

26. One representative example of her writing style:

I am told that the topic of feminism makes some lawyers and judges nervous. In particular, the term “feminist jurisprudence” sounds oxymoronic, simply repostulating the central struggle of modern adjudication. This struggle is usually described as warring opposites: law vs. politics, objectivity vs. subjectivity, or judicial restraint vs. judicial activism. In the most apocalyptic terms, this is the struggle between principled decision-making and that most feared of all evils, what the judge had for breakfast.

In order to advance the discussion, I think we must first be clear about what legal feminism is not. Legal feminism is not “political correctness” or victimology or untrammelled subjectivity or fluffy-headedness or anarchy or barnyard equity. Just as importantly, it is not a practice that makes claim to objective, universal truth in the way that, for example, some of the wilder versions of “law and economics” theory do.

Scales, *supra* note 24, at 291.

27. Strout, *supra* note 21.

But Scales wasn't just popular and effective; more often than not, she was adored.²⁸ I asked her why the students loved her so much, figuring I'd get a few helpful teaching tips. "I just give them lots of handouts," she said. But that wasn't the reason, of course. The daughter of academics,²⁹ she had an old-school reverence for the pedagogical mission. She treated teaching as a sacrament, and described it as a "labor of love"—and that wasn't hyperbole. Her devotion to teaching was so reverent that it was as if it was a sacrament to her.³⁰ Her goal was not only to create experts in legal doctrine and argumentation—or even to introduce students to feminist critiques of society and law. Rather, it was to inspire them to think critically about everything, especially their own assumptions, and to instill in them a confidence in both their personal moral views and their ability to succeed as lawyers.³¹ As many testified during a vigil held for her at D.U., just one office visit with Professor Scales could mend a student's shattered confidence or turn a mediocre paper into a great one. Even when delivering a strong critique, she made clear to the students that she cared about and respected them.

* * *

Although the purpose of this Symposium is to honor Ann's work, I know that many of the authors published here, as well as many potential readers of this Issue, knew her personally. So I'd like to acknowledge for a moment a few additional aspects of this truly amazing person.

Although I had known her through her work for much longer, I met Ann only eight years ago when she joined the D.U. faculty. A bold and caring colleague, she spent her time here nurturing junior scholars, badgering the administration (only for principled reasons), and enthraling her students. I can still hear her at visiting scholars' colloquia, asking one of those questions that sounded simple and unassuming—until you realized that it zeroed in on the key question needing to be raised about the paper just presented. Or at faculty meetings—where she wasn't afraid to call out the dean or anybody else if she thought an issue of fairness, equality, or institutional integrity was at stake.

Many readers of Ann's work will have already gotten a sense of her impish and irreverent sense of humor, and of course those who knew her personally got to see it up close and personal. I imagine that each and every friend and family member has a favorite example; mine was the

28. She was awarded "Outstanding Faculty Member" in 2006–2007, and hundreds of students attended a vigil in her honor after her injury.

29. See WIKIPEDIA, *supra* note 11.

30. See E-mail from Ann Scales to confidential recipient (Apr. 1, 2005, 11:27 P.M.) (on file with author).

31. As one commentator nicely put it, she was "a strong believer in finding a place for every voice." Strout, *supra* note 21.

bumper sticker she used to have on her car, which read: “Militant agnostic: I don’t know and you don’t either.”³²

Finally, Ann’s absolutely genuine and unfiltered persona was a true gift in the midst of the arid interpersonal climate of professional legal culture (ivory-tower version), in which we law professors work and live. I suppose some who knew her might have interpreted her casual vocabulary, her occasional bursts of laughter in the midst of “serious” discussions, and/or her whimsical sartorial style as indicating some sort of propriety deficit. But to me they constituted intentional political interventions—evidence of a committed and self-conscious resistance to a culture where “witty repartee”³³ often passes for friendship, where humor at others’ expense can be confused with camaraderie, and where behind-closed-doors judgment too often stands in for collegiality and basic humanistic respect. Shortly after arriving at the Big House (as she called it) on a Tuesday morning to teach Torts, Ann would poke her head into my office, wearing khaki pants and her bright red tennis shoes,³⁴ to make some sardonic comment about the day’s events or the latest political issue at the law school. And I knew that I could make it through another day.

* * *

In the spirit of open and critical engagement by which Ann Scales both wrote and lived, the pieces in this volume not only describe and applaud, but also challenge, critique, and expand, her insights and assumptions.

Catharine MacKinnon’s essay, *Raising Hell, Making Miracles: The Everlovin’ Legal Imagination of Ann Scales*, a vividly evocative meditation on Ann Scales as scholar, activist, and personal friend (first delivered at the memorial services held in Albuquerque and Denver), provides an overarching introduction to the Symposium.³⁵ The piece, by one who knew her as few have, vividly captures Scales’s personality and prose—precisely because MacKinnon had the perspicacity to let Ann speak for herself. In this homage to a good friend, peppered with what MacKinnon

32. Another contender was the poster in her office proclaiming, “Gravity: it’s not just a good idea; it’s THE LAW.”

33. “Witty repartee” is the name I have bequeathed to a particular form of verbal interaction that I first encountered while an undergraduate at Yale. Many law professors will be familiar with the phenomenon. It is characterized by clever, competitive, and rather content-less bantering that initially seems fun and even challenging—until you realize that it also serves as a barrier to anything resembling genuine human communication or connection. Those of us in my entryway (Yale’s version of a dorm floor) eventually agreed to stop doing it so we could actually get to know each other.

34. A student told me she was known for calling them her “Friday shoes,” so perhaps my memory is off in thinking she ever wore them on Tuesdays.

35. MacKinnon, *supra* note 22, at 13.

calls “Scalesisms,”³⁶ Ann virtually jumps off the page—a hint of sadness just visible behind the mischievous glint in her eye.

The Outsider Within: The Radical, Not-So-Scary Feminist Jurisprudence of Ann Scales presents the remarks of the first of two keynoters who spoke at the live Symposium, Kathryn Abrams.³⁷ In this piece, the author contrasts two quite different aspects of Scales’s scholarship: her position as “the consummate ‘outsider[.]’ . . . exhort[ing] her fellow travelers to critical perspectives and transgressive behavior” and her role as the “pragmatic insider,” trying to convince legal actors, especially judges, of the importance and utility of feminist legal theory.³⁸ Abrams reconciles these two sides of Ann Scales and her work by suggesting that they reflect Ann’s view of law as both complicit in the subjection of women (and other outsider groups)³⁹ and “always already amenable to revision.”⁴⁰ In other words, Ann saw law both as hegemonic and as a source of hope for transformation. This paper beautifully captures how Scales’s “resistant engagement”⁴¹ reflected a personality at once acutely pained by human suffering and inspired by the power of the human spirit to change the world.

In *Taking a Break from Acrimony: The Feminist Method of Ann Scales*, the second keynoter from the live Symposium, Katherine Franke, takes seriously Scales’s call for scholars to apply feminist theory to concrete problems of real people.⁴² Examining how existing marriage law might affect same-sex couples once they win the right to marry, Franke suggests that, for both lesbians and gay men, “the law of marriage and divorce imposes—if not imprints—status-based and gendered identities on the parties in ways that clearly change how they might have seen themselves had marriage law not been on the scene.”⁴³ In calling for a more complex and individualized assessment of marital roles for same-sex couples, Franke raises the question of whether heterosexual couples would also benefit from a view of marriage that is severed from standard gender roles.⁴⁴

In Her Own Voice: Ann Scales as Philosopher, Storyteller, Feminist, and Jurisprude, by Patricia Cain, takes the reader on a tour of Ann Scales’s traits and truisms, first explaining why she sees Scales in terms of the four roles listed in her title and then going through her “top 10”

36. *Id.* at 16.

37. Kathryn Abrams, *The Outsider Within: The Radical, Not-So-Scary Feminist Jurisprudence of Ann Scales*, 91 DENV. U. L. REV. 23 (2013).

38. *Id.* at 22.

39. *Id.* at 31–32.

40. *Id.* at 32.

41. *Id.* at 35.

42. Katherine Franke, *Taking a Break from Acrimony: The Feminist Method of Ann Scales*, 91 DENV. U. L. REV. 41 (2013).

43. *Id.* at 46.

44. *Id.* at 48–49.

Scales quotes.⁴⁵ Along the way, Cain shares her own thoughtful and engaging reactions to Scales's ideas and quips. The result is a delightfully entertaining, warm, and moving personal reminiscence that vividly captures Scales's mind and spirit—in her own voice.

In *Ann Scales "Imagines Us": From the Eco-Pornographic Story to the Medusan Counternarrative*, Jane Caputi explores Scales's concept of "ecological pornography,"⁴⁶ concretely illustrating this concept by contrasting parallel pairs of media depictions of women and the Earth—depictions that reveal the sexualized abuse of women and the instrumental exploitation of nature to be closely associated in the U.S. cultural imagination.⁴⁷ Deftly tying in Scales's thoughts on topics ranging from touristic commodification of indigenous cultures to reproductive cancers as environmental injustices, Caputi captures both Scales's tragic vision of the pervasiveness (and connectedness) of social and environmental injustices, and the spiritual commitments that spurred her not only to continue to fight those injustices, but also to laugh and love while doing it.

Jennifer Chacón's *Feminists at the Border* engages Ann Scales's insight that militarism affects judicial reasoning in doctrinal areas far removed from military law.⁴⁸ Taking off from Scales's discussion of the immigration case, *Nguyen v. Immigration & Naturalization Service*,⁴⁹ Chacón proffers several other instances of "constitutional reasoning in citizenship and immigration cases where the military is not necessarily invoked, but where militarism is in evidence."⁵⁰ Chacón argues that the national security and "border security" discourses undergirding current immigration policies have caused the courts to defer greatly to Congress in the immigration area (even when it violates rights that otherwise would be constitutionally protected), producing a legal regime in which "[m]ilitarism trumps equality."⁵¹ Militarism in immigration policies, she contends, both supports and increases sex and gender biases already present in those policies.⁵²

45. Patricia A. Cain, *In Her Own Voice: Ann Scales as Philosopher, Storyteller, Feminist, and Jurisprude*, 91 DENV. U. L. REV. 53 (2013).

46. Jane Caputi, *Ann Scales "Imagines Us": From the Eco-Pornographic Story to the Medusan Counternarrative*, 91 DENV. U. L. REV. 65, 65 (2013) (internal quotation marks omitted). Upon seeing Mount Rushmore in the Black Hills of South Dakota, Scales had described the monument as pornographic: "Just as pornography portrays women as enjoying abuse, Mount Rushmore portrays nature as being enhanced by being mutilated in the image of what white males think nature ought to be and do." *Id.* at 68 (quoting Ann C. Scales, *Feminists in the Field of Time*, 42 FLA. L. REV. 95, 95 (1990)).

47. *Id.* at 70–71.

48. Jennifer Chacón, *Feminists at the Border*, 91 DENV. U. L. REV. 85, 89–96 (2013).

49. 533 U.S. 53 (2001).

50. Chacón, *supra* note 48, at 91.

51. *Id.* at 106–07 (internal quotation marks omitted).

52. *Id.* at 107.

Shannon Gilreath's *Feminism and Gay Liberation: Together in Struggle* explores "the role that feminist jurisprudence has to play in the lives of gay men,"⁵³ arguing that, despite its moniker, much poststructuralist "queer theory" is actually heteronormative and thus of little use to the gay liberation project.⁵⁴ The essay powerfully conveys the strong emotions and firmly held intellectual commitments that have fueled some of the debates within (and between) feminist and queer theory—especially between writers who see themselves as poststructuralists and those who identify as radical feminists—while nevertheless paying obeisance to the subtlety of the position Ann Scales staked out in these debates and to her insistence that "[s]olidarity is possible."⁵⁵

Lynne Henderson's *Flexible Feminism and Reproductive Justice: An Essay in Honor of Ann Scales* catalogues the numerous current threats to women's constitutional rights to abortion and contraception—rights that were supposedly "settled law" decades ago.⁵⁶ Drawing on Ann Scales's lifelong concern for reproductive justice, Henderson situates today's issues within Scales's feminist frames of reference. Citing Scales's flexible and nonjudgmental feminism, her rejection of false dichotomies, and her foundational concern with preventing harm, Henderson emphasizes that seeking coalitions across differences is an important component of modern reproductive-rights work.⁵⁷ This essay's compelling review of how Supreme Court precedents have opened the door to increased state regulation of abortions, as well as its discussion of current issues about access to contraception under both the Affordable Care Act and "Conscience Clause" statutes, provides ample evidence for Henderson's conclusion that continued and vigilant legal activism is imperative in the reproductive area.

In "*Stuck*" on *Love*, Tamara Kuennen asks why scholars writing about intimate partner violence don't consider the possibility that love for a partner might sometimes be the primary reason why a battered woman refuses to cooperate with a criminal prosecution, chooses to remain in the relationship, or both.⁵⁸ Instead, Kuennen maintains, authors often "[a]void and [a]pologize for [l]ove" as a motivator of battered women's behavior.⁵⁹ Drawing on Ann Scales's concept of places of "stuckness" in feminist theory—and in particular on her identification of

53. Shannon Gilreath, *Feminism and Gay Liberation: Together in Struggle*, 91 DENV. U. L. REV. 109, 113 (2013).

54. *Id.* at 115–29.

55. *Id.* at 110 (quoting Ann Scales, *Poststructuralism on Trial*, in *FEMINIST AND QUEER LEGAL THEORY: INTIMATE ENCOUNTERS, UNCOMFORTABLE CONVERSATIONS* 395, 407 (Martha Albertson Fineman et al. eds., 2009)).

56. Lynne Henderson, *Flexible Feminism and Reproductive Justice: An Essay in Honor of Ann Scales*, 91 DENV. U. L. REV. 141 (2013).

57. *Id.* at 164 ("[A]voiding abortion is optimal for all concerned, and we should not decline alliances on some issues unless the risks of co-optation are high.").

58. Tamara L. Kuennen, "*Stuck*" on *Love*, 91 DENV. U. L. REV. 171, 173–75 (2013).

59. *Id.* at 173.

false consciousness as one of those places—this essay raises important questions about the distinction between, on the one hand, everyday compromises a woman might make because she loves her partner and values their relationship and, on the other, choices that the law ought to consider coerced, even if prompted by love.

How Masculinities Distribute Power: The Influence of Ann Scales, by Ann McGinley and Frank Rudy Cooper, focuses on group sexual assaults such as the alleged gang rape by University of Colorado football players (and recruits)—discussed in Ann Scales’s *Student Gladiators and Sexual Assault: A New Analysis of Liability for Injuries Inflicted by College Athletes*⁶⁰—to illustrate how masculinities “distribute power.”⁶¹ In addition to discussing the “boys will be boys” attitude that communities often have towards such attacks, McGinley and Cooper also point out that not all young men benefit from that attitude. They illustrate this point through a discussion of constructions of black male masculinity operating in the George Zimmerman/Trayvon Martin case.⁶² Turning to Scales’s work on militarism, the authors argue that that work reveals parallels between the ways masculinity distributes power in sexual assault cases and in U.S. foreign policy. A local community might be invested in the “reflected masculinity” provided by its football team in the same way that a nation’s identity might be invested in the strength of its military.⁶³ And the excuses provided for our military’s aggressions are not that different, McGinley and Cooper suggest, from the “boys will be boys” narrative Scales condemns in sexual assault cases.

Last, but certainly not least, in *On Surviving Legal De-Education: An Allegory for a Renaissance in Legal Education*, Robin Walker Sterling presents a fictional depiction of the type of law school Ann Scales would have embraced.⁶⁴ Based primarily on Scales’s 1990 piece, *Surviving Legal De-Education: An Outsider’s Guide*,⁶⁵ this hilarious, creative, and at times inspirational narrative captures not only the substance of Scales’s critique of modern legal education but also the irreverent sense of humor and deep commitment to humanistic education that permeate her positive pedagogical vision.

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60. Ann C. McGinley & Frank Rudy Cooper, *How Masculinities Distribute Power: The Influence of Ann Scales*, 91 DENV. U. L. REV. 187, 188–89 (2013); Ann Scales, *Student Gladiators and Sexual Assault: A New Analysis of Liability for Injuries Inflicted by College Athletes*, 15 MICH. J. GENDER & L. 205 (2009).

61. McGinley & Cooper, *supra* note 60, at 188.

62. *Id.* at 104–208. In that case, George Zimmerman, a neighborhood watch captain, killed unarmed black teenager Trayvon Martin. *Id.* at 204.

63. *Id.* at 200–02.

64. Robin Walker Sterling, *On Surviving Legal De-Education: An Allegory for a Renaissance in Legal Education*, 91 DENV. U. L. REV. 211 (2013).

65. Ann C. Scales, *Surviving Legal De-Education: An Outsider’s Guide*, 15 VT. L. REV. 139 (1990).

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FOREWORD

11

Ann Scales's blazing intellect, as well as her uncompromising humanism and boundless spirit, are all present in her scholarship, as the pieces in this Symposium vividly reveal. It is my hope that these essays will not only attest to and preserve the contributions her work has made thus far, but also inspire a whole new generation of readers to explore the wonderful and wacky world of Ann Scales.